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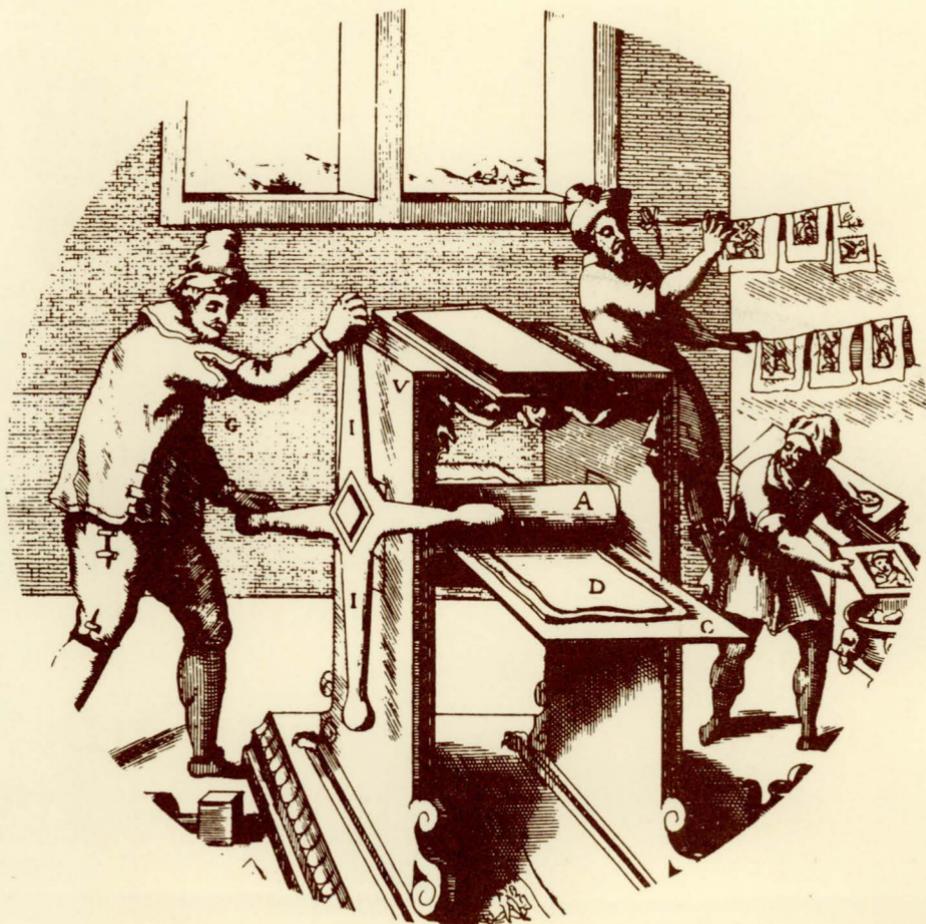
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September 1987

Number 16

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FOR THE BOOKMEN OF INDIANA  
AND THE FRIENDS OF THE LILLY LIBRARY

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# **The Constitution of the United States:**

**Sixty Items from the Lilly Library**

Annotated by  
Cecil K. Byrd

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# INTRODUCTION

September 17, 1787 marks the day, two hundred years ago, on which the Founding Fathers completed the drafting of the Constitution for the United States of America. This hallowed document is the guarantee for our personal liberties and security, and the basis of our national political life. It represents an incomparable legacy from the past, and has provided a stable and flexible government based solely upon elections for two hundred years.

The Lilly Library has an outstanding collection of materials relating to the framing of the Constitution, the struggle for ratification, and the beginning of the government under this new instrument. During this Bicentennial Year, the widest possible public exposure will be given to these resources. Many Lilly items, combined with those from other institutions, began a year-long journey on July 1 in a travelling exhibit called "Liberty's Legacy," commemorating the bicentennial of both the Constitution and the Ordinance of 1787. This splendid collection of historical materials will be available for public viewing for a two months' period at each of the following: Ohio Historical Society, Lilly Library at Indiana University, Clements Library at University of Michigan, Newberry Library in Chicago, State Historical Society of Wisconsin, and the Minnesota Historical Society. During August and September, a smaller exhibit relating to the Constitution will be on display at the Bracken Library at Ball State University, consisting of materials from the Lilly Library.

The items relating to the Constitution in the travelling exhibit "Liberty's Legacy" and those exhibited at Ball State, are listed and annotated on the following pages: books, pamphlets, broadsides, newspapers and manuscripts. All were printed or written contemporaneously with the drafting of the Constitution, its ratification, or the inauguration of the Federal government. Together, with the annotations, they tell the story of the evolution of events during the dramatic period when the foundation of our nation was put down.

A list of the most useful publications relating to this exciting period in American history is appended for the convenience of the reader.

That these documents, many of them national treasures, have found a home in Indiana is due in large part to the energy and imagination of Richard O. Morris of Indianapolis and to the generosity of the Ball Brothers Foundation of Muncie. Mr. Morris began collecting materials on the Constitution long before any thought was given to the then distant bicentennial we celebrate this year. On the advice of David A. Randall, then Lilly Librarian, he clearly defined the scope of his collection as contemporaneous publications concerning the drafting and ratification of the Constitution. Then, with the help and encouragement of the book trade, and especially Mike Walsh of Goodspeeds, he set about his job. The many items from the collection of Richard O. Morris in the Lilly Library testify to his success.

Our other great benefactor, the Ball Brothers Foundation, provided the funding that enabled us to secure several of the treasures that would otherwise have been beyond our reach. To them we owe the presence in this collection of the manuscript of the resolution of Congress calling The Constitutional Convention, the first printed draft of the Constitution, James Madison's letter to George Washington giving an account of ratification of the Constitution by Virginia and George Washington's letter to Senator John Langdon accepting the presidency of the United States as well as many other items both printed and manuscript.

With this issue of the Indiana University Bookman dedicated to their achievements we offer our profound thanks to these generous friends.

William R. Cagle  
Lilly Librarian

## Drafting the Constitution: Philadelphia May 14- September 17, 1787

Seventy-four delegates were elected or appointed by twelve state legislatures to attend the Convention in Philadelphia, called to meet Monday, May 14, 1787, to amend the Articles of Confederation. Rhode Island ignored the proceedings. New Hampshire did not authorize a delegation until June 27; her delegates arrived at Philadelphia July 23. Only fifty-five of the seventy-four named delegates attended the sessions in the Pennsylvania State House (now a national shrine). Fourteen resigned or refused appointment, five never attended, thirteen left the Convention before September 5, and only forty-one were present when the Convention adjourned *sine die* the afternoon of September 17, 1787.

The Founding Fathers who drafted our Constitution were men of experience, capable of compromise, who played minor and major roles in social, military, political and economic affairs of the period. All except eight were born in America. Twenty-five were college trained, either in America or Great Britain. Thirty-four were lawyers. Eighteen had served as officers in the Continental Army. Forty-two had served in the Continental Congress. Eight had signed the Declaration of Independence. Six had signed the Articles of Confederation. Eight were merchants or financiers. Six were planters, three were physicians, two were former ministers of the gospel, and several were college professors. Ten were simultaneously members of the Confederation Congress, absent from its meetings in New York City.

The oldest delegate, Benjamin Franklin, was eighty-one; Jonathan Dayton of New Jersey, the youngest, was twenty-six. Five of the delegates were in their sixties, seven in their fifties, twenty in their forties, eighteen in their thirties, and three, in addition to Dayton, were in their twenties.

The two most respected, widely known, and influential delegates were Washington, who was elected President of the Convention, and Benjamin Franklin. Neither of them took much part in the debates. Washington spoke from the floor only once, on

September 17, favoring a change from forty to thirty thousand population for each representative in the House. Franklin participated infrequently by writing his comments and having them read by other delegates. James Wilson read his suggestion for the wording to promulgate the Constitution to the Confederation Congress and the people in the morning of September 17. Both men could have, and most likely did, wield enormous influence in private sessions with delegates.

The size of the state delegations varied. Pennsylvania had eight, New Hampshire two. Massachusetts was represented initially by four, but Caleb Strong left before adjournment. Connecticut sent three delegates but Oliver Ellsworth left before adjournment. New York was initially represented by three men, but John Lansing Jr. and Robert Yates left early, thus depriving the state's remaining delegate, Alexander Hamilton, of his vote under the rules which required a majority for validation. Delaware was represented by five delegates. Maryland sent five, but Luther Martin and John Francis Mercer left before adjournment. Virginia was represented by seven delegates, but George Wythe and James McClurg left early. North Carolina sent five delegates; two, Alexander Martin and William Davis, left before adjournment. South Carolina sent four delegates. Georgia also sent four, but William Pierce and William Houston left before adjournment.

A quorum of states was not present until May 25. On that day, the Convention began organizing. Washington was unanimously elected President. William Jackson, a non-delegate, was elected secretary, and a doorkeeper and a messenger were appointed. On May 29, the Convention adopted a rule cloaking its proceedings in secrecy from the public: "That nothing spoken in the House be printed, or otherwise published or communicated without leave." The Convention very early faced the issue of amendments to the Articles. It was decided "that a national government ought to be established . . ." and the drafting of the Constitution began.

From May 25 through September 17, the Convention met five or six hours each day, six days each week. It was adjourned July 3 and 4 for Independence Day, and between July 26 and August 6 to allow the Committee of Detail to prepare the first draft of the Constitution.

On September 17 the Constitution, engrossed on four sheets of parchment was read and signed by thirty-eight of the forty-one

delegates still at the Convention. George Reed of Delaware signed for the absent John Dickinson, bringing the signers to thirty-nine. Edmund Randolph and George Mason of Virginia refused to sign, as did Elbridge Gerry of Massachusetts.

The delegates had adequate precedence to guide them in their work of framing a new instrument of government. During the more than a century and a half under British rule, the colonies had broad experience in government. They had been nurtured under the English tradition of common law and concepts of liberty. The colonial charters from early in the seventeenth century taught Americans to think in terms of organic law. The institutions under the charters were in a great measure incorporated in the new state constitutions of the Revolutionary period and are reflected in the Constitution.

There were numerous conflicts among delegates to the Convention. They argued over the power to be vested in the national government. They wrangled over representation in the proposed Congress but reached a compromise by giving small states equality in the Senate. More time was spent on debating the executive branch than on any other aspect of the Constitution. Strong executive power was one of the, then, radical features of the Constitution. There were divergent views between agricultural and commercial interests, between slave and free states, and between theorists and men of practical outlook. The finished instrument divided power of government between the national government and the states, each with a fairly distinct sphere of authority. The federal government was given power to tax, regulate commerce and could act directly on citizens of the states. Never before in the West had a representative government been created which attempted to operate over a large nation. Monarchy was the prevalent model for a "safe" government. All Europe watched with intense interest and the most varied speculation on the fate of the American experiment.

The astounding aspect of the Convention was not the qualifications of the delegates for the task, they had vast collective political experience, but that they were able to resolve divergent views on the nature of republicanism, regional, and personal differences, and reach agreement on a Constitution for "We the People of the United States." The instrument reflects the work of democratic politicians who restructured the American system of government

in a climate of skepticism. They framed a document that would foster national interest and, at the same time, be acceptable to the citizens of the states who were asked to ratify their work.

## 1

*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.* Lancaster (Pennsylvania), printed: Boston, reprinted by John Gill, printer to the General Assembly. M, DCC, LXXVII. 16 p.

The Articles were the first constitution of the United States, creating a central government for the thirteen colonies who had declared their independence from Great Britain and organized as states. Ratification of the Articles of Confederation was completed when Maryland, the final state to accede, ratified March 1, 1781. The Articles were in effect until superseded by our present Constitution on March 4, 1789.

Most of the functions of government under the Articles were retained by the states. Congress was empowered to deal only with matters which seemed common to all the states: foreign affairs, trade relations with the Indians, coinage standards, weights and measures and authority to organize a postal service.

The right of taxation was reserved to the states. Congress could only request funds for operations from the states with no power, other than persuasion, to force the states to contribute. Each state's share of the Confederation budget was calculated in proportion to the value of its improved lands.

Many political leaders felt that the Confederation was weak. It lacked an effective executive, had no judicial branch, could not regulate intra-state commerce, and could not act directly on the citizens of the states. The Convention which met in Philadelphia in May, 1787, was, ostensibly, to correct the most glaring deficiencies of the Articles. Instead, the delegates ignored their instructions and drafted the Constitution which is the basis for our national political life today.

## 2

"Address of the Convention held at Annapolis, in September 1786." Signed at end: "John Dickinson, Chairman. Annapolis, Sept. 14, 1786." *The American Museum*, vol. I, no. IV, April 1782, pp. 291-294.

The preliminaries to the Constitutional Convention at Philadelphia occurred at Annapolis, Maryland, in September, 1786. On the initiative of Virginia, the thirteen states were invited to send delegates to discuss interstate commerce “. . . to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide for the same.”

Nine states elected delegates but only those from New York, New Jersey, Pennsylvania, Delaware and Virginia attended. They adjourned after agreeing to a report drafted by Alexander Hamilton calling for a convention to meet in Philadelphia “. . . the second Monday in May next, to take into consideration the situation of the united states, to devise such further provisions as shall appear to them necessary to render the constitution of the federal government adequate to the exigencies of the union . . .”

The Confederation Congress, then meeting in New York, considered the Annapolis report, debated its legitimacy, and on February 21, 1787, passed its own call, stipulating the meeting “. . . for the sole and express purpose for revising the Articles of Confederation . . .”

The concepts of conventions to alter old or draft new instruments of government was not new. The constitutions of Pennsylvania, Maryland and Massachusetts were written by constitutional conventions. The idea of a convention that would, in some fashion, strengthen the central government had been seriously recommended from 1780 until the Philadelphia Convention met. Alexander Hamilton, in a long letter to James Duane of September 3, 1780, outlined the weakness of government under the Articles by stating; “The fundamental defect is a want of power in Congress.” The situation could be remedied “. . . by calling immediately a convention of the states with full authority to conclude finally upon a general confederation . . .” All attempts to amend the Articles of Confederation to give Congress power to tax and regulate trade had failed.

3

**By the United States in Congress assembled. February 21st 1787. Whereas there is provision in the Articles of Confederation and perpetual Union for making alterations therein . . . Resolved That**

**in the opinion of Congress it is expedient that on the second monday in May next a Convention of Delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation . . . Chas. Thomson secrey.**

Autograph document, signed. 2p.

This is a manuscript copy of the act passed by the Confederation Congress on February 21, 1787, calling on the states to send delegates to the Convention in Philadelphia May 14, 1787. Charles Thomson, secretary to the Congress, sent copies of the act to all the states the day it was adopted. It was widely printed in the newspapers, appearing in at least thirty-nine, between February 24 and March 21, 1787.

The "Address" of the Annapolis convention, calling for the Philadelphia meeting was received by the Confederation Congress on September 20, 1786. The immediate response in Congress was one of apprehension but a committee was properly appointed to consider the report. No further action was taken during 1786. By February, 1787, the political climate had changed. On February 21, 1787, Congress passed a motion made by the Massachusetts delegation calling the Convention at Philadelphia. The motion sanctioned the delegates already selected by the states as a result of the call from Annapolis, and specifically limited the purpose to a revision of the Articles of Confederation.

