

## Does Our Constitution Provide for Free Government?

**W**ritten more than 200 years ago, the United States Constitution set down the basic framework for a bold new experiment in free government. The Framers of the Constitution wanted this government to be based on the will and the rights of the people living under it.

How well does the Constitution provide for this type of government? The Federalists—those who supported the Constitution, and the Anti-Federalists—those who opposed the Constitution, engaged in a classic debate on this question. Both groups wanted free government based upon majority rule, or government with the consent of the governed. They, however, had very different opinions about how a constitution could achieve such a government. In their debates the Federalists and Anti-Federalists tried to resolve two very important questions. When does majority rule interfere with the rights of minorities and become tyranny? How can a government ensure that it is meeting the needs of all citizens?

### Pro

Federalist James Madison believed in majority rule, but he thought that a principal role of the Constitution was to protect minorities and individuals from the tyranny of the majority. He expressed his point of view in *The Federalist*, No. 51, in February 1788.

*It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in differ-*

*ent classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil; the one by creating a will in the community independent of the majority—that is, of the society itself; the other, by [including] in the society so many separate descriptions of citizens as will render an unjust combination of a majority of the whole very improbable, if not impracticable. The first method prevails in all governments possessing an hereditary or self-appointed authority [monarchy or dictatorship]. This, at best, is but a precarious security; because a power independent of the society may as well espouse the unjust views of the major as the rightful interests of the minor party, and may possibly be turned against both parties. The second method will be exemplified in the federal republic of the United States. Whilst all authority in it will be derived from and dependent on the society, the society itself will be broken into so many parts, interests, and classes of citizens, that the rights of individuals, or the minority, will be in little danger from interested combinations of the majority. . . . In the extended republic of the United States, and among the great variety of interests, parties, and sects which it embraces, a coalition of a majority of the whole society could seldom take place on any other principles than those of justice and the general good.*

—JAMES MADISON, *THE FEDERALIST*, NO. 51, 1788

### Con

The Anti-Federalists had a completely different view on the issue. Using the pen name Brutus, one Anti-Federalist (probably Robert Yates of New York) wrote “that a consolidation of this extensive continent under one government [under the Constitution

### More About Issues to Debate

Supporters of the Constitution ran well-organized ratification campaigns. The Federalists recruited the best speakers to present their case. In addition, James Madison, Alexander Hamilton, and John Jay wrote a series of widely published essays arguing in favor of ratification. They used political, military, and economic arguments to point out the weak-

nesses of government under the Articles of Confederation. They also stressed, however, that the power of the new government would be limited by the checks and balances of the Constitution.

The 85 essays were written primarily for New York state, since the Federalists believed the support of this large state was necessary for the new gov-

of 1787] . . . cannot succeed, without a sacrifice of your liberties.” He concluded that the Constitution did not emphasize liberty and could never provide for a free government. In October 1787, he wrote:

*In every free government, the people must give their assent to the laws by which they are governed. This is the true criterion between a free government and an arbitrary one. The former are ruled by the will of the whole [the people], expressed in any manner they may agree upon; the latter by the will of one, or a few. If the people are to give their assent to the laws, by persons chosen and appointed by them, the manner of the choice and the number chosen must be such, as to possess, be disposed, and consequently qualified to declare the sentiments of the people; for if they do not know, or are not disposed to speak the sentiments of the people, the people do not govern, but the sovereignty is in a few. Now, in a large extended country, it is impossible to have a representation, possessing the sentiments, and of integrity, to declare the minds of the people. . . .*

—BRUTUS, 1787

One month later, in November 1787, Brutus wrote:

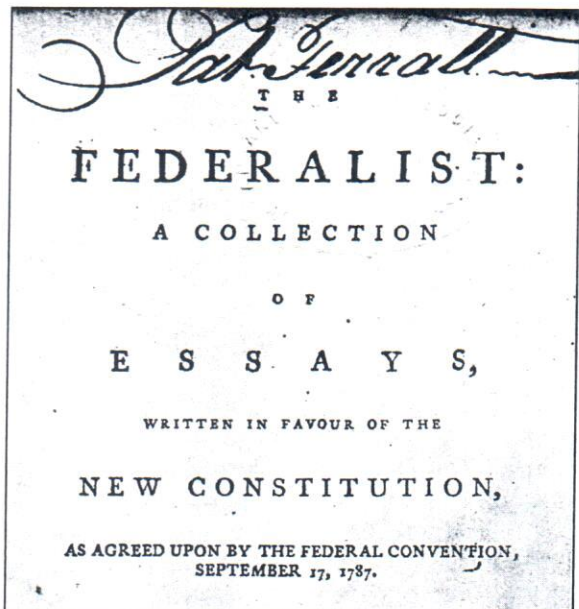
*In . . . a good constitution . . . the power is committed to [representatives with] the same feelings . . . and . . . the same objects as the people [have] . . . who transfer to them their authority. There is no possible way to effect this but by an equal, full and fair representation. . . . For without this it cannot be a free government; let the administration of it be good or ill, it still will be a government, not according to the will of the people, but according to the will of a few. . . .*

*A farther objection against the feebleness of the representation [in the Constitution of 1787] is that it will not possess the confidence of the people. . . . If then this government [Constitution of 1787] should not derive support from the good will of the people, it must be executed by force, or not executed at all; either case would lead to the total destruction of liberty.*

—BRUTUS, 1787

### The Debate Continues

The debate over how well the Constitution and the United States government protect the liberties of Americans continues today. Supporters point out that this government offers more protections against injustice than any other government in the world. For example, Americans accused of crimes are guar-



#### The Federalist

Published in 1787-88, *The Federalist*, a series of essays by Alexander Hamilton, James Madison, and John Jay, exerted a strong influence in the drive to ratify the proposed United States Constitution.

anteed free trials, and many laws protect citizens from discrimination based on race, age, sex, or disability. Critics suggest that the national government has grown so large that it can no longer be concerned with the rights of individuals and minorities.

#### Examining the Issue

##### Recalling Facts

1. Identify Madison's attitude toward majority rule.
2. Explain why Brutus opposed the Constitution.

##### Critical Thinking Skills

3. Identifying Central Issues Why did Madison favor the Constitution?
4. Evaluating Information Why did Brutus think that the United States could not have a free government under the Constitution?

##### Investigating Further

Find information on the government of the People's Republic of China. Would Brutus or Madison have classified this government as a free government? Why or why not?

ernment to succeed. Before the vote, Hamilton intimidated upstate New Yorkers by threatening the secession of New York City if the state did not join the new nation. The New York convention ratified the Constitution, but only by a three-vote margin.

Close votes were recorded in other states as well. The Massachusetts ratifying convention adopted

the Constitution by a vote of 187-168; the vote in Virginia was 89-79. The support of these three powerful and populous states, however, was assured.