

WHO WERE THE FEDERALISTS AND THE ANTI-FEDERALISTS?

Let's begin with the Federalists. Federalists supported the U.S. Constitution. Famous Federalists included two of America's most beloved figures—George Washington and Benjamin Franklin—and some of the nation's most gifted political leaders (and thinkers), including James Madison, Alexander Hamilton, John Jay, John Dickinson, James Wilson, and Gouverneur Morris. So, the Federalist leaders included some (very) popular leaders, brilliant thinkers, and political heavyweights!

What about the rank-and-file Federalists? Overall, they tended to be better educated than the Anti-Federalists. And they were more likely to be wealthy and to live in cities.

Why did the Federalists support a new constitution? What did they say?

Broadly speaking, the Federalists argued that in order to grow into a great nation, the United States needed a stronger national government. The Federalist drive for a new constitution was driven, in part, by the events of the previous decade: the failures of Congress during the American Revolution, the weaknesses of the Articles of Confederation, and the flaws of the new state governments put in place between the Declaration of Independence and the new Constitution.

Drawing on these experiences, the Federalists concluded that America needed a national government with enough power to address genuinely national issues. In other words, in the Federalists' view, America's national government must have the sorts of powers that national governments—for instance, those in Europe—usually had: the power to raise an army, the power to tax, the power to regulate commerce and trade with other nations and between the American states, the power to shape the nation's foreign policy, and the power to declare war.

What about the Anti-Federalists? Who were they?

The Anti-Federalists opposed the new Constitution. The Anti-Federalist camp included its own list of Founding-era heavyweights—including Virginia's George Mason, Patrick Henry, and Richard Henry Lee; Massachusetts's Samuel Adams, Elbridge Gerry, and Mercy Otis Warren; and New York's powerful Governor George Clinton.

What about the rank-and-file Anti-Federalists? Generally speaking, Anti-Federalists were more likely to be small farmers than lawyers or merchants. In addition, Anti-Federalist support was

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stronger: out West rather than in the East, in rural areas rather than in the cities, and in large states rather than in small states.

While many Americans know about the *Federalist Papers*, the Anti-Federalists included their own set of powerful authors—every bit as politically potent and theoretically sophisticated as their Federalist opponents. For instance, there’s “Brutus”—usually thought to be leading New York Anti-Federalists (and one-time Constitutional Convention delegate) Robert Yates. Massachusetts poet, historian, and patriot—Mercy Otis Warren—penned her own influential *Observations on the New Constitution*, using the pen name: “A Columbian Patriot.” And other key Anti-Federalist writers included “Federal Farmer” (likely New York’s Melancton Smith or Virginia’s Richard Henry Lee) and “Centinel” (Pennsylvania’s Samuel Bryan).

What were some of the Anti-Federalists’ main reasons for opposing the new Constitution?

In many ways, the ratification battle was a debate over political power—and where to place it. In other words, it was a battle over federalism—the question of how much power to give to the national government and how much power to keep with the states. While the Federalists argued for a stronger national government, the Anti-Federalists defended a vision of America rooted in powerful states.

The Anti-Federalists feared that the Constitution gave the new national government too much power and that this new government—led by a new group of distant, out-of-touch political elites—would seize all political power; swallow up the states—the governments that were closest to the people themselves; and abuse the rights of the American people. For the Anti-Federalists, this was the road to tyranny!

Remember, Americans at the founding rarely traveled outside of their own towns. For them, the nation’s capital—though located in New York, Philadelphia, and (eventually) Washington, D.C.—might as well have been in London. So, the Anti-Federalists weren’t interested in replacing a powerful, out-of-touch, distant government in Great Britain with a new one—whether in New York City, Philadelphia, or (eventually) Washington, D.C. Better to keep most political power at the state and local level, where it had always been in America—the governments closest to the American people—and limit the powers of the national government.

In the end, the Anti-Federalists faced an uphill fight during the battle over ratification. Americans had largely concluded that the Articles of Confederation had serious problems. Even many key Anti-Federalists agreed with that! Furthermore, to win political battles, it often takes a plan to beat a plan. The Federalists had a plan—the Constitution. The Anti-Federalists didn’t. As a result, it was easy for the Federalists to frame the ratification fight as a battle between a new constitution and the deeply flawed Articles of Confederation.

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Anti-Federalists:

- George Mason, “Objections to the Constitution of Government formed by the Convention” (1787)
- *Brutus* No. 1 (1787)
- Mercy Otis Warren, *Observations on the New Constitution* (1788)

Federalists:

- *Federalist* No. 1
- *Federalist* No. 10
- *Federalist* No. 51
- *Federalist* No. 70
- *Federalist* No. 78

Anti-Federalists

George Mason, “Objections to the Constitution of Government formed by the Convention” (1787)

View the document on the National Constitution Center’s website [here](#).