#### 4

[Adams, John Quincy, ed.]

*Journal, acts and proceedings of the convention, assembled at Philadelphia, Monday, May 14, and dissolved Monday, September 17, 1787, which formed the Constitution of the United States.*

Boston: printed and published by Thomas B. Wait. 1819. 510 p.

This is the first printing of the journal kept by William Jackson, secretary to the Convention. The *Journal* and a few other documents are the only official surviving papers from the Constitutional Convention. Upon adjournment, Jackson was instructed to deposit his papers as secretary with the President of the Convention, Washington. Jackson did as instructed, first writing Washington on September 17, 1787: "Major Jackson, after burning all the loose scraps

of papers which belong to the Convention, will this evening wait upon the General with the Journals and other papers which their vote directs to be delivered to His Excellency." In 1796, Washington deposited the papers with the Department of State. In 1818, a joint resolution of Congress ordered them published.

John Quincy Adams, then Secretary of State, was requested by President Monroe to take charge of the project. Adams had great difficulty with the *Journal* which was, he reported "no better than the daily minutes from which the regular journal ought to have been, but never was, made out." With help from Charles Pinckney, James Madison, and with documents from the papers of David Brearley, delegate from New Jersey, the task was completed.

This was the first publication to break the veil of secrecy under which the Constitutional Convention labored. Not much, however, was revealed, for the *Journal* contains only the formal record of the Convention, the writings of the Committee of the Whole House, and a table recording the votes on various questions. None of the debates are included.

## 5

Yates, Robert

*Secret proceedings and debates of the Convention assembled at Philadelphia, in the year 1787, for the purpose of forming the Constitution of the United States of America. From the notes taken by the late Robert Yates, esq. chief Justice of New-York, and copied by John Lansing, Jun. esq. late Chancellor of that state, members of that convention. Including "the genuine information," laid before the legislature of Maryland by Luther Martin, esq. then Attorney General of that state, and a member of the same Convention. Also, other historical documents relative to the federal compact of the North American Union.*

Albany: printed by Websters and Skinners, at their bookstore in the white house, corner of State and Pearl streets. 1821. 308 p.

Yates and Lansing were delegates to the Convention from the state of New York. They left Philadelphia on July 10 to attend sessions of the New York Supreme Court (Yates a judge, and Lansing a practicing attorney), and did not return. As they explained in a letter to Governor Clinton written on December 21, 1787, they

contended that the proceedings in the Convention were violating their instructions as delegates from the state.

Yates' notes taken at the Convention begin May 25 and continue through July 5. They were brief but informative about the attitude of individuals in the debates and shed further light on the proceedings in Philadelphia. The original manuscript notes are not known to exist.

Luther Martin's *The genuine information* was first printed in installments in the Baltimore *Maryland Gazette* beginning December 28, 1787 (See No. 28). It ends on page 94 of *Secret Proceedings*. Yates' notes begin on page [95] and end on page 207. The remainder of the book, Appendix, contains a variety of reprinted matter relating to the Constitution.

What was labeled as extracts from Yates' notes was published in a pamphlet presumably written by Edmond Charles Genet, discredited first minister of the French Republic to the United States, who stayed on in the country, became a citizen, and married a daughter of Governor George Clinton of New York. The pamphlet was an attack on James Madison, then a candidate for the presidency: *A letter to the electors of President and Vice-President of the United States. By a citizen of New-York. Accompanied with an extract of the secret debates of the Federal Convention, held in Philadelphia in the year 1787, taken by Chief Justice Yates*. New York: printed by Henry C. Southwick, 1808.

The Genet pamphlet was an inept and misleading piece of political propaganda for George Clinton who had presidential aspirations in 1808. The extracts from Yates' notes are for May 28, June 2, 8, 9, 16 and July 2, 3, 1787. They are garbled and only slightly resemble the published version of *Secret Proceedings*.

## 6

Madison, James

*The papers of James Madison, purchased by order of Congress; being his correspondence and reports of debates during the Congress of the Confederation and his reports of debates in the Federal Convention; now published from the original manuscripts deposited in the Department of State, by direction of the joint library committee of Congress under the superintendence of Henry D. Gilpin.*

Washington: Langtree & O'Sullivan. 1840. 3 vols.

James Madison, delegate from Virginia, with a deep sense of history, took voluminous notes on the proceedings in the Convention. His report constitutes the fullest and most indispensable source relating to the drafting of the Constitution. While not a verbatim transcription, it represents a fairly full account of the daily deliberations of the Convention. Before his death, he described his method of reporting the activities of this historic event:

In pursuance of the task I had assumed I chose a seat in front of the presiding member with the other members, on my right & left hand. In this favorable position for hearing all that passed, I noted in terms legible & in abbreviations & marks intelligible to myself what was read from the Chair or spoken by the members; and losing not a moment unnecessarily between the adjournment & reassembling of the Convention I was enabled to write out my daily notes during the session or within a few finishing days after its close in the extent and form preserved in my own hand on my files.

Madison made some changes in his manuscript subsequent to the Convention. He copied the original manuscript of the official Journal kept by Secretary Jackson (see No. 4), borrowed from Washington with whom it had been deposited. Using this he made a number of additions and corrections to his manuscript probably in 1791. He also used Yates, *Secret Proceedings* (see No. 5) to make a few insertions.

Madison refused to publish his manuscript during his lifetime, having decided on posthumous publication. He died in 1836. Congress purchased his manuscripts for \$30,000, and in 1840 the above three volumes were published. More than half of the content of the three volumes consists of his notes on the framing of the Constitution.

7

Hamilton, Alexander

**Proposition of Col. Hamilton of New York in the Convention for establishing a Constitution of Government for the United States.**  
Manuscript document [1787?], 3 p.

This manuscript, presumed to be contemporary from an unknown hand, contains eleven suggestions delivered by Alexander

Hamilton in a speech to the Convention on June 18, 1787. A firm proponent of a strong central government, Hamilton advocated an extreme system whereby senators and the chief executive would serve during good behavior, governors of the states were to be appointed by the national government, and all state laws were to be subordinated to national laws.

Hamilton's speech was lengthy but he did not offer his plan as a formal proposal. It was not referred to a committee or debated. One delegate remarked: "Though he has been praised by everybody, he has been supported by none."

This draft differs in minor details from the copy in the Hamilton papers in the Library of Congress. See *The Papers of Alexander Hamilton*, edited by Harold C. Syrett, 4:207-211. Hamilton attended the Convention irregularly. He left for business affairs on June 29, returned between August 6-11, returned to New York soon after August 13, and returned to the Convention between September 1-6.

## 8

*We, the people of the States of New-Hampshire, Massachusetts, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, do ordain, declare and establish the following Constitution for the government of ourselves and our posterity.*

[Philadelphia: Dunlap and Claypoole, 1787] Caption title. 7 leaves, folio, printed on one side only, numbered [1]-7

This is the first printed draft of the Constitution, one of perhaps sixty copies distributed to Convention delegates on August 6, 1787. This copy belonged to Pierce Butler, the Irish-born delegate from South Carolina.

On July 24, the Convention elected a Committee of Detail, composed of John Rutledge, Edmund Randolph, James Wilson, Oliver Ellsworth and Nathaniel Gorman, "for the purpose of reporting a Constitution conformably to the Proceeding aforesaid." The Convention adjourned on July 26, to give the Committee of Detail time for its assigned task, and met again on August 6.

The results of decisions made in the Convention from June 19 were turned over to the Committee of Detail as the basis for their

draft. Edmund Randolph, John Rutledge and James Wilson wrote and annotated several drafts. They exceeded previous resolutions of the Convention by including provisions from the Articles of Confederation, material from some of the state constitutions and plans submitted but not accepted by the Convention. The Committee then had their final version set in type, corrected the proof sheets, and had some sixty copies printed for Convention membership.

This preliminary printed draft contains twenty-three articles with forty-one sections. The printer repeated the numbering on Article VI and did not correct the error.

The Constitution as it unfolded in this first printed draft was altered significantly by the Convention before agreement on its final form. The Preamble was restated from "We the People" of the thirteen states to read "We the People of the United States." The authority of the Senate to make treaties, appoint ambassadors and supreme court judges was vested with the President "by and with the Advice and Consent of the Senate." The election of the President "by the Legislature" for a seven year term and "not to be elected for a second time" was altered to a four year term (silent on the number of terms) with election by Electors representing the states. As finally agreed upon by the Convention the finished document was reduced to seven articles containing twenty-one sections.

The Historical Society of Pennsylvania has the proofsheets of this first printed draft, corrected in the handwriting of Edmund Randolph.

## 9

*We the People of the United States, in order to form a more perfect Union ... do ordain and establish this Constitution for the United States of America . . .*

[New York. J. M'Lean, 1787] Captior: title. 4 p.

Of the many September, 1787 printings of the Constitution this appears, historically, to be one of the most important. This text, with accompanying documents, was sent to the thirteen states by the Confederation Congress requesting that it ". . . be submitted to a convention of delegates chosen in each state by the people

thereof in conformity to the resolves of the Convention . . ." for ratification or rejection.

John M'Lean, one of the publishers of the New York *Independent Journal*, was executing the printing for the Confederation Congress, meeting then in New York, as a sub-contractor for John Dunlap. It is known that he printed at least four versions of the Constitution, beginning September 22. The above copy, his fourth version, was probably printed on September 29. In the order listed, it includes the Constitution, the resolution to submit the document to the Confederation Congress, the letter of transmittal to Congress, signed by Washington, and the Confederation Congress resolution to submit the Constitution to the states, dated September 28, 1787. Copies of this version were sent to the executives of the states with a circular letter signed by Charles Thomson, dated New York, 28 September.

## 10

Philadelphia. *The Pennsylvania Packet, and Daily Advertiser* Wednesday, September 19, 1787.

The first public release of the Constitution occurred when the text was read to the Pennsylvania Assembly and a large audience in the gallery on September 18, 1787. The next morning, September 19, the Constitution was published in five Philadelphia newspapers. The text of the Constitution appearing in *The Pennsylvania Packet* is, perhaps, the most accurate. The publishers were printers to the Convention and had previously printed the official edition of the document for submission to the Confederation Congress.

Within two months, the Constitution was published in at least seventy-five newspapers—north to Portland (Maine), south to Savannah (Georgia) and west to Lexington (Kentucky). The great mass of the people were informed through newspapers. They were comparatively cheap, and served multiple audiences as they were read and passed on to friends and neighbors.

The Constitution was available to the public in other sources, also, for it was extensively published in broadsides, magazines, pamphlets and books. Through the tens of thousands of copies which came from the printing presses, and in hundreds of public discussions, the people received the message from the Convention

at Philadelphia that "We, the People of the United States" could make a new start in self-government by ratifying the Constitution they had forged.

Students should be ever grateful to Leonard Rapport for his meticulous and painstaking: "Printing the Constitution: The Convention and Newspaper Imprints, August-November 1787." *Prologue, the Journal of the National Archives*, 2 (1970): 69-89. The notes for many items in this publication reflect reliance upon Rapport's scholarship.

## 11

Pinckney, Charles

*Observations on the plan of government submitted to the Federal Convention, in Philadelphia, on the 28th of May, 1787. By Mr. Charles Pinckney, delegate from the state of South-Carolina. Delivered at different times in the course of their discussions.*

New York: Printed by Francis Childs. [1787] 27p.

Charles Pinckney, delegate to the Convention from South Carolina, was an advocate of a strong central government. According to the official *Journal* he submitted his plan to the Convention on May 29. It was not discussed, but the plan was turned over to the Committee of Detail on July 24. His original plan is not known to exist, but from several sources, it appeared to contain thirty-one or thirty-two provisions and resembled in many details the Virginia plan submitted by Edmund Randolph.

It may never be known why Pinckney had this pamphlet printed. He declared it was for the information of his friends. Both Washington and Madison thought it was a self-serving gesture. Pinckney thought highly of his own talents and, perhaps, wanted his contemporaries and posterity to think he played a greater role in the framing of the Constitution than he actually did. Material differences exist in what he proposed in the Convention from what he wrote in *Observations*.

*Observations* was advertised for sale in the *New York Daily Advertiser* on October 16, 1787. The pamphlet was reprinted, in whole or in part, in at least seven newspapers shortly after the original publication.

[Webster, Noah]

*An examination into the leading principles of the Federal Constitution proposed by the late Convention held at Philadelphia. With answers to the principal objections that have been raised against the system. By a citizen of America.*

Philadelphia: printed and sold by Prichard & Hall, in Market Street. The second door above Laetitia Court. M.DCC.LXXXVII. 55p.

Webster, lexicographer, journalist and pamphleteer, defended the two-house legislature, discussed the powers of the proposed central government as it related to the powers of state governments, and attempted to answer nine objections of the Antifederalist to the Constitution.

The pamphlet was published on October 17, 1787, and was inscribed to Benjamin Franklin, dated Philadelphia October 10, 1787. It circulated outside Philadelphia soon after publication and long extracts were published in newspapers in Connecticut and Massachusetts.

## Ratifying the Constitution: December, 1787-May, 1790.

The Constitution was adopted by the Philadelphia Convention on Saturday afternoon, September 15, 1789. The text was ordered engrossed and five hundred copies were ordered printed. The engrosser was Jacob Shallus, assistant clerk of the Pennsylvania Assembly, who penned the text, with beautiful regularity, on four huge sheets of parchment. Dunlap and Claypoole printed the required number of official copies.

September 17 was the final day of the Convention. The precise order of the day's proceedings is not known. We do know that the engrossed text was read to the delegates, and that the ratio of representatives was changed from one for each forty thousand to one for each thirty thousand (Washington spoke from the floor for the first and only time favoring the change). Franklin's motion for the mode of promulgation "Done in Convention by the Unanimous consent . . .," read by James Wilson, was accepted. The resolution of the Convention recommending the procedures for ratification was agreed to, the engrossed Constitution was signed, and Washington's letter of transmittal to the President of the Confederation Congress was prepared, probably written by Gouverneur Morris. At four in the afternoon, the Convention adjourned *sine die*.

Washington confided to his rough diary the evening of that day: "The business being thus closed, the members adjourned to the City Tavern, dined together and took a cordial leave of each other. After which I returned to my lodgings . . . and retired to meditate on the momentous work which had been executed . . ."

On September 18, secretary William Jackson left Philadelphia for New York City, carrying with him the engrossed Constitution and accompanying documents. These he delivered to the Confederation Congress on September 20. The Constitution was read to the members that day, and Wednesday, September 26, was the day assigned for its consideration. It was debated September 26-28. Rhode Island was not represented and Maryland had only a single representative present.

The Convention's message to the Congress had been: "Resolved, That, the preceding Constitution be laid before the United

States in Congress assembled, and that it is the Opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the people thereof, under the Recommendation of its Legislature, for their Assent and Ratification . . .”

