

WHAT AIR IS TO FIRE

There are again two methods of removing the causes of faction: the one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests. It could never be more truly said than of the first remedy, that it was worse than the disease. **Liberty is to faction what air is to fire, an aliment without which it instantly expires.** But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency. The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed.



James Madison
The Federalist #10

James Madison 1751-1836
Montpelier: Madison's Virginia home

Unit Overview

Once the Constitution was written, it was sent to the states for ratification. Public opinion crystallized into two opposing camps—the Federalists who liked the Constitution and the Anti-federalists who did not. If the document was to take effect, nine of the thirteen states had to accept it as the supreme law of the land. Support for both sides of the issue resulted in intense but productive discussions. Just as air is necessary to keep a fire going, citizens of the United States soon realized that their newfound liberty fueled controversy and debate.

The Ratification Debate

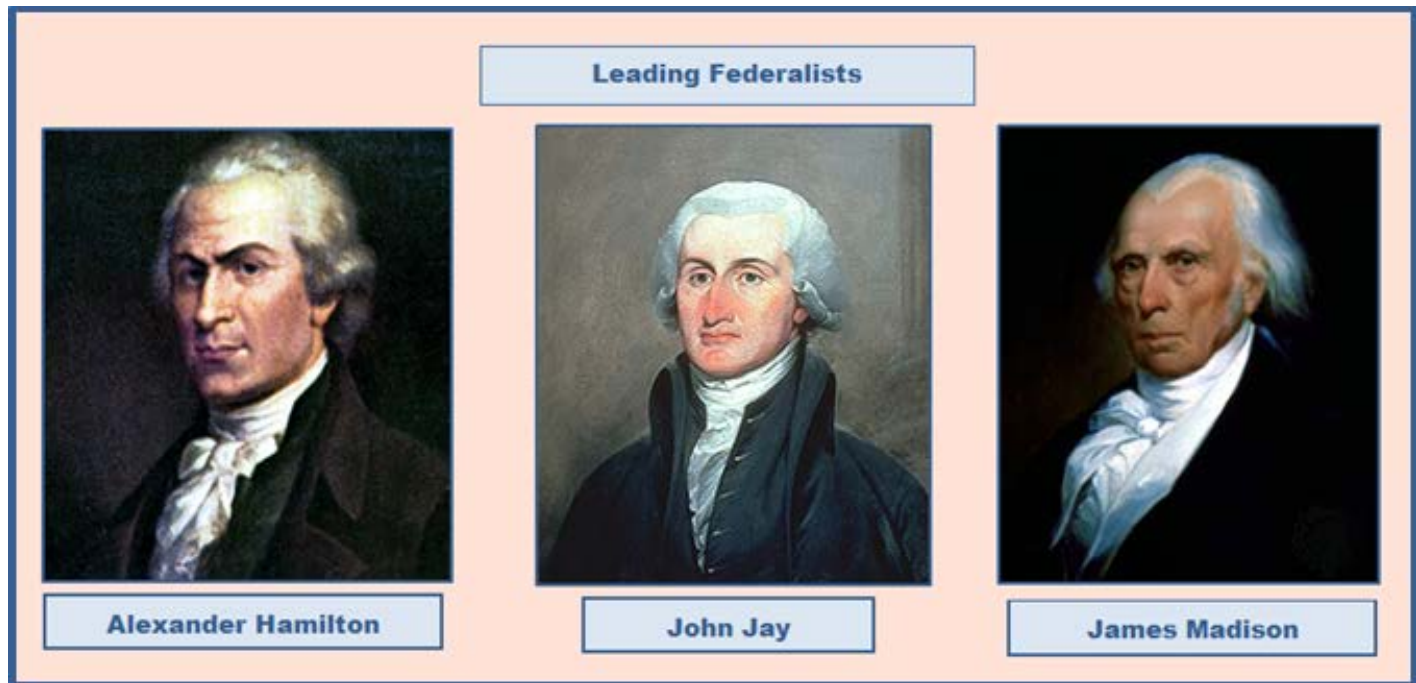
The delegates of the Constitutional Convention had met the challenge of creating a new plan for government, but obtaining acceptance from the states proved to be an uphill battle. Article VII of the Constitution required the agreement of nine states for ratification, and each state had to call a special convention for this purpose. Heated discussions quickly divided Americans into two groups—the **Federalists** who supported the Constitution and the **Anti-federalists** who opposed it.

