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## **Adjusting to Circumstances: New York's Relationship with the Federal Government, 1776-1788**

John P. Kaminski

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**By John P Kaminski**

On April 20, 1777 the newly-declared state of New York adopted its first constitution. Unarguably it was one of the most conservative forms of government established by any of the thirteen rebellious colonies. Aristocratic New Yorkers looked forward to electing their leader, Philip Schuyler, as the state's first governor in June 1777; but much to their dismay, George Clinton, an upstart militia officer from Ulster County, was the people's choice. This election was a harbinger of politics in New York for the next quarter century. Clinton's primary source of support came from the yeoman farmers of the northern counties of Orange, Ulster, Albany, Washington, and Montgomery. His opposition was primarily centered in New York City, the city of Albany, the town of Hudson, and the lower counties of Kings, Queens, Richmond, and Westchester.

When George Clinton was first elected governor, the aristocracy thought him unqualified for the position. They looked forward to his defeat in 1780, but, with the military exigencies of the time, Clinton was reelected for a second term. In 1783, with peace restored, Clinton had solidified his position and he was easily reelected to his third term. By 1786 the governor's popularity had reached such a level that he was unchallenged in his bid for his fourth consecutive term. Anti-Clintonians continued their opposition to the governor's policies within the state, but by the mid-1780s they had decided to combine their efforts with like-minded men in other states in an effort to strengthen the general government. A stronger central government might be able to limit the radical policies of the state

legislatures. Thus the original intra-state conflict between the middle-class forces of George Clinton and his aristocratic opponents became part of a larger continental struggle between the supporters of a confederation of sovereign states and the advocates of a strengthened central government with coercive powers over the states and the people.

### **The Revolution A Bond of Necessity**

New York suffered more from the Revolution than any other state. Military activity occurred incessantly in the state and New York City and the six lower counties were occupied by British troops for much of the war. New York continually sought assistance from Congress--assistance that seldom materialized because of the weakness of Congress. Both Clintonians and Anti-Clintonians agreed that Congress had to be strengthened in order to deal effectively with the military problems. In early September 1780 Alexander Hamilton called for a national convention that would grant Congress additional powers. On September 7th Governor Clinton addressed the legislature and echoed Hamilton's appeal for a stronger Congress. Later in the month, the legislature appointed three delegates to attend a convention of states in Hartford that was "to propose and agree to . . . all such Measures as shall appear calculated to give a Vigor to the governing powers, equal to the present Crisis."

The Hartford Convention, composed of delegates from New

England and New York (John Sloss Hobart and Egbert Benson), met from 8 to 22 November 1780. It proposed that the army be authorized to collect revenue and that Congress be empowered to levy import duties. Within three months Congress itself asked the states to grant it the power to levy a five percent import duty to help pay the national debt that was mounting because of the war. With the British occupying New York City and no import duties coming into its coffers, the New York legislature swiftly approved the continental impost on March 19, 1781. Eleven other states followed New York's example. Only Rhode Island refused. But, because of the unanimity provision of the Articles of Confederation, Rhode Island's refusal killed the impost.

Two years after the American victory at Yorktown, New York City was still occupied by the British. The American army and the state militias remained unpaid and public creditors received no interest on their securities. In this atmosphere, a special session of the New York legislature met in July 1782 and resolved that Congress be given the power to tax and that a general convention of the states be called to amend the Articles of Confederation accordingly. The resolutions were forwarded to Congress which, however, took no action on them.

### **The New Policies of Peace**

On November 30, 1782 the preliminary articles of peace were signed in Europe and hostilities ceased in America in mid-March 1783. With the cessation of hostilities and the British

evacuation of New York City, the military justification for a strong Union came to an end, and the Clintonians reassessed their state's position within the Union. The governor and his supporters decided that all their efforts should be directed at making New York as strong as possible within the loose federal alliance of the Articles of Confederation. Toward this end, the Clintonians devised a new system of revenue composed of three parts: (1) a state impost, (2) the sale of Loyalist estates and unsettled state lands, and (3) a moderate tax on real and personal property. This new system directly pitted the state-oriented Clintonians against their more nationally-minded opponents who wanted a strengthened Congress.

The new Clintonian policy was inaugurated on March 15, 1783 with the repeal of New York's earlier approval of the Impost of 1781. The state impost was to be the cornerstone of the Clintonian financial system and, as such, it could not be surrendered to Congress. Annual income from the state impost during the Confederation years ranged between \$100,000 and \$225,000, and represented one-third to one-half of the state's annual income.

