

# **DIPLOMOVÁ PRÁCE**

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## **NÁZEV PRÁCE**

Men of Different Faiths. Unity versus Diversity of Anti-Federalism  
during the Period of the Ratification of the U.S. Constitution

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Prohlašuji, že jsem diplomovou práci vypracoval samostatně a uvedl všechny použité prameny.

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## I. INTRODUCTION

### I.I. Thesis and Methodological Approach of the Paper

The objective of this paper is to explore the issue of the opposition to the U.S. Constitution during the period of its ratification. The Constitution was produced by the Philadelphia Constitutional Convention of 1787 and altered the existing constitutional framework of the Articles of Confederation in many significant ways. Virtually all aspects of advocacy of the new Constitution have been thoroughly discussed in American historiography for obvious reasons: the Constitution of the United States continues to be the supreme law of the land and represents the oldest written federal constitution still in use.

By contrast, the opposition to and criticism of the outcome of the Philadelphia Convention have received little popular as well as scholarly attention. Indeed, the opponents of the Constitution have been “treated as little more than a footnote in American history”.<sup>1</sup> The author of this paper finds this fact both surprising and challenging because the Constitution, its intent, development, and interpretations, can not be fully understood unless the political thought and ideology of those who opposed it are analysed.

Even a brief glance at the topic of Anti-Federalism, as the opposition to the Constitution is commonly referred to, reveals that its students are faced with a complex and multifaceted phenomenon. Moreover, it is a dynamic phenomenon; it evolved, changed in form, intensity, nature, and means, and transformed over time, responding to the changing political contexts of what has been described as *constitutional time*.<sup>2</sup> The plurality implied in this dynamism, therefore, allows scholars to speak of *Anti-Federalisms* or rather *anti-Federalisms*. The shifting faction opposing the policies of the Federalist Party in the Federal Congress became known as the Anti-Federalist coalition. This faction eventually merged to the astonishment of many but quite logically with the late Madisonians. This was, however, a *different group of people* than the Anti-Federalists of the ratification period. It was not necessarily a *group of different people* as

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<sup>1</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought,” p.387. *Polity*, vol. XXVI, no. 3, Spring 1994, Northeastern Political Science Association, pp. 378-415

<sup>2</sup> See SIEMERS, David J. *Ratifying the Republic. Antifederalists and Federalists in Constitutional Time*. Stanford University Press, Stanford, 2002

these two groups were often populated by the very same figures. But their thought and the policies they pursued were changed.

The Anti-Federalists are generally regarded as the apparent losers in the debate over the Constitution. This view is, however, only partially true. As long as the Bill of Rights – the first ten amendments to the Constitution – is regarded as an integral part of the Constitution, the Anti-Federalists are fully entitled to be counted among those who laid the foundations of the American political system.

Moreover, their legacy is not one of a momentary impact. The ideas resonating among the opponents of the Constitution have mightily influenced and even shaped American politics well until the Civil War. Some historians, therefore, refer to the opponents of the Constitution as the *other founders*<sup>3</sup> while other scholars point out the fact that the bits and pieces of the Anti-Federalist thought may be in one form or another found in the ideology of political paranoia of some of the contemporary, self-styled citizen militia organisations and even in the popular culture.<sup>4</sup>

The proposed Constitution divided the American society into two antagonistic, though not irreconcilable, camps. While the advocates of the document, howsoever internally diverse their group might have been, had the Constitution as their single common program, the opponents of the Constitution lacked a single tangible platform to unite them. A fundamental question arises at this point that this paper seeks to address: How should the opposition to the Constitution during the ratification debate be regarded? Was it a solid group united by a coherent political ideology? Or was it merely a babel of incongruous voices?

A first-hand analysis of the Anti-Federalist texts does not offer an unequivocal answer. It involves a study of seemingly disparate texts by authors of diverse economic, regional, social, and religious backgrounds. The individual Anti-Federalists differed in scope, nature, form, and theoretical underpinnings of their criticism of the Constitution. Nevertheless, the debate over the Constitution has been cast as a dialogue between two distinctive political groups that possessed two visions of politics.

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<sup>3</sup> See CORNELL, Saul. *The Other Founders. Anti-Federalism & the Dissenting Tradition in America, 1788-1828*. University of North Carolina Press, 1999

<sup>4</sup> See GRAHAM, Allison. "Are you or Have You Ever Been? Conspiracy Theory and the X-Files". in: LAVERY, David; HAGUE, Angela; CARTWRIGHT, Marla (eds.). *Deny All Knowledge: Reading the X-Files*. Syracuse University Press, Syracuse, 1996. pp.52-63

As a result the issue of the opposition to the Constitution can be approached in two different ways. *Vis-à-vis* the broad range and profundity of the differences among the critics of the Constitution, one would tend to think that there was no such thing as Anti-Federalist thought, that Anti-Federalism is merely a sum of miscellaneous attacks on the proposed Constitution. Or one can trace the “intellectual threads”<sup>5</sup> connecting the different Anti-Federalist texts and attempt to identify the common ground shared by those who did not support the Constitution. Once these threads are disclosed, they point to a *deeper unity* and *greater complexity* of Anti-Federalism.

By combining textual analysis of selected primary sources with their contextualisation using authoritative secondary literature, this paper will attempt to examine both sides of the problem and offer an informed and balanced answer regarding the nature of Anti-Federalism. The paper will, therefore, present the Anti-Federalists first as a diverse group of critics of the Constitution who, nevertheless, shared a common set of arguments. But the fact that they targeted the Constitution in the very same areas does not mean that the different Anti-Federalists had the very same visions of polity and politics in mind. Three distinct groups of Anti-Federalists shall thus be identified and differences among these groups exploited. By putting the findings of the paper together and juxtaposing the opponents of the Constitution in different interpretative lights as *men of little faith*, *men of a different faith*, and *men of great faith and forbearance* the final synthesis will attempt to reach a conclusion that the Anti-Federalists were in fact *men of different faiths*.

The paper opens with a brief outline of the historical context of the ratification debate. The “decade of crisis” of the 1780’s and the events leading to the Philadelphia Constitutional Convention are then foreshadowed. The proceedings of the Convention as well as the proposed Constitution can only be mentioned in brief since the paper assumes the readers’ acquaintance with the topic. Those interested in the work of the Convention and basic discussion of the Constitution are directed to other relevant resources.<sup>6</sup> To

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<sup>5</sup> Duncan, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.396

<sup>6</sup> For a readable account of the framing see VAN DOREN, Carl. *The Great Rehearsal: The Story of the Making and Ratifying of the Constitution of the United States*. Viking Press, New York, 1948, or BOWEN, Catherine D. *Miracle at Philadelphia. The Story of the Constitutional Convention, May to September, 1787*. Little, Brown, Boston, 1966.

analyse these would unseemly expand the focus of the paper. The sections of the Constitution that were explicitly under attack shall be dealt with in short where necessary.

The subsequent paragraphs define the ratification debate and discuss its nature. A brief presentation of the two opposing sides to the debate follows. Attention is then drawn fully to the analysis of the opponents of the Constitution. *Contemporaneous canon*, or a set of most influential Anti-Federalist text that defined the debate during this period, is explored. The next section contemplates the question of whether it is more important for the study of Anti-Federalism to look for differences among the critics of the constitution or whether it is more relevant to look for what they had in common.

The following part of the paper discusses Anti-Federalists as a group united in the opposition to the Constitution by a set of common themes or “lines of attack.” The following issues have been chosen as crucial and will be examined in greater detail: bill of rights, federalism and the nature of the Union, aristocratic tendency of the Constitution, and complex government. Literary identity and some rhetoric-related matters will also be touched upon. When put into perspective, the examination of Anti-Federalism will eventually show that there were characteristic subgroups within the movement and that applying a schematic approach to Anti-Federalism distorts, rather than clarifies its overall picture.

Three distinctive Anti-Federalist groups are, therefore, examined in the following sections. First, a small but influential group of elite opponents of the Constitution will be characterised. Second, Anti-Federalism of the middling sort shall be analysed. Third, plebeian or virulent critique of the Constitution will be looked upon. Each of the three strands of Anti-Federalism will be briefly presented and their distinctive traits shall be discussed. Such categorisation implies class differences. Even though class or economic differences played a significant role in the ratification debate, it was neither the sole nor the most important factor.<sup>7</sup> Therefore, this paper does not seek to define what class exactly is, what exactly it meant at that time, and how the term evolved for it would

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<sup>7</sup> The thesis that the U.S. Constitution represents primarily an economic document produced by the upper class was first put forward in 1913 by the Progressive historian Charles A. BEARD in his *Economic Interpretation of the Constitution of the United States*. Despite its rebuttal by historians like Robert E. BROWN and his *Charles Beard and the Constitution: A Critical Analysis of “An Economic Interpretation of the Constitution”* (1954) it became one of the most influential perspectives on American constitutional thought.

exceed the scope of the paper. The terms used here will be the very terms that appear in the Anti-Federalist texts: “aristocracy,” “better” or “upper sort,” “middling sort,” and “lower sort” or “common people,” remembering that these did not represent a strict classification, but rather, pointed to the overlapping and organic components of society.<sup>8</sup>

In order to offer a more plastic and insightful depiction of Anti-Federalism, the final section of this paper discusses three possible interpretations of the issue that are particularly revealing of the complexity of the topic.

Cecelia Kenyon’s essay, “Men of Little Faith: The Anti-Federalists on the Nature of Representative Government,” will first be examined. Kenyon squares up with the Beardian argument, which, while indirectly rehabilitating the Anti-Federalists, grossly distorted a balanced picture of the opposition to the Constitution. To Kenyon the Anti-Federalists are little more than a group of negativist dreamers – or rather sceptics – clinging to an obsolete theory of government that offered no viable solutions to the problems of the Union. The Anti-Federalists, Kenyon argues, shared the Federalists’ concept of democracy but unlike the proponents of the Constitution, they lacked a positive vision and a workable program. The most characteristic feature of Anti-Federalism was a profound distrust of elected government and of people as political agents in general.

Second, an analysis of Christopher Duncan’s essay, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought,” will be offered. Instead of portraying the Anti-Federalists as destructive critics without a positive ethos, Duncan sees Anti-Federalists as advocates of a social theory which emphasised local community and the individual’s place therein as the crucial factor. Community conceived in almost a Socratic sense preceded and determined any form of socialisation, including political socialisation. Outside a local community human existence lost its *raison d’être*. In Duncan’s view, the intimacy of the practically familial environment which the local community offered to an individual was the most adequate safeguard of a free and good government. Local community exclusively allowed for a fully-fledged development of

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<sup>8</sup> Philip CROWL’s “Anti-Federalism in Maryland, 1787-1788.” *William and Mary Quarterly*, 3rd Ser., Vol. 4, No. 4, (Oct., 1947), pp. 446-469 offers an early refutation of the thesis that economic factors played a decisive role in the debate over the Constitution. Using Maryland as a concrete example Crowl concludes that indifference towards “economic interest” was the prevailing sentiment.



people into mature human beings. And a small republic was best suited to preserve the independence, diversity, and freedom of local communities. Therefore, Duncan claims, any erosion of the concept of the small republic was perceived by Anti-Federalists as potentially leading to tyranny. Duncan's main argument thus is that whereas the Federalist advocacy of the Constitution rested on the notion of an *individualistic pursuit of private happiness*, the ideal that the Anti-Federalists embraced was based on the existential dependence of an individual on the community and their mutual connectedness, an ideal which put emphasis on the maxim of *communal pursuit of public happiness*.

The last interpretation examined in this paper will accomplish a full circle; from Kenyon's *men of little faith* and Duncan's *men of a different faith*, David Siemers moves to a perception of the Anti-Federalists as *men of great faith and forbearance*, which is the title of his book. Avoiding the caveats of previous interpretations, Siemers is consistent in approaching the Anti-Federalism of the ratification period with regard to its three specific strands, and yet, he depicts the movement as an umbrella covering a common agenda. To Siemers, just like to Kenyon, the essential question when studying the opposition to the Constitution is the degree of faith and confidence – or distrust and suspicion – the critics of the Constitution had towards government and people as political actors. Siemers' Anti-Federalists feature great faith in the potential of government and capacity of people to administer their affairs through politics. But it was a faith conditioned by the belief in genuine representation mirroring as precisely as possible the particular needs and interests of the people. As long as people could see government as *theirs* the Anti-Federalist vision offered a constructive alternative to the Federalist proposals.

Madisonian principles, that founded the Constitution on the notion of perpetual conflict of competing interests and the necessity to compromise, were rejected by the opponents of the Constitution as detrimental. Rather than minimising the influence of different interests by the Madisonian *filtration* through the diverse mechanisms on a large scale, government – and republic – should be close – and small – enough to its people to reflect and represent sufficiently citizens' particular needs and concerns. The Constitutional design of detachment of government from constituents was seen as leading to alienation between the people and the political process, apathy, lack of participation in

politics, and, eventually, to the destruction of the vital principles of good government. Siemers' Anti-Federalists were men who possessed great faith in government as long as it was based on civic virtue and broad representation of interest. And they deserve to be called not only *men of great faith* but also *of great forbearance*. This is because they eventually conceded to the Constitution once it was ratified and became legally binding, but at the same time, they adapted to the changed context and continued to pursue policies true to the core of their faith.

Combining analyses of these three interpretative approaches with the previous findings of this paper will then enable the reader to formulate a balanced conclusion. Nevertheless, the answers offered here should not be seen as definitive. It is virtually impossible to assess wholly the issue of Anti-Federalism of the ratification period on the limited space allocated to this paper, which seeks neither to discuss all possible interpretations of the opposition to the Constitution nor to cover the virtually inexhaustible quantity of primary sources.

Still, the examination of selected primary sources and their contextualisation will provide enough clues to see the opponents of the Constitutions as a group of individuals united by a common cause, a group that shared a set of common objections and attacked the Constitution on the same grounds.

At the same time it will be demonstrated that this common ground by no means represents a single or coherent political program. There were distinctive groups among the critics of the Constitution that varied in degree, nature, and form of expressing their objections. And, more importantly, they differed in their understanding of the theoretical underpinnings of what they had in common. Each of the Anti-Federalist groups had a positive vision of how polity should be administered, a positive contribution to the complex phenomenon of the ratification debate. Reflecting on both plurality and positive visions of the opponents of the Constitution, this paper, therefore, argues that the Anti-Federalists were in fact *men of different faiths*.

### **I.II. Brief Note on Bibliography**

As has been said above, this paper is based on the interplay between textual analysis of relevant primary sources and contextualisation using authoritative secondary

literature. The renewed interest in Anti-Federalism that accompanied, as a by-product, the bicentenary of the U.S. Constitution has brought with it the publication of a virtually endless number of primary materials.

The most important edition of primary sources relevant to the ratification period is the mammoth project *The Documentary History of the Ratification of the Constitution and the Bill of Rights, 1787-1791* realised under the auspices of the State Historical Society of Wisconsin and editorial direction of John P. Kaminski and others. The objective of the project is to offer a complete documentation of the process by which the U.S. Constitution, after its proposal by the Constitutional Convention of 1787, was debated and ratified, together with similar material covering the drafting, proposal, and ratification or defeat of the first amendments to the constitution, which are referred to collectively as the Bill of Rights. Since the release in 1976 of the first two volumes, the total of nineteen volumes has been published until this day. With regard to the focus and methodological needs of this paper, however, more concise editions of primary material have been used.

Herbert Storing's edition of *The Complete Anti-Federalist*\* offers an extensive seven-volume collection of texts opposing the Constitution providing students with a solid and representative array of resources. For practical reasons a one-volume abridgement of Storing's collection *The Anti-Federalist. An Abridgement* co-edited by Murray Dry has also been used.\*\* Considerably more succinct is Ralph Ketcham's edition, *The Anti-Federalist Papers and the Constitutional Convention Debates*. As the title suggests, besides presenting the most important texts of the Constitution's critics, Ketcham adds a useful selection from the proceedings of the Philadelphia Constitutional Convention so that readers may follow the evolution of Anti-Federalist thought from the onset.

David Siemers' *The Antifederalists: Men of Great Faith and Forbearance* is particularly helpful because it groups the Anti-Federalist texts into logical units: early Anti-Federalism, contemporaneous canon featuring texts which had most profound impact during the ratification period, Anti-Federalism of the middling class, virulent or

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\* For full bibliographical citations see section Bibliography at the end of the paper, p.107ff

\*\* Storing's original referencing system is respected throughout this paper.

plebeian Anti-Federalism, elite Anti-Federalism, several examples of the post-ratification Anti-Federalism, and spurious and satirical material.

Finally, Morton Borden's edition, *The Antifederalist Papers*, is a selection of 85 Anti-Federalist texts following thematically the Federalist Papers. It is quite practical as a ready-to-use tool to contrast the main arguments of the proponents and opponents of the Constitution. Early Anti-Federalism and the proceedings of the Philadelphia Constitutional Convention are not the primary focus of this paper but some references are nevertheless made here. The three-volume edition of Max Farrand's *Records of the Federal Convention* has been used as arguably the most relevant collection of the Convention-related sources.

The amount of secondary sources dedicated explicitly to the study of the opposition to the Constitution is incommensurately small when compared to that which deals with the advocacy of the document. This paper does not have the ambition to give an exhaustive account of all interpretative approaches to Anti-Federalism. Nonetheless, it is impossible to avoid touching upon some of the interpretative landmarks of American historiography. In order to get a gist of the possible ways of explaining the essence of Anti-Federalism and to present a balanced conclusion, the closing part of the paper will examine three approaches to the issue in detail. Secondary literature is used as a means of guiding through the theme and providing necessary context.

The most inspiring of all the secondary sources used in this paper is Saul Cornell's *Other Founders. Anti-Federalism & the Dissenting Tradition in America, 1788-1828*. In order to fully understand Anti-Federalism, Cornell uses the notion of *public sphere* which serves as a powerful tool of analysing the critique of the Constitution. *The Other Founders* represents a fresh and well-informed account of the opposition to the Constitution in the context of American dissenting tradition.

Herbert Storing's *What the Anti-Federalists Were For* is a comprehensive one-volume overview of the Anti-Federalist thought. It was originally published as the first volume of the *Complete Anti-Federalist* but has been reprinted independently as an essential companion to the ratification debate ever since. Rather than tracing down the distinctive groups among Anti-Federalists, Storing offers a synthesis of major themes that constitute the umbrella covering the various forms of opposition to the Constitution.

In addition to compiling the most important Anti-federalist texts, the first chapter of David Siemers' *Antifederalists. Men of Great Faith and Forbearance* presents an insightful and at the same opinionated analysis of the movement opposing the ratification of the Constitution. Siemers' *Ratifying the Republic. Antifederalists and Federalists in Constitutional Time* deals in great detail with the evolution of Anti-Federalism and demonstrates how it transformed *vis-à-vis* the changes of the political context.

William Riker's *Strategy of Rhetoric. Campaigning for the American Constitution* is a highly theoretical analysis of the different methods the proponents and opponents of the Constitution chose to make their case and it reveals the complexity of the rhetoric of the ratification. The first unit of Ketcham's edition of the *Anti-Federalist Papers* presents an informed summary of Anti-Federalist arguments. Gordon Wood's classic, *Creation of the American Republic*, helps understand the broader intellectual currents in American society in the early years of the Republic. Clinton Rossiter's *1787: The Grand Convention* and Carl Van Doren's *Great Rehearsal* provide useful and readable introductions into the domain of drafting and ratifying the Constitution.

Finally, Cecelia Kenyon's "Men of Little Faith: The Anti-Federalists on the Nature of Representative Government," Christopher Duncan's "Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought," and Davis Siemers' introductory chapter "Men of Great Faith and Forbearance" represent three interpretative approaches to Anti-Federalism, which are particularly enlightening in terms of deeper assumptions underlying the opposition to the Federal Constitution.

## **II. THE CONSTITUTIONAL DEBATE IN HISTORICAL CONTEXT**

The debate over the proposed federal Constitution during the period of its ratification represents the very heart of American constitutionalism. It reflects broader trends and changes in American society that had been occurring in the 1780's and sets the primary context of American political discourse until the Civil War. Understanding both the founding dialogue and ratification debate is, therefore, an essential precondition for a competent study of virtually any aspect of American reality. The importance of the debate can hardly be overestimated: "if the essence of democracy is open and nearly endless debate, the struggle over the ratification ... was a searching test for this famous pattern of politics".<sup>9</sup>

### **II.I. Articles of Confederation and the "Decade of Crisis"**

In the decade following the American Revolutionary War, the Union was operating in the constitutional framework set by the Articles of Confederation, effective from 1778 and fully ratified in 1781. The Articles established a perpetual league of friendship among the thirteen former British colonies with the objective of coordinating collective efforts in the areas of security against external threat, economic and commercial matters, and international relations.

This loose alliance was based on the classical view of federalism in which the individual states retained a considerable amount of sovereignty.<sup>10</sup> Each decision had to be approved by two thirds of the states before taking effect. To amend the Articles, a unanimous vote by all thirteen states was required, a rule that underlined the notion of sovereignty of the individual states. There was no single executive power. Its role was carried out by Congressional committees. Confederation Congress lacked the power to enforce its decisions, namely as regards the collection of taxes.<sup>11</sup>

The Articles of Confederation represent a somewhat transitory constitutional form between the classical federalism based on sovereignty of the constituent parts of a union

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<sup>9</sup> ROSSITER, Clinton. 1787. The Grand Convention. Macmillan, New York, 1966, p.282

<sup>10</sup> In his Anti-Federalist Papers and the Constitutional Convention Debates. Signet Classic, New York, 2003, p.12, KETCHAM (ed.) reminds that in this classical view and in the political discourse of the 18<sup>th</sup> century the terms *federation* and *confederation* were synonymous and interchangeable.

<sup>11</sup> See *Articles of Confederation*, in: JENSEN, Merrill. Articles of Confederation. An Interpretation of the Social-Constitutional History of the American Revolution 1774-1781. University of Wisconsin Press, Madison, 1963, p.263ff

and a more centralised system with national government playing a larger role. The Confederation achieved a substantial degree of success in coordinating war efforts, creating basic legislation to regulate commerce, organising the army, emitting the continental currency, and conducting foreign policy.<sup>12</sup>

Despite considerable success – or rather absence of considerable failure – of the Confederation, overall economic prosperity, and unprecedented population growth, the 1780's are generally referred to as a decade of crisis. It was not the real events or the situation *as it was* that primarily determined the social atmosphere of the day; it was, rather, *the perception and interpretation* of the period that mattered.

It is true that during its early years the Republic was struggling in a number of fields. The accumulation of issues perceived as problematic, insufficient capability of the central government – the Confederation Congress – to deal effectively with the situation, and the perception of the period by the public as one of a crisis, created a social climate leading to a broad support for efforts aimed at improving the current political framework.

The 1780's *crisis paradigm* has many explanations. Most importantly, there existed a common feeling that the legacy of the American Revolution has reached a critical crossroads. Among the crucial factors shaping the public perception of the decade were the unfulfilled ambitions and expectations created by the Revolutionary ethos, existential uncertainty connected to the precipitancy of the 1780's, and the interpretation of the economic situation.<sup>13</sup>

When trying to explain why the era was perceived as one of a crisis, one does not necessarily have to look primarily at specific economic difficulties, poverty, or want. Wood argues that the cause was just the opposite: the real reason behind the commonly articulated feeling of crisis was, paradoxically, prosperity. Americans had won their War of Independence, but they viewed this victory as neither a mere revolt against tyranny and injustice nor as a definite time-limited event. Instead, this victory represented one of the stages in a utopian effort to change society and institute a truly free government. Such was the spirit of the time. And it was the contrast of the development of the 1780's, on the one hand, and the profundity of the Revolutionary expectations, on the other hand,

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<sup>12</sup> LUTZ, Donald S. "Articles of Confederation. A Commentary," p.229. In: CHESTER, Stephen (ed.). Roots of the Republic: American Founding Documents Interpreted. Madison 1990, pp.235-24,

<sup>13</sup> WOOD, Gordon S. Creation of the American Republic, 1776-1787. New York, 1969, p.394

that caused this great disillusionment. It was the ever living and still unfulfilled spirit of 1776, a spirit that expected more from the world than the world could offer.<sup>14</sup>

After a series of modest attempts to bring all states together to discuss the possible remedies of the Confederation system, January 21, 1786 saw a first energetic step towards reform. On that day the Virginia legislature proposed that a convention representing all the states of the Union be held to deal with the issues of commerce and prerogatives of the Confederation Congress. The convention eventually met in September of the same year in Annapolis, Maryland, with only twelve delegates of five states attending.

