

The Federalist Papers

If men were angels, no government would be necessary.

—James Madison

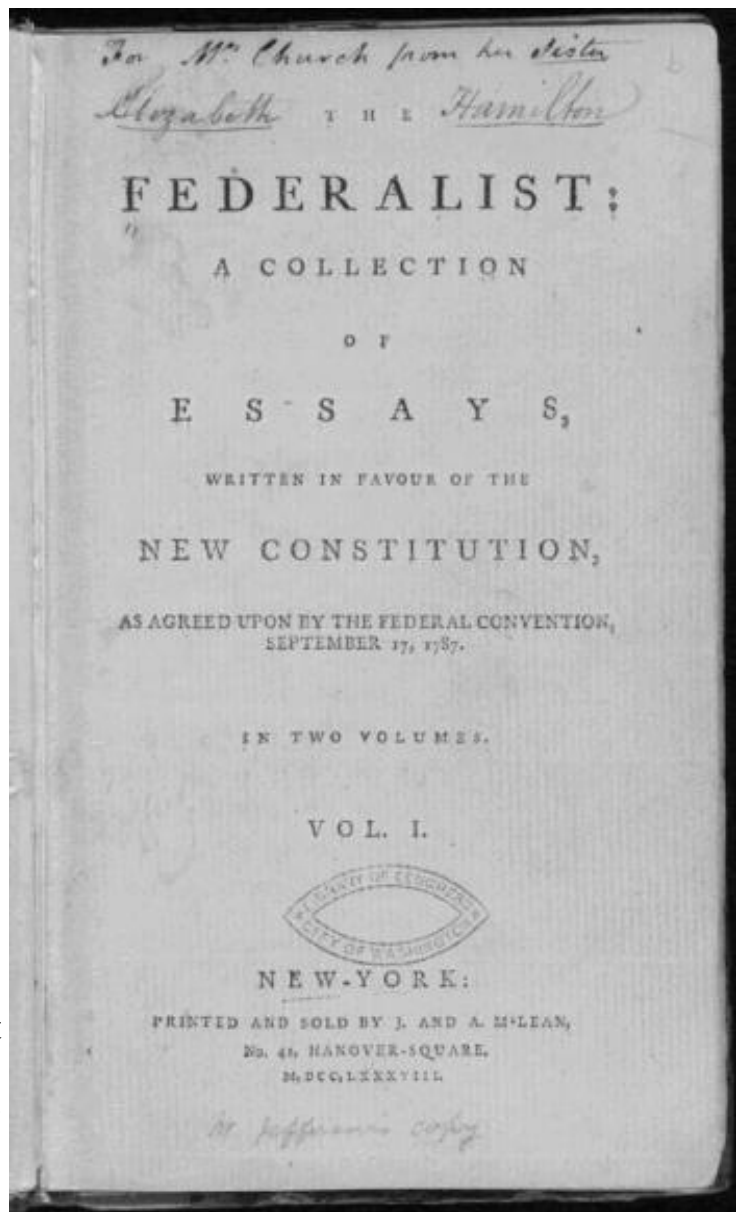
During the Revolutionary War, Americans set up a new national government. They feared a strong central government. They worried that it too might crush their rights as had the British government. They wanted something new. They drew up a plan of government called the Articles of Confederation. Each state approved it.

This document created a national government that had little power. The government could not raise taxes. It could not control trade among the states. It could not even draft soldiers into an army. Each state was only loosely bound to the others.

When the war ended in 1783, it seemed that the United States might break into 13 separate countries. The United States was in debt. Trade among the states was difficult.

By 1787, something had to be done. Delegates from the 13 states met in Philadelphia. Many wanted a new national government. It had to be strong enough to hold together the new nation, but it could not be too strong. It must not take away their freedom.

Over the summer, they wrote a new plan for government: the Constitution. The delegates signed the Constitution



on September 17, 1787. The Constitution would be the “law of the land,” but first it had to be approved by nine of the 13 states. The signers knew that approval would not be easy. Many people opposed it. People in every state talked about one question: Should they accept the new Constitution?

The *Federalist Papers*

Just days after the new Constitution was signed, many New York newspapers began to attack it. They said that the new Constitution took away the rights Americans had won in the Revolution.

Alexander Hamilton was a lawyer from New York who had helped write the Constitution. He was the only delegate from New York who signed it. The others had refused to sign because they agreed with the critics in the newspapers. Hamilton feared that New York might not approve the Constitution. He decided to write essays arguing with the critics.

