

# 3 Ratifying the Constitution

## Section Focus

**Key Terms** ratification ■ federalism ■ Federalist ■ Antifederalist ■ *The Federalist* ■ faction ■ Bill of Rights

**Main Idea** Strong and spirited debate was part of the process of approving the Constitution. In the end the Constitution was approved with the understanding that a bill of rights be added to protect individual liberties.

**Objectives** As you read, look for answers to these questions:

1. How did the Constitution become law?
2. What were the concerns of the opponents of the Constitution?
3. How did supporters of the Constitution compromise in order to win its approval?

Within two days of its signing, the text of the Constitution was front-page news. A Philadelphia paper printed the first words of the Preamble, "We, the People of the United States," in large type.

The Convention debate had been held in secret. However, this was not the case for the debate over **ratification**, or final approval. For the next nine months the Constitution was the hottest political issue in the country. Out of the process emerged a document made stronger by the addition of a bill of rights.

### A FEDERAL SYSTEM OF GOVERNMENT

Using about equal parts of political theory, experience, and compromise, the Philadelphia Convention had created something quite new. "This government is so new, it wants a name," said Patrick Henry. It was no longer a confederation of sovereign states. Neither was it a consolidation of the states into a national government. It was a mixture—and for many, a fearsome mixture.

The kind of government Patrick Henry could not name is **federalism**. Federalism is the distribution of power between a central government and its political subdivisions. The Constitution of 1787 was the first to provide for a federal system of government.

Under the Constitution some powers would remain those of the federal (national) government. Only Congress could make treaties, coin money, tax imports, and declare war. However, the Constitution also allowed for other powers to be shared by both the federal and state governments.

For instance, both could tax. Both could borrow money, regulate banks, build roads, and maintain courts. The state militias (today's National Guard) would be under the control of both the states and Congress.

The ratification process meant a vigorous public debate over the merits of the Constitution. In this debate the supporters of the Constitution became known as **Federalists**. Those opposed were **Antifederalists**.

### CONCERNS OF THE ANTIFEDERALISTS

Among the first to enter the public debate were the three men who had refused to sign the Constitution. They were Edmund Randolph, Elbridge Gerry, and George Mason. Each hastened to publish his reasons why.

Of the three, Randolph had the weakest argument. He merely had doubts about the Constitution, he said, and wanted to see how Virginians would respond. Gerry argued that the Constitution gave too much power to the national government. Mason opposed the Constitution because it did not have a bill of rights.

Many other Antifederalists shared the complaints raised by Gerry and Mason. They feared that under the Constitution the national government would swallow up the states. This, they reasoned, would mean a loss of freedom. Liberty, they thought, could only survive in a small republic. Why? Because in a small republic it was easier for the people to keep a close and vigilant watch over their leaders.

Patrick Henry led the fight for states' rights in Virginia. Henry questioned the very foundation of the Constitution. Who, he demanded, had authorized the Convention delegates to say "We the people" instead of "We the states."

Antifederalists particularly opposed the federal government's power to tax. Their experience as British colonists had taught them that the power to tax is the power to tyrannize. In Massachusetts the farmer Amos Singletry asked:

Does not this constitution . . . take away all we have—all our property? . . . These lawyers and men of learning, and moneyed men that talk so finely, and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to . . . get all the power and all the money into their own hands.

And almost everywhere, people talked about a bill of rights. A South Carolinian expressed a common view when he said he didn't mind giving Congress more powers. But never would he give up a birthright that reached back to the Magna Carta.

