

*Anti-Federalists, Federalists, Lincoln, and Jefferson*

The introduction of the US Constitution was fiercely debated at the time and to understand why it is necessary to see something of the structure of that debate through the eyes of the rival sides. These sides are the Federalists on the one hand, who proposed and supported the Constitution, and the Anti-Federalists on the other who bitterly opposed it. The Federalists have had by far the better reputation since, largely through the widespread influence of the Federalist Papers. The arguments of the Anti-Federalists, by contrast, have generally been ignored or distorted. To get a sense of the Anti-Federalist position, then, and how they attacked the Constitution the most truthful and effective method would be to give a series of quotations from them as juxtaposed to the opposing ones of the Federalists. What follows, then, is precisely such a series.

The first quotations are from Anti-Federalists arguing against the moves made by Federalists to introduce a new, and far more centralized, system of government such as was eventually achieved in the US Constitution. We may call these moves by the Federalists as the American Counter-Revolution since, as the Anti-Federalists often pointed out, it reversed the achievements of the Revolution of 1776. The headings and emphases are added.

1. Federal Farmer (Richard Henry Lee):

- a. *Feelings of Dissatisfaction:* During the war the general confusion and the introduction of paper money infused in the minds of the people vague ideas respecting government and credit. We expected too much from the return of peace and of course we have been disappointed. Our governments have been new and unsettled and several legislatures by making tender, suspension, and paper money laws have given just cause of uneasiness to creditors. By these and other causes several orders of men in the community have been prepared by degrees for a ***change of government***. And this very abuse of power in the legislatures, which in some cases has been ***charged upon the democratic part of the community***, has furnished ***aristocratical men*** with those very weapons and those very means with which they are rapidly ***effecting their favorite object...***
- b. *Effect and Exploitation of these Feelings:* [W]hen by the evils on the one hand and by ***the secret instigations of artful men*** on the other the minds of men were become sufficiently uneasy, ***a bold step was taken***, which is usually followed by ***a revolution or a civil war***. A general convention for mere commercial purposes was moved for. The authors of this measure saw that ***the people's attention was turned solely to the amendment of the federal system*** and that had the idea of a ***total change*** been started probably no state would have appointed members to the convention. The idea of ***destroying ultimately the state government and forming one consolidated system*** could not have been admitted.
- c. *Background to the Convention of 1787:* In September 1786 ***a few men*** from the middle states met at Annapolis and hastily proposed a convention to be held in May 1787 for the purpose of amending the confederation.

This was done before the delegates of Massachusetts and of the other states arrived. Still not a word was said about *destroying the old constitution...* The states...appointed members to the new convention *for the sole and express purpose of revising and amending the confederation* and probably not one man in ten thousand in the United States, till within these ten or twelve days, had an idea that *the old ship was to be destroyed...* The States, I believe, *universally supposed the convention would report alterations in the confederation* which would *pass an examination in congress* and after being agreed to there would *be confirmed by all the legislatures, or be rejected...* Pennsylvania appointed principally those *men who are esteemed aristocratical*. Here the favorite moment for *changing the government* was evidently discerned by *a few men*, who seized it with address. Ten other states chose men principally connected with commerce and the judicial department yet they appointed many good republican characters. Had they all attended we should now see, I am persuaded, a better system presented; the result of the convention would not have had that *strong tendency to aristocracy* now discernible in every part of the plan. There would not have been *so great an accumulation of powers in a few hands...*<sup>1</sup>

2. Patrick Henry: Similar examples are to be found in ancient Greece and ancient Rome—instances of *the people losing their liberty* by their own carelessness and *the ambition of a few*.<sup>2</sup>
3. A Federalist: The Lawyers in particular, keep up an incessant declamation for its adoption; the numerous tribunals to be erected by *the new plan of consolidated empire* will find employment for ten times their present numbers.<sup>3</sup>
4. Brutus Junior: It is at the same time well known to every man, who is but moderately acquainted with the characters of the members, that many of them are possessed of *high aristocratic ideas and the most sovereign contempt of the common people*.<sup>4</sup>
5. The Yeomanry of Massachusetts: Notwithstanding [General *Washington*] wielded the sword in defense of American liberty, yet at the same time he was, and is to this day, *living upon the labors of several hundreds of miserable Africans as free born as himself* and some of them very likely descended from parents who might cope with any man in America.<sup>5</sup>
6. A Farmer: Another class of men wishes to have it adopted so that the *public chest might be furnished with money to pay the interest on their securities* which they *purchased of the poor soldiers at two shillings on the pound*. I wish the soldiers were now the holders of those securities they fought so hard for..<sup>6</sup>
7. Cincinnatus: If the new government raises this sum in specie [gold and silver] on

---

<sup>1</sup> These first three quotations are Document 37 in *The Anti-Federalist Papers*, ed. M. Borden, Michigan State University Press, 1965. The emphasis in these and all following quotes has been added and is not in the original.

<sup>2</sup> Borden, doc. 4.

<sup>3</sup> Borden, doc. 1.

