

A historical illustration in a sepia tone showing a group of men in 18th-century attire gathered around a table, engaged in discussion. Some are holding documents, and one is pointing towards a map or document on the table. The scene is set in a room with other figures in the background, some appearing to be in a state of debate or disagreement.

DEBATING & RATIFYING THE CONSTITUTION

THE DEBATE OVER RATIFICATION BEGINS

By drafting a new Constitution, the delegates had exceeded their mandate. They were only supposed to propose amendments to the Articles of Confederation. Official approval, or ratification, of an entirely new constitution was doomed if all 13 states had to approve it as the Articles required. To improve the odds of ratification, the delegates arbitrarily decided to change the rules. They determined that approval by nine states would suffice. They also took the ratification decision away from the state legislatures, for they would most certainly oppose a new constitution that would deprive them of some power. Instead, the delegates ruled that specially elected conventions would determine a state's choice for or against the Constitution. Two groups soon emerged in the debate: the Federalists, who favored ratification, and the Antifederalists, who opposed it.

FEDERALISTS VS. ANTI-FEDERALISTS

Those who favored ratification of the Constitution were known as Federalists. The group included George Washington, James Madison, and Alexander Hamilton. The Federalists stressed the weaknesses of the Articles. They argued that only a new government based on the proposed Constitution could overcome the difficulties facing the new nation.

Critics of the Constitution, known as Antifederalists, denounced it as a retreat from the liberty won by the Revolution. This group included such leading Patriots as Samuel Adams and John Hancock of Massachusetts, George Clinton of New York, and Richard Henry Lee and Patrick Henry of Virginia. Successful state politicians, they distrusted the Federalist effort to subordinate the states to a stronger national Union. As one Antifederalist affirmed:

"What have you been contending for these ten years past? Liberty! What is Liberty? The power of governing yourselves. If you adopt this Constitution, have you this power? No: you give it into the hands of a set of men who live one thousand miles distant from you."
—James Lincoln, South Carolina delegate

Antifederalists were not all united in their reasons for opposing the Constitution, and this is one major reason for their weakened position in the ratification debates. Some of their most frequent arguments included:

- ***Weakening the States*** Antifederalists argued that the Constitution dangerously weakened the state governments. They feared that a too-strong central government, like that of England, would wipe out state power and individual freedom. "There never was a government over a very extensive country without destroying the liberties of the people," warned George Mason.
- ***No Bill of Rights*** Some Antifederalists pointed out that the proposed Constitution offered no protections for basic freedoms. Unlike the constitutions of many states, it had no bill of rights.
- ***President or King?*** Another objection was that the Constitution provided for a President who could be reelected again and again. Said Henry, "Your President may easily become a king."

Most farmers recognized that the Constitution threatened the state debtor-relief laws that had rescued their farms from foreclosure. Common farmers also distrusted the lawyers, merchants, and other wealthy men who promoted the Constitution, viewing them as aristocrats hostile to the Republic. In South Carolina, farmers protested by staging a mock funeral around a coffin with the word Liberty painted on the side. Because most citizens were farmers, the proposed Constitution lacked majority support in 1787.

However, the Constitution had the support of two of the most popular and trusted men in America—George Washington and Benjamin Franklin. Their support allayed the fears of many rural Americans. Some frontier farmers also endorsed the Constitution because they hoped that a stronger nation would defeat the Native Americans and take control of the British forts along the Great Lakes.

The Federalists also enjoyed popular support in key places—the seaports—which hosted most of the ratifying conventions. Unlike the common farmers, most urban artisans supported the Constitution. Hurt by the depression of the 1780s, the artisans hoped that a strong national government could expand American commerce. The seaports also had most of the nation’s newspapers, the printers of which strongly endorsed the Constitution.

The Federalists were also better organized than the Antifederalists. Acting quickly after the Constitutional Convention, the Federalists built a nationwide network of support. Their national experience and connections gave them a great advantage in coordinating the first national political campaign. By contrast, the Antifederalists were state politicians who struggled to build alliances across state lines.

THE FEDERALIST PAPERS & THEIR IMPORTANCE

The Federalists’ case for ratification of the Constitution appeared in *The Federalist*, a series of 85 essays that came to be called the Federalist Papers. Three leading Federalists—James Madison, Alexander Hamilton, and John Jay—wrote the essays, which were published in New York newspapers in 1787 and 1788, a time of heated debate in New York’s ratifying convention. The essays argued that the separation of powers in three branches of government would prevent the concentration of power dreaded by the Antifederalists.

The authors were also eager for the United States to have a strong central government, as supported by Madison in *The Federalist*, No. 10. Federalist leaders feared that the United States would dissolve without a strong government. For the Union to last, they argued, the national government had to have powers denied to it under the Articles of Confederation, including the power to enforce laws. Hamilton wrote:

“Government implies the power of making laws. It is essential to the idea of a law, that it be attended with . . . a penalty or punishment for disobedience. If there be no penalty . . . the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice.”