Some delegates were, perhaps, impressed by the accompanying letter of Washington applauding the Constitution, and others by the presumed harmony implied in the confirmation statement: “done in Convention by the Unanimous Consent of the States . . .” Harmony did not prevail in the Confederation Congress when considering the Constitution. There were objections, prophesies, and questions: the Convention had exceeded its authority. The Constitution represented a new form of government, not an amendment to the Articles. The new instrument was dangerous to civil liberty. Could Congress alter the document before sending it on to the states, or let it travel with a set of proposed amendments? In reality the Confederation Congress could only debate. There were not enough votes or conviction to amend. They were bound to send the document on to the states, which was done without recommendation, for Article VII had made ratification independent of the Congress.

There were thirty-three members of the Confederation Congress present when the Constitution was considered, ten of whom had attended the Constitutional Convention. Richard Henry Lee of Virginia, in a letter to Samuel Adams, October 27, complained: “. . . it appeared to me an inconsistency that the same men should in New York review their own doings at Philadelphia. And this opinion was fully verified when the members of Convention came to Congress in such numbers with their own plan, that the vote of 3 states were Convention votes, 2 other divided by conventioneers, and conventioneers mingled with many other states. It is sir most obvious, that the Constitution proposed by the Convention could not have a dispassionate and impartial consideration in Congress.”

On September 28, Congress “Resolved unanimously . . .” that the Constitution be transmitted to the thirteen state legislatures. Charles Thomson, in a circular letter dated September 28, sent printed copies to the executives of the states “. . . in order that it may be submitted to a convention of delegates chosen in your state

by the people of the state in conformity to the resolves of the Convention, made and provided in that case." The Constitution was thus dispatched on a road marked only with uncertainties. The states were the final judges.

The struggle for ratification of the Constitution represents the first grass roots nation-wide political campaign in American history. It was waged through the press, at public and private meetings, in conversation, up and down the Atlantic seaboard from NewHampshire to Georgia, at the cross roads and in the remote back country. Sometimes in bitter words, heated essays, ornate rhetoric, logical arguments, and occasionally in publications lacking in veracity,—most literate Americans were informed about the proposed new instrument of government. The proponents of the Constitution came to be called Federalists, and those opposed, Antifederalists.

The Antifederalists objected to the Constitution on legal grounds: the Convention had been authorized to amend the Articles of Confederation only. Furthermore, the Convention had proposed that the Confederation Congress and the state legislature be bypassed in favor of state ratifying conventions. That the Constitution should become operative when only nine states ratified was a flagrant violation of the Articles, which required unanimous approval.

Many of the Antifederalist spokesmen contended that the proposed Constitution created a coercive government over individuals which would undermine and emasculate state government. The taxing power vested in Congress would be abused. The federal judiciary would undercut the prerogatives of the state courts. The congressional power to regulate commerce would be injurious to the interest of some states. Capital and industry would be promoted at the expense of agriculture.

The most effective argument the Antifederalists exploited in the war of words was the absence of a bill of rights in the Constitution. They pointed out that the rights guaranteed in some state constitutions were lacking, such as freedom of speech and religion, and other time-honored rights. This was the objection most repeated, and resulted in early amendments to the Constitution under the new government.

The Federalists countered with arguments that the Constitution was the appropriate answer to the illnesses of government

under the Articles. An effective central government with authority to act directly upon the individual, power to deal with national and interstate problems at home, and a government to protect the nation and command respect from foreign nations was an urgent necessity.

From the vantage point of two hundred years, it is apparent that the proponents of the Constitution were better organized than the Antifederalists. The Federalists worked systematically to get their message to the people through formal committees and a chain of supporters throughout the country. There were about ninety-five newspapers, mostly weeklies, published in thirteen states during the years 1787 and 1788. Most of these, by reasons of conviction or opportunism, supported the Constitution.

The Antifederalists lacked an effective national organization. Comparatively speaking, they had weak leadership. Their cause was clearly supported by only six newspapers: The *Boston American Herald*, *Providence United States Chronicle*, the *New York Journal*, the *New Bern North Carolina Gazette*, and two Philadelphia papers, *Freeman's Journal* and the *Independent Gazetteer*.

The editors of *The Documentary History of the Ratification of the Constitution*, an indispensable source, tabulated the votes in the thirteen state conventions which considered the Constitution. They reported, 1,071 men voted for ratification and 577 against. (Vol. I *Constitutional Documents and Records, 1776-1787*, p. 25).

It is interesting to note that the Constitution was debated by most people who were ignorant of the proceedings of the Constitutional Convention. It can be reported that a deliberate strategy was employed by the parties to the controversy. The Federalists pressed for early state conventions, hoping for positive results which would snowball into ratification in at least nine states. The Antifederalists moved with caution and delay, hoping for a groundswell of opinion that would defeat ratification. Political prognosticators of the day thought the Constitution would be won or lost in a few large states. If Massachusetts, New York, Pennsylvania and Virginia ratified, the other nine states would rush to comply.

During a period of thirty-four days, December 7, 1787 through January 9, 1788, Delaware, Pennsylvania, New Jersey, Georgia and Connecticut ratified the Constitution. Between February 6, 1788 and June 21, 1788, Massachusetts, Maryland, South Carolina, and

NewHampshire, the ninth state, ratified. Virginia ratified June 25, 1788, followed by NewYork on July 26, 1788. North Carolina ratified on November 21, 1789. Reluctant and stubborn Rhode Island finally ratified May 29, 1790.

13

Otis, Samuel A.

**Samuel A. Otis to Elbridge Gerry. New York, 2d Jan'y 1788**

Autograph letter signed. 4 p. Addressed to "The Honorable Elbridge Gerry Esq Cambridge"

Otis of Boston represented the state of Massachusetts in the Confederation Congress in 1787 and 1788. Gerry, signer of the Declaration of Independence, delegate to the Philadelphia Convention, had refused to sign the Constitution. He became a bitter opponent of ratification. Although Otis differed with Gerry politically, the letter is friendly. Commenting on the progress of ratification, Otis wrote:

I understand all the States South of *this*, Virginia excepted, either have, or will accede—If the E States had a propensity to be jealous, the eagerness, avidity, & illiberality of some of the States, in their mode of adoption, would have inspired it; However I hope nothing will prevent them, & especially Massachusetts, from discussing & determining the question, with that decorum & dignity of debate which have marked her public Councils; and that a fair majority will be submitted to, let the question be determined as it may.

## DELAWARE. RATIFICATION

14

Philadelphia. *The Pennsylvania Packet, and Daily Advertiser*. Monday, December 10, 1787

A Philadelphia newspaper announced the ratification of the Constitution by the state of Delaware.

Delaware has the honor of being the first state to ratify the new form of government. Thirty delegates, elected on November 26, 1787, ten each representing the three counties of the state, met at Dover, December 3-7, and unanimously voted for adoption of the Constitution. There are no extant records of the debates in the convention, but it would appear that the Constitution was widely supported. The wording of the form of ratification would indicate general acceptance:

We the Deputies of the People of the Delaware State, in Convention met. . . . Have approved of, assented to, ratified, and confirmed, and by these Presents, DO, in virtue of the Power and authority to us given for that purpose, for, and in behalf of ourselves and our constituents, fully, freely, and entirely approve of, assent to, and ratify and confirm the said CONSTITUTION.

News of Delaware's action spread rapidly throughout the country via newspapers.

## PENNSYLVANIA. RATIFICATION

15

[Coxe, Tench]

*An examination of the Constitution for the United States of America, submitted to the people by the general Convention, at Philadelphia, the 17th. day of September, 1787, and since adopted and ratified by the conventions of eleven states, chosen for the purpose of considering it, being all that have yet decided on the subject. By an American citizen. To which is added, a speech of the Honorable James Wilson, esquire, on the same subject.*

Philadelphia: Printed by Zachariah Poulson, Junr. in Fourth Street, between Market and Arch Streets. MDCCLXXXVIII. 33 p.

Coxe, the Philadelphia-born political economist, merchant, land speculator and public servant, was most active in support of the Constitution during the ratification period. *An Examination* consists of four letters on the subject of the Constitution designed to counter Antifederalist opposition, particularly in the back country of Pennsylvania, prior to the state convention. These four letters by Coxe were the first major defense of the Constitution to be published. One week after the release of the text of the Constitution to the public, Coxe, Benjamin Rush and James Wilson were appointed members "of the general federal committee of the state to carry the adoption of the federal constitution." Coxe took his assignment seriously.

The first three numbers of Coxe's treatise on the Constitution, signed "An American Citizen," were printed in the *Philadelphia Independent Gazetteer*, September 26, 28, 29, 1787. The fourth letter

appeared in the same newspaper on October 24. The first three letters were also published in the September number of the *American Museum* (v. II, no. III, pp. 300-306, Philadelphia, 1787). The fourth letter appeared in the October number, pp. 387-391. The editors of *The Documentary History of the Ratification of the Constitution*, volume XIII, *Commentaries on the Constitution public and private*, volume 1, state that by December 10, 1787, the first letter was reprinted in 24 newspapers, the second in 19, the third in 17 and the fourth in 11 (p. 247).

When published in pamphlet format, the essays were given descriptive headings: "On the Federal Government, and first on the safety of the people, from the restraints imposed on the President;" "On the safety of the people, from the restraints imposed upon the Senate;" "On the safety of the people from the nature of the House of Representatives;" "The security for national safety and happiness resulting from other parts of the federal government."

The speech of James Wilson, Scotland-born lawyer, political theorist, Congressman, land speculator and one who played a major role in drafting the Constitution, occupies pages 25 to 33 of the pamphlet with the caption title: *Substance of an address to a meeting of the citizens of Philadelphia: delivered, October sixth, MDCCLXXXVII, by the honorable James Wilson, esquire, one of the delegates from the state of Pennsylvania to the late Continental Convention*. Wilson was an orator of great reputation and spoke for ratification, attempting to refute Antifederalist arguments which were beginning to circulate concerning the nature of the proposed Constitution. He declared in a grand predictive finale that "it is the BEST FORM OF GOVERNMENT WHICH HAS EVER BEEN OFFERED TO THE WORLD."

Wilson was the first Convention delegate to publicly defend the Constitution after adjournment of the Convention. The speech, given in the State House yard on October 6, was widely reprinted in the press of the day, appearing in 34 newspapers in 27 towns by December 29, 1787. It became the Federalist interpretation of the Constitution nation wide.

Pennsylvania General Assembly.

*Proceedings and debates of the General Assembly of Pennsylvania. Taken in short-hand by Thomas Lloyd. Volume the first.*

Philadelphia. Printed by Daniel Humphreys, in Spruce-Street, near the Drawbridge, M,DCC,LXXVII. 143 p.

This volume covers the debates in the Assembly from September 4 through 29, 1787. Thomas Lloyd, London-born, had settled in Philadelphia where he became a professional shorthand writer and teacher. The above volume is the first of four which he published, on four sessions of the Pennsylvania Assembly, September 4, 1787 to October 4, 1788. The first two volumes contain the debates over the calling of the state convention to consider the Constitution.

Pennsylvania was the first state to call a convention to consider the Constitution, and the second state to ratify. Her actions attracted national attention and the act of ratification gave momentum to that movement nationwide. Ratification was accomplished by strong-arm action of the General Assembly and a highly organized propaganda campaign conducted by supporters of the Constitution. The vote for ratification (46 for, 23 against) did not reveal the widespread opposition to the Constitution in the state.

A strongly organized two-party system existed in Pennsylvania at the time the Constitution was framed. The General Assembly was in session at the time the Constitutional Convention adjourned. A strong nationalist group which controlled the Assembly was determined to call a state convention to consider ratification before adjournment. On September 18, the Constitution, and accompanying documents, was read to the Assembly and recorded in its journal. Before receiving official instructions from the Confederation Congress (they were informed of procedures privately by an express rider from New York), the Assembly had pushed through resolutions calling for an election on November 6 of delegates to a state convention to meet in Philadelphia on November 20 to consider the Constitution. Antifederalists in the Assembly sought to delay matters by absenting themselves so that a quorum could not be declared. The sergeant-at-arms was instructed to bring in absent members. With the assistance of a pro-Federalist mob, two members were forcibly brought in to the Assembly. They

were counted, a quorum was declared, and the Assembly passed resolutions calling a state convention.

An energetic campaign was waged statewide for delegates. Sixty-nine delegates were elected, and two to one were Federalist. The state convention was in session for twenty-two days. The Constitution was ratified on December 12, by a vote of 46 to 23.

## 17

"The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents." *The Pennsylvania Packet, and Daily Advertiser*, December 18, 1787.

This "Dissent" was signed by twenty-one of the twenty-three members who voted against ratification in the Pennsylvania state convention. It is an important lament, thoughtfully written without venom, in which the published arguments against the Constitution are summarized. It also contains the objections to the Constitution articulated by the most vocal Antifederalists in the state convention. Included are the fifteen amendments proposed in the convention which the Antifederalists were unable to get into the record.

An example of a growing demand in the state for amendments, "Dissent" served as a model for resisters in states yet to consider the Constitution. "Dissent" first appeared in *The Pennsylvania Packet* and circulated widely in the state and throughout the country in newspapers, broadsides and in pamphlet form.

## 18

*Verfahren der Vereinigten Convention, gehalten zu Philadelphia, in dem Jahr 1787, und dem Zwölften Jahr der Americanischen Unabhängigkeit.* Germantown: Gedruckt bey Michael Billmeyer [1787]. 16 p.

The Pennsylvania Assembly, on September 24, 1787, directed that two thousand copies of the Constitution be printed in English, and one thousand copies in German, to be distributed throughout the state. Michael Billmeyer was the publisher of *Die Germantauer Zeitung*, a biweekly which supported the Federalist cause.

The German language edition of the Constitution was a concession to the German population of the state, an estimated one-third of the state's population at that time. They represented a powerful force in state politics. Those who were delegates to the state con-

vention were not a cohesive group, since some voted to ratify the Constitution and others voted against it.

The strength of the German vote was demonstrated in the first Federal election, for it was decisive in electing John Peter Gabriel Muhlenberg, Daniel Heister, and Frederick Augustus Muhlenberg as Representatives to the first United States Congress. Frederick Muhlenberg led the ticket.

## 19

Pennsylvania. Convention 1787.

*Debates of the Convention, of the state of Pennsylvania, on the Constitution proposed for the government of the United States. In two volumes. Taken accurately in short-hand, by Thomas Lloyd.*

Printed by Joseph James, in Philadelphia, A.D. M.DCC.LXXXVIII. 147, [3] p.

Only one of the projected two volumes was published. The publication was strictly propaganda for the Constitution. It contains the major speeches of James Wilson in the convention and two short speeches of Thomas McKean.

Tench Coxe distributed printed pages before the volume was published. He wrote James Madison that he was sending sixty pages "which I am anxious to get into the hands of Mr. [Rufus] King for the use of the gentleman in the Massachusetts Convention."