<sup>4</sup> Borden, doc. 38.

<sup>5</sup> Borden, doc. 40.

<sup>6</sup> Borden, doc. 13.

the people *it will give immense fortunes to the speculators but it will grind the poor to dust.*<sup>7</sup>

No doubt one could dismiss these sentiments as prejudice or parti pris, but they sufficiently manifest what Anti-Federalists thought at the time. Their sentiments are also, interestingly, confirmed by the French Ambassador in the US at the time in a letter he wrote to the foreign minister in France. A more percipient account of what the Federalists were really up to would be hard to find. For, speaking of the report filed by the few States that appeared at the first, and abortive, meeting in Annapolis, which preceded and prepared the way for the Constitutional Convention in Philadelphia, the ambassador writes:

They [the commissioners at Annapolis] endeavored to give [their report] an obscurity that the people will see through with difficulty, but which the powerful and enlightened citizens will not fail to turn to account. For a very long time, my Lord, they have felt the necessity of giving the federal Government more energy and vigor, but they have also felt that the excessive independence accorded to the citizens with regard to the States, and to the States with regard to Congress, is too dear to individuals for them to be divested of it without great precautions... It is in the interest of the people to preserve, as much as possible, the absolute liberty that was accorded to them...that all power should emanate only from the people, that everything be submitted to its supreme will, and that the magistrates be only its servants.

Although there were no patricians in America, there is a class of men known under the denomination of 'gentlemen', who by their wealth, by their talents, by their education, by their families, or by the positions that they fill, aspire to a preeminence that the people refuse to accord them... The people, generally discontented with the difficulties of commerce, and little suspecting the secret motives of their antagonists... named commissioners who were supposed to meet at Annapolis [to discuss matters of commerce]...

The authors [of the Annapolis meeting] had no hope or even any desire to see this assembly of commissioners...succeed. The measures were so well taken that...there were no more than five States represented at Annapolis, and the commissioners of the Northern States were held up for several days in New York in order to delay their arrival...The assembled States...broke up on the pretext that they were not numerous enough to enter into the matter, and to justify this dissolution they sent a report...In this document the commissioners make use of an infinity of circumlocutions and ambiguous phrases to explain to their constituents the impossibility of taking into consideration a general plan of commerce and the powers relative thereto without touching at the same time on other objects intimately connected with the prosperity and the national importance of the United States... You will perceive, my Lord, that the commissioners do not wish to take into consideration the grievances of commerce, infinitely interesting to the people, without perfecting at the same time the fundamental constitution of

---

<sup>7</sup> Borden, doc. 12.

Congress.<sup>8</sup>

The next series of quotations are from both Federalists and Anti-Federalists contrasting the charges leveled against the Articles by the former and the answer to these charges given by the latter. First the Federalists:

1. Federalist Charges against the Articles. *Hamilton Federalist 15*:

We have reached almost the last stage of national humiliation.

- a. Do we owe debts to foreigners and to our own citizens contracted in a time of imminent peril for the preservation of our political existence? These remain without any proper or satisfactory provision for their discharge... Is respectability in the eyes of foreign powers a safeguard against foreign encroachments? The imbecility of our government even forbids them to treat with us. Our ambassadors abroad are the mere pageants of mimic sovereignty.
- b. Have we valuable territories and important posts in the possession of a foreign power which, by express stipulations, ought long since to have been surrendered? These are still retained, to the prejudice of our interests, not less than of our rights.
- c. Are we in a condition to resent or to repel the aggression? We have neither troops, nor treasury, nor government. Are we even in a condition to remonstrate with dignity? The just imputations on our own faith, in respect to the same treaty, ought first to be removed.
- d. Are we entitled by nature and compact to a free participation in the navigation of the Mississippi? Spain excludes us from it.
- e. Is public credit an indispensable resource in time of public danger? We seem to have abandoned its cause as desperate and irretrievable... Is private credit the friend and patron of industry? That most useful kind which relates to borrowing and lending is reduced within the narrowest limits, and this still more from an opinion of insecurity than from the scarcity of money.
- f. Is commerce of importance to national wealth? Ours is at the lowest point of declension. Is a violent and unnatural decrease in the value of land a symptom of national distress? The price of improved land in most parts of the country is much lower than can be accounted for by the quantity of waste land at market, and can only be fully explained by that want of private and public confidence, which are so alarmingly prevalent among all ranks, and which have a direct tendency to depreciate property of every kind.
- g. What indication is there of national disorder, poverty, and insignificance that could befall a community so peculiarly blessed with natural advantages as we are, which does not form a part of the dark catalogue of our public misfortunes? This is the melancholy situation to which we have

---

<sup>8</sup> Louis Guillaume Otto to Comte de Vergennes, New York, 10 October 1786, printed in John P. Kaminski and Richard Leffler eds., *Federalists and Antifederalists: the Debate over the Ratification of the Constitution* (Madison, Madison House Publishers, 1998): 180-183,

been brought by those very maxims and councils which would now deter us from adopting the proposed Constitution.

