

Antifederalist No. 35

Federal Taxing Power must Be Restrained

George Mason of Virginia opposed the Constitution because it lacked a Bill of Rights, and centralized powers further than he felt it necessary. Mason delivered the following speech before the Virginia ratifying convention, June 4, 1788.

Mr. Chairman, whether the Constitution be good or bad, the present clause [Article 1, Section 2] clearly discovers that it is a national government, and no longer a Confederation. I mean that clause which gives the first hint of the general government laying direct taxes. The assumption of this power of laying direct taxes does, of itself, entirely change the confederation of the states into one consolidated government. This power, being at discretion, unconfined, and without any kind of control, must carry every thing before it. The very idea of converting what was formerly a confederation to a consolidated government is totally subversive of every principle which has hitherto governed us. This power is calculated to annihilate totally the state governments. Will the people of this great community [Virginia] submit to be individually taxed by two different and distinct powers? Will they suffer themselves to be doubly harassed? These two concurrent powers cannot exist long together; the one will destroy the other. The general government being paramount to, and in every respect more powerful than the state governments, the latter must give way to the former....

Requisitions [under the Articles of Confederation] have been often refused, sometimes from an impossibility of complying with them; often from that great variety of circumstances which retards the collection of moneys; and perhaps sometimes from a wilful design of procrastinating. But why shall we give up to the national government this power, so dangerous in its nature, and for which its members will not have sufficient information? Is it not well known that what would be a proper tax in one state would be grievous in another? The gentleman who has favored us with a eulogium in favor of this system [Wilson C. Nicholas], must, after all the encomiums he has been pleased to bestow upon it, acknowledge that our federal representatives must be unacquainted with the situation of their constituents. Sixty-five members cannot possibly know the situation and circumstances of all the inhabitants of this immense continent. When a certain sum comes to be taxed, and the mode of levying to be fixed, they will lay the tax on that article which will be most productive and easiest in the collection, without consulting the real circumstances or convenience of a country, with which, in fact, they cannot be sufficiently acquainted.

The mode of levying taxes is of the utmost consequence; and yet here it is to be determined by those who have neither knowledge of our situation, nor a common interest with us, nor a fellow-feeling for us. The subject of taxation differs in three fourths, nay, I might say with truth, in four fifths of the states. If we trust the national government with an effectual way of raising the necessary sums, it is sufficient: everything we do further is trusting the happiness and rights of the people. Why, then, should we give up this dangerous power of individual taxation? Why

leave the manner of laying taxes to those who, in the nature of things, cannot be acquainted with the situation of those on whom they are to impose them, when it can be done by those who are well acquainted with it? If, instead of giving this oppressive power, we give them such an effectual alternative as will answer the purpose, without encountering the evil and danger that might arise from it, then I would cheerfully acquiesce; and would it not be far more eligible? I candidly acknowledge the inefficacy of the Confederation; but requisitions have been made which were impossible to be complied with -- requisitions for more gold and silver than were in the United States. If we give the general government the power of demanding their quotas of the states, with an alternative of laying direct taxes in case of non-compliance, then the mischief would be avoided. And the certainty of this conditional power would, in all human probability, prevent the application, and the sums necessary for the Union would be then laid by the states, by those who know how it can best be raised, by those who have a fellow-feeling for us. Give me leave to say, that the sum raised one way with convenience and ease, would be very oppressive another way. Why, then, not leave this power to be exercised by those who know the mode most convenient for the inhabitants, and not by those who must necessarily apportion it in such manner as shall be oppressive? . . . An indispensable amendment . . . is, that Congress shall not exercise the power of raising direct taxes till the states shall have refused to comply with the requisitions of Congress. On this condition it may be granted; but I see no reason to grant it unconditionally, as the states can raise the taxes with more ease, and lay them on the inhabitants with more propriety, than it is possible for the general government to do. If Congress hath this power without control, the taxes will be laid by those who have no fellow-feeling or acquaintance with the people. This is my objection to the article now under consideration. It is a very great and important one. I therefore beg gentlemen to consider it. Should this power be restrained, I shall withdraw my objections to this part of the Constitution; but as it stands, it is an objection so strong in my mind, that its amendment is with me a sine qua non of its adoption. I wish for such amendments, and such only, as are necessary to secure the dearest rights of the people....