—Alexander Hamilton, *The Federalist* No. 15

They further argued in *The Federalist*, No. 51, that the checks and balances in the Constitution prevented any of the three branches from gaining too much power. The authors insisted that the real threat to liberty came from the state legislatures, which lacked sufficient checks and balances. Hamilton wrote of the importance of a judicial branch in *The Federalist*, No. 78.

Today, these essays help scholars, judges, and lawyers understand the meaning of the Constitution.

THE FINAL PROCESS OF RATIFICATION

The debate between Federalists and Antifederalists heated up as states held their ratification conventions. Without the approval of nine states, the Constitution would not go into effect. Delaware acted first. Its convention unanimously approved the Constitution on December 7, 1787. Pennsylvania, New Jersey, Georgia, and Connecticut quickly followed.

In Massachusetts, the Federalists faced defeat until they made two key concessions to sway the moderate Antifederalists, led by Governor John Hancock. First, the Federalists appealed to Hancock’s vanity. They hinted that he could become the nation’s first Vice President by switching sides. Second, to make that switch easier, they promised to support key amendments to the Constitution. They would add a bill of rights but only after ratification—not as a condition for it. In early February, following Hancock’s lead, the Massachusetts convention ratified the Constitution.

The promise of a bill of rights helped the Federalists win most of the remaining states. Maryland ratified in April; South Carolina, in May; and New Hampshire, in early June. They provided the winning nine, but the new nation would not last without the support of Virginia and New York.

All eyes moved to Virginia. By then, Maryland and South Carolina had ratified, which made a total of eight state ratifications. Only one more was needed. But if large and powerful Virginia rejected the pact, New York and other remaining states might do so, too.

Patrick Henry led the attack on the Constitution in Virginia. "There will be no checks, no real balances, in this government," he said. James Madison supported the Constitution and warned of the possible breakup of the Union. In the end, the Federalist view narrowly won out. Virginia's convention approved the Constitution by a vote of 89 to 79. In July, New York also narrowly approved after Hamilton threatened New York City's secession from the state to join the Union if the state rejected the Constitution.

With the ratification of 11 states, (except for North Carolina and Rhode Island) the Congress of the Confederation made plans for the establishment of the new government and chose New York City as the temporary capital. The new Congress convened there on March 4, 1789, in Federal Hall. Plans for electing the nation's first President and Vice President were made. Within a short time, Rhode Island and North Carolina, which had previously rejected the Constitution, reconsidered and joined the Union.

On July 4, 1788, Philadelphia celebrated the ratification of the Constitution. A huge parade snaked along Market Street, led by soldiers who had served in the Revolution. Benjamin Rush, a Philadelphia doctor and strong supporter of the Constitution, wrote to a friend, "Tis done. We have become a nation."

It was not until November 1789 that North Carolina ratified the Constitution and by May 1790, Rhode Island became the last of the original 13 states to ratify.

THE ADDITION OF A BILL OF RIGHTS

Once the ninth state had ratified the Constitution, Congress took steps to prepare for a new government. George Washington was elected the first President, with John Adams as Vice President.

During the debate on the Constitution, many of the states had insisted that a bill of rights be added. This became one of the first tasks of the new Congress that met in March 1789.

In the newly elected Congress, James Madison drafted the Bill of Rights. In the newly elected Congress, Madison drafted the Bill of Rights. Many of these amendments relied on an earlier Virginia bill of rights. Madison limited the amendments to guarantees of individual rights, leaving the federal framework the same. In 1789, the first Congress passed a series of amendments. By December 1791, three fourths of the states had ratified 10 amendments. These amendments are known as the Bill of Rights. The Bill of Rights aims to protect people against abuses by the federal government. Many of them came out of the colonists' struggle with Britain.

It goes without saying that if the Federalists deserve credit for the Constitution, the Antifederalists deserve credit for the federal Bill of Rights. Only the forceful resistance of the Antifederalists obliged the Federalists to add a bill of rights.

The First Amendment guarantees freedom of religion, speech, and the press. The Second Amendment deals with the right to bear arms. The Third Amendment bars Congress from forcing citizens to keep troops in their homes, as Britain had done. The Fourth Amendment protects citizens from unreasonable searches of their homes or seizure of their property. Amendments Five through Eight protect citizens who are accused of crimes and are brought to trial. The last two amendments limit the powers of the federal government to those that are granted in the Constitution.

Madison feared that any finite list of rights would later be abused to deny any left unmentioned. So the Ninth Amendment provided: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." That left open the subsequent development of additional rights.

QUESTIONS TO ANSWER FROM THE READING

35PTS

1. Who were the three major figures of the Federalist position?
2. Who were at least three of the major figures of the Anti-Federalist position?
3. Why did the Federalists seem to have more success in getting across their positions compared to the Antifederalists?
4. What were some of the main arguments of the Antifederalists against the Constitution?
5. What were some of the main arguments of the Federalists for the Constitution?
6. Why was the vote over ratification in Virginia so important?
7. Why did James Madison find it necessary to add the Ninth Amendment?