

Prophesying Tyranny: The Anti-Federalists and the Fate of Our World

The misnamed Anti-Federalists, during the debates preceding the ratification of the Constitution, predicted the descent of our society into despotism and tyranny. They foresaw a political ‘elite’ forming an oligarchy, an all-powerful judiciary, an authoritarian bureaucracy, and a dictator as president. While the Anti-Federalists achieved significant effects, their arguments and warnings about the catastrophic consequences the Constitution would create were, and largely are, ignored.

The Anti-Federalists were a far more amorphous lot of Founding Fathers than the Federalist¹ cabal of James Madison, Alexander Hamilton, and John Jay, who dominated the Federalist effort. The Anti-Federalists organized no similar effort to counter the draft Constitution and the coordinated Federalist campaign.² Erroneously disparaged as wealthy landowners promoting their own interests,³ these were, in fact, among the most brilliant of the Founding Fathers. Not the rag-tag group of nay-sayers, as they are often portrayed, these included the likes of Patrick Henry, Samuel Adams, Thomas Paine, George Mason, Richard Henry Lee, James Monroe, George Clinton, and James Winthrop. Like their Federalist opposites, some wrote in alias, such as Brutus⁴ and Federal Farmer,⁵ but many, including Patrick Henry and Melancton Smith, wrote openly and were far less secretive than their opponents.

While the Anti-Federalists proposed a large number of arguments, there was no specific central theme to Anti-Federalist efforts in either opposing or substantially modifying the proposed Constitution. Their most important positions were:

- powers of the national (or federal) government should be specific and limited⁶
- the country was too large for a republic focused on a national government
- states would become meaningless in the new governing arrangement
- the formula for representation in the legislature was too large
- term limits (or rotation) were required
- the federal judiciary posed a mortal danger to the republic
- a bill of rights identifying both states’ and the people’s rights was required

¹ The Federalists were actually centralists and not ‘federalists’ in the true sense of that term. ‘Federalists’ supported a strong central government as the principal governing body over the country. The name of ‘Federalists’ was usurped by Hamilton to support the centralist position and undermine opposition. The ‘Anti-Federalists’ were much more federalist, or confederalist, than their opponents, and were certainly not antifederalist in their perspectives on our governing model. See Melancton Smith’s speech of June 25, 1788 for his request that the two sides exchange names.

² Herbert Storing assisted by Murray Dry did a great service to their country by publishing *The Complete Anti-Federalist* (1836 pages) in 1981. This review focuses only on a very few of these papers.

³ Even a cursory review of the Anti-Federalists and their papers reveals the falsity of this charge.

⁴ Brutus was likely Robert Yates, a leading Patriot during the Revolution, a New York judge and delegate (with Alexander Hamilton) to the federal convention which eventually drafted the Constitution. He was an ally of fellow Anti-Federalist New York Governor George Clinton.

⁵ Federal Farmer was possibly Richard Henry Lee, although there remains significant doubt about the actual author.

⁶ Hence, Madison’s retort in Federalist #45 “The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite.” This was, of course, as mal-interpretations of the Constitution progressed, false.

- and, most importantly, the new ‘consolidated’ national government would inevitably lead to despotism and tyranny

These and many additional and related issues, such as the frequency of elections, led many Anti-Federalists to conclude that the eventual outcome of the Constitution would be worse than the then current Articles of Confederation or would at least require significant changes to the draft Constitution.

Most of these arguments were not trivial quibbles with technical details of the governing model in the Constitution, but rather were major philosophical differences over the best means of, and the results of that type of, governance.⁷ Their arguments on the whole were coherent, well-reasoned and extremely articulate. While somewhat successful in changing aspects, and some interpretations, of the eventual Constitution, principally in the form of the Bill of Rights, the lasting effect of the Anti-Federalists was to continue the unmeasurable distrust by much of the American populace of a big and powerful central government, at least into the early 1900s.