Antifederalist vs Federalist	
Antifederalist Position	Federalist Position
A strong, national government threatened the power of the states.	A strong, national government was necessary for the new nation to survive.
The Articles of Confederation offered a good plan of government.	The Articles of Confederation created an ineffective system of government.
The Constitution lacked a bill of rights.	The protection of rights offered by the Constitution and state constitutions made a bill of rights unnecessary.
A strong, central government threatened the rights of average people.	Experienced men should govern the country.
The exclusion of references to God was unacceptable.	The separation of church and state was necessary.

The Anti-federalist camp included such well-known patriots as **John Hancock**, **Patrick Henry** and **Sam Adams**. They worried that a strong, national government took too much power from the states and viewed the use of a standing army as a threat. The Anti-federalists also feared the violation of individual rights, such as freedom of speech and freedom of the press, without a bill of rights to secure them. They saw the revision of the Articles of Confederation as a much more practical solution to the woes facing the new nation, and the push for the acceptance of the Constitution appeared radical and rushed to them.



James Madison, John Jay, Alexander Hamilton and other leading Federalists argued that the weaknesses of the Articles of Confederation could only be corrected by a strong, national government. They saw no point in continuing to review the Articles of Confederation and believed that delaying the ratification of the Constitution only compounded the country's problems. The Federalists argued that a bill of rights was unnecessary since many state constitutions already included this feature. However, the Constitution's supporters were willing to add a bill of rights once the Constitution was adopted.

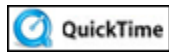


Both the Federalists and the Anti-federalists attempted to sway public opinion through a series of essays published in newspapers and pamphlets. Collections of these letters became known as *The Federalist Papers* and *The Anti-federalist Papers*. Under the pen name of **Publius**, Alexander Hamilton, John Jay, James Madison and other Federalists defended the Constitution, justified its ratification and answered the criticisms of the Anti-federalists. In opposition, a variety of statesmen, including George Clinton, Robert Yates and Patrick Henry, explained the Anti-federalist objections and concerns in essays and speeches. Although these essays were not widely read outside of the states in which they were published, they represent the use of printed media to impact political decisions and public opinion. These writings are still read by students of political science and used to refute or reinforce opinions on government.

Antifederalist #1	Federalist #30
<p>In the business therefore of laying and collecting taxes, the idea of confederation is totally lost, and that of one entire republic is embraced. It is proper here to remark, that the authority to lay and collect taxes is the most important of any power that can be granted; it connects with it almost all other powers, or at least will in process of time draw all other after it; it is the great mean of protection, security, and defense, in a good government, and the great engine of oppression and tyranny in a bad one. This cannot fail of being the case, if we consider the contracted limits which are set by this constitution, to the late state governments, on this article of raising money. No state can emit paper money — lay any duties, or imposts, on imports, or exports, but by consent of the Congress; and then the net produce shall be for the benefit of the United States: the only mean therefore left, for any state to support its government and discharge its debts, is by direct taxation; and the United States have also power to lay and collect taxes, in any way they please. Everyone who has thought on the subject, must be convinced that but small sums of money can be collected in any country, by direct taxes, when the federal government begins to exercise the right of taxation in all its parts, the legislatures of the several states will find it impossible to raise monies to support their governments. Without money they cannot be supported, and they must dwindle away, and, as before observed, their powers absorbed in that of the general government.</p>	<p>But two considerations will serve to quiet all apprehension on this head: one is that we are sure the resources of the community, in their full extent, will be brought into activity for the benefit of the Union; the other is, that whatever deficiencies there may be, can without difficulty be supplied by loans. The power of creating new funds upon new objects of taxation, by its own authority, would enable the national government to borrow as far as its necessities might require. Foreigners, as well as the citizens of America, could then reasonably repose confidence in its engagements; but to depend upon a government that must itself depend upon thirteen other governments for the means of fulfilling its contracts, when once its situation is clearly understood, would require a degree of credulity not often to be met with in the pecuniary transactions of mankind, and little reconcilable with the usual sharp-sightedness of avarice. Reflections of this kind may have trifling weight with men who hope to see realized in America the halcyon scenes of the poetic or fabulous age; but to those who believe we are likely to experience a common portion of the vicissitudes and calamities which have fallen to the lot of other nations, they must appear entitled to serious attention. Such men must behold the actual situation of their country with painful solicitude, and deprecate the evils which ambition or revenge might, with too much facility, inflict upon it.</p>

