

## RATIFICATION OF THE CONSTITUTION

The ratification, or adoption, of the Constitution took place between September of 1787 and July of 1788. The Federal Convention, which had drafted the Constitution between May and September 1787, had no authority to impose it on the American people. Article VII of the Constitution and resolutions adopted by the convention on September 17, 1787, detailed a four-stage ratification process: (1) submission of the Constitution to the Confederation Congress, (2) transmission of the Constitution by Congress to the state legislatures, (3) election of delegates to conventions in each state to consider the Constitution, and (4) ratification by the conventions of at least nine of the thirteen states.

The procedure reflected the political realities and principles of 1787–1788. Putting the Constitution in the hands of specially elected conventions would avoid the hostility of state officials jealous of their state's sovereignty, as would the nine-states requirement (the Articles required all thirteen states' consent for ratification of an amendment). The delegates also viewed the Constitution as a fundamental law requiring a form of adoption more solemn and significant, and less vulnerable to shifts of public opinion, than approval by state legislatures. The ratification process itself would induce Americans to think of themselves as a nation, encouraging them to look beyond their state's borders in deciding whether to support the Constitution and disposing them to adopt a new government for the American nation. Finally, the Constitution's proponents hoped, a series of quick ratifications by the first state conventions might gen-

erate momentum that would be difficult to resist.

Ratification was not guaranteed, however. The Confederation Congress might reject the Constitution, rewrite it, or refer it to a second general convention, claiming that the first had violated its limited mandate to suggest amendments to the Articles. For the same reason, the states might refuse to elect ratifying conventions. Enough state conventions might spurn the Constitution (whether as an illegitimate proposal or on its merits) to prevent its implementation. Finally, rejection by the legislatures or conventions of any or all of four key states — Massachusetts, New York, Pennsylvania, and Virginia — might cripple the Constitution, even if the necessary nine states did approve it. These possibilities dominated American politics of the

On September 28, 1787, after three days of bitter debate, the Confederation Congress sent the Constitution to the states with neither an endorsement nor a condemnation. This action, a compromise engineered by Federalist members, disposed of the argument that the convention had exceeded its mandate; in the tacit opinion of Congress, the Constitution was validly before the people. The state legislatures' decisions to hold ratifying conventions confirmed the Constitution's legitimacy.

The ratification controversy pitted supporters of the Constitution, who claimed the name "Federalists," against a loosely organized group known as "Antifederalists." The Antifederalists denounced the Constitution as a radically centralizing document that would destroy American liberty and betray the principles of the Revolution. The Federalists urged that the nation's problems were directly linked to the frail, inadequate Confederation and that nothing short of the Constitution would enable the American people to preserve their liberty and independence, the fruits of the Revolution.

The Federalists — led by Alexander Hamilton, James Madison, John Jay, John Marshall, James Wilson, John Dickinson, and Roger Sherman — had several advantages. In a time of national political crisis, they offered a clear prescription for the nation's ills; they were well

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organized and well financed; and they were used to thinking in national terms and to working with politicians from other states. They also had the support of the only two truly national political figures, George Washington and Benjamin Franklin.

The Antifederalists — led by Patrick Henry, George Mason, Richard Henry Lee, James Monroe, John Hancock, Samuel Adams, Elbridge Gerry, George Clinton, Willie Jones, and Melancton Smith — counted among their advantages the support of most state politicians and the American people's distrust of strong central government. Their most potent argument against the Constitution was that it lacked a bill of rights.

The lively newspaper and pamphlet war over the Constitution was a key element of the ratification controversy. Federalists and Antifederalists published hundreds of essays praising or denouncing the document. They often signed these essays with pseudonyms drawn from classical sources such as Plutarch's *Lives* or from the seventeenth-century English struggles against the tyranny of the Stuart kings. Notable Antifederalist pamphlets included the *Federalist* and the *Antifederalist*.

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vine Information; Mercy Otis Warren's *Observations on the New Constitution . . . by a Columbian Patriot*; and the *Letters from the Federal Farmer to the Republican*, whose authorship is still disputed. Leading Federalist writings included John Jay's *Address to the People of the State of New York* (the most popular and influential pro-Constitution publication) and *The Federalist*, a series of eighty-five newspaper essays by Alexander Hamilton, James Madison, and John Jay under the name Publius. Although *The Federalist* was the most thorough and intellectually challenging of these works, citizens in 1787-1788 did not share modern readers' deep respect for Publius' arguments and rhetorical skills. *The Federalist* served mainly as a debater's handbook for Federalist delegates in the Virginia and New York conventions, becoming a classic work of American political thought and the foremost commentary on the Constitution only after the ratification controversy.

Every state but Rhode Island elected a rati-

fying convention in 1787-1788, and only North Carolina's adjourned (August 2, 1788, by a vote of 185-84) without voting on the Constitution. (Rhode Island submitted the Constitution to its town meetings; on March 24, 1788, in a vote boycotted by most Federalists, the voters rejected it, 2,708-237.) The first five ratifications took place in quick succession: Delaware, December 7, 1787 (unanimous); Pennsylvania, December 12, 1787 (46-23); New Jersey, December 18, 1787 (unanimous); Georgia, January 2, 1788 (unanimous); and Connecticut, January 9, 1788 (128-40).

In Massachusetts, however, the Constitution ran into serious, organized opposition. Only after two leading Antifederalists, Adams and Hancock, negotiated a far-reaching compromise did the convention vote for ratification on February 6, 1788 (187-168). Antifederalists had demanded that the Constitution be amended before they would consider it or that amendments be a condition of ratification; Federalists had retorted that it had to be accepted or rejected as it was. Under the Massachusetts compromise, the delegates recommended amendments to be considered by the new Congress, should the Constitution go into effect.

The Massachusetts compromise determined the fate of the Constitution, as it permitted delegates with doubts to vote for it in the hope that it would be amended. All subsequent state conventions but Maryland's recommended amendments as part of their decisions to ratify: Maryland, April 28, 1788 (63-11); South Carolina, May 23, 1788 (149-73); New Hampshire, June 21, 1788 (57-47); Virginia, June 25, 1788 (89-79); and New York, July 26, 1788 (30-27). By that date, eleven states had ratified, including all four critical states.

The lists of recommended amendments and the Federalists' promise to work for amendments (particularly a bill of rights), set in motion the process by which the Bill of Rights was added to the Constitution in 1789-1791. In turn, the First Congress's proposing of amendments in 1789 induced the hold-out states to elect conventions that ratified the Constitution — North Carolina, November 21, 1789 (195-77) and Rhode Island, May 29, 1790 (34-32).

The struggle for ratification of the Constitution was both a direct, unabashed contest for votes and a complex, impressive argument about politics and constitutional theory. It was the first time that the people of a nation freely determined their form of government. It was also the first national political controversy in American history; the people of all thirteen states for the first time debated and decided the same issue. Ratification was a catalyst for the creation of a national political community, transforming the ways Americans thought of themselves and encouraging the growth and popularity of national loyalties. The political discourse generated by the ratification controversy continues to this day within the matrix of the Constitution; the argument in 1787-1788 is one of the finest chapters of that discourse.

Patrick T. Conley and John P. Kaminski, eds., *The Constitution and the States* (1989); Merrill Jensen, John P. Kaminski, Gaspare J. Saladino, and Richard Leffler, eds., *The Documentary History of the Ratification of the Constitution and the Bill of Rights, 1787-1791* (1976-).

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See also Antifederalists; Articles of Confederation; Bill of Rights; Constitution; Federalist Papers; Philadelphia Convention.

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