Hamilton wanted a strong central government. He even favored one stronger than the one outlined in the new Constitution. But Hamilton supported the Constitution as a great improvement over the Articles of Confederation. In October 1787, he published his first essay defending the Constitution. He signed it using the Roman name “Publius.” (Political writers then often used pen names.) Hamilton soon asked two other men, James Madison and John Jay, to write articles. They also used the name “Publius.”

James Madison is sometimes called the “Father of the Constitution.” He played a major role at the Constitutional Convention. As a delegate from Virginia, he kept notes of the talks and wrote much of the Constitution. John Jay had not helped write the Constitution. He was serving as a

diplomat when Hamilton asked him to help.

Hamilton, Madison, and Jay wrote 85 essays for the New York papers. The essays drew much praise. Many people outside of New York wanted to read the essays. One New York newspaper printed the essays as a book (in two volumes) called *The Federalist*. By this time, most people knew that “Publius” was Hamilton, Jay, and Madison.

The Federalist was also called the *Federalist Papers*. It helped convince New Yorkers that the Constitution was a good model for a new government. Today, the *Federalist Papers* helps us understand what the writers of the Constitution had in mind when they drafted that amazing document 200 years ago.

What *The Federalist* Said

The *Federalist Papers* addressed issues about the Constitution. In Federalist Paper #23, Hamilton listed the main goals of government. One was “common defense.” This meant keeping law and order at home and protecting the nation from “external attacks.” Another big goal was to control trade between states and with other nations. A third goal was dealing with “foreign countries.”

In Federalist Paper #51, Madison told why government is needed. “If men were angels, no government would be necessary.” He then explained why government needs checks on it. “If angels were to govern men,” no checks would be needed. But for a government controlled by “men over

men, the great difficulty lies in this: You must first let government control the people and then make it “control itself.” In other words, government had to have power, but not too much power.

The *Federalist Papers* explained how the Constitution set up such a government. Much of the *Federalist Papers* explained three basic ideas behind the Constitution:

1. The Constitution separates the powers of the national government.
2. The Constitution creates a federal form of government.
3. The Constitution sets up a republic.

Separation of Powers

The Constitution puts many checks on government. One is called the **separation of powers**. Congress, the president, and the courts have separate powers. Congress makes laws. The president carries them out. And the courts say what they mean. In Federalist Paper #47, Madison told why the powers of government should be separated. He said: Putting “all powers . . . in the same hands, whether of one, a few or many” is “tyranny.” In other words, giving one person or group all the power will stop people from being free.

Federalism

Another check on government is **federalism**. The Constitution lists the powers of the national government. It reserves all other powers for the states. This dual system of state and national

governments is known as federalism. As Madison explained in Federalist Paper #46, the federal system lets state governments, which are closer to the people, meet the “personal interests of the people.” The states also serve to check the power of the federal government.

A Republic

The *Federalist Papers* emphasized that the Constitution created a republic. A republic is a representative democracy. In other words, people elect those who govern them. A republic relies on the consent of the governed. In Federalist Paper #39, Madison defined a republic as a government that gets its powers from the people and is run “by persons holding their offices . . . for a limited period, or during good behavior.”

Madison went on to point out that the Constitution follows these rules. The people directly elect the members of the House of Representatives. And they indirectly choose the president and senators. (Under the Constitution, Senators were elected by the state legislatures. The president was elected by the Electoral College.)

The Constitution set the terms for president (four years), senator (six years), and member of Congress (two years). It gave federal judges life terms (as long as they show “good Behavior”).

In Federalist Paper #78, Hamilton explained why judges should serve such long terms. He said that the courts must protect the Constitution. Having life terms will give them an “independent spirit,” which judges

Comparing the Articles of Confederation and Constitution

The Articles of Confederation set up the first government of the United States. The Constitution was written to replace this government with a new government. The Federalists supported the Constitution. The Anti-Federalists opposed it. Here is a comparison of the governments set up by the two documents.

	Articles of Confederation	Constitution
Executive Branch	No executive branch.	President elected by electoral college. Has checks on legislative and judicial branches.
Judicial Branch	No judicial branch. Each state had its own court system.	System of federal courts headed by the U.S. Supreme Court. (Each state still had its own court system.)
Legislative Branch	Congress. Each state had one vote. The Congress elected a president to preside over Congress.	Two houses of Congress: Senate: Each state has two senators. House of Representatives: Membership based on the population of the state.
Passing a Law	Nine of the 13 states must vote in favor of it.	A majority in each house must pass it and the president must sign it.
Power over States and Individuals	Had power over states only. Thus it created a federal government.	Had power over states and individuals. Thus it created both a federal <i>and</i> national government.
Amending	To change the Articles, every state had to agree.	Two ways to change the Constitution: (1) Passed by both houses of Congress and 2/3 of the state legislatures. (2) Constitutional Convention called by 3/4 of state legislatures.
Raising an Army	No power to raise an army. Could only ask states to send soldiers.	Power to raise an army.
Taxing	No power to tax. Could only ask states for tax money.	Power to tax.
Controlling Trade	No power to control trade between the states or with other nations.	Power to control trade.
Bill of Rights	None.	None in original document. The first 10 amendments to the Constitution make up the Bill of Rights.

need. Judges must know that they don't have to agree with Congress or the president to keep their jobs. "This independence of the judges" is important "to guard the Constitution and the rights of" the people.