The verso of the title page contains a notice of registration dated December 29, 1787. This is followed on p. [3] by a subtitle: *The speeches of Thomas M'Kean & James Wilson, esquires; in which they have unfolded the principles of free government, demonstrated the superior advantages of the Constitution, and answered every objection hitherto suggested.* Page [4] contains a notice "To the society for political enquiries in the city of Philadelphia . . ." Pages [5]-19 contains the Constitution and accompanying documents. The debates begin on p. [21]. The last three pages contain an index and "Errata."

## NEW JERSEY. RATIFICATION

## 20

Philadelphia. *The Pennsylvania Packet, and Daily Advertiser.* December 29, 1787.

Contains news item announcing ratification in New Jersey.

New Jersey unanimously ratified the Constitution on December 18, 1787, the third state to do so. There was no organized or open resistance in the state against ratification. New Jersey ports could not compete against the great seaports of New York and Philadelphia, through which most foreign goods imported into the state came. This resulted in considerable import duties paid to her neighboring states. Citizens of New Jersey were also concerned about the public debt, of which some ten percent was owed by its residents. The state had consistently supported the movement to give more power to the Confederation Congress. The proposed Constitution gave the state what she desired in national government: a Congress with power to regulate trade, collect taxes and pay off the national debt.

The three newspapers published in the state—*Elizabethtown, New-Jersey Journal, and Political Intelligencer, Brunswick Gazette and Weekly Monitor* and *The Trenton Mercury, and Weekly Advertiser*—supported the Constitution and published only a few scattered items criticizing the document. The Constitution was read to the Assembly on October 25, 1787. Numerous petitions favoring ratification were sent to the legislature, and county meetings approving the Constitution were held before the legislature called for a state convention.

On October 26, the Assembly unanimously adopted resolutions calling for a state convention, and on October 29 the Council concurred with the Assembly action. Thirty-nine delegates, three from each of the thirteen counties, were elected November 27-December 1. They assembled at Trenton in the Blazing Star Tavern on December 11 (one delegate did not attend by reason of family illness) and organized. The Constitution was discussed for three days, and on December 18, the thirty-eight delegates voted unanimously to ratify.

## GEORGIA. RATIFICATION

21

Philadelphia. *The Pennsylvania Packet, and Daily Advertiser*. February 11, 1788.

Contains notice of Georgia ratification.

Georgia was the first Southern state to ratify the Constitution, the fourth state numerically to give its assent to the proposed new instrument of government. It was unanimously ratified in the state convention of December 31, 1787. Most historians agree that the danger from Indians, depreciated currency, and sluggish commercial affairs were factors in the Georgia decision. Citizens of the state had less to fear from a strong national government than from their current ills.

The Georgia Assembly, on October 26, 1787, called for a state convention to meet in Augusta on December 25 "to adopt or reject any part or the whole" of the Constitution. On December 28, a quorum was present and the convention organized. The Constitution was considered by paragraphs on December 29, and the convention adjourned. On Monday, December 31, the convention reassembled and the Constitution was unanimously adopted. Although thirty-three delegates were elected, three each representing the eleven counties, no more than twenty-six attended any session. That number was present when the Constitution was adopted.

## CONNECTICUT. RATIFICATION

22

Hartford. *The Connecticut Courant, and Weekly Intelligencer*. Monday, October 1, 1787.

Connecticut was the first New England state to call a convention to consider the Constitution. Numerically, it was the fifth state to ratify, doing so on January 9, 1788, by a vote of 128 to 40.

The citizens of the state were well prepared to consider the Constitution, for the nine weekly newspapers then published in the state were pro-Federalist and published articles favoring the Constitution. By October 5, 1787, the text of the Constitution had been printed in seven state newspapers. The New-Haven *Connecticut Journal* published the text of the Constitution on September 26, 1787. On September 27, the *Norwich Packet* carried the first of two installments of the Constitution. The same day, the Constitution appeared in the *New-Haven Gazette* and *The Connecticut Magazine*. The New London *Connecticut Gazette* published the first installment on September 28. Three papers published the text of

the Constitution on October 1: *Middletown Middlesex Gazette*, *Hartford Connecticut Courant and Weekly Intelligencer* and the *Hartford American Mercury*.

Roger Sherman and Oliver Ellsworth, two of the state's delegates to the Constitutional Convention, reported by letter to Governor Samuel Huntington on September 26, 1787, after their return from Philadelphia. The letter was then submitted to the General Assembly. It was their opinion that the Constitution would not create any fundamental change in government. Congress was given some additional powers, which were "especially defined, so that the particular states retain their *Sovereignty* in all other matters." This letter, and essays in the same tenor written by the two men, were widely published in Connecticut newspapers before the state convention met to consider the Constitution.

On October 16, 1787, the legislature, the House and Council, concurred in resolutions calling for town meetings to elect delegates, on November 12, to meet in convention at Hartford on January 3, 1788. The delegates convened at the State House and after organizing, moved to the First Church (North Meeting House) where the public was permitted to sit in the gallery.

The convention resolved to consider the Constitution "by single articles, sections, paragraphs, or detached clauses and sentences as occasion might require." A total of 174 delegates had been elected at town meetings but only 168 voted—others being absent or ill.

## MASSACHUSETTS. RATIFICATION

23

Boston. *The Massachusetts Centinel*. Saturday, December 8, 1787.

Newspapers in eighteenth century America were the major medium of communication. As an example, the above number of *The Massachusetts Centinel* contains the thirteenth number of *The Federalist*, a notice proposing Jonathan Mason as a candidate for the state ratifying convention and a list of delegates from Boston and fifteen other towns in the state.

[Jackson, Jonathan]

*Thoughts upon the political situation of the United States of America, in which that of Massachusetts is more particularly considered with some observations on the Constitution for a federal government. Addressed to the people of the Union. By a native of Boston.*

Printed at Worcester, Massachusetts, by Isiah Thomas. M,DCC,LXXXVII. 209 p.

Jackson favored the ratification of the Constitution because he thought it would bring a class of people back into authority . . . “who, by nature, education, and good dispositions, are qualified for government.” Nevertheless he stated, “. . . the national House of Representatives will be at first too large — and hereafter, may be much too large to deliberate and to decide upon the best measures.” He advocated a longer term for the president, naming George Washington as the best qualified person to serve as the first chief executive.

“But notwithstanding these objections, and all that I have seen brought against it, this constitution is so much more perfect than any plan of government which has been before offered to any people . . . we should be mad men not to accept it.”

Massachusetts. Convention, 1788.

*Debates, resolutions and other proceedings, of the Convention of the Commonwealth of Massachusetts, convened at Boston, on the 9th of January, 1788, and continued until the 7th of February following, for the purpose of assenting to and ratifying the Constitution recommended by the Grand Federal Convention. Together with the yeas and nays on the decision of the grand question. To which the Federal Constitution is prefixed.*

Boston: Printed and sold by Adams and Nourse, in the Court-Street; and Benjamin Russell, and Edmund Freeman, in State-Street. M,DCC,LXXXVIII. 219 p.

An analysis of the votes recorded in this publication reveals that the seacoast counties, with strong commercial interest, supported the Constitution with 102 votes for, 19 against. Non-coastal counties voted 60 for ratification, 128 against. Counties in the future state of Maine voted 25 for, 21 against ratification.

These *Debates* were recorded by printers representing Boston newspapers—*Massachusetts Centinel* and *Independent Chronicle*—and were reprinted from the newspapers. The Massachusetts legislature ordered an official edition printed in 1856. This volume contains, in addition to the debates, the official journal and notes of the debates kept by Theophilus Parsons, a delegate to the state convention and later chief justice of the Massachusetts Supreme Court.

The ratification process in the state of Massachusetts was viewed with anxiety by supporters of the Constitution throughout the nation. Massachusetts was a key state and it was thought that actions there might determine the ultimate fate of the Constitution. The struggle was hard, bitter, and characterized by wild rumor and allegations of corrupt behavior. Benjamin Russell, in his Boston *Massachusetts Centinel* on September 26, 1787, published the Constitution, and within ten days all the newspapers of the state had done so. Most Massachusetts newspapers favored ratification.

The House and Senate of the Massachusetts General Court concurred on a resolution of October 25, 1787, calling for a state convention to meet in Boston January 9, 1788. An attempt was made by opponents of the Constitution to change the place of meeting to some other town, but it failed to pass. Elections for delegates were held between November 19, 1787 and January 7, 1788. The towns and districts were entitled to elect as delegates the same number of men as they had representatives in the General Court. There were 364 delegates representing 318 towns elected. Most of them came to the convention uninstructed. Forty-six towns, mostly in the District of Maine, sent no delegates. There was not a hall in Boston with adequate seating for the large delegation, so the convention met in a meeting-house on Long Lane (later renamed Federal Street). By public subscription, stairs were built and seats provided for several hundred spectators. So great was the interest that a press gallery was also provided.

The convention which met at Boston, January 9-February 7, 1788, was the largest state delegation to consider the Constitution. Initially there was strong opposition to ratification, so that according to observers, had a vote been taken immediately the Constitution would have been defeated. The Federalist strategy was to delay and debate, and finally they were forced to make concessions.

They proposed that first the Constitution be ratified, following which the convention would recommend amendments to it. Governor John Hancock, elected president of the convention but confined to his bed by a convenient attack of gout, was selected to make the proposal. Hancock was trusted and admired in the state and had not yet declared himself on the Constitution. Furthermore, he would bring with him votes in support of ratification. There was an attractive inducement: "We told him, if Virginia does not unite, which is problematical, he is considered the only fair candidate for President" (Rufus King to Henry Knox, February 1, 1788).

Hancock appeared dramatically before the convention swaddled in flannels. On January 31, 1788, he proposed amendments, as if they were his own, and assured the convention they would be speedily forthcoming once the Constitution had been ratified. Opposition crumbled. The Antifederalists made a last stand by offering a motion to adjourn in order to give the towns an opportunity to discuss the amendments, but it was defeated. On February 6, 1788, the Constitution was ratified by the narrow margin of 187 to 168. Nine delegates were absent when the vote was taken. Massachusetts was the sixth state to vote for the Constitution.

The nine amendments recommended to the Constitution were largely written by Theophilus Parsons, delegate to the convention and later chief justice of the Massachusetts Supreme Court. Massachusetts was the first state to ratify and at the same time to propose amendments. This set a pattern for the states that followed. All, except Maryland and Rhode Island, were to ratify and simultaneously propose amendments.

## 26

[Warren, Mercy Otis]

*Observations on the new Constitution and on the foederal and state conventions. By a Columbian patriot.*

Boston printed, New-York reprinted, M,DCC,LXXX,VIII. 22 p.

Mrs. Warren, historian, poet, dramatist, strongly opposed the ratification of the Constitution. She criticized the "partizans of monarchy" and wrote of the Federalists and their "fraudulent designs." The pamphlet was first published in February, 1788, soon

after Massachusetts had ratified the Constitution. It was reprinted in New York and was widely circulated in the state: "a well composed piece, but in a stile too sublime and florid for the common people in this Part of the Country."

Warren was familiar both with the proposed Constitution and the literature which circulated during the period of ratification: "Massachusetts assent to the ratification of a Constitution, which, by the undefined meaning of some parts, and the ambiguities of expression in others, is dangerously adapted to the purposes of an immediate aristocratic tyranny . . ."

She described some eighteen objections to the Constitution, which included the absence of provision for liberty of the press and religious liberty. She decried the absence of limitation on the service of elected office-holders: "A senate chosen for six years, will in most instances be an appointment for life . . ." Provisions for the army and militia were not satisfactory. The attempt to provide a single legislature for such a large territory would not operate satisfactorily. She also objected to the mode of ratification. Above all, Mrs. Warren feared that the Constitution, which she called "this many-headed monster," would destroy state government.

Evans, 21111 and 21112, mistakenly attributed this diatribe to Elbridge Gerry. Charles Warren in "Elbridge Gerry, James Warren, Mercy Warren and the Ratification of the Federal Constitution in Massachusetts," correctly identified the author as Mercy Warren. *Massachusetts Historical Society Proceedings*, 64 (1931): 143-164.

## 27

*The Constitution or frame of government, for the United States of America.* [Printed by Thomas and John Fleet, in Boston. 1788]. Caption title. 23 p.

The pamphlet contains the Constitution, the printed list of the signers, the Convention resolution, Washington's covering letter to the Confederation Congress, the resolution of Congress forwarding the Constitution to the states, the resolution of the General Court of Massachusetts calling the state convention, the form of ratification, and the amendments proposed by the state.

The Massachusetts convention recommended nine articles of amendment to the Constitution. The first one, "That it be explicitly

declared that all powers not expressly delegated by the aforesaid Constitution, are reserved to the several states, to be by them exercised," became the Tenth Amendment. The sixth recommendation, the right to grand jury indictment, became the Fifth Amendment. The eighth recommendation, providing for jury trial in civil cases, became the Seventh Amendment. Theophilus Parsons, delegate to the convention, drafted most of the recommended amendments.

## MARYLAND. RATIFICATION

28

Martin, Luther

*The genuine information delivered to the legislature of the state of Maryland, relative to the proceedings of the general Convention, lately held at Philadelphia; by Luther Martin, esquire, attorney-general of Maryland, and one of the delegates in the said Convention. Together with a letter to the hon. Thomas C. Deye, speaker of the House of Delegates, an address to the citizens of the United States, and some remarks relative to a standing army, and a bill of rights.*

Philadelphia; printed by Eleazer Oswald, at the Coffee-House, M,DCC,LXXXVIII. VIII, 93 p.

Martin, attorney general of Maryland, was one of the state's delegates to the Constitutional Convention and one of the leading lawyers of the time. He participated frequently in the debates in Philadelphia wanting a stronger central government without decreasing the power of the states. He was a vigorous opponent of a strong executive and a large standing army. He thought a Bill of Rights should be prefixed to the Constitution. He was absent when the Philadelphia Convention adjourned and did not sign the Constitution.

The above pamphlet is an enlarged and rearranged version of his report to the Maryland House of Delegates, given on November 29, 1789. It was first published in the Baltimore Maryland Gazette in twelve installments between December 28, 1787 and February 8, 1788. When published in the newspaper, the speech was entitled "Mr. Martin's Information to the House of Assembly." The news-

paper installments were widely reprinted in the press in Massachusetts, New York, Pennsylvania, Virginia, and South Carolina.

Eleazer Oswald of the Philadelphia *Independent Gazetteer* announced the publication of the pamphlet on April 12, 1788 as "just published."

Following the successful action in Massachusetts, the drama of ratification shifted southward where Maryland, South Carolina, Virginia and North Carolina had yet to stage their political productions. The convention in Maryland was the first of the four to meet. It was thought that the results there would foretell results in other southern states. Washington wrote letters to Marylanders warning that if the state rejected the Constitution, it would be defeated in Virginia: even "an adjournment would be tantamount to a rejection of the Constitution." Initially, the newspapers published in Baltimore and Annapolis were politically circumspect. Many of the state's leading men were opposed: Luther Martin and John Francis Mercer, who had left the Philadelphia Convention before adjournment, two former governors, William Paca and Thomas Johnson, and Samuel Chase. If there was an organized strategy of those who opposed the Constitution, it was to delay and avoid a final ratification by seeking a temporary adjournment until Virginia had acted.

