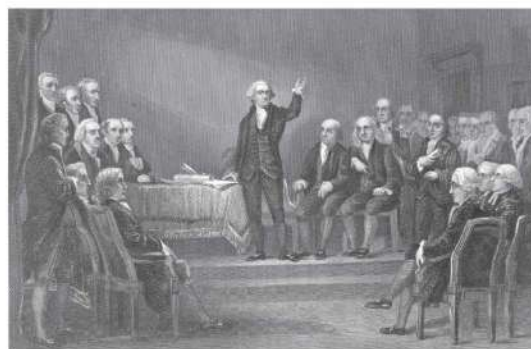


## CHAPTER 6 Debating the Constitution

### *Speeches from the New York Ratification Convention*

The delegates who attended the Federal Convention in Philadelphia in the summer of 1787 knew that the result of their meeting would be controversial. During the months that followed, as the states organized special conventions to ratify or reject the new plan for a federal government, supporters of the Constitution watched anxiously, like bettors trying to handicap a horse race (Figure 6.1). One such observer was George Washington, who had come out of his retirement at Mount Vernon to preside over the Federal Convention. Writing to his friend and fellow Federalist Henry Knox in January 1788, Washington noted that of all the states, “the determinations of new York ... seem the most problematical.”



Source: Hulton Archive/Archive Photos/Getty Images.

*Figure 6.1. George Washington Presiding at the Federal Convention, 1787 This 1799 illustration imagines the delegates at work at the Federal Convention twelve years earlier. No such images appeared at the time of the convention, in part because the delegates conducted their work behind closed doors and refused to discuss it in public until they were finished. The air of secrecy that surrounded the drafting of the Constitution aroused the opposition of some critics, who believed a privileged few were trying to impose a new and less democratic form of government on the many.*

Washington had a gift for understatement. New York had sent three delegates to the Federal

Convention, but when it became clear that the convention intended to replace rather than revise the Articles of Confederation, two of them — Robert Yates and John Lansing — left a few weeks into the proceedings. Yates and Lansing reported their misgivings to New York governor George Clinton, who shared their displeasure with what was happening in Philadelphia. A New York City newspaper, the *Daily Advertiser*, printed the first copy of the Constitution in the state on September 21. Other printers quickly followed, even printing the Constitution in translation so that Dutch-speaking inhabitants could read it in their native language. The Constitution's rapid dissemination throughout the state ensured that it would be the subject of a spirited public debate.

By the time Washington wrote his letter to Knox in early 1788, New York had become a ratification battleground, with well-organized factions on each side raising money and calling in outside support to make their case. Supporters of ratification were known as Federalists. As was the case in other states, they came chiefly from urban and commercial backgrounds

and favored the Constitution because they believed it would create a more centralized and stable union between the states. They wanted a stronger federal government, one capable of acting independently of the states so that the United States could pursue its economic and diplomatic interests more effectively with foreign powers and Indian nations. They also wanted the federal government to have its own taxation power so that it could be financially independent of the states and pay off its debts at home and abroad. The most famous published commentary on the Constitution, a series of eighty-five editorials in New York's newspapers known collectively as *The Federalist*, was a product of their propaganda campaign on behalf of ratification in New York.

The Antifederalists, or opponents of the Constitution, met fire with fire, churning out their own editorials and pamphlets. As in other states, New York's Antifederalists tended to come from backgrounds more rural and less wealthy than Federalists. They were more likely than Federalists to be debtors instead of creditors and to be engaged in

subsistence agriculture rather than commercial food or craft production. They opposed the Constitution because a strong central government reminded them too much of the government they had rebelled against in 1776. The proposed federal government looked too much like the British Crown and Parliament, distant from and unrepresentative of the common people. They feared that the rich and well-connected could easily monopolize power in such a government, shifting the burden of taxation to the lower and middle classes. Worst of all, the proposed Constitution did not even have a bill of rights, a common feature of the state constitutions, that guaranteed the civil liberties such as freedom of speech and freedom of religion that Americans had fought and died for during the Revolution.