The impost was especially important to the Clintonians because much of it was paid by non-New Yorkers. About half of all foreign goods imported by Connecticut and New Jersey came through the port of New York. The people of these two states, along with Vermont, Massachusetts, and the southern states to a lesser degree, indirectly contributed to New York's impost revenue every

time they bought European goods imported through New York. Thus, out-of-staters reduced the tax burden of New Yorkers. This hidden tax on consumers was collected by merchants--a group not well represented in the ranks of Clintonians. By forcing merchants to pay the impost, albeit through increasing the prices of imported goods, the Clintonians reduced the taxes on real and personal property. In this way, the Clintonians championed yeoman farmers who supported the governor's efforts to keep their taxes low.

Besides the impost, the Clintonians raised almost \$4,000,000 from the sale of confiscated Loyalist estates. Aristocratic manor lords did not like to see these once glorious estates broken up and sold in small parcels--it was not a good omen for their own future. Nationalists also opposed the Clintonians' confiscation of Loyalist property in those areas evacuated by British troops in 1783 because such actions violated the Treaty of Peace. How could Congress force Britain to obey the treaty if the states violated it with impunity?

New York's unsettled land was also important in the Clintonian financial picture. This vast territory promised huge future revenues. But New Yorkers had fears about this resource. New York's claim to the area known as Vermont was disputed by New Hampshire and Massachusetts. New York pursued its claims in Congress with little success. The state's delegates to Congress reported to Governor Clinton on April 9, 1784 that Congress is determined "not to do any thing about the matter, expecting that in Time we shall be obliged to consent that [Vermont should]

. . . become a separate State." In the same letter, the delegates warned Clinton about the possible attempts to seize New York's northwestern territory. "Upon the whole Sir it is our opinion that the utmost Vigilance ought to be exercised to prevent any encroachment on our Territory as we are to expect no protection otherwise than from our own arms." Three weeks later one of the state's delegates reported that "it appears to be the general Sense" of Congress "that the western Country ought to be Considered as belonging to the united States in Common." Therefore, the delegate recommended that New York should consider itself "Sorounded with open and avowed Enemies." On the 4th of June 1784 another New York delegate warned the legislature to take "every precaution respecting the W. Territory" because "a Plan is formed and perhaps wrought into System to take that Country from us."

Thus, the Clintonians clearly saw that any attempt to strengthen Congress would probably result in the loss of the state impost and future sales of lands from confiscated Loyalist estates, from Vermont, and from northwestern New York. If these sources of revenue were lost, real and personal property taxes would have to be raised significantly to pay the state debt and to meet the regular expenses of government. The Clintonians would not allow Congress to wrest away the state's most productive sources of revenue.

#### **The Hard Times of 1785-1786**



The end of the Revolution in New York was accompanied by a short period of prosperity followed by a serious economic depression. To relieve the hardships of the depression and to stimulate the economy, a demand arose for the state to create a land bank that would loan paper money on real estate collateral.

Governor Clinton at first opposed such a land bank but by the spring of 1786 he came to support the proposal as an opportunity to aid distressed debtors while improving his own political standing. A provision added to the paper money bill provided that \$125,000 of the paper money would be used to pay the interest and principal on the entire state debt and on two kinds of federal debt owned by New Yorkers. The federal securities funded by the bill amounted to \$1,400,000 owned by about 25 percent of New Yorkers. The remaining \$3,600,000 in federal securities, largely owned, by several hundred wealthy Anti-Clintonians, was left unfunded. Clinton was, therefore, able to get the paper money bill enacted, cement his strength among state public creditors, and gain new support from the majority of federal public creditors within the state, while not unduly benefiting his opponents. It was now in the interest of New York public creditors to support the state's financial interests over those of the Union. Furthermore, the paper money loaned to farmers held its value well and allowed many debtor farmers to avoid bankruptcy and foreclosure proceedings. The paper money, along with revenue from land sales and the state impost, allowed New York to purchase large quantities of federal securities with

interest-bearing state securities. By 1790 the state of New York owned federal securities worth over \$2,880,000 in gold. The interest due New York on these federal securities more than equalled the annual requisitions on the state by Congress. Thus New York had been transformed from a debtor state into one of the wealthiest creditor states in the Union. The interest of most New Yorkers had become connected with the state and its governor rather than with the general government.

### Commerce

Although Governor Clinton made a concerted effort to attach farmers to his policies, he also wholeheartedly encouraged foreign commerce. The more trade that came through the port of New York, the greater the revenue from the state impost. Therefore, when commerce deteriorated in 1785-86, the Clintonians joined their political adversaries in seeking ways to stimulate trade. This explains why New York in April 1785 gave Congress additional commercial powers to restrain trade with countries without commercial treaties with the United States. It also explains why New York appointed five delegates to attend the Annapolis Convention which was called to consider the country's commercial problems. The legislature, however, provided that any proposals emanating from the Annapolis Convention had to be approved by all of the states. Thus, New York was willing to consider a national commercial plan, but it reserved the right to reject any plan that might be detrimental to the state.