Many thinkers believed that a republic could not work in a large country. They thought it could only work in states or cities where people knew the community and could work for the common good. In a large country, they argued, the government is far from the people and special interests, or factions, would take over.

Madison in Federalist Paper #10 responded that large republics actually prevented special interests from taking over. Madison said that in a large republic, "you take in a greater variety of . . . interests; you make it less probable that a majority . . . will have a common motive to invade the rights of other citizens . . ." In other words, in a large republic, the special interests balance one another out.

The *Federalist Papers* stressed that the Constitution was setting up a government that would preserve freedom. The new government would be strong enough to protect the nation. But it would not be too strong and take away people's freedom. Its powers would be limited and checked through federalism and the separation of powers. It would be a republic, based on the consent of the governed.

The Anti-Federalists

Those opposed to the Constitution were called the Anti-Federalists. They also wrote essays in New York newspapers. They too used pen names: "Brutus" and "Cato" and some others.

They made several points.

First, they said that Congress, the president, and the courts would have too much power, more power than the old British government. The British had crushed American freedom. They said the government created by the Constitution would do the same.

Second, they wanted the states to keep their power. They thought that only small governments, close to the people, could insure freedom. A strong national government would not listen to the people.



Third, they said that the Constitution should have a bill of rights.

This last point struck a chord. Many people wanted a bill of rights. They had just fought a war to be free. They did not want the new government to take away their rights.

In Federalist Paper #84, Hamilton said that a bill of rights was not needed. He said the new government would not have the power to abuse people's

rights. He asked: Why order “that things shall not be done which there is no power to do?”

Approval of the Constitution

By June 1788, most states had approved the Constitution. But several states still had not. The two biggest states, New York and Virginia, were still debating. To get these states to approve the Constitution, the Federalists promised that a bill of rights would be added to it. With this promise, the states approved the Constitution.

James Madison was elected to Congress from Virginia. When the first Congress met in 1789, he saw it as his duty to add a bill of rights to the Constitution. He drafted proposed amendments to the Constitution. Congress passed 10 of the amendments. These amendments are called the Bill of Rights. They list many rights—freedom of speech, freedom of religion, right to a jury trial, and many other rights—that Americans today still think are important to a free society.

The Constitution was not perfect. It did not outlaw slavery. This was not done until after the Civil War when the 13th Amendment was added. It did not give women the right to vote. This was not done until after World War I when the 19th Amendment was adopted.

Over the years, other changes to the Constitution have been made. In 1913,

the 17th Amendment let the people of each state, instead of the state legislature, elect senators. In 1951, the 22nd Amendment limited presidents to two terms in office.

In all, only 27 amendments have been added to the Constitution. It created a democratic government that has lasted more than 200 years. The *Federalist Papers* helped create this government.

For Discussion and Writing

1. What was the Articles of Confederation? Why did it fail?
2. What are the main differences between the Articles of Confederation and the Constitution?
3. What was the *Federalist Papers*? What were the three main ideas expressed in it about how the Constitution set up a strong government that preserved freedom? Why do people today think the *Federalist Papers* is important?
4. Hamilton said that judges need an “independent spirit.” What did he mean? Do you agree? Explain.
5. Why did the Federalists oppose a bill of rights? Do you agree? Explain.
6. How did the Bill of Rights get added to the Constitution?
7. Why did the Anti-Federalists oppose the Constitution? What do you think was their strongest point? Why?

Short Biographies

James Madison (1751–1836), Federalist

The oldest of 10 children, Madison was born and grew up in Virginia. A great student, he went to the College of New Jersey (now called Princeton University). He returned home, unsure of what to do with his life. As the Revolutionary War came near, he joined the patriot cause. As a young man, he held several elected offices. One was being a member of Congress under the Articles of Confederation. Madison grew frustrated with Congress' lack of power. For example, Congress did not have power to raise taxes to pay the Army. Madison believed that the nation needed a strong central government. At the Constitutional Convention, his ideas were so important that many today consider him the "Father of the Constitution." After the convention, Madison wrote many of the *Federalist Papers* arguing in favor of the Constitution. Madison believed the Constitution would uphold freedom because it created a republic with checks and balances on its power. He did not think a bill of rights was needed. The Constitution had limited power.

