



# THE FIGHT OVER THE CONSTITUTION

Should states ratify the U.S. Constitution? In 1787, that question stirred a fierce national debate.

On September 17, 1787, 39 men in Philadelphia signed a draft of a document intended “to form a more perfect Union.” Their creation, the U.S. Constitution, started a passionate debate over the future of America.

The Constitution’s supporters, called Federalists, said that the

country’s weak central government under the **Articles of Confederation** needed to be replaced with a strong one. Four years after winning independence in the Revolution, they said, the U.S. was a nation in name only. Congress couldn’t tax to fund a government. States ignored laws. There was no

executive—a leader such as a president—to head the country.

That’s just the way their opponents, the Antifederalists, liked it. “The Revolution had been fought for self-government,” historian Kevin Gutzman tells *JS*. Antifederalists saw the Constitution as “stunningly similar to . . . the old system they had just thrown off”—the British monarchy. They wanted states to keep their independence.

Because 9 of the 13 states had to ratify the Constitution for it to go into effect, the debate was waged

intensely at state conventions. There, delegates such as James Wilson defended the Constitution. Federalist editorials by Alexander Hamilton and James Madison under the name “Publius,” later known as *The Federalist Papers*, were enormously influential. George Mason and Patrick Henry of Virginia, along with Robert Yates, a New Yorker writing as “Brutus,” were important Antifederalists. Here are some of the points they raised during an intense nine-month debate.

ALL ILLUSTRATIONS BY PAUL HOPPE

## 1 Would the Federal Government Swallow Up the States?

Article VI of the Constitution says that any federal laws Congress makes according to the Constitution are to be “the supreme Law of the Land.” For Antifederalists, the “supremacy clause” meant that the federal government would take all power from the states, violating America’s **republican** values.

### TEAM ANTIFEDERALIST

→ **ROBERT YATES (Brutus):** This government under the Constitution will possess absolute control—legislative, executive, and judicial! Article 1, Section 8, says that Congress will have the authority to make all “necessary and proper” laws to secure its powers. So now there’s no need for any role for the states—and in fact the laws and constitution of every state are declared null and void! The federal government has the authority to affect the life, liberty, and property of every man. No action of the states can stop the complete execution of this power.

### TEAM FEDERALIST

→ **JAMES WILSON:** When people establish a federal government, their representatives have the authority to decide only certain matters. Congress has only those powers specifically spelled out in the Constitution. Everything else is reserved for the states.  
→ **JAMES MADISON (Publius):** The Constitution allows for as much state control as national control. In the Senate, each state gets two seats. And each state acts independently when it votes whether to ratify the Constitution. Isn’t this proof enough that this system upholds republican values?

## 2 Could a Government Covering Such a Large Country Remain a Democracy?

Antifederalists believed that a democracy couldn’t function over as large an area as the U.S. Gutzman says they feared that “an attempt to create one would end in despotism” (control by an absolute ruler).

### TEAM ANTIFEDERALIST

→ **ROBERT YATES (Brutus):** In a true democracy, the people are able to gather together to declare their will. A free republic cannot succeed in a country as big and a people as numerous as in the U.S. Look at ancient Greece and Rome. They started out as free governments. But over time they extended their conquests over so large a territory that they became tyrannies.

### TEAM FEDERALIST

→ **JAMES MADISON (Publius):** The real danger to freedom is from factions—groups looking out only for their own interests. Small governments like states are easily controlled by factions. The Constitution lets a larger number of people come together with a wide variety of viewpoints. That will make it harder for powerful factions to infringe upon the rights of citizens.

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### 3 Could a Strong President Become a King?

The Framers of the Constitution created a strong executive—a president—to share control with Congress. Antifederalists objected: Didn't the Revolution just free Americans from a monarchy (rule by a king or queen)?

#### TEAM ANTIFEDERALIST

→ **PATRICK HENRY**: So now there is to be a great and mighty president with the powers of a king. This smells very much like a monarchy to me. When the army is in this president's hands, what's to stop him from using it to beat down every opponent? What will become of you and your rights then?

