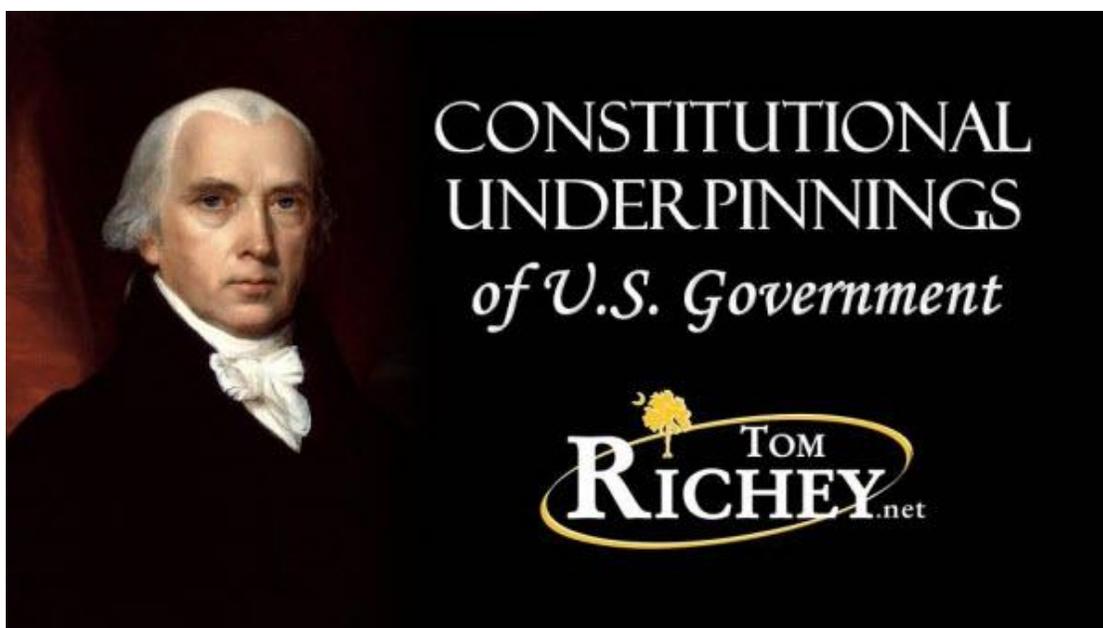


# AP U.S. GOVERNMENT AND POLITICS

## UNIT 1 Materials



CONSTITUTIONAL  
UNDERPINNINGS  
*of U.S. Government*



# Document 1.1

IN CONGRESS, JULY 4, 1776

## The unanimous Declaration of the thirteen united States of America

**W**hen in the Course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are **Life, Liberty and the pursuit of Happiness**. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. **Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn that mankind are more disposed to suffer, while evils are sufferable than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security.** — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

**He has refused his Assent to Laws**, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only...

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected, whereby the Legislative Powers, incapable of Annihilation, have returned to the People at large for their exercise...

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.

He has affected to render the Military independent of and superior to the Civil Power...

For quartering large bodies of armed troops among us...

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

For depriving us in many cases, of the benefit of Trial by Jury...

For abolishing the free System of English Laws in a neighbouring Province [Quebec], establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies

For taking away our Charters, abolishing our most valuable Laws and altering fundamentally the Forms of our Governments:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and waging War against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death, desolation... scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.

Nor have We been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these united Colonies are, and of Right ought to be Free and Independent States, that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. — And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

# Document 1.2

## The Articles of Confederation

Agreed to by Congress November 15, 1777; ratified and in force, March 1, 1781.

Source: <http://www.usconstitution.net/articles.html>

**Preamble** Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventy seven, and in the Second Year of the Independence of America, agree to certain articles of Confederation and perpetual Union between the States...

Articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

---

**Article I.** The Stile of this Confederacy shall be "The United States of America."

**Article II.** 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.

**Article III.** The said States hereby severally enter into a **firm league of friendship** with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever....

**Article V.** ...delegates shall be annually appointed in such manner as the legislatures of each State shall direct... with a power reserved to each State to recall its delegates, or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No State shall be represented in Congress by less than two, nor more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years....

In determining questions in the united States, in Congress assembled, **each State shall have one vote**....

**Article VI.** No State, without the consent of the united States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King, Prince or State... nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No two or more States shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united States in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue....

No vessel of war shall be kept up in time of peace by any State, except such number only, as shall be deemed necessary by the united States in congress assembled, for the defense of such State, or its trade; nor shall any body of forces be kept up by any State in time of peace, except such number only, as in the judgement of the united States, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such State; but every State shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use, in public stores, a due number of filed pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No State shall engage in any war without the consent of the united States in congress assembled, unless such State be actually invaded by enemies, or shall have received certain advice of a resolution being

formed by some nation of Indians to invade such State, and the danger is so imminent as not to admit of a delay till the united States in congress assembled can be consulted....

**Article VII.** When land forces are raised by any State for the common defense, all officers of or under the rank of colonel, shall be appointed by the legislature of each State respectively, by whom such forces shall be raised, or in such manner as such State shall direct...

**Article VIII.** All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the united States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State...

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States...

**Article IX.** The united States in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article — of sending and receiving ambassadors — entering into treaties and alliances... appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures....

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States — fixing the standards of weights and measures throughout the United States — regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated — establishing or regulating post offices from one State to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office...

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated 'A Committee of the States', and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction — to appoint one of their members to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years...

The united States in congress assembled shall never engage in a war... nor enter into any treaties or alliances, nor coin money... nor ascertain the sums and expenses necessary for the defense and welfare of the United States... nor borrow money on the credit of the united States, nor appropriate money, nor agree upon the number of vessels of war... nor appoint a commander in chief of the army or navy, unless nine States assent to the same....

**Article XI.** Canada acceding to this confederation, and adjoining in the measures of the united States, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine States....

**Article XIII.** Every State shall abide by the determination of the united States in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every State, and the union shall be perpetual; **nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united States, and be afterwards confirmed by the legislatures of every State.**

---

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union... And that the articles thereof shall be inviolably observed by the States we respectively represent, and that the union shall be perpetual.



1.1

**George Washington to Henry Lee  
October 31, 1786**

Source: <http://teachingamericanhistory.org/library/index.asp?document=323>

**Before reading this, you need to familiarize yourself with Shays' Rebellion, either on [Wikipedia](#) or in your textbook.**

Mount Vernon, October 31, 1786.

My Dr. Sir: I am indebted to you for your several favors of the 1st. 11th. and 17th. of this instt: and shall reply to them in the order of their dates; but first let me thank you for the interesting communications imparted by them.

The picture which you have exhibited, and the accounts which are published of the commotions, and temper of numerous bodies in the Eastern States, are equally to be lamented and deprecated. They exhibit a melancholy proof of what our trans-Atlantic foe has predicted; and of another thing perhaps, which is still more to be regretted, and is yet more unaccountable, that mankind when left to themselves are unfit for their own Government. I am mortified beyond expression when I view the clouds that have spread over the brightest morn that ever dawned upon any Country. In a word, I am lost in amazement when I behold what intrigue, the interested views of desperate characters, ignorance and jealousy of the minor part, are capable of effecting, as a scourge on the major part of our fellow Citizens of the Union; for it is hardly to be supposed that the great body of the people, tho' they will not act, can be so shortsighted, or enveloped in darkness, as not to see rays of a distant sun thro' all this mist of intoxication and folly.

