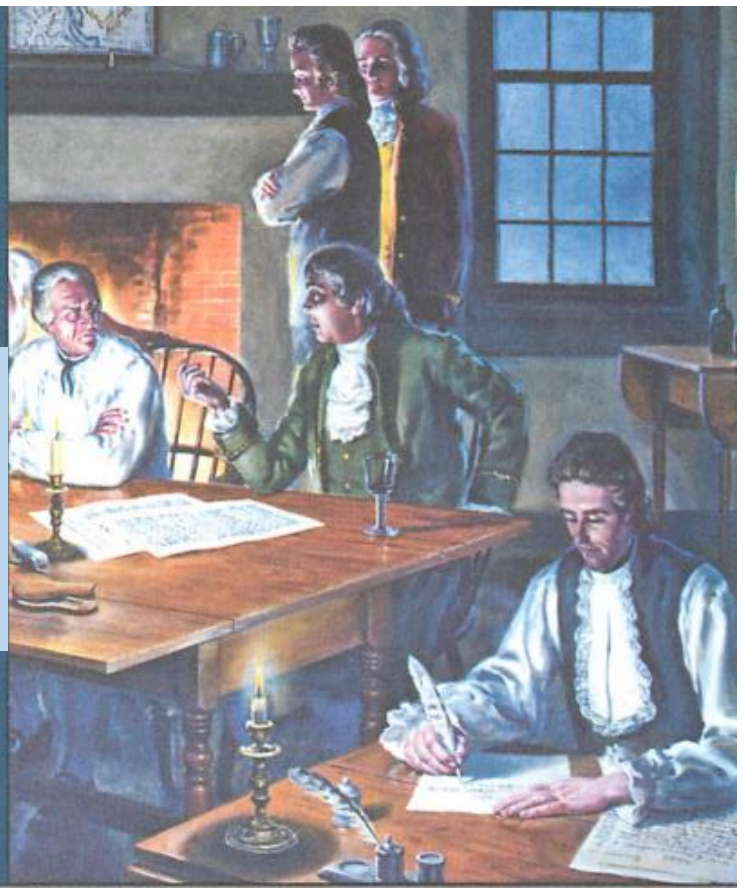


## WHAT WAS THE ANTI-FEDERALIST POSITION IN THE DEBATE ABOUT RATIFICATION?



### LESSON PURPOSE

Most of the delegates at the Philadelphia Convention signed the Constitution on September 17, 1787. Their product would become the law of the land only if ratified by at least nine of the thirteen states. This lesson explains the process of ratification and the opposition that erupted immediately after the draft Constitution became public. Supporters of the proposed Constitution called themselves Federalists and labeled their opponents Anti-Federalists. The names stuck, even though the opponents argued that they—not the Constitution’s supporters—were the real believers in a truly “federal” system, a confederation of equal states.

When you have finished this lesson, you should be able to explain why the Anti-Federalists opposed ratifying the Constitution. You also should be able to explain the role of the Anti-Federalists in proposing a bill of rights and to identify other contributions their views have made toward interpreting the Constitution. Finally, you should be able to evaluate, take, and defend a position on the validity and relevance of Anti-Federalist arguments.

### TERMS AND CONCEPTS TO UNDERSTAND

Anti-Federalists

bill of rights

ratification

## WHY WAS A RATIFICATION PROCESS REQUIRED?

Amending the Articles of Confederation required approval by Congress and confirmation by the legislatures of all thirteen states. The Philadelphia Convention originally was conceived only to recommend amendments to the Articles. The convention was expected to submit its work to Congress for approval or disapproval, followed by deliberations in the state legislatures.

Delegates knew that many members of Congress and the state governments would oppose the draft Constitution, largely because it reduced state powers. They also knew that it would be impossible to get all thirteen states to approve the Constitution, because Rhode Island had not sent delegates to Philadelphia.

James Madison developed the plan presented in Article VII of the Constitution: "The **ratification** of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states." The plan was to go directly to the voters to get them to approve the Constitution. The Constitution would be presented to special ratifying conventions in each state, rather than to the existing state legislatures. Delegates to the conventions would be elected by popular vote for the sole purpose of debating and approving the Constitution. Madison's plan was consistent with the idea in the Preamble to the Constitution, which says, "We the People...do ordain and establish this Constitution..." It also allowed the Constitution to go into effect without ratification in every one of the thirteen states.