One of the principal Anti-Federalist arguments was that the powers given to the new national government would be so unlimited that they would overwhelm both the states and the rights of the individual. As Brutus stated “...although the government... does not go to a perfect and entire consolidation, yet it approaches so near to it, that it must, if executed, certainly and infallibly terminate in it.”⁸ To many, including those not associated with the Anti-Federalist cause, the central question, as stated by Brutus, was “...whether they should continue thirteen confederated republics, under the direction and controul of a supreme federal head...” or “...whether the thirteen United States should be reduced to one great republic....”⁹

Most Anti-Federalists felt the powers of the national (or federal) government should be very specific and limited, principally to ‘provide for the common defence,’ pay national debts, establish and support foreign ministers (ambassadors), and establish a better union of the states.¹⁰ Anti-Federalists tended to favor a confederal government,¹¹ with various instrumentalities to resolve the problems identified in the Articles of Confederation and concepts developed from the draft of the Constitution. As Brutus stated:

“...the general government ought to have power competent to the purposes of the union; they are to provide for the common defence, to pay the debts of the United States, support foreign ministers, and the civil establishment of the union, and to do these they ought to have authority to raise money adequate to the purpose.”¹²

Philosophically Anti-Federalists generally believed government was best conducted at the local level. They thought the states were a more appropriate size to be

⁷ Storing, Herbert J.; Dry, Murray, eds. (1981). *The Complete Anti-Federalist*. 3-4. University of Chicago Press.

⁸ Anti-Federalist paper Brutus I. Anti-Federalist Papers will be identified by the pseudonym and the sequential number of the specific paper. See also the Anti-Federalist Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania To Their Constituents 18 December 1787 (Minority Conv of Penn).

⁹ Brutus I. See also Melancton Smith speech of June 25, 1788.

¹⁰ Brutus V.

¹¹ See An Old Whig IV, particularly regarding the Swiss (Helvetian) confederacy.

¹² Brutus V.

the principal governing body in the country, and due to history, based on their success over several centuries both as colonies and states, they would be better able to work as republican institutions. Melancton Smith invoked one of the key liberal philosophical influences on the Founding Fathers, stating "...Montesquieu...gives it as his opinion, that a confederated republic has all the internal advantages of a republic...."¹³ Brutus directly quoted Montesquieu:

"In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected."¹⁴

The Anti-Federalists developed a persuasive historical argument that both democratic and republican governments must be based on a small area.¹⁵ As Brutus stated "...a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these encreasing in such rapid progression as that of the whole United States." He stated (citing the great and very influential Italian jurist, Marquis Beccarari) "History furnishes no example of a free republic, any thing like the extent of the United States. The Grecian republics were of small extent; so also was that of the Romans...their governments were changed from that of free governments to those of the most tyrannical that ever existed in the world." Brutus further reflected:

"In a pure democracy the people are the sovereign, and...they must all come together to deliberate, and decide. This kind of government cannot be exercised, therefore, over a country of any considerable extent; it must be confined to a single city, or at least limited to such bounds as that the people can conveniently assemble, be able to debate, understand the subject submitted to them, and declare their opinion concerning it."

He concludes "The laws cannot be executed in a republic, of an extent equal to that of the United States...."¹⁶

In keeping with the above, the Anti-Federalists considered the state governments to be the truest representatives of the people. As Federal Farmer stated:

"In examining the proposed constitution carefully, we must clearly perceive an unnatural separation of these powers from the substantial representation of the people...they (state governments) will have a near connection, and their members an immediate intercourse with the people; and the probability is, that the state governments will possess the confidence of the people, and be considered generally as their immediate guardians."¹⁷

Thus, for the Anti-Federalists (and many who supported the Constitution, such as Thomas Jefferson) the states, specifically the state legislatures, far more closely represented the people than did representatives elected to the federal government. The

¹³ Melancton Smith speech of June 25, 1788. Montesquieu was frequently cited by Anti-Federalists, see particularly Minority Conv of Penn, and Brutus I and III.

¹⁴ Brutus I.

¹⁵ See Brutus I for the best discussion of the impossibility of a republic occupying such a large area and demographic. See also Minority Conv of Penn.

¹⁶ Brutus I. See also Cato III. Cato was New York Governor George Clinton.

¹⁷ Federal Farmer II.

state legislatures were considered a protection for the people against a despotic federal government, even by the Federalists.¹⁸ Thus the state legislatures were an integral part of the checks and balances crafted in the Constitution. Any perceived diminishment of the states' capacity to fulfill this role was the basis for many of the Anti-Federalists arguments and their rejection of the Constitution as a usurpation of the people's power to control their own destiny.

