

# What is Limited Government?

And why it matters.

**BILL *of* RIGHTS**  

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**INSTITUTE**

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# The Role of Government

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Imagine for a moment living under a government that possessed unlimited and undefined powers, such as Communist China or Nazi Germany. What rights do you have now that you think you would lose? To whom, or to what, would you turn if you thought the government were treating you unfairly? How many of your own choices in life—what college to attend, what career options to pursue, whether to marry or have children—do you feel you would be free to make?

If contemplating life under such a government seems depressing, that is because it is. Individual liberty and personal happiness cannot coexist with unlimited government. At the same time, there would be little security for our rights without a government or under a government that does not possess sufficient power to effectively promote the public good. Striking this delicate balance has been a centuries-long endeavor in Anglo-American history. Initial strides towards limited government came in the Magna Carta (1215), which embodied the principle that the king's powers were limited and subject to English law. Nearly five hundred years later, the Petition of Right (1689), citing the Magna Carta, reminded the king that it was the law, not a king, that protected the rights of Englishmen. For most of human history it was accepted that the political legitimacy of a king was derived from God, not from man, and that both law and liberty were subject to God's will. Focusing on the king's violation of a half-century of accepted British common law and the traditionally respected rights of Englishmen, the Petition of Right supported the conviction that liberty required that government be limited. Furthermore, liberty interests might supersede kingly authority. It also inspired the English Bill of Rights (1689) which contained strict limits to the power of the monarchy and identified certain inalienable political and civil liberties enjoyed by all Englishmen, regardless of royal prerogative.

A philosophical shift in thinking about the proper role and source of government itself was also underway in the late 1600s and was given effective voice in John Locke's Second Treatise of Civil Government (1690). Locke argued that governmental legitimacy was based on the consent of the governed and on a responsibility to protect natural rights. While the Petition of Right acquiesced to the notion of the divine right of kings and merely reminded the king that previous monarchs had respected traditionally accepted liberties, Locke's argument was radically different: people not only voluntarily agree to be governed, but possess rights that flow from nature itself, not from kingly decree. Further, the very purpose of government is not to rule but to protect those rights.

Locke also argued that when a government no longer had the consent of the people, or did not adhere to its proper role of protecting fundamental liberties, then the people have the right to change or overthrow it. Thomas Jefferson would echo these arguments in the Declaration of Independence (1776), asserting that "the history of the present King of Great

Britain is a history of repeated injuries and usurpations [wrongful seizure of power].” Therefore, according to Jefferson, the king was “unfit to be the ruler of a free people.”

Once free of Great Britain and wary of living under a government that possessed too much authority, Americans set out to form a new nation. The first attempt came in the Articles of Confederation (1781), which adhered very closely to the principle of limited government; perhaps too closely. The Articles established a “firm league of friendship,” and was little more than a loose association of sovereign nation-states with a weak central government. It could not adequately tax or regulate foreign and interstate commerce. It had neither an executive nor judicial branch to enforce its laws or mediate disputes. Further, any alterations to the Articles that might address these weaknesses had to be unanimously approved by the states, making changes nearly impossible. By 1787, it became obvious to many that the Confederation government was too limited in its scope and authority, and a convention was called in Philadelphia to address its deficiencies.

What emerged from the Constitutional Convention elevated limited government from mere theory to a practical governing philosophy. Through a series of complex structures, innovations, and mechanisms, the U.S. Constitution both empowers and limits government, while providing the framework for each successive generation to regulate that balance.

One feature of the Constitution that both empowers and limits the national government’s reach is the enumeration of powers. Article 1, Section 8 sets out the specific and finite powers that the national government may exercise. Although Article 1, Section 8 only specifically addresses the legislative (or law-making) branch of the national government, its enumeration of powers also provides *de facto* [in fact] limits on the president (who enforces the law) and on judicial officials (who interpret and apply the law) as well.

The Constitution’s deliberate separation of powers, enforced through a system of checks and balances, is another feature that serves to limit our government. Liberty is most threatened when any person or group accumulates too much power. The Founders, therefore, divided our national government into three distinct branches and gave to each not only specific powers, roles, and modes of election, but ways to prevent the other two branches from taking or accumulating power for themselves. The president, for example, is commander in chief of the U.S. armed forces. However, it is the legislative branch that can declare war, and raises and maintains the armed forces through funding. Congress may impeach the president if it believes he is abusing authority as his commander in chief. Likewise, the president may refuse attempts by Congress to micro-manage wartime decisions on the basis of his role as commander in chief.