Madison favored religious freedom and the separation of church and state.



Before the revolution, he spoke out against people being put in jail for their beliefs. He helped draft Jefferson's Bill for Religious Freedom in Virginia. He worked to defeat Patrick Henry's bill in Virginia that would have given tax money to "teachers of the Christian religion." He thought government should neither support nor oppose religion.

When the Constitution was adopted, Madison was elected to the first Congress. He knew that a bill of rights had been promised. So he wrote one and pushed Congress to pass it. Congress passed most of Madison's proposals. They stand today as the Bill of Rights, the first 10 amendments to the Constitution.

Madison later served as secretary of state and as the fourth U.S. president.

John Jay (1745–1829), Federalist

The sixth of 10 children, Jay was born and raised in New York. As a boy, he was taught by private tutors. Then he went to King's College (now called Columbia University). He started working as a lawyer and did well. Although he backed the patriot cause, he at first did not favor breaking from England. But once the revolution began, he strongly



supported it. He was elected to the Continental Congress. Sent to Paris, he helped write the peace treaty of 1783, which ended the Revolutionary War. Under the Articles of Confederation, Jay served as Congress' secretary for foreign affairs. In this post, Jay met and negotiated with foreign leaders. He grew frustrated, however, by the limited power given Congress under the Articles of Confederation. He cited many examples of this limited power. One was that Congress had the power to make treaties with other nations, but it didn't have the power to keep the promises it made in the treaties. Another was that Congress had the power to borrow money, but not to raise money to pay back the debt. He believed the United States needed a stronger central government. He did not go to the Constitutional Convention, but he strongly supported the Constitution. He did not think a bill of rights was needed.

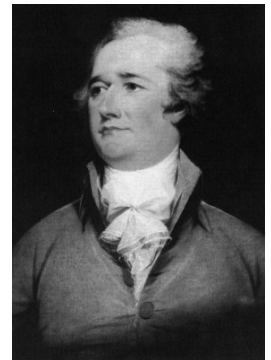
He later served as the first chief justice of the U.S. Supreme Court and was elected governor of New York.

Alexander Hamilton (c. 1757–1804), Federalist

Hamilton was born in the West Indies. When he was 8, his father left the family. To help support the family, Hamilton went to work. Four years later, his mother died. He went to live with relatives. His family and friends saw that Hamilton was very smart. They sent him to New Jersey to study. He later entered King's College (now called Columbia University) in New York. When the Revolutionary War broke out, he joined the Army. General George Washington

noticed his bravery and brainpower. He asked him to serve as his aide. When the war ended, Hamilton returned to New York and became a lawyer. He was elected to the Continental Congress. He thought the government created by the Articles of Confederation was too weak. He believed it was causing the country to fall apart. For example, the war had caused the government to go into debt. But the Congress could not pay off the debt because it had no power to tax.

When the Constitutional Convention was held, Hamilton went as a delegate from New York. Hamilton believed the United States should have a very strong central government. He thought the president and senators should be elected for life. He wanted the president to select state governors. He thought Congress should make all the laws for the country. The delegates ignored his ideas.

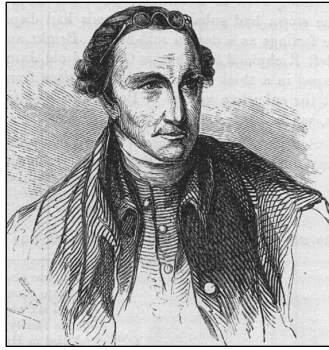


Hamilton would have liked a stronger central government than the one created by the Constitution. But he liked the Constitution much better than the Articles of Confederation. When he returned to New York, he started writing newspaper articles in favor of the Constitution. He got James Madison and John Jay to help him. These articles became the *Federalist Papers*.

Hamilton went on to be the first secretary of the treasury under President Washington. He was killed in a duel in 1804.

Patrick Henry (1736–1799), Anti-Federalist

Henry was born in Virginia and was home schooled. As a young man, he struggled. Twice he opened stores, but he lost money and went out of



business. He tried farming, but made no money. He decided to study law and started a practice. At this, he succeeded. He was a great speaker and could rouse people to his side.