When New York's ratification convention finally met in the Hudson River town of Poughkeepsie on June 17, 1788, the Constitution appeared dead on arrival. Governor Clinton, whose Antifederalist sympathies were already well known, chaired the proceedings. More important, of the sixty-five

delegates in attendance, forty-six were Antifederalists, a better than two-to-one margin over the Constitution's supporters. The only counties to send Federalist delegations to Poughkeepsie were centered around New York City; every county north of the lower Hudson Valley was represented by Antifederalists. This geographic distribution reflected a division of interests within the state. Even though lawyers, merchants, and large landowners could be found on each side of the ratification debate, they made up a much larger proportion of the Federalist delegates at the convention (79 percent to 50 percent). From the outset, the New York ratification convention pitted a minority of wealthy, urban Federalists against a majority of Antifederalists from rural counties and more middling social backgrounds.

New York's vote on the Constitution had profound implications for the rest of the United States. When New York's convention opened, eight states had already ratified the Constitution, but contests too close to call were being fought in New Hampshire and Virginia. The Constitution stated that nine of the



thirteen states had to ratify it before the new federal government could be formed. Regardless of how the votes in New Hampshire and Virginia turned out, the new federal government would not fare well if New York stood apart from the union. New York City had the best harbor in the country for overseas trade, and the Hudson and Mohawk rivers provided the nation with its most important route into the continent's interior. New York was also a vital geographic link for trade and communication between New England and the South. Without New York, no one expected the new federal government to prosper or endure.

Despite their numerical superiority at the convention, New York's Antifederalists could not afford to reject the Constitution out of hand. Eight states had already ratified, and the Antifederalist delegates were no more interested in seeing their state stand apart from the union than their opponents were. There was even some talk among the Federalists of splitting the state in two so that the lower Hudson Valley, New York City, and Long Island could join the new federal union if the delegations from the northern

counties refused to budge. When news arrived in Poughkeepsie on June 25 of New Hampshire's positive vote for ratification, it became apparent to all concerned that some version of the Constitution would go into effect, regardless of what the New Yorkers decided. At that point, the chief goal of the Antifederalist leadership became securing a conditional ratification, contingent upon the acceptance of amendments to the Constitution before it went into effect. The Federalists opposed this strategy, because conditional ratification would require convening another interstate convention, thereby delaying and perhaps jeopardizing the installation of the new government. Worse yet, the new federal government might form without the New Yorkers on board, locking them out of key decisions on such matters as the location of the new federal capital.

Once deliberations got under way in Poughkeepsie, leaders emerged on both sides of the debate. As presiding officer, Governor Clinton needed to maintain an air of impartiality, so he spoke rarely. Instead, the Antifederalists' most effective speaker was



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Melancton Smith, a self-educated merchant and lawyer who lived mostly in New York City but who attended the convention as a delegate from upstate Dutchess County, where he owned a large estate. Smith's wealth did not make him a typical Antifederalist, but his unpolished manner and firm commitment to democratic principles made him suspicious of privilege and power and naturally sympathetic to the Antifederalist cause. His chief opponent was Alexander Hamilton, a former aide-de-camp to George Washington who had married into one of the state's wealthiest families. Hamilton had been New York's third delegate to the Federal Convention the previous year, but unlike Yates and Lansing, he supported the convention's designs and signed the Constitution when it was finished. With James Madison and John Jay, he coauthored the *Federalist* newspaper editorials in 1787–1788.

Observers at the ratification convention recognized the talents and energy of both Smith and Hamilton. Poughkeepsie lawyer James Kent called Smith "the most prominent and responsible speaker

on the party of the anti-federalist majority ... Hamilton's most persevering and formidable antagonist." Smith himself described Hamilton as the "champion" of the Federalists: "he speaks frequently, very long and very vehemently." The fate of the Constitution in New York and the nation hinged on the standoff between these two men and their political allies in a Hudson River courthouse.



## Using the Source: The Ratification Debates

The Federal Convention that drafted the Constitution took place in secrecy. The delegates cloistered themselves behind closed doors and did not speak a word to anyone about their proceedings until they finished their business several months later. The process of ratification was different. Each state called a special convention solely for the purpose of passing judgment on the Constitution. These conventions were as open and public as the Federal Convention had been closed and secret. New York's ratification convention was no exception: the Poughkeepsie courthouse accommodated two hundred spectators in addition to the sixty-five delegates. For the first two weeks of the convention, the *Daily Advertiser* printed each day's debates in full; after July 2 (when news of Virginia's ratification arrived), it printed summaries of each day's proceedings. Like the other state ratification conventions, New York left a substantial public record that has captivated historians ever since.