Perhaps the most definitive limitations on government are found in the Bill of Rights. A firewall protects a computer from outside attempts to harm it, so too does the Bill of Rights guard fundamental rights, natural and civil. In fact, far from most Americans’ popular

understanding of the Bill of Rights as a “giver” of rights (ask most Americans where they get their right to free speech and the answer will almost always cite the First Amendment), it is actually the “limiter” of government authority. The First Amendment’s words, for example, that “Congress shall make no law,” significantly constrain governmental action in the areas of speech, religion, press, assembly, and petition. In similar fashion, the Fourth Amendment limits the executive branch’s ability to invade one’s home without probable cause and a warrant, and the Eighth Amendment prevents the government from authorizing drawing and quartering as punishment for a crime.

The Bill of Rights does convey some rights. For example, the right to a jury trial. Unlike freedom of conscience, which James Madison understood to be a natural or pre-societal right, a jury trial is not a natural right. A decent and defensible civil society will convey protections ensuring fair trials. Liberty and anarchy are incompatible. Liberty and unlimited government are, too. The Constitution, through its unique approaches to balanced government, was designed to harmonize these positions by protecting rights while promoting competent government.

# The Constitutional Convention

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The 1787 Constitutional Convention traces its origins to early September 1786, when Virginia congressman James Madison and eleven other delegates interested in increasing the powers of the national government met at a tavern in Annapolis, Maryland. Although attended by representatives of only five states—New Jersey, New York, Pennsylvania, Delaware, and Virginia—the Annapolis Convention issued a report, written by Alexander Hamilton, citing “important defects in the system of the federal government” under the Articles of Confederation. Members proposed a convention in Philadelphia the following May to discuss possible improvements to the Articles. In February, Congress endorsed the idea.

Members of Congress and others were increasingly concerned that the Articles of Confederation was inadequate. The Articles placed strict limits on the power of the national government, which had a unicameral legislature of equally represented states, no independent executive, no national judiciary, no power to tax or regulate interstate commerce, and limited ability to raise armies for defense. Congress needed supermajorities to pass certain laws and unanimity to pass amendments. During the Confederation period in the 1780s, states ignored congressional requisitions for taxes, passed tariffs on each other, nearly went to war over trade and territorial disputes, and routinely overlooked the provisions of the 1783 peace treaty that ended the Revolutionary War.

Members of the Virginia delegation, including Washington and Madison, arrived in Philadelphia early. Believing the states were too powerful compared to the central government, they met with the Pennsylvania delegation and drafted a plan of government, largely of Madison’s design. This Virginia Plan was guided by the goal of creating a much stronger national government to govern the country more effectively.

On Friday, May 25, 1787, the delegates assembled in the Pennsylvania State House. All agreed the Articles of Confederation had numerous weaknesses that needed to be addressed, but they disagreed strongly on the appropriate solutions. First, the convention unanimously selected Washington to preside as president, and his prestige legitimized the gathering in the minds of many. The delegates then decided to allow each state delegation one vote and to conduct the proceedings in secret to allow greater candor in free and open debate.

On Tuesday, May 29, Virginian Edmund Randolph introduced the fifteen resolutions of the Virginia Plan. This plan proposed an independent executive, a national judiciary, and a bicameral Congress. Representation would be proportional to population in both houses. The plan also included a national veto over state laws to prevent injustice in the states. Finally, it proposed to send the work of the convention to popular ratifying conventions in

the states rather than to state legislatures. Madison knew the Virginia Plan went beyond Congress's instructions merely to revise the Articles, so he wanted the people's representatives to approve it. He wanted to avoid the state legislatures, however, suspecting they would oppose the plan's strengthening of the national government at the expense of their own governments.

The Virginia Plan immediately sparked contention over the consolidation of power in the national government and the shape of Congress. Charles Pinckney of South Carolina asked whether the plan "meant to abolish the state [governments] altogether." Madison responded that a stronger national government was necessary to "provide for the safety, liberty, and happiness" of the people.

Although the delegates accepted a bicameral Congress without debate, they disagreed over whether the state legislatures or the people would elect its members. Madison wanted the House to be elected by popular vote, based on the principle of republican self-government. "The great fabric to be raised would be more stable and durable, if it should rest on the solid foundation of the people themselves." Although he also continued to support a national congressional veto on the laws of the states as "absolutely necessary to a perfect system," this clause was eventually defeated.

The large and small states, and the North and South, deadlocked over the issue of representation. The large states wanted both houses of Congress to be based on population size, whereas the smaller states (which had generally smaller populations) wanted equal representation and one vote per state. George Read of Delaware even threatened to leave the convention if proportional representation were accepted. A further split developed when the South wanted to count slaves fully as human beings for purposes of representation; the northern states argued that slaves were property and wanted to count them for taxes but not representation.

