LESSON 16

What Was the Anti-Federalists' Position in the Debate about Ratification?

Purpose of Lesson

The people who opposed ratification of the Constitution, which created a federal government, were called Anti-Federalists. To understand their point of view, we will focus on the writings of Mercy Otis Warren, the author of many plays and political pamphlets. The Anti-Federalists' position was based mainly on the ideas that had been discussed for more than 2,000 years about the kind of society that was necessary for a republic. You also learn about the Bill of Rights, one of the most important contributions to our Constitution.

When you complete this lesson you should understand the contributions of Anti-Federalists and be able to explain their arguments.

Terms to Know

agrarian community
Anti-Federalists
diverse community

How did the Anti-Federalists view the importance of representative government and civic virtue?

Most Americans were very suspicious of government, but the **Anti-Federalists** were especially mistrustful of government in general and strong national government in particular. This mistrust was the basis of their opposition to the Constitution. They feared it had created a government the people could not control.

In general, the Anti-Federalists were older Americans who had grown up believing in the basic ideas of republicanism. These included the idea that in a republic, the greatest power should be placed in a legislature composed of representatives elected by the people of the community. It had always been thought that this kind of representative government would only work in a small community of citizens with similar interests and beliefs, because in such a community it would be easier for people to agree on what was in their common interest.

In addition, it was widely believed that people living in small **agrarian communities** would be more likely to possess the **civic virtue** required of republican citizens. Living closely together they would be more willing to set aside their own interests when necessary and work for the common good.

The Anti-Federalists understood that the Federalists were proposing a government that was the opposite of this type of republican government. It was large and powerful, it included numerous **diverse communities**, and its capital would be far away from most of the people it represented. The Anti-Federalists believed such a system would inevitably pose a threat to the rights of the people.

Many distinguished Americans were Anti-Federalists. Leaders included George Mason and Elbridge Gerry. Both had attended the Philadelphia Convention but had refused to sign the Constitution. Richard Henry Lee was a leading revolutionary and signer of the Declaration of Independence, but fought against the ratification of the Constitution. Patrick Henry had always opposed the idea of a strong national government; he became a leading Anti-Federalist. Mercy Otis Warren, a playwright, also opposed ratification. She, like the others, wrote pamphlets explaining why she did not support the Constitution. Other prominent Anti-Federalists included Luther Martin, Robert Yeates, and George Clinton.

Many arguments were made both for and against the Constitution. Most of them had to do with three basic questions:

- Would the new Constitution maintain a republican form of government?
- Would the federal government have too much power?
- Was a bill of rights needed in the Constitution?

What were the arguments of Anti-Federalists?

Mercy Otis Warren was a playwright as well as an Anti-Federalist writer. She is noteworthy because of her unusual ability to enter the man's world of early American politics. Her main criticisms of the Constitution are a good example of the Anti-Federalist position. The Anti-Federalists argued that the Constitution had the following flaws:

- It should have been developed in meetings whose proceedings were open to the public.
- It would undermine a republican form of government.
- It gave too much power to the national government at the expense of the powers of the state governments.
- It gave too much power to the executive branch of the national government at the expense of the other branches.
- It gave Congress too much power because of the "necessary and proper clause."
- It did not adequately separate the powers of the executive and legislative branches.
- It allowed the national government to keep an army during peacetime.
- It did not include a bill of rights.

Why did the Anti-Federalists fear a strong national government

Warren and the other Anti-Federalists feared that, because of these flaws in the Constitution, the new national government would be a threat to their natural rights. They also thought that the Constitution had been developed by an elite and privileged group to create a national government for the purpose of serving its own selfish interests. Warren and most of the Anti-Federalists thought that the only safe government was one that was

- local and closely linked with the will of the people
- controlled by the people, by such means as
  - yearly elections
  - replacing people in key positions often

What do *you* think?

1. How did the arguments of the Anti-Federalists reflect their point of view regarding natural rights, republicanism, and constitutionalism?
2. Why did the Anti-Federalists believe that the Constitution would not be able to maintain a system of republican government?
3. Did the Anti-Federalists have less faith in human nature than did the Federalists? Explain your answer.

Should there be a bill of rights?

The lack of a bill of rights proved to be the strongest and most powerful weapon of the Anti-Federalists in their struggle to defeat the Constitution. The most frequent arguments they used were the following:

- The way the government is organized does not adequately protect rights. Only the House of Representatives is chosen directly by the people. The federal government is too far removed from average citizens to care about their concerns. The federal government's power could be used to violate citizens' rights.

