

# **The Anti-Federalist Papers; and, the Constitutional Convention Debates Study Guide**

**The Anti-Federalist Papers; and, the Constitutional  
Convention Debates**

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## Plot Summary

The Anti-Federalist Papers is a compilation of the debates over the American form of government between 1787 and 1790. This period of time began with increasing dissatisfaction with The Articles of Confederation, which were the law of the land from 1777 to 1789. Many saw the Articles of Confederation as failing to provide the federal government with sufficient power for a variety of reasons, including its inability to pay off debts and collect revenue, prevent state skirmishes and resolve other conflicts. During this time there was an enormous debate about how American government should be structured.

What is notable about this period is that all the participants have the same goal: to preserve as much human liberty as possible. However, they disagree significantly upon the means. Some believe the federal government needs more power over the states, others less than what the proposed Constitution provides. Some prefer more democratic modes of government, giving the people power over their politicians. Yet others prefer more republican institutions, where there are various restrictions on democratic control. There are the traditional conflicts between large and small state representation. There are significant debates over how to separate power, and how to restrain the power of particular branches of government. All of these debates come to a head at the Constitutional Convention of 1787 and the subsequent ratification process.

The Anti-Federalist Papers is a collection of the records of the constitutional convention, documents of the subsequent ratification debates, and the following proposed amendments to the Constitution. After the introduction, the book has two parts. Part I is the entire record of the federal convention of 1787, ranging from April 16th to September 17th, 1787. Part II presents the ratification debates, particularly the documents from the "anti-federalist" side or the side opposed to the ratification of the U.S. Constitution. Some of the most important documents of that period, The Federalist Papers, or papers written in support of the Constitution, are omitted and printed in a companion book. Thus the bulk of Part II is composed of the writings and speeches of the Anti-Federalists. The book ends with an appendix containing the Articles of Confederation and the U.S. Constitution.



# Introduction

## Introduction Summary and Analysis

The introduction is a series of background information and history that sets the stage for the book. It is written by the editor, Ralph Ketchem. The introduction is divided into sections, each of which will be summarized separately.

### Section I: The Revolutionary Background of American Constitutional Thought

Practical political thought and the theory of institutional design flourishes in the American colonies in the 1770s and 80s. Americans make numerous original contributions to political theory. The previous decades also produce enormous amounts of political discussion, debate and thought. Americans are not alone in this, for the same thinking is developing in Britain decades before.

As the states and the new federal government experiment with self-government, they run into many practical difficulties. Many conclude towards the end of the 1780s that the federal executive is too weak. Madison and Jefferson have much the same feeling about the governorship of Virginia. They also want to insulate judges from popular politics as this is thought to produce corruption in their judgments. They are to be shielded from "popular sentiment."

### Section II: Republicanism in the 1780s

Everyone at the federal convention agrees on government by consent. However, there are only three forms of government they think compatible with this principle: constitutional monarchy, which includes a king whose powers are limited by a constitution and a people's assembly; a republic—a representative government with checks on democratic control and no hereditary executive; and democracy—town-meeting style democracy or direct voting by the people. Constitutional monarchy is unpopular due to the revolution and most people think "mere democracy" will lead to mob rule and eventually rule by a "man of the people."

### Section III: Political Currents of the 1780s

Distinct interests inevitably influence the Constitutional Convention. The South is mostly agricultural and relies on exports. Often Southern states want the Constitution to prevent Congress from restricting trade with a two-thirds majority rule. However, the North is industrializing and so often favors restricting trade. The South wants to preserve the slave trade, whereas the North does not. Nonetheless, these interests probably do not subvert the republican ideology built into the U.S. Constitution. Many want to give Congress a stronger power to tax and give them more control over interstate and foreign trade.

### Section IV: The Federal Convention of 1787



The Federal Convention in 1787 concerns the "Virginia Plan" as conceived by James Madison. They debate the details for two weeks and vote down the part of the Virginia plan that allows Congress to vote down state laws. However, they support a strengthening of the national government nonetheless. There are numerous debates about large and small state representation.

An alternative plan called the "New Jersey Plan" is proposed by William Paterson which treats the states equally and more closely reflects the Articles. Eventually on July 5th a "grand committee" generates the "Great Compromise" where the lower house of Congress is apportioned by population and the upper house of Congress by state. On July 16th, the convention approves the Great Compromise. Eventually the delegates reach a final draft. There are three objectors: Edmund Randolph and George Mason of Virginia and Elbridge Gerry of Massachusetts. They think the convention gives the federal government too much power. However, thirty-nine delegates approve the constitution and there is unanimous consent of all the states.

#### Section V: The Ratification Contest

The defenders of the new constitution called themselves "federalists" despite the fact that the new constitution does not propose a federation or league of governments. It is instead a "composite" of national and federal aspects. The biggest backers of the new constitution are John Jay, Alexander Hamilton and James Madison, who under the pseudonym "Publius" write a series of letters to New York newspapers explaining and defending the constitution. There are nearly ninety letters published and they are now called "The Federalist Papers." Hamilton writes essays defending a more "energetic" government whereas Madison emphasizes the federalist elements and the checks and balances.

Anti-Federalists respond under different names—"Centinel," "Cato," "Brutus" and "The Federal Farmer"—and are reprinted around the country. Ratification contests occur in state after state. After much debate, state after state votes to ratify and join together in November 1789. Rhode Island follows in May 1790.

#### Section VI: Federalist Principles

The debate between anti-federalists and federalists begins to bring out their differences. The federalists want a government that is more effective, more energetic as a republic. They think small confederations are weak and provincial and fight among themselves. They are often conquered by other nations as well. They want a stable and strong government to counteract these fears. They want to prevent tyranny of kinds and of the people by limiting power and balancing the branches of government against one another. They hope further that a stable and energetic government will lead to expansion and progress. Some of them even dream of Britain-like world power with the new federal government.

#### Section VII: Anti-Federalist Political Thought



The Anti-Federalists see the federalist dreams of glory as a lust for power and empire. If the federalists are successful the people will face high taxes, the draft and campaigns. They cannot see how a country as large as the United States can be democratic and so resist increasing the power of the federal government. They fear the violation of liberty. They think that the judicial branch is too removed from the people, that the power to levy taxes is too strong. Anti-federalists want to withdraw powers from the executive and increase checks and balances. They are "men of little faith" in that they do not trust institutions of power.

The strength of local government is vital to them. They want politicians and citizens to be able to "see, know, and understand each other." To keep the politicians virtuous, organic social institutions like family and church have to have an impact on their behavior. This is only possible at the local level. The federalists think that one can ensure good behavior by removing the influence of the people from government to some degree, but the anti-federalists think the opposite.