On June 15, William Paterson of New Jersey offered an alternative to the Virginia Plan that maintained state sovereignty based on the federal principle. This New Jersey Plan preserved the unicameralism, equal representation, and weak executive of the Articles. Paterson did offer to strengthen the powers of the national Congress over taxation and regulation of trade, however, as well as to make federal treaties the supreme law of the land.

The delegates made little headway in attempting to create a national executive. Rival ideas about how many individuals would serve as executive (one or many), the length of the term of office, and the mode of election (by the people, the states, or Congress) were all debated for weeks. Randolph feared a single executive would be the "fetus of monarchy" and preferred a plural executive. George Mason, also from Virginia, asked whether the convention meant "to pave the way to hereditary monarchy." Believing that an energetic

single executive would actually better prevent tyranny than a weak one, Pennsylvanian James Wilson answered that “Unity in the executive . . . would be the best safeguard against tyranny.”

The floor of the State House was not the only arena where the delegates debated their principles and tried to find common ground. They held informal discussions at dinners and in taverns in the evenings and on weekends. Still, they could find little ground for compromise, and some feared their differences might never be resolved. A special committee of eleven was appointed to break the impasse.

On Monday, July 16, the convention agreed to the special committee’s proposals in the form of the Connecticut Compromise, which created a bicameral Congress that was partly national, partly federal. The House of Representatives would be based upon proportional representation and would serve as the source of spending bills, adhering to the principle of no taxation without popular representation. Five slaves would count as three free persons for purposes of calculating representation. In the Senate, all states would have two votes, with senators elected by state legislatures. This became known as the Great Compromise.

On Thursday, July 26, the convention adjourned for several days to allow a Committee of Detail to reconcile and organize all the resolutions that had been accepted up to that point. On August 6, the committee offered a report that, during the coming month, the convention painstakingly debated line by line. For instance, the committee said Congress could never prohibit or tax the international slave trade. But Mason thought the slave trade immoral and called it a “nefarious traffic.” Gouverneur Morris, a New Yorker representing Pennsylvania, said it was conducted “in defiance of the most sacred laws of humanity.” John Rutledge of South Carolina countered by arguing for economic self-interest: “If the Convention thinks that [North Carolina], [South Carolina,] and Georgia will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain. The people of those states will never be such fools as to give up so important an interest.” The delegates eventually compromised and banned congressional interference with the international slave trade for only one generation, until 1808.

The convention then resolved the remaining contentious points. The executive branch would have a single president, who served a four-year term, was eligible for re-election, could veto laws passed by Congress, and would have broad powers over foreign policy and war making. The president would be elected by an electoral college, to which each state would choose, in whatever manner its legislature decided, electors equal in number to the sum of its members of the Senate and House of Representatives. In addition, a national judiciary was conceived and its jurisdiction established. On September 8, Congress appointed a Committee of Style to draft the Constitution, which enumerated the powers of Congress and was largely the work of Governor Morris.



Starting on September 12, Congress debated the wording of the Constitution for three days. The end was in sight, but Mason strenuously argued for a bill of rights to protect essential liberties and offered to draft it himself. Many delegates argued that state constitutions already had protections, and the state delegations unanimously rejected Mason's proposal. Mason, Randolph, and Elbridge Gerry (Figure 3.26) thus registered their opposition to the document by refusing to sign. Mason said he would "sooner chop off his right hand than put it to the Constitution as it now stands." Several delegates admitted that, although imperfect, the document was the best that could be achieved and urged their fellow delegates to sign.

On September 17, thirty-nine delegates from twelve states signed the Constitution as written. Besides the three who did not, some had gone home. The remaining delegates then retired to the City Tavern, where they dined together and, as Washington noted in his diary, "took a cordial leave of each other."

The framers of the Constitution had drafted a document that created a stronger republican government embodying the principles of popular sovereignty, separation of powers, checks and balances, federalism, and limited government. If ratified, this "new order of the ages" would become the fundamental law of the land. But first the people's representatives had to approve it through a deliberative process conducted in state ratifying conventions.

### **Questions for Consideration**

1. What constitutional principles were carried over from the Articles of Confederation to the U.S. Constitution? Which were addressed by the Constitution but not by the Articles of Confederation?
2. How did the Constitutional Convention embrace the civic virtue of civil discourse?
3. Explain how different beliefs about the role of government affected the Constitutional Convention, using political, social, or economic examples.

## **The Ratification Debate on the Constitution**

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On September 19, 1787, the Pennsylvania Packet newspaper published the draft of the Constitution for the consideration of the people and their representatives. On September 28, the Confederation Congress voted to send the Constitution to the state legislatures as written, so state conventions could be called to decide whether to ratify the new framework of government.