Each state determined the time and place of its ratification convention and the means by which delegates would be selected for it. Most states held special elections for delegates to their conventions, using the same eligibility requirements for voting that they did for elections to the state legislature. New York differed from this practice by temporarily expanding its franchise, allowing all free adult males to vote for delegates to the ratification convention. This move actually had little effect on the number of votes cast, because the state's 1777 constitution had already significantly lowered the amount of property a man had to own to be eligible to vote. It did, however, indicate the pervasive belief among Federalists and Antifederalists alike that the power of the proposed federal government would derive directly from the people, and, therefore, they would have to be the ultimate arbiters on ratification. Of course, this definition also reflected their consensus that the "people" did not include women, slaves, or other groups traditionally excluded from the political process.





## What Can the Ratification Debates Tell Us?

The great advantage to studying the proceedings of the ratification conventions is that they provide the fullest record available of how Americans interpreted the Constitution at the time it was adopted. In other words, this source speaks directly to one of the guiding principles of constitutional interpretation: what was the original intent of the framers of the Constitution? Strict constructionists, those scholars and judges who believe that the power of the federal government should extend no further than is explicitly stated in the Constitution, place great emphasis on original intent and argue that the purposes and ideas of those men who adopted the Constitution should guide our interpretation of the document. Loose constructionists, on the other hand, believe that the Constitution is a "living document" that needs to be reinterpreted by each generation if it is to meet the needs of a changing society. They place less importance on original intent but still argue with strict

constructionists about what the framers had in mind when they wrote and ratified the Constitution. Some of the most hotly debated constitutional issues of today, such as gay rights and affirmative action, testify to how far removed our modern society is from the world of Alexander Hamilton and Melancton Smith, yet the words they spoke in Poughkeepsie in 1788 are an important part of the textual record lawyers and judges use to interpret the Constitution in our courtrooms.

In arguing over original intent, strict constructionists and loose constructionists invariably refer to the same set of sources: the notes kept by James Madison during the Federal Convention, editorials and pamphlets published during the ratification process in 1787–1788, and the proceedings of the state ratification conventions. Madison's notes are important because he was the primary author of the Constitution, and he left the most complete account of what occurred during the Federal Convention in Philadelphia. The political tracts published during 1787–1788 convey the visceral



intensity of the debate over ratification. Neither of these sources, however, compares to the proceedings of the state ratification conventions in presenting the range and depth of the Federalist and Antifederalist positions. Even a cursory review of the state convention records reveals that the debate over original intent should really be one over "original intents," because there was such a variety of opinions expressed among the delegates who decided the ratification issue.

The proceedings of the ratification conventions also illustrate the nature of political expression and ideology in post-Revolutionary America. In our age of modern media politics, in which politicians speak in sound bites that are measured in seconds, we may find it strange that convention delegates gave speeches that lasted for hours and commanded the rapt attention of their audiences. As indicated by the following excerpt from a June 21, 1788, speech by Alexander Hamilton, the delegates sprinkled their debates liberally with references to the republics of ancient Greece and Rome.

It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position by a variety of historical examples, both ancient and modern. In Sparta, the ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men; but they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three tribunes, who were afterwards increased to ten. Every one acquainted with the history of that republic will recollect how powerful a check to the senatorial encroachments this small body proved; how unlimited a confidence was placed in them by the people, whose guardians they were; and to what a conspicuous station in the government their influence at length elevated the plebeians.

One of the city-states of ancient Greece

Representatives of the common people in the Roman republic, who possessed a veto power over other magistrates

The common people of ancient Rome

Elected annually as overseers of Sparta's kings, whom they could impeach and depose if the kings acted contrary to the law

What assumption is Hamilton making here about the education of his audience?

Refers to the Roman Senate, which represented the aristocracy

Source: Bernard Bailyn, ed., *The Debate on the Constitution: Federalist and Anti-Federalist Speeches, Articles, and Letters during the Struggle over Ratification* (New York: Library of America, 1993), 2:758.

"The article reads, It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position by a variety of historical examples, both ancient and modern. In Sparta, the ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men; but they were able to





protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three tribunes, who were afterwards increased to ten. Everyone acquainted with the history of that republic will recollect how powerful a check to the senatorial encroachments this small body proved; how unlimited a confidence was placed in them by the people, whose guardians they were; and to what a conspicuous station in the government their influence at length elevated the plebeians.

Annotations are as follows:

Sparta: one of the city-states of ancient Greece;

Ephori: Elected annually as overseers of Sparta's kings, whom they could impeach and depose if the kings acted contrary to the law;

Tribunes: Representatives of the common people in the Roman republic, who possessed a veto power over other magistrates;

Everyone acquainted with the history of that republic: What assumption is Hamilton making here about the education of his audience?