George Mason, member of a prominent Virginia family who had authored Virginia’s Declaration of Rights in 1776, was one of three delegates in Philadelphia (along with fellow Virginian, Edmund Randolph, and Elbridge Gerry) who refused to sign the finished Constitution. Shortly after the Convention adjourned, Mason wrote this memorandum outlining his objections. It soon circulated widely and became the basic template for Anti-Federalist opposition to the Constitution, concisely articulating many of the complaints that would reverberate throughout the ratification struggle: The House of Representatives was too small to represent such a large nation; the president was insufficiently checked; the construction of the judiciary and the sweeping power vested in Congress would spell the end of the state governments; and, perhaps most striking, the Constitution lacked a bill of rights.

Excerpt:

“There is no Declaration of Rights; and the Laws of the general Government being paramount to the Laws & Constitutions of the several States, the Declarations of Rights in the separate States are no Security.

...

In the House of Representatives there is not the Substance, but the Shadow only of Representation; which can never produce proper Information in the Legislature, or inspire

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Confidence in the People: the Laws will therefore be generally made by Men little concern'd in, and unacquainted with their Effects &Consequences.—

...

The Judiciary of the United States is so constructed & extended, as to absorb & destroy the Judiciarys of the several States; thereby rendering Law as tedious intricate & expensive, and Justice as unattainable, by a great Part of the Community, as in England, and enabling the Rich to oppress & ruin the Poor.—

...

The President of the United States has no constitutional Council (a thing unknown in any safe & regular Government) he will therefore be unsupported by proper Information & Advice; and will generally be directed by Minions & Favourites—or He will become a Tool to the Senate—or a Council of State will grow out of the principal Officers of the great Departments; the worst & most dangerous of all Ingredients for such a Council, in a free Country;

...

Under their own Construction of the general Clause at the End of the enumerated Powers, the Congress may grant Monopolies in Trade & Commerce, constitute new Crimes, inflict unusual & severe Punishments, and extend their Power as far as they shall think proper; so that the State Legislatures have no Security for the Powers now presumed to remain to them; or the People for their Rights.—

...

This Government will commence in a moderate Aristocracy; it is at present impossible to foresee whether it will, in it's [*sic*] Operation, produce a Monarchy, or a corrupt oppressive Aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other.—”

Brutus No. 1 (1787)

View the document on the National Constitution Center's website [here](#).

“Brutus” was the pseudonym for one of the most forceful Anti-Federalist voices during the ratification debates over the U.S. Constitution. While scholars still debate the author of the Brutus essays, most believe that they were written by New York Anti-Federalist Robert Yates. Yates was a New York state judge. He was a close ally of powerful New York Governor George Clinton. He represented New York at the Constitutional Convention, but he left early because he opposed the new Constitution emerging in secret in Philadelphia. Later, he served as a leading

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Anti-Federalist delegate in the New York state ratifying convention. Brutus published his essays during the debates over ratification of the Constitution—expressing a range of doubts. For Brutus, the ratification debates turned on one key question: Do the American people want a system driven by the states or one organized around a powerful national government? Echoing influential political theorists like Montesquieu, Brutus feared that a republican form of government could not succeed in a large nation like America. As a result, he favored placing most key powers in the governments closest to the American people: their state and local governments. Brutus's essays were so incisive that they helped spur Alexander Hamilton to organize (and co-author) *The Federalist Papers* in response.

Excerpt:

Let us now proceed to enquire, as I at first proposed, whether it be best the thirteen United States should be reduced to one great republic, or not? It is here taken for granted, that all agree in this, that whatever government we adopt, it ought to be a free one; that it should be so framed as to secure the liberty of the citizens of America, and such a one as to admit of a full, fair, and equal representation of the people. The question then will be, whether a government thus constituted, and founded on such principles, is practicable, and can be exercised over the whole United States, reduced into one state?

If respect is to be paid to the opinion of the greatest and wisest men who have ever thought or wrote on the science of government, we shall be constrained to conclude, that a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these increasing in such rapid progression as that of the whole United States. Among the many illustrious authorities which might be produced to this point, I shall content myself with quoting only two. The one is the baron de Montesquieu "It is natural to a republic to have only a small territory, otherwise it cannot long subsist. In a large republic there are men of large fortunes, and consequently of less moderation; there are trusts too great to be placed in any single subject; he has interest of his own; he soon begins to think that he may be happy, great and glorious, by oppressing his fellow citizens; and that he may raise himself to grandeur on the ruins of his country. In a large republic, the public good is sacrificed to a thousand views; it is subordinate to exceptions, and depends on accidents. In a small one, the interest of the public is easier perceived, better understood, and more within the reach of every citizen; abuses are of less extent, and of course are less protected." Of the same opinion is the marquis Beccarari. . . .

In a free republic, although all laws are derived from the consent of the people, yet the people do not declare their consent by themselves in person, but by representatives, chosen by them, who are supposed to know the minds of their constituents, and to be possessed of integrity to declare this mind.