The people of Maryland had considerable time to ponder the Constitution, for the state's newspapers published many news items relating to it. Four of the state's delegation to the Constitutional Convention: James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll (the three had signed the Constitution) and Luther Martin, who left before adjournment, appeared before the House on November 29, 1787, and gave "information on the proceedings" at Philadelphia. The remarks of Luther Martin, leading Antifederalist, are the only record of the speeches.

On November 27, 1787, the House of Delegates adopted resolutions calling for election of delegates to the state convention. The Senate concurred on the resolutions on December 1, 1787. The election consumed three days beginning April 7, 1788. Four delegates were elected from each of the eighteen counties and two each from Annapolis and Baltimore. A total of seventy-six delegates were elected, but two did not attend the convention due to illness. Antifederalists carried only the counties of Anne Arundel, Balti-

more, and Hartford, a total of twelve delegates. All delegates were instructed.

The convention met at Annapolis April 21-29, and much of the week was spent in organizing and waiting for Antifederalist leaders (Luther Martin, Samuel Chase and William Paca) to appear. Most of the debate was by Antifederalists. Federalists had the vote and remained silent. On April 26, the convention ratified the Constitution by a vote of 63 to 11. The seventh state had joined the Union! William Paca, for the minority, tried on two occasions to propose amendments but both efforts failed.

Thomas Lloyd, Philadelphia shorthand reporter, recorded the debates in the Maryland convention but they were never published. It was rumored that Maryland Federalists defrayed his expenses, thinking that the predominantly Antifederalist arguments in the convention would serve no constructive purpose if broadcast in print.

## SOUTH CAROLINA. RATIFICATION

29

*Constitution of the United States of America, as proposed by the Federal Convention.*

Charleston: Printed by Bowen, Vandle & Andrews, Franklin's Head No. 31, Bay [1788]. Broadside.

This is a copy of the Constitution made available to delegates in the South Carolina convention to consider ratification. The unknown delegate who received this copy wrote on the verso of the sheet: "The Federal Constitution that I received from the Convention of So Carolina — May 10th, 1788."

The main objections to the Constitution in South Carolina surfaced in the House of Representatives, January 16-18, 1788, during discussion over the calling of a state convention to consider ratification. Ex-Governor Rawlins Lowndes, aided by Thomas Sumter, James Lincoln, and Aedanus Burke, spent three days denouncing various provisions of the Constitution. Lowndes, in particular, wanted a second convention to remedy defects. The Federalist replies to criticisms were given by John Rutledge, Charles Pinckney, Charles Cotesworth Pinckney, and Pierce Butler. All had been

delegates to the Constitutional Convention and had signed the document. On January 19, the House voted unanimously for a state convention.

The opposition came mainly from back-country legislators who next attempted to move the site of the state convention from Charleston to some other place. Their motion lost 76 to 75. The back-country was inadequately represented by terms of the state constitution of 1778. The region contained eighty percent of the state's white population but had only seventy-six of 202 seats in the House and eleven of twenty-nine in the Senate. Charleston was resented for its wealth and aristocracy and feared as a known center for strong advocacy of the Constitution.

Elections for the state convention were held April 11 and 12. Two hundred and thirty-six delegates were elected but fourteen did not attend. A Federalist majority was returned. The convention met at Charleston May 12-24, 1788. Antifederalists had lost their most forceful leader when Rawlins Lowndes refused to serve as a delegate. A final attempt, however, was made by the Antifederalists when they introduced a motion for adjournment until October, but it failed to carry. The news of ratification in Maryland reached the convention, and was a crushing blow to Antifederalist hopes. On May 23, the delegates voted 149 to 73 to ratify the Constitution. The eighth state had joined the Union! As a sop to the opposition, recommendatory amendments to the Constitution were accepted by the convention.

Charleston and the coastal parishes were overwhelming in their Federalist support. Antifederalist Aedanus Burke, delegate to the state convention representing Lower District between Broad and Saluda Rivers, summarized his conception of the sad plight of the opposition in a letter to John Lamb, June 23, 1788:

It is now unnecessary perhaps to state to you the different causes, whereby the new plan has been carried in South Carolina, notwithstanding 4/5 of the people do, from their souls detest it. I am convinced, from my knowledge of the country, that I am rather under than over that proportion. . . . We had no principle of concert or union, while its friends and abettors left no expedient untried to push it forward. All the rich, leading men, along the seacoast and rice settlements, with few exceptions, lawyers, physicians [!] and divines, the merchants, me-

chanicks, the populace, and mob of Charleston. I think it worthy of observation that not a single instance in So. Carolina of a man formerly a Tory, or British adherent, who is not loud and zealous for the new Constitution. From the British Consul (who is the most violent man I know for it) down to the British scavenger, all are boisterous to drive it down. Add to this the whole weight and influence of the press was in that scale. Not a printing press, in Carolina, out of the city. The printers are, in general, British journeyman, or poor citizens, who are afraid to offend the great men, or merchants, who could work their ruin. Thus, with us, the press is in the hands of a junto, and the printers, with most servile insolence discourage opposition, and pushed forward publications in its favour; for no one wrote against it.

30

*Members of the Convention viz.*  
[Charleston, 1788] Broadside

This broadside contains the names and parishes represented by the delegates elected to the South Carolina convention which ratified the Constitution. The copy belonged to an unidentified delegate to the convention, who wrote on the verso of the sheet: "Members of the Convention of So. Carolina for the Ratification of the Federal Constitution May 12th 1788." The broadside contains the names of 263 delegates. The unknown delegate wrote in the left margin: "N.B. Those names marked thus ✓ were in favour of the ratification those marked + against it." The delegate was attentive, for on May 26 he correctly recorded the vote — 149 for, 73 against.

The names of those delegates lined through or not marked as voting represented the absent members, with the exception of Governor Thomas Pinckney. He was the presiding officer, present but not voting.

## NEW HAMPSHIRE. RATIFICATION

31

*The Constitution of the United States, as recommended to Congress the 17th of September, 1787. By the Federal Convention.*

Portsmouth: New Hampshire, printed by John Melcher, 1787. 16 p.

The New Hampshire legislature, in its special session of December, 1787, authorized the printing of four hundred copies of the above Constitution for distribution to town meetings. The act of the legislature stipulating representation to the convention and voter qualifications for delegates is printed on page sixteen:

That the qualifications of Delegates to the Convention, be the same as the qualifications of Representatives to the General Court, excepting that which is called the exclusion bill, shall have no effect in the choice of Delegates. . . . Such towns as are not classed with any other town or towns, or have not liberty by themselves to send Representatives to the General-Court may each send one Delegate to said Convention.

The ninth state in sequence, New Hampshire ratified the Constitution on June 21, 1788. Two sessions of the state convention were necessary before results were achieved.

John Sullivan, President of the state and an enthusiastic supporter of the Constitution, called a special session of the legislature on December 5, 1787 to plan for a convention. A week passed before a quorum was present. Resolutions were adopted on December 14 calling for a state convention to meet at Exeter on February 13, 1788 to consider the Constitution. During the period December 31, 1787 to February 12, 1788, a total of 113 delegates from 175 towns were elected. A majority of the delegates had been instructed to vote against the Constitution by the towns which elected them. Joshua Atherton, an Amherst lawyer who wanted prior amendments to the Constitution, particularly one prohibiting the slave trade, was the forceful leader of the Antifederalists.

The Federalists were shocked when the convention first met at Exeter, for they had overwhelming support from the press and were misinformed by observers that ratification would be a mere formality. The Constitution was debated for nine days, and had a vote been taken would have been defeated. Supporters of the Constitution agreed that the proper strategy was to adjourn and conduct an active and forceful educational campaign. John Langdon, signer of the Constitution, introduced a motion to adjourn the convention until June. The motion carried, 56 to 51, and the first session of the convention adjourned February 22.

The second session of the convention was held at Concord, June 18-21. Between sessions, a number of towns had reversed

their positions as a result of pressure from Federalists, and a few delegates gave up their opposition. On June 21, a motion was approved to ratify the Constitution 57 to 47. Before ratification, twelve proposed amendments were approved and nine of these were adopted, verbatim, from the amendments proposed in the Massachusetts state ratifying convention.

Much of the opposition to the Constitution in New Hampshire came from the central part of the state and isolated, agriculturally self-sufficient towns where small freeholders predominated. Those with mercantile interests, shipping and trading, lawyers, physicians, and security holders and orthodox clergy (Congregationalists) were mostly Federalists.

32

Knox, Henry

**Henry Knox to Arthur St. Clair. New York, July 3, 1788.**

Autograph letter signed. 2 pages.

Secretary of War Knox wrote to St. Clair, recently appointed Governor of the Northwest Territory, commenting on the ratification process:

I rejoice my dear sir in having the pleasure of congratulating you on the adoption of the Constitution by ten States. In Virginia the business has been highly interesting and critical, and finally succeeded by a majority of ten — In New Hampshire the majority eleven. The latter passed it on Saturday the 21th and Virginia on Wednesday the 25th. Ultimo. The joy which these events have given is not easily to be described. The Convention of this State are setting — The Majority decidedly against it 44, to the minority of 19 in favor — We have not had time yet to know whether the adoption of New Hampshire and Virginia will make any alteration in the sentiments of the Majority. — It is supposed otherwise — and that the Convention will stipulate for amendments previous to the adoption and then adjourn to a distant day — Congress will immediately pass the necessary acts for organizing the Constitution.

## VIRGINIA. RATIFICATION

33

Randolph, Edmund

*A letter of his excellency Edmund Randolph, esquire, on the Federal Constitution. Richmond, October 10, 1787.*

[Richmond, 1787] 16 p. Caption title from p. [4].

Randolph, lawyer, governor of Virginia, secretary of state and influential member of the Constitutional Convention, was one of three who refused to sign the completed document. While he called for a powerful central government, he believed that the Constitution as finally approved did not protect the interests of Virginia, or provide enough safeguards for the rights and liberties of the people. He advocated state conventions that would recommend amendments to a second constitutional convention. He believed that unless amended, the government would end in monarchy or aristocracy.

The letter was written to inform the Virginia legislature, explaining why he had not signed the Constitution, but was only made available to the public when published in this pamphlet late in December 1787. It is interesting to note that Randolph as a delegate to the Virginia convention in June, 1788, was in favor of the Constitution, speaking frequently and voting for ratification without prior amendments. One passage in the letter reveals, perhaps, much about Randolph's character and feelings about the Constitution: "These were my opinions, while I acted as a Delegate; they sway me, while I speak as a private citizen. I shall therefore cling to the union, as the rock of our salvation, and urge Virginia to finish the salutary work, which she has begun. And if after our best efforts for amendments they cannot be obtained . . . I will as an individual citizen, accept the constitution; because I would regulate myself by the spirit of America."

The letter was reprinted, without the preface, in the *Richmond Virginia Independence Chronicle*, January 2, 1788 as well as in two installments in the *Richmond Virginia Gazette and Weekly Advertiser* of January 3, and 10, 1788. Outside the state, it was reprinted in at least sixteen newspapers.

The publication of Randolph's letter was brought about by four members of the Virginia House of Delegates who wrote Randolph

on December 2, 1787, requesting the letter and permission to publish it. Page [1] of the pamphlet contains a preface, "To the Printer," signed by the four legislators: "M. Smith, Charles M. Thruston, John H. Briggs, Mann Page, jun." Page [2] contains the letter, by the four legislators, requesting permission to publish along with Randolph's reply dated December 10, 1787. It is not known if the pamphlet was printed with a title page, nor who printed it. Two printers in Richmond who were the likely candidates were John Dixon, publisher of the *Virginia Gazette and Independent Chronicle*, and Augustine Davis of the *Virginia Independent Chronicle*.

The fate of the Constitution in Virginia was of immense interest throughout the country. One-fifth of the population of the nation resided in her territory, stretching from the Atlantic Ocean to the Mississippi River. Her refusal to ratify would have been a serious blow to the new nation. It was a tantalizing question whether the new nation could have survived without Virginia in the union. Furthermore, the action in Virginia would have serious impact on the states which had yet to ratify: New York, North Carolina and Rhode Island. Ratification on June 25, 1788 by a narrow margin of 89 to 79, doomed the hopes of many Antifederalists and ended majority resistance to the Constitution. The tenth state had joined the Union.

On October 31, 1787, a resolution for a state convention passed in the General Assembly unanimously. It was a serious tactical error for the opponents of the Constitution in the Assembly not to protest at the time. Elections for delegates to the convention were held March 3-31, 1788. In the months previous to the elections, the voters east of the Blue Ridge were submitted to a barrage of propaganda both for and against the Constitution in the newspapers and in circulated pamphlets. One hundred and seventy delegates were elected to represent counties, cities, towns and corporations, which included fourteen from the District of Kentucky.

The Convention met in Richmond June 2-27, 1788. June 4 was the first day of full debates. Until the vote on June 25, the merits and defects of the Constitution were debated with force, logic, eloquence, and bitterness by most of the prominent political minds of the state in the greatest forensic battle of the ratification period. Antifederalist leaders were Patrick Henry, George Mason, and Richard Henry Lee. Supporting the Constitution were Edmund Ran-

dolph, James Madison, John Marshall, George Wythe and others. The main issue in the convention was amendments, prior or subsequent to ratification. Henry supported amendments prior to ratification, but his motion on June 25 to that effect was defeated 82 to 80. On the same day, following the defeat of Henry's motion, the motion to ratify passed, 89 to 79, two delegates abstaining. The vote cut across political, social and economic lines and obviates any plausible generalizations. Perhaps, as has been suggested, it was indeed a contest between the rival influences of two Virginia giants: George Washington and Patrick Henry.

On June 27, a committee reported twenty articles of a declaration of rights and twenty other proposed amendments to the Constitution which were agreed to by the convention. The declaration of rights was the first state proposal for a bill of rights. Every specific guarantee for the protection of individual rights in the Virginia declaration of rights was later included in the federal Bill of Rights, with the exception of a provision exempting conscientious objectors from an obligation personally to bear arms.

34

Madison, James

**James Madison to George Washington. Richmond June 25 [1788]**  
Autograph letter signed. 1 page.

This letter is docketed in Washington's hand on the verso. At Mount Vernon, Washington anxiously awaited the results from the Virginia convention, which was considering the Constitution. Madison was a delegate.

On the question today for *previous* amendments the vote stood 80 ays — 88 noes — On the final question the ratification passed 89 ays — 79 noes. Subsequent amendments will attend the act; but are yet to be settled. The temper of the minority will be better known tomorrow. The proceedings have been without flaw or pretext for it; and there is no doubt that acquiescence if not cordiality will be maintained by the unsuccessful party. *Two* of the leaders however betray the effect of the disappointment, so far as it is marked in their countenances.

In haste yours  
Js. Madison Jr.