# Part I: The Federal Convention of 1787, Chapter 1-4

## Part I: The Federal Convention of 1787, Chapter 1-4 Summary and Analysis

### Chapter 1: James Madison to George Washington (April 16th, 1787)

James Madison is a fervent supporter of a stronger national government. This letter is by Madison to George Washington explaining the flaws of the Articles and what changes are needed. Madison argues that the national authority needs to be supreme over the states without eradicating them. He stresses the need for representation by population, which he argues the North will accept due to its current great population and the South will accept due to its growing population. What we need, Madison argues, is a "disinterested and dispassionate umpire in dispute" between different interest groups.

### Chapter 2: The Virginia Plan (May 29th)

The convention debates begin on May 29th. Gov. Edmund Randolph of Virginia lays the Virginia plan before the delegates. Madison has outlined it. It becomes the agenda-setting topic of the convention. This chapter contains Madison's convention notes on the debates.

Randolph begins by arguing that the new government must be able to protect the people from foreign invasion, mediate between state conflicts of interest, to help the states achieve ends they cannot achieve for themselves, to defend itself against encroachment and to be superior to the state constitutions. The Articles have all the opposing vices. He then proposes various resolutions. In general, the Virginia Plan attempts to correct the enumerated flaws of the Articles in the new government.

### Chapter 3: Debate on Representation (May 31st)

The debate on representation concerns the clause that would have the house of representative elected by the people of the states. This debate concerns delegate attitudes to popular rule. Mr. Sherman thinks election should occur in the state legislature as the people could be misled. Mr. Gerry thinks that our current evils comes from too much democracy. Mr. Mason supports election by the people because this is supposed to be the one fully democratic part of government. Mr. Wilson thinks election by the people will give them confidence in the government. Mr. Madison thinks that popular election in at least one branch is essential for having a free government. Mr. Gerry continues to emphasize his distaste for popular democracy.

### Chapter 4: Debate on Executive Power (June 1st)



The Articles do not provide an executive power, and members of the convention are hesitant about having an executive at all. So they debate it on June 1st. Some are afraid that the executive has too much power to go to war. Most prefer a single executive who can enforce with law efficiently, but Mr. Randolph thinks it "the fetus of monarchy." However, Mr. Wilson thinks it will help safeguard against tyranny.





# Chapters 5-8

## Chapters 5-8 Summary and Analysis

### Chapter 5: Opposition to Executive Salaries (June 2nd)

Ben Franklin thinks that government officers should not receive salaries. This will ensure that men who lust for power and money will tend not to seek office. Instead, it will be regarded as a duty. However, the motion is rejected as it is considered impractical.

### Chapter 6: Opposition to a Unitary Executive (June 4th)

The delegates continue to debate whether the executive should be unitary or plural. The chapter contains George Mason's speech against unity. He continues to fear that the government will degenerate into monarchy with only one executive. He thinks we might adopt one for each region—North, South and Middle.

### Chapter 7: Electing Representatives (June 6th)

The delegates debate how to elect members of the House. They debate as to whether state legislatures rather than the people should elect the representatives. Many delegates think that all authority must flow from the people at some direct point to be legitimate. Others think that as long as there are state governments, there must be a way to balance state and national power. If state legislatures choose representatives, then this task of balance is made easier.

### Chapter 8: Debate on Method of Electing Senators (June 7th)

Now the delegates debate whether the Senate will be elected by the state legislatures. Some argue that state election will give the states an interest in preserving the national government. Some complain that this over-represents the small states. Some support state election because they want Senators to be men of character and state election makes this more likely. Most prefer a small senate for more dignified debate. Many want the Senate to be able to "rise above" popular politics and want to insulate them from the people.



# Chapters 9-12

## Chapters 9-12 Summary and Analysis

### Chapter 9: Debate on Veto of State Laws (June 8th)

The delegates debate whether the Congress has the ability to control state laws that violate national laws. Many support this to avoid conflict and dissension. If the national government is not supreme, it cannot be effective. Others fear this makes the national government too powerful and will lead to the eradication of the states.

### Chapter 10: The New Jersey Plan (June 15th)

Most of the Virginia Plan is accepted but many oppose increasing the national government's power to such a strong degree. The delegates from small states are particularly concerned. William Paterson of New Jersey offers a "purely federal" plan that it more like the Articles—it is a "league of states." On the New Jersey plan, Congress can raise revenue through duties, and there will be a Supreme Court appointed by the president. It still holds that Congressional laws are the laws of the land.

### Chapter 11: Debate of the New Jersey Plan (June 16th)

Mr. Paterson argues that the New Jersey Plan treats the States equally and does not give the executive too much power. Mr. Wilson prefers the Virginia Plan because there are multiple legislative houses, among many other reasons. In general, the Virginia Plan has more checks on power while maintaining vigorous national power.

### Chapter 12: Plan for National Government (June 18th)

Alexander Hamilton gives his speech for dramatically increasing the power of the national government. He has been silent for much of the convention because his opinions are much friendlier to monarchy. He argues, for example, in favor of an executive-for-life who is totally above popular political passions. At the end of his speech, he lists various amendments he would make to the current plans.



# Chapters 13-16

## Chapters 13-16 Summary and Analysis

### Chapter 13: Opposition to the New Jersey Plan (June 19th)

Madison is strongly in favor of a federal plan. Government legitimacy comes from consent and so there must be some direct democracy in a legitimate government. Yet a government must protect the rights of the people against encroachment by the government itself, and so must have wise, virtuous individuals who have an interest in restraining its power and who can afford to ignore the people from time to time. He argues against the New Jersey Plan on the grounds that it cannot effectively adjudicate conflicts between states or within them, and cannot effectively hold foreign powers at bay. He argues that the smaller states have reason to endorse representation per person, rather than per state.

### Chapter 14: Debate on Federalism (June 21st)

These debates concern the tendency of states and the federal government to attempt to acquire the power of the other. William Johnson, Wilson and Madison exchange their views. Dr. Johnson wants to preserve state power to satisfy advocates of the New Jersey plan. Mr. Wilson points out that the New Jersey plan, by giving state legislatures the power to appoint Congressmen, gives states a way to defend themselves against the national government. Madison argues that federal encroachments tend to be less bad, so it is best to err on the side of them.

### Chapter 15: Length of Term in Office of Senators (June 26th)

The convention now debates how long a senator's term should be. What is more likely to produce good decisions, they ask, short terms or long terms? Mr. Sherman argues for short terms so that bad rulers can be overthrown peacefully. Mr. Hamilton thinks it vital that the senators not be demagogues and above the political fray, and so supports longer terms.

### Chapter 16: Debate on State Equality in the Senate (July 28th-July 2nd)

The delegates from large states oppose equal state representation in the Senate, while the delegates from small states support it. Madison argues that popular sovereignty weighs in favor of representation by person, not by state. Dr. Johnson argues that the states are distinct political societies deserving of recognition as equals. Mr. Wilson worries that giving states equal representation will allow a minority of the people to override the will of the majority. However, Mr. Ellsworth thinks this is an excellent check against the oppression of the minority. Many other points and counters are advanced.