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In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one. The former are ruled by the will of the whole, expressed in any manner they may agree upon; the latter by the will of one, or a few. If the people are to give their assent to the laws, by persons chosen and appointed by them, the manner of the choice and the number chosen, must be such, as to possess, be disposed, and consequently qualified to declare the sentiments of the people; for if they do not know, or are not disposed to speak the sentiments of the people, the people do not govern, but the sovereignty is in a few. Now, in a large extended country, it is impossible to have a representation, possessing the sentiments, and of integrity, to declare the minds of the people, without having it so numerous and unwieldy, as to be subject in great measure to the inconveniency of a democratic government.

The territory of the United States is of vast extent; it now contains near three millions of souls, and is capable of containing much more than ten times that number. Is it practicable for a country, so large and so numerous as they will soon become, to elect a representation, that will speak their sentiments, without their becoming so numerous as to be incapable of transacting public business? It certainly is not.

In a republic, the manners, sentiments, and interests of the people should be similar. If this be not the case, there will be a constant clashing of opinions; and the representatives of one part will be continually striving, against those of the other. This will retard the operations of government, and prevent such conclusions as will promote the public good. If we apply this remark to the condition of the United States, we shall be convinced that it forbids that we should be one government. . . .

In despotic governments, as well as in all the monarchies of Europe, standing armies are kept up to execute the commands of the prince or the magistrate, and are employed for this purpose when occasion requires: But they have always proved the destruction of liberty, and [are] abhorrent to the spirit of a free republic. In England, where they depend upon the parliament for their annual support, they have always been complained of as oppressive and unconstitutional, and are seldom employed in executing of the laws; never except on extraordinary occasions, and then under the direction of a civil magistrate. . . .

The confidence which the people have in their rulers, in a free republic, arises from their knowing them, from their being responsible to them for their conduct, and from the power they have of displacing them when they misbehave: but in a republic of the extent of this continent, the people in general would be acquainted with very few of their rulers; the people at large would know little of their proceedings, and it would be extremely difficult to change them. . . . In a republic of such vast extent as the United-States, the legislature cannot attend to the various concerns and wants of its different parts. It cannot be sufficiently numerous to be acquainted with the local condition and wants of the different districts, and if it could, it is impossible it

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should have sufficient time to attend to and provide for all the variety of cases of this nature, that would be continually arising.

In so extensive a republic, the great officers of government would soon become above the control of the people, and abuse their power to the purpose of aggrandizing themselves, and oppressing them. The trust committed to the executive offices, in a country of the extent of the United-States, must be various and of magnitude. The command of all the troops and navy of the republic, the appointment of officers, the power of pardoning offences, the collecting of all the public revenues, and the power of expending them, with a number of other powers, must be lodged and exercised in every state, in the hands of a few. When these are attended with great honor and emolument, as they always will be in large states, so as greatly to interest men to pursue them, and to be proper objects for ambitious and designing men, such men will be ever restless in their pursuit after them. They will use the power, when they have acquired it, to the purposes of gratifying their own interest and ambition, and it is scarcely possible, in a very large republic, to call them to account for their misconduct, or to prevent their abuse of power.

These are some of the reasons by which it appears that a free republic cannot long subsist over a country of the great extent of these states. If then this new constitution is calculated to consolidate the thirteen states into one, as it evidently is, it ought not to be adopted.

Mercy Otis Warren, *Observations on the New Constitution* (1788)

View the document on the National Constitution Center's website [here](#).

Mercy Otis Warren was deeply connected in the world of Massachusetts Revolutionary politics. The sibling of James Otis, she became friends and regular correspondents with many of the state's leaders, including John, Abigail, and Samuel Adams. A poet and pamphleteer in her own right, throughout the imperial crisis she had urged her fellow colonists to resist British tyranny. This experience conditioned her zealous opposition to the federal Constitution over a decade later, captured so powerfully in her pamphlet, *Observations on the New Constitution* published in early 1788 under the pseudonym, "A Columbia Patriot." (Only much later would it be attributed to her.) Warren viewed the Constitution from the perspective of the "Spirit of '76"—the original animating principles of the Revolution—and explained in vivid, poetic prose why the proposed system of government posed much the same threat to American liberty as the British government once had. There was a tragic irony here, as Warren saw it: the same population that had risked their lives to escape distant, centralized tyranny now appeared willing, a mere decade later, to settle for much the same at home. In hopes of awakening Americans from their slumber, Warren reminded readers of the republican tenets to which they had once clung as well as the imperial governance under which they had once suffered.

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Excerpt:

“Mankind may amuse themselves with theoretick systems of liberty, and trace its social and moral effects on sciences, virtue, industry and every improvement of which the human mind is capable; but we can only discern its true value by the practical and wretched effects of slavery; and thus dreadfully will they be realized, when the inhabitants of the Eastern States are dragging out a miserable existence, only on the gleanings of their fields; and the Southern, blessed with a softer and more fertile climate, are languishing in hopeless poverty; and when asked, what is become of the flower of their crop, and the rich produce of their farms—they may answer in the hapless stile of the *Man of La Mancha*,—” The steward of my Lord has seized and sent it to *Madrid*.” Or, in the more literal language of truth, The *exigencies* of government require that the collectors of the revenue should transmit it to the *Federal City*.