*Debates and other proceedings of the Convention of Virginia, convened at Richmond, on Monday the 2d day of June, 1788, for the purpose of deliberating on the Constitution recommended by the Grand Federal Convention. To which is prefixed, the Federal Constitution.*

3 volumes. The imprint on volume 1 reads: Petersburg: Printed by Hunter and Prentis, M,DGC,LXXXVIII [i.e. 1788] The volume number is only indicated on Errata, p. 194. Volume II imprint reads: Petersburg: Printed by William Prentis, M,DCC,LXXXIX. Volume III imprint reads: Petersburg: Printed by William Prentis, M,DCC,LXXIX. The volumes are separately pagged.

The records of the debates in the Virginia convention are the most complete of any of the state ratifying conventions. David Robertson, professional shorthand expert, was retained to record the proceedings. On the final page of volume III, he complained that his seat was “. . . in the Gallery, a situation remote from the speakers, where he was frequently interrupted by the noise made by those who were constantly going out and coming in . . . that he must have lost some of the most beautiful periods and best observations of the different speakers . . .”

If one seeks to understand clearly the positions of both the supporters and opponents of the Constitution, these *Debates* will be of great assistance. Some of the greatest political minds of the time were delegates to this convention, defending their views logically and sometimes brilliantly.

Dane, Nathan

**Nathan Dane to Elbridge Gerry. New York June 12, 1788**

Autograph letter signed. 2 pages.

Dane opposed the Constitution in the debates in the Confederation Congress in September, 1787, on transmitting the Constitution to the states. His letter relates to the Virginia and New York conventions. Gerry was a delegate to the Constitutional Convention from Massachusetts but refused to sign the document.

I have this day received a letter from Colo. Grayson dated the 4th. instant the substance of which he requested me to inform

you of — saying he had not time to write you, and requesting you will not let his name be quoted in the news papers — “the Convention met” he writes, and unanimously elected Ed. Pendleton Presidt — the debates began the 4th. no question taken indicative of Superiority on either side — agreed to go through the Constitution — the numbers were as nearly equal as possible — but Govr. Randolph to day declared in favor of adopting the Constitution — the district of Kentucky is against the Constitution — and if the 4 counties on the Ohio between the Pennsyla. line & Big Sandy Creek Join in the opposition the Constitution cannot be adopted. Nothing very material has occurred here — it seems to be agreed by both parties in New York, that 46 members chosen are against the Constitution and 19 for it.

The Grayson who supplied the information for Dane’s letter was William Grayson, who represented Virginia in the Confederation Congress from 1785 to 1787. He was a delegate to the Virginia convention who voted against ratification of the Constitution.

## NEW YORK. RATIFICATION

37

*To the Tenants of the County of Albany*  
[Albany? 1788] Broadside

This broadside, from a presumed tenant farmer, circulated in Albany County, New York, prior to the election for delegates to the state convention to consider the Constitution.

If you wish the establishment of a national government with powers to usurp and destroy your constitutional rights and liberties; — Then go and give your votes for the establishment of this New Constitution. If you wish the proposed Constitution properly amended before it is adopted — Then let us join our interest in voting for such persons, whose sentiments and principles agree with our own.

Most of the delegates elected to the New York state convention who ratified the Constitution were in favor of increasing the power of the central government. The Federalists favored ratification as

the Constitution stood. The Antifederalists wanted amendments. The prolonged convention at Poughkeepsie from June 17 to July 26, 1788, was primarily concerned with wording of ratification, whether it would be conditional depending upon amendments or ratification with recommendatory amendments.

On January 31, 1788, the House passed a resolution without a recorded division of votes calling for election of delegates April 29 - May 2, to meet in Poughkeepsie on June 17. The Senate concurred on February 1 by a majority of four. New York was the most liberal of all the states in granting suffrage for election of convention delegates: "all free male citizens of the age of twenty-one years, and upwards, be admitted to vote, and that any person of that description be eligible." Voting for convention delegates in most of the other states was restricted to those who were qualified to vote for members of the lower house of the state legislatures.

The campaign for convention delegates was extended over a period of several months, and began long before legislation was approved calling for the convention. When the results were tabulated, it was revealed that the Federalists had elected only nineteen delegates from New York City and three counties. The Antifederalists carried nine counties, electing forty-six delegates.

The delegates met at Poughkeepsie on June 17, organized, and elected Governor George Clinton president of the convention. On June 19, the debates began. More than half of the debates were carried on between Alexander Hamilton, Federalist, and Melancton Smith, Antifederalist. Robert Yates was the formal leader of the opposition.

The opposition wanted amendments prior to ratification, but failing that, they wanted conditional ratification. Compromises were made by both sides. In the end, a form of ratification was agreed upon containing "explanatory" amendments, "recommendatory" amendments, and a circular letter to all the states calling for a second convention. On July 26, the Constitution was ratified by a vote of 30 to 27.

The New York form of ratification was unique, for prefixed to the instrument of ratification was an explanatory statement, really intended amendments, which is referred to as a bill of rights. The substance of these were similar to those recommended by the Virginia ratifying convention. There were 23 unnumbered articles in

the New York bill of rights. The sixth article became the due process clause: "That no Person ought to be taken imprisoned, desseised of his freehold, or be exiled or deprived of his Privileges, Franchises, Life, Liberty or Property, but by due process of Law." This became part of the Fifth and Fourteenth Amendments. The due process concept has acquired broad meaning in American constitutional law and has served as one of the corner stones in protecting the rights of citizens.

New York, the eleventh state, was the last state to ratify before the new government went into operation under the Constitution. Ratification was by the smallest margin of all the states, except Rhode Island.

### 38

*The Federalist: a collection of essays, written in favor of the new Constitution, as agreed upon by the Federal Convention, September 17, 1787.* New York: printed and sold by J. and A. M'Lean, No. 41 Hanover-Square. M,DCC,LXXXVIII. 2 volumes.

These essays, an exposition on the Constitution, signed "Publius," were directed to "the People of the State of New York." Written by Alexander Hamilton, John Jay and James Madison, *The Federalist* represents the most enduring examination of the Constitution that emerged from the paper war which characterized the struggle for ratification.

Seventy-six of these essays, intended to convince the people of New York to accept the Constitution, were published in New York City newspapers between October 27, 1787, and April 2, 1788. When published in book form, the second volume included eight new essays, completing the series of eighty-five. The New York *Independent Journal* and the *New York Packet* printed all of the essays.

Today *The Federalist* is a textbook for the study of political science and constitutional government. It is regarded as a unique contribution to political philosophy and has been reprinted in many editions and translated in foreign languages. It is therefore tempting to exaggerate the importance of *The Federalist* in the ratification struggle. No substantial evidence exists that great numbers were converted by these essays. Some were published in newspapers beyond the borders of the state of New York. Newspaper reprint-

ings are traced by Elaine F. Crane, "Publius in the Provinces: Where Was *The Federalist* reprinted Outside New York City?" *William and Mary Quarterly*, 3rd series, 21 (1964): 589-92.

At the time of publication of the essays, the public was not cognizant of the authorship, though it was known by a few friends of the authors and speculated upon by others. Hamilton wrote numbers 1, 6-9, 11-13, 15-17, 21-36, 59-61, 65-85. Jay wrote numbers 2-5 and 64. Madison authored numbers 10, 14, and 37-48.

Authorship of numbers 18-20, 49-58, 62-63 was disputed until recent times. Jacob E. Cooke, ed. *The Federalist*, assigned essays 18-20 to Madison, assisted by Hamilton and the remaining disputed essays to Madison. Douglas Adair, "The Authorship of the Disputed Federalist Papers," *William and Mary Quarterly*, 3rd series, 1 (1944): 97-122, 235-264, assigned all the disputed essays to Madison. The editors of *The Papers of James Madison*, 10: 259-263, likewise assigned all disputed essays to Madison.

A New York City committee working for the ratification of the Constitution commissioned John and Archibald M'Lean to publish *The Federalist* in "pamphlet" format. The "pamphlet" representing the first collected edition ran to two volumes. Volume one was published May 22, 1788, and contained thirty-six of the essays. Volume two was published May 28, 1788, and contained forty-nine essays, the last eight of which were appearing in print for the first time. They were reprinted in *The Independent Journal* and *The New-York Packet* between June 14 and August 16, 1788.

The M'Leans printed five hundred copies of each volume. The essays in the first volume were corrected by Hamilton, who probably made editorial revisions on those in the second volume also. Hamilton paid more than half of the printing costs.

The two volumes were widely circulated throughout the country. Just before the election of delegates to the Poughkeepsie Convention, sixty copies of volume one were sent for distribution in Albany and Montgomery counties. Hamilton, at the request of Madison, sent fifty-two copies of volume one to Governor Edmund Randolph of Virginia, and later sent copies of volume two as well. Though the sale of the book may have been brisk for the times, the M'Leans had copies remaining after the ratification struggle was won. In 1799, these were acquired by John Tiebout of New York,

who issued the original sheets with a new title page, under his imprint.

Some of the numbering was changed in the first collected edition from that used in the newspaper printings. The newspapers printed eighty-four numbered essays and the collection edition contains eighty-five. Essay number thirty-one was divided into two for printing in the collected edition.

A few existing copies of the first collected edition are most treasured by owners for what has been traditionally called "thick" paper. When the M'Leans announced the proposed publication in *The Independent Journal*, January 2, 1788, it was stated: "A few copies will be printed on superfine Royal Writing Paper, Price Ten Shillings." It is believed that this accounts for "thick" paper copies, differing from other copies only by the weight and quality of the paper. The Lilly Library has both "thick" and "thin" copies of this first edition.

### 39

New York. *The Independent Journal: or the General Advertiser*. Saturday, October 27, 1787

"The FOEDERALIST No. I. To the People of the State of New York."

This newspaper contains the first appearance in print of the first of *The Federalist* essays. It was written by Hamilton, and by December 12 was reprinted in five New York newspapers and in one newspaper each in Massachusetts, Rhode Island, Pennsylvania and Virginia.

*The Federalist* essays were not first exclusively published in any one New York City newspaper. With the exception of the last eight numbers, however, they all appeared first in New York City newspapers before being reprinted outside the city.

All the essays were signed "Publius," A Roman personal name which was adopted as a pseudonym.

The Lilly Library also has an issue of this newspaper for November 3, 1787 which contains the first appearance in print of the third number of *The Federalist*.

40

Jay, John

**John Jay to William Bingham. March 24, 1788.**

Autograph letter. 1 p.

This is a draft of a letter from Jay to his friend, William Bingham, relating to *The Federalist* and the election of delegates to the New York convention which ratified the Constitution.

Agreeable to your Request & my Promise I have now the Pleasure of sending you herewith enclosed the 1 vol of the Foederalist — As soon as the other is published it shall also be forwarded to you — The people of this State are turning their attention to the election of persons to represent them in the ensuing Convention — They continue much divided in Sentiment respecting the proposed Constitution, and it is probable that these Elections will be the most contested of any we have had since the Revolution.

41

New York State. Convention, 1788.

*The debates and proceedings of the Convention of the state of New-York, assembled at Poughkeepsie, on the 17th June, 1788. To deliberate and decide on the form of Federal government, recommended by the General Convention at Philadelphia, on the 17th September, 1787. Taken in short hand.*

New-York: printed and sold by Francis Childs. M,DCC,LXXXVIII. [2], ii, 144 p.

This publication contains a list of the delegates by county represented, the recorded votes, and many of the major speeches. Francis Childs, publisher of the New York *The Daily Advertiser*, took short hand notes of the debates through July 2, 1788. Following that date, he reported only summaries of the proceedings. The preface is dated New-York, Dec. 1, 1788.

42

[Jay, John]

*An address to the people of the state of New-York, on the subject of the Constitution, agreed upon at Philadelphia, the 17th of September, 1787.*

New York: printed by Samuel and John London, printers to the state. [1788] 19 p.

The essay is typesigned at the end: "A Citizen of New-York." It was written in April, 1788 while Jay was convalescing from an injury received in the "Doctors Riot" which occurred in New York City during April of 1788.

Jay pointed out the weakness of the country under the Articles of Confederation, defended the Constitution and argued against a second convention to alter the defects which were then being pointed out by the Antifederalists.

You cannot be certain, that by rejecting the proposed plan you would not place yourselves in a very awkward situation. Suppose nine States should nevertheless adopt it, would you not in that case be obliged either to separate from the Union, or rescind your dissent?

Jay repeated the Federalist argument that a bill of rights was unnecessary: "Complaints are also made that the proposed Constitution is not accompanied by a bill of rights; and yet they who make these complaints, know and are content that no bill of rights accompanied the Constitution of this State." He urged that the Constitution be accepted as the best available frame of government. The dissatisfied could then work for amendments in the manner specified in Article V of the Constitution.

#### 43

[Smith, Melancthon]

*An address to the people of the state of New York: shewing the necessity of making amendments to the Constitution, proposed for the United States, previous to its adoption. By a Plebeian.*

Printed in the state of New-York. M,DCC,LXXX,VIII. 26 p.

Smith, who was a merchant and lawyer, served the state of New York in the Confederation Congress, 1785-1788. He represented Dutchess County in the state convention which ratified the Constitution. A leading Antifederalist, he carried the brunt of the attack against the Constitution, but finally voted for ratification hoping for amendments after the new government went into operation.

In the pamphlet, Smith urged amendments as a condition of ratification. A "Postscript: on the last four pages is a direct reply

to John Jay's *An address to the people of the state of New-York* . . . Much of it is devoted to the bill of rights issue.

Smith's thinking on ratification at the New York convention in Poughkeepsie is a study in tortuous windings. Going into the convention, he urged amendments, as he did in the above pamphlet, as a condition of ratification. As the convention progressed, he favored ratification, with reservations: the state of New York would reserve the right to secede from the Union if amendments were not considered by the new government within a specified time. When finally convinced that conditions and reservations were not politically acceptable, he voted for ratification.

#### 44

*Observations leading to a fair examination of the system of government, proposed by the late Convention; and to several and essential and necessary alterations in it. In a number of letters from the Federal Farmer to the Republican.*

[New York, Thomas Greenleaf] Printed in the year M,DCC,LXXXVII. 40 p.

This pamphlet was one of the superior Antifederalist publications circulating during the ratification struggle. The addressee, "The Republican" may have been Governor George Clinton of New York. The pamphlet circulated in the state of New York, beginning in November, 1787. It was reprinted in the *Poughkeepsie County Journal* in installments beginning November 14, 1787. By the middle of December, it had appeared in Pennsylvania and Connecticut.

In five numbered letters, dated October 8, 9, 10, 12, 13, 1787, the "Federal Farmer" criticized the proposed Constitution. "It leaves the powers of government, and representation of the people, so unnaturally divided between the general and state governments, that the operations of our system must be very uncertain." He thought it would be difficult to frame a bill of rights for such a varied country and that it was not possible for free and equal government to encompass such a large and heterogeneous territory. "Nothing but the passions of ambitious, impatient, or disorderly men, I conceive, will plunge us into commotions, if time should be taken fully to examine and consider the system proposed."