### The Impost of 1783

By the beginning of 1783 Congress' financial condition was desperate. During the first four months of the year, Congress debated measures to alleviate the situation. In April a unified program was adopted that included another request for a federal impost. Unlike the Impost of 1781, New York refrained from adopting the new impost. Clintonians hoped that some other state would reject Congress' new attempt to seize New York's most lucrative revenue producer. But by spring 1786 all of the other states had adopted the impost in one form or another. New York could not remain aloof--it had to address the issue.

In order to sway public opinion in their favor, the Clintonians launched a masterful newspaper campaign which emphasized the dangers inherent in giving Congress an independent source of revenue. With its own income guaranteed, Congress would soon "swallow up" the state legislatures; and with the disappearance of the states as viable political entities, freemen would lose many of their hard-won rights. Thus, at least in the public debate, the issue was not primarily economic. New York, by rejecting the impost, could save the entire country from becoming a centralized despotism.

All attention was focused on New York as the legislature debated the impost in May 1786. Clintonians were keenly aware that their motives would be questioned if they simply rejected the impost outright. Consequently, the Clintonian-dominated

legislature chose a middle ground. New York adopted the impost but refused to give up the right to supervise and remove the collectors of the impost. The state also reserved the right to use the recently issued state paper money to pay the impost revenue to Congress.

As expected, Congress rejected New York's ratification of the impost and asked Governor Clinton to call a special session of the legislature to reconsider the matter. The governor rejected Congress' request because, in his judgment, no emergency existed. Congressional delegates condemned New York for endangering the country and sent a second appeal to Governor Clinton. The governor again refused. When the legislature reconvened in regular session it reconsidered the impost and on February 15, 1787 the Assembly voted 38 to 19 to retain the provisions objected to by Congress. Thus revenue from duties collected on imported goods coming through the port of New York would still flow into the state treasury. The Assembly's action had killed the federal but preserved the state impost. It was evident that New York's interests were not the same as the interests of the United States.

### **Congress Calls the Constitutional Convention**

Only five state delegations attended the commercial convention at Annapolis. Instead of transacting business with such a small representation, the delegates called a new general

convention of the states to meet in Philadelphia in May 1787 to revise the Articles of Confederation. In order to remove any doubt about the constitutionality of this general convention, Congress had to sanction the meeting. By the third week in February, when Congress took up the issue, several states had already appointed delegates to the general convention. New York's delegates in Congress proposed that the Annapolis Convention report be ignored, and that Congress consider a resolution agreed to by the New York legislature on 20 February 1787 calling for a general convention to consider "alterations and amendments" to the Articles of Confederation that would "render them adequate to the preservation and support of the Union." Some congressional delegates viewed New York's proposal with skepticism, especially in light of the Assembly's recent defeat of the impost. Since New York's proposal ignored the Annapolis Convention report and the actions of those states that had already appointed delegates to a general convention, it was believed that New York was attempting to sabotage the entire convention movement by dividing Congress between two different proposals. Other delegates, however, saw the value in the convention proposal originating from a state rather than from an extra-legal body such as the Annapolis Convention.

New York's motion was rejected by Congress. Another resolution was proposed that implicitly acknowledged the Annapolis Convention report and sanctioned the elections of delegates that had already taken place. But the resolution

limited the power of the proposed convention which was called "for the sole and express purpose of revising the Articles of Confederation." Any proposals from the convention would have to be approved by Congress and by the states before taking effect.

### **New York's Delegates to the Constitutional Convention**

After a month's debate, the legislature agreed that three delegates to the Constitutional Convention should be elected by separate balloting in both houses of the legislature--the same method used to elect the state's delegates to Congress. On March 6 the Assembly voted for its candidates. State Supreme Court Justice Robert Yates and Alexander Hamilton were overwhelmingly elected. The final candidate selected, Albany Mayor John Lansing, Jr., narrowly defeated New York City Mayor James Duane by a vote of 26 to 23. The state Senate nominated the same three candidates, who were thus declared elected. A month later, at Hamilton's behest, the Assembly called for the appointment of two more delegates, but the Senate rejected the enlargement of the delegation.

The three New York delegates to the Convention were prominent in state politics. Albany lawyer Robert Yates was the senior delegate. He was forty-nine years old and had served on the state Supreme Court since its establishment in 1777. Thirty-three-year-old John Lansing, Jr., was mayor of Albany and was perhaps the wealthiest Clintonian. He had studied law with Robert

Yates and had been a delegate to Congress in 1785 and a state assemblyman from 1780 to 1784 and again in 1786 when he served as speaker. Alexander Hamilton, a thirty-year-old New York City lawyer and Philip Schuyler's son-in-law, had distinguished himself in the army during the Revolution, and afterwards as a member of Congress in 1782-83, a commissioner to the Annapolis Convention in 1786, and as a state assemblyman in 1787. Hamilton's reputation as a strong nationalist was well known. Yates and Lansing, on the other hand, were thought to be opponents of any serious attempt to strengthen the general government, especially if that entailed the loss of the state's impost.