However, due to the consolidation of governance into a national ('federal') government, Anti-Federalists believed the states would become meaningless, rather than a key element, in the new governing arrangement. (As Federal Farmer stated "Instead of being thirteen republics, under a federal head, it (the Constitution) is clearly designed to make us one consolidated government.") Some of the chief issues identified were the "supremacy" clause in Article 6 and the "necessary and proper" clause. Brutus stated it "...appears from these articles that there is no need of any intervention of the state governments, between the Congress and the people."¹⁹

Brutus argued forcefully that the 'necessary and proper' clause²⁰ and the 'supremacy' clause²¹ meant "This government is to possess absolute and uncontrollable power, legislative, executive and judicial, with respect to every object to which it extends...."²² And for the national legislature "This amounts to a power to make laws at discretion...."²³

He pointed to the inevitable outcome of the 'necessary and proper' clause, which he said provided power to Congress which "...either expressly or by implication extend to almost everything about which any legislative power can be employed."²⁴ Brutus further detailed the extreme difficulties state governments would have in holding back an oppressive federal government:

(It) "...is difficult to conceive how the state legislatures can, in any case, hold a check over the general legislature, in a constitutional way. The latter has, in every instance to which their powers extend, complete controul over the former. The state legislatures can, in no case, by law, resolution, or otherwise, of right, prevent or impede the general government, from enacting any law, or executing it, which this constitution authorizes them to enact or execute. If then the state legislatures check the general legislatures, it must be by exciting the people to resist

¹⁸ In particular, see Madison in Federalist #55 "I am unable to conceive that the State legislatures... which possess so many means of counteracting, the federal legislature, would fail either to detect or to defeat a conspiracy of the latter against the liberties of their common constituents."

¹⁹ Brutus I.

²⁰ Article I, Section 8, paragraph 17 "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."

²¹ Article VI, paragraph 2 "This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

²² Brutus I. See also Brutus XI and Minority Conv of Penn.

²³ Brutus V.

²⁴ Brutus XII.

constitutional laws...But such kinds of checks as these, though they sometimes correct the abuses of government, oftner destroy all government.²⁵

Regarding the ‘supremacy’ clause Centinel stated categorically “...such extensive legislative and judicial powers are vested in the general government, as must in their operation, necessarily absorb the state legislatures and judicatories....”²⁶ Federal Farmer believed “The plan proposed appears to be partly federal, but principally however, calculated ultimately to make the states one consolidated government.”²⁷ Brutus went even further stating “...it will be found that the power retained by individual states, small as it is, will be a clog upon the wheels of the government of the United States; the latter therefore will be naturally inclined to remove it out of the way.”²⁸ Thus, in the end, the Anti-Federalists felt the actual plan was to eventually eliminate the states altogether and have a consolidated, all-powerful central government.

Brutus further stated the power of the national legislature to tax and their ability to restrict the states’ taxation severely undercut the power of the states (“...this power, given to the federal legislature, directly annihilates all the powers of the state legislatures...”).²⁹ Melancton Smith added that the Constitution’s failure to allow state legislatures to recall the senators that represented them would “...root out the last vestige of state sovereignty.”³⁰

In a similar vein, the Anti-Federalists firmly argued that the formula for representation was too large and the lack of term limits (generally referred to as “rotation” by the Anti-Federalists) reduced representation of the people even further.³¹ This, they felt, would ultimately lead to what they saw as the burgeoning aristocracy being able to entrench themselves as an oligarchy in the political arena.³² Brutus, in fact, believed the Senate would become and be derived from this aristocracy. Thus he also recommended term limits for the Senate.³³ Federal Farmer agreed that the Senate and the executive branch would tend towards aristocracy.³⁴

Melancton Smith also felt the members of the House would eventually be unwilling to increase the number of members to avoid diminishing their own power.³⁵ To help counter these tendencies to oligarchy and create ‘rotation,’ Smith proposed an amendment stating “...senators shall be eligible for only six years in any term of twelve years.” He believed the lack of term limits meant senators would remain in perpetuity “...there is no doubt that the senators will hold their office perpetually; and in this

²⁵ Brutus X.