Mercy Otis Warren
(1728–1814)

Patrick Henry
(1736–1799)

Why did the Anti-Federalists demand a bill of rights?

- The federal government's powers are so general and vague that they can be used to give the government almost unlimited power. It can make all laws that are "necessary and proper" to promote the "general welfare." The Constitution allows the federal government to act directly on citizens. Therefore, its powers over citizens are almost unlimited.

- There is nothing in the Constitution to stop the federal government from violating all the rights that are not mentioned in it. Some rights are included and some are not. There is no mention, for example, of freedom of religion, speech, press, or assembly. Since they are omitted from the Constitution, the government is free to violate them.

- A bill of rights would quiet the fears of many people that a strong central government could violate their rights. After all, Americans recently fought a revolutionary war to secure their fundamental rights. They do not want a constitution that places those rights in jeopardy.

- A bill of rights is necessary to remind the people of the principles of our political system. As one Anti-Federalist put it, there is a necessity of "constantly keeping in view...the particular principles on which our freedom must always depend."

How did the demand for a bill of rights unite the Anti-Federalists?

The Anti-Federalists often disagreed with each other about why they opposed the Constitution, and they were not a well-organized group. They were united, however, in their opposition to the new federal government described in the Constitution. They soon realized that the best way to defeat the Constitution was to use the issue of a bill of rights.

There was a widespread fear of a strong and powerful federal government combined with the belief that a bill of rights was necessary to protect people from government. If people needed to be protected from their relatively weak state governments, they certainly needed protection from the vastly more powerful federal government. In addition, it was easier for the Anti-Federalists to dramatize the lack of a bill of rights than the issues of taxes or the powers of the state governments.

The lack of a bill of rights became the focus of the Anti-Federalist campaign. It was a highly emotional issue for the men and women who had just fought a revolution to secure their rights. In several states, the question of a bill of rights was used effectively to organize opposition to the ratification of the Constitution.

What do you think are the most compelling arguments for and against ratification of the Constitution?

Many Anti-Federalist leaders, like George Mason, hoped to defeat the Constitution so that a second constitutional convention would be held. There, the Anti-Federalists hoped, they would have more influence in creating a new government.

What do *you* think?

1. What criticism of the Constitution by the Anti-Federalists seems to you the most valid? Why?
2. Would you have voted to ratify the Constitution as it was written in 1787? Why?
3. The original Constitution did not secure equal rights for women. Would you have opposed the Constitution for this reason? Why?
4. Which fears of the Anti-Federalists are expressed today? In your opinion are those fears justified? Why?

Reviewing and Using the Lesson

1. What objections and concerns did Anti-Federalists have with regard to the Constitution drafted at the Philadelphia Convention?
2. What arguments did the Anti-Federalists make with regard to the need for a bill of rights?
3. How did the Anti-Federalists use the ideas of classical republicanism to support their position?
4. Conduct research on Mercy Otis Warren, George Mason, and other prominent Anti-Federalists and report your findings to the class.

LESSON 17

What Was the Federalists' Position in the Debate about Ratification?

Purpose of Lesson

The people who supported ratification of the Constitution, which created a federal government, were called Federalists. It is important to understand the difference of opinion between the Federalists and the Anti-Federalists. This lesson describes the strategy and the arguments the Federalists used to get the Constitution ratified. These include the concepts of the social contract and consent. You learn that in the larger states, such as New York and Virginia, the debates about ratification were very close and, to get some Anti-Federalist support, the Federalists agreed that when the first Congress was held it would draft a bill of rights to be added to the Constitution.

When you complete this lesson you should be able to explain why the Federalists wanted the Constitution to be ratified in state conventions, the arguments that were used to justify this procedure, and the arguments made by the Federalists in support of the Constitution.

Terms to Know

Federalists
ratifying conventions
The Federalist

Why did the Federalists ask voters to approve the Constitution?

The **Federalists** knew that many members of Congress and the state governments were against the new Constitution, largely because it reduced their powers. So the Federalists decided **not** to ask the Congress or state governments to approve the Constitution, even though they were expected to do so.

James Madison developed the plan presented by the Federalists. The plan was to go directly to the voters to get them to approve the Constitution. The Constitution would be presented to special **ratifying conventions** to be held in each state. The delegates would be elected by popular vote of the people for the sole purpose of approving the Constitution. Madison's plan was consistent with the idea in the Preamble to the Constitution that says, "We the People...do ordain and establish this Constitution...."

