

Chapter 13

The Debate Over Ratifying the Constitution

Even before the Convention ended, John Lansing and Luther Martin had left for home to fight against the Constitution they had helped write. Of the delegates who stayed until the end of the deliberations, Elbridge Gerry, George Mason, and Edmund Randolph refused to sign the Constitution.

Ignoring their original instructions by the Continental Congress to suggest amendments to the Articles of Confederation and not to write a new document, the Founding Fathers sent the proposed Constitution directly to the states for their consent. The approval of nine of the thirteen states was required before the proposed Constitution would become the law of the land. Because the majority of the people of the country probably opposed ratification, a favorable outcome depended on the political skill of the Founding Fathers. They had to reassure many Americans that the stronger government created by the Constitution was necessary and would neither take away their liberties nor give too much power to a privileged few.

The Ratification Struggle

Since the small states were pleased with the representation they won in the Senate, few of them objected to the proposed Constitution. Conventions in Delaware and New Jersey, for instance, ratified the Constitution without a single dissenting vote. The vote, however, was very close in the four large states whose approval was desperately needed for the success of the new government: Pennsylvania, Massachusetts, Virginia, and New York.

In Pennsylvania, the Federalists, those who favored the new Constitution, hastened to call for an election before their opponents, known as Anti-Federalists, were able to organize. In order to secure a quorum, the Federalists forcibly removed the Anti-Federalists from their lodgings and compelled them to attend the ratifying convention. Outnumbered 46-23, the Anti-Federalists were unable to force consideration of the amendments they wished to propose for the Constitution. Aply led by James Wilson, the Federalist majority easily secured an overwhelming victory.

In Massachusetts, home of Shays' Rebellion, both Sam Adams and John Hancock initially opposed the Constitution. Hancock was elected to head the ratifying convention, but was unable to attend because of gout. In order to secure his support, the possibility of becoming the nation's first president was dangled before him. The amendments Hancock proposed to the Constitution were instrumental in securing a vote of 187-168 for ratification.

In Virginia, the Federalists had to overcome the opposition of Patrick Henry, George Mason, and Edmund Randolph. A passionate plea from George Washington convinced Randolph to speak in favor of the Constitution. The desperate opposition led by Patrick Henry was unable to postpone a final decision until their proposed amendments to the Constitution were accepted. A motion to ratify passed with ten votes to spare.

Of all the states holding conventions, New York was least likely to ratify the Constitution, and it surely would have failed but for the efforts of Alexander Hamilton. A series of 85 brilliant essays by Madison,

Hamilton, and John Jay supported the Federalist cause. Furthermore, the Federalists threatened to have New York City secede from the state and join the Union unless ratification was secured. Still, New York may not have given assent if Alexander Hamilton had not been able to hold off a decisive vote until news arrived that Virginia had already ratified. These tactics succeeded; seven anti-Federalists abstained from the final tally, and three changed their minds in a hard-fought 30-27 vote victory for the Federalists.

The debate over ratifying the Constitution caused a deep split in the American public and it was largely responsible for the emergence of the first political parties fewer than ten years later. On one side were the Federalists. Their cause was supported by many of the most articulate, knowledgeable, and famous people in the colonies, including George Washington, Benjamin Franklin, Alexander Hamilton, and James Madison. They were, in general, better organized, and more experienced in government than those who opposed them. Among the supporters of the Constitution were most of the country's merchants, most of its lawyers, large land owners, college graduates, newspaper publishers, speculators in western lands, public creditors, officers in the Revolutionary armies, officials in the government (both elected and appointed), and ministers. The Federalists tended to think continentally about what was good for the country as a whole; they also tended to assume what was best for the wealthy and educated people of the land was what was best for the country as a whole. Furthermore, the Federalists were more concerned that the Federal government would have the ability to carry out its powers than they were about protecting the rights of the people.

The series of essays written by Alexander Hamilton, James Madison, and John Jay serve as an example of the genius and wisdom of the Federalists. Appearing in New York newspapers to support ratification, the essays were reprinted in other papers throughout the country and have since been collected in a single volume. Known as *The Federalist Papers*, they are, to this day, considered one of the finest examples of political writing this country has produced. Excerpts from these two of these essays were included in Chapters 4 and 6.

Although the anti-Federalists were supported by Sam Adams, John Hancock, and Patrick Henry, they were unable to command the aid of the majority of the educated elite in the colonies. Their supporters were men of relatively little education or experience in state or national politics, "plowmen rather than statesmen." They simply did not possess the intellectual ability, prestige, or political skill to mount an effective campaign against their more sophisticated opponents. Opponents of the Constitution were often debtors, advocates for paper money, small farmers, and ethnic minorities, such as the Scotch, the Irish, and the Germans. They tended to live outside of the larger towns and communities, were not usually involved in politics, and often were out of touch with events. Lacking the wealth, prestige and leisure of the Constitution's supporters, they were not able to organize politically or rally their followers. Even in the states where they started with a majority in the ratifying conventions, the 'anti's' often lost the debates with their better-prepared rivals.

The anti-Federalists tended to think locally rather than continentally. They were more attached to their individual states and its interest than to the country as a whole. In addition they tended to associate what was best for the small farmer, local mechanic and laborer, with what was best for the country. The anti-Federalists were also more concerned with the rights of the individual rather than with the need or ability of their government to exercise its powers.

The following two pages contain arguments both for and against ratification. As you read them try to discern the main points made by each side and how well each answered the arguments of the other.

Arguments Against Ratifying

Arguments for Ratification

How short your memories are, you who want a new Constitution. You do not remember that the Articles of Confederation were good enough for us during the eight years we were at war with England. You do not remember that we were ruled by them when we beat the world's strongest nation. You do not remember that they were written by our greatest patriots.