2. Falsity of Charges against the Articles, from Various Anti-Federalist Writers.

These quotations respond to each of the above charges in order.

- a. William Grayson: As to the foreign debt, they have the promise of more interest from us than they can get anywhere else. But it is said they will declare war against us if we don't pay them immediately. Common sense will teach them better. We live at too great a distance, and are too hardy and robust a people, for them to make money out of us in that way... Mr. Adams applied to the Dutch for a new loan to the poor, despised Confederation. They readily granted it... The loan of a million of Holland guilders, a sum equal to 250,000 Spanish Dollars, and all this done by the procurement of that very Congress whose insignificance and want of power had been constantly proclaimed for two or three years before... I believe the money which the Dutch borrowed of Henry IV is not yet paid.<sup>9</sup>
- b. A Newport Man: The British will never relinquish the posts in question until compelled by force, because no nation pays less regard to the faith of treaties than the British...<sup>10</sup>
- c. Patrick Henry: The Confederation, this despised government, carried us through a long and dangerous war; it rendered us victorious in that bloody conflict with a powerful nation; it has secured us a territory greater than any European monarch possesses; and shall a government which has been thus strong and vigorous be accused of imbecility, and abandoned for want of energy?<sup>11</sup> Candidus: This government, in particular, has produced an instance of ENERGY in suppressing a late rebellion [*Shays' Rebellion*] which no absolute monarchy can boast.<sup>12</sup>

[N.b. Shays' Rebellion was used by Federalists as an excuse for introducing a more powerful federal government, but scandalously because the rebellion was put down in a short time and with little bloodshed by Massachusetts alone without any help from other states or from Congress. Contrast this rebellion with the Whiskey Rebellion that was put down by President George Washington after he summoned federal troops for the purpose. The response was wholly out of proportion to the rebellion and made Washington more of a laughing stock than a hero.]

- d. Candidus: What motive would induce Britain to repeal the duties on our oil, or France on our fish, if we should adopt the proposed Constitution? Those nations laid these duties to promote their own fishery etc. and let us adopt what mode of government we please they will pursue their own politics respecting our imports and exports.<sup>13</sup>

---

<sup>9</sup> Borden, doc. 2.

<sup>10</sup> Borden, doc. 18-20B.

<sup>11</sup> Borden, doc. 4.

<sup>12</sup> Borden, doc. 22.

<sup>13</sup> Borden, doc. 22.

- e. Centinel: The history of mankind does not furnish a similar instance of an attempt to levy such enormous taxes at once nor of a people so wholly unprepared and uninured to them—the lamp of sacred liberty must indeed have burned with unsullied luster, every sordid principle of the mind must have been then extinct, when the people not only submitted to the grievous impositions, but cheerfully exerted themselves to comply with the calls of their country. Their abilities, however, were not equal to furnish the necessary sums—indeed, the requisition of the year 1782 amounted to the whole income of their farms and other property, including the means of their subsistence...<sup>14</sup> A Farmer: Requisitions were made which every body knew it was impossible to comply with. In 1782 or 1783 ten millions of hard dollars, if not thirteen, were called into the continental treasury, when there could not be half that sum in the whole tract of territory between Nova Scotia and Florida...<sup>15</sup> Centinel: How then can we impute the difficulties of the people, to a due compliance with the requisitions of Congress, to a defect in the confederation? Any government however energetic would have experienced the same fate.<sup>16</sup>
- f. A Plebian: The merchant drives his commerce and none can deprive him of the gain he honestly acquires; all classes and callings of men amongst us are protected in their various pursuits and secured by the laws in the possession and enjoyment of the property obtained in those pursuits... The farmer cultivates his land, and reaps the fruit which the bounty of heaven bestows on his honest toil. The mechanic is exercised in his art and receives the reward of his labor.<sup>17</sup>
- g. A Plebian: Does not every man sit under his own vine and under his own fig-tree having none to make him afraid? Does not every one follow his calling without impediments and receive the reward of his well-earned industry?... The laws are as well executed as they ever were, in this or any other country. Neither the hand of private violence nor the more to be dreaded hand of legal oppression are reached out to distress us.<sup>18</sup>

These juxtaposed quotations show very clearly that the arguments of the Federalists are largely self-serving, and indeed deceitful, propaganda, and do not represent a fair description of the situation at the time.

#### *Federalists and Anti-Federalists on the US Constitution*

The next set of quotations contrasts the way the new US Constitution was defended by the Federalists and how the Anti-Federalists responded to this defense.

1. *Defense of the Constitution*. Hamilton, *Federalist* 23 and 31.
  - a. The principal purposes to be answered by union are these: the common

---

<sup>14</sup> Borden, doc. 21.

<sup>15</sup> Borden, doc. 10.

<sup>16</sup> Borden, doc. 21.

<sup>17</sup> Borden, doc. 85.

<sup>18</sup> Borden, doc. 85.

defense of the members; the preservation of the public peace as well against internal convulsions as external attacks; the regulation of commerce with other nations and between the States; the superintendence of our intercourse, political and commercial, with foreign countries.