Despite its apparent failure, the Annapolis Convention, nevertheless, adopted a report that was sent to the Congress and to the states. The report called for a convention to be held in May 1787 in Philadelphia to consider a broader range of issues than merely interstate commerce. Original reluctance towards the proposed convention was eventually overcome in an atmosphere of fear and uncertainty caused by an armed uprising of Massachusetts farmers. Led by Daniel P. Shays, a Revolutionary War veteran, mostly small farmers took up arms in August 1786 to fight government taxation and debt policies which, they claimed, were about to ruin their existence. The Shays Rebellion was finally repressed by the Massachusetts militia in February 1787.

The Massachusetts events received great publicity throughout the Union and led to a widespread feeling of insecurity which stemmed, in Madison's words, from the *vices of the Confederation*. The Shays Rebellion and other local uprisings<sup>15</sup> crowned the social climate of crisis with a violent action and can, thus, be seen as one of the critical factors leading to the acceptance of the idea of holding another convention aimed at improving the situation of the Union. This was reflected in the Congress which in January 1787, after some debate and amendments, adopted the report of the Annapolis Convention and

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<sup>14</sup> See KELLY, Alfred H. - HARBISON, Winfried A. - BELZ, Herman. American Constitution, Its Origins and Development. Vol. I., New York, 1991, p.65; WOOD, The Creation of the American Republic, 1776-1787, p.396

<sup>15</sup> These included farmers' unrest in New Hampshire, assaults on tax collectors in Pennsylvania, Virginia and South Carolina



convoked a new assembly to convene in Philadelphia in May 1787 with the “sole and express purpose of revising the Articles of Confederation.”<sup>16</sup>

## **II.II. The Philadelphia Convention and the new Constitution**

Following the Congressional appeal a convention was held in Philadelphia in late May 1787. The proceedings of the Philadelphia Convention started on May 25 and it was soon decided – in direct contradiction of the original purpose and mandate given to the Convention – that instead of amending the existing constitution, the Articles of Confederation, a new document would be created. The move was put forward by the supporters of the idea that a stronger and more energetic central authority was needed, supporters of the idea of establishing a new system government. The decision provoked a discussion which can be seen as the first sign of forming of two distinct camps which, roughly speaking, eventually became known as the Federalists and the Anti-Federalists.

Having abandoned the original purpose of amending the Articles of Confederation the delegates began discussing the Virginia Plan. Presented by Edmund Randolph on May 29, 1787, this was a plan of government drafted by James Madison and other Virginia delegates, a plan that reflected the interest of the larger states.

The Virginia Plan proposed a creation of a bicameral legislature intended to be arguably the most powerful branch of government. The Plan favoured proportional representation in both chambers that was based on population or on contributions of the states to the federal treasury. The lower chamber was to be elected by popular vote in the states. Members of the upper chamber were to be chosen by the lower chamber out of nominations made by state legislatures. The proposed executive branch was rather ancillary to the legislature; the executive was merely to carry out the decisions made by the legislature. The Virginia Plan also proposed the creation of a federal judiciary which, together with the executive, possessed a veto power on the decisions of the legislature.

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<sup>16</sup> Proceedings of the Continental Congress, February 21, 1787. In: HILL, Roscoe L. (ed.) Journals of the Continental Congress 1774-1789. Vol. XXXII. United States Government Printing Office, Washington, 1936, p.74

The supremacy of the federal government was asserted by the power of the national government to veto state legislation.<sup>17</sup>

As the debate dragged on the New Jersey Plan was brought forward by William Paterson on June 15. The New Jersey Plan reflected reservations concerning the extent of powers given to the federal government under the Virginia Plan as well as the fear of the smaller states of being swallowed by the large states. Rather than changing the system dramatically the Plan proposed to enlarge the powers of the existing Confederation Congress in order to enhance its operability. A plural executive power was anticipated which was to be elected by Congress. There were short terms of office of the federal executive and its members were subject to recall by the executives of the individual states. A federal judiciary was to be established. Legislation passed by Congress was to be superior to state legislation.<sup>18</sup>

After a brief intermezzo caused by Alexander Hamilton's plan of government of June 18<sup>19</sup> that mirrored his admiration of the British model and thus carried some monarchical attributes, the delegates returned to the proposition that had been made by Connecticut's Roger Sherman on June 11.

Sherman sought a compromise between the large and small states by combining the principles of proportionality and equality in the federal legislature: the representation of the lower chamber was to be based on the numbers of free inhabitants whereas in the upper chamber each state would have an equal vote.<sup>20</sup> Sherman's proposal served as the basis of what became known as the Great Compromise, a solution reconciling the interests of the large and small states which enabled the Convention to continue its proceedings and eventually to draft a text of the new constitution.

The debate continued until September 17, when thirty-nine delegates out of the total fifty-five signed the final draft of the Constitution. The delegates also sent a letter to Congress in which they outlined what ought to be done in the aftermath of the Convention. This *Letter of Transmittal* asked Congress to present the proposed Constitution to the states and to commence the process of ratification by the states. It also

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<sup>17</sup> FARRAND, Max (ed.). *The Records of the Federal Convention of 1787*. Yale University Press, New Haven, 1911, vol.1, p.20

<sup>18</sup> *Ibid*, vol.1, pp.242-245

<sup>19</sup> *Ibid*, vol.1, pp.282-293

<sup>20</sup> *Ibid*, vol.1, p.204

specified the conditions of how the new government should be put in place once the ratification was complete.

The proposed Constitution departed significantly from the Articles of Confederation. It distributed power among three separate but interdependent branches of government, the legislature, executive, and judiciary, neither of which was to be dominant. The bicameral legislature combined the principles proportionality and equality of the states. The single-person executive was given enough power to execute law. The federal judiciary was to serve as a check on the constitutionality of both state and federal law. Claiming direct jurisdiction over the people and thus acquiring sovereignty, the federal government was to possess enough power to administer and enforce the law. Its structure of mutual checks and balances as well as methods of election were designed in such a way as to prevent tyranny or abuse of power.\*

As has been said not all delegates at the Philadelphia Convention signed the final document. It is important to note that most of the future Anti-Federalists were found among those who were less keen on changing the existing status quo of the Articles of Confederation. They believed that state government was a functional structure which needed time to reach maturity and full effectiveness. Accordingly, Borden suggests that the Anti-Federalists refused the idea of changing the constitution because they thought the American character had not been forged yet. Major alterations were to be postponed.<sup>21</sup>

The position of the proponents of the constitutional change was, therefore, significantly facilitated by the fact that most of the advocates of the present system refused to attend the Constitutional Convention. The absence at Philadelphia of notable politicians like Patrick Henry, Samuel Adams, and George Clinton who were likely to oppose the consolidating and nationalising tendency of the Convention offered a tremendous advantage to the proponents of the Constitution. Additionally, Siemers points out, “the future Antifederalists who were at the Convention did not act in concert”: Elbridge Gerry of Massachusetts stayed at Philadelphia until the end; Robert Yates and John Lansing “left in disgust” in the middle of the proceedings “leaving arch-nationalist

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\* For a synopsis of the Articles of Confederation and the Constitution, see Appendix I, p.103

<sup>21</sup> BORDEN, Morton (ed.). *The Antifederalist Papers*. Michigan State University Press, 1965, p.xii

Alexander Hamilton as New York’s sole representative”]; instead of a resolute activism Edmund Randolph of Virginia showed apathy and resigned acceptance.<sup>22</sup>

As a result – and despite the fact that it was a compromise – not only did the final outcome of the Philadelphia Convention violate the original mandate given to this body, it was also more representative of the views of one particular political group. By staying away from the Convention the dissenting voices lost momentum and had to look for ways of correcting the errors of the proposed Constitution. The period of the ratification of the Constitution offered them a chance to confront the advocates of the new government.

### **II.III. The Ratification Period**

The ratification period may be defined in several ways. Generally, it stretches from the closing phase of the Philadelphia Constitutional Convention in late summer of 1787 to June 21, 1788 when New Hampshire ratified the Constitution as the ninth state. May 29, 1790 is another important date. On that day Rhode Island ratified the Constitution as the last of the thirteen states. The ratification period may be, in the broadest sense, extended as far as November 3, 1791 when the Bill of Rights took effect.<sup>23</sup>

With the Federal Convention coming to its conclusion the debate over the proposed Constitution moved to the states. Article VII of the Constitution stipulated that the “ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same”.<sup>24</sup> On September 28, 1787, following the instruction of the *Letter of Transmittal* the Confederation Congress decided that the Constitution be sent to the states each of which was to vote on the ratification of the document.<sup>25</sup>

Three small states, Delaware, New Jersey, and Georgia, satisfied with state equality in the Senate and by the prospect of benefits of a stronger Union, ratified the

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<sup>22</sup> SIEMERS, David J. *The Antifederalists. Men of Great Faith and Forbearance.* Rowman and Littlefield Publishers, Inc., Lanham, 2003, p.22

<sup>23</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.25ff

<sup>24</sup> *Constitution of the United States*, in: VILE, *A Companion to the U.S. Constitution and Its Amendments*, p.108. For a commentary, see *ibid* pp.108-109.

<sup>25</sup> For an in-depth analysis of the strategies used to ratify the Constitution see RIKER, William H. *The Strategy of Rhetoric. Campaigning for the American Constitution.* Yale University Press, New Haven, 1996.

Constitution unanimously. Connecticut and Pennsylvania ratified next with Federalists securing their majorities.

Pennsylvania ratification was, however, marked with a serious incident. The Anti-Federalist state legislators absented from the assembly depriving it of the necessary quorum. They did so in order to prevent the assembly from calling a ratifying convention. Their Federalist adversaries organised a mob that attacked the absenters and brought the Anti-Federalist legislators forcibly into the chamber where they were held against their will. The ratifying convention was eventually called and the Constitution ratified. During the convention Anti-Federalists' objections were left out from the official proceedings.<sup>26</sup>

The debate in Massachusetts was severe and in order to win ratification, the Federalists had to show considerable manoeuvring and ability to compromise. The easy ratification by Maryland and South Carolina, on the other hand, relieved the worries of the proponents of the Constitution.

The adoption of the Constitution by New Hampshire – the ninth state – despite strong Anti-Federalist opposition of June 21, 1788 marked an important landmark in the ratification struggle. This meant that the Constitution had become a legal document, not a mere proposal. Still, the heat of the debate further increased as both the proponents and opponents of the Constitution realised that there still remained two key states – Virginia and New York – and without their ratification the Constitution would suffer a considerable lack of legitimacy. It was only after a fierce exchange of political opinions that both Virginia and New York eventually ratified the document by narrow margins. The two remaining states, North Carolina and Rhode Island, followed suit.\*

The first Federal Congress convened in April 1789 after elections that were held late in 1788 and early in 1789. George Washington was elected the first president and was sworn on April 30, 1789.<sup>27</sup>

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<sup>26</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.23

\* For detailed information on the ratification in the states see Appendix II, p.104, and Appendix III p.105

<sup>27</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.21

### III. THE DEBATE OVER THE RATIFICATION OF THE CONSTITUTION

The political debate during the ratification period represents a complex and multifaceted social phenomenon composed of virtually all possible forms of expression of all different sorts of opinion. It has to be remembered, however, that it was a product of its time. In essence it was a debate among white males and certain voices were excluded or were marginal: African Americans were left out from the debate altogether while women's participation was – with the exception of Mercy Otis Warren – only sparse.

This debate created a dynamic public arena that served as a forum in which the American political culture was defined. It was an intellectual exchange par excellence: “solemn and shrill, sensible and absurd, clever and vulgar”, an exchange addressing the “ancient and honorable theme, so dear to the hearts of freedom-loving Americans, of the corrupting effects of political power”.<sup>28</sup>

The constitutional debate is a unique one, distinct and different from later controversies involving the interpretation of the Constitution. It is distinct in its scope and openness, it is as broad and popular a movement as one could imagine. It includes such diverse forms of expression of public opinion as privately dispatched correspondence among an elite group who considered themselves a natural aristocracy on the one extreme, to mob action in the streets featuring public burning of symbols of the new constitutional system on the other extreme.

In order to minimise concerns of the people about the centralising tendency of the new government, the proponents of the Constitution presented themselves as Federalists. This was a smart move because, while they were advocating a government with clearly national characteristics, the public understood federalism still in the classical sense, as a position based on the notion of state sovereignty.

Possessing initiative, rallied around the Constitution, and dominating the press the Federalists sought to portray their opponents as an incoherent group of partisan opportunists who sought to prevent the remedy of the vices of the Confederation. It is, therefore, rather ironic that the opponents of the Constitution who found themselves

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<sup>28</sup> ROSSITER, 1787: The Grand Convention, p.284

closer to the *federalist position* as it was understood at that time became known as the Anti-Federalists.<sup>29</sup>

One must agree with Siemers that they did not choose their name. They were rather “saddled with a name that sounds negative”. With the public understanding the term *federal* in the traditional sense – meaning a loose confederated union – labelling of the opponents of the Constitution by the Federalists as Anti-Federalists indicated that these Anti-Federalists were “against something commonly accepted as a great strength of the American system”. It was the Federalists whose commitment to the *federalism of the era* was questionable. However, despite their grumbling against the Federalist propaganda the Anti-Federalists never succeeded in “redefining themselves with a more positive label.”<sup>30</sup>

Ketcham suggests that at its most profound level the debate over the Constitution and its ratification was a debate over the future of the nation. Generally speaking, the two sides represented two different visions of the legacy and fulfilment of the American Revolution. The Federalists offered a vision emphasising “independence, growth in national power, and prosperity, all within a federal system of government retaining the states and deriving its authority from the people, but also competent to all the needs and exigencies of respectable, energetic nationhood.”<sup>31</sup>

The Anti-Federalist vision, by contrast, sought to establish a “society where virtuous, hard-working honest men and women lived simply in their own communities, enjoyed their families and their neighbors, were devoted to the common welfare, and had such churches, schools, trade associations, and local governments as they needed to sustain their values and purposes.”<sup>32</sup>

As the proposed Constitution was made public in September 1787, the Anti-Federalists pursued three main objectives. First, they insisted that there must be a public debate on the document and that this debate must be as broad and free as possible. Second, they offered legitimate reasons for opposing the Constitution. Third, they put

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<sup>29</sup> It has to be remembered that this paper focuses solely on the ratification period as defined above. The ratification struggle Anti-Federalists should thus not be confused with adherents of Jefferson’s Democratic Republican Party – an influential faction emerging during the Washington presidency – who are often referred to as Anti-Federalists.

<sup>30</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.6

<sup>31</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.20

<sup>32</sup> *Ibid*, p.

forward possible remedies to the errors that were, they argued, in the Constitution, with hopes for calling for a second constitutional convention.<sup>33</sup>

Nonetheless, some doubts remain as regards the overall openness of the debate. Besides the incident preceding the Pennsylvania ratification described above, some Anti-Federalist texts mention an atmosphere of intimidation, censorship of critical writing, and even of creation of “enemies lists”.<sup>34</sup>

The debate reflected not only philosophical differences between the two sides. It also echoed personal animosities: George Clinton was a political opponent of John Jay and Alexander Hamilton in New York, in Virginia Patrick Henry opposed James Madison.

### **III.I. Federalists and Anti-Federalists**

History, as Rossiter says, wastes little time on losers in political struggles.<sup>35</sup> The Federalists are generally regarded as those who shaped the debate over the Constitution by taking the initiative in pushing through their agenda. Names of James Madison, Alexander Hamilton, and John Jay have become the symbols of Federalism. A series of their 85 letters collected into a volume known as *The Federalist* or *The Federalist Papers* represents a classical explication of the theory of federal government. The Federalist Papers have become one of the key texts of political theory, indeed an icon of American political thought, and have been used by the Supreme Court as the genuine expression of the intent of the Constitution.

But to focus solely on the Federalists’ zeal would, as it often happens, conflate the political and social reality of the period: to downplay the contribution of the Anti-Federalists to the public discourse and to American constitutional thought would be a grave mistake. As Siemers noted, “neither the Federalists nor the Antifederalists controlled the outcome of the ratification process, but both groups affected it mightily.”<sup>36</sup>

The Anti-Federalists, who considered themselves as the true heirs of the Revolutionary spirit, put their case against the Constitution with eloquence and passion

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<sup>33</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.22

<sup>34</sup> *Concretely Essay by Brutus, Jr.* in: STORING, Herbert J. (ed.). *The Complete Anti-Federalist*. 7 vols., University of Chicago Press, Chicago 1981., 6.40

<sup>35</sup> ROSSITER, *1787: The Grand Convention*, p.282

<sup>36</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.28



and their argument should be listened to with respect and admiration. Losers in the debate over the Constitution the Anti-Federalists are, nevertheless, a group of notable men like Richard Henry Lee, George Mason, Elbridge Gerry, Luther Martin, Melancton Smith, Patrick Henry, Thomas Paine, or George Clinton, as well as of virtually forgotten figures like Amos Singletary of Massachusetts, or William Goudy of North Carolina, and unknown men or men whose identity is disputed like Brutus, Helvidius, John Humble, John DeWitt, and many others.<sup>37</sup>

Anti-Federalists could be found among political leaders as well as average citizens. Siemers argues that even though the majority of Anti-Federalists was composed of the average citizens, the elite opposition to the Constitution generally tends to be more easily identified. Leaders were more likely to take a stand on the issue, their position was more likely to be recorded and preserved. Hundreds of active Anti-Federalists attacked the Constitution and even if most of them may be obscure now they were important political figures in their time.<sup>38</sup>

Attempts have been made to put together a collection of Anti-Federalist texts to match the Federalist Papers in style and topic. Faced with the Anti-Federalist diversity, such task, however, has proven to be rather difficult. Borden's compilation of the *Antifederalist Papers* is arguably the most important effort to offer a parallel to the Federalist canon. Borden included 85 texts representative of the different kinds of opposition to the Constitution that cover the period of 1787-1788.<sup>39</sup>

Storing rightly points out that, overall, "those who opposed the Constitution must be seen as playing an indispensable if subordinate part in the founding process" and "are entitled to be counted among the Founding Fathers".<sup>40</sup> Arguments of both Federalists and Anti-Federalists have become points of reference for later interpretations of the Constitution as well as for policy formulation.\*

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<sup>37</sup> ROSSITER, 1787: The Grand Convention, p.282

<sup>38</sup> SIEMERS, The Antifederalists. Men of Great Faith and Forbearance, p.3

<sup>39</sup> BORDEN, Morton (ed.). The Antifederalist Papers. Michigan State University Press, 1965

<sup>40</sup> STORING, Herbert J. What the Anti-Federalist Were For. University of Chicago Press, Chicago, 1981, p.3

\* For a basic comparison of the Federalist and Anti-Federalist position, see Appendix IV, p.106

### III.II. The Role of the Press and Print

Despite the fact that some perceived local direct popular action as one of the legitimate forms of public discourse the role of the press remains decisive in shaping the public opinion. Both Federalists and Anti-Federalists were aware of this. The critical question therefore was how to dominate the press and convey a unified and coherent message, a message that would represent the will of the people, a message that would have the power to shape the will of the people.

The bulk of Anti-Federalist texts were never printed. If they did make their way to print they were seldom reprinted. According to Cornell, ninety per cent of the Anti-Federalist writings circulating on the national scale were reprinted fewer than ten times, a number rather illustrative of the clear disproportion between the Federalist and Anti-Federalist printing potentials.<sup>41</sup> Consequently, Anti-Federalism as a political position was defined by this small corpus of reprinted, circulating texts.

Siemers refers to these texts as to a “contemporaneous canon”. The list of most widely known Anti-Federalist texts during the ratification period thus features the following: *Centinel I*; *Reasons of Elbridge Gerry for not Signing the Federal Constitution*; *Objections of George Mason to the Proposed Constitution*; *The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to Their Constituents*; *Letter of Richard Henry Lee to Edmund Randolph of December 6, 1787*; *Letter from Robert Yates and John Lansing, Jr. Containing Their Reasons for not Subscribing to the Federal Constitution*.<sup>42</sup>

The contemporaneous canon represents neither the most detailed nor the most philosophical Anti-Federalist arguments. But for various reasons these texts defined to many the Anti-Federalist position at that time. The authority of its authors played an important role and so did the fact that they were printed in Philadelphia, the centre of print and distribution of the period.

If one of the main promises of the Constitution was to spur national economy and commerce the debate split the society along geographic lines: coastal areas with cities tended to be commercial centres and thus tended to have Federalist majorities;

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<sup>41</sup> For an exhaustive list of reprints of Anti-Federalist writings see CORNELL, *The Other Founders*, p.309ff

<sup>42</sup> See SIEMERS, *The Antifederalists. Men of great Faith and Forbearance*, chapter 3

backcountry rural areas with scattered populations were likely to oppose the new Constitution. Because the commercial and economic centres of the country were situated in coastal areas it was here that press and printing flourished. Consequently, most of the ninety-plus newspapers during the ratification period clearly expressed the Federalist opinion. The Anti-Federalists only had about six newspapers, while another half-dozen printed views of the both sides.<sup>43</sup>

### **III.III. The Anti-Federalists: Unity versus Diversity**

It is at this point that the enormous handicap of the Anti-Federalists can be seen: it appears extremely difficult for a group of such heterogeneity and intrinsic diversity to articulate a single political philosophy or ideology.

Anti-Federalists could be found in virtually any segment of American society: hard-minded rich Southern planters opposed the Constitution for failing to give full support to slavery; Pennsylvania tender-minded Quakers rejected the Constitution for its failure to take action against slavery; North Carolina Baptists decried it for not being explicit enough about religious freedom; Connecticut Congregationalists attacked the document for the omission of a clear statement of belief in one, true, and perfect God; middling politicians namely from New York and Pennsylvania pursued their state-centred political philosophy; artisans, merchants, backcountry farmers sought to promote their particular interests, or rather sought protection against the interests of the aristocratic elite.

Combining all these backgrounds, the Anti-Federalists found themselves divided along the “coastal versus inland” pattern. Among the opponents of the Constitution were successful coastal merchants, rich planters from the South, as well as small farmers from isolated areas. Additionally, each of the Anti-Federalists was deeply rooted in locality and was an agent of his state’s particular interests. Animosity among the individual states were, therefore, reflected within the group opposing the Constitution.<sup>44</sup>

To many it seemed that instead of creating a common platform in order to defeat the Constitution the Anti-Federalists, “scattered all over the map of America, and up and

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<sup>43</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.4

<sup>44</sup> *Ibid*, p.4ff

down the social ladder, often seemed to be shooting at each other over the heads of the Federalists in between”.<sup>45</sup>

Diversity found among the Anti-Federalists should not come as a surprise but it must be kept in mind. According to Siemers, it is more important to try to discern exactly “how the group was divided and how the specific divisions affected the outcome of the ratification process.”<sup>46</sup>

Storing reminds that the Federalists featured a similar diversity of opinion. They were, however, united by their support for the Constitution and the Constitution was, effectively, their political program.<sup>47</sup> Anti-Federalists, on the other hand, never formulated a concrete positive alternative to the proposed Constitution. Therefore the only bond connecting the representatives of such diverse interests was their opposition to the Constitution.<sup>48</sup>

To this minimalist approach Siemers adds two important qualifiers. Emphasising the change in the nature of the Anti-Federalist critique after the New Hampshire ratification he characterises the Anti-Federalists as “those who opposed the unamended Constitution as a proposal”. The stress is on the terms *unamended* and *proposal*. “Anti-Federalism” changed to “former Anti-Federalism” once the notion of immediate constitutional amendments was accepted and the Constitution became a legal document. The opponents of the Constitution worked to change the system from within.<sup>49</sup> Accordingly, Siemers argues, the ratification of the Constitution by the nine states brought about a new political context which significantly changed the ratification debate.<sup>50</sup>

Lacking a single coherent political program the Anti-Federalists, nevertheless, possessed what Ketcham defines as “positive idealism of their own”. They considered themselves as champions of the ideals of the American Revolutionary vision. What they had in mind was the “classical idealization of the small, pastoral republic where virtuous and self-reliant citizens managed their own affairs and shunned the power and glory of

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<sup>45</sup> ROSSITER, 1787: The Grand Convention, p.283

<sup>46</sup> SIEMERS, The Antifederalists. Men of Great Faith and Forbearance, p.6

<sup>47</sup> STORING, What the Anti-Federalists Were For, p.5

<sup>48</sup> CORNELL, The Other Founders, p.24

<sup>49</sup> SIEMERS, The Antifederalists. Men of Great Faith and Forbearance, p.2ff

<sup>50</sup> Ibid, p.24

empire”. Anti-Federalists could never give in fully to the Federalists’ acquaintance with political and economic ambitions. They sought to make use of the democratic potential created by the Revolution to “achieve a genuinely republican polity, far from the greed, lust for power, and tyranny that had generally characterised the human society”.<sup>51</sup>

Furthermore, the issue of the Anti-Federalist position or identity is complicated by the fact that some of the Constitution’s critics, such as Edmund Randolph, changed sides, being Anti-Federalists at one time and Federalists at another time. It is in fact sometimes rather difficult to distinguish among lukewarm or moderate supporters of either of the sides.