²⁶ Centinel I.

²⁷ Federal Farmer I.

²⁸ Brutus I.

²⁹ Brutus X.

³⁰ Melancton Smith speech of June 25, 1788.

³¹ Melancton Smith speech of June 25, 1788. See Smith’s discussions on the need for “rotation” below. See also Cato V.

³² See Centinel I for a discussion of the development of an aristocratic oligarchy.

³³ Brutus XVI.

³⁴ Federal Farmer III.

³⁵ The Apportionment Act of 1911 confirmed his well-founded suspicions. See note #70.

situation, they must of necessity lose their dependence and attachment to the people.”³⁶ He believed this turnover among senators was vital (“...rotation in the government is a very important and truly republican institution”). In the same amendment, Smith wanted the ability of state legislatures to recall their senate representatives, as “...the senators are the representatives of the state legislatures...and should be under their control.”³⁷ Neither of these two elements of the proposed amendment was adopted.

The Anti-Federalists believed the number of members of the House of Representatives was too small, such that 24 men (at the time) could conceivably set the laws for 3 million.³⁸ Melancton Smith stated:

“Could 65 men for 3,000,000, or 1 for 30,000, be chosen in this manner? Would they be possessed of the requisite information to make happy the great number of souls that were spread over this extensive country?...if great affairs of government were trusted to few men, they would be more liable to corruption.”³⁹ Smith reiterated his charge that corruption would occur “In so small a number of representatives, there is great danger from corruption and combination.”⁴⁰

Melancton Smith further identified that the best representation would come from the ‘middling’ class and not the ‘great’ class or, as he termed it, “...the natural aristocracy of the country.” Smith strongly believed that those other than the ‘great’ class were actually the best suited to represent the country.⁴¹ However, he did not think the ‘middling’ class would be represented to any significant degree. “If the elections be by plurality,...it is almost certain none but the great will be chosen, for they easily unite their interests: the common people will divide, and their divisions will be promoted by the others.” He therefore concluded “...it appears that the government will fall into the hands of the few and the great. This will be a government of oppression.”⁴²

The Anti-Federalists, particularly Brutus, saw the federal judiciary as a further consolidation of power and a severe threat to the sovereignty of the states. Many believed the Supreme Court, and other inferior ‘federal’ courts, would usurp the states’ own courts and become subservient to the national government.⁴³ The Anti-Federalists believed the judiciary would set their own interpretations of the Constitution and the laws based on their personal biases. They also saw the judiciary as “...an entire subversion of the legislative, executive and judicial powers of the individual states,”⁴⁴ as the judiciary could rule on any issue, irrespective of state law, judiciary or Constitutions.⁴⁵

³⁶ Melancton Smith speech of June 25, 1788. Much of the speech is devoted to developing rotation in the Senate, and the benefits to the people this would engender.

³⁷ Melancton Smith speech of June 25, 1788.

³⁸ Melancton Smith 21 Jun 1788. Both Federal Farmer and Brutus III strongly agreed. See also Minority Conv of Penn.

³⁹ Melancton Smith 20 Jun 1788. See also Brutus III and Minority Conv of Penn.

⁴⁰ Melancton Smith speech of June 25, 1788. See also Brutus III.

⁴¹ The ‘middling’ class were what we today regard as normal people. The ‘great’ class were elites. Melancton Smith 21 Jun 1788. See also Brutus III..

⁴² Melancton Smith 21 Jun 1788. See also Brutus III for a similar argument.

⁴³ See particularly Brutus XI brilliant discussion of the potential for judicial overreach. See also Brutus I and Minority Conv of Penn.

⁴⁴ Brutus XI.

⁴⁵ See Minority Conv of Penn.