# Chapters 17-20

## Chapters 17-20 Summary and Analysis

Chapter 17: Majority Rule the Basic Republican Principle (July 5th, 13th, and 14th)

A grand committee is created to seek a compromise between the large states and small states. They propose that representation by person be the rule in the lower house and that all budget bills start there. In the Senate, there is representation by State. This is "the Great Compromise." Madison thinks the convention is sacrificing justice for the small states. Majority rule alone can legitimize government. Mr. Wilson echoes these ideas.

Chapter 18: Election and Term of Office of the National Executive (July 17th and 19th)

The convention now decides how the executive is to be composed, elected and empowered. However, there is a question about whether the executive should be selected by Congress. The result is largely inconclusive. Some argue, like Gouverneur Morris, that the executive should be elected by the people. Others, like Mr. Sherman, thinks that the executive should be appointed by the body representing the people—the legislature. Others, like Madison, argue that the executive must be elected separately from the legislature to separate powers. They also debate the extent to which the executive should be term-limited.

Chapter 19: The Judiciary, the Veto, and the Separation of Powers (July 21st)

Some argue for a motion that "the national judiciary should be associated with the executive" but others argue that this violates the separation of powers. The delegates debate whether the judicial branch should be able to veto legislation. Some argue that the judiciary is inappropriate for this task and that it would thereby acquire legislative power.

Chapter 20: Appointment of Judges (July 21st)

Later in the day, Madison suggests that the executive appoint Supreme Court justices unless overridden by two-thirds of the senate. Madison argues that the executive is better suited for appointing than the legislature because his motives are harder to hide. Some want to invest the power of selecting Supreme Court judges in the executive entirely, with no legislative override. Others prefer a veto or "negative" in order to prevent bad executive judgment.



# Chapters 21-24

## Chapters 21-24 Summary and Analysis

### Chapter 21: Method of Ratification (July 23rd)

The delegates take up the matter of how to ratify the constitution. Some, like Oliver Ellsworth, favor ratification by state legislature, while Mason and Madison want to convene special conventions in each state. Madison worries that the states will not act in the national interest if left to state legislatures, as the state legislature's interest and the national interest do not always coincide.

### Chapter 22: Election of the Executive (July 24th and 25th)

Some want the Congress to elect the executive and others want him ineligible for re-election. Still others favor that the states select electors who will choose the president. Mr. Williamson suggests a term of seven years with no second term allowed. Madison thinks that good objections can be raised to all the options, but thinks the election by the Congress will divide it so much that the public interest would suffer.

### Chapter 23: First Draft of the Constitution (August 6th)

On July 26th, the convention assigns a committee to write up a constitution that reflects the agreed upon points. On August 6th, the convention comes together and reviews it. The rest of the debates center on amending or rejecting clauses. The draft is largely the same as the current language of the constitution. The remaining debates cover wording, qualifications for immigrants, the impact of slavery, suffrage qualification, and executive veto power. The constitution does have opponents, but only minor tweaks are made to the original draft.

### Chapter 24: Qualifications for Suffrage (August 7th and 10th)

The clause-by-clause examination begins. Some quibble over wording and the names of the officers and a motion is introduced to limit suffrage to "freeholders" or landholders. The motion is defeated. Those arguing for "freeholder" limitations think that voters should be only those who had a material stake in society, whereas those arguing against the limitation think it was unjust to prevent some from having control in the formation of their government. The issue comes up again in qualifications for holding office. Landholder restrictions are thought to weigh towards aristocracy whereas a lack of restrictions is thought to weigh in favor of a mob-rule democracy. This chapter contains some of Madison's later thoughts on the matter, one set of notes written in 1787 and another written sometime in the 1820s. In the end, Madison thinks that universal suffrage has slightly more to say in its favor and should trump in the case of conflict.



# Chapters 25-28

## Chapters 25-28 Summary and Analysis

### Chapter 25: Citizenship for Immigrants (August 9th)

A motion is put forward which requires 14 years of residence before citizenship is granted. This is opposed to the current 4 year qualification. Many in favor of the restriction are worried that the national interest may be subverted by foreigners and that a long residence is necessary to "Americanize" them. Mr. Franklin is worried that other delegates are exaggerating the threat of European immigration.

### Chapter 26: Executive Veto Power (August 15th)

The delegates debate the executive veto power. Gouverneur Morris suggests that the Executive have an absolute veto. Mr. Sherman thinks it should be limited; Congress should have some override option.

### Chapter 27: Slavery and the Constitutions (August 21st and 22nd)

The Convention now fights over the slave trade. The draft prevents a prohibition or tax on the slave trade, but there are those who reject this provision. Some hold that allowing taxing and prohibition can limit the slave trade. Mr. Pickney points out that South Carolina will not ratify if Congress has the power to restrict the slave trade. Mr. Ellsworth wants to go ahead and free all of the slaves in the country. Mr. Pickney thinks that slavery is morally legitimate, as proven by its presence all over the world. The convention continues to debate the moral and economic matters raised by the slave trade. It becomes clear that the South wants to prevent Congress from restricting commercial regulation and the slave trade, whereas the North wants to give Congress the power to do both. New England agrees not to restrict the slave trade if the South (Georgia and South Carolina) will not require a two-thirds majority to pass commercial restrictions. They thereby resolve the last major conflict of interest at the convention.

### Chapter 28: Election and Powers of the President (September 4th, 5th, and 6th)

The Senate is now allowed to amend budget bills, property qualifications for office are dropped, and the requirement of a two-thirds majority for navigation laws is also eliminated. Congress is also given more powers. On the 4th, a committee returns with several new provisions—the Electoral College, four year terms for president and vice-present and the article of impeachment and trial in the Senate. All the recommendations make it into the Constitution except for one recommendation that the Senate choose the President in the case of a tie in the Electoral College. Most are happy with the recommendations. However, there are concerns. For instance, Mr. Wilson worries that the Senate has too much power and this makes the new government too aristocratic.



# Chapters 29-30

## Chapters 29-30 Summary and Analysis

Chapter 29: Opposition to the Constitution (September 7th, 10th and 15th)

Most support the Constitution by now and wish to go home. However, three delegates object to the basics and refuse to sign the document—Gerry of Massachusetts and Randolph and Mason of Virginia. They are worried that Congress and the Senate in particular have too much power. Mr. Gerry is worried that Senators' terms are too long and their terms have no restriction, that the House can conceal their journals, and that Congress has the power of the place of election. He wants to reject the three-fifths compromise, among other things.