You talk, my good Sir, of employing influence to appease the present tumults in Massachusetts. I know not where that influence is to be found; and if attainable, that it would be a proper remedy for the disorders. Influence is no Government. Let us have one by which our lives, liberties and properties will be secured; or let us know the worst at once. **Under these impressions, my humble opinion is, that there is a call for decision. Know precisely what the insurgents aim at. If they have *real* grievances, redress them if possible; or acknowledge the justice of them, and your inability to do it in the present moment. If they have not, employ the force of government against them at once.** If this is inadequate, *all* will be convinced that the superstructure is bad, or wants support. To be more exposed in the eyes of the world, and more contemptible than we already are, is hardly possible. To delay one or the other of these, is to exasperate on the one hand, or to give confidence on the other, and will add to their numbers; for, like snow-balls, such bodies increase by every movement, unless there is something in the way to obstruct and crumble them before the weight is too great and irresistible.

These are my sentiments. Precedents are dangerous things; let the reins of government then be braced and held with a steady hand, and every violation of the Constitution be reprehended: if defective, let it be amended, but not suffered to be trampled upon whilst it has an existence....

Mrs. Washington joins me in best wishes for Mrs. Lee and yourself and I am &c.

[George Washington]

## Thomas Jefferson to James Madison January 30, 1787



Source: <http://www.earlyamerica.com/review/summer/letter.html>

Paris, January 30th, 1787

Dear Sir,

My last to you was of the 16th of December; since which, I have received yours of November 25 and December 4, which afforded me, as your letters always do, a treat on matters public, individual, and economical. I am impatient to learn your sentiments on the late troubles in the Eastern states. So far as I have yet seen, they do not appear to threaten serious consequences. Those states have suffered by the stoppage of the channels of their commerce, which have not yet found other issues. This must render money scarce and make the people uneasy. This uneasiness has produced acts absolutely unjustifiable; but I hope they will provoke no severities from their governments. A consciousness of those in power that their administration of the public affairs has been honest may, perhaps, produce too great a degree of indignation; and those characters, wherein fear predominates over hope, may apprehend too much from these instances of irregularity. They may conclude too hastily that nature has formed man insusceptible of any other government than that of force, a conclusion not founded in truth or experience.

Societies exist under three forms, sufficiently distinguishable: (1) without government, as among our Indians; (2) under governments, wherein the will of everyone has a just influence, as is the case in England, in a slight degree, and in our states, in a great one; (3) under governments of force, as is the case in all other monarchies, and in most of the other republics.

**To have an idea of the curse of existence under these last, they must be seen. It is a government of wolves over sheep. It is a problem, not clear in my mind, that the first condition is not the best.** But I believe it to be inconsistent with any great degree of population. The second state has a great deal of good in it. The mass of mankind under that enjoys a precious degree of liberty and happiness. It has its evils, too, the principal of which is the turbulence to which it is subject. But weigh this against the oppressions of monarchy, and it becomes nothing. *Malo periculosam libertatem quam quietam servitutem.* Even this evil is productive of good. It prevents the degeneracy of government and nourishes a general attention to the public affairs.

I hold it that a little rebellion now and then is a good thing, and as necessary in the political world as storms in the physical. Unsuccessful rebellions, indeed, generally establish the encroachments on the rights of the people which have produced them. An observation of this truth should render honest republican governors so mild in their punishment of rebellions as not to discourage them too much. It is a medicine necessary for the sound health of government....

Yours affectionately,

Th. Jefferson

### For Further Reading:

To Abigail Adams: [http://en.wikisource.org/wiki/Letter\\_to\\_Abigail\\_Adams\\_-\\_February\\_22,\\_1787](http://en.wikisource.org/wiki/Letter_to_Abigail_Adams_-_February_22,_1787)

To William H. Smith: <http://www.theatlantic.com/past/docs/issues/96oct/obrien/blood.htm>

# Document 1.3

## The Federalist No. 15

### Insufficiency of the Present Confederation to Preserve the Union

*Independent Journal*

Saturday, December 1, 1787

[Alexander Hamilton]

Accessed At: <http://www.constitution.org/fed/federa15.htm>

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

IN THE course of the preceding papers, I have endeavored, my fellow citizens, to place before you, in a clear and convincing light, the importance of Union to your political safety and happiness. I have unfolded to you a complication of dangers to which you would be exposed, should you permit that sacred knot which binds the people of America together be severed or dissolved by ambition or by avarice, by jealousy or by misrepresentation. In the sequel of the inquiry through which I propose to accompany you, the truths intended to be inculcated will receive further confirmation from facts and arguments hitherto unnoticed. If the road over which you will still have to pass should in some places appear to you tedious or irksome, you will recollect that you are in quest of information on a subject the most momentous which can engage the attention of a free people, that the field through which you have to travel is in itself spacious, and that the difficulties of the journey have been unnecessarily increased by the mazes with which **sophistry** has beset the way...

In pursuance of the plan which I have laid down for the discussion of the subject, **the point next in order to be examined is the "insufficiency of the present Confederation to the preservation of the Union."** It may perhaps be asked what need there is of reasoning or proof to illustrate a position which is not either controverted or doubted, to which the understandings and feelings of all classes of men assent, and which in substance is admitted by the opponents as well as by the friends of the new Constitution. It must in truth be acknowledged that, however these may differ in other respects, they in general appear to harmonize in this sentiment, at least, that there are material imperfections in our national system, and that something is necessary to be done to rescue us from impending anarchy...

#### **We may indeed with propriety be said to have reached almost the last stage of national humiliation.**

There is scarcely anything that can wound the pride or degrade the character of an independent nation which we do not experience. Are there engagements to the performance of which we are held by every tie respectable among men? These are the subjects of constant and unblushing violation. Do we owe debts to foreigners and to our own citizens contracted in a time of imminent peril for the preservation of our political existence? These remain without any proper or satisfactory provision for their discharge. Have we valuable territories and important posts in the possession of a foreign power which, by express stipulations, ought long since to have been surrendered? These are still retained, to the prejudice of our interests, not less than of our rights. Are we in a condition to resent or to repel the aggression? We have neither troops, nor treasury, nor government. Are we even in a condition to remonstrate with dignity? The just imputations on our own faith, in respect to the same treaty, ought first to be removed. Are we entitled by nature and compact to a free participation in the navigation of the Mississippi? Spain excludes us from it. Is public credit an indispensable resource in time of public danger? We seem to have abandoned its cause as desperate and irretrievable....