The Constitution, however, was written by men of ambition and cunning. It was written in secrecy, behind closed doors. While these men were making chains for the nation, the rest of us were fed stories of imagined weaknesses under the Articles of Confederation. We will not believe their rot!

We have two main objections to the Constitution.

First, we object because the Constitution will destroy the power of the states. In the place of our democratic state governments we will again have a dictatorship like the one England forced on us.

The powers of Congress under the Constitution are completely unlimited. By its power of taxation, Congress can take all of the property belonging to our people. This is not just my imagination. The Constitution says (Article I, section 8): "The Congress shall have power to lay and collect taxes, duties, etc. to pay the debts, and provide for the common defense and general welfare of the United States."

There is not even one word on the power to tax saved for the state governments. Congress, therefore, can have every single source of taxation. They can pass laws stopping states from taxing the people. The unlimited power given in Article I, section 8, clause 18, can do the job on the states. This clause allows Congress to: "make all laws which shall be necessary and proper for carrying out all the foregoing powers, and all other powers given by this constitution in the government of the United States."

There are times when troubles are so thick that few indeed understand their causes. We are living in such a time. Only the wise and far-seeing know the reason for our nation's problems. The cause, my friends, is the Articles of Confederation. Fortunately, however, we have a new Constitution that can solve these problems.

The fault with the Articles of Confederation is easy to see. It is their lack of power. Under the Articles, Congress could declare war, but did not have the power to raise armies or collect taxes. How can you wage war without men or money? Under the Articles, Congress could draw up treaties, but lacked the power to enforce them; it could borrow money, but not collect taxes to see it repaid; it could coin money, but not stop the states from issuing their own. In brief, Congress could make all kinds of recommendations. But it lacked the force to see that they were carried out. What a pitifully weak government these disunited states had!

The Constitution writers agreed that a strong national government was absolutely necessary. They had the good sense to give the government enough power to solve the problems this nation faced. At the same time they did not take too much power from the states.

In their great wisdom, the delegates looked back into history. They realized that in the past, governments that had depended on one man or one group of men always ended up in a dictatorship. So they decided to have three branches of government. Each branch would be separated from the others. Thus we have the executive [president] separated from the legislative [Congress] and the judicial (courts). There were many difficulties at the convention. It was only with many compromises that these problems were solved. That is why some parts of the Constitution will be liked more by some than by others. But it was the great talent of the convention to unite sometimes different ideas in one plan.

If that is not enough, the supremacy of the laws of the United States is also set up in Article VI: "this constitution and the laws of the United States which shall be made under it...shall be the supreme law of the land... anything in the constitution or laws of any State to the contrary notwithstanding."

The lawmaking power given Congress is unlimited in its nature. It is so complete in its exercise that this alone is enough to completely destroy the states. They would be swallowed up like a whirlpool and sucked under for ever.

We also dissent from this Constitution because it will start a dictatorship.

As all can see, this Constitution does not have a Bill of Rights stating the unalienable rights of men. Without the full, free, and safe enjoyment of these rights, there can be no freedom – no right of conscience – no guarantee for a trial by jury. Once more, there is no freedom of the press – without which there can be no other freedoms. The argument that they are in the state constitutions is just so much nonsense. The Constitution, as we have seen, overpowers the state constitutions in all matters.

We also object because the President has the power to veto laws. The veto can be overruled only by two-thirds of the representatives and the senators. That gives the President too much power.

We also object because of the long terms of the President and the Senators and the methods by which they are elected,⁹

Suggested Student Exercises:

1. Based on what you have learned so far about how the Founding Fathers solved the issues they confronted at the Convention, with which of the following do you agree?

There are many objections to the Constitution. Most of these are without good reason. A few are honest and we will try and answer those.

We are told that there is no freedom of the press in this Constitution. But the fact is that the Constitution says no more or less about the freedom of the press than the constitution of New York. We are told that there is no protection of a trial by jury; but there is, in some cases, and the Constitution takes it away in none. Complaints are made that there is no Bill of Rights. . . . It is true that Bills of Rights were necessary in days that kings ruled. The kings had to admit by some sworn act called a Bill of Rights, that certain stated rights belonged to the people. But, there is no need for that here, thank God, for we have no kings in America.

Let those who are honest in their hope for a better Constitution from another convention think of the time it would take. Let them think how hard it would be to carry out in our embarrassing situation.

How easy it would be for foreign countries to continue plotting against us. Let us think of how long our fights will continue with one another; how unprepared we would be, how open to further hostility and insult. Think only how unprepared we will be for defense. How long can we continue without Union, without Government, without money, and without credit¹⁰

6 Quoted in John Back McMaster, ed., *Pennsylvania and the Federal Constitution*, Historical Society of Pennsylvania, Lancaster, 1888, pp. 457-72, edited.

7. Quoted in P.L. Ford, ed., *Pamphlets on the Constitution of the United States*, Brooklyn New York, 1888, pp. 83-84, edited.

Against

The Constitution gives too much power to the new government; it does not give the states any power.

The Constitution is not democratic; the common people will not have a voice in the government.

The Constitution does not give the people any rights and allows slavery to continue.

For

The country under the Articles of Confederation is falling apart; only the new Constitution can save it.

The Constitution has a system of checks and balances, which will protect the common people and the privileged.

A bill of rights is not needed; nothing could be done to end slavery without breaking up the country.

2. If your teacher directs, write a speech either in favor of ratifying the Constitution or opposing ratification. Begin by saying whether you are for or against ratification. Then state three arguments you will make. Follow this by supporting each of the three arguments with information from one of the speeches and references to the Constitution. Your speech should include strong statements, humor, and predictions of what will happen if the country does not agree with your point of view.