The plan for ratification also was an example of social contract theory. The people who were to be governed by the new national government were asked to consent to its creation, consistent with John Locke's natural rights philosophy and the Declaration of Independence: Just governments "derive their...powers from the consent of the governed."

The idea of ratifying conventions also reflected recent history in America. When the states wrote new state constitutions during and after the Revolutionary War, they were submitted to the people for ratification, rather than to the existing state legislatures.

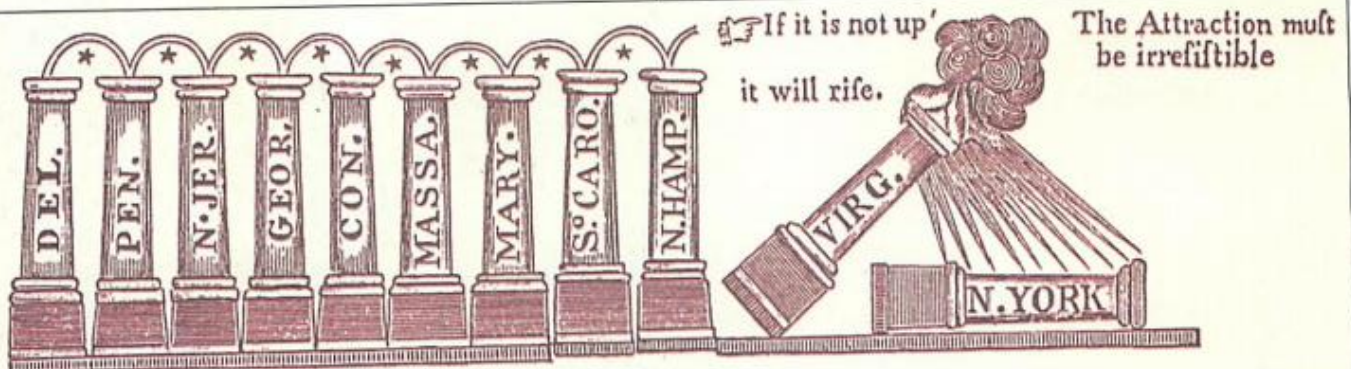
## WHERE AND HOW DID AMERICANS DEBATE THE PROPOSED CONSTITUTION?

The debate over adopting the Constitution began within the Philadelphia Convention itself. A week before the convention ended Virginia's George Mason wrote a list of his objections on a draft copy of the Constitution and then departed without signing the finished document.

Ratification was not a foregone conclusion. As soon as the delegates released the proposed Constitution to the public, opposition emerged. In particular, heated debate erupted in the populous states of New York, Massachusetts, Pennsylvania, and Virginia. The United States would have little chance of surviving as a single nation if any of these large, commercially important states failed to ratify the Constitution.

Ratification debates took place largely in the pages of newspapers and pamphlets. The **Anti-Federalists** opened the discussion by stating their objections to the Constitution. Mason's concerns were printed as a pamphlet. Many other distinguished Americans also wrote in opposition. Several, like Mason, had been delegates in Philadelphia, including Maryland's Luther Martin, New York's Robert Yates, and Massachusetts's Elbridge Gerry. Yates wrote sixteen Anti-Federalist essays under the pseudonym, or pen name, Brutus, after Marcus Junius Brutus, who helped assassinate Julius Caesar allegedly in order to preserve the Roman Republic. Other important writers against the Constitution included Mercy Otis Warren, a Massachusetts playwright from a distinguished Revolutionary family, and Richard Henry Lee, a leading Virginia revolutionary and signer of the Declaration of Independence. Lee was once thought to have written Anti-Federalist essays under the pseudonym Federal Farmer. However, most historians now believe that Federal Farmer was Melancton Smith, an Anti-Federalist from New York. As opponents published their criticisms of the Constitution, supporters responded with defenses of the document (discussed in the next lesson).

On both sides writers believed in an essentially republican idea, namely, the use of reasoned discourse to



★ Why do you think Madison suggested having the Constitution ratified by the people in special conventions instead of by state legislatures?



### WHAT WERE THE KEY ELEMENTS OF THE ANTI-FEDERALISTS' OPPOSITION?

Like many Federalists, Anti-Federalists believed in the basic ideas of republicanism. These ideas included the concept that the greatest governing power in a republic should be placed in a legislature composed of representatives elected by the people.