This is the melancholy situation to which we have been brought by those very maxims and councils which would now deter us from adopting the proposed Constitution; and which, not content with having conducted us to the brink of a precipice, seem resolved to plunge us into the abyss that awaits us below. **Here, my countrymen, impelled by every motive that ought to influence an enlightened people, let us make a firm stand for our safety, our tranquility, our dignity, our reputation. Let us at last break the fatal charm which has too long seduced us from the paths of felicity and prosperity.**

It is true, as has been before observed that facts, too stubborn to be resisted, have produced a species of general assent to the abstract proposition that there exist material defects in our national system; but the usefulness of the concession, on the part of the old adversaries of federal measures, is destroyed by a strenuous opposition to a remedy, upon the only principles that can give it a chance of success. While they admit that the government of the United States is destitute of energy, they contend against conferring upon it those powers which are requisite to supply that energy. They seem still to aim at things repugnant and irreconcilable; at an augmentation of federal authority, without a diminution of State authority; at sovereignty in the Union, and complete independence in the members. **They still, in fine, seem to cherish with blind devotion the political monster of an *imperium in imperio*.** This renders a full display of the principal defects of the Confederation necessary, in order to show that **the evils we experience do not proceed from minute or partial imperfections, but from fundamental errors in the structure of the building**, which cannot be amended otherwise than by an alteration in the first principles and main pillars of the fabric...

Government implies the power of making laws. It is essential to the idea of a law, that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation. This penalty, whatever it may be, can only be inflicted in two ways: by the agency of the courts and ministers of justice, or by military force; by the COERCION of the magistracy, or by the COERCION of arms. The first kind can evidently apply only to men; the last kind must of necessity, be employed against bodies politic, or communities, or States. It is evident that there is no process of a court by which the observance of the laws can, in the last resort, be enforced... Such a state of things can certainly not deserve the name of government, nor would any prudent man choose to commit his happiness to it.

There was a time when we were told that breaches, by the States, of the regulations of the federal authority were not to be expected; that a sense of common interest would preside over the conduct of the respective members, and would beget a full compliance with all the constitutional requisitions of the Union... Why has government been instituted at all? Because the passions of men will not conform to the dictates of reason and justice, without constraint. Has it been found that bodies of men act with more rectitude or greater disinterestedness than individuals? The contrary of this has been inferred by all accurate observers of the conduct of mankind; and the inference is founded upon obvious reasons. Regard to reputation has a less active influence, when the infamy of a bad action is to be divided among a number than when it is to fall singly upon one...

In our case, the concurrence of thirteen distinct sovereign wills is requisite, under the Confederation, to the complete execution of every important measure that proceeds from the Union. It has happened as was to have been foreseen. The measures of the Union have not been executed; the delinquencies of the States have, step by step, matured themselves to an extreme, which has, at length, arrested all the wheels of the national government, and brought them to an awful stand. Congress at this time scarcely possess the means of keeping up the forms of administration, till the States can have time to agree upon a more substantial substitute for the present shadow of a federal government... Each State, yielding to the persuasive voice of immediate interest or convenience, has successively withdrawn its support, till the frail and tottering edifice seems ready to fall upon our heads, and to crush us beneath its ruins.

**PUBLIUS**

# Document 1.4

## Statistics from the 1790 Census

<a href="http://www.infoplease.com/ipa/A0004986.html">http://www.infoplease.com/ipa/A0004986.html</a>			<a href="http://manyeyes.alphaworks.ibm.com/manyeyes/visualizations/slave-population-of-us-states-and-te">http://manyeyes.alphaworks.ibm.com/manyeyes/visualizations/slave-population-of-us-states-and-te</a>			
	State Population	Percentage of Total	Regional Population		Number of Slaves	Percentage of Population
New Hampshire	141,885	4%			158	0%
Massachusetts	378,787	10%			0	0%
Connecticut	237,946	7%			2,759	1%
Rhode Island	68,825	2%			152	0%
<b>NEW ENGLAND</b>		<b>23%</b>	<b>827,443</b>			
New Jersey	184,139	5%			11,423	6%
New York	340,120	9%			21,324	6%
Pennsylvania	434,373	12%			3,737	1%
<b>MIDDLE STATES</b>			<b>958,632</b>			
<b>NORTH OF MASON/DIXON LINE</b>		<b>49%</b>	<b>1,786,075</b>		<b>39,853</b>	<b>6%</b>
Delaware	59,096	2%			8,887	15%
Maryland	319,728	9%			103,036	32%
Virginia	747,610	20%			293,427	39%
North Carolina	393,751	11%			100,572	26%
South Carolina	249,073	7%			107,094	43%
Georgia	82,548	2%			29,264	35%
<b>SOUTHERN STATES</b>		<b>51%</b>	<b>1,851,806</b>		<b>642,280</b>	<b>94%</b>
<b>TOTAL POPULATION</b>			<b>3,637,881</b>	<b>SLAVE POPULATION</b>	<b>681,833</b>	<b>15%</b>

# Graphic Organizer 1.1

## The Constitutional Convention

When? May-September, \_\_\_\_\_

Where? \_\_\_\_\_

For what purpose? \_\_\_\_\_

Presiding Officer? \_\_\_\_\_

	Who?	What?	Conflict and/or Solution
Virginia Plan			
New Jersey Plan	William Paterson		
Hamilton's Plan			
Great (aka, Connecticut) Compromise			
Slave Trade Compromise	N/A		
3/5 Compromise	N/A		
Electoral College	N/A		Electors = _____ + _____
Amendments	N/A	___ / ___ OF _____ + ___ / ___ OF THE _____	

# Document 1.5

## Enumerated [Delegated] Powers

The list below is condensed from a full list found at the  
Tenth Amendment Center:  
<http://www.tenth amendmentcenter.com/historical-documents/united-states-constitution/thirty-enumerated-powers/>



**TENTH AMENDMENT CENTER**  
"the powers not delegated..."

**Article I, Section 8** of the Constitution is widely cited as being an exhaustive list of Congressional power. But, in reality, there are a total of thirty (twenty are listed below) Congressional powers that are listed throughout the document:

- 1. To lay and collect Taxes, Duties [Tariffs], Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;**
- 2. Borrow Money**
- 3. Regulate Interstate Commerce** (foreign Nations, and among the several States)
- 4. Establish Naturalization Laws**
- 5. Coin Money and fix the Standard of Weights and Measures;**
- 6. To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;**
- 7. Establish Post Offices**
- 8. Issue Copyrights and Patents**
- 9. Establish Federal Courts** (The Supreme Court is established explicitly by the Constitution)
- 10. Punish Piracy**
- 11. Declare War**
- 12. Raise and Support Armies**
- 13. Provide and maintain a Navy**
- 14. To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions**
- 15. To provide for organizing, arming, and disciplining, the Militia**
- 16. Legislate for the Federal District** (which did not exist at the time)
- 17. Punish Treason**
- 18. Admit New States**
- 19. To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.**
- 20. Propose amendments to the Constitution by a 2/3 vote.**