→ **GEORGE MASON**: The president is to rule by himself, without any other body to check his power. It's easy to see how the government could turn into a monarchy or a corrupt, tyrannical aristocracy (rule by a small group).

#### TEAM FEDERALIST

→ **JAMES MADISON (Publius)**: The best security against letting any part of the government, including the executive, get too much influence is the Constitution's separation of powers. Each branch—executive, legislative, and judicial—has a power of its own. Each is protected from the ambitions of the other two by the Constitution.

→ **ALEXANDER HAMILTON (Publius)**: A strong president is essential to protect the country against foreign attacks, and to administer the laws evenly and fairly. In fact, a weak executive is another name for a weak leader—and bad government.

Could a powerful president—even a hero of the Revolution like George Washington—turn himself into a king?



### 4 Is a Standing (Permanent) Army a Threat to Liberty?

The Constitution authorized Congress to "raise and support Armies." Antifederalists were wary of a permanent army. They remembered how the King's soldiers kept the colonies under his thumb.

#### TEAM ANTIFEDERALIST

→ **ROBERT YATES (Brutus)**: In the kingdoms of Europe, standing armies are used to execute the will of the monarch. A free republic should never keep such an army to enforce its laws. Not only could rulers use the army to hold on to power. There's also great danger that the military will establish its own government according to the pleasure of its leader.

#### TEAM FEDERALIST

→ **JAMES WILSON**: I don't know of a nation in the world that hasn't found it necessary to maintain the appearance of strength even during peacetime. No man who values the dignity and safety of his country can deny the necessity of an army—under the president's control and with the proper restrictions the new Constitution provides.

### 5 Does the Constitution Need a Bill of Rights?

Antifederalists were shocked that the Constitution said nothing about protecting the rights of individuals from abuse by government. What could stop authorities from shutting down a troublesome newspaper or searching a person's house without cause, as the British had done?

#### TEAM ANTIFEDERALIST

→ **GEORGE MASON**: There is no Declaration of Rights in this Constitution. There is no guarantee of the freedom of the press, and nowhere does it protect citizens against abuses by the army.

→ **ROBERT YATES (Brutus)**: This document is virtually silent about the principles that a free society is based on. No man should be tried for a crime until he is aware of the charges brought against him. A person should be free from the unlawful search of his property. These are essential to liberty.

#### TEAM FEDERALIST

→ **JAMES WILSON**: There's no need for a Bill of Rights. It's ridiculous for us to grant protections against powers that aren't even in the Constitution. For instance, the freedom of the press: What authority does the Constitution give the government to shackle that sacred liberty? None. Why do you need protection from a power that's not there?

→ **ALEXANDER HAMILTON (Publius)**: There are lots of rights already spelled out in the Constitution—for instance, the right to have a trial by jury. The truth is, the document is itself a Bill of Rights.

—Bryan Brown

## AND THE WINNER WAS ...

For months after the Constitution was completed, it was unclear if the nine states that were required to ratify the document would accept it. In December 1787, Delaware became the first state to say yes. Other states followed, and New Hampshire became the ninth state to ratify in June 1788. On March 4, 1789, a date set by Congress, the Constitution officially became the law of the land.

So the Federalists won? Yes—but the Antifederalists still had a major impact. In 1789, the very first Congress under the Constitution agreed that it was necessary to protect Americans from too much government control. Freedoms that Antifederalists such as George Mason had demanded became the first 10 Amendments to the Constitution—which are known as the Bill of Rights.

Arguments over the Constitution continue to this day. "The debate is still reflected in our times," says Kevin Gutzman. For more than 200 years, we've been sorting out which powers should belong to Washington, and which to the states. For example, a number of states are resisting the 2010 Affordable Care Act, or "Obamacare," a federal law.

Important questions also remain about how much power the president should have. Many Americans have been worried by recent revelations that the National Security Agency, part of the executive branch, has kept track of billions of their phone calls. Is such surveillance necessary to safeguard the nation from terrorist attacks, or is it an abuse of authority?

Gutzman says that in the original battle over the Constitution, both sides believed that the struggle was really about a larger question: "Whether the Revolution would succeed." In similar ways, Americans continue to ask: What is a true democracy? What is freedom?