### **III.IV. Problem of Terminology**

“Anti-Federalists”, “anti-Federalists”, “Anti-federalists”, “Antifederalists”, or “antifederalists”?

When dealing with Anti-Federalism the formal use of the term should be clarified. The irony of the fact that the opponents of the Constitution who considered themselves the true federalists became known as the Anti-Federalists has already been mentioned. If they defined themselves as federalists it was because they believed in the traditional vision of federalism, that is, in federation as a loose coalition of sovereign units. The proponents of the Constitution succeeded in exploiting the ambiguity and shift in understanding of the concept of federalism and monopolised the term as their proper label.<sup>52</sup>

A terminological problem for students of Anti-Federalism, therefore, arises. How should be the opponents of the Constitution referred to? The following combinations can be found in the literature on the topic: “Anti-Federalists”, “anti-Federalists”, “Anti-federalists”, “Antifederalists”, or “antifederalists”. The author of this paper clings to the view that the most appropriate form is “Anti-Federalists” and “Anti-Federalism” respectively. The capital “A” indicates that they represent a distinctive group in its own right which contributed significantly to the American founding. The hyphen shows that their collective effort emerged as a reaction to the externality of the Federalist offensive.

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<sup>51</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.17

<sup>52</sup> STORING, *What the Anti-Federalists Were For*, p.9

The capital “F” follows the same logic as the “A”. They were not opposing the notion of federalism but the particular vision of politics as advocated by the distinctive group of the Federalist.

### **III.V. Bias of Historiography**

Cornell notes that a comprehensive study of Anti-Federalism is further complicated by the fact that most scholars have tended to focus on the texts of philosophically more sophisticated Anti-Federalists such as Brutus or Federal Farmer. Lesser attention has been paid to the texts that were actually in circulation such as *The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania to their Constituents*, texts that were widely read and thus had greater impact on the public discourse at this period.

Moreover, the fact that the scholarship in this field has been historically preoccupied with Anti-Federalist middling democrats distorts, according to Cornell, the overall picture of the movement’s diversity. The more conservative and more radical voices, not those of the middling sort, were dominant during the ratification debate. On the one hand, elite voices of George Mason, Elbridge Gerry and Richard Henry Lee argued their cause; on the other hand, radical democrats such as Centinel or Officer of the Late Continental Army addressed their audience.<sup>53</sup>

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<sup>53</sup> CORNELL, *The Other Founders*, p.26

#### IV. ANTI-FEDERALISM AS A COMMON PLATFORM

Federalists were stunned and consternated by the incoherence, contradictory stances, and cacophony that they found among Anti-Federalists. Even within the seemingly homogenous Anti-Federalist groups there appeared irreconcilable differences, as was the case with Richard Henry Lee and Elbridge Gerry, two elite Anti-Federalists. The former objected to the Constitution for creating too strong a government, the latter for creating too weak a government. Anti-Federalists shared their opponents' amazement but for inverse reasons: they were quite surprised that *vis-à-vis* their diversity they were finding some common ground and were able to reach agreement on certain issues.<sup>54</sup>

Siemers focuses on another disparate couple: Virginia aristocrat and slaveholder Patrick Henry on the one hand and Consider Arms, Massachusetts presumably debt-ridden Shaysite on the other hand. Not only do these two men represent the opposite social and political extremes. They also embody the many differences among the states and state politics, namely slavery.<sup>55</sup>

As has been said one cannot speak of one single political Anti-Federalist program. Despite their “pettifogging, name-calling, and mumbling in a confusion of tongues” the Anti-Federalists succeeded in making a discomfiting case against the constitution. A common agenda, a set of objections to, and a list of “endlessly recurring points” against the Constitution that was common to most Anti-Federalists may thus be identified.<sup>56</sup>

Paradoxically, one of the earliest attempts to characterise common Anti-Federalist objections comes from James Wilson, Pennsylvania leading Federalist. In his *Speech at a Public Meeting* of October 6, 1787, which he gave in the Pennsylvania State House, Wilson sought to explain the principles of the proposed Constitution and to address the concerns of those who opposed it. He identified five common points of discontent with the Constitution: the omission of a bill of rights; national or centralising character of the proposed government; aristocratic bias of the government; fear of its unrestricted taxation power; fear of a creation of a standing army.<sup>57</sup>

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<sup>54</sup> CORNELL, *The Other Founders*, p.27

<sup>55</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.16ff

<sup>56</sup> ROSSITER, *1787: The Grand Convention*, p.283

<sup>57</sup> James Wilson, *Speech at a Public Meeting*, in: KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, pp.183-188

Elbridge Gerry, a Massachusetts delegate who refused to sign the proposed Constitution at the Philadelphia Constitutional Convention and one of the foremost critiques of the Constitution in his state, summarised his objections to the proposed document in a *Letter to the Massachusetts Legislature*. The text appeared in the *Massachusetts Centinel* on November 3, 1787, as *Hon. Mr. Gerry's Objections* and was widely reprinted thereafter.

Gerry argued that the proposed Constitution did not provide for a sufficient representation of the people and that the people had no security for their right of election. The power of the legislature was ambiguous, and potentially indefinite. The executive and legislative branches were mixed and the judiciary had the potential to become oppressive. He suspected that President and Senate would collude in making treaties. Gerry also criticised the omission in the Constitution of a bill of rights. In sum, what had been proposed was undoubtedly a plan for strong national government.<sup>58</sup>

Virginia's George Mason, who had also refused to sign the proposed Constitution at Philadelphia, offered yet another set of arguments against the document. His *Objections to the Constitution* of November 21, 1787, may have gained lesser publicity but had, nevertheless, great influence. Mason feared that the new government would degenerate into either a monarchy or a corrupt aristocracy. He criticised the omission of a bill of rights, especially with regard to the explicit protection of the freedom of the press. Mason warned against the dangers of a standing army. He feared that the right to trial by jury would be jeopardised.<sup>59</sup> Overall, and with regard to his previous record and his esteem for the English Common Law, Mason's greatest concern was the omission of a bill of rights.<sup>60</sup>

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<sup>58</sup> Elbridge Gerry, *Letter Containing The Reasons of Elbridge Gerry for not Signing the Federal Constitution*, in: SIEMERS, *Antifederalists. Men of Great Faith and Forbearance*, pp.86-86

<sup>59</sup> George Mason, *Objections to This Constitution of Government*, in: KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, pp.173-175

<sup>60</sup> RUTLAND, Robert A. "George Mason's 'Objections' and the Bill Of Rights", p.2. In: Reprinted from this Constitution: A Bicentennial Chronicle. Fall 1985, American Political Science Association, 1985



#### **IV.I. Nine-Point Anti-Federalist Agenda**

Cornell suggests that by the time Gerry's and Mason's texts went into print a nine-point Anti-Federalists agenda of frequently repeated objections to the proposed Constitution could be identified.<sup>61</sup>

First, consolidating and centralising tendency of the proposed Constitution was regarded as leading to the destruction of federalism. The Constitution created a single national government and claimed direct jurisdiction over the people. The power of the states was severely limited and so was the nature of republican form of government – to Anti-Federalists a truly representative republic protecting the rights and civil liberties was a concept workable only in small territorial units. The proposed system of government thus jeopardised republicanism and liberty.

Second, the Anti-Federalists attacked the proposed Constitution for its lack of effective checks on the different branches of government. As a result they thought that the Constitution promoted the development of aristocracy and led to corruption. Insufficient popular accountability and incomplete separation of powers, especially as regards President and Senate, were the points in question.

Third, the Anti-Federalists were deeply concerned about the lack of representation in the proposed government. The Senate was perceived as too remote from the people and the House of Representatives as too small to represent the population adequately.

Fourth, the Anti-Federalists were rather suspicious of what they saw as a dangerous mix of legislative and executive powers in the making of treaties, appointments, and impeachment.

Fifth, the threat of a judicial tyranny was another major Anti-Federalist grievance: the federal judiciary menaced the integrity of state the courts and possessed too broad a jurisdiction.

Sixth, the omission of a bill of rights, the absence of an explicit declaration of protection of essential rights and liberties, was considered to be a critical flaw of the proposed document, especially concerning the freedoms of expression, press, conscience, and the right to trial by jury.

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<sup>61</sup> CORNELL, *The Other Founders*, p.30ff.

Seventh, the Anti-Federalists opposed the power of taxation of the proposed government as being too extensive and creating risks of oppression, withholding revenue from the states and the consequent loss of autonomy of the states.

Eighth, the fact that the proposed Constitution did not prohibit standing army in times of peace was another reason for Anti-Federalists' worries. A standing army wielded by the central government threatened the integrity of the state militias that were highly esteemed by the opponents of the Constitution.

Ninth, the powers given to the executive branch were deemed to be extensive to such a point that they might be conducive to the creation of an elective monarchy.

#### **IV.II. Consistence, Contradictions, Deeper Unity**

Putting these nine points into a broader perspective of the constitutional debate Cornell sees the Anti-Federalists as being remarkably consistent in their argumentation throughout the ratification process.<sup>62</sup> Storing, however, holds the opposite claiming that “it would be hard to find a single point about which all of the Anti-Federalists agreed”. Yet he acknowledges their unity at a “deeper level”, and suggests that in search of this underlying unity one should look for what was *fundamental* rather than for what was *common*.<sup>63</sup> Siemers speaks of “core positions” and “core objections to the Constitution that nearly all of them agreed upon”.<sup>64</sup>

In the broadest sense, the Anti-Federalists pointed to two essential flaws inherent in the Constitution: first, there were errors of *commission*, most apparent in Article I, Section 8 also known as the Necessary and Proper Clause<sup>65</sup>, which gave the federal legislature virtually unlimited power; second, errors of *omission* meant that the Constitution lacked essential safeguards of liberty, namely a bill of rights.

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<sup>62</sup> CORNELL, *The Other Founders*, p.31

<sup>63</sup> STORING, *What the Anti-Federalists Were For* p.5f

<sup>64</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.9

<sup>65</sup> *The necessary and proper clause, or elastic clause, or sweeping clause* gives Congress the 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.” See “Constitution of the United States,” Article I, Section 8, in: VILE, John R. A Companion to the U.S. Constitution and Its Amendments. Praeger, Westport, 1993, p.49. For a commentary, see *ibid* pp.49-51.

According to the Anti-Federalists the Constitution brought a major change in the understanding of constitutionalism: instead of focusing on limiting power and defining its boundaries the Constitution was primarily concerned with granting powers. The opponents of the Constitution were concerned in particular about three powers of the federal government: the military power, the power to tax, and the powers of the federal judiciary.<sup>66</sup>

Faced with the proposed Constitution the Anti-Federalists had two basic alternatives: they could either attempt to call for a new convention to draft a new constitution; or they could attempt to change the proposed Constitution through a series of amendments. The ratification of the Constitution by Massachusetts of February 6, 1788 helped decide the question. After a fierce anti-Federalist opposition the *Massachusetts Compromise* was reached whereby those who objected to the ratification would vote for the adoption of the Constitution provided that amendments would be added. Following the same pattern Maryland, South Carolina, New Hampshire, Virginia, New York, and North Carolina ratified the Constitution with the prospect of amendments.<sup>67</sup>

With New Hampshire ratifying the Constitution in June 1788 the number of states that had ratified the document reached the needed total of nine. This change in status of the Constitution from a mere proposal to a legal document was one of the decisive factors in the Anti-Federalist strategy. The Anti-Federalists saw and acknowledged that the Constitution had been sanctioned by a popular political process. In their view it was not appropriate for citizens in popular governments to oppose a law created by democratic means merely on the basis that they disliked this law.

Combined with the risk of anarchy and of provoking civil war, their respect for law made the Anti-Federalists accept the document. The debate was to continue but from now on the changes were to be fought from within the bounds of the Constitution. Siemers argues that after the New Hampshire ratification and the subsequent change in

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<sup>66</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.7

<sup>67</sup> ROSSITER, *1787: The Grand Convention*, p.288ff

status of the Constitution it would be more appropriate to speak of the opponents of the Constitution as “former Anti-Federalists rather than simply “Anti-Federalists.”<sup>68</sup>

*The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania to Their Constituents* of December 18, 1787, one of the most influential Anti-Federalist texts, gives an idea about the envisaged amendments. In their Address, 21 of the 23 members of the minority in Pennsylvania ratifying convention listed several points on which the Constitution was to be amended:

the right of conscience, right of trial by jury, right of defendants to confront their accusers, and prohibition of self-incrimination were to be protected; excessive bail and fines, cruel and unusual punishment, and general warrants were to be prohibited; freedom of speech, publishing and press was to be protected; right to bear arms and civilian control of the army were to be protected while standing army during peacetime was to be prohibited; hunting and fowling rights were to be asserted; power of the states to levy taxes was to be explicitly granted; the House of Representatives was to be enlarged and states were to be given control over the election of representatives and senators; states’ control over the militia and state sovereignty were to be explicitly protected; explicit limits on federal government were to be adopted so that it could only act within the scope of these explicitly enumerated powers; a strict separation of powers was to be ensured and an advisory council to the President established; all federal treaties were to conform with the laws of the Union and of the states; explicit limits on the jurisdiction of federal courts were to be adopted.<sup>69</sup>

As the Address indicates, the commitment of the members of the Pennsylvania Minority to civil rights was closely connected with states’ rights. By proposing explicit limits on the federal government Anti-Federalists sought to protect the power of the states which, in their view, were best capable of protecting the rights and liberties.

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<sup>68</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.1

<sup>69</sup> *The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania to Their Constituents*, in: STORING (ed.), *The Complete Anti-Federalist*, 3.11.48-50

Overall, critics of the Constitution stressed the right to participate in political life, to communicate freely and emphasised the need for structural changes in both the federal system of balance of power as well as in the nature and structure of the government.<sup>70</sup>

The notion of the small republic was central to this view. Opponents of the Constitution believed that only the small republic had certain characteristics that were essential for the survival of freedom. It provided for a voluntary attachment of the people to the government and a voluntary obedience to law, ensured a genuine responsibility of the government to the people, and formed the kind of citizens who were willing to maintain a republican government.<sup>71</sup>

The vitality of government rested on the notion that the rulers and the ruled “could see, know, and understand each other”. The opponents of the Constitution advocated the Revolutionary ideal that government was to operate through state and local committees. Self-government, town meeting directedness, and true representation in state legislatures reflecting real concerns of real constituents were the central ideas resounding among the Anti-Federalists.<sup>72</sup>

It has to be remembered that the Anti-Federalist notion of localism was not a narrow, parochial, and insular world view. Rather, it expressed the spirit of American politics with government as close, as open, and as accessible to the people as possible. Face-to-face relationships and the values of neighbourliness played a crucial role but at the same time the need to expand communication and interaction with other communities was acknowledged. The Anti-Federalist emphasis on locality cannot be equalled to provincialism.<sup>73</sup>

While remaining aware and fearful of the omnipresent greed, corruption and lust for power the Anti-Federalists did not embrace a completely sombre view of human nature. They believed that virtue could be found among ordinary people and their institutions at the local level. If direct and continuous links between the local bodies and government were established then the endless suspicion of government could be coupled

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<sup>70</sup> CORNELL, *The Other Founders*, p. 34

<sup>71</sup> STORING, *What the Anti-Federalists Were For*, p.16

<sup>72</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.17

<sup>73</sup> Cornell, CORNELL, Saul. “Aristocracy Assailed: The Ideology of Backcountry Anti-Federalism,” p.1165ff. *Journal of American History*, Vol. 76, No. 4. (Mar., 1990), pp.1148-1172

with some degree of confidence and trust. Instead of the Federalist notion of removing, distancing or isolating officials from public influence, the opponents of the Constitution favoured the idea of their closest, indeed intimate, and trustworthy, connection possible. As Ketcham points out, the idea of a true dialogue and mutual empathy between the rulers and ruled would even wash away the differences between the two groups.<sup>74</sup>

This emphasis on the small republic and proximity between the government and the people explains why Anti-Federalists attacked the Supremacy Clause of the Constitution. Article VI, paragraph 2, reads that “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, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”<sup>75</sup> To the opponents of the Constitution this was a clear prescription for a single and consolidated national government. Such government was considered as destroying genuine representation, undermining the authority of the states and, eventually, leading to tyranny.<sup>76</sup>

There are two issues mentioned by the majority of other scholars only in passing or treated as merely secondary which Siemers identifies as the core Anti-Federalist positions. First, despite the common belief most of the Anti-Federalists did agree that some form of revision of the constitutional framework of the Articles of Confederation was necessary. Second, Anti-Federalists maintained that it was the duty of the citizens to abide by the results of legitimate political processes. If popular government required submission to the law then once the Constitution was ratified the Anti-Federalists agreed that it should be accepted.<sup>77</sup>

#### **IV.III. The Big Themes**

When dealing with Anti-Federalism as a common platform certain themes keep reappearing. The following section will examine in detail four of these major Anti-

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<sup>74</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.19

<sup>75</sup> *Constitution of the United States*, in: VILE, *A Companion to the U.S. Constitution and Its Amendments*, p.106. For a commentary, see *ibid* pp.106-107

<sup>76</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.11

<sup>77</sup> *Ibid*, p.15

Federalist points of concern. What is presented here is not an exhaustive list but rather a selection of the hallmarks of the opposition to the federal Constitution.

#### **IV.III.I. Anti-Federalists and the Bill of Rights**

The Bill of Rights, adopted in the form of the first ten Constitutional Amendments of 1791, is generally seen as the major Anti-Federalist legacy. Since the Constitution did not include appropriate provisions for the protection of individual liberties the opponents of the Constitution turned to a bill of rights as a means of incorporating those into the document. Virtually all the Anti-Federalists stressed the need for an explicit constitutional protection of three kinds of rights.

First, they sought protection of the common law procedural rights, especially the right to trial by jury.<sup>78</sup> The omission in the Constitution of the right to trial by jury was interpreted as an attempt to abolish this right.

Second, opponents of the Constitution were strongly concerned about the liberty of conscience. While strongly advocating the idea of liberty of individual conscience, their approach to the issue was rather complex: most Anti-Federalists thought it appropriate or beneficial for a government to encourage religion in order to promote public virtue.

Third, one of the hallmarks of Anti-Federalism was the insistence on an explicit protection of the freedom of press. A free and broad public debate in an unrestricted arena of press represented one of the pillars of a free republic. The fact that Anti-Federalists referred to the freedom of press as the “*grand palladium of freedom [and] scourge of tyrants*”<sup>79</sup> documents their high regard for this principle.

When discussing Anti-Federalism and the Bill of Rights Storing makes a very insightful point. He argues that the success of the Anti-Federalists in adopting the Bill of Rights marked their overall failure in the debate over the Constitution. For if the Bill of Rights represents a sum of explicit rights reserved for individuals than to advocate its

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<sup>78</sup> Other common law procedural rights included the right to be safe from general search and seizure, to be indicted by grand jury, to confront witnesses, to be protected against cruel and unusual punishment.

<sup>79</sup> See *Centinel, No. 1*, in: KETCHAM, *The Anti-Federalist Papers and the Constitutional Convention Debates*, p.236, emphasis original

adoption implies the existence of a government possessing direct authority over these individuals.

The support of the Anti-Federalists for the Bill of Rights thus shows their acceptance of the consolidated nature of the proposed government. The new government was not a mere league of sovereign states; it was a truly national government. Their advocacy of the constitutional supplement documents how the Anti-Federalists departed from the traditional doctrine of strict federalism.

To appease their critics the Federalist argued that the federal constitution – in the very same manner as the state constitutions – only contained listed or enumerated powers. The Anti-Federalists rejected this argument and pointed to the ambiguity of the Constitution’s language which they thought gave the new government implied powers, powers that were complex, doubtful, and potentially extensive in their nature.<sup>80</sup>

The Anti-Federalists pointed to the inconsistency of the Federalist argumentation. The Constitution indeed contained some of the rights that would normally be included in a bill of rights. Constitutional prohibition in Article 1, Section 9, Clause 8, of granting nobility titles is one of such rights.<sup>81</sup>

The basic dilemma posed by the issue of a bill of rights is how to reconcile its very purpose with the very purpose of the constitution of which it is a part. In other words, the question is how to reconcile in one document the idea of reservations against a government with the very idea of an effective government.

The proponents of the Constitution maintained that the whole Constitution *was* nothing more than a bill of rights. The Anti-Federalists replied that under any form of government a bill of rights is needed as a check against majority faction. They repeated their claim that because the Constitution was too ambiguous in its language and too unrepresentative in its character it could never be regarded as being a form of bill of rights. Should the government under the proposed Constitution exceed its powers the states were left with no alternative but to revolt.<sup>82</sup>

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<sup>80</sup> STORING, *What the Anti-Federalists Were For*, p.66

<sup>81</sup> *Constitution of the United States*, in: VILE, *A Companion to the U.S. Constitution and Its Amendments*, p.54

<sup>82</sup> STORING, *What the Anti-Federalists Were For*, p.69



The Federalists maintained that the Constitution – which they thought to have had designed as one big bill of rights – and the government it set up were the primary mechanisms of protection of rights and liberties. By going against the very purpose of a government the adoption of a bill of rights would necessarily undermine the basic pillars of liberty. If the proposed government was to carry out its functions properly it needed to be strengthened rather than crippled by the adoption of a bill of rights.

The Anti-Federalists, on the other hand, claimed that it was just the opposite: the adoption of a bill of rights was a means of strengthening people’s attachment to the Constitution and, eventually, to the government. They considered a bill of rights a precondition for liberty and an assertion that individual rights preceded and were superior to government. A bill of rights was to serve as the “prime agency of that political and moral education of the people on which free republican government depends”.<sup>83</sup>

#### **IV.III.II. Anti-Federalist Vision of the Union**

To describe the Anti-Federalists merely as those who rejected any other type of government except for state government would not be correct. They acknowledged the need for a Union that would coordinate collective efforts in the areas of security against external threat, promote commerce, and preserve harmony among the states. They refused Federalists’ accusations of trying to dismantle the existing Union. They did not criticise the Constitution for *establishing* a federal union. They targeted *the type of Union* that was proposed.<sup>84</sup>

While conceding to the fact that the system under the Articles of Confederation was far from perfect and might require some alteration, the Anti-Federalists, nevertheless, considered the Federalists’ objections to the present Confederation exaggerated. Instead of replacing the government with a new one they thought the present system needed time and industry to reach effectiveness.