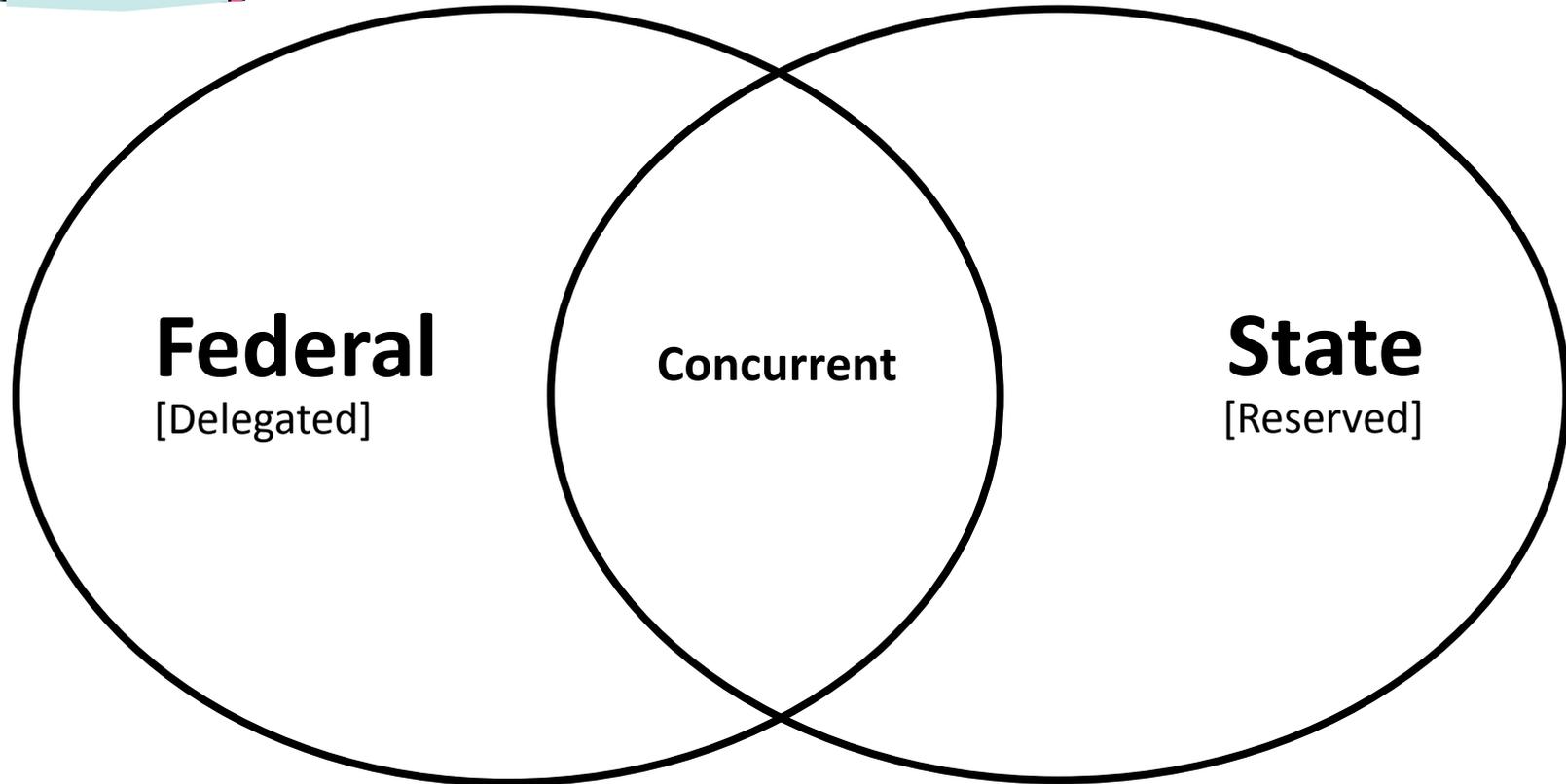


## AMENDMENT X

*The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.*

## Graphic Organizer 1.2

### Federalism



Identify whether each is a *delegated*, *reserved*, or *concurrent* power according to the Constitution:

Admit New States

Coin Money

Collect Tariffs

Declare War

Education

Establish Courts

Standardize Weights and Measures

Conduct Foreign Policy

Establish Local Governments

Maintain Army and Navy

Marriage Laws

National Defense

Immigration and Naturalization Laws

Organize and Maintain Militia

Propose Constitutional Amendments

Punish Treason

Ratify Constitutional Amendments

Regulate Foreign Trade

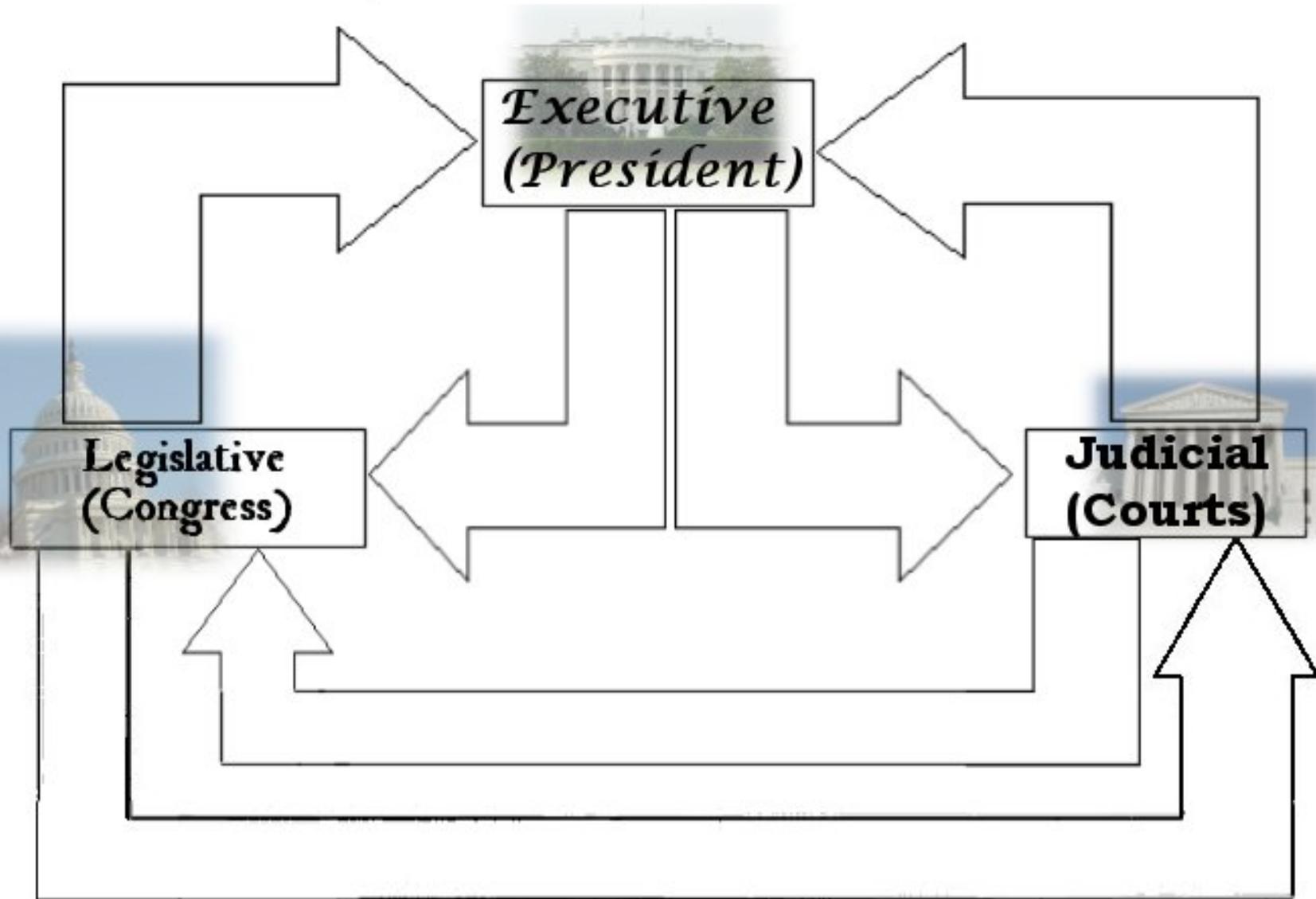
Regulate Intrastate Commerce

Regulate Interstate Commerce

Taxation

## Graphic Organizer 1.3

# The System of Checks and Balances



Source: <http://www.cyberlearning-world.com/lessons/oct6usg.htm>

# The System of Checks and Balances

Various governmental powers are listed below. Identify the branch doing the checking and the branch being checked. More than one answer is possible per section.