- b. The authorities essential to the common defense are these: to raise armies; to build and equip fleets; to prescribe rules for the government of both; to direct their operations; to provide for their support. These powers ought to exist without limitation, because it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them. For the means ought to be proportioned to the end and the persons from whose agency the attainment of any end is expected ought to possess the *means* by which it is to be attained.
- c. As revenue is the essential engine by which the means of answering the national exigencies must be procured, the power of procuring that article in its full extent must necessarily be comprehended in that of providing for those exigencies. As theory and practice conspire to prove that the power of procuring revenue is unavailing when exercised over the States in their collective capacities, the federal government must of necessity be invested with an unqualified power of taxation in the ordinary modes... We must abandon the vain project of legislating upon the States in their collective capacities; we must extend the laws of the federal government to the individual citizens of America.
- d. Hamilton or Madison, *Federalist* 51: In republican government the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit.
- e. Whilst all authority in [the United States] will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority... In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good.

2. *Charges against the Constitution and Central Government from Various Anti-Federalist Writers:*

- a. Connecticut Journal: It is now almost five years since the peace. Congress has employed thirteen commissioners at 1500 dollars per annum, as I am informed, to settle the public accounts, and we know now no more what the national debt is than at the first moment of their appointment.<sup>19</sup>
- b. A Democratic Federalist: I need only adduce the example of Switzerland

---

<sup>19</sup> Borden, doc. 13.

which, like us, is a republic under a federal government and which besides is surrounded by the most powerful nations in Europe, all jealous of its liberty and prosperity. And yet that nation has preserved its freedom for many ages with the sole help of a militia and has never been known to have a standing army, except when in actual war.<sup>20</sup>

- c. Federal Farmer: It has long been thought to be a well founded position that the purse and sword ought not to be placed in the same hands in a free government.<sup>21</sup>
- d. Federal Farmer: To produce a balance and checks the constitution proposes two branches in the legislature. But they are so formed that the members of both must generally be the same kind of men, having similar interests and views, feelings and connections, men of the same grade in society, and who associate on all occasions... The partitions between the two branches will be merely those of the building in which they fit. There will not be found in them any of those genuine balances and checks among the real different interests and efforts of the several classes of men.<sup>22</sup>
- e. Federal Farmer: We talk of balances in the legislature and among the departments of government. We ought to carry them to the body of the people... Each order must have a share in the business of legislation actually and efficiently...<sup>23</sup> Federal Farmer: The republican principle is to diffuse the power of making the laws among the people and so to modify the forms of the government as to draw in turn the well informed of every class into the legislature...<sup>24</sup> Cato: It is remarked by Montesquieu in treating of republics that in all magistracies the greatness of the power must be compensated by the brevity of the duration and that a longer time than a year would be dangerous.<sup>25</sup>

Again, one might think these responses by the Anti-Federalists are again prejudiced and mistaken, but a striking proof that they are not is given by the predictions that Anti-Federalist writers made about the effects of the US Constitution. All these predictions are striking in their prescience. They show that the Anti-Federalist knew far more about political realities and about the real aim and function of the US Constitution than the Federalists did, or at least than the Federalists admitted (for one may suspect that the actual results that the Anti-Federalists foresaw and feared were foreseen and perhaps in part welcomed by the Federalists).

### 3. Anti-Federalist Predictions from Various Anti-Federalist Writers:

- a. *Consolidation of Power at the Center and the Proliferation of Laws and Bureaucracies*. (i) Federal Farmer: Should the general government think it

---

<sup>20</sup> Borden, doc. 29.

<sup>21</sup> Borden, doc. 41-43p1.

<sup>22</sup> Borden, doc. 63.

<sup>23</sup> Borden, doc. 55.

<sup>24</sup> Borden, doc. 63.

<sup>25</sup> Borden, doc. 67.



politic, as some administration (if not all) probably will, to look for a support in a system of influence, the government will take every occasion to multiply laws and officers to execute them, considering these as so many necessary props for its own support...<sup>26</sup> (ii) If, on a fair calculation, a man will gain more by measures oppressive to others than he will lose by them, he is interested in their adoption. It is true that those who govern generally by increasing the public burdens increase their own share of them; but by this increase they may, and often do, increase their salaries, fees, and emoluments in a tenfold proportion by increasing salaries and by making offices.<sup>27</sup>