Mr. Mason is worried that there is no declaration of rights that will prevent the abuse of the "necessary and proper clause" of the Constitution which gives the Congress all powers "necessary and proper" to implement their Constitutional duties. He worries that the House is not truly representative. The Senate should not have the power to alter the budget and the federal judiciary should not have the power to change state laws so easily, as this will lead to the state court systems being undermined. He gives many other objections. In general, he is worried that too much power is given to the new government.

Chapter 30: Signing of the Constitution (September 17th)

Benjamin Franklin gives a speech exhorting the delegates to sign the Constitution. Some minor amendments are proposed and the candidates debate whether unanimity is required. Ultimately, all but three delegates sign. Mr. Gerry expresses his regrets. As the last members sign, Dr. Franklin notes that the president's chair has a sun painted on the back and he observes that while the image is ambiguous between sunrise and sunset, he had hopes that he is now happy that it is a rising sun, representing the new hope for a new nation. The convention then dissolves itself.



## **Part II: Ratification of the Constitution, Chapters 31-34**

### **Part II: Ratification of the Constitution, Chapters 31-34 Summary and Analysis**

#### Chapter 31: Speech of James Wilson (October 6th, 1787)

The Constitution goes to the states for ratification. Chapter 31 opens in Pennsylvania, whose legislature is already in session. James Wilson, a federalist, is calling for immediate elections. James Wilson is asked to defend the Constitution. He argues that an omission of a bill of rights is not a problem because the Constitution is clear that the national government only has the rights delegated to it. He argues that the abolition of trial by jury at the federal level is not a general problem. He further argues that the Constitution, while permitting a standing army, is not in this respect distinct from the Articles of Confederation. He claims the Constitution will not annihilate the states, because, for instance, the state legislatures choose the senators. The power of direct taxation is questioned as well, but Wilson argues this power is necessary to improve upon the articles.

#### Chapter 32: The Need for Energy in Government

Here the author simply refers the reader to a number of the Federalist Papers, not printed here. One argument for the national government pushed by Hamilton is that good government needs to be "energetic."

#### Chapter 33: "John DeWitt" Essays I and II (October 22nd and 27th)

A Massachusetts anti-federalist who writes under the name "John DeWitt" argues against "energetic" central government. This chapter reproduces two of DeWitt's five essays.

In the first essay, he points out that liberty is a treasure and that the new Constitution will last forever, so the choice of restricting local liberty under the Constitution is serious. He encourages the people not to think that the Constitution will solve all their problems or make them great in a moment.

In the second letter he continues to emphasize the fact that the Constitution will produce a perpetual union. He argues strongly in favor of a Bill of Rights, claiming that the Constitution will be abused without one. He argues further that the States' rights will be effectively eliminated and transferred to the national government.

#### Chapter 34: Speeches of Patrick Henry (June 5th and 7th, 1788)





Patrick Henry gives two speeches to the Virginia ratifying convention in 1788 arguing against "energetic" government. He argues that the Constitution should be a union of distinct political societies, the States, or that it is simply a national government. The new Constitution is as revolutionary as the separation from Britain. Liberty, he claims, should be the end of government, but in this Constitution is it not. Liberty can only be protected, in the end, by force. The new Constitution gives all the force to the federal government. His main objection is that individuals and states are left with no way to defend their rights. He thinks it is too difficult to make amendments, and that it is inconsistent with the Declaration of Independence's claim that individuals have the natural right to alter or abolish their governments.

In the latter speech, he argues that the tyranny of the new national government may exceed the difficulty of interstate squabbling under the Articles. He argues that we cannot be afraid of liberty for "Fear is the passion of slaves." He continues to press the claim that a minority of people will prevent the majority from exercising their natural rights—that is, the government will prevent the people from altering their government. He objects to the takings clause and all other powers which seem to give the national government the ability to enslave the people.



# Chapters 35-38

## Chapters 35-38 Summary and Analysis

### Chapter 35: Amendments Proposed by the Anti-Federalists

Anti-Federalist proposals arise to correct the flaws they see in the Constitution. Massachusetts, Virginia, New York and North Carolina all propose bills of rights, as does Rhode Island before it ratifies in 1790. Some of the amendments are reproduced here. Massachusetts proposes something like the current 10th amendment; they recommend restrictions on taxation power, among other things. The Virginia convention proposes an amendment that would explicitly recognize the natural rights of citizens, including life, liberty and property, and that individuals have a right of resistance. In general, the Virginia amendments are quite radical restrictions and checks of federal power. The Rhode Island convention proposes to give states the right of appointment over all of their politicians, they reject restrictions on suffrage to landholders, and restrict the power of direct taxation somewhat. They also ban standing armies in peacetime.

### Chapter 36: Preventing Tyranny Under the New Constitution

The author again refers us to a specific list of The Federalist papers addressing these concerns. The anti-federalists are consistently worried about tyranny, but Public argues that large, united nations are less dangerous to liberty than small fragmented groups. One argument Madison gives is that in a large country, factions can check one another's power.

### Chapter 37: "Centinel" Number I (October 5th, 1787)

The anti-federalists continue to hone their claim that the Constitution will threaten liberty. Centinel argues that checks and balances will be an obstacle to detecting corruption and tyranny in politicians. "Centinel" is the name for Samuel Bryan. Eighteen of Centinel's articles are printed in Philadelphia newspapers between October 5th, 1787 and April 9th, 1788.

Centinel's main argument in the first letter is that checks and balances let politicians off the hook for being wicked. He argues that a free government "can only exist where the body of the people are virtuous, and where property is pretty equally divided" (231). He then proceeds to make the standard anti-federalist complaints about the new powers possessed by the national government under the constitution. He also complains about the lack of a bill of rights.

### Chapter 38: The Address and Reasons of Dissent of the Minority of the Convention of Pennsylvania to their Constituents (December 18th, 1787)

The Pennsylvania convention votes 46 to 23 on behalf of the new Constitution. Twenty-one members of the minority group sign a letter of dissent printed in a Pennsylvania



newspaper. It becomes a quasi-official statement of anti-federalist grievances. The author is probably "Centinel." The document begins by recounting some of the familiar problems with the Articles and then covers the signatories' recommendations to the convention.

These recommendations include, among other things: (a) holding the right of conscience inviolable; (b) trial by jury in property conflicts; (c) a rejection of excessive bail and cruel or unusual punishment; (d) freedom of speech; and (e) a version of the second amendment that far more obviously protects an individual's right to bear arms and also prevents a standing army during peacetime. They report the recommendations to the convention, and then the letter complains of verbal abuse by their opponents.