The Federalists argued that the new government was to be strengthened so that it would possess the means necessary to meet its ends. Looking at the proposed Constitution the Anti-Federalists found the envisaged means excessive and potentially

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<sup>83</sup> STORING, *What the Anti-Federalists Were For*, p.70

<sup>84</sup> *Ibid*, p.24ff

unlimited. They favoured a model of simple government and insisted on a cautious granting of power. Because – by definition – the ends of a government were limited so too should be its powers. Government should be small and simple but flexible at the same time to meet challenges as they arise. The Opponents of the Constitution warned the Federalists against the temptation to make America one of the grand nations which in their ambition for glory butchered thousands of their citizens.<sup>85</sup>

The Anti-Federalists could not deny that some of the Federalists' aspirations, such as commercial growth, westward expansion, increased national power, and effective diplomacy, were, to some extent, attractive. At the same time they recalled the colonial experience with Great Britain arguing that ambitions for empire would inevitably lead the country toward a consolidation of government, corruption, and tyranny. As a result the ideals and hopes of the American Revolution that the "New World might be a different and better place to live" were bound to perish.<sup>86</sup>

The opponents of the Constitution abhorred the costs of an empire. They favoured the idea of Americans populating and controlling the American continent. But if such expansion was to be carried out at the cost of losing freedom they rejected it. They saw the American mission in the area of moral betterment rather in the domain of power. The U.S. was to serve as an example of virtuous society, not of a national might. As Marshall says, "if America was to be a city upon a hill, the Antifederalists seemed to say, then let it be a city renowned for liberty and virtue rather than might and extent."<sup>87</sup>

As regards the issue of federalism, the Anti-Federalists could accept neither the doctrine of national supremacy nor that of the supremacy of the states. The former, they claimed, would lead to a centralised tyranny; the latter to a state of anarchy among the states. Therefore, they embraced what Storing refers to as a *new federalism*, a very moderate form of a mixed system where neither the parts nor the whole were supreme.<sup>88</sup>

State and national governments, they believed, had specific and often conflicting tasks to accomplish. In order to preserve the balance of the federal system, the opponents

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<sup>85</sup> STORING, What the Anti-Federalists Were For, p.31

<sup>86</sup> KETCHAM (ed.), The Anti-Federalist and the Constitutional Convention Debate, p.20

<sup>87</sup> MARSHALL, Jonathan. "Empire or Liberty: The Antifederalists and Foreign Policy, 1787-1788.", p.252. *Journal of Libertarian Studies*, vol. 4, no. 3 (Summer 1980), Center for Libertarian Studies, pp.233-254

<sup>88</sup> STORING, What the Anti-Federalists Were For, p.33

of the Constitution stressed the need for explicit reservations in behalf of the states' rights. The Anti-Federalists attacked the proposed Constitution because it did not contain such reservations. In their view the national institutions and the prerogatives bestowed upon them – especially the power of taxation and control over a standing army – as potentially conducive to tyranny. The Anti-Federalists did acknowledge that the national government needed a separate source of revenue. Instead of taxes, however, they proposed to use duties as a better means of funding the government.<sup>89</sup>

#### **IV.III.III. Aristocratic Tendency of the Constitution**

The general view at the time of the ratification of the Constitution held that government was a mechanism of the rule by the few over the many. Its nature was thought to become selective and severe over time thus strengthening the role of the few. The constitution was, therefore, to be designed in such a way that the influence of the few would not become excessive. The Anti-Federalists thus asserted that the purpose of a government was to control, contain, and manage the interests of natural aristocracy.<sup>90</sup>

The Anti-Federalists believed that the proposed Constitution went against this objective. The proposed legislature was too small. It offered a mere shadow of representation: compromises necessary to reconcile the different interests of the different social, geographic, economic, religious, and other groups would not be realisable.<sup>91</sup> The Senate was a select body filled with aristocracy. Instead of a clear separation of powers the Constitution provided for a mixture of legislative, executive, and judicial powers, a system easily controlled by a small elite. The role of the President resembled that of a monarch. The federal judiciary eroded the authority of state the courts, threatened liberty and its unrepresentative character menaced the democratic foundations of the political system.<sup>92</sup>

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<sup>89</sup> SLAUGHTER relates the Anti-Federalist objections to the taxation power of the federal government to an older American tradition reaching back to the origins of the Revolution. See SLAUGHTER, Thomas P. "The Tax Man Cometh: Ideological Opposition to Internal Taxes, 1760-1790." *William and Mary Quarterly*, 3rd Ser., Vol. 41, No. 4. (Oct., 1984), pp. 566-591

<sup>90</sup> STORING, *What the Anti-Federalists Were For*, p.57

<sup>91</sup> George Mason, *Objections to this Constitution of Government*, in: KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.174

<sup>92</sup> STORING, *What the Anti-Federalists Were For*, p.50

Hamilton claimed in *Federalist 76* that the “institution of delegated power implies that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence”.<sup>93</sup> The Anti-Federalists rejected such claim with suspicion as being foolish. Elbridge Gerry’s words at the Philadelphia Constitutional Convention expressed the attitude of most of the Anti-Federalists: “confidence is the road to tyranny”.<sup>94</sup>

Nonetheless, their position was more complex: suspicion of government was both a necessity and a virtue. In addition to a specific form of government – the small republic, simple constitution and a bill of rights, the Anti-Federalists believed in the need for vigilance of the people. They saw as their task during the debate over the Constitution to promote public vigilance toward the proposed document. As Benjamin Austin, a Massachusetts Anti-Federalist writing as *Candidus* noted, “it must be a melancholy crisis when the people are tired of guarding their liberties and are resigned to whatever government is dealt to them”.<sup>95</sup>

Not all men were necessarily dishonest, Anti-Federalists conceded, but if a government was to be designed it was safer to assume that they were. Certain degree of confidence was, nevertheless, necessary for any government to function. A reasonable level of confidence could only be achieved by establishing firm and clear connections between the government and the people.

The proposed government, however, failed to provide for a sufficient representation in the legislature and destroyed the connection between the rulers and the ruled. The people would not regard such government as “theirs”. The Anti-Federalists applied the theory of the small republic to this perceived democratic disconnect and argued that the sheer scale and structure of the new government would necessarily lead to a situation in which the aristocratic few would control the majority of the people.<sup>96</sup>

#### **IV.III.IV. Anti-Federalists and the Issue of Complex Government**

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<sup>93</sup> Alexander Hamilton, *Federalist 76*, in: EARLE, Edward M. (ed.). *The Federalist. A Commentary on the Constitution of the United States*. Modern Library, New York, 1961, p.491ff

<sup>94</sup> FARRAND (ed.), *Records of the Federal Convention of 1787*, vol. 2, p.285

<sup>95</sup> *Candidus*, cited in: SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.8

<sup>96</sup> STORING, *What the Anti-Federalists Were For*, p.52

The Anti-Federalists viewed government as a means of achieving limited ends while securing individual rights. If the ends of government were limited so too should be its actions. Federalists' principal argument was that under the proposed Constitution government possessed such a delicate and complex internal structure that it prevented the emergence of tyranny.<sup>97</sup> The Anti-Federalists on the other hand pointed to the ambiguity of the Constitution's language. They believed that constitutions – and governments – should be simple so that people could understand them and identify with them. The new Constitution was denounced as over-sophisticated. The Anti-Federalist embitterment with regard to the proper character of the new government was expressed by an author writing as Denatus who described it using such terms as *spurious brat*, *this bantling*, *13-horned monster*, and *heterogeneous phantom*.<sup>98</sup>

The Federalists sought to present the new government as a federal republic, a term attributed to James Wilson.<sup>99</sup> The Anti-Federalists viewed this term as inappropriate and confusing. A federation, in their understanding, was a league of sovereign states. Despite this fact and reflecting on the vices of the Confederation they favoured a more complex form of union than a simple league of sovereign units. Their vision of the Union was based on a system of checks and balances, strict separation of powers, and the dominant position of the states.<sup>100</sup>

The proposed system of government with its overlapping and intertwined prerogatives seemed too complicated, beyond popular comprehension, and thus not feasible. Instead of designing a complex government, the opponents of the Constitution put emphasis on responsibility and civic virtue as basic principles of a free republican government. The small republic with its simple institutions was the environment in which civic virtue was evenly distributed. By contrast, the foundations of the proposed federal government directly contradicted the idea of a simple government.

Even though the Anti-Federalists acknowledged that some alteration of the constitutional system was needed and that introducing some form of complex or balanced

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<sup>97</sup> See James Madison, *Federalist 10*, in: EARLE, Edward M. (ed.). *The Federalist. A Commentary on the Constitution of the United States*, p.53ff

<sup>98</sup> *Denatus*, cited in: STORING, *What the Anti-Federalists Were For*, p.54

<sup>99</sup> At the Convention in Philadelphia Wilson in fact used the term *confederated republic* but is nevertheless considered to have introduced the term. See FARRAND (ed.), *Records of the Federal Convention of 1787*, vol. 1, p.74

<sup>100</sup> STORING, *What the Anti-Federalists Were For*, p.55

government might be beneficial they nevertheless maintained that the proposed Constitution was a failed hybrid modelled after the British system: it created neither a simple nor a balanced form of government and lacked the essential provisions for the protection of liberty of the British constitutionalism.<sup>101</sup>

The Federalists put forward a new kind of balanced government. Traditionally, the notion of balanced government rested on mixing representations of different social classes, a task easily to realise in Europe. This concept gave each order in society the means of self defence.<sup>102</sup> The American context which lacked hereditary aristocracy, however, required that modifications be made if the concept of balanced government was to be put in place. Instead of class conflict the balance was to come primarily from the constitutional setup itself: constitutional balances were a function of rivalry between and within the different branches of government.<sup>103</sup>

The solution that the Federalists designed was based on “building into the mechanism of government itself enough variations on election, powers, terms of office, and complication of function to create separate interests and perspectives”. The logic behind the solution sought to “temper idealism with realism, and to substitute complexity for balance of orders”.<sup>104</sup>

The notion of balanced government implies the principle of separation of powers. The Anti-Federalists supported strongly a clear separation of powers. They thought separation of powers was necessary because it enabled different branches of government perform different tasks efficiently. Separation of powers was closely connected to the idea of checking power whereby different branches of government exert certain influence over one another. Should a large republic emerge, the Anti-Federalists argued, the three branches were to be brought into legitimate contact with one another in order to avoid illegitimate encroachment.<sup>105</sup>

Nevertheless, the Anti-Federalists were deeply sceptical about the overall feasibility of the proposed system of complex and balanced government. In accordance with older tradition of perceiving society through *the many versus the few* dichotomy, the

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<sup>101</sup> Ibid, p.58

<sup>102</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.7

<sup>103</sup> STORING, *What the Anti-Federalists Were For*, p.59

<sup>104</sup> KETCHAM (ed.), *The Anti-Federalist and the Constitutional Convention Debate*, p.8

<sup>105</sup> STORING, *What the Anti-Federalists Were For*, p.61

opponents of the Constitution claimed that the document failed to reflect on the natural divisions inherent in American society, that what had been proposed was a mere constitutional imitation of mixed government unsuited to local conditions. In short, the Anti-Federalists criticised the Constitution because it “combined great powers with severely limited popular responsibility and ineffective internal checks”.<sup>106</sup>

#### **IV.IV. Rhetoric and Literary Identity**

Several rhetoric-related issues have to be touched upon. The fact that certain terms had different meaning to different Anti-Federalists further illuminates the complexity of the issue of Anti-Federalism and the diversity of among the opponents of the Constitution. The actual rhetorical appearance of the individual Anti-Federalists depended among other things on their self-stylisation and ideological vision behind it, intended audience, and communication strategy. The resulting “rhetoric personas” ranged from aristocratic gentlemen to backcountry plebeians.

Such variety of literary characters had repercussions in terms of perceptions of Anti-Federalists among themselves. Cornell offers an interesting example of negative reception of Mercy Otis Warren’s pamphlet *Observations on the New Constitution* of 1788, by the “common people” of Albany. Writing in Massachusetts under the penname Columbian Patriot, Mercy, sister of James Otis and member of a respected Patriot family, expressed an elite critique of the Constitution which was rejected by her more plebeian counterparts.<sup>107</sup>

The use of pseudonyms was typical of Anti-Federalists. This practice – combined with rhetorical stylisations – is not unusual for this period but it makes efforts of historians to trace the authorship of their texts rather difficult. The authorship of only a few major Anti-Federalist essays has been ascertained while the majority of texts remain clad with ambiguity.

The variety of pseudonyms used by the Anti-Federalists, nevertheless, helps to understand their models. These pennames can be classified into several categories. Cornell identifies classical republican pennames, such as Brutus or Cato, modern Whig

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<sup>106</sup> Ibid, p.62

<sup>107</sup> CORNELL, *The Other Founders*, p.36

republican aliases such as Sidney or Hampden, and literary names classical in origin but parodied, such as Aristocrotis. Other pseudonyms were tied either to a particular abstract ideal, such as Old Whig, Federal Farmer, Columbian Patriot, or to pastoral associations, such as Farmer, Yeoman, or took a democratic stylisation, such as One of the Common People, Plebeian, Democratic federalist.

While the plurality of pennames itself may be interesting there are further aspects to it. It is noteworthy, to offer just one example, that as regards the actual identity the author of the *Federal Farmer* presenting the views of the middling sort and yeomanry was identified to be the same person as the author of the more radical plebeian texts. It is, therefore, possible to speak of a class-conscious rhetoric. One can see the specific contexts of Anti-Federalism stretching from fierce popular attacks on aristocracy such as in Centinel, to the vision of middling democracy of An Old Whig or Cato, and further to the elite vision of Cincinnatus.<sup>108</sup>

Some of the Anti-Federalist authors featured complex identities. This applies especially to the more radical opponents of the Constitution. Centinel and An Officer of the Late Continental Army were clearly the leading spokesmen for the common people and yet they refused to identify themselves with the common people. Other radicals, A Customer for instance, exploited their identification with common people as far as they could, using satire, and parodying the Federalists.<sup>109</sup>

A complex picture of the debate over the Constitution has several components. Riker suggests that apart from rhetoric, the *hereshthetic* of both sides to the debate has to be examined. He defines hereshthetic as “the art of setting up a situations – composing the alternatives among which political actors must choose – in such a way that even those who do not wish to do so are compelled to by the structure of the situation to support the hereshthetician’s purpose”. If rhetoric is the art of using sentences for the purpose of persuasion then hereshthetic focuses on the strategy value of sentences and constitutes the art of manipulation.<sup>110</sup>

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<sup>108</sup> CORNELL, *The Other Founders*, p.39

<sup>109</sup> *Ibid.*, p.41

<sup>110</sup> RIKER, *The Strategy of Rhetoric. Campaigning for the American Constitution*, p.9



#### **IV.V. Three Strands of Anti-Federalism**

Tracing the Anti-Federalist authors and identities the different backgrounds as regards their origin, and contexts as regards modes of their operation, come into play. Richard Henry Lee represents a prototype of an aristocrat. He was a gentleman possessing a wide network of contacts including both leading Anti-Federalist and Federalists. Lee would expose his elite education quoting from Greek and Roman classical authors, referring to the masterpieces of political and judicial theory. Lee did not depend on one single source of information which makes him a good example of an independent writer: he was familiar with main works of his period, was acquainted with major prints and papers nationwide, his correspondence further enlarged his profound knowledge of American political and social reality.

Samuel Chase, a successful local politician from Maryland, is a prototype of a middling Anti-Federalist democrat. This representative of the middling sort received classical education and had access to New York, Maryland, and Pennsylvania press and writings. But when compared to Lee, Chase was more reliant on pamphlets and newspapers, and his contacts and resources were regionally and class limited.

William Petrikin, a Carlisle radical Anti-federalist, represents yet another context. Petrikin was strongly dependent on local press and showed strong preference for backcountry radical authors. When faced with the lack of sophisticated Anti-Federalist material in his community he attempted under the pseudonym of Aristocrotis to compose a satirical essay ridiculing the Federalists.<sup>111</sup>

Among the most frequently cited works by the Anti-Federalists were Enlightenment philosophers, British legal experts, the Bible, and Roman and Greek classics. On the whole, the Anti-Federalists referenced secondary sources merely for the purpose of strengthening their point, rarely drawing out implications or “fine shades of meaning, preferring to stick to the main thrust of their argument”.<sup>112</sup>

As follows from the above Anti-Federalism drew its support from three crucial social groups: backcountry farmers and artisans, middling politicians from the Middle Atlantic states, and a small but highly influential group of elite politicians. It is thus

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<sup>111</sup> Examples drawn from CORNELL, *The Other Founders*, p.42 ff

<sup>112</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.5

possible to identify three distinct strands of Anti-Federalism: elite Anti-Federalism, and popular Anti-Federalism encompassing middling and plebeian Anti-Federalism.<sup>113</sup> Siemers uses virtually the same categorisation: elite Anti-Federalism, middling Anti-Federalism, and virulent Anti-Federalism.<sup>114</sup>

Siemers notes that despite a few efforts to compromise with each other the three distinct Anti-Federalist groups presented their views independently, “without bothering to reconcile them”. If the main task of the day was to defeat or oppose the Constitution than, however important it might seem, to reconcile mutual differences was only secondary.<sup>115</sup>

As has been said, the social and political diversity of the movement did not prevent certain degree of coherence. A small “canon” of oft repeated Anti-Federalist arguments can be identified throughout the public debate even though the Anti-Federalists shared no single political theory.

One of the inevitable consequences of the movement’s diversity is the fact that some of the key terms were used differently by different Anti-Federalists in different contexts.<sup>116</sup> It is critical to realise this when reading Anti-Federalist texts. One brief example may illustrate the point. The common truism that the Anti-Federalists were supporters of democracy who opposed the aristocratic tendencies of the proposed Constitution may serve as a good example. Howsoever useful such statement might be it obscures that the elite and radical Anti-Federalists held diametrically opposed, indeed irreconcilable, views of democracy.

Having classified the Anti-Federalists into three principal groups it must be remembered that this categorisation is perfectly consistent with their own perceptions of themselves and of the divisions within the US society: the terms “better sort”, “middling sort”, and “lower sort” appear frequently in Anti-Federalist writings. These should not be understood in strictly modern sense as antagonistic social classes. They were natural sorts, organic parts of the society.

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<sup>113</sup> CORNELL, *The Other Founders*

<sup>114</sup> See SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*

<sup>115</sup> *Ibid.*, p.19

<sup>116</sup> CORNELL, *The Other Founders*, p.43

The essential dividing line among the three strands of Anti-Federalism was their perception of the legacy of the American Revolution. The elite opponents of the Constitution understood it as instituting a form of mixed regime that would secure their place in the political system by creating an elite-controlled Senate. To middling Anti-Federalists the Revolution's principal achievement was the majority rule which would give them a major say in politics. The plebeian critics of the Constitution stressed the egalitarian spirit of the Revolution and emphasised a direct, locally based view of democracy. As Siemers points out, "each group felt it was conserving the accomplishment of the Revolution, yet there was no consensus among them on what exactly that accomplishment was."<sup>117</sup>

The Anti-Federalist authors were deliberately choosing their identities and techniques to address these groups. Cornell thus reminds that the reactions to Wilson's *Speech* varied from a gentlemanly disagreement to burning effigies of James Wilson and Thomas McKean in a street riot, Carlisle, Pennsylvania. Anti-Federalism can not be regarded as one single political alternative to the Constitution: Anti-Federalism can best be understood as an umbrella for many different visions of politics.<sup>118</sup>

#### **IV.VI. Anti-Federalism as a Political Position**

When trying to answer the question why the Anti-Federalists lost the debate over the Constitution several factors come into play. The most important reason, as Storing suggests, was that they simply had a weaker argument than the proponents of the Constitution. Rossiter attributes the Federalist victory to the fact that they embodied the positive hope of the period whereas the Anti-Federalists failed to present themselves as more than *men of little faith*<sup>119</sup> and "exponents of a grotesque Whiggery".<sup>120</sup>

Once the opponents of the Constitution abandoned the idea of strict federalism for some moderate form of a mixed regime then the concept of the small republic that lay at the heart of the Anti-Federalist canon was no longer applicable to the Union.

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<sup>117</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.19

<sup>118</sup> CORNELL, *The Other Founders*, p.50

<sup>119</sup> The term *men of little faith* was coined by the consensus historian Cecelia KENYON whose argument made in an essay of the same title shall be analysed in the concluding chapter of this paper.

<sup>120</sup> ROSSITER, *1787: The Grand Convention*, p.285

The victorious Federalist solution was based on instituting a complex government while succeeding in convincing the public that there was an urgent and justified need for a stronger federal government. The ideas of liberty and energetic federal government were presented as compatible and the latter was advocated as being a shield for the former. The Federalists reminded the public that the ideal of the American Revolution was to get rid of tyranny, not to get rid of government.<sup>121</sup> Nevertheless, it may well be argued, as some historians have, that the “Federalists were the victors in the war of words only because they were the victors in the contest for votes”.<sup>122</sup>

The Anti-Federalists refused the Federalist solution because it failed to demonstrate how it would preserve republican virtue that was essential for the survival of a free government. Indeed, the idea behind the Constitution that instead of eliminating self-interest and ambition these should be channelled in order to counter other interests and ambitions, was detrimental to the concept of public virtue, the leading principle of the republic. The Federalists’ claim that the necessary public virtue would flow from people’s attachment to the Constitution was rebuked as unconvincing. Storing rightly concludes that “the Anti-Federalists saw, although sometimes only dimly, the insufficiency of a community of mere interest. They saw that the American polity had to be a moral community if it was to be anything, and they saw that the seat of that community must be the hearts of the people.”<sup>123</sup>

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<sup>121</sup> STORING, *What the Anti-Federalists Were For*, p.71

<sup>122</sup> ROSSITER, *1787: The Grand Convention*, p.282

<sup>123</sup> STORING, *What the Anti-Federalists Were For*, p.76

## V. DIVERSITY OF ANTI-FEDERALISM: THE THREE STRANDS

Anti-Federalism has thus far been analysed as a political position, as a common platform which united the critics of the Constitution. The issue of diversity was already touched upon but the previous sections have sought to point to the basics that make it possible to see the Anti-Federalists as a political group pursuing a common objective and sharing a common agenda. It has also been indicated that the study of the commonalities inevitably reveals that there were considerable differences among the individual opponents of the Constitution or that there were *commonalities within commonalities*.

To focus solely on Anti-Federalism as a common platform conflates the complexity of the issue. The following sections therefore explore the diversity of the movement following the afore mentioned classification of Anti-Federalists. Elite, middling and plebeian strands of Anti-Federalism will be analysed so that an informed and balanced conclusion about the nature of the opposition to the Constitution may be reached.

### V.I. Elite Anti-Federalism

When seen in a broader context of the movement elite Anti-Federalism represents a small atypical group. Elite opponents of the Constitution differed from other Anti-Federalists in their social status, political influence, and intellectual energy. Still, this group played a decisive role in shaping the movement and its perception by Americans. As Siemers noted, “what they lacked in numbers, they made up in prominence” which “gave them important platforms to express themselves.”<sup>124</sup>

Generally, the origins of elite opposition are associated with three delegates to the Philadelphia Constitutional Convention who refused to sign the final document. Elbridge Gerry of Massachusetts, George Mason of Virginia, and Luther Martin of Maryland expressed their concerns explicitly. Martin’s *Genuine Information* of 1788 offered the first information on the proceedings of the Convention expressing his suspicion and describing the Constitution as result of conspiracy and aristocratic plot.<sup>125</sup>

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<sup>124</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.184

<sup>125</sup> Luther Martin, *Genuine Information*, in: STORING (ed.), *The Complete Anti-Federalist*, 2.4.73-74

Elites opposing the Constitution were aware of the potential advantages that the new system offered them. Their opposition was rather mild when compared to middling and especially plebeian Anti-Federalists and instead of distancing themselves from the Constitution altogether they suggested that few key alterations be made, namely an incorporation of a bill of rights and enlargement of the House of Representatives.<sup>126</sup>

Possessing considerable advantage in terms of education, wealth, contacts, and political experience the elite Anti-Federalists were not dissimilar to the elite Federalists. Nevertheless, the group was composed of several distinct subgroups: James Warren and Richard Henry Lee represent the Revolutionary leaders, Old Republicans, and Patriots; Elbridge Gerry, and George Mason stand for the Philadelphia Convention generation; James Winthrop is an example of a young generation of Massachusetts liberal critics of the Constitution.<sup>127</sup>

The elite Anti-Federalists championed the classical institutional arrangement of mixed republic. Sources of their inspiration went back to Greek philosophy and up to the constitutional thought of British-style mixed regime. The idea was to balance the two key factions in politics: the few – natural aristocracy, and the many – popular democracy. Bicameralism was the essential device of a mixed regime. The Senate was to be populated by the aristocratic few, the House was to represent the democratic many. But the proposed Constitution with its flawed conception of representation, separation of powers and many other errors, failed to set the proper balance.<sup>128</sup>

In order to see that this group was not monolithic one can look at the issue of constitutionalism. Constitutionalism may be said to be one of the common grounds of elite Anti-Federalism. In the Whig tradition the elite Anti-Federalists sought a balance between liberty and effective government. But even in such a specific area there appear differences within the group. Luther Martin, a prominent opponent of the Constitution from Maryland, advocated religious tests for office holding in order to put additional check on government. Arthur Lee of Virginia opposed religious tests. On the far side of

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<sup>126</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.183

<sup>127</sup> CORNELL, *The Other Founders*, p.53

<sup>128</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.18

the spectrum was James Winthrop, a liberal proponent of the idea of limited nature of government.<sup>129</sup>

Elite Anti-Federalists targeted the Constitution, among other things, for the ambiguity of its language and for the omission of a bill of rights. They strongly supported the notion of *literalism*, constitutional plain style, an approach whereby the language of constitutions should be as precise and definite as possible.