### THE FEDERALIST

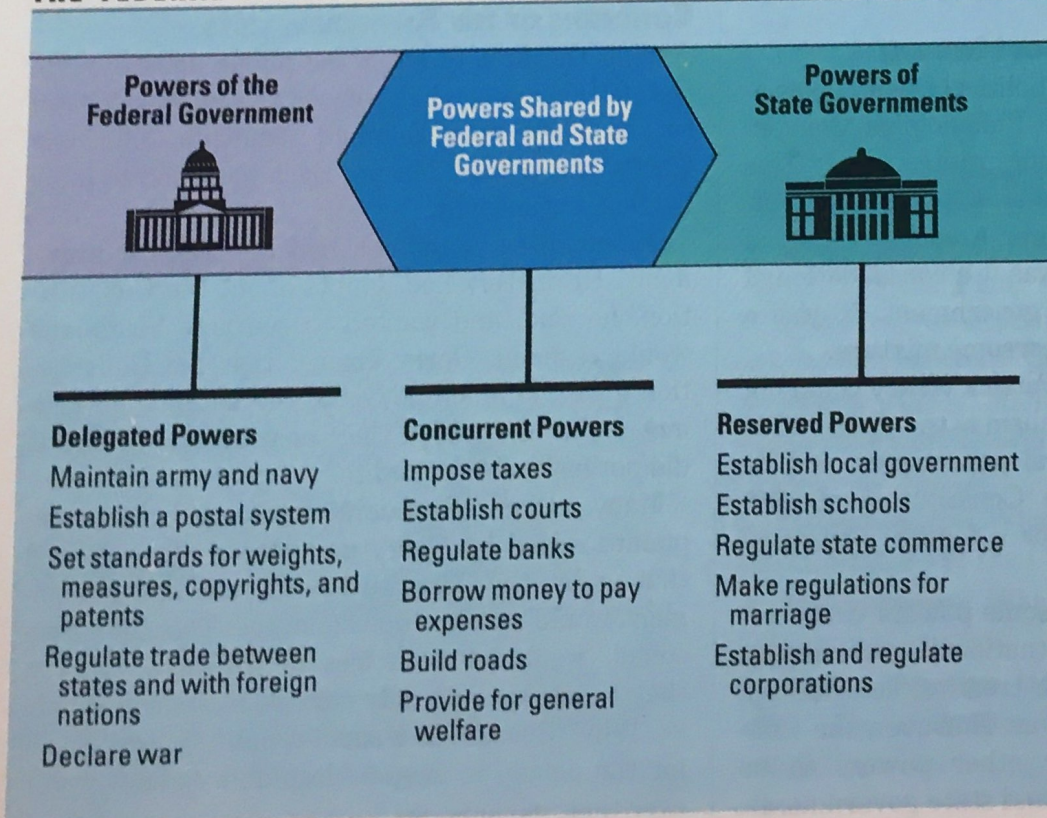
In debates, in private letters, and in newspaper articles, Federalists replied to Antifederalist concerns. The most persuasive of the Federalists were Alexander Hamilton and James Madison.

Hamilton, a New York lawyer, saw how difficult ratification was going to be in his state. The most powerful leader in New York was the popular governor, George Clinton. Clinton was an Antifederalist. On the Federalist side, however, was John Jay. Also a lawyer, Jay had helped negotiate the 1783 peace treaty securing freedom from Britain. He was also author of the New York Constitution and Secretary of Foreign Affairs under the Confederation.

To persuade New York to favor the Constitution, Hamilton planned a series of newspaper essays, *The Federalist*. The work of Hamilton, Madison, and Jay, the essays were signed only "Publius." Publius was the name of a great leader who had helped establish the Roman Republic.

The essays had various aims. They sought to point out weaknesses in the Articles of Confederation and to explain federalism. They also pointed

### THE FEDERAL SYSTEM



### CHART SKILLS

Americans live under two governments, federal and state. This chart shows the powers each level possesses under the federal system. *Delegated* powers are those specifically granted under the Constitution. Which level of government has the power to regulate marriages? Which level may impose taxes? **CRITICAL THINKING** Why might the term *reserved* be used to describe state powers?

out the benefits of the new Constitution. The 85 essays, though written quickly and under the pressure of newspaper deadlines, have become classics of American political thought. Even today they remain the best explanation of federalism.

One of the most famous essays is *Federalist No. 10*, by James Madison. In this essay Madison attacked the idea that a republican form of government could work only in a small country. One **faction**, or interest group, would actually find it easier to take over a small territory than a large one, he wrote. A republic that covered more territory, on the other hand, would have a greater number of factions among its citizens. The existence of many factions, as a result, would prevent any one group from seizing power.

