

Ratification of the Constitution

Ratification is the process of formally approving and confirming something, often a treaty, agreement, or law, making it legally binding. It is essentially the act of giving something official validation and support.

Ratification signifies the formal confirmation of a decision or document by a designated authority. In the context of the United States Constitution, ratification by a certain number of states was necessary for it to become effective.

Nine of the Thirteen states had to ratify the Constitution for it to take effect. The process would become the first national policy campaign, the subject of debates everywhere.

The campaign was both positive and negative for the approval of the Constitution and the debates between those for and against was carried out using pamphlets and letters to newspapers, some authors using their real names, others using pen names or simply Roman numerals.

There were two sides to the debate:

Federalists: supporters of the proposed Constitution, who called for a strong, national government.

Antifederalists: those opposed to the proposed Constitution, who favored strong state governments.

Differed in terms of ...	Federalists	Antifederalists
View of proposed Constitution	Supporters †	Opponents
Proponents of ...	A strong national government	Stronger state governments
Concerned about ...	The tyranny of the majority	Oppression of the rights of the states and the people
Supporters included ...	More wealthy merchants and southern plantation owners George Washington, Benjamin Franklin, Alexander Hamilton, James Madison, John Jay	More people in rural areas, more farmers and shopkeepers Fewer well-known supporters, but leadership included educated elites, Revolutionary War heroes, and convention delegates Patrick Henry, Samuel Adams, George Clinton
Required foundational documents for AP® U.S. Government and Politics	<i>Federalist</i> No. 10 <i>Federalist</i> No. 51	Brutus No. 1

[Important to understand now is a **Republican government**: one in which the people—directly or indirectly—are the ultimate source of authority, electing representatives to make laws that serve their interests and advance the common good].

The Federalists made their case in a collection of (85) eighty-five essays written for the newspapers in New York between the fall of 1787 and the spring of 1788. They were published under the collective name “**Publius**” and became known as the **Federalist Papers** which were written by Alexander Hamilton, James Madison, and John Jay.

[The *Federalist Papers* are an excellent example of political propaganda – the framing and discussion of a political issue in a way that tries to influence peoples’ views about that issue].

A major concern for the Federalists was their opinion that there was the danger that people would act accordingly to their self-interest, and not for the greater interest of the nation. These people may join together in a **faction**: *a group of self-interested people who use the government to get what they want, trampling the rights of others in the process.*

Federalist No. 10 – an essay in which Madison argues that the dangers of a faction can be mitigated (made less severe) by a large republic and republican government.

According to Madison, a tyrannical government that suppressed the liberties of its citizens could prevent factions from organizing.

“Liberty is to faction what air is to fire.” He argues that if one suppresses liberty then factions cannot survive. Factions also do not form or survive in societies where everyone has the same opinions, the same passions, and the same interests.”

Madison stated that a nation cannot avoid the problem of factions, it can only try to check its dangers. Madison further argues that factions are more difficult to control when they are made up of a majority (of the people).

“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 then the great object to which our inquiries are directed.”

Madison wrote that there were two (2) ways to mitigate (make it less severe) the dangers of a faction of the majority. The first is a republican government when he wrote;

“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 centre in men who possess the most attractive merit and the most diffusive and established characters.”

The second way is the large size of the republic:

“The influence of factious leaders may kindle a flame within their particular States, but will be unable to spread a general conflagration through the other States.”

American history has proved Madison correct as the American republic has had factions since its origin; political parties and interest groups can both be thought of as factions.

Tyranny of the Majority and the Minority

Both the Federalists and Antifederalists agreed that tyranny could happen.

In a tyranny of the **minority** a small number of citizens trample on the rights of the larger population,

In a tyranny of the **majority** a large number of citizens use the power of their majority to trample on the rights of a smaller group.

Antifederalists believed that the government would become disconnected from the majority and be controlled by wealthy elites.

Federalists, especially James Madison, focused more on the dangers of majority rule. A majority will use their power to suppress the minority. He cites Shays’s Rebellion where he thought that a majority of poor people would use their power to take away land from the rich.

In Federalist No. 10 Madison argues against direct democracy. He believed that in a republic people delegate their powers to a representative. He will, in Federalist No. 51, propose that separation of powers is the guiding principle, with powers divided between the national and state governments and within the branches of national government.

Federalists believed that the proposed form of government in the Constitution was necessary to preserve their rights and liberties.

Antifederalists argued that the proposed increase in national power would allow this national government to infringe (violate) the authority of the states.

Brutus No. 1 – an Antifederalist paper arguing that the country was too large to be governed as a republic and that the Constitution gave too much power to the national government.

The Antifederalists feared a radical increase in national power, not only in the Constitution but also in how the national government would evolve over time. Brutus No. 1 was written in 1787 by **Robert Yates** from New York. He worried that the representation of the peoples' interests could not be maintained as the nation grew in size, population, and power.