Senatorial encroachments: Refers to the Roman

Senate, which represented the aristocracy;  
Plebeians: The common people of ancient Rome.”

These references may strike us now as haughty and obscure, but this political language resonated among Hamilton's listeners. By reading these speeches and trying to unlock their persuasive power, we can gain insight into the political culture and ideology that generated the Constitution.

A disadvantage arising from the use of this source is the difficulty of measuring how much effect public speeches and debates had on the votes cast at the ratification conventions. Delegates got elected to the New York ratification convention in part because their constituents already knew how they would vote. Then, as now, political debate made for good public theater, but did the eloquence of Alexander Hamilton or Melancton Smith actually convince any of the delegates to change their minds? We know from the final vote tally that some of the Antifederalist delegates ended up voting for ratification, but we do not know if they did so because of the persuasive power of the speeches they heard or because of some other



motivation.

Certainly, factors external to New York influenced the proceedings. After news of Virginia's ratification reached Poughkeepsie on July 2, the proceedings changed markedly. Delegates gave fewer speeches and spent most of their time negotiating the wording of proposed amendments and ratification resolutions. How should historians weigh this change in circumstances when trying to determine the effect of the speeches made before July 2? In fathoming the motivations behind the final vote, we must also consider the possibility that some delegates voted for unstated reasons of personal interest, such as the desire for public office in the new federal government, or because of compromises struck with their rivals behind closed doors.

In other words, the ratification debates are a great source for reconstructing the public arguments Federalists and Antifederalists made for and against the Constitution, but we cannot rely on them solely if we wish to reconstruct the thoughts behind the votes cast in the ratification conventions. That is why

historians usually supplement their work on the debates with research into the backgrounds and personal writings of the convention delegates. In private letters or recollections, the men who decided the fate of the Constitution were often more plainspoken about the delicate balancing of ideology and interests that determined their votes than they were in their public speech. Also, research into the economic and social background of the delegates helps uncover patterns in the voting on ratification that may confirm or contradict the delegates' public statements about the Constitution.

When examining the speeches from any political debate, you will want to ask some questions about the speaker, the ideas being expressed, and the interests being represented; the Checklist that follows will help you in this regard.

**Checklist: Interrogating Political Debates**

- Who is the person delivering the speech? What do you know about the speaker's social and economic background?
- Which side of the debate does the speaker represent?
- What are the main points of the speaker's argument? What principles does the speaker defend or attack?



- What sort of terms or language does the speaker use to make his or her argument? How does it compare with the terms and language used by the opposing side?
- Can you discern any hidden bias or motives behind the rhetoric used by the speaker?

<b>Constitution's Effect on the States</b>		
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## Source Analysis Table

As you read through the source, use the following table to help organize your notes and summarize the Federalist and Antifederalist positions on the issues of representation in Congress, sources of corruption, and the Constitution's effect on the states.

	Federalists	Antifederalists
<b>Representation in Congress</b>		
<b>Sources of Corruption</b>		

Location 3452





## The Source: Speeches Debating the Constitution from the New York Ratification Convention, June 21–28, 1788

The passages that follow are from debates that occurred between June 21 and June 28, when delegates on both sides gave long speeches detailing their contrasting opinions on the Constitution. You will notice that the style of presentation varies from one speech to the next. Some read like verbatim transcriptions, whereas others read like an editor's narrative summary of the speech's content. These differences resulted from day-to-day variances in how the proceedings were recorded by a newspaper editor who published them in the *Daily Advertiser*, a New York newspaper.

### Representation in

## Congress

One of the Antifederalists' chief objections to the Constitution was that the House of Representatives was not representative enough. The House would be limited in size to no more than one representative for every 30,000 people (today, it is about one representative for every 650,000 people). Antifederalists believed this limitation would lead to electoral districts much too large to represent the people adequately and that election would be out of the reach of any candidate not rich or famous enough to command reputation over such a wide area. Federalists responded to this argument by questioning whether more representatives actually meant better representation.