Anti-Federalists believed in another idea that dated back to classical republicanism, that representative government could work only in a small community of citizens with similar interests and beliefs. Only in such a community can people agree on the common good or their common interest, and only in such a community will representatives truly reflect the beliefs and characteristics of their constituents. A large, diverse state or nation cannot sustain a republic, Anti-Federalists believed. In such a nation a single national government will impose uniform rule over a heterogeneous population of diverse economic pursuits, varied religious and secular beliefs, and differing traditions and customs. In addition, in a large geographical territory many citizens live far away from the seat of government, making it difficult for them to watch over the activities of their representatives.

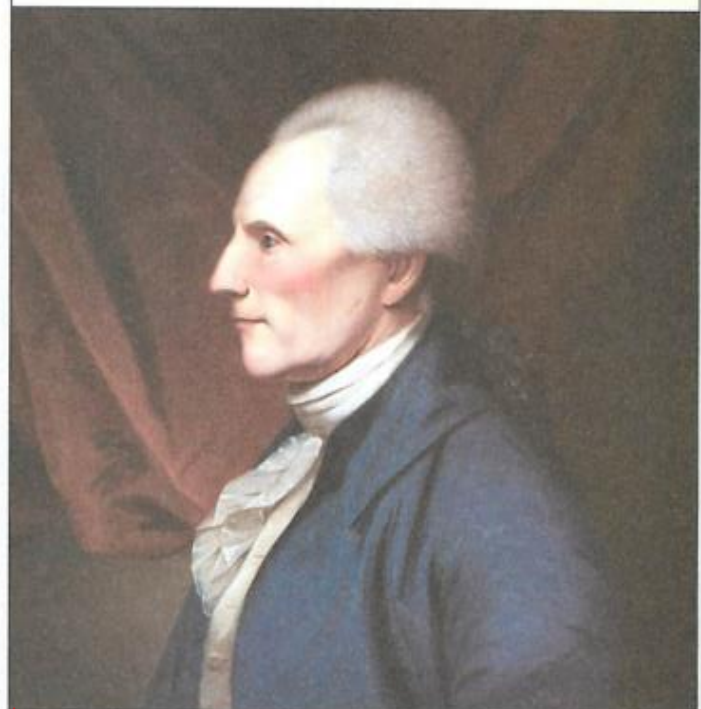
Once a government operates at a distance from most of its citizens, Robert Yates argued (as Brutus) in the first of his essays, it can no longer reflect those citizens' character or wishes. To maintain its authority, such a government will resort to force rather than popular consent. It will require a standing army, and it will tax the people in order to sustain that army. As a result, truly republican

★ What objections to the Constitution were held by such Anti-Federalists as Mercy Otis Warren?

educate the citizenry. They drew on political philosophy and ancient and recent history to make their arguments. Most of them employed pseudonyms so that their arguments would be read on their merits, rather than on the reputations of the authors. Ordinary Americans read and discussed the arguments in their homes, in coffeehouses and taverns, and in public meetings, thereby creating a truly nationwide debate.

### WHAT DO YOU THINK?

- ★ 1 Were the delegates justified in creating new rules for the ratification of the proposed Constitution? Why or why not?
- ★ 2 If a convention were called today to consider major changes to the United States Constitution or to draft a new constitution, what rules would ensure an informed civic discussion of fundamental issues?
- ★ 3 Today most newspapers refuse to publish letters to the editor or opinion statements without identifying the authors. By contrast, many people express opinions on the Internet using pseudonyms. Does the use of pseudonyms today improve or diminish the quality of civil discourse? Explain your reasoning.



★ What principles of classical republicanism did Anti-Federalists such as Richard Henry Lee think would be endangered by the new government created by the Constitution?

governments (those at the local or state level) will lose their power. The distant national government's taxation of citizens also will leave little money for local governments.

Anti-Federalists also believed that people living in small, agrarian communities are more likely to possess the civic virtue required of republican citizens. Living closely together, they are more willing to set aside their own interests when necessary and to work for the common good. Moreover, the social and cultural institutions that best cultivate civic virtue—such as education and religion—work most effectively in small, homogeneous communities. Many Anti-Federalists argued that stronger institutions to foster civic virtue, not a stronger central government, would best overcome the problems that America faced in 1787 and in the future.

### HOW DID THE ANTI-FEDERALISTS' PHILOSOPHY SHAPE THEIR OBJECTIONS TO THE CONSTITUTION?

Anti-Federalists believed that the Constitution would create a government that the people could not control. The size and diversity of the United States were exactly the opposite of a homogeneous small republic. A strong national government in a large nation, the Anti-Federalists argued, would be prone to the abuses that had destroyed republics since ancient times.