“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.”

Another issue mentioned was that a representative, once elected, would not relinquish his power and when they were away from their home districts their motives would change from their constituents' wishes.

An additional issue for Antifederalists was that they were concerned that the federal government's control over the military could destroy liberty.

“It might be here shown, that the power in the federal legislative, to raise and support armies at pleasure, as well in peace as in war, and their control over the militia, tend, not only to a consolidation of the government, but the destruction of liberty.”

Furthermore, Antifederalists did **not** want the nation to have a standing army.

“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.”

Brutus No. 1 also makes aware of the issue that the new national government would have the power to tax and regulate interstate commerce, especially through the necessary and proper clause within the Constitution. This concern is seen when it is stated that

“it is a truth confirmed by the unerring experience of ages, that every man, and every body of men, invested with power, are ever disposed to increase it, and to acquire a superiority over every thing that stands in their way. This disposition, which is implanted in human nature, will operate in the federal legislature to lessen and ultimately to subvert the state authority, and having such advantages, will most certainly succeed, if the federal government succeeds at all.”

Yates closes his text in Brutus No. 1 with a plea;

“Though I am of opinion, that it is a sufficient objection to this government, to reject it, that it creates the whole union into one government, under the form of a republic, yet if this objection was obviated, there are exceptions to it, which are so material and fundamental, that they ought to determine every man, who is a friend to the liberty and happiness of mankind, not to adopt it.”

James Madison and Federalist No. 51: Sharing Power to Prevent Tyranny

Madison knew that people put their own needs first (self-Interest) before the needs of the nation. His feelings about society are seen in this excerpt from Federalist 51;

“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.”

Madison argued that the key to preventing tyranny was to ensure that the system of separation of powers remained in place. No one would be able to take away the rights of the citizens;

“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.”

Similarly, Madison believed that a bicameral government provided the best protection for the people as the elected representatives were less connected with each other rather than being united as a unit of tyranny. The federalist system was by far the better choice.

“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.”

Furthermore, Madison stated that;

“In a free government the security for civil rights must be the same as that for religious rights. It consists in the one case in the multiplicity of interests, and in the other in the multiplicity of sects. The degree of security in both cases will depend on the number of interests and sects; and this may be presumed to depend on the extent of country and number of people comprehended under the same government.”

A Bill of Rights

Antifederalists openly stated that the Constitution lacked a bill of rights, a list of rights and liberties that the government could not take away from its people. Many states already had a bill of rights in their constitutions and the subject was even discussed at the Philadelphia Convention but not added to the original document.

Madison believed that a bill of rights was **not** necessary, the people were already sovereign and the government was already limited in its powers. Some people worried that having a bill of rights might be too specific and those not mentioned in the document would not be respected.

The lack of a bill of rights was the most effective argument for the Antifederalists during ratification.

In February 1788, Federalists in Massachusetts agreed to propose a bill of rights once the Constitution had been ratified. In June that year, New Hampshire ratified the Constitution (the 9th state to ratify) making it the supreme law of the land as the two-third majority (9 of 13) had now been reached. Finally, Virginia and New York ratified, each by a narrow margin. At this point Madison promised to introduce a bill of rights as a proposed amendment to the Constitution during the first session of the new Congress once the Constitution ratification process had been formally ratified.

Madison kept his word and in 1791 the ten amendments that he proposed (the Bill of Rights) became part of the Constitution.

Today, the motives of the founders of the Constitution is somewhat critical. Some people believe that the Constitution was written to increase the personal wealth of the founding fathers; after all they were members of the upper class and property owners in the most part. The founders have also been accused of being antidemocratic. Have issues regarding rights of minorities, especially religious, been protected? Disagreement continues over the role of the national government, states rights and powers, and the rights of individuals.

A study suggestion of the documents covered in this handout.

Document	Scope
Articles of Confederation	<p>Even though the Articles of Confederation are no longer in force, their reading and understanding is essential to this course.</p> <p>As you read, note that it is divided into thirteen articles.</p>
Constitution of the United States	<p>Make sure you understand each article of the document and how the Constitution creates separation of powers and checks and balances among the three branches of government.</p>
Federalist No. 10	<ul style="list-style-type: none"> • Factions are self-interest groups that would harm the community • Factions are sown into the nature of humankind • To abolish factions would abolish liberty • Factions should be set against each other to prevent any one faction from becoming too powerful • A large republic protects against the dangers of factions • Republican government is a remedy for the danger of faction
Federalist No. 51	<ul style="list-style-type: none"> • “if men were angels no government would be necessary” • The government must control the governed and must control itself • Checks and balances will prevent one branch from becoming too powerful and taking away liberty
Brutus No. 1	<ul style="list-style-type: none"> • The country is too large to be governed as a republic • Representatives will not voluntarily give up power