During the year-long debates over ratification, supporters of the Constitution called themselves Federalists; as a result, their opponents were known as Anti-Federalists. At the center of the often-contentious arguments that took place in homes, taverns, and on the printed page was the federal principle of balancing national and state power. Federalists defended the Constitution's strengthened national government, with its greater congressional powers, more powerful executive, and independent judiciary. They argued that the new government supported the principles of separation of powers, checks and balances, and federalism. Anti-Federalists, on the other hand, worried that the proposed constitution represented a betrayal of the principles of the American Revolution. Had not Americans fought a war against the consolidation of power in a distant, central government that claimed unlimited powers of taxation? They feared a large republic in which the government, like the Empire from which they had declared independence, was unresponsive to the people. They also feared that a corrupt senate, judiciary, and executive would conspire to form an aristocracy. Finally, they argued against the absence of a bill of rights. States had them, in no small part because they remembered the English Bill of Rights of 1689, which had helped focus attention on the ways in which the British government abused its power.

Through September and October, various Anti-Federalists published essays under pseudonyms like Brutus, Cato, and the Federal Farmer in New York newspapers critiquing the Constitution. Although they did not coordinate their efforts, a coherent set of principles about government and opposition to the proposed Constitution emerged. Alexander Hamilton noted that the “artillery of [the Constitution’s] opponents makes some impression.”

In mid-October, for a series of essays he planned to defend the Constitution from critics, Hamilton (Figure 3.27) enlisted the contributions of Madison, the “father of the Constitution,” as well as John Jay, the president of the Continental Congress and a New York diplomat. The first of these Federalist essays was published in a New York newspaper, under the pseudonym Publius, on October 27. It was addressed to the people of New York but was aimed at the delegates to the state’s Ratifying Convention. In it, Hamilton described the meaning of the choice the states would make:

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.

By mid-January 1788, five states—Connecticut, Delaware, Georgia, New Jersey, and Pennsylvania—had ratified the Constitution. The Federalists were building momentum toward the nine states they needed to win, but they knew the main opposition would come

from Anti-Federalists in large and powerful states, including Massachusetts, New York, and Virginia.

The Anti-Federalists were also mounting an effective opposition in essays and debates. Some demanded prior amendments to be sent to a second convention before they would accept the new government. During the debate in Massachusetts, opposition forced the Federalists to promise to consider amendments protecting the liberties of the people after the Constitution was ratified as written. On February 6, Massachusetts became the sixth state to approve the Constitution by a narrow vote of 187 to 168.

In New Hampshire, the Federalists thought they did not have enough votes to ratify, so they strategically adjourned the convention until June so that they could muster more support. Two other states, Maryland and South Carolina, met that spring and overwhelmingly ratified the Constitution, bringing the total to eight. Still, to be considered legitimate the Constitution would need the support of Virginia and New York, because of their political and economic influence and geographical location, even if the approval of nine other states met the constitutional threshold for the new government to go into operation.

On March 22, Hamilton and Madison arranged for the first thirty-six Federalist essays to be published in book form and distributed copies to friends in hope of influencing the delegates to the New York and Virginia ratifying conventions. Because the outcome remained highly uncertain, a second volume including the rest of the eighty-five essays was published on May 28. George Washington praised *The Federalist* for throwing “new lights upon the science of government” and giving “the rights of man a full and fair discussion.” Thomas Jefferson said it was “the best commentary on the principles of government which ever was written.” The Anti-Federalist essays contributed important reflections on human nature and the character of a republican government in making arguments about why the writers thought the proposed Constitution dangerously expanded the powers of the central government.

When the Virginia Convention met on June 2, a titanic debate took place as two Federalist masters of political debate, Madison and John Marshall, clashed with George Mason and the fiery orator Patrick Henry. Among other Virginians, Washington stayed above the debate, although everyone knew he supported the Constitution, and Jefferson, then in Paris, at first opposed and then supported ratification with prior amendments, because he favored a bill of rights.

Railing against the Constitution, Henry warned that the states would lose their sovereignty in a Union of “we the people” instead of “we the states.” He cautioned that a powerful national government would violate natural rights and civil liberties, thus destroying “the rights of conscience, trial by jury, liberty of the press . . . all pretensions to human rights

and privileges, are rendered insecure, if not lost, by this change.” Henry also thundered that the president would lead a standing army against the people.

Madison countered with a line-by-line exposition of the reasoning behind each clause of the Constitution. On June 25, the Virginia Convention voted 89 to 79 for ratification.