They make three general objections to the Constitution. First, they argue that a free government cannot be maintained over a large territory and that therefore the US government should be a mere federation. Second, they argue that the powers of the Constitution will "annihilate and absorb" all state powers, bringing about "an iron-handed despotism." They proceed to argue that Congress's new powers, such as that of taxation, will be used to reduce state power to nothing. The third point of dissension is that the Constitution will produce despotism for reasons independent of the first two concerns. First, there is no bill of rights. Second, a minority of elected officials can determine policy through a veto. They also are concerned that the new Constitution mixes the branches of government to a dangerous degree and of the power of direct taxation of the states. Other concerns are listed, but they, like those listed, are not unique to this anti-federalist document.



# Chapters 39-42

## Chapters 39-42 Summary and Analysis

Chapter 39: Letters from the Federal Farmer (October 8th and 9th, 1787)

"Federal Farmer" is another pseudonym for an anti-federalist writer. The author historians now believe is a New York anti-federalist Melancton Smith. He produces a systematic series of letters that together compose a detailed critique of the Constitution. The first two letters are reprinted.

Federal Farmer agrees that some federal government is necessary, but we must figure out whether the current Constitution creates the right government. He argues that people had from the ratification of the Articles complained of its weakness and that those who wrote the Constitution secretly want to abolish the states altogether. He thinks that the Constitution produced will result in this outcome in the end. For now it simply leans to "aristocracy." Federal Farmer proposes an alternative of "partial consolidation" which he does not see in the current Constitution.

The second letter complains about the Supreme Court having too much power and the fact that inalienable and fundamental rights are not explicitly preserved by the document. He rejects the reasons for not having a Bill of Rights. He also is concerned about the separation of powers being disconnected from the popular will. Further, many of the federal government's powers are implicit in the Constitution and not listed. He considers this dangerous.

Chapter 40: "Brutus," Essays I, VI, X-XII, and XV

A series of essays to the people of New York is written by "Brutus" between October 1787 and April 1788. The author is probably Robert Yates, a New York judge and delegate to the Federal Convention. In the first essay, Brutus complains that the national government covers too large a territory to bring about the common good of the people within it. Large territories, he argues, are tyrannies. Second, individuals must give their assent to laws for them to be legitimate but in a large country true representation is not possible. He repeats arguments in this vein, focusing on the extent of the new nation's size and the dangers that presents.

Essay VI expresses the worry that the Constitution will destroy the powers of the States. Brutus argues the legislature has too much power to allow for state autonomy. The power to lay taxes, in particular, is brought under scrutiny for it carries the power to destroy state governments. Proponents of the Constitution argue that the taxing power will not be abused in this way, but Brutus argues that the wording of the Constitution is too ambiguous to prevent it.

Essay X argues that the Constitution will allow for a standing army and that this is a great danger to liberty. He recounts how countries in the past have been turned into



tyrannies by standing armies. He argues that history attests to the fact that a standing army destroys liberty. Since, in his view, the Constitution does not prevent standing armies, those who value their liberty have reason to reject it.

Essay XI complains about the power of the judiciary. A major problem is that the Supreme Court holds a monopoly of interpretation. This will allow them to reinterpret the Constitution in the interests of those in power. This will lead to the subversion of state power. Brutus argues that the Constitution "strongly countenances" this interpretation. Further, Brutus points out that the federal courts have indeed extended their jurisdiction in Britain.

Essay XII follows up on Essay XI, arguing that the power of subverting the states will extend to the legislature. In short, the judicial branch will enable the legislative branch to extend its power over time by distorting the meaning of the Constitution. The Congress, he believes, will end up authorized to do whatever it pleases to promote its conception of the general welfare. In the second part of the same essay, Brutus argues that the necessary and proper clause in particular lends itself to such a tyrannical interpretation. The courts and legislature, he argues, will end up having a veto on state laws.

Essay XV complains there are no controls on the Supreme Court. Brutus wants to illustrate the danger of such an institution. Justices are too hard to remove from office; their errors cannot be corrected, and their power is often superior to the legislature. This will lead to tyranny. He thinks the judicial branch is practically determined to destroy states' rights.

#### Chapter 41: The Meaning of Government By Consent

This is yet another reference to The Federalist papers. The debates between federalist and anti-federalist hit a standoff. This leads both parties to inquire into the deeper question of what it meant for a government to be based on the consent of the governed. The anti-federalists have a more radical and more "republican" idea of giving consent.

#### Chapter 42: "John DeWitt," Essay III (November 5th, 1787)

John DeWitt argues that contracts are to be understood "according to the meaning of the parties at the time of making them." The magistrates are but trustees to implement the will of the people. The Constitution will degenerate into Aristocracy, undermining the will of the people. The judiciary is too far removed from the people.



# Chapters 43-45, Appendices I and II

## Chapters 43-45, Appendices I and II Summary and Analysis

Chapter 43: "Cato," Letters V and VII (November 22nd and 27th, 1787)

"Cato" is another anti-federalist. He reiterates the arguments of Brutus and may be New York Governor George Clinton, but there is no good evidence for this.

Letter V argues against the powers of the legislative branch. Cato wants yearly elections for representatives. In this way, they will directly reflect the will of the people. Also, there are too few representatives.

Letter VII argues that the senate and the president are too tightly associated. They will act together against the people rather than checking each other because they have common interests. The Congress also has control over how their members shall be elected. The general concern is that "rulers in all governments will erect an interest separate from the ruled, which will have a tendency to enslave them."

Chapter 44: "Brutus," Essays IV and XVI

Brutus argues that representation will not work well under the current legislative branch. In these two essays, he addresses the arguments in the Federalist Papers, Essays #52-57. He begins Essay IV by emphasizing that a free government has the people make the laws. For this to work, the people must be represented in the government. The small number of legislators in the Congress will prevent it from being representative. He also worries that the representation is too "feeble" and will not produce public trust. Citizens will not know their representatives, for instance. So the people will not identify with them. He also complains that Congress has control over how they are elected.

Essay XVI advocates checks on the branches of government by means of a superior power. There are not enough of these checks on the Supreme Court and the Senate, whose terms are too long. He continues to press for the separation of powers in various ways, but admits that this is quite difficult to pull off in practice.

Chapter 45: Speeches of Melancton Smith (June 20th-27th, 1788)

Melancton Smith is one of the delegates to the second New York ratification convention. New York has rejected the Constitution once but with other states ratifying, state officials decide to put the Constitution up to a vote again. He criticizes the structure of the House and the Senate.

Smith begins by noting that the quarrelsomeness of the states is indeed a problem, but notes that it is hard to correct. Internal dissension, he argues, is a problem in any



government. He then raises various problems with the Legislature—its mode of appointment, that there is no fixed minimum number of representatives, and concerns about general inadequacy of its operation. He objects strongly to the three-fifths compromise.

Smith considers the qualifications for representatives, and argues that they should be able to admit a large number of men from all walks of life to increase the general knowledge of the body, and to represent men of different economic classes. He adds that a large number of representatives will have more difficulty forming coalitions. In the third letter he denies that he is an enemy of the rich to his opponents, and responds to other accusations.