- b. *The Federal Deficit*. Brutus: I can scarcely contemplate a greater calamity that could befall this country than to be loaded with a debt exceeding our ability ever to discharge. It is unwise and improvident to vest in the general government a power to borrow at discretion without any limitation or restriction.<sup>28</sup>
- c. *Suppression of Dissent* [the Whisky Rebellion; Fries' Rebellion]. Federal Republican: Congress will have the power of leading troops among you in order to suppress those struggles which may sometimes happen among a free people, and which tyranny will impiously brand with the name of sedition.<sup>29</sup>
- d. *Tariffs*. Cato: Is human nature above self interest? If the Northern States do not burden the Southern in taxation it would appear that they are more disinterested men than we know of.<sup>30</sup>
- e. *Nullification Crisis*. Federal Farmer: Does the constitution provide a single check for a single measure by which the State governments can constitutionally and regularly check the arbitrary measures of Congress? Congress may arm on every point and the State governments can do no more than, by petition to congress, suggest their measures are alarming and not right.<sup>31</sup> Brutus: If then the State legislatures check the general legislature it must be by exciting the people to resist constitutional laws. But such kinds of checks as these, though they sometimes correct the abuses of government, more often destroy all government.<sup>32</sup>
- f. *Civil War*. A Farmer: Our State disputes in a Confederacy would be disputes of levity and passion which would subside before injury. The people being free, government having no right to them but they to government, they would separate and divide as interest or inclination prompted—as they do at this day, and always have done, in Switzerland. In a National government the disputes will be the deep-rooted differences of interest, where parts of the empire must be injured by the operation of

---

<sup>26</sup> Borden, doc. 36.

<sup>27</sup> Borden, doc. 57.

<sup>28</sup> Borden, doc. 23.

<sup>29</sup> Borden, doc. 8.

<sup>30</sup> Borden, doc. 54.

<sup>31</sup> Borden, doc. 58.

<sup>32</sup> Borden, doc. 25.

general law; and then should the sword of government be once drawn (which Heaven avert) I fear it will not be sheathed until we have waded through that series of desolation which France, Spain, and the other great kingdoms of the world have suffered, in order to bring so many separate States into uniformity of government and law.<sup>33</sup>

The accuracy of these predictions is remarkable and a brief summary of the history of the US after the acceptance of the Constitution will make the fact very plain.

1. Concentration of Power at the Center by Federalists; increasing Factional Strife
  - a. Hamilton institutes “the American System”, 1790
  - b. Adams and the Alien and Sedition Acts, 1798
  - c. Jefferson and Madison and the Virginia and Kentucky Resolutions (“Doctrine of Nullification”), 1798
2. Culmination of factional strife during the Presidential Election of 1800. Federalists lose.
3. Jefferson dismantles Hamilton’s American System, 1801-1809
4. Defeated Northern Federalists talk and threaten secession, 1804 on.
5. Attempts to reinstate the American System by Henry Clay and the Whigs (including the young Lincoln), such as Tariffs on the South to support Northern Industry. The “Tariff of Abominations”, 1828, 1832. The Morrill Tariff, 1861
6. Secessionist arguments adopted by the South from the old Northern Federalists (“Nullification Crisis”), 1828 on.
7. South secedes. Lincoln declares war on the South over tariffs, and restores the American System by force, 1861-1865. Lincoln’s *First Inaugural*: “The power confided to me will be used to hold, occupy, and possess the property and places belonging to the Government [e.g. Fort Sumter in Charleston Harbor] and to collect the duties and imposts [Fort Sumter was an Armed Customs Post to collect “duties and imposts” from incoming ships]; but beyond what may be necessary for these objects, there will be no invasion, no using of force against or among the people anywhere.” [For Lincoln ending slavery was always secondary to saving the Union and therewith his favored ‘American System’]
8. A Deal with the South by Hayes to get the Presidency ends Emancipation (“Reconstruction”) but saves the American System, 1877 on.
9. Federal deficit increases enormously, reaching now unimaginable proportions.

#### *Melanchthon Smith’s Protest*

An excellent summary of the Anti-Federalist position and of the brazen effrontery of the lies put about by Federalists is given by Melanchthon Smith. His remarks are quoted below with divisions and headings added for ease of comprehension.

Melanchthon Smith: “Evils under Confederation Exaggerated; Constitution must be Drastically Revised before Adoption.”<sup>34</sup>

1. *Review of Objections to the Articles.* It is insisted that the present situation of our

---

<sup>33</sup> Borden, doc. 3.

<sup>34</sup> Borden, doc. 85.

country is such as not to admit of a delay in forming a new government. On this head all the powers of rhetoric and arts of description are employed to paint the condition of this country in the most hideous and frightful colors. We are told that agriculture is without encouragement trade is languishing; private faith and credit are disregarded and public credit is prostrate; that the laws and magistrates are condemned and set at naught; that a spirit of licentiousness is rampant and ready to break over every bound set to it by the government; that private embarrassments and distresses invade the house of every man of middling property and insecurity threatens every man in affluent circumstances: in short, that we are in a state of the most grievous calamity at home and that we are contemptible abroad, the scorn of foreign nations and the ridicule of the world...

2. *Answer to the Objections.* But suffer me, my countrymen, to call your attention to a serious and sober estimate of the situation in which you are placed... The farmer cultivates his land and reaps the fruit which the bounty of heaven bestows on his honest toil. The mechanic is exercised in his art and receives the reward of his labor. The merchant drives his commerce and none can deprive him of the gain he honestly acquires. All classes and callings of men amongst us are protected in their pursuits and secured by the laws in the possession and enjoyment of the property obtained in those pursuits... Neither the hand of private violence nor the more to be dreaded hand of legal oppression are reached out to distress us.