Meanwhile, the Anti-Federalists dominated the New York Convention three to one. Hamilton passionately defended the Constitution and urged his allies in Virginia and New Hampshire to send word of the outcomes in those two states by express rider to influence the New York debate. New Yorkers soon learned that the Constitution had officially become the fundamental law of the land for the states adopting it. The question was now whether New York would join the new federal union. On July 26, by a narrow vote of 30 to 27, New York answered in the affirmative, conditionally ratifying the Constitution with a call for another convention to propose a bill of rights. Only after Congress voted in 1789 to send amendments to the states for approval did North Carolina and Rhode Island vote to ratify the new Constitution.

The sovereign people participated in a great deliberative moment in which they ultimately decided to accept a new Constitution with a central government wielding greater powers to protect their rights, safety, and happiness. The formal and informal deliberations about the principles of government defined the republican nature of the new U.S. government. Meanwhile, the spirit of compromise that yielded not only ratification but also, at the urging of Anti-Federalists, the adoption of the Bill of Rights, reflected genuine patriotism by the people who served the public good and suggested that the Americans were capable of self-government.

### **Questions for Consideration**

1. How did the ratification debate demonstrate republicanism in the United States’ founding?
2. How was the deliberative process of making and ratifying the Constitution a key moment in the history of republics?

## **Excerpts from Federalist 1**

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After full experience of the insufficiency of the subsisting federal government, you are invited 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 to decide, by

their conduct and example, 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 period when 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...

And yet, just as these sentiments must appear to candid men, 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 by 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 power and hostile to the principles of liberty. ...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 interests 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 forbidding appearances 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.

In the course of the preceding observations, it has been my aim, my fellow-citizens, to put you upon your guard against all attempts, from whatever quarter, to influence your decision in a matter of the utmost moment to your welfare, by any impressions, other than those which may result from the evidence of truth. ...I own to you, that, after having given it an attentive consideration, I am clearly of opinion it is your interest to adopt it [the Constitution]. I am convinced, that this is the safest course for your liberty, your dignity, and your happiness... I frankly acknowledge to you my convictions, and I will freely lay before you the reasons on which they are founded...

I propose, in a series of papers, to discuss the following interesting particulars...The utility of the UNION to your political prosperity...The insufficiency of the present confederation to preserve that Union...The necessity of a government at least equally energetic with the one proposed, to the attainment of this object...The conformity of the proposed constitution to the true principles of republican government...Its analogy to your own state constitution...and lastly, The additional security, which its adoption will afford to the preservation of that species of government, to liberty and to property.

In the progress of this discussion, I shall endeavor to give a satisfactory answer to all the objections which shall have made their appearance, that may seem to have any claim to attention.

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 its open avowal. 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 constitution, or a dismemberment of the Union. It may, therefore, be essential to examine particularly the advantages of that Union, the certain evils, and so the probable dangers, to which every state will be exposed from its dissolution. This shall accordingly be done.

# Federalist 10

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Written by James Madison, this essay defended the form of republican government proposed by the Constitution. Critics of the Constitution argued that the proposed federal government was too large and would be unresponsive to the people.

In response, Madison explored majority rule v. minority rights in this essay. He countered that it was exactly the great number of factions and diversity that would avoid tyranny. Groups would be forced to negotiate and compromise among themselves, arriving at solutions that would respect the rights of minorities. Further, he argued that the large size of the country would actually make it more difficult for factions to gain control over others. “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.”

## To the People of the State of New York:

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. He will not fail, therefore, to set a due value on any plan which, without violating the principles to which he is attached, provides a proper cure for it. The instability, injustice, and confusion introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished; as they continue to be the favorite and fruitful topics from which the adversaries to liberty derive their most specious declamations. 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 unwarrantable 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. However anxiously we may wish that these complaints had no foundation, the evidence, of known facts will not permit us to deny that they are in some degree true. It will be found, indeed, on a candid review of our situation, that some of the distresses under which we labor have been erroneously charged on the operation of our governments; but it will be found, at the same time, that other causes will not alone account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other. 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 a 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 was worse than the disease. Liberty is to faction what air is to fire, an aliment without which it instantly expires. But it could not be less folly to abolish liberty, which is essential to political life, because it nourishes faction, than it would be to wish the annihilation of air, which is essential to animal life, because it imparts to fire its destructive agency.

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed. As long as the connection subsists between his reason and his self-love, 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 a uniformity of interests. The protection of these 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 we see them everywhere brought into different degrees of activity, according to the different circumstances of civil society. A zeal for different opinions concerning religion, concerning government, and many other points, as well of speculation as of practice; an attachment to different leaders ambitiously contending for pre-eminence and power; or to persons of other descriptions whose fortunes have been interesting to the human passions, have, in turn, divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to cooperate 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 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 under 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 party and faction in the necessary and ordinary operations of the government.