According to elite Anti-Federalists, states were best suited to protect individual liberties. The Constitution was seen as threatening the power of the states and thus potentially destroying the liberties, namely in connection to the powers of the federal judiciary *vis-à-vis* the right to a fair trial. State militias were seen as an essential check on the federal government: by retaining full control over its military units states would prevent federal government from trampling on their rights ensuring that states remain strong enough to function as the principal guarantee of liberties. Moreover, states featured a better representative government and were therefore more apt to levy, collect and manage taxes.<sup>130</sup>

The elite Anti-Federalists were also deeply concerned about the proper balance between federalism and localism. They argued that the American Revolution has thrown the former colonies into the Hobbesian state of nature. To deal with the situation the Articles of Confederation created a league of sovereign states, not a compact among their respective citizens. The proposed Constitution, however, introduced a national rather than federal government. The elite Anti-Federalists thus understood federalism in its classical meaning, as a loose league of sovereign entities.

The federalism versus localism dilemma can not be fully grasped unless the concept of the small republic is discussed once again. The elite opponents of the Constitution, and indeed other Anti-Federalists, claimed that the small republic – that is a republican form of government extended over a limited rather than large area – was the result of natural evolution of the American statehood, that it was the best and safest representation of popular will. It was state sovereignty that constituted the authority of

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<sup>129</sup> CORNELL, *The Other Founders*, p.58

<sup>130</sup> *Ibid*, p.61

the national government. The U.S. was not one people, but a sum of sovereign states that each represented the popular will of their respective peoples.

Despite their view of federalism most of the elite Anti-Federalists agreed that the system under the Articles of Confederation was no longer workable. They were thus faced with an issue whereby two sovereign entities claimed sovereignty over one territory. They had practically no other option but to partly concede to the Madisonian model of mixed government that was based on the overlapping of federal and state power.<sup>131</sup>

The proposed Constitution reminded the Anti-Federalists of the causes of the American Revolution. Just as the British refused to recognise and respect local interest and differences among the states by denying representation of the colonies in Parliament, so did the proposed national government. Its institutions featured insufficient representation, broad appellate jurisdiction and strong consolidating tendencies.<sup>132</sup>

### **V.I.I. Elite Vision of the Small Republic**

As has been said the elite Anti-Federalists saw politics as a perennial struggle between the interests of the many and the interests of the few. The republican form of government, they agreed, was best able to balance and check the threats posed by the democratic and aristocratic interests, while combining their virtues and advantages. The proposed Constitution, however, failed to provide for a genuine republican government as elite Anti-Federalist understood it.

Brother of Richard Henry Lee, Arthur, writing as Cincinnatus castigated the Constitution because it did not give sufficient representation to the many. The House of Representatives, Arthur Lee argued, was too weak, the Senate too strong, the President and Vice-President were susceptible to plot with the Senate. Lee was not calling for egalitarianism but for stronger democratic principles. He was concerned about the lack of legitimacy, lack of checks on aristocracy, and possible restrictions on information flow. Bicameralism was to provide for a proportional and adequate representation of “social

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<sup>131</sup> CORNELL, *The Other Founders*, p.64

<sup>132</sup> *Ibid*, p.66



ranks” as a way of maintaining social balance. It must be said that the modern term of “class hostility” would not be consistent with this view.<sup>133</sup>

The elite Anti-Federalists attacked the proposed Constitution because they thought the new government was too remote from the people and that the constitutional provisions allowed for suspicion of actual and imaginary aristocratic conspiracy. Mercy Otis Warren writing under the pseudonym of Columbian Patriot voiced their view of government as based on the notions of true representation firmly rooted in the locality as well as in republican virtue. Disinterested leadership, a principle highly praised by the elite opponents of the Constitution, created a bulwark against demagoguery and populism of the lower class.<sup>134</sup>

Only the small republic was capable of preserving virtue and liberty. Only the small republic was capable of sufficient and concrete representation of local interest. To the elite Anti-Federalists, the proposed Constitution was capable of neither of the two. Moreover, the small republic epitomised an intimate proximity of government to the people and guaranteed that disinterested men of wisdom and discernment would be elected. In a large republic, they argued, the direct connection between the people and government is lost which sooner or later leads to the election of demagogues and to tyranny.

The proposed federal government, however, threatened to erode state government. Federalism was a viable concept, elite Anti-Federalists conceded, but only as long as it was based on the authority and autonomy of strong states, states operating as the ideal small republics where liberty and virtue thrived. The notion of states’ power and the notion of liberty were inseparable. The latter could not survive without the former. Hence the elite Anti-Federalist advocacy of superiority of states in a federal system.<sup>135</sup>

Here one touches upon the essential dividing line between Federalists and Anti-Federalists. Federalists argued that the closer the government was to the people the bigger was the risk of demagoguery and tyranny. Anti-Federalists, on the contrary, regarded the close link between government and people as the best means of preserving true republican democratic principles: respect for local interest and a government founded on

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<sup>133</sup> CORNELL, *The Other Founders*, p.70

<sup>134</sup> *Ibid*, p.71

<sup>135</sup> STORING, *What the Anti-Federalists Were For*, p.15

a sufficiently broad representation were the crucial components of this approach. It was primarily a question of size and a relative homogeneity of population.<sup>136</sup>

The only way to prevent the new system from degenerating into a tyranny of demagogues was, therefore, to make sure that the states retain as much power as possible. The smaller the district, so the argument went, the higher the likelihood of discerning and pursuing a common interest and lesser the risk of rivalries. State governments – the model small republics – represented the most effective tool of reconciling diverse interests of different localities. A government over a large territory that was distant from its people was contradictory to the representative character of American institutions.<sup>137</sup>

### **V.I.II. Elite Anti-Federalism in the Public Sphere**

Cornell dedicates much of his effort to the study of what he refers to as *public sphere*. He defines it as the different contexts, forms, forums, and formats of public debate and of expression of opinion. It includes world of print, newspapers, pamphlets, broadsides, as well as intellectual and ideological exchanges in debating societies, coffeehouses, and taverns.<sup>138</sup> The examination of how each of the different Anti-Federalist groups perceived and used the public sphere offers useful insights into the issue of diversity of Anti-Federalist positions.

The case of George Mason is rather illustrative of how elite Anti-Federalist approached the public sphere. In order to launch a public debate Mason decided to distribute privately manuscripts of his *Objections to the Constitution* to a selected group of elite Anti-Federalists as well as elite Federalists. He hoped for a gentlemanly discussion of the crucial issues in an aristocratic manner by the elites of the both sides. Relying on private correspondence guaranteed to Mason that he would retain control over the interpretations of his text.

One of the manuscripts was, however, printed by Tobias Lear, a Virginia Federalist. In addition to publicising the text, Lear attached to it a fierce rebuttal of

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<sup>136</sup> STORING, *What the Anti-Federalists Were For*, p.15

<sup>137</sup> CORNELL, *The Other Founders*, p.74

<sup>138</sup> See *ibid*, p.10ff, p.106ff

Mason's arguments and accused him of resorting to secrecy, elitism, and avoiding the public scrutiny.<sup>139</sup>

Similarly, a Federalist writing as Valerius attacked Richard Henry Lee for having published a letter to Edmund Randolph under his proper name. By not using a pseudonym, Valerius argued, Lee had merely abused the weight of his name, reputation and prestige.

The debate over the Constitution was occurring in a newly defined context of public discourse. The emergent ideal and imperative of anonymity of print was contrary to the older conception of patrician dialogue in a small circle of influential elites. This older aristocratic vision went hand in hand with the concept of the small republic based on its close, personal connections and a tendency to consensus building. State legislatures of small republics rather than anonymous print were, according to elite Anti-Federalists, the forums best suited for public debate. Small republics and state legislatures were the best means of reconciling natural aristocracy and democracy. The Constitution, it seemed to its elite opponents, threatened to destroy both.<sup>140</sup>

As has been shown, the elite Anti-Federalists were likely to embrace the notion of natural aristocracy. This meant that "the most successful and intelligent men in a polity should be involved in government by virtue of their acuity". They held the classical, pejorative view of democracy as mobocracy and opposed the federal Constitution because it seemed to strengthen precisely this kind of democracy. Perceiving politics as a struggle between the natural aristocracy and democracy they advocated the concept of the small republic as best suited to preserve social balance between these two elements. By destroying small republics the proposed federal government demolished the balance between aristocracy and democracy. Consequently, liberty was bound to perish.<sup>141</sup>

## **V.II. Popular Anti-Federalism**

Popular Anti-Federalism has undoubtedly received greatest scholarly attention. It would also be true to say that the Anti-Federalism as a whole is frequently reduced to, associated or rather confused with this particular strand of the opposition movement.

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<sup>139</sup> CORNELL, *The Other Founders*, p.75

<sup>140</sup> *Ibid*, p.80

<sup>141</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.17

Popular opposition to the Constitution had its roots in democratic principles and was carried by the common people. What makes popular Anti-Federalism distinct from its elite equivalent are its claims of supremacy of democracy and its support for egalitarianism.<sup>142</sup>

Popular Anti-Federalism is a product of the period of the American Revolution which brought about a broad democratisation of politics. The new generation that emerged was composed of state politicians, essayists, and journalists, including various other members of the middling sort: merchants, yeomanry, plebeian farmers, or artisans. Two distinct groups can be identified within popular Anti-Federalism.

The first group featured democratic politicians of the middling sort, typically from New York and Pennsylvania who often had previous records of drafting state constitutions and political activity throughout the Confederation era. They generally showed great hostility towards judiciary and executive while favouring the legislative power.

Popular Anti-Federalists are often portrayed as locally minded agrarians abhorring marketplace and commerce. Such view is, however, unfounded.<sup>143</sup> Popular Anti-Federalists in fact pursued the ideal of economic harmony with merchants and farmers coexisting side by side. New York and Pennsylvania popular Anti-federalists had a pro-commerce focus in particular: John Nicholson, a leading Pennsylvania Anti-Federalist, was a manufacturer, and Melancton Smith, one of the most influential New York opponents of the Constitution, was a merchant. On the whole, key voices among popular Anti-Federalists were advocating a sound and diverse economy while condemning unfair concentrations of wealth.<sup>144</sup>

One small but important group cannot be omitted when discussing popular Anti-Federalists: the printers. Periodicals such as *New York Journal* or *Independent Gazetteer* in Philadelphia represent crucial forums of expression of the Anti-Federalist opinions, provide channels for the coordination of efforts, enable the exchange of information,

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<sup>142</sup> CORNELL, *The Other Founders*, p.81

<sup>143</sup> For an overview of the Anti-Federalist economic thought see PHILBIN, James P. "The Political Economy of the Antifederalists." *Journal of Libertarian Studies*, vol. 11, no. 1 (Fall 1994), Center for Libertarian Studies, pp.79-106. Howsoever useful his analysis, PHILBIN tends to be selective in his treatment of the topic.

<sup>144</sup> CORNELL, *The Other Founders*, p.83

establish connections among politicians from distant locations, provide information distribution networks, and cement local factions – Clintonians in New York or Constitutionlists in Pennsylvania – together.

Plebeian Anti-Federalists represent second essential subgroup within popular Anti-Federalism. Plebeians included such diverse profiles as cottagers, tenant farmers, or less affluent mechanics. This was a grass-roots group of backcountry Anti-Federalists whose access to newspapers and print was severely limited, an isolated group which was least represented in print. It was, however, a group whose ideas were reflected upon in the press and private correspondence. Their understanding of public discourse and public sphere extended well beyond the limits of print and text in general: these were radical democrats who believed in direct action. Street riot was as legitimate an expression of opinion as a sophisticated essay.<sup>145</sup>

### **V.II.A. Middling Anti-Federalism**

When characterising middling Anti-Federalism Siemers invokes De Tocqueville and his observation of a strong middling sort or middle class as a uniquely American feature. This was true, he argues, of the ratification period too. American politics offered many opportunities for the middling sort to participate. The middling sort exerted considerable influence over state governments and in some states, namely New York and Pennsylvania, it was a dominant force. The proposed Constitution not only threatened the immediate middling interests, it was also contrary to their vision of ideal government.

The middling Anti-Federalists did acknowledge the notion of natural aristocracy. But they perceived politics through the lens of their middling context. First, the middling sort represented numerical majority in virtually all the states. Second, the virtue, moderation, and good sense were most present in the middling sort. In other words, the middling sort lacked the ambitions of the elite and radicalism of the lower sort. Therefore the middling sort should be dominant in politics. The proposed Constitution, however, limited the influence of the middling sort on politics because it was designed in a way that prevented election of the average citizens. Middling Anti-Federalists claimed that the middling sort possessed specific characteristics that were conducive to “good

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<sup>145</sup> CORNELL, *The Other Founders*, p.85

governance, industry, and frugality”. This is why they thought survival of freedom was directly connected to the dominance of the middling sort.<sup>146</sup>

The Middling Anti-Federalists’ emphasis on genuine representation and majority rule meant that they did not favour the idea of a mixed regime. While accepting bicameralism they did not see it as necessary and refused the elite vision of the Senate. The natural aristocracy had its legitimate role in politics but only as long as this role was played on equal footing with the rest of the society.<sup>147</sup>

The middling opponents of the Constitution feared that the ratification of the document would reduce drastically their influence over politics. Three aspects of the Constitution were regarded as dangerous in particular: first, the new national Congress possessed virtually unlimited powers; second, due to large electoral districts only aristocracy and the “well-born” were likely to be elected to the House of Representatives; third, the mode of selection of Senators was likely to lead to that body becoming another instrument in the hands of the elite. As a result, in the federal government the middling sort was deprived of any significant influence.<sup>148</sup>

Middling Anti-Federalists are characterised by their respect for state constitutionalism. Cornell has shown how this translated into their ardent support for the idea of strong state governments. An Old Whig, in whose name wrote George Bryan, John Smilie, and James Hutchinson, leading Pennsylvania Anti-Federalists united in the Pennsylvania Constitutionalist Party, is a typical example of this view. An Old Whig held that the state constitution represented the basic and sole document upon which to preserve the traditional republican values. State constitutions provided direct link to the democratic *esprit* of the Revolution and established a proper balance between the necessity for state power on the one hand and liberty on the other.

An Old Whig differentiated between two kinds of rights. Those political rights that resulted from a creation of a polity he labelled as alienable. But apart from the alienable rights citizens possessed a set of inalienable individual rights, such as freedom of religion. The role of the constitution and a permanent task for the citizens was to check on government so that it would not destroy unalienable rights and that alienable rights

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<sup>146</sup> SIEMERS, *The Antifederalists. Men of great Faith and Forbearance*, p.17

<sup>147</sup> *Ibid*, p.17

<sup>148</sup> *Ibid*, p.116

would only be restricted under proper conditions. There was no check on Congress under the proposed Constitution, An Old Whig argued, because the Necessary and Proper Clause, Article 1, Section 8, Clause 18, allowed it to stretch its power without limit and destroy any rights as long it was considered necessary.<sup>149</sup>

Liberty and virtue were complementary rather than antithetical. The pursuit of a common good might require that some portion of alienable rights be sacrificed. The objective of a federal constitution was therefore to establish a continental union resting on the authority of strong states which were to guarantee the rights and liberties of individuals. Once again, the case of An Old Whig shows strong Anti-Federalist faith in state government and state constitution as the essential safeguards of virtue and liberty. Judicial review and the power of federal judges were seen with great distrust. Middling opponents of the Constitution thus favoured strong juries – representing local interest – as a check on judges who might collude with government.<sup>150</sup>

Perhaps most attention in recent historiography has been dedicated to the *Observations Leading to a Fair Examination of the System of Government Proposed by the Late Convention in a Number of Letters from the Federal Farmer to the Republican*, also known with its additions as *Letters from the Federal Farmer*. The historical identity of its author has not been resolved even though most speculation has focused on Richard Henry Lee and Melancton Smith.

Even though the pamphlet was not reprinted in newspapers it received wide attention and circulated in New York, Pennsylvania, Massachusetts, and Connecticut, it was dispatched to Virginia, North Carolina, and New Hampshire. Its author sought to popularise the views of George Clinton alias The Republican, a foremost New York Anti-Federalist whose name was used by a very important local Anti-Federalist unit, the Clintonians. Besides receiving publicity the text was highly esteemed by both Federalist and Anti-Federalists.<sup>151</sup>

The Federal Farmer puts himself into the position of an engaged and zealous speaker for the middling sort. He claims to speak on behalf of the men of middling

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<sup>149</sup> *An Old Whig, No. 2*, in: STORING (ed.), *The Complete Anti-Federalist*, 3.3.12-13

<sup>150</sup> CORNELL, *The Other Founders*, p.88

<sup>151</sup> *Ibid*, p.88

property who are not burdened by debt, men content with republican government who do not have ambitions for immediate fortunes, offices and power.<sup>152</sup>

As most middling Anti-Federalists, The Federal Farmer expressed deep distrust and suspicion about the extreme positions: plebeians were referred to as “little insurgents” and their levelling spirit was equally dangerous as were the plots of the “aristocratic few” hostile to republican equality.<sup>153</sup> Middling opponents of the Constitution thus sought to distance themselves from being labelled by the Federalists as Shaysites and radicals.

Their antipathy toward uncontrolled local initiative that threatened to evolve into radical actions is best documented by their preference for state control over militia and gun control. While respecting the right to bear arms and accepting the role of militia as a check on government, the middling Anti-Federalists made a careful link between these two issues and civic virtue. Arms and military units had to be prevented from being used by extremists.<sup>154</sup>

A strong middling sort was the key social element for the preservation of republican government. In accord with other opponents of the Constitution middling Anti-Federalists agreed that state government in the form of the small republic was the best form of representative rule. What makes middling Anti-Federalists distinct is that they linked directly the survival of liberty in the small republic to the dominance of the middling sort in its government.

To middling opponents of the Constitution, state constitutions and state legislatures were the two principal safeguards of liberty. Their view of individual rights was somewhat complex. They distinguished three kinds of rights: natural or inalienable rights; constitutional or fundamental rights; common or legal rights. Only the last category was, however, at the will of legislatures.

The main task of a state government was to perform an effective policing role in such practical areas as collection of taxes, administration of justice, and maintaining militia.

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<sup>152</sup> *Letters From the Federal Farmer, Letter No.5*, in: STORING (ed.), *The Complete Anti-Federalist*, 2.8.62

<sup>153</sup> *Ibid*, 2.8.62

<sup>154</sup> CORNELL, *The Other Founders*, p.94



If the middling Anti-Federalists put great deal of confidence in state constitutions they still emphasised the need for a bill of rights. A bill of rights was an additional, formalised, and ultimate check on the actions of government.<sup>155</sup>

Again, sharp contrasts in the way middling Anti-Federalists regarded state and proposed federal institutions appear. State legislatures were perceived favourably. They constituted a genuine representation of the will of the people and due to the proximity to electorate their mistakes were easily correctible. The judicial power of the federal government – and the power of judges as opposed to the power of jury – as it was designed by the Constitution posed, however, a substantial threat to liberty. It was completely exempt from popular control and was not at all representative.

While the elite Anti-Federalists conceived of juries as check on the power of judges, the middling Anti-Federalists explicitly asserted the superiority of juries over judges. Juries were collections of popular will, representative bodies of a nature that was not dissimilar to that of legislatures. Popular will was represented at two levels: in the legislature at the top and in the jury at the bottom.<sup>156</sup>

Not judges but juries were to interpret the law. The middling vision of constitutionalism was based on the premise that the people would possess knowledge and understanding of their constitution. Service on juries constituted one of the ways of getting people acquainted with constitution and educating them in civic virtue. The specific pro-middling sort bias is evident: juries were not important primarily because they reflected local interest but because they represented the dominance of the middling sort. What mattered was social position rather than locality.<sup>157</sup>

Most of the middling opponents of the Constitution favoured the idea of social homogeneity. Only in small communities with free and relatively homogenous populations with wealth more or less equally distributed could a republican government exist and liberty thrive. Large territorial units with heterogeneous populations were prone to internal conflict and tyranny. The Anti-Federalists insisted that a particular kind of virtuous citizens was needed if a free republic was to survive. The creation of a central

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<sup>155</sup> CORNELL, *The Other Founders*, p.90

<sup>156</sup> STORING, *What the Anti-Federalists Were For*, p.19

<sup>157</sup> CORNELL, *The Other Founders*, p.92

government reduced the role of the states – small republics – and thus jeopardised civic virtue.<sup>158</sup>

This can be documented by their attitude to religious tests. Religion, they claimed, provided one of the glues holding society together and religious tests for office-holding strengthened the civic virtue. Republican democracy was thus best sustained if government was in the hands of the protestant middling sort. Individual liberty of other groups in certain areas could be reduced if such limitation helped create a virtuous government.<sup>159</sup> In other words, religion was regarded as an essential support of republican government and a foundation of civil institutions.<sup>160</sup>

While this can be seen as an argument for a relatively strong government, the middling Anti-Federalists nevertheless advocated a vision of weaker government on the federal level. Recalling on the past experience from colonial and Revolutionary periods speakers of the middling sort such as New York's Son of Liberty or Brutus were fearful of the virtually unlimited power of the proposed government, especially as regards taxation and – resulting from the omission of a bill of rights – unreasonable searches. Under the proposed Constitution the government was free to penetrate even the most intimate areas of people's private lives. The imperative of individual rights protection necessitated that there be a fixed and clear limit on government prerogatives.<sup>161</sup>

### **V.II.A.I. The Middling View of Society**

The middling Anti-Federalists dedicated much of their effort to the examination and criticism of the way in which the proposed Constitution changed the social equilibrium. The Constitution, they argued, shifted the balance in favour of *the few*, a narrow, aristocratic elite and sought to revert the achievements of the Revolution.

The Federal Farmer distinguished among three different types of aristocracy. The first was a constitutional or hereditary aristocracy, which was not present in the United States. The second type he defined as an aristocratic faction or *junto*. This type was potentially omnipresent and threatening to turn any group into a corrupt elite circle

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<sup>158</sup> STORING, *What the Anti-Federalists Were For*, p.19

<sup>159</sup> CORNELL, *The Other Founders*, p.94

<sup>160</sup> STORING, *What the Anti-Federalists Were For*, p.23

<sup>161</sup> CORNELL, *The Other Founders*, p.95

placing its private interest above the common good. The third type – natural aristocracy – was, however, the most vague and most dangerous. This was the *better sort*, the *well born*.<sup>162</sup>

Unlike the elite opponents of the Constitution, the middling Anti-Federalists thought that virtue was found in every social class and order. Therefore each of these classes was to be properly represented so that the legislature be composed of the best and brightest of each of these social orders. Nevertheless, most power was to go to the middling sort since it, by its very nature, favoured a moderate stance and lacked ambition.<sup>163</sup>

Cornell therefore argues that this was a liberal rather than purely republican theory. The middling Anti-Federalists acknowledged that each of the social orders had its interests. Consequently, society worked as an aggregation of these particular interests. And it was imperative that these interests have sufficient and genuine representation so that they could be used as checks against one another.