<b>Power</b>	<b>Which Branch Has The Power?</b>	<b>Which Branch's Power is Being Checked?</b> (Could be more than one)
1) Create and pass legislation.		
2) Veto bills.		
3) Ratify treaties.		
4) Appoint Federal judges.		
5) Impeachment of federal officials.		
6) Confirm the appointment of presidential appointments.		
7) Declare laws unconstitutional.		
8) Override Presidential Vetoes.		
9) Judges are appointed for life.		
10) Controls appropriations of money.		

Source: <http://www.cyberlearning-world.com/lessons/checks.htm>

# Document 1.6

## The Federalist No. 39

*Conformity of the Plan to Republican Principles*  
*Independent Journal*

Wednesday, January 16, 1788

[James Madison]

Source: <http://www.constitution.org/fed/federa39.htm>

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

THE last paper having concluded the observations which were meant to introduce a candid survey of the plan of government reported by the convention, we now proceed to the execution of that part of our undertaking.

The first question that offers itself is, whether the general form and aspect of the government be strictly republican. It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution...

[Madison defends the republican character of the Constitution for several paragraphs...]

"But it was not sufficient," say the adversaries of the proposed Constitution, "for the convention to adhere to the republican form. They ought, with equal care, to have preserved the *federal* form, which regards the Union as a *Confederacy* of sovereign states; instead of which, they have framed a *national* government, which regards the Union as a *consolidation* of the States." And it is asked by what authority this bold and radical innovation was undertaken? The handle which has been made of this objection requires that it should be examined with some precision....

First. In order to ascertain the real character of the government, it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears, on one hand, that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but, on the other, that this assent and ratification is to be given by the people, not as individuals composing one entire nation, but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State, the authority of the people themselves. **The act, therefore, establishing the Constitution, will not be a *national*, but a *federal* act.**

That it will be a federal and not a national act, as these terms are understood by the objectors; the act of the people, as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration, that it is to result neither from the decision of a *majority* of the people of the Union, nor from that of a *majority* of the States. It must result from the *unanimous* assent of the several States that are parties to it... Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority, in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States. **Neither of these rules have been adopted. Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a *federal*, and not a *national* constitution.**

The next relation is, to the sources from which the ordinary powers of government are to be derived. The House of Representatives will derive its powers from the people of America; and the people will be represented in the same proportion, and on the same principle, as they are in the legislature of a particular State. **So far the government is national, not federal.** The Senate, on the other hand, will derive its powers from the States, as political and coequal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. **So far the government is federal, not national.** The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. **The votes allotted to them are in a compound ratio, which considers them partly as distinct and coequal societies, partly as unequal members of the same society... From this aspect of the government it appears to be of a mixed character, presenting at least as many federal as national features.**

The difference between a federal and national government, as it relates to the *operation of the government*, is supposed to consist in this, that in the former the powers operate on the political bodies composing the Confederacy, in their political capacities; in the latter, on the individual citizens composing the nation, in their individual capacities. **On trying the Constitution by this criterion, it falls under the national, not the federal character; though perhaps not so completely as has been understood...**

But if the government be national with regard to the *operation of its powers*, it changes its aspect again when we contemplate it in relation to the *extent of its powers*. The idea of a national government involves in it, not only an authority over the individual citizens, but an **indefinite supremacy** over all persons and things, so far as they are objects of lawful government. Among a people consolidated into one nation, this **supremacy** is completely vested in the national legislature. Among communities united for particular purposes [i.e., the United States], it is vested partly in the general and partly in the municipal legislatures... **In this relation, then, the proposed government cannot be deemed a national one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects...**

If we try the Constitution by its last relation to the authority by which **amendments** are to be made, **we find it neither wholly national nor wholly federal. Were it wholly national, the supreme and ultimate authority would reside in the majority of the people of the Union;** and this authority would be competent at all times, like that of a majority of every national society, to alter or abolish its established government. **Were it wholly federal, on the other hand, the concurrence of each State in the Union would be essential to every alteration that would be binding on all.** The mode provided by the plan of the convention is not founded on either of these principles. In requiring more than a majority, and particularly in computing the proportion by *States*, not by *citizens*, **it departs from the national and advances towards the federal character;** in rendering the concurrence of less than the whole number of States sufficient, **it loses again the federal and partakes of the national character.**

The proposed Constitution, therefore, is, in strictness, neither a national nor a federal Constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn, it is partly federal and partly national; in the operation of these powers, it is national, not federal; in the extent of them, again, it is federal, not national; and, finally, in the authoritative mode of introducing amendments, it is neither wholly federal nor wholly national.

**P**UBLIUS

# Document 1.7

## Selections from Antifederalist Essays

### From Brutus I (October 18, 1787)

Source: Teaching American History, <http://teachingamericanhistory.org/library/index.asp?document=849>

The judicial power of the United States is to be vested in a supreme court, and in such inferior courts as Congress may from time to time ordain and establish. The powers of these courts are very extensive; their jurisdiction comprehends all civil causes, except such as arise between citizens of the same state; and it extends to all cases in law and equity arising under the constitution. One inferior court must be established, I presume, in each state, at least, with the necessary executive officers appendant thereto. It is easy to see, that in the common course of things, these courts will eclipse the dignity, and take away from the respectability, of the state courts. These courts will be, in themselves, totally independent of the states, deriving their authority from the United States, and receiving from them fixed salaries; and in the course of human events it is to be expected, that they will swallow up all the powers of the courts in the respective states.

### From Montezuma, in the *Philadelphia Independent Gazetteer* (October 17, 1787)

Source: <http://www.utulsa.edu/law/classes/rice/Constitutional/AntiFederalist/09.htm>

We the Aristocratic party of the United States, lamenting the many inconveniences to which the late confederation subjected the well-born, the better kind of people, bringing them down to the level of the rabble -- and holding in utter detestation that frontispiece to every bill of rights, "that all men are born equal" -- beg leave (for the purpose of drawing a line between such as we think were ordained to govern, and such as were made to bear the weight of government without having any share in its administration) to submit to our Friends in the first class for their inspection, the following defense of our monarchical, aristocratical democracy.