### 1 Melancton Smith

#### June 21, 1788

To determine whether the number of representatives proposed by this Constitution is sufficient, it is proper to examine the qualifications which this house<sup>1</sup> ought to possess, in order to exercise



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their power discreetly for the happiness of the people. The idea that naturally suggests itself to our minds, when we speak of representatives, is, that they resemble those they represent. They should be a true picture of the people, possess a knowledge of their circumstances and their wants, sympathize in all their distresses, and be disposed to seek their true interests. The knowledge necessary for the representative of a free people not only comprehends extensive political and commercial information, such as is acquired by men of refined education, who have leisure to attain to high degrees of improvement, but it should also comprehend that kind of acquaintance with the common concerns and occupations of the people, which men of the middling class of life are, in general, more competent to, than those of a superior class. To understand the true commercial interests of a country, not only requires just ideas of the general commerce of the world, but also, and principally, a knowledge of the productions of your own country, and their value, what your soil is capable of producing, the nature of your manufactures, and the capacity of the country to

increase both. To exercise the power of laying taxes, duties, and excises, with discretion, requires something more than an acquaintance with the abstruse parts of the system of finance. It calls for a knowledge of the circumstances and ability of the people in general — a discernment how the burdens imposed will bear upon the different classes.

From these observations results this conclusion — that the number of representatives should be so large, as that, while it embraces the men of the first class, it should admit those of the middling class of life. I am convinced that this government<sup>3</sup> is so constituted that the representatives will generally be composed of the first class in the community, which I shall distinguish by the name of the natural aristocracy of the country. I do not mean to give offence by using this term. I am sensible this idea is treated by many gentlemen as chimerical.<sup>4</sup> I shall be asked what is meant by the natural aristocracy, and told that no such distinction of classes of men exists among us. It is true, it is our singular felicity that we have no legal or hereditary distinctions of this kind; but still there are real



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differences. Every society naturally divides itself into classes. The Author of nature<sup>5</sup> has bestowed on some greater capacities than others; birth, education, talents, and wealth, create distinctions among men as visible, and of as much influence, as titles, stars, and garters. In every society, men of this class will command a superior degree of respect; and if the government is so constituted as to admit but few to exercise the powers of it, it will, according to the natural course of things, be in their hands. Men in the middling class, who are qualified as representatives, will not be so anxious to be chosen as those of the first. When the number is so small, the office will be highly elevated and distinguished; the style in which the members live will probably be high; circumstances of this kind will render the place of a representative not a desirable one to sensible, substantial men, who have been used to walk in the plain and frugal paths of life.

... A substantial yeoman,<sup>6</sup> of sense and discernment, will hardly ever be chosen. From these remarks, it appears that the government will fall into the hands of the few and the great. This will be a

government of oppression. I do not mean to declaim against the great, and charge them indiscriminately with want of principle and honesty. The same passions and prejudices govern all men. The circumstances in which men are placed in a great measure give a cast to the human character. Those in middling circumstances have less temptation; they are inclined by habit, and the company with whom they associate, to set bounds to their passions and appetites. If this is not sufficient, the want of means to gratify them will be a restraint: they are obliged to employ their time in their respective callings; hence the substantial yeomanry of the country are more temperate, of better morals, and less ambition, than the great. The latter do not feel for the poor and middling class; the reasons are obvious — they are not obliged to use the same pains and labor to procure property as the other. They feel not the inconveniences arising from the payment of small sums. The great consider themselves above the common people, entitled to more respect, do not associate with them; they fancy themselves to have a right of preeminence in every thing. In short, they





possess the same feelings, and are under the influence of the same motives, as an hereditary nobility. I know the idea that such a distinction exists in this country is ridiculed by some; but I am not the less apprehensive of danger from their influence on this account....

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*Source:* All debate passages reprinted in this chapter are excerpted from Bernard Bailyn, ed., *The Debate on the Constitution: Federalist and Anti-Federalist Speeches, Articles, and Letters during the Struggle over Ratification* (New York: Library of America, 1993), 2:759–835.

**2 Alexander Hamilton**

**June 21, 1788**

Mr. *Hamilton* then reassumed his argument....

It has been observed, by an honorable gentleman,<sup>1</sup> that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government. Their very

character was tyranny; their figure, deformity. When they assembled, the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity.<sup>2</sup> In these assemblies, the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies of another party; and it became a matter of contingency, whether the people subjected themselves to be led blindly by one tyrant or by another.

It was remarked yesterday, that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position by a variety of historical examples, both ancient and modern. In Sparta, the ephori were a body of magistrates, instituted as a check upon the senate, and representing the people. They consisted of only five men; but they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome, the people were represented by three tribunes, who were afterwards