Yates and Hamilton first attended the Convention on May 25. Lansing arrived a week later on June 2. During the Convention, Yates and Lansing aligned with a minority of delegates who favored a revision of the Articles of Confederation that would strengthen Congress without relinquishing the sovereignty of the individual states. They usually voted in tandem against Hamilton, and it was said that Lansing usually followed the lead of and was deferential to Yates. Since voting was by state delegation, New York's vote usually supported state sovereignty.

On June 16 Lansing gave a speech in which he said that the mere consideration of a national government violated the resolution of Congress and the delegates' commissions from their states. New York, he said, "would never have concurred in sending deputies to the convention, if she had supposed the deliberations

were to turn on a consolidation of the States, and a National Government." Furthermore, the states would never "adopt & ratify a scheme which they had never authorized us to propose and which so far exceeded what they regarded as sufficient." The people looked for, hoped for, and would "readily approve" only "an augmentation of the powers of the [Confederation] Congress."

Hamilton's stance was diametrically opposed to his fellow New Yorkers. On June 18 he delivered an impassioned, five-hour oration in which he outlined a plan of government. Hamilton preferred a bicameral Congress in which the lower house would be elected by the people for three-year terms. The upper house or Senate would be elected by electors chosen by the people and would serve for life. The single chief executive was also to be elected by electors and would have life tenure. This president of the United States would be commander in chief and would have an absolute veto over acts of Congress. The supreme judicial authority was to be lodged in a court of twelve justices with life tenure. Congress could also create inferior courts. All state laws contrary to the United States constitution or federal laws would be considered null and void. All state governors would be appointed by the president and would have veto power over their state legislatures. No state was to have an army or navy and the militias were to be under the exclusive direction of the United States.

Hamilton knew that his plan was too extreme for the Convention or for the public. But he believed that there were



"evils operating in the States which must soon cure the people of their fondness for democracies." Once the people tired of democracy, they would endorse his beliefs. Because of his sincerity and his eloquence, Hamilton was "praised by every body" in the Convention, but he was "supported by none." He left the Convention frustrated at the end of June after being continually outvoted by his two companions.

As the Convention inexorably moved toward a more national government, Yates and Lansing became increasingly more disenchanted. They finally left the Convention on July 10 and did not return. New York was thus unrepresented. Hamilton returned to the Convention after August 6, but under the rules of the Convention, New York's vote was not counted because only one delegate was present. Hamilton was absent again from August 20 to September 2. On September 8 he was appointed to the Committee of Style that wrote the final version of the Constitution, and nine days later he signed the Constitution as the only delegate for New York.

For some reason, Yates and Lansing waited a while before publicly declaring their objections to the proposed Constitution. It was said that Governor Clinton "had a hand" in convincing Yates and Lansing to write their report. Finally, on December 21, 1787, ten days before the scheduled legislative session, Yates and Lansing wrote Governor Clinton, giving their reasons for opposing the proposed Constitution and for not returning to the Convention. When a quorum assembled on January 11, Clinton gave

the legislature the letter and the proposed Constitution.

In their letter, Yates and Lansing said that they opposed the proposed Constitution because it created "a system of consolidated Government" which was not "in the remotest degree . . . in contemplation of the Legislature of this State. . . . If it had been the intention of the Legislature to abrogate the existing Confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea." Furthermore, "a general Government," such as the one proposed by the Convention, "must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it." They were convinced that the new Constitution could not "afford that security to equal and permanent liberty, which we wished to make an invariable object of our pursuit." Although they were not present when the Convention signed the Constitution, they were convinced before they left that the Constitution's "principles were so well established . . . that no alteration was to be expected, to conform it to our ideas of expediency and safety. A persuasion that our further attendance would be fruitless and unavailing, rendered us less solicitous to return."

### **The Public Debate over the Constitution**

The public debate over the Constitution in New York was an extension of the debate over strengthening the Articles of

Confederation that had been going on since the Revolution. From 1783 to 1787 the debate had in large measure centered on the federal impost. Beginning in February 1787, however, the debate broadened and focused on the type of government best suited for America. During the four months that the Constitutional Convention sat, Federalists used the state's newspapers to prepare the public to receive whatever the Convention proposed. No opposition to the Convention or warnings about what might be proposed appeared in the press during these months.

