

Brutus No. 1 (1787)

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Historical Background

After the Constitutional Convention adjourned in September of 1787 the ratification process began. The proposed Constitution would not come into effect until it was ratified by at least nine states. Yet some delegates at the Constitutional Convention returned to their states convinced that the Constitution was both unduly radical and unlikely to meet the needs of the new nation. Robert Yates, from New York, was one of those delegates. He came to believe that the Constitutional Convention had exceeded its authority when it developed an entirely new constitution rather than merely amending or modifying the Articles of Confederation. Because of this, Yates became one of the foremost Antifederalists in the state of New York and advocated against the ratification of the Constitution.

Historical Significance

The primary argument of Brutus in this essay was that the proposed Constitution would usher in a consolidated national government, and that this was a gross error and likely to lead to disaster. Brutus argues that all of the greatest and most illustrious thinkers, from antiquity to his age, have held that a government attempted on the scale necessary to embrace all thirteen states would of necessity be despotic. Not only do authorities oppose such a government, but the experience of mankind and right reason also oppose it. Since a consolidated government was impossible, except as a despotism or tyranny, and the Constitution eliminated the old Confederation and replaced it with a true national government, it should not be accepted. While this Antifederalist argument failed to result in any immediate changes in the Constitution once it was enacted, it contributed to a debate over what degree of control over policy should be given to the national government compared to the state and local governments. Under the heading of federalism, this debate continues in the Congress, the Supreme Courts and in statehouses across the United States to this day.

Key Concepts and Learning Objectives

Concepts: consolidation; confederation; republic; democracy; free government; federalism; Federalists; Antifederalists; nationalism

Learning objectives: On completion of this unit, students will be able to:

- define and describe federalism;
- describe and summarize the Antifederalist argument against consolidation;

- examine and evaluate the republican character of the institutions created by the Constitution;
- describe how the contemporary debate about states' rights and federalism is related to the Antifederalist-Federalist debate

Questions to Explore

Brutus argues that in a republic the customs and interests of the people must be shared. Does the subsequent experience of the United States and other countries in the world bear out or contradict this assertion? Is a nation as diverse as the United States simply ungovernable? Why or why not?

Brutus argues that enforcing the law either requires an armed force to carry out the law or a group of citizens (a militia) spontaneously supporting their magistrates (executive branch). Are these the only ways of enforcing a law? Does law always depend on armed force to carry it out?

Alexander Hamilton argued that those like Brutus had committed a fundamental mistake in their analysis. Recall that Brutus argues that a nation the size of the United States cannot be governed as a free republic. Hamilton argues that if this claim is to be taken seriously the nation either must take “refuge at once in the arms of monarchy, or [split] ourselves into an infinity of little, jealous, clashing, tumultuous commonwealths” (Federalist #9). Since these consequences are so dire, Hamilton rejects Brutus' claim. Is this an effective way of making an argument? How would Antifederalists such as Brutus have answered Alexander Hamilton?

Brutus argues that legislators should literally “know the minds” of their constituents. This raises many questions. Is such knowledge possible even on a local level such as city council or school board? Why or why not? Moreover, is precise knowledge of one's constituents' minds essential for a representative to have? Should representatives be delegates of their constituents who vote faithfully for what they think their constituents would support, or can they also be trustees, voting in what they see as the best interests of their constituents even if the constituents disagree with that choice? Should they attempt to be both delegates and trustees? Explain your answer fully with regard to a contemporary issue or policy of your choice.