Brutus also noted the judiciary, by means of its ability to independently interpret the Constitution, with no supreme body over it, would eventually determine what the Congress could and could not legislate - "...the judgment of the judicial, on the constitution, will become the rule to guide the legislature in their construction of their powers"⁴⁶ and "...judges under this system will be independent in the strict sense of the word...and in many cases their power is superior to that of the legislature."⁴⁷ (Brutus also argued there was no need for the federal judiciary to have expansionary powers to review all cases, as the state courts were fully capable of reviewing all cases "...except those which might arise between states...",⁴⁸ or in a few other instances.) As Brutus finally noted "...this court is exalted above all other power in the government, subject to no controul, and so fixed as not to be removeable...",⁴⁹ "...they are authorised to construe its meaning, and are not under any controul? This power in the judicial, will enable them to mould the government, into almost any shape they please."⁵⁰

Thus, in the view of Anti-Federalists, the judiciary was one of the greatest threats to the sovereignty of the states and the people's liberty.⁵¹ To counter this, Brutus stated the judiciary must be accountable to the people ("This supreme controlling power should be in the choice of the people..."). Brutus believed the Constitution's framers meant for the Senate to be that 'controlling power,' however, based on numerous factors, Brutus did not have confidence in either the Senate or the power of impeachment⁵² to control the judiciary and ensure the rights of the states and the people would be maintained. He stated flatly "...the judges under this constitution will controul the legislature... and there is no power above them to set aside their judgment... In short, they are independent of the people, of the legislature, and of every power under heaven."⁵³ (As Brutus predicted and realizing the worst fears of the Anti-Federalists, the Supreme Court usurped the legislative process and results via Justice Marshall's infamous finding on the authority for judicial review in *Marbury versus Madison*, thus ensuring the development of the judicial oligarchy the Anti-Federalists feared and prophesied.)⁵⁴

The Anti-Federalists strongly advocated a bill of rights identifying both states' and the people's rights. They did not believe the "enumerated powers" in the Constitution would limit the national government, and that this government would eventually take on more powers than were identified in the Constitution. An Old Whig stated "...it is our duty to secure the essential rights of the people, by every precaution; for not an avenue has been left unguarded, through which oppression could possibly enter

⁴⁶ Brutus XI.

⁴⁷ Brutus XV.

⁴⁸ Brutus XI

⁴⁹ Brutus XIV (Part 2). See also Brutus XV.

⁵⁰ Brutus XI.

⁵¹ See Brutus XIV for additional cogent arguments regarding the impending judicial powers. Brutus entire body of work regarding the power of the judiciary is completely relevant to today's environment. He was unerringly perceptive in his view of how the judiciary would become an oligarchy.

⁵² Brutus XVI.

⁵³ Brutus XV.

⁵⁴ Marshall was enabled by Alexander Hamilton's discussion of the concept and need for judicial review in *Federalist #78*, where Hamilton argued incorrectly, as it turned out, that the judiciary was actually the "least dangerous" branch of government.

in any government....”⁵⁵ Brutus added “The powers of the general legislature extend to every case that is of the least importance —there is nothing valuable to human nature, nothing dear to freemen, but what is within its power.”⁵⁶ The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania To Their Constituents specifically stated:

“The first consideration..., is the omission of a BILL of RIGHTS, ascertaining and fundamentally establishing those unalienable and personal rights of men, without the full, free, and secure enjoyment of which there can be no liberty, and over which it is not necessary for a good government to have the control. The principal of which are the rights of conscience, personal liberty by the clear and unequivocal establishment of the writ of habeas corpus, jury trial in criminal and civil cases, by an impartial jury of the vicinage or county, with the common law proceedings, for the safety of the accused in criminal prosecutions, and the liberty of the press, that scourge of tyrants, and the grand bulwark of every other liberty and privilege; the stipulations heretofore made in favor of them in the state constitutions, are entirely superseded by this constitution.”⁵⁷

Federal Farmer similarly supported a bill of rights, indicating the 9th and 10th Sections of Article I of the Constitution were in fact a very limited bill of rights that did not go far enough.⁵⁸

In the end, the Anti-Federalists believed the new ‘consolidated’ national government would probably lead to despotism and tyranny.⁵⁹ The Minority of the Convention of Pennsylvania stated

“...the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several states, and produce from their ruins one consolidated government, which from the nature of things will be an iron handed despotism, as nothing short of the supremacy of despotic sway could connect and govern these United States under one government.”⁶⁰

Centinel believed the inevitable federal bureaucracy would become a serious burden “...the administrators of every government, will ever be actuated by views of private interest and ambition, to the prejudice of the public good... the only operative and efficient check, upon the conduct of administration, is the sense of the people at large.”⁶¹ Brutus pointed to the disassociation by the ‘representatives’ with the people as leading to distrust and eventually force being required to ensure conformity with federal decisions - “If then this government should not derive support from the good will of the people, it must be executed by force, or not executed at all; either case would lead to the total

⁵⁵ An Old Whig V. See also Brutus II excellent discussion of the need for a Bill of Rights, as well as Brutus IX and Centinel I.