Animated with the firmest zeal for the interest of this country, the peace and union of the American States, and the freedom and happiness of a people who have made the most costly sacrifices in the cause of liberty,—who have braved the power of Britain, weathered the convulsions of war, and waded thro’ the blood of friends and foes to establish their independence and to support the freedom of the human mind; I cannot silently witness this degradation without calling on them, before they are compelled to blush at their own servitude, and to turn back their languid eyes on their lost liberties — to consider, that the character of nations generally changes at the moment of revolution.

...

But the revolutions in principle which time produces among mankind, frequently exhibits the most mortifying instances of human weakness; and this alone can account for the extraordinary appearance of a few names, once distinguished in the honourable walks of patriotism, but now found in the list of the Massachusetts assent to the ratification of a Constitution, which, by the undefined meaning of some parts, and the ambiguities of expression in others, is dangerously adapted to the purposes of an immediate aristocratic tyranny; that from the difficulty, if not impracticability of its operation, must soon terminate in the most uncontroled despotism.

...

Though it has been said by Mr. *Wilson* and many others, that a Standing-Army is necessary for the dignity and safety of America, yet freedom revolts at the idea, when the Divan, or the Despot, may draw out his dragoons to suppress the murmurs of a few, who may yet cherish those sublime principles which call forth the exertions, and lead to the best improvements of the human mind. It is hoped this country may yet be governed by milder methods than are usually displayed beneath the bannerets of military law.—Standing armies have been the nursery of vice and the bane of liberty from the Roman legions to the establishment of the artful Ximenes, and from the ruin of the Cortes of Spain, to the planting of the British cohorts in the capitals of

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America : — By the edicts of an authority vested in the sovereign power by the proposed constitution, the militia of the country, the bulwark of defence, and the security of national liberty if no longer under the controul of civil authority; but at the rescript of the Monarch, or the aristocracy, they may either be employed to extort the enormous sums that will be necessary to support the civil list — to maintain the regalia of power — and the splendour of the most useless part of the community, or they may be sent into foreign countries for the fulfilment of treaties, stipulated by the President and two-thirds of the Senate.

...

This people have not forgotten the artful insinuations of a former Governor, when pleading the unlimited authority of parliament before the legislature of the Massachusetts; nor that his arguments were very similar to some lately urged by gentlemen who boast of opposing his measures, "*with halters about their necks.*"

We were then told by him, in all the soft language of insinuation, that no form of government, of human construction can be perfect — that we had nothing to fear — that we had no reason to complain — that we had only to acquiesce in their illegal claims, and to submit to the requisition of parliament, and doubtless the lenient hand of government would redress all grievances, and remove the oppressions of the people: — Yet we soon saw armies of mercenaries encamped on our plains— our commerce ruined — our harbours blockaded — and our cities burnt....The banners of freedom were erected in the wilds of America by our ancestors, while the wolf prowled for his prey on the one hand, and more savage man on the other; they have been since rescued from the invading hand of foreign power, by the valor and blood of their posterity; and there was reason to hope they would continue for ages to illumine a quarter of the globe, by nature kindly separated from the proud monarchies of Europe, and the infernal darkness of Asiatic slavery.

...

Since their dismemberment from the British empire, America has, in many instances, resembled the conduct of a restless, vigorous, luxurious youth, prematurely emancipated from the authority of a parent, but without the experience necessary to direct him to act with dignity or discretion. Thus we have seen her break the shackles of foreign dominion, and all the blessings of peace restored on the more honourable terms: She acquired the liberty of framing her own laws, choosing her own magistrates, and adopting manners and modes of government the most favourable to the freedom and happiness of society. But how little have we availed ourselves of these superior advantages: The glorious fabric of liberty successfully reared with so much labor an assiduity totters to the foundation, and may be blown away as the bubble of fancy by the rude breath of military combinations, and politicians of yesterday."

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Federalists:

Alexander Hamilton, *Federalist No. 1* (1787)

View the document on the National Constitution Center's website [here](#).

On October 27, 1787, Alexander Hamilton published the opening essay of The Federalist Papers—Federalist No. 1. The Federalist Papers were a series of 85 essays printed in newspapers to persuade the American people (and especially Hamilton's fellow New Yorkers) to support ratification of the new Constitution. These essays were written by Alexander Hamilton, James Madison, and John Jay—with all three authors writing under the pen name “Publius.” On September 17, 1787, the delegates to the Constitutional Convention had signed the new U.S. Constitution. This new Constitution was the framers’ proposal for a new national government. But it was only that—a proposal. The framers left the question of ratification—whether to say “yes” or “no” to the new Constitution—to the American people. In the framers’ view, only the American people themselves had the authority to tear up the previous framework of government—the Articles of Confederation—and establish a new one. The ratification process itself embodied one of the Constitution’s core principles: popular sovereignty, or the idea that all political power is derived from the consent of “We the People.” In *Federalist No. 1*, Hamilton captured this vision well, framing the stakes of the battle over ratification. In this opening essay, Hamilton called on the American people to “deliberate on a new Constitution” and prove to the world that they were capable of choosing a government based on “reflection and choice,” not “accident and force.”