The Federalists' plan was another example of the social contract idea. The people who were to be governed by the new national government were asked to consent to its creation and obey its decisions. You may recognize this as the method for establishing a government set forth in the natural rights philosophy of John Locke and in the Declaration of Independence. In Jefferson's words, just governments "derive their...powers from the consent of the governed." Some people had argued, for example, that the Articles of Confederation were not valid or legitimate because they had never been presented to the people for their consent.

The Framers at the convention approved this plan for ratifying the Constitution. They included a provision that would put it into effect after being ratified by just nine of the thirteen state conventions.

Once they had agreed on their strategy, the Federalists encouraged their associates in the states to organize the state conventions and elect delegates to them as quickly as possible. They knew the Anti-Federalists had not had enough time to organize their opposition.

The Federalists had worked on the Constitution for almost four months. They knew the arguments for and against it and had gathered support. They thought that if the conventions acted quickly, the Anti-Federalists would have little time to organize their opposition to the Constitution's ratification.

What methods were used in the struggle for ratification?

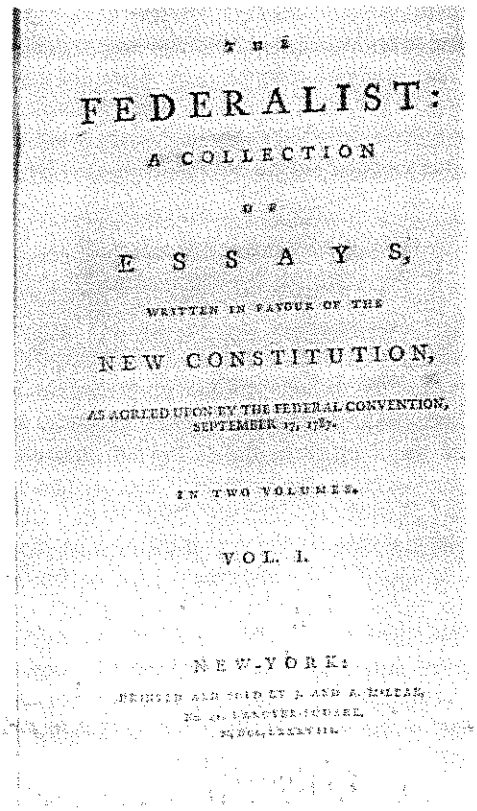
Despite the advantages of the Federalists' position, the Anti-Federalists were able to put up a strong fight. The debates in the states over ratification lasted ten months. It was an intense and sometimes bitter political struggle. One of the most difficult fights for ratification was in New York. To help the Federalist cause, three men—Alexander Hamilton, James Madison, and John Jay—wrote a series of essays published in three New York newspapers. They also were used in the Virginia ratification debates and are an important source of information about the conflict over the convention. The articles were not intended to present all sides. Their purpose was to convince people to support the ratification of the Constitution. These essays are now called *The Federalist*. They are considered to be the most important work written in defense of the new Constitution.

In defending the new Constitution, the writers of *The Federalist* were very skilled at using basic ideas about government that most Americans understood and accepted. They presented the Constitution as a well-organized, agreed-on plan for national government. The conflicts and compromises that had taken place during its development were not stressed in an attempt to present the Constitution as favorably as possible.

How did the Federalists respond to Anti-Federalists

The Anti-Federalists had some traditional arguments about what made a good government on their side as well. The Federalists were better organized, however. The Federalists' arguments in support of the Constitution claimed that it provided a solution for the problem of creating a republican government in a large and diverse nation. They were able to convince a significant number of people to support their position by the following three arguments:

1. The civic virtue of the people cannot be relied on alone to protect basic rights.
2. The way the government is organized will protect basic rights.
3. The representation of different interests in the government will protect basic rights.


THE
FEDERALIST:
A COLLECTION
OF
ESSAYS,
WRITTEN IN FAVOUR OF THE
NEW CONSTITUTION,
AS AGREED UPON BY THE FEDERAL CONVENTION,
SEPTEMBER 17, 1787.
IN TWO VOLUMES.
VOL. I.
NEW-YORK:
PRINTED AND SOLD BY J. AND A. M'LEAN,
No. 41, HANOVER-SQUARE.
M,DCC,LXXXVIII.