Anti-Federalists believed that each branch of the proposed national government had the potential for tyranny. Their specific arguments against the Constitution included the following:

- The Constitution gives Congress the power to make any laws that Congress believes “necessary and proper” to carry out its responsibilities. There is no adequate limitation on its powers. Congress could grant monopolies in trade and commerce, create new crimes, inflict severe or unusual punishments, and extend its power as far as it wants. As a result, the powers of the state legislatures and the liberties of the people could be taken from them.
- The president of the United States has the unlimited power to grant pardons for crimes, including treason. He could use this power to protect people whom he has secretly encouraged to commit crimes, keep them from being punished, and thereby prevent the discovery of his own crimes.
- The national courts have so much power that they can destroy the judicial branches of the state governments. If this were to happen and the only courts available were national (federal) courts, most people would not be able to

afford to have their cases heard because they would need to travel a great distance. Rich people would have an advantage that would enable them to oppress and ruin the poor.

Anti-Federalists also argued that the celebrated system of checks and balances among the branches could be turned against the people's liberties. Following are two examples:

- The Constitution says that treaties are the supreme law of the land. Treaties can be made by the president with the approval of the Senate, giving the Senate an exclusive legislative power in this area. This means that the Senate can act without the approval of the House of Representatives, the only branch of the legislature that is directly answerable to the people.
- The powers of the executive and legislative branches are more mixed than separated. Rather than check each other, the president and Congress could collude to enact legislation, make war, or pass taxes that would undermine state and local governments.

Anti-Federalists also believed that the Constitution did not create a truly representative national government. The initial House of Representatives would have only sixty-five members from a population of more than three million, roughly one representative for every forty-six thousand citizens. Elected members of Congress would not be able to know, much less reflect the characteristics of, their constituents. An elite, privileged group soon would dominate the national government.

### CRITICAL THINKING EXERCISE

#### Analyzing the Positions of Some Anti-Federalists

Working in small groups, read the following statements by three Anti-Federalist writers. Summarize each writer's concern. What views of republican government are expressed in each statement? How, if at all, do the statements form a chain of reasoning for opposing the proposed Constitution?

“If respect is to be paid to the opinion of the greatest and wisest men who have ever thought or wrote on the science of government, we shall be constrained to conclude, that a free republic cannot succeed over a country of such immense extent, containing such a number of inhabitants, and these increasing in such rapid progression as that of the whole United States.... History furnishes no example of a

free republic, anything like the extent of the United States.

★ Brutus (probably Robert Yates of New York), No. 1

“ Give me leave to demand, what right had they [the drafters of the Constitution] to say, *We, the People*. My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask who authorized them to speak the language of, *We, the People*, instead of *We, the States*? States are the characteristics, and the soul of a confederation. If the States be not the agents of this compact, it must be one great consolidated National Government of the people of all the States.

★ Patrick Henry of Virginia

“ There is no security in the proffered system, either for the rights of conscience or the liberty of the Press: Despotism usually while it is gaining ground, will suffer men to think, say, or write what they please; but when once established, if it is thought necessary to subserve the purposes, of arbitrary power, the most unjust restrictions may take place in the first instance, and an *imprimatur* on the Press in the next, may silence the complaints, and forbid the most decent remonstrances of an injured and oppressed people.

★ “A Columbia Patriot” (probably Mercy Otis Warren of Massachusetts)