The proposed Constitution was first printed in New York City in the Daily Advertiser on September 21. Three days later the Advertiser published the first New York commentary on the Constitution in the state. The Constitution, it said, would "render us safe and happy at home, and respected abroad." Adoption of the new form of government would "snatch us from impending ruin" and provide "the substantial basis of liberty, honor and virtue." It was "the duty of all honest, well-disposed men, friends to peace and good government . . . to cultivate and diffuse . . . a spirit of submission" to the Constitution; which, although not perfect, was "much more so than the most friendly and sanguine expected."

In the months of public debate that followed, Antifederalists condemned the Constitutional Convention for violating the Articles of Confederation, the instructions from state legislatures, and the resolution of Congress calling the Convention. They predicted that the Constitution would create a

national government that would end in either aristocracy or monarchy and would, in time, destroy the state governments. They reprobated the lack of a bill of rights, especially since the new Constitution and laws and treaties made in pursuance thereof were declared the supreme law of the land. The president and Senate were too powerful, and the Senate held legislative, executive, and judicial powers, thus violating the concept of separation of powers. The House of Representatives was too small to represent all segments of American society, and Congress had dangerous powers, some of which were undefined. Officeholders would surely multiply under the new government and taxes would consequently rise. Jury trials in civil cases were not guaranteed and the appellate jurisdiction as to law and fact favored the wealthy. Various provisions in the Constitution recognized, condoned, protected, and even encouraged slavery. Antifederalists believed that the state conventions should not ratify the Constitution but should recommend amendments to another general convention. In this way, the people would obtain the best form of government with the least danger to their liberties.

Federalists responded that the new Constitution would create a federal republic with delegated powers divided among legislative, executive, and judicial branches that would check each other. Since the new government would have only delegated powers, it was unnecessary to have a national bill of rights. Federalists stressed the unanimity of the Convention in creating a constitution that was an accommodation among thirteen jarring

interests. No new convention could hope to produce a more acceptable compromise. The illustrious Washington, the sage Franklin, and other prominent Americans were continually cited as strong supporters of the new government. Opponents were labeled selfish state officeholders, demagogues, debtors, Shaysites, Tories, and worse. If the Constitution were rejected, anarchy would ensue, and, following the commonly accepted circular theory of government, a tyrant would eventually seize power, restore order, and establish a despotism. If the Constitution were adopted, commerce would revive, the economy would flourish, public creditors would be paid, land values would rise, paper money would be abolished, government expenses would decline, taxes would be reduced, immigration would increase, and the prestige of America would rise. Once the new government was functioning, defects in the Constitution could be corrected through the system's own process of amendment.

The public debate over the Constitution in New York began in earnest on September 27th when the New York Journal printed the first of seven essays by Cato, said to have been written by Governor Clinton. Cato called on freemen to be prudent and cautious--"if you are negligent or inattentive, the ambitious and despotic will entrap you in their toils, and bind you with the cord of power from which you, and your posterity, may never be freed. . . . Beware how you determine--do not, because you admit that something must be done, adopt anything." If the Constitution were found defective, another convention could consider

amendments. The Constitution should be adopted if it were found acceptable, but if it were judged to be dangerous, freemen were urged to "reject it with indignation--better to be where you are, for the present, than insecure forever afterwards."

On October 1st Caesar, allegedly Alexander Hamilton, charged Cato with demagoguery. Caesar asked "shall we now wrangle and find fault with that excellent whole, because, perhaps, some of its parts might have been more perfect?" He then warned Cato and other Antifederalists that it would be wiser to accept George Washington willingly as the first president under the Constitution than to have the former commander in chief lead another army to establish the Constitution by force.

Before October 18th, New York newspapers relied heavily on items originally printed outside the state. After that date, however, the New York press became the national center for the public debate over the Constitution. Antifederalist and Federalist propagandists were tireless in producing material. For the most part, New York newspapers were Federalist oriented, especially those upstate in Albany, Lansingburgh, Hudson, and Poughkeepsie. New York City had three staunchly Federalists newspapers--the Daily Advertiser, Independent Journal, and New York Packet. The New York Morning Post was fairly neutral, while the New York Journal was rabidly Antifederalist. To assist in disseminating Antifederalist material, a committee of gentlemen was formed in New York City. Led by Collector of Customs John Lamb and his son-in-law Charles Tillinghast, this committee

vigorously solicited, edited, published, and distributed Antifederalist literature throughout New York and Connecticut, and to a lesser extent, the entire country.

Antifederalist essayists took the initiative in New York-- first with the Cato essays and then followed by series signed by Brutus, Cincinnatus, A Countryman, Expositor, and Sidney. Federalists responded with Philo-Publius, Americanus, A Country Federalist, Examiner, and the Albany Fabius.