Once the state conventions began their discussions on ratification, it became apparent that the Federalists had a strong foothold in seven states. Delaware, Pennsylvania, New Jersey, Georgia, Connecticut, Maryland and South Carolina approved the Constitution. This left the new government two states short of the required number for ratification. The Anti-federalists mounted fierce opposition in the key states of Massachusetts, New York and Virginia. By the summer of 1788, all three passed the Constitution with a narrow margin by promising to add a bill of rights through the amendment process. Rhode Island and North Carolina remained

opposed but soon realized that they were unlikely to survive as independent nations. They, too, joined the Union. The Federalists had succeeded in creating a stable, national government based on written law.



The Federalist Papers (03:52)

Go the Questions 1 through 12.

The Bill of Rights

The first national elections under the direction of the United States Constitution took place in 1789. One of the first issues tackled by the new Congress and President Washington was to fulfill the Federalist promise of a bill of rights. James Madison, elected by Virginia to the House of Representatives, was assigned the leading role in preparing the written draft. He reviewed several state constitutions and selected nineteen potential amendments that were sent to the states for their approval. Ten were ratified by the states in 1791 and were added to the Constitution as the Bill of Rights.

Summary of the Bill of Rights	
Amendment	Rights and Protections
First Amendment	Rights of speech, press, religion, assembly and petition
Second Amendment	Right to bear arms
Third Amendment	Protection from housing soldiers in private homes
Fourth Amendment	Protection from unreasonable searches or seizures and the use of warrants without probable cause
Fifth Amendment	Protections from trial without indictment, double jeopardy, self-incrimination and property seizure
Sixth Amendment	Rights to a speedy trial, knowledge of charges, use of witnesses, confrontation of witnesses and legal counsel
Seventh Amendment	Right to a trial by jury
Eighth Amendment	Protection from excessive bail, excessive fines and cruel/unusual punishment
Ninth Amendment	Rights not listed in the Constitution are held by the people
Tenth Amendment	Powers not granted to the national government in the Constitution belong to the states

The idea of a precise statement of individual rights was not novel or unique to Americans. It was a legal tradition deeply rooted in British political culture and the values of the Enlightenment. In

1215, a group of feudal barons and King John of England signed the Magna Carta at Runnymede near Windsor Castle. The document consisted of a series of written promises between the King and his subjects; it also marked an attempt to limit the power of the monarchy. Although it did not demand freedom of speech or freedom of religion, the Magna Carta emphasized the right to due process of law and trial by jury. The English Bill of Rights, passed in 1689, further curtailed the king's authority by outlawing excessive fines and cruel punishments. Legislators were granted freedom of speech when speaking in Parliament, and subjects were given the right to petition the king. James Madison also drew on the American colonial experience when drafting the first ten amendments to the Constitution. The Virginia Declaration of Rights, the Northwest Ordinance and the Articles of Confederation shaped the American perception of individual rights. The United States Bill of Rights also reflected the principles of the Enlightenment by elaborating on the concept of natural rights and by defining the social contract in more specific terms.

Provisions from the Magna Carta

In future no official shall place a man on trial upon his own unsupported statement, without producing credible witnesses to the truth of it.

No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his peers (equals) or by the law of the land.

To no one will we sell, to no one deny or delay right or justice.



Go to Questions 13 through 18

What's Next?

Since their adoption, the Constitution and the Bill of Rights have been examined and interpreted by subsequent generations of Americans. The era following the Civil War and Reconstruction was no exception. A shift to an industrial economy and a rapidly growing urban population created new challenges for the political system and society as a whole. In the next unit, you will see how big business changed and tested the United States. Before continuing, review the material presented in this unit; then, complete Questions 19 through 28.

Go to Questions 19 through 28.