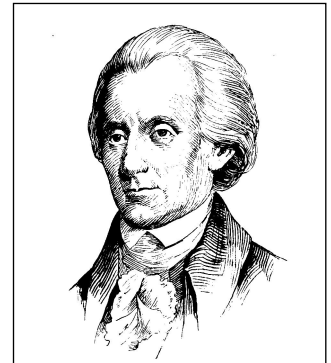
Drawn to the patriot cause, he was elected to the Virginia colonial legislature. Later, he went to Congress. He made many speeches that made him famous. After a speech denouncing the king, some legislators yelled, “Treason!” Henry shouted back, “If *this* be treason, make the most of it!” When the Revolutionary War began, he made a speech that ended with the now famous words, “I know not what course others may take, but as for me, give me liberty or give me death.” He was elected governor of Virginia during and after the war.

Henry was invited to the Constitutional Convention, but did not go. He spoke out strongly against the Constitution. He said it created too strong a central government. He stated that the best government was one that was close to the people and that could listen to them. He declared that the Constitution would take away the power of the states and the rights of the people. He was outraged that it did not have a bill of rights.

Richard Henry Lee (1732–1794), Anti-Federalist

Born in Virginia to a rich family, Lee was home schooled. Then he was sent to school in England. After returning home, he was elected to the Virginia legislature. He spoke out against slavery. Then as British rule grew harsher, he spoke out against British abuses. He opposed the Stamp Act and Townshend Acts. As war drew near, he became a leader in Congress favoring independence. He retired from Congress due to ill health. But after he recovered, he returned to elected office.

He was a member of Congress under the Articles of Confederation. He helped pass the Northwest Ordinance, one of the most important things done by the Confederation Congress. The Northwest Ordinance set up a system for governing the Northwest Territory. This land eventually became the states of Ohio, Indiana, Illinois, Michigan, and Wisconsin and part of the state of Minnesota. The ordinance outlined how parts of the territory could become states.



Lee opposed the Constitution. He thought the Confederation Congress worked. He did not want another strong government. He had opposed British abuses. He feared another strong government would also misrule. He thought it was a disaster that the Constitution did not have a bill of rights.

George Mason (1725–1792), Anti-Federalist

Mason was in born in Virginia into a family of rich landholders. His father died when he was 10. His uncle took over as his guardian and taught him law. When he grew up, he became one of the richest planters in Virginia.



Elected to the colonial Virginia legislature in 1759, he grew active in the patriot cause. When Virginia drew up its state constitution in 1776, Mason drafted its Declaration of Rights. The beginning of this declaration influenced the Declaration of Independence (“That all men are by

nature equally free and independent, and have certain inherent rights . . . namely, the enjoyment of life and liberty, with the means of acquiring . . . property, and pursuing . . . happiness and safety.”) The declaration’s list of rights influenced the Bill of Rights.

Mason went to the Constitutional Convention. He believed the government was not working under the Articles of Confederation. He spoke for a long time explaining what he wanted in a new government. He wanted a swift end to the slave trade. He wanted a more democratic Congress. And most of all, he demanded a bill of rights. When the delegates failed to include a bill of rights, Mason refused to sign the Constitution. He believed the Constitution would lead to either a monarchy or the rule by a select few.

Federalist vs. Anti-Federalist

Imagine that it is 1788. The Federalists and Anti-Federalists are holding a debate on the Constitution. You are going to play the role of a famous Federalist or Anti-Federalist.

1. Your teacher will divide the class into six groups.
2. Your teacher will assign your group one of the Federalists or Anti-Federalists on the **Short Biographies** handout. Write down the name of the person you are assigned:

3. You must be able to discuss your person's opinions on these questions:
 - Do you think the United States should have a strong central government? Why or why not?
 - Do you think the Constitution should have a bill of rights? Why or why not?
 - Do you favor or oppose the Constitution? Why?
4. Prepare for the debate. Do the following:
 - Read your person's biography. Think how your person would answer the questions.
 - Read the biographies of other Federalists and Anti-Federalists. Be prepared to respond to any points that they may make.
 - Reread the article **The Federalist Papers** and take a close look at the chart **Comparing the Articles of Confederation and Constitution**. This material will help you with your preparation.
 - Prepare your answers.
 - Make an introduction for your person. (You will need to know what the person had accomplished by 1788 and why he was an important person.)
 - If your teacher permits, find more information. You can do this in two ways:
 - (1) Go to the library. Look in an encyclopedia for general information. Then look for books and periodicals with more information.
 - (2) Go on the Internet. Go to the Constitutional Rights Foundation web site (www.crf-usa.org) and click on Links. Then click on Project History Links. Click on *The Federalist Papers*. Your person is listed with links to a lot of information.
5. The class will meet and hold a debate on the Constitution. You will first introduce your person and then role play him in the debate.