The middling opponents of the Constitution believed in smaller districts and large legislatures. Combination of the two was a guarantee against the election of demagogues and representatives who would be too remote from the people. Conflict and antagonistic relations among social orders was the optics through which middling Anti-Federalists perceived society. The key factor in a republic was the supremacy of interest, its articulation and representation. Middling Anti-Federalists stood for large legislatures, strong states, and representation that was intimately connected to the people and social orders. At the same time they were pushing for a dominant position of the middling sort. Such view marks a sharp contrast to the elite Anti-Federalist notion of social balance and order based on the wisdom, skills, and connections of natural aristocracy.<sup>164</sup>

### **V.II.A.II. Radical Democracy of the Middling Sort**

If this paper seeks to demonstrate that the Anti-Federalists represent a diverse group of often diametrically opposed views united by a common aversion towards the proposed Constitution than popular Anti-Federalism is one of its most complex

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<sup>162</sup> *Letters from the Federal Farmer*, no. 7, in: STORING (ed.), *The Complete Anti-Federalist*, 2.8.95-99

<sup>163</sup> CORNELL, *The Other Founders*, p.97

<sup>164</sup> *Ibid*, p.99

components. As has been said above the middling authors of moderate opinion and radical plebeian populists are generally viewed as the two principal ingredients of popular opposition to the Constitution. Cornell discerns radical polemicists as the third specific group standing half the way between the moderate and radical positions.

Works of radical polemicists such as *Centinel*, *Philadelphiensis*, or *An Officer of the Late Continental Army* were widely reprinted, received publicity among both proponents and opponents of the Constitution and had significant influence over the Anti-Federalist movement. What is characteristic of radical polemicists is that they spoke for the lower sort while emphasising their appurtenance to the middling sort.

Samuel Bryan writing in Pennsylvania as *Centinel* was one of the earliest and most effective Anti-Federalist voices to be heard. In addition to common Anti-Federalist objections *Centinel* strongly accentuated his anti-aristocracy sentiment and appealed directly to the middling and plebeian audience. His class-conscious assertive rhetoric rested on the link connecting democracy, federalism, and state constitution.

*Centinel's* vision was to a large degree influenced by his esteem for the Pennsylvania constitution and government which he considered a model for a perfect government. Only state constitutions were, according to *Centinel*, capable of preserving democracy. By contrast, the proposed national Constitution created a central aristocratic government and threatened to destroy democracy by limiting the state constitutions. *Centinel* believed that the most important check on government lied in the closest possible link between the people and their elected representatives.<sup>165</sup>

This conception of simple representative government rendered the notion of bicameralism redundant and was irreconcilable with the logic underlying the new Constitution which left people out and put the government into the hands of the elite of the well born. It was essential to preserve state constitutions and state governments as the basic centres of power because they represented safeguards of liberty rooted in the American Revolution. Any institutions that might potentially limit their authority were to be rejected.<sup>166</sup>

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<sup>165</sup> *Centinel, No.1*, in: KETCHAM (ed.), *The Anti-Federalist Papers and the Constitutional Convention Debate*, pp.227-237

<sup>166</sup> CORNELL, *The Other Founders*, p.101

The need for public safety might justify, in Centinel's view, certain limitations of certain liberties for certain groups in society. Similarly to the middling Anti-Federalists Centinel thought that religious tests represented one of the ways to make government more reflective of popular will.

Centinel's opinion on commerce was somewhat ambiguous. On the one hand he conceded that commerce was necessary for a healthy economy and growth. The values of the merchant class, on the other hand, were associated with avarice and denounced as pernicious.<sup>167</sup>

Strong emphasis is put on the notion of freedom of the press because it is linked to the notion of virtue. Only as long as the public sphere constituted an open space for free expression of all opinions could virtue thrive. Since the print was one of the crucial factors contributing to the peaceful creation of social cohesion Centinel was deeply resentful of the fact that it was the Federalists who succeeded in controlling most of the newspapers.

Centinel attributed Federalists' dominance over the world of print to their economic advantage and to their intellectual superiority arguing that the debate over the Constitution could never be fair unless the disparities between the proponents and opponents of the Constitution in terms of education, eloquence, and sophistication, be equalled. Federalists' wealth and education inhibited free exchange of opinions and by damaging the natural balance inflicted detrimental effects on virtue in the public sphere. As a result, people were prone to listen to the rhetoric of natural aristocracy.<sup>168</sup>

Philadelphiensis, another radical polemicist, was especially concerned with issue of anonymous debate. He advocated anonymity in the public sphere in the very same sense as the Federalist Valerius who castigated Richard Henry Lee for publishing texts under his proper name. Anonymity, Philadelphiensis argues, was one of the solutions to the inequality and advantage possessed by Federalists. Anonymity created direct connections between the text and the people and enabled challenging the aristocracy and the well-born. It was also a means of elimination of residual monarchical habits still present in American society.

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<sup>167</sup> CORNELL, *The Other Founders*, p.103

<sup>168</sup> *Ibid*, p.104

The use of anonymous rhetorical identities allowed groups that, under normal circumstances, would not be expected to participate in the public debate to make their case. Even the voices of slaves or women could thus be heard. In short, Philadelphiensis saw a dynamic, unrestricted, and anonymous public debate as the key to the survival of democracy, republican government and federalism, and, eventually, to an Anti-Federalist success. A vibrant and free public debate substituted the need for a strong central government.<sup>169</sup>

Despite significant differences concerning theoretical underpinnings and practical aspects of the concept of the small republic vast majority of Anti-Federalists held that if liberty and virtue were to survive the small republic was a place for these to thrive. They agreed that this concept was best realised in the individual autonomous states. In accordance with the traditional theory the Anti-Federalists regarded the United States as a federacy based on locality and state government with a dominant position of legislatures. The Federalist advocacy of centralisation was dismissed as unfounded.

The solution that the middling Anti-Federalists put forward rested on two essential pillars: first, power was to remain firmly rooted on state and local levels; second, a vigorous and unrestricted public sphere was the means of providing cohesion needed to preserve the federal Union. A vigorous public sphere was an alternative that the Anti-Federalists offered to the Federalists' reliance on power. An expanded and invigorated public sphere ensured that the ideals of liberty and virtue were continually strengthened which in turn guaranteed the survival of a free republican government.<sup>170</sup>

### **V.II.B. Plebeian Populism**

It has been said that radical polemicists and other middling Anti-Federalists expanded the concept of egalitarianism. The most articulate and radical vision of democracy based on the notion of equality was advocated by plebeian or virulent opponents<sup>171</sup> of the Constitution. These authors often used parody and satire as a form of attacking the Constitution and its Federalist supporters. To most plebeian Anti-Federalists

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<sup>169</sup> CORNELL, *The Other Founders*, p.106

<sup>170</sup> *Ibid*, p.106

<sup>171</sup> CORNELL uses the term *plebeians* or *plebeian populists*, SIEMERS uses the term *virulent Antifederalists*.

the Constitution was a product of an aristocratic conspiracy. Plebeians were likely to be found in Pennsylvania and more generally in rural, isolated backcountry areas closer to the frontier.<sup>172</sup>

In Massachusetts the Shays' Rebellion of 1786 only emphasised the regional rift between coastal and backcountry agrarian interests which was with more or less intensity present in almost every state. The plebeians regarded with suspicion the proceedings of the Philadelphia Constitutional Convention of 1787. They thought it was populated by the well-to-do advocates of coastal interests who sought to secure their dominance. To plebeian radicals the Constitutional Convention was not a godsend but a nightmare. And the Constitution was a mere instrument of the coastal interests to control the "backcountry more efficiently, completely, and ruthlessly."<sup>173</sup>

The controversy over the ratification in Pennsylvania has already been mentioned. The Anti-Federalists in the state legislature were physically aggressed by a Federalist mob and forced to attend the proceedings leading to the calling of a ratifying convention. It is in this context that virulent Anti-Federalist should be examined. William Petrikin, a local Anti-Federalist from Carlisle, Pennsylvania, is perhaps the best known and certainly one of the most interesting plebeian critics of the Constitution. The Scourge, the Republicus, and James McDowell count among other significant virulent Anti-Federalists.

Petrikin was deeply upset about the inaccessibility of a sound argumentation in defence of the Anti-Federalist position in his locality and in other distant or isolated areas. He corresponded with leading Pennsylvania opponents of the Constitution asking them to provide him with substantial written material. Receiving only lukewarm support Petrikin decided to act.

Writing under the pseudonym of Aristocrotis he published a pamphlet with a title *The Government of Nature Delineated or An Exact Picture of the New Federal Constitution*, an ultra-Federalist mocking defence of the proposed Constitution. The Federalists are caricatured as haughty style natural aristocracy who, in order to preserve degrees and subordinations in society, had designed the Constitution to minimise the

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<sup>172</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.149

<sup>173</sup> *Ibid*, p.150

influence of the lower sort in politics. The natural Federalist aristocracy, Aristocrotis argued, sought to rectify the excessive democratic heritage of the American Revolution. Eliminating the principle of annual Congressional elections and determining the location and manner of holding elections were the tools used by this clique of the well born to subordinate the mob. To facilitate this task Congress was given extensive taxation powers.

Furthermore, the federal government had at its disposal a standing army and claimed control over state militias. At this point Aristocrotis departs significantly from the positions of middling Anti-Federalism. The middling opponents of the Constitution conceived of militias as of locus of virtue and a means of educating citizens. State militias were to be put under a strict supervision by state governments. Mob action and radical tendencies were adverse to the principles of the militia. Aristocrotis on the other hand regarded militias as open to everyone, as a genuine plebeian check on government.<sup>174</sup>

The pamphlet goes on ridiculing the Federalist advocacy of a strong judiciary and the role of judges. Aristocrotis reminds the Federalists about the necessity to limit the powers of juries so that a host of unlearned illiterate plebeians be prevented from overturning the decisions made by small and learned aristocratic elite. Moreover, along with other Anti-Federalists, Petrikin asserted the right of the legislature to override decisions of the judiciary.

While Petrikin departs from the middling Anti-Federalists in conceiving of jury and militia inclusive of the lower sort as plebeian checks, his radically democratic views are rather nebulous when it comes to religious tests. In accord with the majority of the middling Anti-Federalists he championed religious tests as a tool of promoting virtue in society. His inconsistency is further revealed when he accuses the Constitution of weakening religion and instituting deism.<sup>175</sup>

As the case of William Petrikin suggests, plebeian populists abandoned the moderate stances of middling Anti-Federalism. Their vision was based on a more radical localism, initiative, and direct democracy. States continued to play a significant role but it

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<sup>174</sup> Aristocrotis, *The Government of Nature Delineated or An Exact Picture of the New Federal Constitution*, in: STORING (ed.), *The Complete Anti-Federalist*, 3.16.

<sup>175</sup> Ibid



was local structures, such as militias, juries, or indeed a crowd, which represented the will of the people. Majority rule as a principle and state government as an institutional framework were only secondary to the notion of local direct democracy.<sup>176</sup>

### **V.II.B.I. Plebeian Populism at Work: The Carlisle Riot**

The study of plebeian Anti-Federalism represents a challenging discipline. First, scholars are faced with only sparse plebeian texts. Second, it is important to realise that these radical critics of the Constitution understood literary text as merely one – and certainly not the most important – form of expression of opinion. In order to characterise the complexity of the plebeian approach to the articulation of political opinion, Cornell uses the term *social text*. The concept of social text expands the public sphere into such areas as public rituals and crowd behaviour.

Carlisle Christmastime events of 1787 represent a clear example of the plebeian perception of public discourse. Carlisle, Pennsylvania was a town with an Anti-Federalist majority. On the evening of December 26, 1787, local Federalists organised a public celebration in the streets of Carlisle on the occasion of the ratification of the federal Constitution by the Pennsylvania state ratification convention.

Carlisle Anti-Federalists regarded the gathering as a provocation and formed a counterdemonstration. The Federalists escalated the tension by demanding the Anti-Federalists to disband and threatened those who stood in their way with physical harm. Before long the confrontation turned to a violent exchange of blows, destruction of a cannon that Federalists brought with them for the feast, leaving several Federalists hurt, with at least one mortally.<sup>177</sup>

As the Federalists attempted to resume their parade on the next day, Carlisle Anti-Federalists organised another demonstration. Led by a local militia captain they brought with them for the rally straw effigies of two leading Pennsylvania Federalists: James Wilson, a delegate to the Constitutional Convention, and Thomas McKean, state chief justice who had helped to secure the ratification. Before burning the effigies these straw

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<sup>176</sup> CORNELL, *The Other Founders*, p.109

<sup>177</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.150

figures were publicly whipped, paraded around the town and hanged as condemned criminals.<sup>178</sup>

This was a ritual of *status reversal* in which the lower sort humiliated aristocracy. It was a sign of plebeian refusal to defer to the elite. A direct crowd action was a means for Carlisle radical opponents of the Constitution to deliver an egalitarian class conscious message expressing hostility towards the established elite. Unlike middling Anti-Federalists they saw no need for the filtration of interest and passion through a mediating or leading class. Their egalitarianism was based on local units. It was a direct democracy without intermediary structures.<sup>179</sup>

Cornell notes that Carlisle plebeians denied neither their humble background nor little wealth. Instead, they glorified “the nobility and dignity of simple farmers and artisans against the attempts by Federalists to assert superiority of gentlemen of wealth and education.”<sup>180</sup>

Carlisle Anti-Federalists argued that local Federalists did not ask for a community approval prior to their celebration. And since the majority of Carlisle inhabitants opposed the Constitution the Anti-Federalists claimed that the riot against the Federalist meeting was merely an expression of the will of the community through an extra-legal crowd action. The riot did not curtail freedom of speech since the plebeians asserted the right of the community to regulate the behaviour of its members in order to promote public good. The Federalist ceremony, so it was argued, threatened to provoke violence so it was perfectly justified to have it dissolved. It is rather interesting that a totally opposite approach was taken with regard to the press: despite their frustration about its bias the Carlisle Anti-Federalists never displayed hostility to the local pro-Federalist *Carlisle Gazette*.<sup>181</sup>

The Carlisle riot is very helpful in understanding the plebeian notion of superiority of community rights which extended even over property rights. In the course of the street encounter Carlisle Anti-Federalists confiscated and damaged a cannon that

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<sup>178</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p. 151

<sup>179</sup> CORNELL, „Aristocracy Assailed: The Ideology of Backcountry Anti-Federalism”, p.1153ff

<sup>180</sup> *Ibid*, p.1155

<sup>181</sup> CORNELL, *The Other Founders*, p.112

the Federalists had borrowed and brought for the occasion. Plebeians claimed that because the cannon were a public property it belonged to the people. If it belonged to the people the majority of the people had the right to decide what to do with it. If Anti-Federalists represented the majority of the people they – expressing the majority opinion – had the right to confiscate the cannon.

The riot resulted in the incarceration of twenty-one Carlisle radicals including Petrikin. These insisted on an immediate hearing to confront their accusers. The events that followed are particularly indicative of the kind of locally based approach that plebeian populist favoured. In response to the news of imprisonment of the rioters local militias sent their representatives to convene and decide on a concerted action. Then they arranged a meeting with leading Federalists and the two groups eventually reached an agreement. The outcome was that a militia contingent of estimated 250-1500 men marched into Carlisle and released the prisoners.<sup>182</sup>

Their desire to plead their cause themselves expressed their distrust of lawyers and judges. This fact combined with turning to the principle of an immediate militia action shows three distinct traits of plebeian Anti-Federalists approach: they suspended the idea of filtration of interest through elected intermediaries; they lacked confidence in state governments; they were extremely hostile to the notion of a federal government. To them, direct local action was the best check against tyranny.

While middling Anti-Federalists favoured state level solutions and state government as the basic and most appropriate means and structure for republican democracy to thrive, plebeian radical egalitarianism went considerably further. To the plebeians, state structures and institutions were less important than local ones. By assigning the primary role to local structures – such as militias, or juries – and ignoring the issue of federalism plebeian opponents of the Constitution distanced themselves considerably from their middling and elite counterparts.

On the whole, the Carlisle events strengthened the resolves of both sides to the constitutional debate, mutual suspicion increased and willingness among moderates to compromise increased. While many Anti-Federalists approved of or were willing to see the Carlisle riot as an example of direct democracy at work, the Federalists were horrified

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<sup>182</sup> CORNELL, “Aristocracy Assailed: The Ideology of Backcountry Anti-Federalism”, p.1155

and used the event to portray opponents of the Constitution as supporters of radical mobocracy, and Shaysites.<sup>183</sup>

### **V.II.B.II. Plebeian Radicalism in the Public Sphere**

Of all the Anti-Federalist groups plebeian radicals were the least represented in the press. For various reasons, such as profession, connections, and wealth, vast majority of Anti-Federalists were coming from elite or middling democratic *milieus*. Plebeians regarded press as a source of information and supported the concept of anonymity of the print. But if they did so it was because they saw it only as one of the forms of expressing the public opinion among many other forms. The real source and primary indicator of popular will were to be found in direct action by local bodies.

The radical Anti-Federalists also clung to an extensive interpretation of the right to bear arms which they saw as an ultimate check against tyranny and as an expression of the right to a permanent revolution<sup>184</sup> through local action. As the Carlisle riot illustrates, in the plebeian perspective the role of the press was outshaded by the role confined to local militia, jury, and, indeed, crowd.

Reactions to Carlisle riot were rather ambiguous. On the hand, Centinel was supportive of the events and argued that a temporary anarchy was more acceptable than an installation of tyranny. Elite and middling Anti-Federalist expressed their reservations and warned Federalists about possible consequences of justified genuine resolve of people defending their liberty.

Members of the Pennsylvania Minority, on the other hand, denounced the riot. Their recent memories of Pennsylvania Anti-Federalists being attacked by a Federalist mob in Philadelphia were still alive. Crowd thus represented a potentially oppressive force threatening to destroy a free debate and menacing any social group.

There were other considerable repercussions in terms of perception of the Carlisle riot. Middling and elite Anti-Federalists were only willing to recognise strictly legal ways of realisation of the right to bear arms and organise militia. And they reserved this area

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<sup>183</sup> CORNELL, *The Other Founders*, p.114

<sup>184</sup> *Ibid*, p.115

strictly to the established state structures. Middling Anti-Federalists sought to avoid mob rule and eliminate the need for a strong central government by making sure that a broad and unrestricted political debate in print substitute their role. A vigorous public sphere was the means of achieving harmony in the Union. Local initiative filtered through class dominated state institutions and press would result in a rational discourse overall.

The Carlisle experience brought middling and elite Anti-Federalist positions closer to each other. The two groups began to distance themselves from plebeian radicals who were finding themselves being pushed into a position of political extreme. This benefited the small and seemingly isolated group of elite Anti-Federalists. The fear of middling and elite opponents of the Constitution of violence and civil war made them eventually willing to compromise even with the Federalists.<sup>185</sup>

On the whole, the plebeian radicals chose an inflammatory tone. Their perception of public debate was not limited to literary text but included direct action. To them the Constitution was a conspiracy. United by their suspicion, indeed hatred of aristocracy, they argued that the new government represented an attempt of the elite to gain control over politics by the means of a consolidated, aristocratic, national government.<sup>186</sup>

### **V.II.I. Middling and Plebeian Anti-Federalism in Perspective**

Middling and plebeian strands of Anti-Federalism represent two distinctive forms of democratic attack on the proposed Constitution. These two perspectives criticised the proposed document as an aristocratic design created in order to enable the upper sort to pursue and secure its interests. Despite some common ground the middling and plebeian critics of the Constitution understood democracy, federalism, and liberty differently.

Middling Anti-Federalists were trying to build a broad and strong coalition of the middling sort encompassing various social and professional groups, including merchants, artisans, farmers, and yeomanry. Their aim was to minimise government interference in economy and in the sphere of basic rights. A large legislature was considered to be the best institutional framework to represent and reflect popular will. Yet some conceptual differences can be observed even within the group: New York middling opponents of the

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<sup>185</sup> CORNELL, "Aristocracy Assailed: The Ideology of Backcountry Anti-Federalism", p.1171

<sup>186</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.18

Constitution tended to be liberals while their counterparts from Pennsylvania were mostly conservatives.

Public virtue was seen as a necessary condition for the survival of the republic and the best way to make public virtue thrive was to ensure a broadest representation of the middling sort possible. The middling Anti-Federalist vision of federalism rested on the notion of the small republic. Its institutions, namely large legislature and jury controlled by the middle class, were most likely to preserve liberty. By advocating the concept of an unrestricted anonymous public debate in the press the middling opponents of the Constitution dismissed the Federalist proposition of central coercive power as the means of achieving unity on the federal level.

Plebeian radicalism constitutes the most radical form of direct democracy in the debate over the proposed Constitution. Plebeian version of democracy was based on locally operating bodies open to all who wanted to join. State institutions and press were less important because the will of the people could only be genuinely represented through local bodies. If community rights conflicted with individual rights plebeian critics of the Constitution were likely to stand for consensual communitarianism which favoured community rights. Local initiative, crowd, or direct street action were among the legitimate forms of assertion and articulation of community rights.<sup>187</sup>

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<sup>187</sup> CORNELL, *The Other Founders*, p.120

## VI. ANTI-FEDERALISM INTERPRETED

This paper opened with an outline of the historical context of the ratification debate. It went on to examine the nature of the contest over the Constitution and presented the two opposite sides. Some of the major traits of the opposition to the Constitution were then analysed in greater detail which allowed to identify a common ground that was shared among the critics of the proposed system of government. A closer scrutiny of the different views that formed the complex phenomenon of Anti-Federalism subsequently revealed that there were considerable differences within the movement but that these differences followed certain patterns. As a result three distinctive strands of the opposition to the Constitution were discussed. It has been shown that these did not represent impermeable and compact groups but that they were almost as internally diverse as was the whole movement.

It is at this point that the question raised at the beginning of this paper reappears. How should the opposition to the Constitution during the ratification debate be regarded? Was it a solid group united by a coherent political ideology? Or was it merely a babel of incongruous voices? In an attempt to reach a balanced conclusion the following section focuses on three interpretative approaches to Anti-Federalism that point to the deeper assumptions connected to the essence of the opposition to the Constitution. Three distinctive views of Anti-Federalism discussed here include Cecelia Kenyon's *Men of Little Faith*, Christopher Duncan's *Men of a Different Faith*, and David Siemers' *Men of Great Faith and Forbearance*. The last chapter therefore tries to synthesise the previous findings of this paper with a critical evaluation of the three different views of Anti-Federalism in search of an answer to the central question of this paper.

### VI.I. Cecelia Kenyon's *Men of Little Faith*

Kenyon opens her essay with a critique of the Beardian approach<sup>188</sup> to the founding period which she considers one-sided, ambiguous and leading to a methodological stereotype of economic determinism. Scholars following the Beardian paradigm have interpreted the Constitution as being designed to protect the Founding

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<sup>188</sup> In 1913 Charles BEARD, a Progressive historian, argued in his *Economic Interpretation of the Constitution of the United States* for the primacy of economic interest in the creation of the American Constitution. The Federalist thus designed the Constitution to protect their economic interests.

Fathers' property rights against the force of democratic majorities. By implication the Anti-Federalists were almost automatically regarded as democratic opponents of the federal aristocratic plot. Their theory of government, however, was never closely analysed. The purpose of Kenyon's essay is therefore to explore the Anti-Federalist position, not in the Beardian reductionist perspective but in its overall ideological context.<sup>189</sup>

Kenyon reminds that the Beardian thesis was based on two main premises: first, the framers of the Constitution were primarily driven by their economic interest; second, the constitutional mechanisms of separation of powers and checks and balances were undemocratic. According to Kenyon, Beard was merely unhistorically applying the doctrine of the Progressive era on the eighteenth century context. By implication, opponents of the Constitution were objecting the document for the very same reasons as Beard did himself.

Kenyon then focuses on the Anti-Federalist advocacy of self-government and small republic. A large republic was impossible in the eyes of the critics of the Constitution and there was a need for a relative homogeneity of the population. Opponents of the Constitution emphasised the diversity of the thirteen states – with differences in economic and commercial interests being crucial – and failed to grasp the principles of the new federalism. In Kenyon's view they were only capable of conceiving the proposed federal structure as a unified national government.