No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity. With equal, nay with greater reason, a body of men are unfit to be both judges and parties at the same time; yet what are many of the most important acts of legislation, but so many judicial determinations, not indeed concerning the rights of single persons, but concerning the rights of large bodies of citizens? And what are the different classes of legislators but advocates and parties to the causes which they determine? Is a law proposed concerning private debts? It is a question to which the creditors are parties on one side and the debtors on the other. Justice ought to hold the balance between them. Yet the parties are, and must be, themselves the judges; and the most numerous party, or, in other words, the most powerful faction must be expected to prevail. Shall domestic manufactures be encouraged, and in what degree, by restrictions on foreign manufactures? are questions which would be differently decided by the landed and the manufacturing classes, and probably by neither with a sole regard to justice and the public good. The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is, perhaps, no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice. Every shilling with which they overburden the inferior number, is a shilling saved to their own pockets.

It is in 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. Nor, in many cases, can such an adjustment be made at all without taking into view indirect and remote considerations, which will rarely prevail over the immediate interest which one party may find in disregarding the rights of another or the good of the whole.

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 then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

By what means is this 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. If the impulse and the opportunity be suffered to coincide, we well know that neither moral nor religious motives can be relied on as an adequate control. They are not found to be such on the injustice and violence of individuals, and lose their efficacy in proportion to the number combined together, that is, in proportion as their efficacy becomes needful.

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 for the mischiefs of faction. A common passion or interest will, in almost every case, be felt by a majority of the whole; a communication and concert result from the form of government itself; and there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual. Hence it is that such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths. Theoretic politicians, who have patronized this species of government, have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions.

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 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. On the other hand, the effect may be inverted. Men of factious tempers, of local prejudices, or of sinister designs, may, by intrigue, by corruption, or by other means, first obtain the suffrages, and then betray the interests, of the people. The question resulting is, whether small or extensive republics are more 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 two constituents, and being proportionally greater 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 option, and consequently 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 centre in men who possess the most attractive merit and the most diffusive and established characters.

It must be confessed that in this, as in most other cases, there is a mean, on both sides of which inconveniences will be found to lie. By enlarging too much the number of electors, you render the representatives too little acquainted with all their local circumstances and lesser interests; as by reducing it too much, you render him unduly attached to these, and too little fit to comprehend and pursue great and national objects. The federal Constitution forms a happy combination in this respect; the great and aggregate interests being referred to the national, the local and particular to the State legislatures.

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. The smaller the society, the fewer probably will be the distinct parties and interests composing it; the fewer the distinct parties and interests, the more frequently will a majority be found of the same party; and the smaller the number of individuals composing a majority, and the smaller the compass within which they are placed, the more easily will they concert and execute their plans of oppression. Extend the sphere, and you 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 a 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. Besides other impediments, it may be remarked that, where there is a consciousness of unjust or dishonorable purposes, communication is always checked by distrust in proportion to the number whose concurrence is necessary.

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,—is enjoyed by the Union over the States composing it. Does the advantage consist in the substitution of representatives whose enlightened views and virtuous sentiments render them superior to local prejudices and schemes of injustice? It will not be denied that the representation of the Union will be most likely to possess these requisite endowments. Does it consist in the greater security afforded by a greater variety of parties, against the event of any one party being able to outnumber and oppress the rest? In an equal degree does the increased variety of parties comprised within the Union, increase this security. Does it, in fine, consist in the greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and interested majority? Here, again, the extent of the Union gives it the most palpable advantage.

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. A religious sect may degenerate into a political faction in a part of the Confederacy; but the variety of sects dispersed over the entire face of it must secure the national councils against any danger from that source. A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project, will be less apt to pervade the whole body of the Union than a particular member of it; in the same proportion as such a malady is more likely to taint a particular county or district, than an entire State.

In the extent and proper structure of the Union, therefore, we behold a republican remedy for the diseases most incident to republican government. And according to the degree of pleasure and pride we feel in being republicans, ought to be our zeal in cherishing the spirit and supporting the character of Federalists.

PUBLIUS.

# Federalist 51

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In this Federalist Paper, James Madison explains and defends the checks and balances system in the Constitution. Each branch of government is framed so that its power checks the power of the other two branches; additionally, each branch of government is dependent on the people, who are the source of legitimate authority.

“It may be a reflection on human nature, that such devices [checks and balances] 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.”