It is true many individuals labor under embarrassments, but these are to be imputed to the unavoidable circumstances of things rather than to any defect in our governments. We have just emerged from a long and expensive war. During its existence few people were in a situation to increase their fortunes but many to diminish them. Debts contracted before the war were left unpaid... Add to these that when the war was over too many of us, instead of reassuming our old habits of frugality and industry, took up the profuse use of foreign commodities. The country was deluged with articles imported from abroad and the cash of the country has been sent to pay for them, and still left us laboring under the weight of a huge debt to persons abroad. But will a new government relieve you from these? Your present condition is such as is common to take place after the conclusion of a war. Those who can remember our situation after the termination of the war [*The French and Indian War, 1754-1763*] preceding the last will recollect that our condition was similar to the present but time and industry soon recovered us from it. Money was scarce, the produce of the country much lower than it has been since the peace, and many individuals were extremely embarrassed with debts; and this happened although we did not experience the ravages, desolations, and loss of property that were suffered during the late war.

With regard to our public and national concerns, what is there in our condition that threatens us with any immediate danger? We are at peace with all the world; no nation menaces us with war; nor are we called upon by any cause of sufficient importance to attack any nation. The state governments answer the purposes of preserving the peace and providing for present exigencies. Our condition as a nation is in no respect worse than it has been for several years past. Our public debt has been lessened in various ways and the western territory, which has been relied upon as a productive fund to discharge the national debt,

- has at length been brought to market and a considerable part actually applied to its reduction. I mention these things to show that there is nothing special in our present situation, as it respects our national affairs, that should induce us to accept the proffered system without taking sufficient time to consider and amend it...
3. *Review of and Answer to Reasons for Immediate Adoption of the Constitution.* But it is said that if we postpone the ratification of this system until the necessary amendments are first incorporated the consequence will be a civil war among the states. The idea of [New York] being attacked by the other states will appear visionary and chimerical if we consider that though several of them have adopted the new constitution yet the opposition to it has been numerous and formidable. The eastern states from whom we are told we have most to fear should a civil war be blown up would have full employ to keep in awe those who are opposed to it in their own governments. Massachusetts, after a long and dubious contest in their convention, has adopted it by an inconsiderable majority and in the very act has marked it with a stigma in its present form. No man of candor, judging from their public proceedings, will undertake to say on which side the majority of the people are. Connecticut, it is true, have acceded to it by a large majority of their convention, but it is a fact well known that a large proportion of the yeomanry of the country are against it. And it is equally true that a considerable part of those who voted for it in the convention wish to see it altered. In both these states the body of the common people, who always do the fighting of a country, would be more likely to fight against than for it. Can it then be presumed that a country divided among themselves upon a question where even the advocates for it admit the system they contend for needs amendments would make war upon a sister state? The idea is preposterous.
  4. *Review of and Answer to Reasons for Delaying Amendments until after Adoption.* The reasonings made use of to persuade us that no alterations can be agreed upon previous to the adoption of the system are as curious as they are futile. It is alleged that there was great diversity of sentiments in forming the proposed constitution, that it was the effect of mutual concessions and a spirit of accommodation, and from hence it is inferred that further changes cannot be hoped for. I should suppose that the contrary inference was the fair one. If the convention who framed this plan were possessed of such a spirit of moderation and condescension as to be induced to yield to each other certain points and to accommodate themselves to each other's opinions and even prejudices, there is reason to expect that this same spirit will continue and prevail in a future convention and produce an union of sentiments on the points objected to.
 

There is more reason to hope for this because the subject has received a full discussion... Previous to the meeting of the convention the subject of a new form of government had been little thought of and scarcely written upon at all... It was never in the contemplation of one in a thousand of those who had reflected on the matter to have an entire change in the nature of our federal government... I will venture to say that the idea of a government similar to the one proposed never entered the minds of the legislatures who appointed the convention and of but very few of the members who composed it until they had assembled and heard it proposed in that body; much less had the people any conception of such a plan

until after it was promulgated. While it was agitated, the debates of the convention were kept an impenetrable secret and no opportunity was given for well informed men to offer their sentiments upon the subject.

The system was therefore never publicly discussed, nor indeed could be, because it was not known to the people until after it was proposed. Since then it has been the object of universal attention; it has been thought of by every reflecting man; it has been discussed in a public and private manner in conversation and in print; its defects have been pointed out and every objection to it stated; able advocates have written in its favor and able opponents have written against it. And what is the result? It cannot be denied but that the general opinion is that it contains material errors and requires important amendments...