There are at least three editions of *Observations* and it is not known where or by whom the pamphlet was published. It has been assumed that Thomas Greenleaf of *The New-York Journal* printed at least two of the editions. Federal Farmer wrote thirteen additional letters: *An additional number of letters from [sic] the Federal Farmer . . .* which were advertised in New York in May, 1788. These additional letters were not as cogent as the first five and did not circulate widely.

Authorship of *Observations* has been attributed to Richard Henry Lee, but this has been challenged by Gordon S. Wood: "The Authorship of the *Letters from the Federal Farmer*," *William and Mary Quarterly*, 3d. ser. 31 (1974): 299-308. Wood's argument is convincing. His only suggestion for an alternate author "points to the likelihood that he was a New Yorker."

#### 45

*We the people of the United States, in order to form a more perfect union*

. . . .

[Poughkeepsie, N. Y., Nicholas Power, 1788] 20 p. Caption title.

The Constitution is printed on one side only of the first seventeen leaves. This is followed by the Philadelphia Convention resolution, Washington's letter of transmittal and the resolution of the Confederation Congress submitting the Constitution to the states.

This was printed for the use of the delegates to the New York convention which ratified the Constitution. The printer, Nicholas Power, was the publisher of the *Poughkeepsie Country Journal*. He was the official printer for the New York convention, and after adjournment published the *Journal of the Convention of the State of New-York . . .* [1788].

#### 46

Jay, John

**John Jay to Edward Rutledge. New York. October 15, 1788.**

Autograph letter. 1 p.

Commenting on ratification in New York and amendments to the Constitution, this is a draft of a letter from Jay to Edward Rutledge of South Carolina.

You have seen from the public papers that the new Constitution was with difficulty adopted in this State. The opposition which was violent has daily become more moderate and the minds of the people will gradually be reconciled to it in proportion as they see the government administered in the manner you mention — The measure of a new convention to consider and decide on the proposed amendments will I think be expedient to terminate all questions on the subject — If immediately carried its friends will be satisfied, and if convened three years hence, little Danger will in my opinion attend it — perhaps some good will attend it.

The “new Convention” referred to was circumvented by the first U. S. Congress, which passed twelve amendments and sent them to the states for ratification. Ten of these were ratified and are called the Bill of Rights, which guard the liberties of all citizens against the abuse of national power.

## NORTH CAROLINA. RATIFICATION

47

North Carolina. Convention of 1788.

*Proceedings and debates of the convention of North Carolina, convened at Hillsborough, on Monday the 21st day of July, 1788, for the purpose of deliberating and determining on the Constitution recommended by the general Convention at Philadelphia, the 17th day of September, 1787. To which is prefixed the said Constitution.*

Edenton: printed by Hodge & Wills, printers to the state. MDCCLXXXIX. 280 p.

North Carolina was the first state to reject the Constitution. On December 6, 1787, the General Assembly called for election of delegates, March 28-29, 1788, to meet at Hillsborough on July 21, 1788 to consider the Constitution. All tax-paying freemen were permitted to vote but only freeholders were eligible to serve as delegates. Five delegates were elected from each of the 58 counties and one from each of the six borough towns. A bitter, heated and prolonged campaign ensued, resulting in a landslide victory for the Antifederalists. The delegates from the western counties were nearly unanimous in their objection to the Constitution.

When deliberations began in the convention on July 21, ten states had ratified the Constitution. Five days later, New York, the eleventh state, ratified. The delegates spent eleven days in discussion, but opponents of the Constitution would accept nothing less than amendments previous to ratification. On August 2, the Antifederalists carried a resolution proposing a declaration of rights and amendments. A resolution “. . . neither to ratify or reject the Constitution” passed and this action left North Carolina, a sovereign and independent state, outside the Union in company with Rhode Island.

The declaration of rights proposed by the first North Carolina convention contained twenty articles. They were taken verbatim from those recommended by the Virginia ratifying convention. Twenty-five amendments were proposed. These were largely copied from amendments deriving from the Virginia convention. One was borrowed from amendments proposed in the Massachusetts convention.

Supporters of the Constitution did not despair but began a well-orchestrated campaign for a second convention. James Iredell and William R. Davie financed the printing of an edition of one thousand copies of the above *Proceedings and debates* . . . Along with pamphlets and *The Federalist*, these were sent to all parts of the state. Petitions for a new convention were circulated in the counties. On November 30, 1788, the legislature called for a new election for delegates to a second convention to reconsider the Constitution. These were elected August 21-22, 1789.

The second North Carolina convention met at Fayetteville on November 16, 1789. One hundred and two of the delegates had been members of the first convention. Of the 169 new delegates, 135 were Federalists. The second convention lasted only five days. On November 21, delegates voted to ratify the Constitution 194 to 77.

The Federalist campaign for a second convention had paid dividends. Citizens of North Carolina also watched the new government under the Constitution which was functioning without the disasters predicted by some North Carolina Antifederalists. Furthermore, amendments to the Constitution in the form of the Bill of Rights had passed Congress and these amendments were in the process of being ratified by the states.

New York. *Gazette of the United States*. Saturday, December 5, 1789.

IMPORTANT NEWS!

By the arrival of a Packet, in five days from Wilmington, North-Carolina, we have received the agreeable intelligence that the Convention of that State ADOPTED THE NEW CONSTITUTION, on the 20th ult.

For the adoption	193
Against it	<u>75</u>
Majority	118

The newspaper was in error on the date and the vote. The Constitution was ratified November 21. The official vote was 194 to 77, a majority of 117.

### RHODE ISLAND. RATIFICATION

Rhode Island. Laws. etc.

*September, 1789. At the General Assembly of the Governor and company of the state of Rhode Island, and Providence-Plantations . . .*

[Providence: printed by Bennett Wheeler. 1789] 28 p. Caption title signed on p. 28 by Henry Ward, secretary of state. Contains embossed paper seal of the state on p. 1.

“An Act relative to a Convention in this State” was sent to the freemen of the towns.

“. . . for the purpose of giving Instructions to their Representatives respecting the Appointment of a State Convention, for the Purpose of considering and determining on said Constitution . . .”

This was the second referendum on a convention in the state. A large majority of the town meetings instructed their representatives to vote against a convention. When the legislature reconvened after the referendum, a motion to authorize a convention was defeated 39 to 17.

Philadelphia. *The Pennsylvania Packet, and Daily Advertiser*. Thursday, June 3, 1790.

ADOPTION OF THE  
Constitution by Rhode Island

By the arrival of Captain Carey, we have received the authentic information, that the Convention of Rhode-Island did, on Saturday last, adopt the Constitution of the United States, by a majority of TWO. The Yeas were 34 — the Nays 32

Rhode Island ratified the Constitution on May 29, 1790, fifteen months after the new government under the Constitution had been in operation. The General Assembly considered the Constitution at its October session in 1787 and voted that one thousand copies of the document be printed and distributed. In the February 1788 session, the Assembly authorized a popular referendum on the Constitution. The referendum was held in March, 1788, and resulted in its defeat, partly because the port towns of Providence and Newport boycotted it.

The calling of a convention to consider the Constitution was defeated in the Assembly eleven times over the course of 23 months. On January 17, 1790, the General Assembly approved a call for a convention to consider the Constitution. Delegates were elected on February 8 to meet at South Kingstown on March 1. The Constitution was debated clause by clause, and a special committee prepared a declaraton of rights and twenty-one proposed amendments, five of which had not been urged by other state conventions. On March 6, the convention adjourned to refer its proceedings to the freemen. The second session of the convention met in Newport on May 24, and on May 29 the Constitution was ratified by a vote of 34 to 32. Ratification was carried by a narrower margin than in any of the twelve states which had previously ratified.

There were many motives for Rhode Island's lengthy opposition to the Constitution. One was the paper money controversy, which was a key program of the Country Party which controlled the General Assembly from 1786 through 1791. The party was the center of Antifederalism in the state. Another objection was that citizens feared direct taxation by the new government, and a reluctance to accept a form of government which might destroy personal liberties and direct democracy. A sizeable Quaker community opposed the slave trade permitted until 1808 by Article I, Section 9 of the Constitution. Their influence was evident in one of the

amendments proposed in the ratifying convention to ban the slave trade immediately.

Final ratification was accomplished by impending economic coercion from Congress, internal threats of secession and by the realization that unified control over interstate and foreign commerce would improve the economy of the state. In July, 1789, Congress enacted a tariff program subjecting Rhode Island's imports, which were re-exported to other states, to foreign duties, but the act was suspended until April 1, 1790. More threatening to the economy of the state were proposals in Congress prohibiting all commercial intercourse between the United States and Rhode Island. The important seaport of Providence had threatened secession if the Constitution was not ratified. These developments, plus the extreme criticism deriving from every part of the Union, alarmed the commercial classes. They favored the Constitution and finally attained ratification.

## 51

Baldwin, Simeon

*An oration pronounced before the citizens of New-Haven, July 4th, 1788, in commemoration of the Declaration of Independence and establishment of the Constitution of the United States of America.*

New Haven, printed by J. Meigs, M,DCC,LXXXVIII. 16 p.

Baldwin, who was a Yale graduate, lawyer, and judge, was the principal speaker at this celebration marking both the anniversary of the Declaration of Independence and the ratification of the Constitution. This observance was complete with a parade of the various tradesmen, the ever-present Federal ship, dinner, and an evening ball. Baldwin sought to dispel apprehensions:

From the adoption of this constitution, we have everything to hope — nothing to fear. The powers of Congress are solely directed to national objects.

The President of Yale, Ezra Stiles, participated in the observance and recorded in his diary of July 4:

Anniversary celebrated in NewHaven. A Procession formed at the Long wharf of a Commixture of all Descriptions, accordg to the Idea conceived at Boston at their Rejoycing last Winter.

A Sower headed the Procession succeeded by 3 pair of Oxen & one holdg a Plow, then Reapers, Rakers, Shoemakers, Sadlers, Cabinet Makers, Blacksmiths, Goldsmiths &c. then a Whale Boat manned & rowg a federal ship. . . . The whole March was near one Mile & three Quarters. Entered the Meetg h at noon . . . Blessing by myself. Thus the Exercises continued about two Hours in the Meetg house. (Franklin B. Dexter, ed. *Literary Diary of Ezra Stiles*, 3:321-22).

There were many festivities marking the ratification of the Constitution. Some were double celebrations commemorating both Independence and the Constitution. Some were modest affairs, others were elaborate and involved hundreds and thousands of the population. They were characterized by parades of various tradesmen, the militia, officials and others. Salutes were fired, bells were rung, bands played, speeches were made, and the people ate and drank far into the night. An excellent account of these affairs may be found in Whitfield J. Bell, "The Federal Processions of 1788." (*The New York Historical Society Quarterly*, 46, (1962): 5-39.)

# New Beginning: Government Under the Constitution

In 1789, less than a decade after adopting the Articles of Confederation, the American people were called upon to scuttle the old and to form a new and strikingly modified government under the Constitution. There were no guidelines or historical examples to support the conviction that a republican form of government could succeed. Indeed, there were pessimists, both within and without the country, who thought the experiment would end in dismal failure. Two centuries later, we celebrate a form of government which is stable and flexible, one which provides justice, service and liberty to its citizens far beyond the framers' imagination!

Official announcement that New Hampshire, the ninth state, had ratified the Constitution was made to the Confederation Congress on July 2, 1788, by the states' delegates in Congress. The Constitutional Convention had been specific in its resolution detailing the procedures necessary for the new government to become operative:

. . . as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors should be appointed by the States which shall have ratified the same, and a Day on which the Electors should assemble to vote for the President, and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed, and the Senators and Representatives elected. That the Electors should meet on the Day fixed for the Election of the President, and should transmit their votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives should convene at the Time and place assigned; that the Senators should appoint a President of the Senate, for the sole Purpose of receiving, opening and counting the votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without Delay, proceed to execute this Constitution.

The Confederation Congress spent more than two months debating before issuing a call to the states for elections necessary

to put the new government in motion. The delay was, in part, a waiting game for action of North Carolina, and particularly New York, on the Constitution and a sectional struggle over the temporary site for the new government. Contest for the temporary capital mainly revolved between New York City, then the seat of government, and Philadelphia, although Wilmington, Lancaster, Baltimore and Annapolis were considered. New York could only be considered if the state ratified. This delay tried the patience of a watchful nation. Finally, on September 13, 1788, New York City was selected as the temporary site and Congress passed an election ordinance for the first Federal elections.

Several actions were necessary for the ratifying states to place the new government in operation. The first order of business was choosing presidential Electors. Congress stipulated January 7, 1789 for this action. The method of electing presidential Electors was the responsibility of the states. The Constitution gave each state the number of Electors equal to the sum of its representatives and senators. February 4, 1789 was designated as the day Electors would cast their ballots in the states.

Senators and representatives had to be appointed and elected. Each state was entitled to two senators. Pending a national census, Article I. Section 2 of the Constitution specified the initial number of representatives (counting slaves as "three fifths of all other Persons") based on an estimate of the state's population: New Hampshire three, Massachusetts eight, Rhode Island one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

The elections were vital for the establishment of the new government. The Constitution provided only a vaguely defined skeleton; legislation by the First Congress was necessary to convert the framework into active institutions. Departments had to be created by legislative enactments. A judiciary had to be organized and empowered and urgent provisions for the levying and collection of taxes had to be made.

The Federalists and Antifederalists transferred their political rivalry from ratification to the first elections without visible pause. Amendments to the Constitution, either in a second convention or by Congress after the formation of the new government, was a

major campaign issue in Pennsylvania, Massachusetts, Virginia, and New York. The campaign was also enlivened by the injection of old political issues and divisions. Personalities and previous records of candidates were a factor. The elections extended from September, 1788, through August, 1790. The two laggards, North Carolina and Rhode Island, finally elected representatives in 1790. The Federalists won a comfortable working majority in both houses of Congress.

There was no uniformity in these first elections for presidential Electors in the states. Four states held popular elections, two combined popular nominations and legislative elections, three elected Electors by legislature, and in New Jersey they were chosen by the Governor and Council.

The Constitution stipulated that state legislatures should elect senators. The contest for senators did not seem to attract much attention. They were elected by joint ballot or concurrent agreement by the legislatures in all states except Pennsylvania, which had a single-house legislature.

The election of representatives got considerable attention from voters in some states. The primary issue in the states was between statewide election or election by district. In drafting the state election laws both Federalists and Antifederalists considered which mode of election would further their political goals. Pennsylvania, New Hampshire, Delaware, Maryland, Georgia, New Jersey and Rhode Island held statewide elections. Massachusetts, Virginia, South Carolina, New York and North Carolina held district elections. The states were districted, not without some gerrymandering, into the number of Representatives to which each state was initially entitled.

Presidential Electors were mandated to cast their votes on February 3, 1789, at a place designated by the state legislature—in most instances, the state capitol. North Carolina and Rhode Island were not yet in the Union. New York lost its presidential vote because the legislature was still squabbling over the method of selecting Electors. Each Elector was required to vote for two persons, one at least a non-resident of the state. The Constitution did not stipulate a preference for the presidency. If a majority voted for the same man, he was to be President. The candidate having the next largest electoral vote was to become Vice-President.