Madison also discusses the way republican government can serve as a check on the power of factions, and the tyranny of the majority. “[I]n the federal republic of the United States... 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.” All of the Constitution’s checks and balances, Madison concludes, serve to preserve liberty by ensuring justice. Madison explained, “Justice is the end of government. It is the end of civil society.”

Madison’s political theory as expressed in this Federalist Paper demonstrated the influence of Montesquieu’s *The Spirit of the Laws* on the Founders.

## **To the People of the State of New York:**

TO WHAT expedient, then, shall we finally resort, for maintaining in practice the necessary partition of power among the several departments, as laid down in the Constitution? The only answer that can be given is, that as all these exterior provisions are found to be inadequate, the defect must be supplied, by so contriving the interior structure of the government as that its several constituent parts may, by their mutual relations, be the means of keeping each other in their proper places. Without presuming to undertake a full development of this important idea, I will hazard a few general observations, which may perhaps place it in a clearer light, and enable us to form a more correct judgment of the principles and structure of the government planned by the convention.

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. Were this principle rigorously adhered to, it would require that all the appointments for the supreme executive, legislative, and judiciary magistracies should be drawn from the same fountain of authority, the people, through channels having no communication whatever with one another. Perhaps such a plan of constructing the several departments would be less difficult in practice than it may in contemplation appear. Some difficulties, however, and some additional expense would attend the execution of it. Some deviations, therefore, from the principle must be admitted. In the constitution of the judiciary department in particular, it might be inexpedient to insist rigorously on the principle: first, because peculiar qualifications being essential in the members, the primary consideration ought to be to select that mode of choice which best secures these qualifications; secondly, because the permanent tenure by which the appointments are held in that department, must soon destroy all sense of dependence on the authority conferring them.

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 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.

An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed. But perhaps it would be neither altogether safe nor alone sufficient. On ordinary occasions it might not be exerted with the requisite firmness, and on extraordinary occasions it might be perfidiously abused. May not this defect of an absolute negative be supplied by some qualified connection between this weaker department and the weaker branch of the stronger department, by which the latter may be led to support the constitutional rights of the former, without being too much detached from the rights of its own department? If the principles on which these observations are founded be just, as I persuade myself they are, and they be applied as a criterion to the several State constitutions, and to the federal Constitution it will be found that if the latter does not perfectly correspond with them, the former are infinitely less able to bear such a test.

There are, moreover, two considerations particularly applicable to the federal system of America, which place that system in a very interesting point of view. First. In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. 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. Second. 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 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.

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. This view of the subject must particularly recommend a proper federal system to all the sincere and considerate friends of republican government, since it shows that in exact proportion as the territory of the Union may be formed into more circumscribed Confederacies, or States oppressive combinations of a majority will be facilitated: the best security, under the republican forms, for the rights of every class of citizens, will be diminished: and consequently the stability and independence of some member of the government, the only other security, must be proportionately increased. 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.

It can be little doubted that if the State of Rhode Island was separated from the Confederacy and left to itself, the insecurity of rights under the popular form of government within such narrow limits would be displayed by such reiterated oppressions of factious majorities that some power altogether independent of the people would soon be called for by the voice of the very factions whose misrule had proved the necessity of it. In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good; whilst there being thus less danger to a minor from the will of a major party, there must be less pretext, also, to provide for the security of the former, by introducing into the government a will not dependent on the latter, or, in other words, a will independent of the society itself. It is no less certain than it is important, notwithstanding the contrary opinions which have been entertained,



that the larger the society, provided it lie within a practical sphere, the more duly capable it will be of self-government. And happily for the REPUBLICAN CAUSE, the practicable sphere may be carried to a very great extent, by a judicious modification and mixture of the FEDERAL PRINCIPLE.

PUBLIUS.

# Were the Anti-Federalists Unduly Suspicious or Insightful Political Thinkers?

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## Issue on the Table

Were the Anti-Federalists incoherent and out of touch with the current political realities as their Federalists opponents claimed, or did they offer insightful warnings about complex issues that would plague the United States under the Constitution?

## Claim A

The Federalists and Anti-Federalists agreed that dependence on the people, expressed through frequent and regular elections, is the necessary condition to secure the blessings of liberty. Both sides in the debate over the Constitution's ratification also agreed that dependence on the election system alone to protect liberty was insufficient. But they disagreed on the main danger to republican liberty and the best remedy to that danger.

Both sides agreed on the threat posed by a faction (a group of individuals pursuing their own interest rather than the public good), though they differed on the character of dangerous faction. Federalists thought the danger to liberty was the intemperate and irrational behavior of a majority faction that would persecute minorities and violate their rights. The Anti-Federalist message was that political power corrupts and that representatives in every branch, at every level of government, must be kept on a short leash and watched by the people, even though the sovereign people elected the representatives. Their concern was a minority faction and tyranny in a distant, centralized national government.