Excerpt:

AFTER an unequivocal experience of the inefficiency of the subsisting federal government, you are called upon to deliberate on a new Constitution for the United States of America. The subject speaks its own importance; comprehending in its consequences nothing less than the existence of the UNION, the safety and welfare of the parts of which it is composed, the fate of an empire in many respects the most interesting in the world. It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force. If there be any truth in the remark, the crisis at which we are arrived may with propriety be regarded as the era in which that decision is to be made; and a wrong election of the part we shall act may, in this view, deserve to be considered as the general misfortune of mankind. This idea will add the inducements of philanthropy to those of patriotism, to heighten the solicitude which all considerate and good men must feel for the event. Happy will it be if our choice should be directed by a judicious estimate of our true interests, unperplexed and unbiased by considerations not connected with the public good. But this is a thing more ardently to be wished than seriously to be expected. The plan offered to our deliberations affects too many

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particular interests, innovates upon too many local institutions, not to involve in its discussion a variety of objects foreign to its merits, and of views, passions and prejudices little favorable to the discovery of truth.

Among the most formidable of the obstacles which the new Constitution will have to encounter may readily be distinguished the obvious interest of a certain class of men in every State to resist all changes which may hazard a diminution of the power, emolument, and consequence of the offices they hold under the State establishments; and the perverted ambition of another class of men, who will either hope to aggrandize themselves by the confusions of their country, or will flatter themselves with fairer prospects of elevation from the subdivision of the empire into several partial confederacies than from its union under one government.

It is not, however, my design to dwell upon observations of this nature. I am well aware that it would be disingenuous to resolve indiscriminately the opposition of any set of men (merely because their situations might subject them to suspicion) into interested or ambitious views. Candor will oblige us to admit that even such men may be actuated by upright intentions; and it cannot be doubted that much of the opposition which has made its appearance, or may hereafter make its appearance, will spring from sources, blameless at least, if not respectable—the honest errors of minds led astray by preconceived jealousies and fears. So numerous indeed and so powerful are the causes which serve to give a false bias to the judgment, that we, upon many occasions, see wise and good men on the wrong as well as on the right side of questions of the first magnitude to society. This circumstance, if duly attended to, would furnish a lesson of moderation to those who are ever so much persuaded of their being in the right in any controversy. And a further reason for caution, in this respect, might be drawn from the reflection that we are not always sure that those who advocate the truth are influenced by purer principles than their antagonists. Ambition, avarice, personal animosity, party opposition, and many other motives not more laudable than these, are apt to operate as well upon those who support as those who oppose the right side of a question. Were there not even these inducements to moderation, nothing could be more ill-judged than that intolerant spirit which has, at all times, characterized political parties. For in politics, as in religion, it is equally absurd to aim at making proselytes by fire and sword. Heresies in either can rarely be cured by persecution.

And yet, however just these sentiments will be allowed to be, we have already sufficient indications that it will happen in this as in all former cases of great national discussion. A torrent of angry and malignant passions will be let loose. To judge from the conduct of the opposite parties, we shall be led to conclude that they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations and the bitterness of their invectives. An enlightened zeal for the energy and efficiency of government will be stigmatized as the offspring of a temper fond of despotic power and hostile to the principles of liberty. An over-scrupulous jealousy of danger to the rights of the people, which is more commonly the fault of the head than of the heart, will be represented as mere

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pretense and artifice, the stale bait for popularity at the expense of the public good. It will be forgotten, on the one hand, that jealousy is the usual concomitant of love, and that the noble enthusiasm of liberty is apt to be infected with a spirit of narrow and illiberal distrust. On the other hand, it will be equally forgotten that the vigor of government is essential to the security of liberty; that, in the contemplation of a sound and well-informed judgment, their interest can never be separated; and that a dangerous ambition more often lurks behind the specious mask of zeal for the rights of the people than under the forbidden appearance of zeal for the firmness and efficiency of government. History will teach us that the former has been found a much more certain road to the introduction of despotism than the latter, and that of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants. . . .

It may perhaps be thought superfluous to offer arguments to prove the utility of the UNION, a point, no doubt, deeply engraved on the hearts of the great body of the people in every State, and one, which it may be imagined, has no adversaries. But the fact is, that we already hear it whispered in the private circles of those who oppose the new Constitution, that the thirteen States are of too great extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole. This doctrine will, in all probability, be gradually propagated, till it has votaries enough to countenance an open avowal of it. For nothing can be more evident, to those who are able to take an enlarged view of the subject, than the alternative of an adoption of the new Constitution or a dismemberment of the Union. It will therefore be of use to begin by examining the advantages of that Union, the certain evils, and the probable dangers, to which every State will be exposed from its dissolution. This shall accordingly constitute the subject of my next address.