What role did The Federalist *play in ratification of the Constitution?*

The civic virtue of the people could no longer be relied on as the sole support of a government that would protect the people's rights and promote their welfare. Throughout history, the Federalists argued, the greatest dangers in republics to the common good and the natural rights of citizens had been from the selfish pursuit of their interests by groups of citizens who ignored the common good. Therefore, for almost 2,000 years, political philosophers had insisted that republican government was only safe if the citizens possessed civic virtue. By civic virtue they meant that citizens had to be willing to set aside their interests if it was necessary to do so for the common good.

Recent experiences with their state governments had led a number of people to doubt that they could rely on the virtue of citizens to promote the common good and protect the rights of individuals. Many of the state legislatures had passed laws that helped people in debt at the expense of those to whom they owed money. These laws were seen by many as an infringement on property rights that were, after all, one of the basic natural rights for which the Revolution had been fought in the first place.

If the proper working of a republican form of government could not rely on the virtue of its citizens, what could it rely on? How could a government be organized so it would not be dominated by self-interested individuals or factions at the expense of others?

The way in which the Constitution organized the government, including the separation of powers and checks and balances, was the best way to promote the goals of republicanism. A major idea in *The Federalist* is that the national government set forth in the Constitution did not have to rely solely on the civic virtue of the people to protect citizens' rights and promote their welfare. The writers believed that it was unrealistic to expect people in a large and diverse nation, living hundreds of miles apart, to be willing to give up their own interests for the benefit of others.

The Federalists argued that the rights and welfare of all would be protected by the complicated system of **representation**, **separation of powers**, and **checks and balances** provided by the Constitution. They also believed that the method of electing senators and presidents would increase the possibility that they would have the qualities required of good governing officials.

The Federalists took the position that the Constitution's strength was that it provided for different branches of government that would represent the different interests of the people. They also claimed that this complicated system would make it impossible for any individual or faction—or even a majority—to take complete control of the government to serve its own interests at the expense of the common good or the rights of individuals.

The large size of the nation, they argued, would make it particularly difficult for any one faction to attain a majority. Since so many interests and factions would be represented in the national government, it would be less likely that any one of them would dominate.

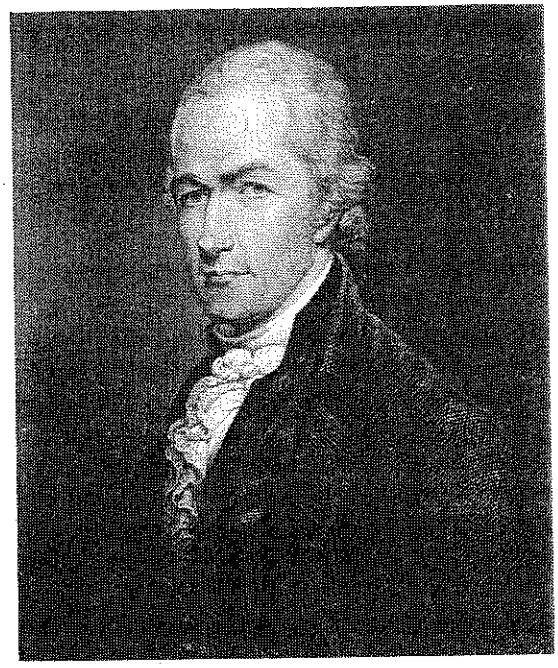
Some would argue that the system was so complicated that it would be difficult to get anything done, especially if one or more interested and powerful groups objected to something that was being planned. Madison, in *The Federalist*, clearly did not see this as a disadvantage. One of his criticisms of the state legislatures had been that they passed too many laws in the first place. Most of the Framers believed that the best way to prevent a bad law from being passed was to prevent a law from being passed at all.

The representation of different interests in the government would protect basic rights. The branches of the national government, the power each had distributed to it by the Constitution, and the interests each was supposed to represent are as follows:

- **Legislative branch.** The **House of Representatives** would protect the people's **local interests**, since representatives would be chosen from small congressional districts. The **Senate** would protect the people's **state interests**, since it would be elected by state legislatures.
- **Executive branch.** The **president** would protect the people's **national interests**, since he would be elected by a method that required electors to select him from among leaders who had achieved national prominence.
- **Judicial branch.** The **Supreme Court** would protect the people's **fundamental interests**, since it was independent of political manipulation and therefore responsible only to the Constitution.

What do *you* think?