Smith opposes long terms for senators because they will not be dependent upon or attached to the people. He also prefers rotation of senator elections. In general, he is concerned to oppose the Senate's more aristocratic features. Smith ends by noting that the flaws of the current state governments are not so bad when compared to the flaws of governments in history and he supposes that the national government will have its own shortcomings.

Appendix I: Articles of Confederation (Drafted: 1777, Effective: 1781)

The appendix reproduces the entirety of the Articles of Confederation

Appendix II: The Constitution of the United States of America

The second appendix reproduces the entirety of the current U.S. Constitution, in its 1789 form with all future amendments reproduced to the present day.



# Characters

## James Madison

James Madison (1751-1836) is a delegate to the Constitutional Convention and one of the authors of The Federalist Papers, which argue in favor of the ratification of the Constitution.

Madison consistently thinks that the Articles of Confederation are too weak and that a more powerful federal government is required to fix the problems of the Articles. He drafts the Constitution and much of the Bill of Rights. Madison is a sophisticated political theorist who argues that governments must not only be given the power to rule the people but also to restrain itself from encroaching upon the people's liberties. He argues in favor of this by creating a government wherein different "factions" or special interest groups find themselves with opposing interests. This will lead them to fight amongst themselves rather than working together to oppress the people. He is a strong defender of republicanism generally and thinks some restrictions of popular democracy can be justified. In many ways, Madison wants to reduce state power. He is constantly concerned about states quarreling and the federal government having the inability to properly control the states and secure the country against foreign invaders. He also, to some extent, wants the United States to be respectable among the great nations, and that, he thinks, requires a strong national government. Madison consistently defends the consolidation of government power during this book. However, later on, under President Adams, he and Thomas Jefferson write the controversial Kentucky and Virginia resolutions, nullifying the alien and sedition acts. Thus, Madison is subject to ideological change over time. He is no simple nationalist, as in the case of Hamilton. Instead, he has constantly evolving and developing views.

Madison later goes on to serve in the federal Congress and become the fourth President of the United States.

## Gunning Bedford, Jr.

Mr. Bedford (1747-1812) is a delegate to the Constitutional Convention from Delaware, and a lawyer and politician.

## Oliver Ellsworth

Oliver Ellsworth (1745-1807) is a delegate to the convention from Connecticut—a lawyer, judge, scholar and politician. He is a proponent of checks on popular democracy and goes on to become the third Chief Justice of the Supreme Court.





## Benjamin Franklin

Benjamin Franklin (1706-1790) is one of the most famous American founders. He is a delegate from Pennsylvania. His position, however, is one of honor and he rarely participates in the debate. Franklin gives one speech on behalf of eliminating salaries for federal politicians. Before the convention, Franklin does nearly everything; he is an author, printer, satirist, political theorist, politician, scientist, inventor, civic activist, abolitionist, statesman and diplomat.

## Elbridge Gerry

Elbridge Gerry (1744-1814) is a delegate from Massachusetts and one of the delegates who refuses to sign the Constitution. His primary objection is that it does not have a Bill of Rights. Unlike many anti-federalists, he has a general distaste for democracy. Gerry goes on to become governor of Massachusetts, the fifth vice president of the United States (under Madison) and inspired the term "gerrymandering."

## Alexander Hamilton

Alexander Hamilton (1755-1804) is a delegate from New York, lawyer and politician. He is among the most prominent founding fathers and is one of the authors of the federalist papers. His views are the most monarchical of all the delegates and his alternative constitution is largely ignored. Hamilton goes on to become secretary of the treasury under George Washington.

## William Samuel Johnson

Johnson (1727-1819) is a Connecticut delegate to the convention and is a lawyer, judge and scholar. He is a supporter of the New Jersey Plan that defends a strong conception of states' rights.

## George Mason

George Mason (1725-1792) is a delegate from Virginia, farmer and scholar. He is one of the fathers of the Bill of Rights and is one of those who refuse to sign the Constitution because it lacks a Bill of Rights.

## Gouverneur Morris

Morris (1752-1816) is another Pennsylvania delegate, a lawyer, politician and diplomat. He is author of large parts of the Constitution along with the preamble. He is a strong nationalist and an Aristocrat.



## **Edmund Randolph**

Edmund Randolph (1753-1813) is a delegate from Virginia. He also refuses to sign the Constitution. Although he supports a strong central government, he thinks the Constitution lacks enough checks and balances. However, he changes his mind during the Virginia ratifying convention.

## **George Washington**

George Washington (1732-1799) is chair of the convention and is a general, farmer, and First President of the United States.

## **James Wilson**

James Wilson (1742-1798) is another delegate from Pennsylvania, and a lawyer, scholar, politician and judge.

## **Patrick Henry**

A famous founding father and anti-federalist who gives one of the most eloquent critiques of the Constitution at the Virginia Ratifying Convention in 1788. He is concerned that "energetic" government will bring tyranny.

## **Melancton Smith**

Melancton Smith is one of the delegates to the second New York ratification convention. New York rejects the Constitution once but with other states ratifying, state officials decide to put the Constitution up to a vote again. Many federalists, like Alexander Hamilton, argue vigorously for ratification, but they are stridently opposed by Melancton Smith. He criticizes the structure of the House and the Senate. These criticisms help to articulate his conception of government by consent.



# Objects/Places

## Articles of Confederation

The document outlining the United States' form of government from 1777 to 1789. It is judged to be inadequate as it does not concentrate federal power sufficiently.

## The Virginia Plan

A partial Constitution proposed and written by James Madison. It gives more power to large states because it creates representation by person and not by state.

## The New Jersey Plan

A partial constitution proposed by William Paterson that gives more power to small states by creating representation according to state. The "Great Compromise" is formed out of this plan and the Virginia Plan.

## Philadelphia Convention

The Philadelphia Convention is the Constitutional Convention, wherein the Constitution is proposed, debated, edited and ultimately ratified by delegates from the several states.

## US Constitution

The central document of controversy in the book. It is the final product of the Philadelphia Convention and the battles between federalists and anti-federalists are over its ratification in each state.

## State Ratifying Conventions

Each of the thirteen states has a ratifying convention. Many of the relevant speeches and debates in the book take place there, particularly in Pennsylvania, New York, and Virginia.

## The Federalist Papers

A series of papers written by John Jay, Alexander Hamilton and James Madison in defense of the Constitution. Eighty-seven essays in all, they are written under a single pseudonym, "Publius."



## **Pennsylvania Dissenting Minority Address**

When the Constitution is ratified in Pennsylvania, it has to pass through other states before it becomes law. The minority of legislators in Pennsylvania against ratification composes an address which states all of their objections. It is, in some sense, the classic anti-federalist document.