James Madison, *Federalist No. 10* (1788)

View the document on the National Constitution Center's website [here](#).

In *Federalist No. 10*, Madison fulfills the promise made in *Federalist No. 9* to demonstrate the utility of the proposed union in overcoming the problem of faction. Madison's argument is the most systematic argument presented in the *Federalist Papers*, with syllogistically developed reasoning sustained virtually throughout.

Excerpt:

"Among the numerous advantages promised by a well-constructed Union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. The friend of popular governments never finds himself so much alarmed for their character and fate, as when he contemplates their propensity to this dangerous vice.

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The valuable improvements made by the American constitutions on the popular models, both ancient and modern, cannot certainly be too much admired; but it would be an unwarranted partiality, to contend that they have as effectually obviated the danger on this side, as was wished and expected. Complaints are everywhere heard from our most considerate and virtuous citizens, equally the friends of public and private faith, and of public and personal liberty, that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party, but by the superior force of an interested and overbearing majority. These must be chiefly, if not wholly, effects of the unsteadiness and injustice, with which a factious spirit has tainted our public administrations.

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.

There are two methods of curing the mischiefs of faction. The one, by removing its causes; the other, by controlling its effects. 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 is worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it would not be a 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. As long as the connection subsists between his reason and his selflove, his opinions and his passions will have a reciprocal influence on each other; and the former will be objects to which the latter will attach themselves. The diversity in the faculties of men, from which the rights of property originate, is not less an insuperable obstacle to an uniformity of interests. The protection of those faculties is the first object of government. From the protection of different and unequal faculties of acquiring property, the possession of different degrees and kinds of property immediately results; and from the influence of these on the sentiments and views of the respective proprietors, ensues a division of the society into different interests and parties.

The latent causes of faction are thus sown in the nature of man; ... and rendered them much more disposed to vex and oppress each other, than to co-operate for their common good. So strong is this propensity of mankind, to fall into mutual animosities, that where no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle

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their unfriendly passions and excite their most violent conflicts. But the most common and durable source of factions has been the various and unequal distribution of property. Those, who hold, and those who are without property, have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall into a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide them into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principal task of modern legislation and involves the spirit of the party and faction in the necessary and ordinary operations of government.

...

It is vain to say, that enlightened statesmen will be able to adjust these clashing interests and render them all subservient to the public good. Enlightened statesmen will not always be at the helm.

...

The inference to which we are brought is, that the causes of faction cannot be removed; and that relief is only to be sought in the means of controlling its effects.

If a faction consists of less than a majority, relief is supplied by the republican principle, which enables the majority to defeat its sinister views, by regular vote. It may clog the administration; it may convulse the society; but it will be unable to execute and mask its violence under the forms of the constitution. When a majority is included in a faction, the form of popular government, on the other hand, enables it to sacrifice to its ruling passion or interest, both the public good and the rights of other citizens. To secure the public good, and private rights, against the danger of such a faction, and at the same time to preserve the spirit and the form of popular government, is the greatest object to which our inquiries are directed. ...

By what means is the object attainable? Evidently by one of two only. Either the existence of the same passion or interest in a majority, at the same time must be prevented; or the majority, having such coexistent passion or interest, must be rendered, by their number and local situation, unable to concert and carry into effect schemes of oppression.

...

From this view of the subject, it may be concluded, that a pure democracy, by which I mean a society consisting of a small number of citizens, who assemble and administer the government in person, can admit of no cure from the mischiefs of faction.

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A republic, by which I mean a government in which the scheme of representation takes place, opens a different prospect, and promises the cure for which we are seeking. Let us examine the points in which it varies from pure democracy, and we shall comprehend both the nature of the cure and the efficacy which it must derive from the union. The two great points of difference, between a democracy and a republic, are, first, the delegation of the government, in the latter, to a small number of citizens elected by the rest; secondly, the greater number of citizens, and the greater sphere of country, over which the latter may be extended.

The effect of the first difference is, on the one hand, to refine and enlarge the public views, by passing them through the medium of a chosen body of citizens, whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice, will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation, it may well happen, that the public voice, pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves, convened for the purpose.... The question resulting is, whether small or extensive republics are most favorable to the election of proper guardians of the public weal; and it is clearly decided in favor of the latter by two obvious considerations.

In the first place, it is to be remarked, that however small the republic may be, the representatives must be raised to a certain number, in order to guard against the cabals of a few; and that however large it may be, they must be limited to a certain number, in order to guard against the confusion of a multitude. Hence, the number of representatives in the two cases not being in proportion to that of the constituents, and being proportionately greatest in the small republic, it follows that if the proportion of fit characters be not less in the large than in the small republic, the former will present a greater probability of a fit choice.