1st. As a majority of all societies consist of men who (though totally incapable of thinking or acting in governmental matters) are more readily led than driven, we have thought meet to indulge them in something like a democracy in the new constitution, which part we have designated by the popular name of the House of Representatives. But to guard against every possible danger from this lower house, we have subjected every bill they bring forward, to the double negative of our upper house and president. Nor have we allowed the populace the right to elect their representatives annually . . . lest this body should be too much under the influence and control of their constituents, and thereby prove the "weatherboard of our grand edifice, to show the shiftings of every fashionable gale," -- for we have not yet to learn that little else is wanting to aristocratize the most democratical representative than to make him somewhat independent of his political creators. We have taken away that rotation of appointment which has so long perplexed us -- that grand engine of popular influence. Every man is eligible into our government from time to time for life. This will have a two -- fold good effect. First, it prevents the representatives from mixing with the lower class, and imbibing their foolish sentiments, with which they would have come charged on re-election.

2d. They will from the perpetuality of office be under our eye, and in a short time will think and act like us, independently of popular whims and prejudices....

We have frequently endeavored to effect in our respective states, the happy discrimination which pervades this system; but finding we could not bring the states into it individually, we have determined ... and have taken pains to leave the legislature of each free and independent state, as they now call themselves, in such a situation that they will eventually be absorbed by our grand continental vortex, or dwindle into petty corporations, and have power over little else than yoking hogs or determining the width of cart wheels.....

Signed by unanimous order of the lords spiritual and temporal.

*MONTEZUMA*

**From Patrick Henry, Speech in the Virginia Ratifying Convention (June 16, 1788)**

Source: <http://www.thisnation.com/library/antifederalist/34.html>

...The first thing I have at heart is American liberty; the second thing is American union; and I hope the people of Virginia will endeavor to preserve that union... I would give the best security for a punctual compliance with requisitions; but I beseech gentlemen, at all hazards, not to give up this unlimited power of taxation. . . .

In this scheme of energetic government, the people will find two sets of tax gatherers-the state and the federal sheriffs. This, it seems to me, will produce such dreadful oppression as the people cannot possibly bear. The federal sheriff may commit what oppression, make what distresses, he pleases, and ruin you with impunity; for how are you to tie his hands? Have you any sufficiently decided means of preventing him from sucking your blood by speculations, commissions, and fees? Thus thousands of your people will be most shamefully robbed: our state sheriffs, those unfeeling blood-suckers, have, under the watchful eye of our legislature, committed the most horrid and barbarous ravages on our people. It has required the most constant vigilance of the legislature to keep them from totally ruining the people... if sheriffs, thus immediately under the eye of our state legislature and judiciary, have dared to commit these outrages, what would they not have done if their masters had been at Philadelphia or New York?

**From "A FARMER," in the *Philadelphia Independent Gazetteer* (April 15 and 22, 1788)**

Source: <http://www.thisnation.com/library/antifederalist/39.html>

The State legislatures do not choose senators by legislative or sovereign authority, but by a power of ministerial agency as mere electors or boards of appointment. They have no power to direct the senators how or what duties they shall perform; they have neither power to censure the senators, nor to supersede them for misconduct. It is not the power of choosing to office merely that designates sovereignty, or else corporations who appoint their own officers and make their own by-laws, or the heads of department who choose the officers under them, such as commanders of armies, etc., may be called sovereigns, because they can name men to office whom they cannot dismiss therefrom. The exercise of sovereignty does not consist in choosing masters, such as the senators would be, who, when chosen, would be beyond control, but in the power of dismissing, impeaching, or the like, those to whom authority is delegated... The senators are not even dependent on the States for their wages, but in conjunction with the federal representatives establish their own wages. The senators do not vote by States, but as individuals. The representatives also vote as individuals, representing people in a consolidated or national government...

**OBJECTIONS OF THE ANTIFEDERALISTS**

<b><u>Brutus</u></b>	<b><u>Montezuma</u></b>
<b><u>Patrick Henry</u></b>	<b><u>A Farmer</u></b>

# Document 1.8

## Letter from Thomas Jefferson to James Madison

December 20, 1787

Source: Beliefnet, [http://www.beliefnet.com/resourcelib/docs/163/Letter\\_from\\_Thomas\\_Jefferson\\_to\\_James\\_Madison\\_1.html](http://www.beliefnet.com/resourcelib/docs/163/Letter_from_Thomas_Jefferson_to_James_Madison_1.html)

I like much the general idea of framing a government which should go on of itself peaceably, without needing continual recurrence to the state legislatures. I like the organization of the government into Legislative, Judiciary & Executive. I like the power given the Legislature to levy taxes, and for that reason solely approve of the greater house being chosen by the people directly. For tho' I think a house chosen by them will be very illy qualified to legislate for the Union, for foreign nations &c. yet this evil does not weigh against the good of preserving inviolate the fundamental principle that the people are not to be taxed but by representatives chosen immediately by themselves. I am captivated by the compromise of the opposite claims of the great & little states, of the latter to equal, and the former to proportional influence. I am much pleased too with the substitution of the method of voting by persons, instead of that of voting by states: and I like the negative given to the Executive with a third of either house, though I should have liked it better had the Judiciary been associated for that purpose, or invested with a similar and separate power...

I will now add what I do not like. First the omission of a bill of rights providing clearly & without the aid of sophisms for freedom of religion, freedom of the press, protection against standing armies, restriction against monopolies, the eternal & unremitting force of the habeas corpus laws, and trials by jury... a bill of rights is what the people are entitled to against every government on earth, general or particular, & what no just government should refuse, or rest on inferences.

The second feature I dislike, and greatly dislike, is the abandonment in every instance of the necessity of **rotation in office**, and most particularly in the case of the President. Experience concurs with reason in concluding that the first magistrate will always be re-elected if the Constitution permits it. He is then an officer for life... An incapacity to be elected a second time would have been the only effectual preventative. The power of removing him every fourth year by the vote of the people is a power which will not be exercised. The king of Poland is removable every day by the Diet, yet he is never removed...

**I own I am not a friend to a very energetic government. It is always oppressive.** The late rebellion in Massachusetts has given more alarm than I think it should have done...

To what extent does Jefferson sound like a <i>Federalist</i> ?	To what extent does Jefferson sound like an <i>Antifederalist</i> ?

**I think our governments will remain virtuous for many centuries; as long as [the people] are chiefly agricultural; and this will be as long as there shall be vacant lands in any part of America. When they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe. Above all things I hope the education of the common people will be attended to; convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty...**



1.2

## The Federalist No. 84

### *Certain General and Miscellaneous Objections to the Constitution Considered and Answered*

*Independent Journal*

Wednesday, July 16, Saturday, July 26, Saturday, August 9, 1788

[Alexander Hamilton]

Source: <http://www.constitution.org/fed/federa39.htm>

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

IN THE course of the foregoing review of the Constitution, I have taken notice of, and endeavored to answer most of the objections which have appeared against it. There, however, remain a few which either did not fall naturally under any particular head or were forgotten in their proper places. These shall now be discussed; but as the subject has been drawn into great length, I shall so far consult brevity as to comprise all my observations on these miscellaneous points in a single paper.

The most considerable of the remaining objections is that the plan of the convention contains no bill of rights....

It has been several times truly remarked that bills of rights are, in their origin, stipulations between kings and their subjects, abridgements of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was MAGNA CHARTA, obtained by the barons, sword in hand, from King John. Such were the subsequent confirmations of that charter by succeeding princes. Such was the *Petition of Right* assented to by Charles I., in the beginning of his reign. Such, also, was the Declaration of Right presented by the Lords and Commons to the Prince of Orange in 1688, and afterwards thrown into the form of an act of parliament called the Bill of Rights. It is evident, therefore, that, according to their primitive signification, they have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender nothing; and as they retain every thing they have no need of particular reservations...