5. *Uniformity of the Objections to the Constitution.* But it is further said that there can be no prospect of procuring alterations before it is acceded to, because those who oppose it do not agree among themselves with respect to the amendments that are necessary. To this I reply that this may be urged against attempting alterations after it is received with as much force as before, and therefore, if it concludes anything, it is that we must receive any system of government proposed to us because those who object to it do not entirely concur in their objections. But the assertion is not true to any considerable extent. There is a remarkable uniformity in the objections made to the constitution on the most important points. It is also worthy of notice that very few of the matters found fault with in it are of a local nature or such as affect any particular state; on the contrary, they are such as concern the principles of general liberty in which the people of New Hampshire, New York and Georgia are equally interested.
  - a. It has been objected that the new system is calculated to and will effect such a consolidation of the states as to supplant and overturn the state governments.
  - b. It has been said that the representation in the general legislature is too small to secure liberty or to answer the intention of representation.
  - c. The constitution has been opposed because it gives to the legislature an unlimited power of taxation..., a right to lay and collect taxes, duties, imposts and excises of every kind and description, and to any amount.
  - d. The opposers to the constitution have said that it is dangerous because the judicial power may extend to many cases which ought to be reserved to the decision of the state courts, and because the right of trial by jury is not secured in the judicial courts of the general government in civil cases.
  - e. The power of the general legislature to alter and regulate the time, place and manner of holding elections has been stated as an argument against the adoption of the system.
  - f. The mixture of legislative, judicial, and executive powers in the Senate, the little degree of responsibility under which the great officers of government will be held, and the liberty granted by the system to establish and maintain a standing army without any limitation or restriction are also objected to the constitution.
  - g. The opposers to the constitution universally agree in these objections.
6. *Appeal against Adoption. Untrustworthy Character of the Constitution's*

*Supporters.* You have heard that both sides on this great question agree, that there are in it great defects; yet the one side tell you, choose such men as will adopt it and then amend it; while the other say, amend previous to its adoption. I have stated to you my reasons for the latter and I think they are unanswerable.

Consider, you the common people, the yeomanry of the country, for to such I principally address myself, you are to be the principal losers if the constitution should prove oppressive. Attempts have been made and will be repeated to alarm you with the fear of consequences; but reflect there are consequences on both sides and none can be apprehended more dreadful than entailing on ourselves and posterity a government which will raise a few to the height of human greatness and wealth while it will depress the many to the extreme of poverty and wretchedness...

The path in which you should walk is plain and open before you; be united...and direct your choice to such men as have been uniform in their opposition to the proposed system in its present form, or without proper alterations. In men of this description you have reason to place confidence, while on the other hand you have just cause to distrust those who urge the adoption of a bad constitution under the delusive expectation of making amendments after it is acceded to. Your jealousy of such characters should be the more excited when you consider that the advocates for the constitution have shifted their ground. When men are uniform in their opinions it affords evidence that they are sincere. When they are shifting it gives reason to believe they do not change from conviction. It must be recollected that when this plan was first announced to the public its supporters cried it up as the most perfect production of human wisdom, It was represented either as having no defects, or if it had, they were so trifling and inconsiderable that they served only as the shades in a fine picture to set off the piece to the greater advantage. One gentleman in Philadelphia went so far in the ardor of his enthusiasm in its favor as to pronounce that the men who formed it were as really under the guidance of Divine Revelation as was Moses, the Jewish lawgiver. Their language is now changed; the question has been discussed; the objections to the plan ably stated, and they are admitted to be unanswerable. The same men who held it almost perfect now admit it is very imperfect; that it is necessary it should be amended. The only question between us is simply this: shall we accede to a bad constitution under the uncertain prospect of getting it amended after we have received it, or shall we amend it before we adopt it? Common sense will point out which is the most rational, which is the most secure line of conduct...

### *Federalist High Crimes*

A final point very much worth drawing attention to, though surprising it is not noted by Smith, is that that US Constitution in its very wording does direct violence to the oath that all the states had made in the Articles. For the final article, number thirteen, reads as follows:

Every State shall abide by the determination of the United States in Congress assembled, on all questions which by this confederation are submitted to them.

And the Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said Articles of Confederation and perpetual Union. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said Confederation are submitted to them. And that the Articles thereof shall be inviolably observed by the States we respectively represent, and that the Union shall be perpetual.

Note here especially two things. First, the Articles are to be “inviolably observed” and will be “perpetual” unless alteration is agreed to by Congress and then confirmed by the legislatures of every state. Second, the signers appeal to God for their acts, and “plight and engage” the faith of their constituents to the determinations of Congress, and of their States to the observation of the Articles. Nothing, one would think, could be plainer, and yet the article seven of the Constitution expressly violates the last part of the Articles and the plighted oath it contains. For article seven reads:

The ratification of the conventions of nine states shall be sufficient for the establishment of this Constitution between the states so ratifying the same.

In other words the Constitution simply dismisses the provision of the Articles that the Articles cannot be altered unless confirmed by the legislatures of all the states. Without even a word of excuse, the Constitution changes “legislatures” to “conventions” and “all” to “nine”, and thereby treats the oath given in the Articles as so much empty air. The contempt that the framers of the Constitution thus showed not only to their fellows and their oath but also to God (for God is invoked as approving what the states did) is astonishing and yet it has gone almost wholly unremarked by generations of Americans and historians. Recall too that the Constitution was put into effect in 1788, even though, first, Congress had not agreed to it (no agreement could be reached and the document containing the Constitution was sent to the States without comment), and, second, two of the States, North Carolina and Rhode Island, had refused to ratify it and did not ratify it until late 1789 in the case of North Carolina and mid 1790 in the case of Rhode Island. That the Constitution was established by oath breaking and impiety is not the least sign of the criminality of its founders and propagandists.