The single most important Antifederalist publication in New York, and probably in the entire country, was the pamphlet Observations Leading to a Fair Examination of the System of Government Proposed by the Late Convention . . . In a Number of Letters from the Federal Farmer to the Republican. Published during the first week in November 1787, this forty-page pamphlet was reprinted in several editions in "different states, and several thousands of them" were sold. The Poughkeepsie Country Journal was the only newspaper in the country to reprint the entire pamphlet.

By far the most admired New York essays were entitled The Federalist written by Alexander Hamilton, James Madison, and John Jay under the pseudonym Publius. A total of eighty-five numbers were published between October 27, 1787 and May 28, 1788 in four New York City newspapers and in book form. The first essays had a fairly extensive nationwide circulation, but as the numbers kept pouring forth from the presses, their circulation diminished. Newspaper republication almost ceased after it was announced that

the entire series would be published in a two-volume edition. The first volume containing thirty-six essays was published on March 22, 1788. The second volume containing forty-nine numbers appeared on May 28, 1788. Federalists throughout the United States generally considered these essays as the best analysis of the Constitution, but some Federalists thought that the essays were too "elaborate" and not "well calculated for the common people." Antifederalists like Federal Farmer believed that The Federalist had "but little relation to the great question, whether the constitution is fitted to the condition and character of the people or not." Despite the significant place The Federalist has assumed in American political thought, its impact on New York's reception of the Constitution was negligible.

Far more important in the political battle to get the Constitution ratified in New York was John Jay's An Address to the People of the State of New York signed by A Citizen of New-York. In this nineteen-page pamphlet published on April 15, 1788, Jay methodically demonstrated the weaknesses of the Articles of Confederation and the necessity of "a national government competent to every national object." He asked New Yorkers to unite with the other states "as a Band of Brothers; to have confidence in themselves and in one another . . . [and] at least to give the proposed Constitution a fair trial, and to mend it as time, occasion and experience may dictate." Jay's pamphlet reportedly had a "most astonishing influence in converting Antifederalists, to a knowledge and belief that the New



Constitution was their only political Salvation."

The arguments in Jay's pamphlet were ably answered by Melancton Smith in a twenty-six page pamphlet entitled An Address to the People of the State of New-York . . . signed by A Plebeian. Smith's pamphlet, published on April 17, 1788, maintained that "the indefinite powers granted to the general government" endangered the state governments and the liberties of the people "not by express words, but by fair and legitimate construction and inference." Smith objected to the idea that the Constitution should be adopted first and then amended. He asked, "why not amend, and then adopt it? Most certainly" this was "more consistent with our ideas of prudence in the ordinary concerns of life."

From mid-October 1787 through July 1788 a never-ending stream of essays, extracts of letters, poems, news items, filler pieces, and convention debates filled the state's newspapers. Nowhere else were the people as well informed about the Constitution as in New York.

#### **Warm Work in Poughkeepsie-- The Legislature Calls a Convention**

When the legislature met in Poughkeepsie in early January 1788 it was uncertain whether a state convention would be called to consider the Constitution. Richard Sill, an Albany lawyer, expressed the Federalists' concern: "tis doubted by the best friends to the New Government whether we shall have a Convention

called by a Legislative Act, the opposition are determined to make their first stand here." On January 31 a resolution was introduced in the Assembly calling a convention. Antifederalists wanted to preface the resolution with a statement that the Constitutional Convention had exceeded its powers by reporting a new Constitution rather than amending the Articles of Confederation. This Constitution would, if adopted, "materially alter" New York's constitution and government "and greatly affect the rights and privileges" of all New Yorkers. After a long, bitter debate, the Antifederalists' preface was defeated 27 to 25. Antifederalists then proposed that the Constitution be submitted to the convention "for their free investigation, discussion, and decision"--an obvious attempt "to introduce the Idea of Amendment." This motion was defeated 29 to 23, and the original resolution calling the convention was accepted 27 to 25. The state Senate then, after a similar debate, approved the Assembly's resolution 11 to 8 on February 1. On February 2 the Assembly ordered 500 copies of the resolution printed and distributed throughout the state.

The state convention was to meet at the courthouse in Poughkeepsie on June 17, 1788. The election of delegates was to begin on April 29 and continue until completed, but not to exceed five days. For the first time in state history, all free male citizens twenty-one years old or older were eligible to vote by secret ballot, even though the state constitution required a property qualification for voting. Polling places were to be

located in every town and precinct--not just in county seats as was usually the case. Convention delegates, assemblymen, and one-third of the state senators were to be elected at the same time and place. Apportionment of convention delegates coincided with Assembly apportionment, and convention delegates were to be paid by the state at the same rate as assemblymen.