The Anti-Federalist theory of representation, Kenyon suggests, was closely related to their vision of the small republic. The representation under the Constitution was therefore flawed in two main aspects: first, it was too small to represent the diversity of interest; second, the democratic elements in society were likely to be left out. With the House of Representatives – the supposedly democratic branch of government – populated with aristocrats or demagogues the personal, direct contact between people and their representatives would be lost resulting in the creation of an impersonal system with little popular influence.

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<sup>189</sup> KENYON, Cecelia M. "Men of Little Faith: The Anti-Federalists on the Nature of Representative Government." p.5. *William and Mary Quarterly*, 3rd Ser., Vol. 12, No. 1 (Jan., 1955), pp. 3-43



Moreover, the new system was likely to emphasise the differences of interest and spur rivalries, especially in terms of class and geography. Large electoral districts were prone to fall victim to organised voting which was likely to occur in the thickly populated coastal regions. Kenyon suggests that the Anti-Federalists went beyond the conventional suspicion of faction. They feared organised party politics.<sup>190</sup> If the opponents of the Constitution saw size as the critical factor in terms of true representation then the proposed government did not offer any prospects of a successful competition of the middling sort with the upper class.

According to Kenyon very few Anti-Federalists actually believed in what she refers to as “almost poetic projection of an ideal”<sup>191</sup> of representation, the small republic where the representative body was a true and faithful miniature of the people themselves. Instead they used this vague concept as a means of denouncing any aspect of the proposed government as treacherous and tyrannical. The Anti-Federalists were even more sceptical about human nature than the proponents of the Constitution and attacked the Federalists for their excessive faith in the virtue of elected representatives.

The Constitution was flawed because it failed to provide sufficient protection against the lust for power and oppression stemming from human nature. Using and exaggerating the threat of unchecked power provided the Anti-Federalists with ideological ammunition to make their case against the Constitution. And the source of their critique was, Kenyon asserts, ordinarily a “distorted interpretation of some particular clause” of the Constitution.<sup>192</sup>

Among the most frequently attacked parts were Article I, Section 4, giving the Congress the power to determine the times, places and manner of holding elections, Article II, Section 2 which gave to the President the power to make treaties with the advice and consent of the Senate, Article VI, Section 3 which prohibited religious tests for office holding. Combined with denouncing the exclusive jurisdiction over the future site of the national capital given to Congress in Article I, Section 8, Kenyon argues that

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<sup>190</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.13

<sup>191</sup> Ibid, p.13

<sup>192</sup> Ibid, p.15

the “parade of imaginary horrors” became the Anti-Federalists technique of political debate.<sup>193</sup>

Kenyon illustrates the “marvellous imaginativeness” of the opponents of the Constitution in portraying the document as a malicious design leading to tyranny by offering an extreme Anti-Federalist vision of the new government: “the Pope as President, operating from a base in Peking, superintending a series of hangings without benefit of clergy”.<sup>194</sup> Kenyon also argues that the anti-Catholicism apparent in this example indicates that the Anti-Federalist support for religious freedom was rather dubious.

The Anti-Federalist critique of the omission of a bill of rights was, Kenyon claims, motivated primarily by their concern about the lack of common-law rules of criminal procedure rather than by their esteem for religious freedom or freedom of the press. In the absence of a bill of rights there was no restraint on the perfidy of elected officials. Consequently, by relying excessively on virtue in government the Constitution directly menaced people’s liberties while failing to offer any means of removing unfaithful or corrupt representatives. Even the method of impeachment was seen as undemocratic because people had no say in it.<sup>195</sup>

The Anti-Federalists saw two kinds of remedy to the flaws of the Constitution: first, more explicit limitations were to be included in the text; second, more institutional checks were to be created to enforce these limitations. The Constitution was regarded as ambiguous in its language with powers that were not sufficiently defined. The Anti-Federalists were far more sceptical than the Federalists, Kenyon argues, as regards lust for power. And the only check against the lust for power was a clear, explicit, and properly constructed constitution.

The system of checks and balances and separation of powers as laid down by the Constitution was rejected by different Anti-Federalists for different reasons: some argued it was too complicated, others argued it was too ambiguous and did not go far enough. They virtually all agreed, Kenyon suggests, that the concepts of checks and balances and

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<sup>193</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.15

<sup>194</sup> Ibid, p.19

<sup>195</sup> Ibid, p.21

separation of powers were desirable. They were, however, united in their critique of the manner in which the Constitution applied these principles.<sup>196</sup>

The power of the President, the nature and power of the Senate and the likely combination of these two branches of government as tyrannical “partners in crime” represented, in Kenyon’s view, one of the greatest threats the Anti-Federalists saw in the new system. Few changes were proposed, such as a creation of a separate advisory council to the President, shorter terms of office, compulsory rotation for Senators and President, and the power of the states to recall their Senators. These mechanisms were also intended to serve as checks against the party spirit. If the Federalists objected that the compulsory rotation was an abridgement of people’s right to elect whomsoever they wished the opponents of the Constitution replied that the very purpose of government was to constitute a restraint on the natural rights of the people.<sup>197</sup>

Here Kenyon points to a “curious trust them, trust them not” Anti-Federalist attitude. On the one hand they were strongly suspicious about the national legislature but on the other hand they had almost full trust in state legislatures. Unlike the federal Congress state legislatures were directly connected to the people and were thus under a close, permanent, and effective public scrutiny. The opponents of the Constitution showed the same kind of suspicion towards the federal judiciary.<sup>198</sup> Surprisingly enough, Kenyon claims, Anti-Federalists did not fully grasp the potential threat of the judicial review, not even after *Federalist 78* was published<sup>199</sup>.

Similarly, little attention was paid to the constitutional provisions limiting the powers of state legislatures, namely those forbidding states to coin money, emit bills of credit, make anything but gold or silver legal tender for the payment of debts, or pass any law impairing the obligations of contracts.<sup>200</sup> Kenyon argues that this “attitude was in a rather curious contrast with the extremely jealous reaction” of the Anti-Federalists “to

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<sup>196</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.25

<sup>197</sup> Ibid, p.28

<sup>198</sup> Ibid, p.29

<sup>199</sup> In *Federalist 78* Alexander Hamilton advocates the power of the U.S. Supreme Court to strike down laws passed by Congress. See EARLE, Edward M. (ed.). *The Federalist. A Commentary on the Constitution of the United States*, p.502ff

<sup>200</sup> See *Constitution of the United States*, Article I, Section 10, in: VILE, *A Companion to the U.S. Constitution and Its Amendments*, p.54. For a commentary, see *ibid.* pp.54-57.

other changes in federal-state relations”. Important limitations of state power were, Kenyon suggests, swallowed with “relative silence”.<sup>201</sup>

Kenyon then sets to explore the Anti-Federalist distrust of elected representatives on both national and state levels. This was, she suggests, merely one part of their general distrust of popular majorities and of people as such. According to Kenyon, the Anti-Federalists shared most of Federalists’ dark vision of human nature and their texts reveal no great faith in the people. Kenyon therefore assumes that the Anti-Federalists were essentially negativists who regarded the Constitution as one big threat to liberty.

Kenyon claims that the Anti-Federalists thought the people not capable of distinguishing all the dangers and defects of the proposed government. They considered the popular rule to be unstable and vibrating from one extreme to another. Quoting Centinel Kenyon maintains that the Anti-Federalists were conservatives who saw people as unable of “making a wise choice in the form of government”.<sup>202</sup>

The Anti-Federalist advocacy of religious tests for office-holding serves Kenyon as another example of their distrust of people as electors. Religious qualification offered an additional check rectifying the inadequacy of the check of popular election. Furthermore the proposed large electoral districts gave a clear advantage to aristocracy which was best able of manipulating the popular vote.

Kenyon argues that the opponents of the Constitution sought a balance between majority rule and the need to protect minority rights. Majority rule was an essential republican principle. It needed to be limited, however, if liberty was to survive. A bill of rights represented one of the appropriate checks against the negative effects of majority rule and an adequate safeguard of individual rights.

Southern Anti-Federalists expressed clearly their distrust of majority faction. Fearing the possible formation of the majority of the seven Northern states in order to pursue their interests Southerners like George Mason pushed for the principle of two-thirds majority vote for all laws affecting commerce and navigation. Kenyon thus

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<sup>201</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.32

<sup>202</sup> Ibid, p.34

assumes that the Anti-Federalists believed that “oppression of individuals or of groups might come from majorities of the people as well as from king and aristocrats”.<sup>203</sup>

Kenyon asserts that despite difference in social status and economic interests Anti-Federalists and Federalists shared a considerable amount of political ideas, attitudes and common heritage of political institutions. Both the advocates and opponents of the Constitution distrusted profoundly man’s capacity to use power wisely and well. Both groups saw self-interest as the primary motive in politics regardless of the type of government. Both Federalists and Anti-Federalists acknowledged the need for a political machinery that would limit the negative effects of self-interest and prevent elected officials from abusing power.<sup>204</sup>

The extent of republican government represents the major dividing line between the proponents and critics of the Constitution. Kenyon argues that because of their belief in the small republic the Anti-Federalists were the conservatives of 1787. They embraced an obsolete concept of representative government that could never work on the national scale. Echoing Rousseau’s city-state theory the Anti-Federalists presented a localist vision of government stretched over relatively small territorial units with homogeneity of population and interest. And they tied this specific vision of republican government to the specific concept of representation which they regarded as an institutional substitute for direct democracy. The role of elected representatives was to reflect the diversity of interest in society and to follow the instructions of constituents rather than exercising independent judgement.

According to Kenyon the Anti-Federalist theory of government, therefore, suffered from the same weaknesses as direct democracy. It offered little opportunity for a genuine deliberation and reconciliation of diverse interests and opinions. The Federalists put strong emphasis on the role of compromise in the political process whereas the Anti-Federalists virtually ignored this theme. In their idealised small republic homogeneity of interest went hand in hand with genuine representation that would bring about social harmony.<sup>205</sup>

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<sup>203</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.37

<sup>204</sup> Ibid, p.38

<sup>205</sup> Ibid, p.39

Electoral and representative processes created by the Constitution were contrary to the Anti-Federalist view of nature of representation and small republic. The opponents of the Constitution rejected the Madisonian idea of “filtering” public opinion by enlarging electoral districts and obliging representatives to reconcile diverse groups among their electors. They insisted that all interests be represented and feared that the average citizens would be left out from the political process.

The Anti-Federalists were, in Kenyon’s view, distrustful of power of faction as well as of concerted group action even more than the Federalists were. They assumed that the proposed large electoral districts would render “organised politics” necessary which could only benefit aristocracy who possessed a clear advantage in organising factions, manipulating votes, and winning majorities.<sup>206</sup>

The Anti-Federalist suspicion of Congress thus combined their localism and their distrust of electoral process. Congress was regarded as a remote institution filled with aristocrats and demagogues possessing broad and virtually unlimited powers. Elections did not represent a sufficient means of securing responsibility and preventing Congressional tyranny. The Anti-Federalists thus claimed that Congressional powers should be limited, constitutional language more explicit, and they called for an adoption of a bill of rights.

Overall, Kenyon holds that the Anti-Federalists criticised the Constitution for its departure from the traditional doctrine of strict separation of powers. They also pointed to the inadequacy of the checks and balances and to the excessive optimism regarding the virtue of elected representatives. Kenyon finds that, contrary to Charles Beard’s assumption, none of the Anti-Federalists attacked the Constitution as a tool designed to protect the property rights of the upper class.<sup>207</sup>

If put into practice the few positive Anti-Federalist proposals would have led to a significant growth in size of the House of Representatives that would in fact become a fourth branch of government, Presidential and Senate terms would have been limited, and

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<sup>206</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.41

<sup>207</sup> Ibid, p.42

Senators would have been subject to recall by their states. In sum, none of these changes would have probably been consistent with the Beardian notion of democracy.<sup>208</sup>

To Kenyon the Anti-Federalists were no “latter-day democrats” advocating the supremacy of majority rule. They distrusted the people and their electoral capacity and feared oppressive majorities. And their fears only augmented as the new government was to operate on the national scale: a national democracy with the limitless Congressional majority rule was the first step on the road to tyranny.

The Anti-Federalists wanted more checks and balances and more limitations on the power of the federal government. In no way, Kenyon concludes, can the Anti-Federalists be regarded as Beardian democrats. They proposed neither the broadening of the suffrage in 1787-1788 nor the direct election of the Senate or the President. Instead, “they lacked both the faith and the vision to extend their principles nation-wide” and were merely able to present an outdated and unworkable theory of government.<sup>209</sup>

Kenyon’s essay provoked a debate among American historians and led to a renewed interest in the Anti-Federalists. Expectedly, Kenyon’s thesis came under attack from historians embracing the Beardian paradigm. One of Kenyon’s most articulate critics is Jackson Turner Main. In his *Anti-Federalists: Critics of the Constitution*, Main seeks to remedy the flaws contained in Beard’s work, namely as regards lack of attention to detail and diversity, hypothesising, and sweeping judgement. Unlike Beard, Main engages himself in the study of primary sources which enables him to discover a more complex web of interests within the U.S. society. He concludes that the debate over the Constitution essentially reflected a cleavage between the commercial community on the one hand and the subsistence agriculture of the interior.<sup>210</sup>

Facing the reactions to her thesis, Kenyon somewhat altered her view of the opponents of the Constitution. As Wood noted in a review of her introductory essay to *The Anti-Federalist*, Kenyon’s edition of the Anti-Federalist texts, Kenyon too turned to a more socially profiled interpretation of Anti-Federalism. She acknowledged the importance of social antagonism in the debate over the Constitution. The emphasis

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<sup>208</sup> KENYON, “Men of Little Faith. The Anti-Federalists on the Nature of Representative Government”, p.42

<sup>209</sup> Ibid, p.43

<sup>210</sup> See MAIN, Jackson Turner. *The Anti-Federalist: Critics of the Constitution, 1781-1788*. University of North Carolina Press, Chapel Hill, 1961

shifted toward viewing the debate as a dilemma between the principles of aristocracy and democracy. As a result, late Cecelia Kenyon, paradoxically, came closer to the Beardian interpretation of the American founding.<sup>211</sup>

## **VI.II. Christopher Duncan's *Men of a Different Faith***

Duncan begins his essay by noting the extent to which the Anti-Federalists have been ignored by U.S. historiography. Indeed, the term "Anti-Federalist" is often not indexed in some of the most influential books on American political thought. He maintains that a thorough study of Anti-Federalism is essential to the understanding of the U.S. political history because the particular political faith of the opponents of the Constitution has a lasting significance for the contemporary American political thought.

Duncan assumes that Kenyon's argument that the Anti-Federalists were different from the Federalists merely in degree of their scepticism as regards the capacity of government and people in general is flawed. He argues that the opponents of the Constitution were rather "different in kind": they had a positive political vision and offered an alternative mode of American political discourse based on republicanism, community, and public happiness.<sup>212</sup>

Historically, Duncan claims, the Federalists have been revered as the true fathers of the nation saving America from some terrible, inconsequential historical fate. The informative and provocative Progressive and Neo-Progressive challenge to this prevalent interpretation and its attempt at rehabilitating the Anti-Federalists as the true democrats in the Beardian sense, however, failed. The subsequent treatment of the Anti-Federalists by consensus historians, such as Kenyon, only led to a widespread indifference towards this group.

In order to fully grasp the relevance of Anti-Federalism one must realise the dramatic changes in American public life that stemmed from the liberalism, ethic of private happiness, individualism, and "politics of administration" that were embodied in

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<sup>211</sup> WOOD, Gordon. "Review of Books." *William and Mary Quarterly*, 3rd ser., Vol. 24, No. 4, (Oct., 1967), pp. 632-634

<sup>212</sup> DUNCAN, "Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought", p.388



the Constitution. As a result, Duncan claims, the U.S. political culture suffered from a social and political malaise that, in turn, led to an “impoverishment of public spirit”. The essence of Anti-Federalist thought was to prevent this malaise with an ethic of participation, public happiness, and republican virtue.<sup>213</sup>

The debate over the Constitution, Duncan asserts, was occurring in the context of republicanism. Republicanism represented the primary language of American political discourse of the period. At the heart of republicanism was the supremacy of the community and local forms of public association and participation. It was a discourse inherited from the Revolution that oscillated between the sense of moral corruption and decline associated with Britain on the one hand and redemption and regeneration associated with the new born United States. The republic was a means of collective moral reformation achieved by establishing the rights to participate freely in public affairs as free citizens.

There undoubtedly existed at that period the notion of private happiness based on pursuing one’s private interest. But the republican discourse, Duncan argues, put emphasis on the concept of “public happiness”. This was a notion assuming that every citizen had his share in the construction of something larger than just a particular individual. Personal satisfaction was only secondary and flowed from public happiness, a “feeling one can only gain in conjunction with well-received and even respected public activity before one’s peers”... that can only “be found in the political realm of equals engaging in conversation about the life of the community, and the good life itself”.<sup>214</sup>

It is in this context of communal republicanism that the early American politics should be studied. This is the context, Duncan argues, in which the “pursuit of happiness” of the Declaration of Independence should be read. The Anti-Federalists were advocates of this theory of emphasising active citizen participation in government. Consequently, the more power and sovereignty rights were divided and dispersed among the various state and local political communities the better the chance there was for citizens to “share

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<sup>213</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.392

<sup>214</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.394

in public affairs and hence in the joys of public happiness.” Centralisation, despite offering potential benefits, would inevitably destroy public happiness.

Instead of examining the differences among the individual Anti-Federalists Duncan follows “intellectual threads” that bind the Anti-Federalist thought together. Anti-Federalism, the common ground shared by the opponents of the Constitution, is in Duncan’s view more important than the differences within this group.

Kenyon claimed that the bond binding the Anti-Federalists together was their fear of government. Duncan disagrees and suggests that it was not *government* they feared but rather *corrupt government* detached from the people it was meant to represent. They feared the loss of historical continuity of community. The Anti-Federalists understood community almost in the Socratic sense as the context and environment which gave meaning to the existence of an individual. Community preceded, formed and constituted the individual beings as well as their political institutions, including state.

Here, Duncan asserts, lies one of the most important dividing lines between the Federalists and the Anti-Federalists. The Federalists sought to replace the primacy of community by the supremacy of the nation. Such reversal, however, meant that the ideal of extensive citizen participation and emphasis on shared values and customs ceased to be realisable. The Federalists’ nation-state was not capable of providing genuine republican sentiment because it was derived from and only secondary to the notion of community which it, in fact, eroded. The Madisonian transformation of the context of political life from local to national level, Duncan argues, left citizens with only an insignificant chance to participate in public life while isolating them from the community. Put in a metaphorical language, the national government promised to provide the citizen with safety, food, clothing, and all the material benefits while leaving him homeless and alone.

According to Duncan, the Federalist theory of society could at best achieve solidarity, more probably, however, indifference. With their emphasis on limited size and relative homogeneity of political community the Anti-Federalists sought, by contrast, to build the polity on the principles of fraternity. Such community featured physical proximity of its members as well as rough equality of condition and standard of life.

The kind of citizen participation in politics that the Federalists, and Publius in particular, envisaged differed significantly from the Anti-Federalist vision. The Federalists replaced republican virtue based on community by interest group liberalism based on “possessive individualism”.<sup>215</sup> Here community ceased to be the context of American republicanism giving way to national government. As a result citizens were deprived of the bonds that held them together: they were being “*reduced or degraded to a state of individualism*”.<sup>216</sup>

To the Anti-Federalists, the source of American strength sprung from plurality and diversity of local communities. Therefore, Duncan claims, the Anti-Federalists saw the consolidation and centralisation of government as the destruction of the essence of American strength. The creation of a national system of government ultimately meant that local environments in which people lived and shared happiness in their unique cultures were lost.

Duncan identifies two major Anti-Federalist objections to the new consolidated government. First, the new government was criticised for its remoteness and detachment from local communities and its consequent inaptitude to understand the real needs of these communities. Second, given its ignorance of the needs of local communities the involvement of the consolidated government in daily affairs of these communities could only be detrimental. Representation that the Constitution offered was too small and rendered representatives susceptible to act as a group rather than represent the interests of their electors. The system lacked accountability.

The opponents of the Constitution clung to a view in which representation was regarded as *delegation* of power. They rejected the Madisonian notion of representation as *trusteeship*. By mirroring local interests representatives’ main task was to preserve and safeguard the particular local cultures.

Madison saw the detachment of representatives from local contexts in a positive light as enhancing their vision by releasing them from parochialism. But to Anti-Federalists this meant that representatives were released “from the only legitimate restraints a republic had, namely from its mores and inculcated public habits or

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<sup>215</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.398

<sup>216</sup> Ibid, p.399, emphasis original

manners.”<sup>217</sup> The Anti-Federalists objected the Constitution as an untested experiment intended to replace concrete realities, arrangements, existing ways of life, and living political cultures by a plan of government lacking a distinctive political culture.

Duncan maintains that respect to differences was one of the central values of the Anti-Federalist political vision. Political institutions were to be designed in such a way as to enable the survival of *the particular* and of local cultures rather than their “erasure”, “normalisation” or even coercing them out of the system. It was a position praising diversity and opposing uniformity.

The Anti-Federalist emphasis on diversity, however, has to be understood as a respect for groups and communities of people. It was neither a liberal advocacy of individual rights nor a position favouring national majoritarianism seeking consolidation and monolithic unity. In this view government and legislators had to be well informed about the actual needs of local communities, stay in a close contact with them and reflect their interests. Representatives were to be firmly rooted in and well acquainted with the specific habits and fortunes of the community of their electors.

The Anti-Federalist approach to judiciary and to justice in general has already been discussed above in detail. Duncan’s community-based interpretation of Anti-Federalism is nevertheless very helpful in understanding the deeper Anti-Federalist assumptions regarding the principle of trial by jury. Duncan argues that if the Anti-Federalists advocated the notion that a group of average citizens is better able to protect the rights of one of their fellow citizens in complicated legal situations than a professional jury composed of trained lawyers they did so because they believed that a local jury embodied the “ethic of ‘communal’ caring” in which law was interpreted in the context of the fraternity.

The Anti-Federalist jury reflected the specific values defining the particular community as well as the “intangible variables that are only available to people who share not just proximity but also a kindred spirit”. Only the local juries could judge one’s actions in the full context. A distant government with its anonymous judiciary and a

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<sup>217</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.401

uniform legal system were not capable of rendering justice because they failed to take into account the nuances of local contexts.<sup>218</sup>

The Anti-Federalist notion of jury thus combined the principles of local justice, expressed a communal ethic of fraternal care, and provided for citizen participation in the formation and distribution of justice. It was both a means of engaging and educating citizens in republican participation as well as a shelter or a refuge for the community *vis-à-vis* arbitrary power of the consolidated government.

According to Duncan, it is in this light of seeking protection from arbitrary power that the Anti-Federalist achievement and legacy of the Bill of Rights should be seen. The purpose of the Bill of Rights was to protect both the rights of individuals and the rights of communities. It was only with the Fourteenth Amendment jurisprudence that the balance shifted in favour of an individualist interpretation of the Bill. The original spirit of the Bill of Rights embodied the republican ethos, not a liberal conception of political life. It constituted a shield against arbitrary power – a power which disables citizen participation and which can not be held accountable – rather than against power as such.

This is the point which makes the Federalists and the Anti-Federalists profoundly *different in kind*, a point that Kenyon failed to note. The Federalists looked to government with mere suspicion springing from distrust and fear. By contrast, the Anti-Federalist reservations to power can best be characterised by jealousy, a quality different in kind because it springs from love. It was their love of communal liberty, of the republican independence of the citizen, and of the public happiness, Duncan suggests, that motivated Anti-Federalists' attacks on the Constitution.

What the Anti-Federalists ultimately feared was “the loss of effective republican citizenship through the progressive diminishment of the liberties and activities through which such citizenship is realised.”<sup>219</sup>

With no effective checks against them the powers of the new government – namely with regard to taxation, Necessary and Proper Clause, and Supremacy Clause – thus represented to the Anti-Federalists a boundless potential capable of intruding even

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<sup>218</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.408

<sup>219</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.410

into the most intimate areas of people's lives. These powers, in turn, needed a boundless bureaucracy to be administered. The resulting spiral of detached power would lead to the destruction of active republicanism and to the replacement of public happiness by a sterile politics run by experts and administrators.