Thus the Anti-Federalists supported several precautionary constitutional devices that would limit government to prevent tyranny by a minority faction including (1) the full and fair representation of the people in the legislative branch of the general government; (2) bicameralism with the representation of the states as equal partners in the Senate; (3) a clear separation of powers among the branches of the general government; (4) an express division of powers between the nation and the states, called federalism; (5) the promotion of the regular virtue of the citizens and the elected politicians; and (6) a bill of rights that restrained the reach of the general government. These were the Anti-Federalist "auxiliary precautions" to protect the liberties of the people.

The Federalist Papers essays present the Anti-Federalists as incoherent and irrelevant. Federalist No. 23 and No. 38 portray them as absurd and disagreeable. It took 84 of 85 essays, however, before the absence of a bill of rights—the consistent Anti-Federalist critique articulated before Federalist No. 1 was even written—was seriously addressed. And, even then, the Federalist Papers got the Anti-Federalists wrong.

The Anti-Federalists warned that the Philadelphia Constitution contained the potential for the permanent loss of liberty. Despite the assurances of Federalist No. 45 that the powers of the general government were “few and defined,” the essay authors warned that the new Constitution shifted power to the central government, which became unlimited. Despite the assurances of Federalist No. 70, No. 71, and No. 78 that the president was constitutionally constrained and that the judiciary was the least dangerous branch, the authors warned about the potential for an imperial presidency and a judiciary that believed the Constitution is what the judiciary says it is. And the authors warned that representation of the people in Congress was anemic and would become weaker at the same time that the power of the general government became stronger. What if, one day, instead of one for 60,000 people, we had one representative for 600,000, which is presently the case?

### **Claim B**

The Anti-Federalists were neither a political party nor a homogenous group of opponents to the ratification of the Constitution. Nor did they defend the Articles of Confederation as the best constitution for the United States. Their diversity and inability to present a spirited defense of the Articles cast them as mere opponents to needed reform. But the Anti-Federalists left an enduring legacy through their common substantive critiques of the Constitution and by their rhetorical tactics, which pressed the Federalists to make important concessions.

The Anti-Federalists identified the major weaknesses and ambiguities of the Constitution that they feared would manifest themselves in the future. First, many Anti-Federalists perceived that the scheme of representation would produce an aristocracy of politicians that would be difficult for their constituents to monitor and control. As “Brutus” wrote of representatives, “[I]f 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” (Essay 1). Second, they argued that uncontrollable representatives would consolidate power at the expense of the states. “Centinel” feared that “the United States are to be melted down into one empire” (Letter 1). They worried that the people would lose protection of their rights, and the various branches of the new government would usurp the powers of the states. Numerous Anti-Federalists specifically warned that federal courts would assume jurisdiction over most serious legal and constitutional matters, relegating state courts to insignificance. Finally, Anti-Federalists universally feared the taxing powers of the new government.

“Federal Farmer” cautioned that the new government would invoke ambiguous clauses of the Constitution, particularly the General Welfare and Necessary and Proper Clauses, to overwhelm the people with taxation, thereby threatening their liberty and property (Letter III). Whereas some Anti-Federalist predictions materialized quickly, others took years to develop. They presciently perceived the expansion of the powers of government that could occur under the Constitution.

Appreciating the rhetorical position of the Anti-Federalists provides another way to recognize their influence. Because the state ratification conventions voted only to approve or reject the new Constitution, the Anti-Federalists could use exaggeration freely to “scare up” votes. This often forced the Federalists, especially those in states where ratification was not assured, into defensive positions in which they sought to calm fears by denying the legitimacy of Anti-Federalist predictions. Numerous Federalists, for example, insisted the new Constitution would establish a limited government that left the states in possession of their sovereignty. This, of course, is exactly what the Anti-Federalists wished to hear. Several states, including Virginia and New York, specified in their ratification statements their understandings that the Constitution created a severely limited government. The Bill of Rights (1791) can be read as a promise granted to the Anti-Federalists, but of more immediate importance were the public assurances made by the Federalists denying broad interpretations of the Constitution. Anti-Federalists painted the Federalists into a corner. If the Federalists broke their promises once the new Constitution went into effect, they would declare themselves to be liars and cheats. Given the tremendous importance of honor to the culture of the Early Republic, such a position can be read as a rhetorical victory for the Anti-Federalists.

Read either substantially or rhetorically, the Anti-Federalists exerted tremendous influence on the politics of the Early Republic and created enduring understandings of constitution interpretation. They were influential political losers.

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