⁵⁶ Brutus I.

⁵⁷ Minority Conv of Penn.

⁵⁸ Federal Farmer IV. See also An Old Whig V.

⁵⁹ Brutus stated “...constitutions are not so necessary to regulate the conduct of good rulers as to restrain that of bad ones.” Brutus IV.

⁶⁰ Minority Conv of Penn.

⁶¹ Centinel I.

destruction of liberty.”⁶² Federal Farmer agreed, believing the people ultimately would ignore the federal government, leading to force being used, revolution eventually occurring and despotism following.⁶³

The Federalists countered many of the Anti-Federalists arguments directly. The easiest argument to dispose of was the need for a bill of rights. The simple solution, and the one the Federalists chose (after initially strongly opposing any bill of rights),⁶⁴ was to agree to sponsor such a bill. This both deflated the argument and allowed the Federalists to manipulate the proposed amendments in such a way that the states’ rights issue was confined to one ambiguous (and ultimately irrelevant) amendment, with no significant changes to the overall Constitution, and the federal government’s potential for expansion.

The Federalists argued the Constitution did not provide unlimited powers. They maintained the only powers the federal government possessed were those “few and defined”⁶⁵ elements identified in the articles of the Constitution. They answered the ‘necessary and proper’ clause was crucial to ensure the federal government could function in executing the duties the Constitution tasked. They argued the ‘supremacy’ clause was equally absolutely necessary, as the country required a strong legal framework.⁶⁶

The Federalists argued the states were an integral part of the new federal governing arrangement.⁶⁷ Since the Senate was composed of representatives (senators) selected by the state legislatures, as long as the legislatures had a voice through their Senators, the states would be key participants in the governing system.⁶⁸ Specifically the Senate was a critical element in all aspects of legislation, and was a check on both the president, in terms of confirmation of his appointees and approval of treaties, and the judiciary, by means of confirming judges. The Senate also had the power of impeachment, which the Federalists felt was a powerful tool. (Impeachment of federal officials has proven irrelevant, with virtually no successful implementation (less than 10) over the history of the federal government. Lightning strikes and other acts of God undoubtedly disposed of more corrupt federal officials than has impeachment.)

The Federalists argued the numbers of Representatives would be fixed at one Representative for every 30,000 people, and the number would continue to grow as the

⁶² Brutus IV.

⁶³ See Federal Farmer II and Melancton Smith speech of June 25, 1788.

⁶⁴ Alexander Hamilton, for example, vehemently opposed any Bill of Rights. See Federalist #84 – “...bills of rights...are not only unnecessary in the proposed Constitution but would even be dangerous.”

⁶⁵ Madison Federalist #45 “The powers delegated by the proposed Constitution to the federal government are few and defined.” See note #7.

⁶⁶ See specifically Federalist #33 and #44.

⁶⁷ See Federalist #45 “The State governments may be regarded as constituent and essential parts of the federal government....”

⁶⁸ See specifically Madison Federalist #62. “... the double advantage of ...giving to the State governments such an agency in the formation of the federal government as must secure the authority of the former, and may form a convenient link between the two systems.” This basic foundation of the Constitution was overthrown by the 17th Amendment which was designed to strip the states of their authority to appoint senators to represent the interests of the states.

population of the country increased.⁶⁹ They also maintained all those elected would maintain the trust placed in them and there was no cause for alarm.⁷⁰

The Federalists asserted despotism and tyranny could not result from the new federal government outlined in the Constitution, as the various elements of the governing system, including the states via their Senators, would pre-empt and prevent any effort to impose tyranny. They argued states maintained their militias and significant control of the federal government via their Senators, and thus were positioned to stop a tyrannical government.⁷¹ Similarly, the people could elect new Representatives who would use their legislative powers, particularly the power of the purse, to prevent any despotic regime.⁷² The Federalists also believed only good men would be elected, and thus the people could trust these good men with their liberty.⁷³ Finally, the Federalists argued the people themselves were the source of power in the country and they would not stand for tyranny.⁷⁴