No doubt the Articles were not perfect and required some emendation, though only in certain matters as perhaps commerce (though Smith suggests that no change was

needed there either). What they did not require was wholesale abolition and replacement by a centralized system that was designed to increase centralization from the beginning. The fact was proved by the presidency of John Adams (if not already by that of Washington) and the outrageous way he attacked people in the US through his Alien and Sedition Acts. These acts were famously repudiated by Jefferson and Madison in the Kentucky and Virginia resolutions, which roundly declared the acts to be unconstitutional (and remember that Jefferson was Vice President at the time). Adams was not prepared to give way and neither was Jefferson. Jefferson, however, won the fiercely contested presidential election of 1800 and then used his presidency to dismantle what Hamilton had done under Washington and what Adams did as President. Had Jefferson lost, it is a nice question whether civil war might not have broken out already under a second term of Adams. Indeed the Northern Federalists were threatening secession almost as soon as Jefferson was elected. They never finally acted on those threats but their arguments became fodder for the Southern Secessionists and these latter did act on them in 1861, precipitating the civil war that the Anti-Federalists had predicted. Lincoln's aim in the civil war was what it had been throughout his political career, namely a huge increase in centralized power. He achieved it, and the Southerners who might otherwise have been expected to oppose it were happier to regain control over their slaves through Reconstruction than to resist the encroachments of the Federal government almost everywhere else.

Still even Adams and Lincoln would be surprised at the encroachments that have been made in the US in the twentieth and now the twenty first century. The ability of the Federal government to ignore Constitutional provisions and to run up deficits of mind-boggling proportions, without any serious resistance from either Congress or the States, is something that the Founders of the Constitution would have been astonished to see. But this ability was arguably present from the beginning, as the Adams presidency proves, and was firmly cemented in place without risk of further serious opposition by Lincoln and his war. No President arose after Lincoln to undo his centralizing of federal power as Jefferson had done after Adams. Our present plight is a natural, if not entirely inevitable, development of what the US Constitution had set in place from the beginning and that Adams and more so Lincoln did most to realize in their own time and that Lincoln did most to enable the expansion of afterwards. The fault, to quote Brutus in Shakespeare's *Julius Caesar*, is in ourselves not our stars that we are underlings. Or, to be more precise, the fault is in the Founding Fathers.

A final quote then is worth adding here from Jefferson and what he wrote about Adams and his Alien and Sedition Acts in the Kentucky Resolution of 1798.

...If the acts before specified should stand, these conclusions would flow from them—that the general government may place any act they think proper on the list of crimes, and punish it themselves, whether enumerated or not enumerated by the Constitution as cognizable by them; that they may transfer its cognizance to the President, or any other person, who may himself be the accuser, counsel, judge, and jury, whose suspicions may be the evidence, his order the sentence, his officer the executioner, and his breast the sole record of the transaction [*think the prison in Guantanamo bay now*]; that a very numerous and valuable description of the inhabitants of these states, being, by this precedent, reduced, as outlaws, to



absolute dominion of one man, and the barriers of the Constitution thus swept from us all, no rampart now remains against the passions and the power of a majority of Congress, to protect from a like exportation, or other grievous punishment, the minority of the same body, the legislatures, judges, governors, and counsellors of the states, nor their other peaceable inhabitants, who may venture to reclaim the constitutional rights and liberties of the states and people, or who for other causes, good or bad, may be obnoxious to the view, or marked by the suspicions, of the President, or be thought dangerous to his or their elections, or other interests, public or personal [*think the recent IRS scandal when the IRS attacked conservative groups but left liberal groups alone*]; that the friendless alien has been selected as the safest subject of a first experiment; but the citizen will soon follow, or rather has already followed; for already has a Sedition Act marked him as a prey: That these and successive acts of the same character, unless arrested on the threshold, may tend to drive these states into revolution and blood, and will furnish new calumnies against republican governments, and new pretexts for those who wish it to be believed that man cannot be governed but by a rod of iron; that it would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights; that confidence is every where the parent of despotism; free government is founded in jealousy, and not in confidence; it is jealousy, and not confidence, which prescribes limited constitutions to bind down those whom we are obliged to trust with power; that our Constitution has accordingly fixed the limits to which, and no farther, our confidence may go; and let the honest advocate of confidence read the Alien and Sedition Acts, and say if the Constitution has not been wise in fixing limits to the government it created, and whether we should be wise in destroying those limits; let him say what the government is, if it be not a tyranny, which the men of our choice have conferred on the President, and the President of our choice has assented to and accepted, over the friendly strangers, to whom the mild spirit of our country and its laws had pledged hospitality and protection; that the men of our choice have more respected the bare suspicions of the President than the solid rights of innocence, the claims of justification, the sacred force of truth, and the forms and substance of law and justice.