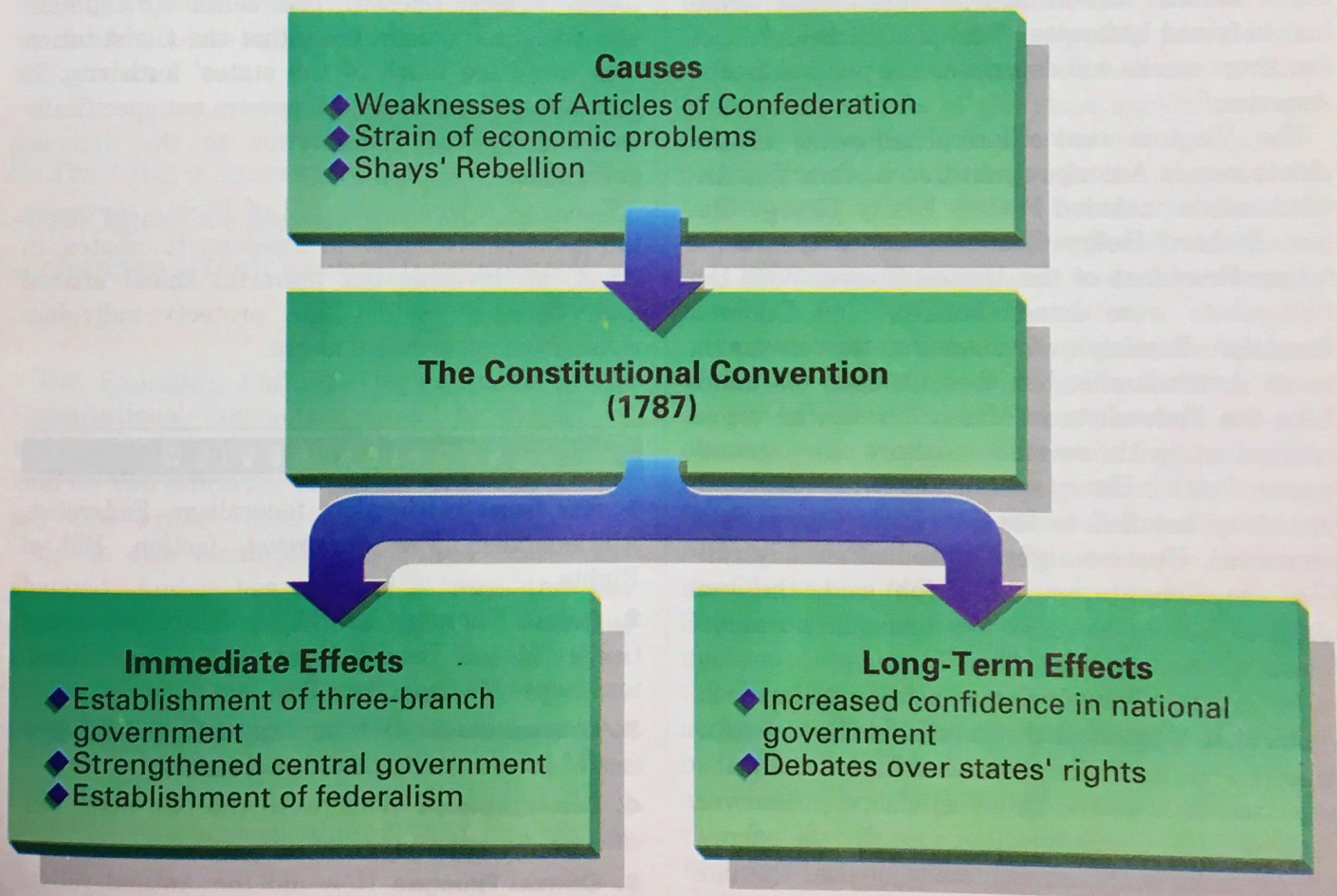
### ★ Historical Documents

For an excerpt from *The Federalist No. 10*, see page R17 of this book.