1. How did the arguments of the Federalists reflect their point of view regarding natural rights, republicanism, and constitutionalism?
2. Why did the Federalists think they could not rely just on civic virtue to make the new nation work properly? Do you agree?
3. What effects did the size and population of the new nation have on the positions of the Federalists?



Alexander Hamilton (1757–1804)

Did the national government have too much power?

The Federalists admitted that the new national government had much more power than the old national government. It had more control over the states, but it was a government limited to enumerated powers. The federal system and checks and balances ensured that those limits would not be violated. As a result, they claimed, the increased powers given to the government under the Constitution could only be used to protect, not violate, the rights of the people. Critics feared that giving so much power to a national government might be a serious threat to their rights and welfare.

Should there be a bill of rights?

The Federalists used a number of arguments to counter those demanding a bill of rights. The most important of these arguments follow:

- The complexity of the government and the diversity of the nation protect rights. A large republic makes it nearly impossible for a "majority faction" to have its way.
- The Constitution does protect a number of specific rights. These include right to habeas corpus, prohibition of ex post facto laws and bills of attainder, protection against violations of contracts, guarantee in criminal cases of trial by jury in the state where the crime was committed, and protection against accusations of treason by its careful definition.

- A bill of rights is unnecessary in a nation with popular sovereignty. Previous bills of rights, such as the English Bill of Rights, protected people from a powerful monarch over whom they had no control. Under the Constitution, the people have the power to remove elected officials from office. The protections of such bills of rights are therefore unnecessary under the Constitution.

- The Constitution does not give the federal government the power to deprive people of their rights. It gives government only limited powers to do specific things—enumerated powers. There is no need to list rights that the government has no power to violate.

- Declarations of rights are ineffective and dangerous. Most state constitutions are prefaced with bills of rights, but these bills did not stop state governments from violating citizens' rights. No state had a comprehensive list of rights, that is, a bill that listed all the rights that were protected. Apparently as a result, some state governments felt free to violate important rights unlisted in their bills. Since it is impossible to list all rights, it is better to have no list at all. Government officials might feel free to violate unlisted rights.

Despite these arguments, the Federalists found it necessary to agree to the Anti-Federalists' demands for a bill of rights.

Why did the Federalists give in to the demand for a bill of rights?

The Federalists worked hard to overcome the objections of the Anti-Federalists. By June of 1788, nine states had voted to ratify the Constitution. New Hampshire was the ninth and last state needed to make the Constitution the highest law of the land. The important states, New York and Virginia, had not yet approved the Constitution. The debates were very close in these states because of the fear of creating such a large and powerful national government.

Finally, a compromise was reached. To get some Anti-Federalists to support the Constitution, the Federalists agreed that when the first Congress was held, it would draft a bill of rights to be added to the Constitution. The bill was to list the rights of citizens that were not to be violated by the federal government. The Federalists insisted that the bill of rights include a statement saying that the list of rights should not be interpreted to mean that they were the only rights the people had.

The Federalists' agreement to sponsor a bill of rights reduced much of the Anti-Federalists' support. It deprived the Anti-Federalists of their most powerful weapon. In some states, Massachusetts for example, the agreement was enough to win a close ratification vote, 187 to 168. Then, at last, New York and Virginia also voted for ratification. The Anti-Federalists had lost their battle to reject or revise the Constitution but they had won an agreement to add a bill of rights.

The Federalists deserve the credit for writing the Constitution, which created our present form of government. The debate resulting from the Anti-Federalists' objections to the Constitution resulted in the addition of the Bill of Rights. The Bill of Rights has proved to be vitally important to the protection of basic rights of the American people and an inspiration to many beyond America's shores.

What do *you* think?

1. Explain the Federalists' argument that the Constitution did not need a bill of rights. Do you agree with their position? Why or why not?
2. Why do you think the Framers protected certain rights in the body of the Constitution and not others?
3. What do you think were the most important reasons put forth by the Federalists to support the Constitution in 1787? What do you think were the least important reasons?

Reviewing and Using the Lesson

1. Why did the Federalists propose that the Constitution be approved by ratifying conventions in each state, rather than by Congress or by the state legislatures?
2. What tactics did the Federalists employ to win the struggle for ratification of the Constitution?
3. What is *The Federalist*? How and why was it written?
4. What arguments did the Federalists make to support the ratification of the Constitution?
5. What arguments did the Federalists make to resist the demand for a bill of rights? Why did they eventually give in to this demand?
6. Prepare a report for the class in which you explain why Rhode Island took so long to join the Union under the Constitution.