In the next place, as each representative will be chosen by a greater number of citizens in the large than in the small republic, it will be more difficult for unworthy candidates to practice with success the vicious arts, by which elections are too often carried; and the suffrages of the people being more free, will be more likely to center in men who possess the most attractive merit, and the most diffusive and established characters.

...

The other point of difference is, the greater number of citizens, and extent of territory, which may be brought within the compass of republican, than of democratic government; and it is this circumstance principally which renders factious combinations less to be dreaded in the former, than in the latter. .. Extend the sphere, and you will take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.

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...

Hence, it clearly appears, that the same advantage, which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic - enjoyed by the union over the states composing it.

...

In the extent and proper structure of the union, therefore, we behold a republican remedy for the diseases most incident to republican government.”

James Madison, *Federalist* No. 51 (1788)

View the document on the National Constitution Center’s website [here](#).

On February 8, 1788, James Madison published *Federalist* No. 51—titled “The Structure of the Government Must Furnish the Proper Checks and Balances Between the Different Departments.” In this famous *Federalist Paper* essay, Madison explained how the Constitution’s structure checked the powers of the elected branches and protected against possible abuses by the national government. With the separation of powers, the framers divided the powers of the national government into three separate branches: a legislative branch (called Congress), an executive branch (led by a single president), and a judicial branch (headed by a Supreme Court). By dividing political power between the branches, the framers sought to prevent any single branch of government from becoming too powerful. At the same time, each branch of government was also given the power to check the other two branches. This is the principle of checks and balances. Madison and his fellow framers assumed that human nature was imperfect and that all political elites would seek to secure greater political power. As a result, the framers concluded that the best way to control the national government was to harness the political ambitions of each branch and use them to check the ambitions of the other branches.

Excerpt:

In order to lay a due foundation for that separate and distinct exercise of the different powers of government, which to a certain extent is admitted on all hands to be essential to the preservation of liberty, it is evident that each department should have a will of its own; and consequently should be so constituted that the members of each should have as little agency as possible in the appointment of the members of the others. . . .

It is equally evident, that the members of each department should be as little dependent as possible on those of the others, for the emoluments annexed to their offices. Were the executive magistrate, or the judges, not independent of the legislature in this particular, their independence in every other would be merely nominal. But the great security against a gradual concentration of the several powers in the same department, consists in giving to those who

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administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.

A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State. But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. . . .

In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself. . . . It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure.

There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority. This, at best, is but a

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precarious security; because a power independent of the society may as well espouse the unjust views of the major, as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or of the minority, will be in little danger from interested combinations of the majority.

...

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.

Alexander Hamilton, *Federalist No. 70* (1788)

View the document on the National Constitution Center's website [here](#).

After the Constitutional Convention adjourned in September 1787, Alexander Hamilton spearheaded an initiative to lead the public discussion of the draft instrument through the *Federalist Papers*. In a single week in March 1788, there appeared the three essays from which these extracts are excerpted, discussing the nature of the executive authority under the Constitution. In these essays, we find two strands of thought. First, the executive is identified as the unique vehicle of necessary “secrecy,” “energy,” and “dispatch” in administering the affairs of government. Secondly, Hamilton identifies the executive as part of that popular basis of the government that is designed to assure that government operates on the basis of the “deliberate sense of the community.”

Excerpt:

“THERE is an idea, which is not without its advocates, that a vigorous Executive is inconsistent with the genius of republican government. The enlightened well-wishers to this species of government must at least hope that the supposition is destitute of foundation; since they can never admit its truth, without at the same time admitting the condemnation of their own principles. Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws; to the protection of property against those irregular and high-handed combinations which sometimes interrupt the ordinary course of justice; to the security of liberty against the enterprises and assaults of ambition, of faction, and of anarchy...

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There can be no need, however, to multiply arguments or examples on this head. A feeble Executive implies a feeble execution of the government. A feeble execution is but another phrase for a bad execution; and a government ill executed, whatever it may be in theory, must be, in practice, a bad government.

Taking it for granted, therefore, that all men of sense will agree in the necessity of an energetic Executive, it will only remain to inquire, what are the ingredients which constitute this energy? How far can they be combined with those other ingredients which constitute safety in the republican sense? And how far does this combination characterize the plan which has been reported by the convention?

The ingredients which constitute energy in the Executive are, first, unity; secondly, duration; thirdly, an adequate provision for its support; fourthly, competent powers.

The ingredients which constitute safety in the republican sense are, first, a due dependence on the people, secondly, a due responsibility.

Those politicians and statesmen who have been the most celebrated for the soundness of their principles and for the justice of their views, have declared in favor of a single Executive and a numerous legislature. They have with great propriety, considered energy as the most necessary qualification of the former, and have regarded this as most applicable to power in a single hand, while they have, with equal propriety, considered the latter as best adapted to deliberation and wisdom, and best calculated to conciliate the confidence of the people and to secure their privileges and interests.

That unity is conducive to energy will not be disputed. Decision, activity, secrecy, and despatch will generally characterize the proceedings of one man in a much more eminent degree than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished.