### VOTES FOR RATIFICATION

Among the first states to ratify the Constitution were the small states, which felt secure by their equal representation in the Senate. Delaware, New Jersey, Georgia, Maryland, and Connecticut all approved the Constitution. Pennsylvania also ratified it, though under suspicious circumstances. The ratifying convention was called into session before backcountry delegates, likely opponents of the Constitution, could reach Philadelphia.

## CAUSE AND EFFECT: THE CONSTITUTIONAL CONVENTION



### CHART SKILLS

This chart shows how the Constitutional Convention dealt with the severe problems facing the new nation. **CRITICAL THINKING** What is meant by “federalism”?

In Massachusetts opinion was divided. Although business interests saw the need for a stronger national government, Elbridge Gerry had left his mark. It looked like Massachusetts just might not ratify.

In their search for victory in Massachusetts, the Federalists hit on a winning formula. Governor John Hancock proposed that the convention ratify the Constitution. But, he said, the delegates should also recommend that a bill of rights be added to the document. Such a compromise was enough to sway the vote of old radicals like Sam Adams. The Constitution passed in Massachusetts by 187 votes to 168.

By the end of May 1788, eight states had ratified the Constitution. But Virginia and New York, two of the largest and most important states, had not decided. Although only one more vote was needed, the Federalists realized that the approval of both states would be essential to the Union. From Mount Vernon George Washington wrote his old friend Lafayette, "The plot thickens fast. A few short weeks will determine the political fate of America."

The Virginia convention pitted some of the ablest men in America against each other. The Antifederalists included Patrick Henry, George Mason, Richard Henry Lee, and James Monroe, a future President of the United States. With the Federalists were James Madison and Edmund Randolph. Randolph was elected to the convention as an Antifederalist but then changed his mind. Like the Federalists in Massachusetts, he urged ratification with recommendations for amendments. Patrick Henry was furious with Randolph, yet many listened to the young governor's final argument. Because eight states had already ratified the Constitution, Randolph said, the real question before Virginia was union or no union. Virginia voted for union 89 to 79.

By this time New York was holding its own convention. If Virginia had not ratified the Constitution, it was probable that New York would also have turned it down. The Virginia vote, however, weakened the Antifederalist cause. By the narrow margin of 30 to 27, ratification squeaked through the New York convention.

New York was the eleventh state to ratify. With

the exception of North Carolina, which was holding out for a bill of rights, and Rhode Island, the Union was complete.

## THE BILL OF RIGHTS

Although James Madison at first opposed a bill of rights, Thomas Jefferson persuaded him to change his mind. Without a bill of rights, Jefferson asked, how would a judge know which rights belonged to the people? Besides, five states had called for a bill of rights when they ratified the Constitution.

Madison now worked to bring about a bill of rights. Elected to the first Congress, he wrote the first ten amendments to the Constitution. These amendments form the **Bill of Rights**.

Of these amendments the first nine guarantee basic individual rights. They include freedom of religion, freedom of the press, the right to bear arms, the right to a jury trial, and the right not to testify against oneself. The Tenth Amendment was designed to calm fears that the Constitution took away too much of the states' authority. It guarantees to the states all powers not specifically assigned by the Constitution to the national government.

Taken as a whole, the Bill of Rights serves as the people's guarantee of freedom. It creates, in effect, an invisible but powerful shield around each citizen—a shield that protects individual rights from government abuse.

## SECTION REVIEW

- 1. KEY TERMS** ratification, federalism, Federalist, Antifederalist, *The Federalist*, faction, Bill of Rights
- 2. PEOPLE** Edmund Randolph, Elbridge Gerry, George Mason, Patrick Henry, Alexander Hamilton, James Madison, John Jay
- 3. COMPREHENSION** In what way is a federal system of government a mixed government?
- 4. COMPREHENSION** What were the two main reasons for opposition to the Constitution?
- 5. CRITICAL THINKING** How did the Antifederalists have an impact on the Constitution?