The Anti-Federalists, Duncan asserts, rejected this vision of politics where expert knowledge determined political life and where political activity was removed from citizens to bureaucrats. Instead, they clung to the concept of common sense, plain honesty, and civic virtue. The Anti-Federalist concern about the loss of these fundamentals coupled with fear of tyranny and disenfranchisement was underlined by the threat represented by the Congressional power to wield a standing army in times of piece.<sup>220</sup>

Overall, Duncan suggests that what characterises the Anti-Federalists is a profound sense of loss, a fear of loosing the natural social environment, loosing control over a political system in the creation of which they had actively participated. The Anti-Federalists did realise “the potential inherent in America as empire” but they considered the costs of such empire too high: what was at stake and could be lost was more important than what could be gained. Instead of “organising polity for order and greatness” the Anti-Federalists sought to organise their polity for “public happiness and political salvation”.<sup>221</sup>

According to Duncan, the “theoretical thread” that tied the Anti-Federalist thought together was “the notion that the Constitution as a centralising, ultimately disempowering, document will leave them bereft of their power to ‘save’ themselves”. They feared being forced back into the sphere of their private business and tried to prevent the destruction of self-government and participation in politics which to them was both a means and an end of political salvation and communal transformation.

All the particular Anti-Federalist fears, Duncan assumes, were merely different expressions of the fear of loosing the different forms of participation in politics, and eventually of loosing representative citizenship and philosophy. The Anti-Federalist fears were motivated by the care the opponents of the Constitution had for their natural

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<sup>220</sup> Ibid, p.413

<sup>221</sup> Ibid, p.413

environment, by their ability to actively shape the most important decision of their lives. Duncan therefore concludes that the top Anti-Federalist priority was the preservation of public happiness and state sovereignty that made public happiness possible. The Anti-Federalists “were not men of little faith, but men with different values, which in turn required a different political theory to sustain them.”<sup>222</sup>

### **VI.III. David Siemers’ *Men of Great Faith and Forbearance***

David Siemers offers a somewhat broader perspective on the opposition to the Constitution which is, nevertheless, instructive in putting the ratification period Anti-Federalists in the framework of what he refers to as *constitutional time*. His argument follows recent trends in the study of the topic which put emphasis on approaching the Anti-Federalism of the ratification period with regard to its three specific strands and its changing characteristics over time.

Unlike Kenyon or Duncan Siemers thus avoids the temptation of merely reducing Anti-Federalism to one common denominator. Instead of dealing with the critics of the Constitution as one group and picking individual texts that support his argument Siemers acknowledges the relevance of both similarities and differences among the different subgroups within the movement. The crucial factor in the assessment of Anti-Federalism is in Siemers’ view the degree of faith and confidence – or distrust and suspicion – the critics of the Constitution showed towards government and people.

Much in the same way as other scholars did Siemers reviews the commonalities among the opponents of the Constitution that enable to view them as a group of political figures united by a shared platform. Siemers even argues that, in a sense, the “complex mix of personal interests, values, and the more systematic, abstract thinking about politics” of Anti-Federalists can be regarded as a political theory.<sup>223</sup> Siemers then offers an analysis of the different strands of Anti-Federalism and finds virtually the same categorisation as appears in Cornell’s work and which is used in this paper.

Siemers discusses the *core Anti-Federalist positions* which include emphasis on the concept of the small republic and thus on power of the individual states, adoption of a

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<sup>222</sup> DUNCAN, “Men of a Different Faith: The Anti-Federalist Ideal in Early American Political Thought”, p.415

<sup>223</sup> SIEMERS, *The Antifederalists. Men of Great Faith and Forbearance*, p.viii

bill of rights, importance of the notion of limited ends and means of government – especially as regards taxation and standing army in times of peace, need to engage citizens in the political process and in keeping a close eye on the actions of their representatives, opposition to the proposed system of federal judiciary and to the unfortunate mixing of legislative and executive powers, and emphasis on genuine representation of local interest with short terms of and rotation in office.<sup>224</sup>

The Anti-Federalists opposed the Constitution not because they lacked confidence in government or in the capacity of the people to make qualified political decisions. Rather than distrust of government they featured what would more appropriately be labelled as healthy scepticism. As Siemers argues, the critics of the Constitution saw it necessary for a government to be founded on a considerable degree of trust that people could put in it.

Devoid of true and sufficient representation the proposed federal government would reflect advantages of the natural aristocracy rather than represent the interest of its people. As a result Americans would not consider the federal government *theirs*. Such psychological distance would, in turn, lead to a situation where it was likely for the majority of citizens to see laws as being forced onto them: instead of founding the republic on the principle of a willing obedience of law by citizens a military regime would emerge.

Siemers' Anti-Federalists were men who possessed great faith in government as long as government was based on civic virtue and broad representation of interest. And they deserve to be called not only *men of great faith* but also *of great forbearance*. This is because they eventually conceded to the Constitution once it was ratified and became legally binding but at the same time they adapted to the changed context and continued to pursue policies true to the core of their faith.

Siemers' major contribution to the study of Anti-Federalism of the ratification period is that he sees the opposition to the Constitution in the context of the movement's dynamism. He introduces the term *constitutional time* which encompasses the changes in U.S. political context in the years following the drafting of the Constitution.

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<sup>224</sup> Ibid, p.6 ff



The original context of the debate over the proposed document first changed with the mob attack on Anti-Federalists in the Pennsylvania state legislature. Another alteration of the political context followed the Massachusetts move to ratify that was conditioned by the subsequent adoption of constitutional amendments. A major shift in the political context, Siemers claims, was brought about by the ratification of the Constitution by New Hampshire which meant that the document became the supreme law in those states that had ratified it. Implementation of the Constitution modified the political context once again as can be documented in the work of the initial Congress.

The reaction of the Anti-Federalists to the ratification of the Constitution by nine states is in Siemers' view one of the reasons why they can be regarded as *men of great faith and forbearance*. Not only did they accept the fact that the Constitution changed from a proposal to a law – even if not yet implemented – but respectful of the American *tradition of sanctity of written law* they also *put faith* in the new system of government.

In his *Ratifying the Republic. Antifederalists and Federalists in Constitutional Time* Siemers argues that as the ratification process dragged on the Anti-Federalists were faced with a question whether “to endure a highly flawed system of government that threatened to rob Americans of their liberties or to persist in fervent opposition that might precipitate civil strife”. Their uncertainty about possible outcomes of escalated controversy and fear of anarchy and war are the main factors explaining the eventual Anti-Federalist assent to the Constitution.<sup>225</sup>

The opponents of the Constitution chose to actively participate in the new political environment. From vigorous critics they became the “ironic legitimators” of the American regime.<sup>226</sup> They continued to pursue their objectives even though they modified these objectives to be compatible with the change in the political context. In fact they eventually created an alliance in Congress with Madisonians.

The emergence of this coalition, Siemers claims, was not accidental once Madison dropped his unorthodox concept of extended republic. He also shows the proximity in terms of political philosophy, backgrounds, interests, socioeconomic position, and education between the Anti-Federalists and Madisonians. The work of

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<sup>225</sup> SIEMERS, *Ratifying the Republic. Antifederalists and Federalists in Constitutional Time*, p.xii

<sup>226</sup> *Ibid*, p.193ff

Congress thus marks another change in the political context: the Federalists embraced a more pronounced vision of power of the national government which brought the moderates – Anti-Federalists and Madisonians even closer together.<sup>227</sup>

Siemers therefore concludes that “two great ironies of the American founding take center stage here. The first is that the Antifederalists were as responsible for the legitimation of the Constitution as the Federalists. The second is that the fragility of times as perceived by its political leaders was the most crucial ingredient in establishing a stable constitutional order. Fear induced stability.”<sup>228</sup>

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<sup>227</sup> Ibid, p.124ff

<sup>228</sup> Ibid, p.xvii

## **VII. CONCLUSION: ANTI-FEDERALISTS. MEN OF DIFFERENT FAITHS**

This paper seeks to address the question of how the opposition to the Constitution during the ratification debate should be regarded. It has been said that the answer offered here can hardly be definitive. The paper, nevertheless, tries to examine both aspects of the issue and reach a balanced conclusion.

It first looks at the critics of the Constitution as a group united in discontent with the proposed document. Anti-Federalism emerged spontaneously as the different objections to the proposed system of government were voiced. The advocates of the Constitution then created a negative label with which they sought to stigmatise their opponents. The Federalists' sweeping accusations and their campaign to caricature the Anti-Federalists as Shaysites and radicals only contributed to a perception of the Constitution's critics as forming one monolithic block. The following sections of the paper outline the profiles of the Anti-Federalists, discuss the issue of their diversity, and analyse some of the major dividing lines behind this diversity.

A brief analysis of the most influential Anti-Federalist texts then helps to identify a set of shared objections to the proposed Constitution. The common Anti-Federalist agenda included objections to the following: consolidating tendency of the document, lack of effective checks on the government, insufficient representation, mixing the powers of the different branches of government rather than keeping them separate, excessive power of the federal judiciary, omission of a bill of rights, excessive power of taxation, creation of a standing army in times of peace, and excessive powers of the executive.

The paper then discusses some of the key themes that characterise the Anti-Federalist thought. Special attention was paid to the issue of a bill of rights, federalism and the nature of the Union, aristocratic tendency of the Constitution, and complex government. Anti-Federalism was, thus, presented as a political position. It was argued that Anti-Federalism represented a common platform uniting politicians of different backgrounds by a common cause. It should be seen as an umbrella covering the different objections to the Constitution and as a reservoir of political ammunition.

A closer look at the question of unity and diversity of the movement and at literary identities of the opponents of the Constitution reveals that three particular strands

of Anti-Federalism existed. By examining elite, middling, and plebeian Anti-Federalism this paper avoids the trappings of some older interpretations which approached the opposition to the Constitution as a single political program and which treated the Anti-Federalists as one homogenous group.

The subsequent analyses of elite, middling, and plebeian forms of Anti-Federalism have demonstrated that each of these groups put emphasis on specific areas of the common Anti-Federalist agenda. And even if they stressed the centrality of the very same notions they gave them different meanings. To illustrate the point one can recall their approach to the power of the states. Elite, middling and plebeian Anti-Federalists were united in their advocacy of the notion of genuine representation which could only be realised if government was extended over relatively small territorial units. They agreed that by historical development the states evolved into something that was close to the ideal of the small republic in which government rested on proper representation.

At the same time each of the three groups filled this shared, broad vision by a concrete and specific content. Elite Anti-Federalists advocated the notion of the small republic because they thought it best capable of preserving social equilibrium by providing sufficient representation of the principle and interest of aristocracy as well as of democratic components of society.

Middling critics of the Constitution believed that besides representing numerical majority in society the middling sort possessed qualities which made it best suited to dominate the political system. Unlike its upper and lower counterparts the middling sort had moderate aims and interests promising it would avoid taking extreme positions. Middling Anti-Federalists thus supported the idea of the small republic because it offered mechanisms for the middling sort to dominate politics.

Plebeian Anti-Federalists maintained that popular will was genuinely articulated on the local level through local bodies. Moreover, almost all aspects of everyday life were, in their view, potentially political. Politics was not confined to political institutions, but included various expressions of opinion. Because the plebeian notion of representation was linked to their view of grass-roots democracy, the notion of the small republic was only ancillary. Nevertheless, they perceived the small republic as a safe environment for their vision of locally based direct democracy.

According to the opponents of the Constitution, the individual states of the Union epitomised, albeit imperfectly, the ideal of the small republic and provided for appropriate representation. The states, and state structures, had proven to offer a viable and tested framework in which liberty could be preserved. Any structure that threatened to limit the power of the states was therefore seen as a potential menace to liberty. And the nature and powers of the proposed federal government did indeed erode the power of the states.

What can be observed here is that Anti-Federalism provided an umbrella which covered the initial objection against the tendency of the proposed Constitution to limit the power of the states. But a closer look at the causes of this particular objection reveals that the three distinctive groups of Anti-Federalists had different reasons, motives, and aims on which they founded their objection. They each possessed a *distinctive, positive vision*, indeed a political alternative to the Federalists' principles.

It has also been demonstrated that the three Anti-Federalist groups differed even in their visions of how the very debate should be conducted. The elite clung to a concept of a rather exclusive, personal, intellectual exchange among the leading figures of both camps, which would be accompanied by a public debate in the press. Middling critics of the Constitution insisted on the principle of anonymity of the debate and put emphasis on extending its scope, so that it would include all possible views and interests. Additionally, maximum openness of an anonymous public debate would substitute for the need of a strong central government; conflict of interests would be mediated through this broad debate, rather than by coercive mechanisms of a federal government. Plebeians expanded the notion of public debate even further. Expression of popular will through local bodies, grass-roots institutions, and self-government led plebeian populists to justify mob action as one of the legitimate forms of public debate.

When dealing with the opponents of the Constitution with respect to their belonging to one of the three groups, it has to be remembered that such categorisation is enabled by certain level of generalisation. The three strands of Anti-Federalism should in no way be seen as exclusive and impermeable clubs. The examples of Centinel or Philadelphiansis indicate that the three distinctive Anti-Federalist groups were rather

broad coalitions, indeed umbrellas, encompassing diversity of interest, different degrees of engagement, and complex identities.

Having examined both the common ground and diversity of Anti-Federalism of the ratification period, this paper works toward a conclusion. The final chapter analyses three distinctive interpretative approaches to the opposition to the Constitution. Cecelia Kenyon's *Men of Little Faith* and Christopher Duncan's *Men of a Different Faith* refocus on the issue of deeper unity of the movement. Kenyon argues that the Anti-Federalists were essentially *negativists*, united by the lack of confidence in elected representatives, government, and people in general. It was the degree of distrust that defined them as a group.

Duncan reveals some of the weaknesses and flaws of Kenyon's approach. He discusses the centrality of the concept of community in the Anti-Federalist thought and identifies the notion of *communal pursuit of public happiness* as the ultimate thread connecting the critics of the Constitution. Duncan shows that the Anti-Federalist lack of confidence and scepticism is not absolute, but only relative: their distrust was not a universal attitude but was always directed toward the principles of the federal Constitution. Moreover, rather than *distrust* and *suspicion*, Anti-Federalists were characterised by *jealousy*, because the proposed government threatened the ideal they shared to the point of loving attachment. Indeed the Constitution's critics had a positive socio-political vision from which sprang their objections to the document.

Both Kenyon and Duncan, however, fail to grasp the relevance of Anti-Federalist diversity. Their respective interpretations make pertinent observations in terms of deeper assumptions underlying Anti-Federalism. But their selective approach prevents a balanced assessment of the opposition to the Constitution. It is Siemers' emphasis on studying Anti-Federalism in the context of both its three distinctive varieties and its development in *constitutional time* that helps to draw a fuller picture. The common platform of the Anti-Federalists and the nature of their objections were subject to change responding to shifts in the overall political context. Rather than implying ideological coherence or unity, Siemers' argument that the opponents of the Constitution possessed *great faith* relates to their faith in and respect for written law and their ability to adapt to changing political contexts.

Putting the previous findings of this paper together and making sense of them clears way for a final conclusion. The opposition to the federal Constitution during the ratification period represents a complex intersection of several key factors. It cannot be fully understood by a mere examination of the commonality of Anti-Federalist objections or by pointing to their shared agenda. Similarly, focusing solely on the differences among the individual critics of the Constitution or on the three distinctive strands of Anti-Federalism conflates the issue. Both unity and diversity played a strong role but it was the unique context of the ratification period that led to the creation of a broad Anti-Federalist coalition.

Anti-Federalism of the ratification period was an umbrella movement that brought together advocates of three distinctive, positive, and often irreconcilable visions of politics which were all threatened at the same time by the principles contained in the Constitution. This fragile coalition, stemming from a shared communitarian view of society, held together only as long as its common objective – the defeat or a substantial modification of the proposed Constitution – existed. Prospects of constitutional amendments following the Massachusetts ratification and the legal status of the Constitution arising from the New Hampshire ratification altered significantly the political context. As a result, the dynamism and diversity inherent in the opposition to the Constitution during the ratification period prevailed and Anti-Federalism transformed to reflect these changes.

Most of the elite and middling Anti-Federalists actively participated in the new political system as a sort of loyal opposition. They adapted their program and rhetoric and continued to pursue their visions by changing the government from within, namely by defining the meaning of the Constitution. True to their ideal, plebeian Anti-Federalists persisted in viewing local self-government and direct democracy as the genuine forums of expression of the public will and concentrated on working in the different areas and forms of grass-roots politics. The unique context of the ratification period thus created a temporary equilibrium of the concentric and eccentric effects of the Anti-Federalist unity and diversity.

The fact that the opponents of the Constitution did not disappear with the ratification of the Constitution but continued to work according to their respective visions

and the fact that they succeeded at shaping American politics make it possible to view the Anti-Federalists as a political group *united in diversity*: Anti-Federalists were *men of different faiths*.

The legacy of the men of different faiths cannot be reduced to the issue of the Bill of Rights. Some of their ideas invigorate today's public debate. The controversy over the Supreme Court ruling in *Roe v. Wade* and the subsequent discussion of the extent of states' rights have revived much of the original reasoning of the critics of the Constitution.

Moreover, echoes of the Anti-Federalist argument appeal to most of the political spectrum. Both conservatives and liberals draw inspiration from the reservoir of Anti-Federalist thought. The doctrine of strict constructionism which, broadly speaking, claims that the federal government possesses only those powers that are expressly written into the Constitution, a doctrine which has been embraced by contemporary conservatives, follows the Anti-Federalist emphasis on the notion of enumerated powers and constitutional literalism. Liberals often criticise what they perceive as flaws of the present-day U.S. democracy. Along the Anti-Federalist lines they argue that the government has become unresponsive and unrepresentative. Little citizen participation in politics, low voter turnouts, and general apathy are the fruits of the distance and alienation between the government and the people. Indeed, the legacy of the *men of different faiths* is still with us, well and alive.



## APPENDIX I

### Differences between the Articles of Confederation and the Federal Constitution

Issue	Articles of Confederation	Constitution
Levying taxes	Congress could request states to pay taxes.	Congress has right to levy taxes on individuals.
Federal courts	No system of federal courts.	Court system created to deal with issues between citizens, states.
Regulation of trade	No provision to regulate interstate trade.	Congress has right to regulate trade between states.
Executive	No executive with power. President of U.S. merely presided over Congress.	Executive branch headed by President who chooses Cabinet and has checks on power of judiciary and legislature.
Amending document	13/13 needed to amend Articles.	2/3 of both houses of Congress plus 3/4 of state legislatures or national convention.
Representation of states	Each state received 1 vote regardless of size.	Upper house (Senate) with 2 votes; lower house (House of Representatives) based on population.
Raising an army	Congress could not draft troops and was dependent on states to contribute forces.	Congress can raise an army to deal with military situations.
Interstate commerce	No control of trade between states.	Interstate commerce controlled by Congress.
Disputes between states	Complicated system of arbitration.	Federal court system to handle disputes between states and residents of different states.
Sovereignty	Sovereignty resides in states.	Constitution was established as the supreme law of the land.
Passing laws	9/13 states needed to approve legislation.	50%+1 of both houses plus signature of President.

Source: Feldmeth, Greg D. "Articles of Confederation vs. The Constitution," U.S. History Resources, available online.

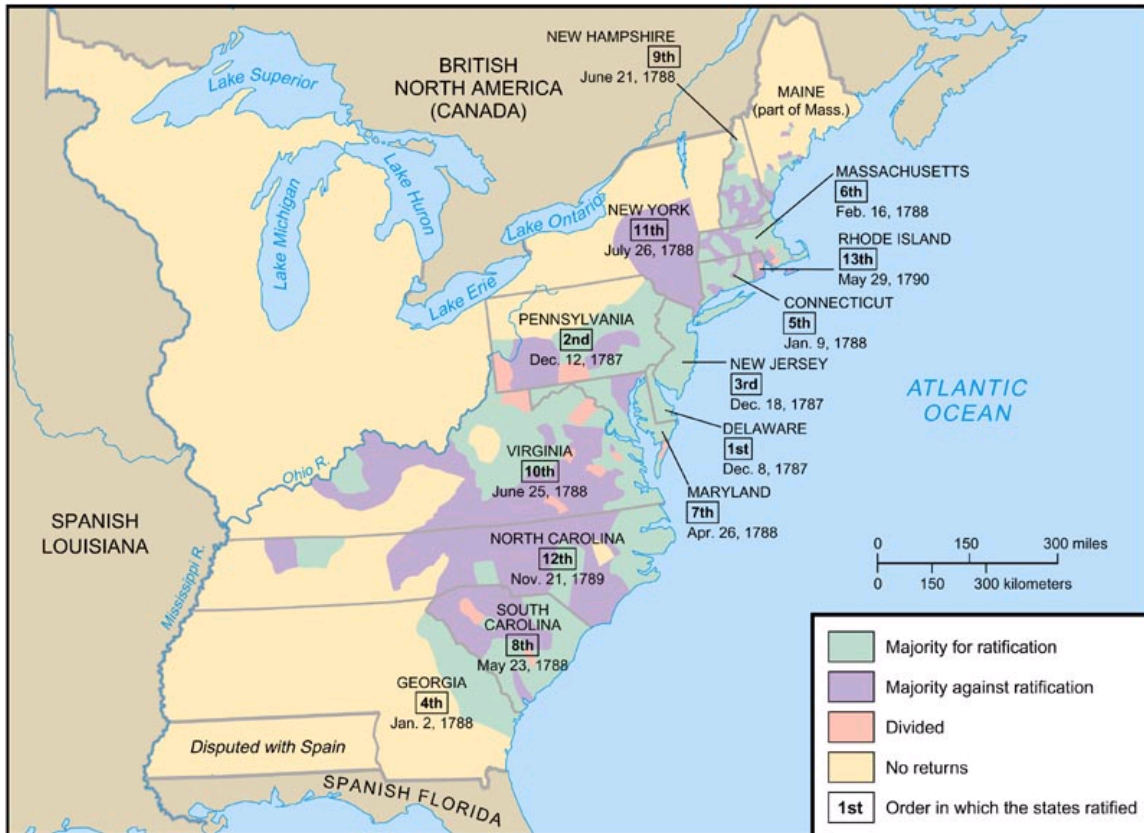
## APPENDIX II

### Ratification of the Constitution by the States

	Date	State	Votes		% Approval
			Yea	Nay	
1	December 7, 1787	Delaware	30	0	100%
2	December 12, 1787	Pennsylvania	46	23	67%
3	December 18, 1787	New Jersey	38	0	100%
4	January 2, 1788	Georgia	26	0	100%
5	January 9, 1788	Connecticut	128	40	76%
6	February 6, 1788	Massachusetts	187	168	53%
7	April 28, 1788	Maryland	63	11	85%
8	May 23, 1788	South Carolina	149	73	67%
9	June 21, 1788	New Hampshire	57	47	55%
10	June 25, 1788	Virginia	89	79	53%
11	July 26, 1788	New York	30	27	53%
12	November 21, 1789	North Carolina	194	77	72%
13	May 29, 1790	Rhode Island	34	32	52%

Source: Ketcham, The Anti-Federalist Papers and the Constitutional Convention Debates, p.25ff

**APPENDIX III**  
**Geography of the Ratification of the Constitution**



**RATIFICATION OF THE CONSTITUTION**

Source: America Past and Present Online

## APPENDIX IV

### A Simplified Synopsis of the Federalist AND Anti-Federalist Positions

<b>Issue</b>	<b>Federalist</b>	<b>Anti-Federalist</b>
Constitution establishing a strong Central government	Favored	Opposed
Power of thirteen states	Favored limiting state power. Argued that Senate (with two representatives per state) adequately represented state interests.	Strong supported power and influence of states.
Articles of Confederation	Opposed as ineffectual as a governing document. Congress' power was limited to requesting cooperation from states.	Articles needed to be amended, not abandoned.
Size of the nation	A large republic was seen as the best protection for individual freedoms	Only a small republic could protect rights.
Majority Supporters	Large farmers, merchants, artisans.	Small farmers, often from rural areas.
Bill of Rights	Not necessary.	Supported as essential.

Source: Goldfield, David et al. The American Journey: A History of the United States

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