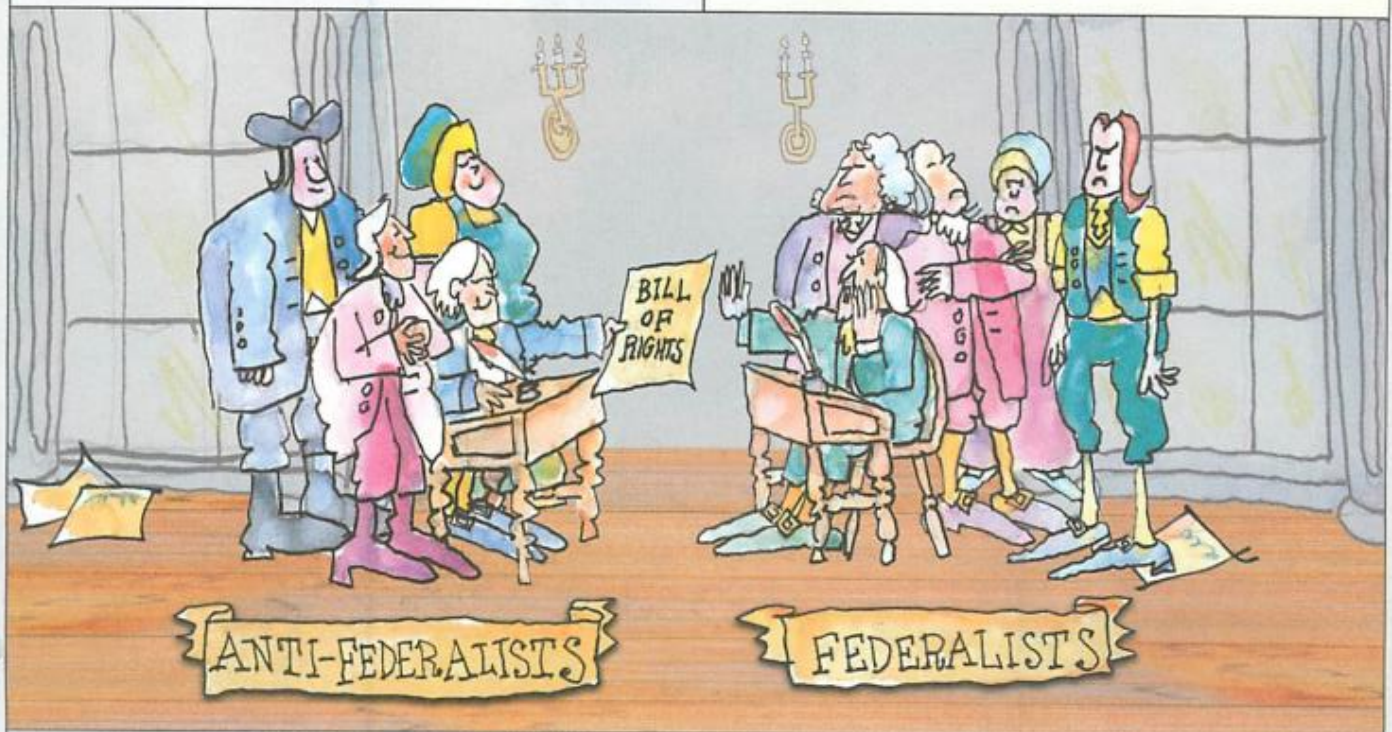
## SHOULD THERE BE A BILL OF RIGHTS?

The lack of a **bill of rights** proved to be the Anti-Federalists’ strongest and most powerful weapon. State constitutions listed the rights that state government could not infringe, and the Philadelphia Convention had considered but rejected including a bill of rights.

Not adding a bill of rights proved to be the delegates’ greatest tactical error because the omission galvanized Anti-Federalists. The Anti-Federalists often disagreed with one another about specific objections to the Constitution, and they were not a well-organized group. But they soon realized that the best way to defeat the Constitution was to use the issue of a bill of rights.

The Anti-Federalists used the following arguments most often:

- The organization of the national government does not adequately protect rights. Only the House of Representatives is chosen directly by the people. The national government is too far removed from average citizens to understand or reflect their concerns. The national government’s power could be used to violate citizens’ rights.
- The national government’s powers are so general and vague as to be almost unlimited. The necessary and proper and general welfare clauses seem particularly dangerous.



What arguments did the Anti-Federalists make for including a bill of rights in the Constitution?

- There is nothing in the Constitution to keep the national government from violating all the rights that it does not explicitly protect. There is no mention, for example, of freedom of religion, speech, press, or assembly. These are omitted from the Constitution. Therefore, the Anti-Federalists reasoned, the national government is free to violate them.
- State constitutions contain bills of rights. If people need protection from their relatively weak state governments, then they certainly need protection from a vastly more powerful national government.
- A bill of rights is necessary to remind the people of the principles of our political system. As the Anti-Federalist writer Federal Farmer put it in Federal Farmer 16, there is a necessity of “constantly keeping in view...the particular principles on which our freedom must always depend.”