But a minute detail of particular rights is certainly far less applicable to a Constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns...

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government....

PUBLIUS

## Patrick Henry

### Speech in the Virginia Ratifying Convention (June 16, 1788)

Source: The Constitution Society,

[http://www.constitution.org/rc/rat\\_va\\_13.htm#henry-12](http://www.constitution.org/rc/rat_va_13.htm#henry-12)



Mr. Chairman, the necessity of a bill of rights appears to me to be greater in this government than ever it was in any government before. I have observed already, that the sense of the European nations, and particularly Great Britain, is against the construction of rights being retained which are not expressly relinquished. I repeat, that all nations have adopted this construction — that all rights not expressly and unequivocally reserved to the people are impliedly and incidentally relinquished to rulers, as necessarily inseparable from the delegated powers. It is so in Great Britain; for every possible right, which is not reserved to the people by some express provision or compact, is within the king's prerogative. It is so in that country which is said to be in such full possession of freedom. It is so in Spain, Germany, and other parts of the world. Let us consider the sentiments which have been entertained by the people of America on this subject. At the revolution, it must be admitted that it was their sense to set down those great rights which ought, in all countries, to be held inviolable and sacred. Virginia did so, we all remember. She made a compact to reserve, expressly, certain rights.

... It was expressly declared in our Confederation that every right was retained by the states, respectively, which was not given up to the government of the United States. But there is no such thing here. You, therefore, by a natural and unavoidable implication, give up your rights to the general government.

Your own example furnishes an argument against it. If you give up these powers, without a bill of rights, you will exhibit the most absurd thing to mankind that ever the world saw — government that has abandoned all its powers — the powers of direct taxation, the sword, and the purse. You have disposed of them to Congress, without a bill of rights — without check, limitation, or control. And still you have checks and guards; still you keep barriers — pointed where? Pointed against your weakened, prostrated, enervated state government....

A bill of rights may be summed up in a few words. What do they tell us? — That our rights are reserved. Why not say so? Is it because it will consume too much paper? Gentlemen's reasoning against a bill of rights does not satisfy me. Without saying which has the right side, it remains doubtful... The officers of Congress may come upon you now, fortified with all the terrors of paramount federal authority. Excisemen may come in multitudes; for the limitation of their numbers no man knows. They may, unless the general government be restrained by a bill of rights, or some similar restriction, go into your cellars and rooms, and search, ransack, and measure, everything you eat, drink, and wear. They ought to be restrained Within proper bounds...

# Document 1.9

## Introduction to the Antifederalists

by [Gordon Lloyd](#)

Source: Teaching American History, <http://teachingamericanhistory.org/ratification/antifederalist.html>

### The Four Options of Antifederalism

**It is helpful to consider four options when reflecting on the importance of the [Antifederalists](#). They are 1) incoherent and irrelevant, 2) coherent and irrelevant, 3) incoherent and relevant, and 4) coherent and relevant. And which option we choose is in large part linked to a) how we define the Antifederalist project, b) how we interpret *The Federalist* and c) whether or not we are willing to retrieve the Antifederalists on their own terms or whether we see them as valuable in a quarrel over the American regime.**

One way to define the [Antifederalists](#) is that they are those who opposed ratification of the unamended [Constitution](#) in 1787-1788. This definition might well make them lower case antifederalists or anti-federalists. The point is that they are both incoherent and irrelevant. A broader definition, one that reaches back to Montesquieu or to Aristotle introduces the possibility that they may be either coherent but irrelevant (Cecelia Kenyon) or incoherent but relevant (Herbert Storing). The upper case and hyphenated Anti-Federalist nomenclature is the preferred appellation for this approach. There is one last choice—the Antifederalists are coherent and relevant—and this suggests that we call them Antifederalists, upper case and non-hyphenated.

This fourth approach argues that their coherence and relevance is located in their basically American and new world character. They are neither Kenyon's "men of little faith" nor Storing's "incomplete reasoners," and thus "junior founders." Their thought is grounded in the American struggle for independence, draws strength from the colonial tradition, the natural rights tradition, and new state constitutions that emerged between 1776 and 1780. Their thought is moreover informed by the [Articles of Confederation](#) of the 1780s, matured by the debates over the creation and adoption of the Constitution, culminates with the adoption of the Bill of Rights and then bids farewell to its creative phase with the introduction of the [Virginia](#) and [Kentucky Resolutions](#). I encourage the reader to consider this broader, and basically American and new world, definition of the Antifederalist project.

### The Antifederalist Reputation

This reputation of the Antifederalists as irrelevant, even proto-Calhoun, disunionists was shaped, in part, by [Alexander Hamilton](#)'s observation in [Federalist 1](#): "we already hear it whispered in the private circles of those who oppose the new Constitution, that the thirteen States are of too great an extent for any general system, and that we must of necessity resort to separate confederacies of distinct portions of the whole." The response by the Antifederalist, "[Centinel](#)," to Hamilton has been largely ignored: this claim of disunion, he said, is "from the deranged brain of Publius, a New York writer, who has devoted much time, and wasted more paper in combating chimeras of his own creation."

[James Madison](#)'s commentary in [Federalist 38](#) was no doubt also influential in portraying the Antifederalists as incoherent. Madison asks: "Are they agreed, are any two of them agreed, in their objections to the remedy proposed, or in the proper one to be substituted? Let them speak for themselves." But Madison does not "let them speak for themselves." When the Antifederalists are permitted to speak for themselves, as Antifederalist [Melancton Smith](#) demonstrates, a remarkably coherent alternative emerges. "[An Old Whig](#)" makes the same point: "about the same time, in very different parts of the continent, the very same objections have been made, and the very same alterations proposed by different writers, who I verily believe, know nothing at all of each other." This appeared six weeks prior to [Federalist 38](#). When the Antifederalists are permitted to speak for themselves, a coherent and relevant account emerges.

The Federalist argues for checks and balances, especially against the legislature; the Antifederalists support term limits and rotation in office for all elected and appointed officials. But this is why Kenyon calls them irrelevant; they held to a scheme of representation that was outmoded even for 1787. By contrast, The Federalist argues that the representative needs a longer duration in office than provided by traditional republicanism in order to exercise the responsibilities of the office and resist the narrow and misguided demands of an overbearing and unjust majority. Because the Antifederalists were dubious that one could be both democratic and national, they urged less independence for the elected representatives. They claimed that practical experience demonstrated that short terms in office, reinforced by term limits, would be an indispensable additional security to the objective of the

election system to secure that the representatives were responsible to the people. For the Antifederalists, a responsible representative—the essential characteristic of republicanism—was constitutionally obliged to be responsive to the sovereign people. Ultimately, the "accountability" of the representative was secured by "rotation in office," the vital principle of representative democracy. This is the concept of the citizen-politician who serves the public briefly and then returns to the private sphere.