There was no contest for the presidency. George Washington was the nation's choice long before the election was held. He was indispensable in the experiment in self-government. The political scheming and maneuvering centered around the selection of the first Vice President. There were many candidates for this office.

In this first election there were only seventy-two Electors. Two in Maryland and one in Virginia failed to appear. The total Electoral vote cast in the ten states was sixty-nine. George Washington received every vote. John Adams received thirty-four, one less than a majority of the votes cast. There were scattered votes for Samuel Huntington, John Jay, John Hancock, Robert Hanson Harrison, George Clinton, John Rutledge, John Milton, James Armstrong, Edward Telfair and Benjamin Lincoln. Both Washington and Adams knew the results long before the official counting in the Congress.

52

United States Confederation Congress

*By the United States in Congress assembled, September 13, 1788*

[New York, 1788] Broadside

This election ordinance, passed by the Confederation Congress in New York City on September 13, 1788, represented the initial steps in the formation of the new government under the Constitution. January 7, 1789, was the date set for Electors to be selected and February 4 for Electors to cast ballots for a President. March 4 was the time “. . . for commencing Proceedings under the said Constitution.”

The new government was slow in getting underway. On March 4, 1789, the designated day for the first Congress to meet, only a quarter of the members were present. A week later, the Senate was still four members short of a constitutional quorum, and the House of Representatives was twelve members short. It was April 1 before the House had a quorum and April 16 before the Senate could organize.

Two hundred copies of this election ordinance were ordered printed. Charles Thomson signed those sent to the governors of the states. Members of Congress sent the broadside to state officials and friends. The Ordinance was widely printed in newspapers in September, October, and November in New York, Connecticut, Massachusetts, New Hampshire, the District of Maine, Maryland, Pennsylvania, Virginia, Georgia, South Carolina and in Lexington (Kentucky).

53

Smith, William

**Wm. Smith D.D. to James Wilson Esq. Chester, Kent County, Maryland Jany 19th 1789**

Autograph letter signed. 3 p.

Smith, a Scottish-born Anglican minister, educator and publicist, was, at the time this letter was written, President of Washington College in Kent County, Maryland. He was also rector of Chester Parish. Soon after his arrival in America, he served as the first provost of the College, Academy and Charitable School of Philadelphia. He rejoined the College in Philadelphia in the sum-

mer of 1789. A political gadfly, Smith's letter to Wilson is most revealing of his concerns over the first Federal elections, particularly the votes of the Electors for the President.

But another Difficulty appears to rise from the Constitution itself. The two highest in Votes having a Majority of all the Electors . . . are to be *President & Vice-president*—Suppose then the Electors of even Nine States all agree to have *Gen. Washington* President, & *Mr. Adams*, or any other V. Presdt. These nine States cannot say in their Nomination or votes *Genl. W. Presdt; John Adams V. P.*, but must vote indiscriminately for both & neither will be highest in Votes but perhaps have an equality. Suppose, then, but one other State . . . give but one or two Votes, still keeping the Name of *Adams*, but joining it either a *Clinton* or a *Henry*, then those two States or any one of them, or a single capricious Vote of any one of them, can make *Mr. Adams* President. We know there is one Way to secure this Business . . . having a Majority of all the electors, to agree, all of them, to nominate *Gen. Washington*, while some of them give some 8 or 10 Votes to some other Persons in the Room of *Adams*, so as to leave Him lower in Number than *Gen. W.* but yet higher than any other, if it is wished that he should be V. Presdt.

Prior to the adoption of the Twelfth Amendment to the Constitution, in 1804, presidential electors voted for two persons without stipulating between a vote for president or vice president. The highest number of votes, if a majority, elected a president. If two persons received a majority but with the same number of votes (as occurred in 1800 between Thomas Jefferson and Aaron Burr), the national House of Representatives, casting a single vote by state, chose between them.

Before finally agreeing upon the method of selecting the President, delegates to the Constitutional Convention wrangled many days. Various systems were proposed: election by the national legislature, by state legislatures or state executives or directly by the national electorate. At least sixty ballots were taken before the Convention compromised upon the electoral system stated in Article II, Section I of the Constitution. It was and is an artificial, delusive and complex system whereby the electorate participates indirectly in presidential elections. This system has led, in the not too remote past, to much political mischief in American presidential

elections. Presidents Hayes (1876) and Benjamin Harrison (1888) received fewer popular votes than their opponents. The electoral system gives all the electoral vote to a winner in a state no matter how slim the margin of victory. In 1824 Andrew Jackson won the popular vote but failed to receive a majority of the electoral vote. The House of Representatives elected John Quincy Adams.

Many of the members in the Constitutional Convention expected that the Electors would scatter their votes and a majority for any candidate would be rare. Thus the President would be elected by the national House. Proposals have been made for change in the electoral system but political leaders fear any change would threaten the two-party system.

54

Washington, George

**George Washington to John Langdon Esq. Mount Vernon. April 14, 1789.**

Autograph letter signed. 1 p.

Washington's letter accepting the Presidency:

Sir,

I had the honor to receive your official Communication, by the hand of Mr. Secretary Thompson [Thomson], about one o'clock this day. Having concluded to obey the important & flattering call of my Country, and having been impressed with an idea of the expediency of my being with Congress at as early a period as possible; I propose to commence my journey on Thursday morning which will be the day after tomorrow.

Counting the Electoral votes was the first task after the First Congress organized. John Langdon, Senator from New Hampshire, had been elected president *pro tempore* to perform this function. On April 6, 1789, before the members of both Houses of Congress, Langdon personally opened, counted and declared the results: President, George Washington; Vice President, John Adams. The Senate then made arrangements to officially notify both men. Charles Thomson, long-time secretary to the Congress, was selected to notify Washington.

Thomson left New York on April 7, carrying the formal certificate of election and a personal letter from Langdon to Washington, dated New York, April 6, 1789:

Sir,

I have the honor to transmit to your Excellency the information of your unanimous election to the Office of President of the United States of America. Suffer me, Sir, to indulge the hope that so auspicious a mark of public confidence will meet your approbation, and be considered a sure pledge of the affection and support you are to expect from a free and enlightened people.

Washington left Mount Vernon on April 16 and arrived in New York in the afternoon of April 23. The journey was marked by a varied but continuous ovation along the route. Never before had such an outpouring of affection, trust and respect been shown to an American.

55

New London. *Supplement to the Connecticut Gazette*.

Friday, May 8, 1789.

Broadside, printed on both sides.

This newspaper account of the first inauguration of Washington on April 30, 1789, is dated New York, May 1. At noon, Washington was escorted by a military procession from his residence on Cherry Street to Federal Hall. The oath prescribed by the Constitution (Article 2, Section 1) was administered by Chancellor Robert R. Livingston of New York in the gallery fronting on Wall Street. Following the swearing in, Washington delivered his inaugural address to both houses of Congress in the Senate Chamber.

After the address: "His Excellency, accompanied by the Vice-President, the Speaker of the House of Representatives and both Houses of Congress, then went to [St.] Paul's Chapel, where divine service was performed by the Right Rev. Dr. Provost, Bishop of the Episcopal Church in this State and Chaplain to Congress."

The newspaper account concludes with a note of optimism:

The ceremony of this memorable day, completed the organization of the Federal Body. Every honest man must feel a singular felicity in contemplating this day. Good government, the best of blessings, now commences under favourable auspices. We beg leave to congratulate our readers on the great event.

56

United States. (Tariff act of 1789)

*Congress of the United States, begun and held at the city of New-York, on Wednesday, the fourth of March, one thousand seven hundred and eighty-nine. An Act for laying a duty on goods, wares and merchandizes imported into the United States.*

[New York], printed by Francis Childs and John Swaine. [1789]  
Caption title. [3] p.

The tariff was the earliest act passed by the First Congress under the Constitution. Duties, averaging about eight per cent, were laid on the items enumerated in the schedule.

The returns from the above tariff legislation contributed approximately eighty-eight per cent of the total ordinary receipts of the national government during the years 1789 and 1790.

57

U.S. Laws, Statutes, etc.

*Acts passed at the Congress of the United States of America, begun and held at the city of New York, on Wednesday the fourth of March, in the year MDCCLXXXIX. And of the independence of the United States, the thirteenth. Being the Acts passed at the first session of the First Congress of the United States . . .*

New York: printed by Francis Childs and John Swaine, printers to the United States. [1789]. XIV, [15]-93 [1], XCV-CV p.

This publication contains the twelve proposed amendments to the Constitution, passed by the first U. S. Congress, which were submitted to the states for ratification. The first proposal related to apportionment of legislators, the second to pay of congressmen. The others included safeguards for personal rights of citizens and a statement on the powers reserved to the states. The first two proposals were not ratified, but the remaining were, and became the first ten amendments to the Constitution. Commonly called the Bill of Rights, they guard the liberties of citizens against the abuse of national power. The amendments were ratified by eleven states between November, 1789, and December, 1791.

Some of these could be called freedom amendments, because they guarantee the citizen freedom of speech, religion, the press and other rights inborn and inalienable. The roots of the Bill of

Rights are to be found in the great documents of Anglo-American liberty: Magna Carta, Petition of Right, 1628, the Bill of Rights, 1689, colonial charters, the Virginia Declaration of Rights, the Declaration of Independence, the first constitutions of the thirteen states, and the Ordinance of 1787, which contained the first Bill of Rights enacted by the Confederation government.

During the process of ratifying the Constitution in the states, approximately one hundred substantive provisions had been recommended as amendments. Many of the Antifederalists wanted a second convention to accomplish the task, but only New York and Virginia officially called for such a step.

James Madison, who ran against James Monroe for a seat in the U.S. House of Representatives from Virginia, spoke in favor of amendments during his campaign. Madison pressed and managed the amendment issue in the House, both to make good his campaign promise and to obviate any possibility of a second convention. He incorporated the most frequently recommended amendments in his presentation to Congress. House approval was given to seventeen amendments. Senate approval was given to twelve. Action was completed on September 25, 1789.

Madison's list of proposed amendments was prepared with studious concern. He concentrated on correcting the defects of the Constitution which he thought would reconcile the great body of critics to the new government. His amendments did not represent structural changes in the Constitution, but were supplemental to and a reenforcement of the document. The amendments incorporated the most frequently voiced objections, and the ratification of the Bill of Rights satisfied all but the most doctrinaire critics of the Constitution.

Madison's initial intention was to insert the proposed amendments in an appropriate place in the body of the Constitution. Roger Sherman, Representative from Connecticut, observed that "We might as well endeavor to mix brass, iron and clay, as to incorporate such heterogeneous articles." He moved, and it was later adopted, that the amendments be placed as separate articles at the end of the Constitution. That form has been followed in all the amendments.

On October 2, 3, 1789, President Washington officially transmitted the proposed amendments, neatly inscribed on parchments,

to the states for their action. Washington's covering letter was brief: "In pursuance of the enclosed resolution I have the honor to transmit to your Excellency a copy of the amendments proposed to be added to the Constitution of the United States."

Our knowledge of events in the states during the ratification of this most consequential part of our Constitution is meager. If there were debates the newspapers printed only fragmentary excerpts. Virginia, where there was a long struggle over the amendments, became the eleventh state, counting Vermont admitted as the fourteenth state March 4, 1791, to ratify in December, 1791. Secretary of State Thomas Jefferson sent official notice to the states in a letter dated March 1, 1792. It was a most unusual letter announcing amendments of great significance to our Constitution:

Sir,

I have the honor to send you herein enclosed, two copies duly authenticated, of an Act concerning certain fisheries of the United States, and for the regulation and government of the fishermen employed therein; also an Act to establish the post office and post roads within the United States; also the ratifications by three fourths of the Legislatures of the Several States, of certain articles in addition and amendment of the Constitution of the United States, proposed by Congress to the said Legislatures, and of being with sentiments of the most perfect respect, your Excellency's &.

Georgia, Connecticut and Massachusetts did not officially ratify the amendments, although it now appears that Massachusetts did ratify but neglected to send official notice of the action to the President. The three states did symbolically ratify in 1939, as part of their Sesquicentennial observations.

The Lilly Library copy was presented to Thomas Jefferson by Washington with this inscription: "The President of the United States requests the Secretary of State to accept the enclosed Volume of Laws passed during the first session of the Congress of the United States."

58

Rhode Island. Laws, etc.

*June, 1790. At the General Assembly of the Governor and company of the state of Rhode-Island and Providence-Plantations ...*

[Providence, printed by John Carter, 1790] 16 p. Caption title.

Rhode Island ratified the Constitution on May 29, 1790. Seventeen days later, June 15, the state ratified eleven of the proposed amendments. Before ratification by the General Assembly, copies of the amendments had been printed in broadside form and sent to the town for deliberation of the freemen. From available evidence, there did not seem to be strong objections to the amendments.

It should be noted that Rhode Island approved only eleven of the proposed amendments, rejecting the one relating to compensation of Congressmen.

## 59

United States. Supreme Court.

*A case decided in the Supreme Court of the United States, in February, 1793. In which is discussed the question — "Whether a state be liable to be sued by a private citizen of another State?"*

Philadelphia: Printed by T. Dobson. M,DCC,XCIII.

**Chisholm vs. Georgia** was the first decision of the U. S. Supreme Court stating that a state might be sued by a citizen of another state. There was violent public reaction to the decision and the states repudiated the Court's decision by voting to ratify the Eleventh Amendment to the Constitution.

The suit was brought in the U. S. Circuit Court of Georgia by Alexander Chisholm of South Carolina, executor of the estate of Robert Farquhar also of South Carolina. Farquhar, under contract, had supplied the state of Georgia with cloth and clothing in 1777 which Georgia had failed to pay. Damages in the amount of \$69,613.33 in South Carolina currency were sought. The governor of Georgia denied the jurisdiction of the Georgia Circuit Court on the grounds that Georgia was a free and sovereign state and could therefore not be sued by a citizen of another state. After preliminary hearings, the case was heard before the Supreme Court. The majority, with one dissent, upheld the Court's jurisdiction over the case.

## 60

United States. 3d Congress, 1st session, 1793-1794.

*Third Congress of the United States: at the first session begun and held at the City of Philadelphia, in the state of Pennsylvania, on Monday the second of December, one thousand seven hundred and ninety-three.*

[Philadelphia, Childs and Swaine, 1794]. Broadside.

The Eleventh Amendment to the Constitution was the response to the decision of the Supreme Court in the case **Chisholm vs. Georgia**. It was, observed Justice Felix Frankfurter, passed by the U. S. Congress "with vehement speed". The proposed amendment was introduced in the Senate two days before the Court rendered its decision on **Chisholm vs. Georgia**. It was approved by the Senate January 14, 1794; by the House on March 4, and submitted to the states on March 5, 1794.

The amendment was ratified by twelve of the fifteen states by February, 1795. It was not until January, 1798, however, that President John Adams formally advised Congress that the amendment "may now be deemed to be a part of the Constitution". By later constitutional interpretation, the amendment was in effect February, 1795, when ratified by the twelfth state.

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