As he left the, till then, secretive Constitutional Convention in 1787, Benjamin Franklin was asked “Well, Doctor, what have we got, a republic or a monarchy?” Franklin responded, “A republic, if you can keep it.” Franklin was uncomfortable with aspects of the Constitution, but he accepted it “...with all its faults.” In the end he believed there was no other better alternative, “Thus I consent, sir, to this Constitution, because I expect no better, and because I am not sure that it is not the best.”⁷⁵ But he also stated “...I believe, further, that this is likely to be well administered for a course of years, and can only end in despotism....” Franklin’s perspectives appear to have been validated by the events over the last century.

Although not an Anti-Federalist, Thomas Jefferson also had serious concerns with the Constitution, particularly “...the abandonment in every instance of the necessity of rotation in office,” which he felt would result in elected officials becoming “...an officer for life.”⁷⁶ He also was deeply concerned regarding “...the omission of a bill of rights.”⁷⁷

⁶⁹ Principally Federalist #55. This other basic foundation of the Constitution, i.e., the close association of representatives with their constituency, was overthrown by the Apportionment Act of 1911, which allowed Congress to ensure the numbers of members were fixed and small, and thus more powerful as the country grew. The first Amendment proposed as part of the original Bill of Rights was an effort to ensure progressive representation, however, Congress rejected it. At the time the Constitution was ratified, one member represented 30,000 people (due principally to George Washington’s only significant intervention in the debate on the Constitution). By 2016, the ratio was one to 746,000.

⁷⁰ See specifically Federalist #55.

⁷¹ See Federalist #46 and #29.

⁷² See Madison Federalist #45, although the federal judiciary has completely undermined Madison’s arguments throughout this paper. See also Madison Federalist #57.

⁷³ Federalist #57.

⁷⁴ This is the sum argument of the various Federalist Papers. See Madison Federalist #47 in particular.

⁷⁵ Benjamin Franklin On the Federal Constitution

http://www.lexrex.com/enlightened/writings/franklin_on_const.htm.

⁷⁶ Jefferson here is supporting term limits, a significant Anti-Federalist demand.

⁷⁷ Jack Lynch "One of the most intriguing might-have-beens in American History"

<http://www.history.org/foundation/journal/spring07/jefferson.cfm>. Both Jefferson, despite his being Minister to France, and his mentor, the Anti-Federalist George Mason, were major forces behind the eventual Bill of Rights, a key Anti-Federalist demand.

While neither Franklin nor Jefferson were formal Anti-Federalists, both paralleled significant aspects of the Anti-Federalist cause. They had serious concerns with what they saw as the excessive power of the president, and the potential for him to become a dictator. They both accepted the final Constitution, however, as many Anti-Federalists did, simply because they felt the resulting document was the best that could be had at the time.

The Anti-Federalists raised critical philosophical and technical issues with the Constitution. Many of their arguments⁷⁸ are not only relevant today, but, in many respects, appear to be exhibited in both our historical and current government. In these aspects, the form and substance of our current government is a realization of their worst fears. Some aspects, however, even the Anti-Federalists could not foresee, particularly the deprivation of the states' ability to represent their interests (and thereby the interests of the people) in the legislative process (courtesy of the 17th Amendment), and the mal-interpretation of the 'commerce clause' ("To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes...")⁷⁹ to justify many of Congress' legislative excesses.

Why then did we end up with this Constitution? It was not, as most people believe, overwhelming approved. On the contrary, if put to popular vote it likely would have been easily defeated.⁸⁰ Those who participated in the Constitutional Convention did not want to reopen the convention for changes due to fear that the subsequent debate would undermine their initial draft. This precluded formal changes until the amendment process was initiated after ratification. Most of the state ratifying conventions were held within six months of the draft Constitution's publication and lasted less than a month. Thus, they occurred before many of the Anti-Federalist or Federalist papers were even written, precluding most of the public from even being moderately informed on the debates.