Both parties seem to have favored delaying the meeting of the state convention until mid-June 1788. Federalists, thinking that a majority of the state opposed the Constitution, wanted time to convince the public that the Constitution had to be adopted. They hoped that ratification by nine states would occur before their convention would meet. This would have two benefits: (1) no state would be adversely influenced by an early New York rejection of the Constitution, and (2) New York might more likely ratify the Constitution if nine states had already adopted it. Antifederalists had their own reasons for preferring a late convention. Clintonians adopted the same strategy they had used on the Impost of 1783--they hoped that another state, especially a large state such as Massachusetts or Virginia, would reject the Constitution thus taking the onus off New York. Furthermore, although opposition to the Constitution looked substantial, Antifederalists still were uncertain about their statewide strength. Clintonians also hoped to coordinate interstate activities in an effort to seek amendments to the Constitution through a second constitutional convention. Proposals for such a convention would be made at the New York ratifying convention,

but it would take time to communicate with Antifederalists in other states. Finally there were the regular procedure of government: the legislature met in January. The election had to be properly announced so that the people were aware when it would take place. Then, according to the election law of 1787, four weeks had to elapse after the elections before the ballots were counted. Once the election results were known, delegates had to be given a decent amount of time to ready themselves for the trip to and perhaps a long stay in Poughkeepsie. Thus, even if an early convention was wanted, it would have been difficult to obtain.

### **The Elections**

Throughout the last four months of 1787 a great deal of uncertainty prevailed over New York's attitude toward the Constitution. The general consensus was that New York City warmly supported the new government, Governor Clinton and his party opposed it, and the state as a whole was either hostile or evenly divided. The ambiguity stemmed from the lack of open political activity in all arenas except the newspapers. Elsewhere in the country, state legislatures, towns, counties, associations, and individuals took strong public stances on the Constitution. This, for the most part, was not the case in New York.

Once the legislature set the date for the election of convention delegates, electioneering began with a fury unmatched in any other state. County committees were established to

supervise the nomination of candidates. Town and county meetings of local political leaders abounded. County committees of correspondence were created to communicate within a particular county and with political leaders in New York City, Albany, and in other states. Nomination lists were formulated and published in unprecedented numbers. And writers in newspapers, broadsides, and pamphlets continued their daily appeals to the electorate. "The New Constitution," it was said, was "the Sole Object of all our attention." But by the time of the elections, it was still uncertain who would win control of the Convention, and this uncertainty persisted well after. The state election law of 1787 provided that ballots were to be sealed in county ballot boxes for four weeks after the election had begun. The ballots were, therefore, not counted until May 27 when it was determined that nine of the state's thirteen counties were solidly in the Antifederalist camp. Of the sixty-five delegates chosen, Federalists elected only nineteen to their opponents' forty-six. Antifederalists had swept to an amazingly one-sided victory much beyond anyone's expectations.

### **The Convention**

Sixty-one of the sixty-five delegates attended the opening session of the Convention at noon on June 17. Governor Clinton was unanimously elected president and the doors of the Convention were ordered open to the public. Other procedural matters were handled on the 17th and 18th. The debate on the Constitution

began in earnest on the 19th when Chancellor Robert R. Livingston delivered an hour-long oration that expounded on the deficiencies of the Articles of Confederation and condemned New York's inflexible policy on the federal impost. He warned the delegates of the dangers facing New York outside the Union. Staten Island might be seized by New Jersey, and Long Island by Connecticut. Northern New York would be endangered by Canadians and land-grabbing Vermonters, while western New York would be vulnerable to the British and their Indian allies. Livingston urged the delegates to consider the Constitution objectively, not from the point of view of interested state officeholders, which many of the delegates were, but with the open minds of citizens with the best interests of the state and country at heart. In closing, he moved that the Constitution be discussed by paragraphs and that no votes be taken on the Constitution or any parts of it until the whole had been discussed. Antifederalists agreed to the motion with the proviso that amendments to the Constitution could be proposed and debated at any time. Federalists had won the first battle of the Convention--they had avoided an immediate adjournment or rejection--they had won a three or four week reprieve during which time they hoped to hear that New Hampshire and Virginia had ratified the Constitution. Most Antifederalists, however, saw little danger from this delay. With more than a two-to-one majority, they did not wish to give the impression that they were unfair. They would listen to the arguments of their opponents.

On June 20th Albany delegate John Lansing, Jr., responded to Chancellor Livingston's speech by saying that the problems of the Confederation could be solved if Congress were given the power to raise men and money. Fear of the dissolution of the Union, however, was not a sufficient enough reason to adopt the new Constitution. Lansing looked upon the abandonment of the Union "with pain," but it was better to break up the Union than to "submit to any measures, which may involve in its consequences the loss of civil liberty." Lansing also attacked Livingston's insinuation that state officeholders opposed the Constitution for selfish reasons.