This unity may be destroyed in two ways: either by vesting the power in two or more magistrates of equal dignity and authority; or by vesting it ostensibly in one man, subject, in whole or in part, to the control and co-operation of others, in the capacity of counsellors to him.... They are both liable, if not equal, to similar objections, and may in most lights be examined in conjunction.

...

Wherever two or more persons are engaged in any common enterprise or pursuit, there is always danger of difference of opinion. If it be a public trust or office, in which they are clothed with equal dignity and authority, there is peculiar danger of personal emulation and even animosity. From either, and especially from all these causes, the most bitter dissensions are apt to spring. Whenever these happen, they lessen the respectability, weaken the authority, and

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distract the plans and operation of those whom they divide.... And what is still worse, they might split the community into the most violent and irreconcilable factions, adhering differently to the different individuals who composed the magistracy.

...

Upon the principles of a free government, inconveniences from the source just mentioned must necessarily be submitted to in the formation of the legislature; but it is unnecessary, and therefore unwise, to introduce them into the constitution of the Executive. It is here too that they may be most pernicious. In the legislature, promptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarrings of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority. When a resolution too is once taken, the opposition must be at an end. That resolution is a law, and resistance to it punishable. But no favorable circumstances palliate or atone for the disadvantages of dissension in the executive department...

...

But one of the weightiest objections to a plurality in the Executive, and which lies as much against the last as the first plan, is, that it tends to conceal faults and destroy responsibility. Responsibility is of two kinds to censure and to punishment. The first is the more important of the two, especially in an elective office. Man, in public trust, will much oftener act in such a manner as to render him unworthy of being any longer trusted, than in such a manner as to make him obnoxious to legal punishment. But the multiplication of the Executive adds to the difficulty of detection in either case. It often becomes impossible, amidst mutual accusations, to determine on whom the blame or the punishment of a pernicious measure, or series of pernicious measures, ought really to fall.

...

It is evident from these considerations, that the plurality of the Executive tends to deprive the people of the two greatest securities they can have for the faithful exercise of any delegated power, first, the restraints of public opinion, which lose their efficacy, as well on account of the division of the censure attendant on bad measures among a number, as on account of the uncertainty on whom it ought to fall; and, secondly, the opportunity of discovering with facility and clearness the misconduct of the persons they trust, in order either to their removal from office or to their actual punishment in cases which admit of it.

...

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[I]n a republic, where every magistrate ought to be personally responsible for his behavior in office the reason which in the British Constitution dictates the propriety of a council, not only ceases to apply, but turns against the institution. In the monarchy of Great Britain, it furnishes a substitute for the prohibited responsibility of the chief magistrate, which serves in some degree as a hostage to the national justice for his good behavior. In the American republic, it would serve to destroy, or would greatly diminish, the intended and necessary responsibility of the Chief Magistrate himself.

Alexander Hamilton, *Federalist* No. 78 (1788)

View the document on the National Constitution Center's website [here](#).

On May 28, 1788, Alexander Hamilton published *Federalist* No. 78—titled “The Judicial Department.” In this famous Federalist Paper essay, Hamilton offered, perhaps, the most powerful defense of judicial review in the American constitutional canon. On the one hand, Hamilton defined the judicial branch as the “weakest” and “least dangerous” branch of the new national government. On the other hand, he also emphasized the importance of an independent judiciary and the power of judicial review. With judicial independence, the Constitution put barriers in place—like life tenure and salary protections—to ensure that the federal courts were independent from the control of the elected branches. And with judicial review, federal judges had the power to review the constitutionality of the laws and actions of the government—ensuring that they met the requirements of the new Constitution. Other than *Marbury v. Madison* (1803), Hamilton’s essay remains the most famous defense of judicial review in American history, and it even served as the basis for many of Chief Justice John Marshall’s arguments in *Marbury* itself.

Excerpt:

According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices DURING GOOD BEHAVIOR; which is conformable to the most approved of the State constitutions and among the rest, to that of this State. . . . The standard of good behavior for the continuance in office of the judicial magistracy, is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince; in a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright, and impartial administration of the laws.

Whoever attentively considers the different departments of power must perceive, that, in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution; because it will be least in a capacity to annoy or injure them. The Executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but

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prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments. . . .

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act, therefore, contrary to the Constitution, can be valid. To deny this, would be to affirm, that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers, may do not only what their powers do not authorize, but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the Constitution. It is not otherwise to be supposed, that the Constitution could intend to enable the representatives of the people to substitute their WILL to that of their constituents. It is far more rational to suppose, that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental. . . .

If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty.

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This independence of the judges is equally requisite to guard the Constitution and the rights of individuals from the effects of those ill humors, which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information, and more deliberate reflection, have a tendency, in the meantime, to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. . . . Until the people have, by some solemn and authoritative act, annulled or changed the established form [of government], it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge, of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see, that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the Constitution, where legislative invasions of it had been instigated by the major voice of the community.