## **Declaration of Independence**

The Declaration is the document which announces the secession of the United States colonies from Great Britain and gives its justification. It appeals to an individual's inalienable, natural rights for this justification. The Declaration casts a shadow over the ratification process because the anti-federalists do not believe that the Constitution protects the natural rights which the same federalists appeal to during the Revolutionary War.

## **Bill of Rights**

The Bill of Rights is the first ten amendments to the Constitution passed around 1790. They are passed in part to quiet anti-federalist concerns about the Constitution granting too much power to the government and significantly restrict the powers of Congress.

# Themes

## Safeguarding Liberty

While the entire book is composed of debates between federalists and anti-federalists, or various delegates to the Constitutional Convention, all the characters in the book agree on one thing: liberty is the primary end of government. A legitimate government must preserve the liberty of the individual and the community to rule itself. All are interested in explicitly designing institutions that safeguard that liberty and prevent it from being destroyed by forces outside and inside of government.

The debates in the book focus around how best to accomplish this goal. There are several dimensions along which debate proceeds:

- (1) States vs. People
- (2) Federation vs. Republic
- (3) Virtue vs. Institutional Checks and Balances
- (4) Aristocracy vs. Popular Democracy

Perhaps the primary debate was around whether the Constitution should represent the states as the primary political unit it was composed of or the individual people of each state. Debates raged over whether states were to be equally represented, for instance, or whether each state should be represented according to population. Delegates also deliberated about whether the new government should be a federation of distinct political societies or whether it should be a national government. A third theme is that of the proper checks on tyranny. Some thought that it was important to promote virtue in politicians; others thought this was hopeless and sought to organize the government so that the self-interest of the different branches would check one another. Finally, there is a debate about how democratic the branches of the federal government should be—or how directly the people should have a say about who gets into office and what they can do there. All of these themes, though, concern how best to protect human freedom.

## States vs. People

One of the most central debates in the book concerns which political body within the federal government is to be the most fundamental: the states or the people. The issue then arises over how to best represent the people—through the state political bodies or through direct contact. Some argue that the states can stand as bulwarks against federal encroachments on liberty and that therefore they are the best protection of individual liberty. Others argue that it is unfair or unjust to divide representation by state rather than population because individuals in smaller states will have a greater say in the form of government than individuals in larger states. This debate results in the



presentation of two different plans to the Constitutional Convention—the Virginia Plan, which emphasizes representation by person and the New Jersey Plan, which emphasizes representation by State. The Constitutional Convention has to decide between the two plans and eventually builds some of the New Jersey's plan's provisions into the Senate, so that the states will be equally represented in at least one branch of the legislature. Further, the senators were originally to be picked by state legislators, giving individual states an even bigger hand. The debate continues into the ratifying conventions as well, where the anti-federalists argue that the Constitution gives so much power to the federal government that it will, in time, erase states' rights altogether.

## Federation vs. Republic

This theme is similar to the last, but distinct. Not only are the characters in the book concerned about how best to represent individuals, they are divided over how to conceive of the new government. Is it to be a federation—an organization of distinct, sovereign political bodies (the states) to secure their mutual interests? Or is it to be a republic—a government which includes representation by the people but has sovereignty over the individual states? This debate is not resolved even by ratification and proceeds quite hotly until the Civil War, where Lincoln settles it by conquest. The major concerns of the proponents of federation (oddly named "the anti-federalists") were that a national, consolidated government is too large and would be given to tyranny. They argue constantly that truly representative government cannot exist on a large scale, as the voice of the individual gets drowned out. Therefore, the states must be the primary political unit, as they are closer to genuine communities in form.

The republicans (oddly named "the federalists") argue that leaving power to the states will leave these different political societies to quarreling and make them easier to conquer. The advantage of an "energetic" national government is that it can solve problems for the whole nation at once. Without a strong national government, the interests of the people of each state cannot be served well. They argue that the failures of the Articles of Confederation demonstrate their point.

## Virtue vs. Institutional Checks and Balances

Another question arises over how to protect individual liberty. The federalists and anti-federalists debate as to whether character or institutional structure is the more important element in protecting liberty. Some, like Centinel, argue that individual virtue is vital and essential to a good, free government. Checks and balances, he argues, give people over to their private self-interests and make the proceedings of government hard for the people to grasp. The anti-federalists often defend virtue as a mode of preserving freedom and argue that localized institutions are easier to keep virtuous as the people can see directly what is going awry. Federalists like Madison, while thinking virtue is important, believe that institutional design is crucial as long as men are imperfect. The interests of "factions" must be turned against one another so that they can fight it out



while the people remain free. If different interest groups have to fight to get what they want, then they will not have a reason to ally to oppress the people.

All the major characters in the book believe in both methods. A vicious people cannot be self-governing at all. Its institutions, no matter the form, will degenerate into tyranny. All agreed institutions are important, especially the anti-federalists. They largely create the bill of rights and propose far more constitutional checks on government power.

## **Aristocracy vs. Popular Democracy**

One very important theme in the book is how to best protect liberty with the voting procedures at the federal level. Some argue in favor of a great amount of democratic control—the people will elect representatives, for instance, with the aim of securing their interests at the federal level. Proponents of these checks argue that democratic control is essential to avoid tyranny, and gives legislators a reason to act in the people's interests, as the people could recall them. Others argue that democratic procedures are given to "mobocracy" and demagoguery. They think that the people are easily fooled and swayed by passion. For this reason, certain branches of government need to be insulated from popular passions. The Supreme Court is an example of this strategy. The executive appoints Supreme Court justices she believes competent and then they have their position for life, and cannot be recalled by the people. The purpose of the Supreme Court is to think 'long-term' and consider the implications of the law; without democratic influences, they are free to make unpopular, yet wise decisions.

One major debate at the Constitutional Convention is over the election and terms of senators. Some want senators to have long terms so that they can operate in a mode similar to the Supreme Court. They are to be a "higher" body that is wiser, cooler and more sophisticated. Others think long terms in government and—particularly—appointment by the states will give senators interests that diverge too widely from the people. Thus there are two features debated within this theme—length of term and method of appointment. Delegates to the convention also debate office limitations, in order to control the quality of person that can be voted for.

## **Government by Consent**

One theme of the book is that experiments in self-government bring out a tension in the philosophy behind the Declaration of Independence. On the one hand, the Declaration asserts that individuals have inalienable rights given to them by God. Yet it also says that governments are legitimized by the consent of the governed. This raises a dilemma: can consent of the governed overrule inalienable rights? Or are inalienable rights always a constraint on what democratic institutions may do? A French philosopher, Benjamin Constant, contrasts these two ideas as *The Liberty of the Moderns* and *The Liberty of the Ancients*, with the former referring to individual rights and the latter to the right of a people to govern and shape their own institutions. This dilemma rears its head constantly throughout the debates. Some argue that whatever



the Constitution does, it must safeguard natural rights. Others argue, in contrast, that the will of the majority should rule. One can easily see how these might come into conflict. Most of the delegates think some constraints on majority rule are justified by an appeal to natural rights, yet many are extremely wary of putting too much distance between the will of the people and the mechanisms of government because of the threat of tyranny.