The ninth state, New Hampshire, needed to finalize the ratification occurred within nine months of publication of the draft Constitution.⁸¹ Thus most people and delegates had little exposure to the Anti-Federalist perspectives (particularly in the initial five states that ratified by January 1788). Many ratifying conventions were not convened with popularly elected delegates. Delegates from the Constitutional Convention were also key leaders in their states' ratifying conventions, and thus significantly (and often unethically) influenced, or in many cases deliberately undermined, debate on ratification. Even then, as the ratifications proceeded, the votes became very, very close.

Second, there was sincere dissatisfaction by most people with many aspects of the Articles of Confederation, and acknowledgement that the governing model needed

⁷⁸ There are scores of other valid arguments in the over one hundred Anti-Federalist papers which could not be discussed in this short paper.

⁷⁹ U.S. Constitution Article I, Section 8, Clause 3.

⁸⁰ The sole case of a popular referendum was Rhode Island, which decisively defeated the draft Constitution by 92 per cent.

⁸¹ Once the ninth state was reached, the others ratified, despite major opposition, as they did not want to be left out of the United States. North Carolina took over a year and Rhode Island a year and a half to ratify.

significant revision.⁸² As the draft Constitution was no longer up for revision, this left the states with the stark choice between this draft Constitution and the flawed Articles of Confederation.⁸³ An implied aspect of ratification was that any state not ratifying would not be part of the United States.

Finally, many of the most important personages of the age, George Washington, Benjamin Franklin, Thomas Jefferson, John Adams and others supported or appeared to support (often due to their silence) the draft Constitution. There was also a deep faith throughout the country in the eventual leadership of George Washington, who all knew would be the chief executive of the new government. This faith that Washington would lead the country to greater glory tended to reduce doubts about the future of this new form of governance, and the new government itself, under this Constitution.

In the end, most of the states (particularly those who had the time to view the Anti-Federalist arguments), requested alterations to the Constitution as part of their ratification. Some of these were incorporated into the Bill of Rights and a few others in subsequent legislation by Congress.

The ability of the Anti-Federalists to foresee how the federal government would devolve into despotism was remarkable and prophetic. Many of their observations and objections have come to fruition, particularly since 1900. For those concerns not yet manifested, the day is still young and time will tell. The words of Brutus in his initial essay are searing in their judgement:

“...if...this form of government contains principles that will lead to the subversion of liberty—if it tends to establish a despotism, or, what is worse, a tyrannic aristocracy; then, if you adopt it, this only remaining assylum for liberty will be shut up, and posterity will execrate your memory.”⁸⁴

In effect, the Anti-Federalists clearly saw what the Constitution would result in. Their attempts to pre-empt eventual despotism achieved some success, particularly in the Bill of Rights. However, in the long run the Anti-Federalists were overwhelmed by the Federalists’ arguments and cunning ploys with the ratifying conventions.⁸⁵ Anti-Federalist efforts to ensure our governing model reflected the people’s right for self-government also succumbed to the eventual drive for centralization by the politicians and bureaucrats who would make up the federal government (aided by academic and celebrity aristocratic allies) over the last two centuries.

The result has been the development of an oligarchy, present in all three branches, and the expansive bureaucratic state. These are ably assisted by academic, legal, media, big business and political elites, who, by all measures, are engaged in a gradual counter-revolution to establish a formal (no longer de facto) oligarchical hierarchy in our

⁸² Melancton Smith, in his speech of June 25, 1788, acknowledges this “We were then, it is true, too cautious, and too much restricted the powers of the general government. But now it is proposed to go into the contrary, and a more dangerous extreme....”

⁸³ See Centinel I for a discussion of the Federalist effort to force an unnatural choice between this draft Constitution and the Articles of Confederation.

⁸⁴ Brutus I.

⁸⁵ Many of the Federalist’s arguments and perspectives were deliberately undermined by the created federal government since 1900, resulting in the manifestation of the worst fears of the Anti-Federalists’ and the demise of many, if not most, of the Federalists’ comforting assertions.

governing model. Whether this counter-revolutionary struggle is successful or the people reassert their power to govern themselves remains to be seen.

William Ridenour & William Ridenour, II