

## The Anti-Federalist Papers (excerpts)

### Anti-Federalist Paper # 46

. . . We find here that the Congress in its legislative capacity, shall have the power to lay and collect taxes, duties, and excises; to borrow money; to regulate commerce; to fix the rule for naturalization and the laws of bankruptcy; to coin money; to punish counterfeiters; to establish post offices and post roads; to secure copy rights to authors; to constitute tribunals; to define and punish piracies; to declare war; to raise and support armies; to provide and support a navy; to call forth the militia; to organize, arm and discipline the militia; to exercise absolute power over a district ten miles square, independent of all the State legislatures, and to be alike absolute over all forts, magazines, arsenals, dock-yards, and other needful buildings thereunto belonging. This is a short abstract of the powers given to Congress . . . My object is to consider that *undefined, unbounded and immense power* which is comprised in the following clause—“And 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 offices thereof.” Under such a clause as this, can anything be said to be reserved and kept back from Congress? . . . Besides the powers already mentioned, other powers may be assumed hereafter as contained by implication in this constitution. The Congress shall judge of what is necessary and proper in all these cases, and in all other cases—in short, in all cases whatsoever.

Where then is the restraint? How are Congress bound down to the powers expressly given? What is reserved, or can be reserved? Yet even this is not all. As if it were determined that no doubt should remain, by the sixth article of the Constitution it is declared 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 Constitutions or laws of any State to the contrary notwithstanding.” The Congress are therefore vested with the supreme legislative power, without control. In giving such immense, such unlimited powers, was there no necessity of a Bill of Rights, to secure to the people their liberties? Is it not evident that we are left wholly dependent on the wisdom and virtue of the men who shall from time to time be the members of Congress? And who shall be able to say seven years hence, the members of Congress will be wise and good men, or of the contrary character?