# Style

## Perspective

The perspective of the book is multifaceted. The author is a historian and editor. His only written contribution to the book is a history of the debates and the ideas in play at the time in the introduction. He appears to approve of the ratification of the Constitution, and so disagrees with the anti-federalists, but this is such a commonplace attitude that it is hardly worth noting.

The Constitutional Convention is mostly composed of James Madison's notes. The notes are short and are mostly summaries of arguments. Madison does not appear biased in his note-taking. His goal is primarily to accurately record the content of the debates. It is possible that his records include federalist bias, but as the other copies of convention notes are much shorter and incomplete, we cannot ascertain the degree to which he is biased, if at all.

The essays in Part II of the book all come from the anti-federalist perspective. Obviously, the perspective of the anti-federalists is one of citizens who believe the new Constitution is a threat to individual liberty, in one way or another. Their speeches are typically polite and passionate in defense of human freedom and the values they believe are complimentary to human freedom, such as virtue, and self-government.

## Tone

As the book has multiple authors, it has multiple tones. The tone of the introduction is clear and appropriate to the writings of a modern historian out to convey the details of an important debate to his reader. Ketchum is clearly excited to explain the material to his reader and considers the constitutional debates full of important insights that are still relevant today. He communicates to us the revolutionary character of the time of these debates and all the ideological currents that contribute to the form and content of the debates. He is particularly concerned to convey to us the excitement that the founders felt at the opportunity to design a government from the ground up in defense of liberty, and he communicates that the founders were committed to republicanism, a form of government "half-way" between democracy and monarchy.

The tone of the convention notes is fairly dry, as such records of events typically are. Madison appears committed to making as literal, yet readable, a record as he can. It is not clear from the book what the purpose of the convention notes are. Probably they are for the purpose of showing the public what is discussed so they can make better decisions about whether to ratify and as a document of public record for what is—clear at the time—an event of great historical importance.

The tone of the anti-federalists is that of individuals fearful that the promise of American liberty is soon to be undermined by the new government that the ratification of the US



Constitution will bring about. They range from dispassionate assessments of the Constitution and arguments on its behalf to strong, emotional appeals to the love of liberty by Patrick Henry at the Virginia ratifying convention. While the different anti-federalist writings differ somewhat in their level of emotional passion, their commitment to liberty is fairly consistent in the text.

## Structure

The text of the book is divided into five general sections. The first section is all of the introductory material—table of contents, list of information about the texts, and the introduction written by the editor, Ralph Ketchem. Part I of the book is the Constitutional Convention—many of Madison's records of the convention are reproduced here. They largely cover the structure and content of the debates. They range from May 29th to September 17th, 1787. Different issues are debated on different days and Madison records the major comments and core ideas of each of the speakers on a particular topic.

In Part II, the Constitution has already been approved by the convention and goes to the States for ratification. Part II contains anti-federalist writing from the period. Some of the writings are newspaper articles, others are speeches, and still others are general addresses such as the one written by the dissenting minority of the Pennsylvania legislature. The structure of Part II is sporadic—it is a compilation of different anti-federalist views deriving from different authors. They have different values and goals as well.

The final two parts of the book are appendices. The first is a re-print of the Articles of Confederation and the second is a re-print of the US Constitution.



## Quotes

"To give a new System its proper validity and energy, a ratification must be obtained from the people, and not merely from the ordinary authority of the Legislatures. This will be the more essential as inroads on the existing Constitutions of the States will be unavoidable ..." (34).

"We the people of the States of New Hampshire, Massachussetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the Government of Ourselves and our Posterity," (134).

"The members then proceeded to sign the instruments. Whilst the last members were signing it Dr. Franklin looking towards the President's Chair, at the back of which a rising sun happened to be painted, observed to a few members near him, that Painters had found it difficult to distinguish in their art a rising from a setting sun. I have, said he, often and often in the course of the Session, and the vicissitudes of my hopes and fears as to its issue, looked at that behind the President without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun," (180).

"This constitution ... is of a pernicious tendency, because it tolerates a standing army in the time of peace," (185).

"It is in the nature of man to pursue his own interest in preference to the public good ..." (188)

"That insatiable thirst for unconditional control over our fellow creatures, and the facility of sounds to convey essentially different ideas, produced the first Bill of Rights ever prefixed to a Frame of Government," (196).

"The question turns, Sir, on that poor little thing—the expression, We, the people, instead of the States of America," (199).

"Here is a revolution as radical as that which separated us from Great Britain," (199).

"My great objection to this Government is, that it does not leave us the means of defending our rights; or, of waging war against tyrants," (202).

"Fear is the passion of slaves," (210).

"For I will never give up the power of direct taxation, but for a scourge," (212).

"A republican or free government, can only exist where the body of the people are virtuous, and where property is pretty equally divided; in such a government the people are sovereign and their sense or opinion is the criterion of every public measure," (231).



"We dissent ... because the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several states, and produce from their ruins one consolidated government, which from the nature of things will be an iron handed despotism, as nothing short of the supremacy of despotic sway could connect and govern these United States under one government," (242).

"Among the many evils that are incorporated in this new system of government, is that of congress having the power of making or altering the regulations prescribed by the different legislatures, respecting the time, place, and manner of holding elections for representatives, and the time, and manner of choosing senators," (322).

"Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled," (357).

"This constitution, and the laws of the United States which shall be made in pursuance therefore; and all treatise made, or which shall be made, under the authority of the United States shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding," (376).



## Topics for Discussion

Is the preservation of individual liberty the supreme political virtue? Is it the value that a constitution should be built around?

How is the separation of powers supposed to preserve liberty?

Do you think that more aristocratic or directly democratic institutions will preserve the liberty of the individual? What is worse, the rule of the few or of the many?

Should the states be understood as sovereign political bodies, or should the federal government represent the people directly? What are the advantages and disadvantages of both approaches?

Which is more important for good government, virtuous politicians or institutions that provide good incentives to politicians be they good or bad?

What are the ideal term-limits on each branch of government? How long should the president be allowed to serve? A Congressman? A Senator? A Supreme Court Justice? Defend your answer.

Suppose you are an anti-federalist. Give the best argument you can against the ratification of the Constitution.

Who do you think has the better argument, the federalists or the anti-federalists? Why?

Do you believe that a government can only be made legitimate by the consent of the governed? If so, why? How do you understand consent of the governed?