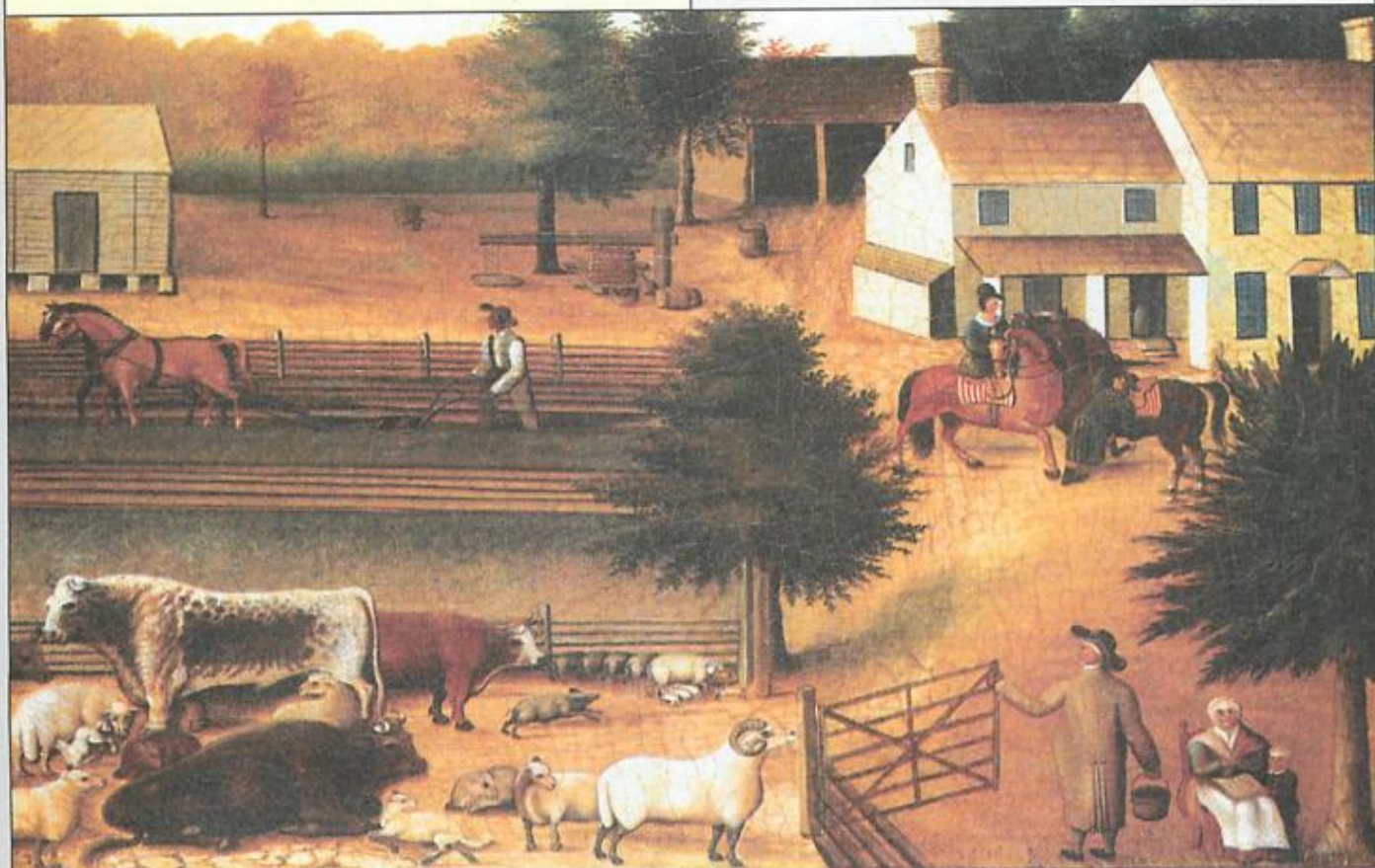
Many Anti-Federalist leaders hoped to defeat the Constitution so that a second constitutional convention would be held. There, the Anti-Federalists hoped, they would have more influence in creating a new government.

## WHAT DO YOU THINK?

- ★ ① What criticism of the Constitution by Anti-Federalists seems to be the most valid? Why?
- ★ ② What criticism of the Constitution by Anti-Federalists seems to be the least valid? Why?
- ★ ③ Which fears of Anti-Federalists do people express today? Are those fears justified? Why?

## REVIEWING AND USING THE LESSON

- ★ ① What process did the Philadelphia Convention devise for ratifying the Constitution and why?
- ★ ② Why did many of the writers in the debates over the Constitution use pseudonyms?
- ★ ③ What philosophical ideas guided the Anti-Federalists’ opposition to a stronger national government? How did those ideas lead them toward specific objections to the Constitution?
- ★ ④ What arguments did the Anti-Federalists make with regard to the need for a bill of rights?



- ★ Do you agree with the Anti-Federalist position that people living in agrarian communities are more likely to possess republican civic virtue? Why or why not?