In [Federalist 23](#), Hamilton describes the Antifederalist position as "absurd" because they admit the legitimacy of the ends and then are squeamish, even, cowardly, about the means: "For the absurdity must continually stare us in the face of confiding to a government the direction of the most essential national interests, without daring to trust it to the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative." The Antifederalists, according to Hamilton, are mushy thinkers; they fuss over means rather than focusing on ends. Storing totally agrees: they should have focused on the ends of union and the (limited) role of the states in the accomplishment of those ends. The Antifederalists, according to Hamilton and Storing, wanted union but argued against giving the union the means to secure the ends. They were absurd and thus they were incoherent. But there is more. According to Storing, the Antifederalists also avoided the hard and "ugly truth" of [Federalist 51](#): the people can't govern themselves voluntarily. This truth, says Storing, is something that the Federalists faced squarely.

### **Coherent and Relevant**

Perhaps that the Antifederalists have a coherent understanding of federalism and republicanism—grounded in "democratic federalism" and "constitutional republicanism"—and that this coherent understanding is worth keeping alive in the twenty-first century because it addresses what ails the contemporary American federal republic. Antifederalist thought is the built-in American antidote for the ills of the American federal republic. In particular, the three other alternative explanations either read history backwards or import European or ancient categories to explain an American experience.

The Antifederalists are not primarily interested in the "good government" project of *The Federalist* or the "best regime" project of the ancients, or the "exit rights" project of the secessionists or many of the other projects invented by the various historical schools; instead, I suggest they are interested in the creation and preservation of free government. They remind us that free government means limited government, and thus the political project should be focused on limiting rather than empowering politicians. Antifederalist statesmanship involves an attachment to means, rather than an administration of ends. There is nothing absurd or incoherent about being fussy over the use and misuse of means because means are actually powers and the abuse of powers sets us down the slippery slope to old world tyranny.

The Antifederalists speak to those who have become increasingly disillusioned by the collapse of decentralized state and local government, the greater intervention by the federal government in economic matters, the blurring of the separation of powers, and the replacement of voluntary associations by government programs. The Antifederalists warn: beware the dangers of "democratic nationalism," and "delegated constitutionalism." These are warnings from within the very American System itself. They warn us that there is something morally corrosive about the exercise of political power and thus they remind us about the need for the rule of law. And they warn about the dangers of the Federalist temptation with empire abroad. The Antifederalists are not isolationists, men of little faith, or junior partners; they are "Antitemptationalists" with a message of liberty and responsibility that resonates across the centuries.

"On the most important points," then, the Antifederalists were not only in agreement but their position was coherent and is currently relevant. They believed that republican liberty was best preserved in small units where the people had an active and continuous part to play in government. Although they thought that the Articles best secured this concept of republicanism, they were willing to bestow more authority on the federal government as long as this didn't undermine the principles of federalism and republicanism. They argued that the Constitution placed republicanism in danger because it undermined the pillars of small territorial size, frequent elections, short terms in office, and accountability to the people, and, at the same time, encouraged the representatives to become independent from the people and the state governments. They warned that unless restrictions were placed on the powers of

Congress, the Executive, and the Judiciary, the potentiality for the abuse of power would become a reality. These warnings culminated in their insistence on a Bill of Rights which, in conjunction with small territory, representative dependency, and strict construction, they conceived as the ultimate "auxiliary precaution."

The expression of discontent over the last fifty years about American politics has an ominous ring, revealing the widespread Antifederalist mood in the electorate. Among the dramatic changes in recent American politics are the alarming alienation of the citizenry from the electoral system, the increased presence of the centralized Administrative State, and the dangerous consequences of an activist judiciary that openly thwarts the deliberate sense of the majority. These are all Antifederalist concerns about the tyranny of politicians. The term limits movement of the late twentieth century demonstrates that the Antifederalist message—keep your representatives on a short leash, otherwise you will lose your freedom—still resonates with the American people, because Antifederalism is very much part of the American political experience.

When we hear the claim that our representatives operate independently of the people, and that the Congress fails to represent the broad cross-section of interests in America, we are hearing an echo of the Antifederalist critique of representation. When we hear that the federal government has spawned a vast and irresponsible administrative bureaucracy that interferes too much with the life of American citizens, we are reminded of the warnings of the Antifederalists concerning consolidated government. They warn that, in effect, executive orders, executive privileges, and executive agreements will create the "Imperial Presidency." And they warn that an activist judiciary will undermine the deliberate sense of the majority. The criticism that Americans have abandoned a concern for their religious heritage and neglected the importance of local customs, habits, and morals, recalls the Antifederalist dependence upon self-restraint and self-reliance. When we hear a concern for the passing of decentralization—old time federalism—we are hearing the Antifederalist lament.

The Antifederalist project calls for a rejuvenation of interest in Antifederalist "democratic federalism" and "constitutional republicanism." Since American politics is often a debate over the possibilities and limitations of the separation of powers, an independent judiciary, federalism, and representative government, it is vital that the potency of Antifederalist political analysis be restored. If the electorate has "lost faith" in the responsibility of the representatives in every branch of government, then the very concept of representation undergirding the country is in crisis. What is the solution? If no one cares either about the question, or the solution, then America is perhaps doomed to go the way of previous great regimes, and the experiment in "republican government" is exactly what opponents through the centuries have predicted it would be: a complete failure thus proving that the human race is incapable of being governed other than by force and fraud.

Antifederalist political science advocated concentration of the power of the people and eliminating temptations for the concentration of power in officeholders. The heart of their method was to propose a scheme of representation that safeguarded interests and avoid the clashes of factions. This called for certain homogeneity of interests, as opposed to the Madisonian encouragement of diverse interests. The latter approach they rejected as unnecessary and dangerous. They placed their faith instead in the virtue of "middling" Americans—a virtue that was not informed by ancient Sparta or even ancient Rome but by the modern doctrine of personal self-reliance—coupled with holding their representatives "in the greatest responsibility to their constituents."

The Antifederalists viewed the Constitution as creating mutually independent sovereign agents. They argued that such independent rulers would "erect an interest separate from the ruled," which will tempt them to lose both their federal and their republican mores. The Antifederalists concluded that unless executive power was yet more limited, representation more broadened, presidents and senators made more responsible to the people and the state governments protected—unless the arrangement was significantly modified—the proposed regime would necessarily destroy political liberty by destroying the sovereignty of the people, the litmus test of republicanism. As an expression of this "constitutional republicanism," they insisted on a Bill of Rights as a declaration of popular sovereignty.

In conclusion, the Antifederalists warned about the tendency of the American system toward the consolidation of political power in a) the nation to the detriment of the various states, and b) one branch of the federal government at the expense of the separation of powers. They warned about c) the corrupting influence that political power has on even decent people, whom decent people elected into office, and d) that the rule of law has a privileged position in republican government. They also anticipated the idea that e) all politics is—or should be—local and thus particular attachments rather than abstract ideas matter in the preservation of a liberal political order.

Insert the correct spelling (Anti-Federalist, anti-federalist, Antifederalist, antifederalist) for each viewpoint of the Antifederalists and circle the one that best describes the position that Prof. Lloyd takes.

<b>THE FOUR OPTIONS OF ANTIFEDERALISM</b>			
		<b>Coherent</b>	
		<b>YES</b>	<b>NO</b>
<b>RELEVANT</b>	<b>YES</b>		
	<b>NO</b>		