Dutchess County delegate Melancton Smith said that "he was disposed to make every reasonable concession, and indeed to sacrifice every thing for a Union, except the liberties of his country." The Articles of Confederation, indeed, were defective, but that was no proof "that the proposed Constitution was a good one." Hamilton immediately responded, referring to "the imbecility of our Union" under the Confederation and predicting "that a rejection of the Constitution may involve most fatal consequences." He agreed that "we ought not to be actuated by unreasonable fear, yet we ought to be prudent."

On June 21st Governor Clinton addressed the Convention. The United States, he said, was a vast territory and the states were dissimilar--"Their habits, their productions, their resources, and their political and commercial regulations are as different as those of any nation on earth." Hamilton attacked the

governor's inference "that no general free government can suit" the states. He maintained that "the people of America are as uniform in their interests and manners, as those of any established in Europe." The governor was aghast at the "unjust and unnatural colouring" given to his statements. He declared "that the dissolution of the Union is, of all events, the remotest from my wishes." Hamilton, the governor said, wished "for a consolidated--I wish for a federal republic. The object of both of us is a firm energetic government: and we may both have the good of our country in view; though we disagree as to the means of procuring it."

On June 24th news arrived in Poughkeepsie that New Hampshire had become the ninth state to ratify the Constitution. Although the news had been expected, no one really knew what the event would do to Antifederalist solidarity. Antifederalists were pleased with the reaction. Governor Clinton wrote that "The Antis are Firm & I hope and believe will remain so to the End."

A week after news of New Hampshire's ratification arrived in Poughkeepsie, an express rider brought word that Virginia too had ratified. Outwardly Antifederalists again said that Virginia's ratification had made "no impressions upon the republican members," but signs of disunity began to appear.

On July 7th the Convention finished discussing the Constitution and John Lansing read a bill of rights that was "to be prefixed to the constitution." Three days later Lansing submitted a plan of amendments which represented a compromise



among Antifederalists. There were three kinds of amendments: (1) explanatory, (2) conditional, and (3) recommendatory. The first included a bill of rights and some explanation of unclear portions of the Constitution. The conditional amendments provided that, until a general convention considered these matters, Congress should not (1) call the state militia to serve outside New York for longer than six weeks without the consent of the state legislature, (2) regulate federal elections within New York, or (3) collect direct taxes in New York without first requisitioning the tax from the state legislature which would then lay state taxes to collect the federal requisition. The recommendatory amendments, which were "numerous and important," would be considered by the first federal Congress under the Constitution. Federalists attacked the plan as "a gilded Rejection" that Congress would never accept as a valid ratification. Smith, Clinton, and Lansing defended the plan as "our Ultimatum." In fact, many Antifederalists "thought they had conceded too much." Debate over the plan continued for almost a week despite Antifederalists' attempts to get a vote on it. Federalists saw hope because their opponents were "so evidently deranged and embarrassed" by their own plan.

Unable to win acceptance of the Antifederalists' plan of ratification, Melancton Smith brought in a new proposal. The Convention would declare that the Constitution was defective; but since ten states had already ratified, New York would also ratify reserving the right, however, to withdraw from the Union if

Congress did not call a convention to consider amendments within four years. In introducing this plan, Smith said that he was convinced that Congress would not accept any conditional ratification, "and as he valued the Union, he was resolved that this State should not be excluded." Therefore Smith announced that he would not vote for any form of conditional ratification.

With Smith's proposal in mind, Alexander Hamilton wrote James Madison asking whether Congress would accept New York's ratification with a reservation to secede. Before a response came, Antifederalists themselves, in a private caucus, rejected Smith's proposal.

On July 23 the Convention considered a proposal by John Lansing for New York to ratify the Constitution "upon condition" that certain amendments be accepted. Queens County delegate Samuel Jones then moved that the words "upon condition" be expunged and replaced with the words "in full confidence." Melancton Smith supported the change, saying that "He was as thoroughly convinced then as he ever had been, that the Constitution was radically defective, amendments to it had always been the object of his pursuit, and until Virginia came in, he had reason to believe they might have been obtained previous to the operation of the Government. He was now satisfied they could not, and it was equally the dictate of reason and of duty to quit his first ground, and advance so far as that they might be received into the Union. He should hereafter pursue his important and favourite object of amendments with equal zeal as before, but

in a practicable way which was only in the mode prescribed by the Constitution." Conditional ratification "must now be abandoned as fallacious, for if persisted in, it would certainly prove in the event, only a dreadful deception to those who were serious for joining the Union." Other Antifederalists agreed with Smith, but Governor Clinton remained unchanged saying that he "would pursue what he believed to be the sense" of Ulster County, the governor's home county that he represented in the Convention, which was a conditional ratification. The vote on Jones's motion passed 31 to 29. Antifederalists were stunned. If nothing new occurred, New York would ratify the Constitution unconditionally.

On July 24th John Lansing proposed that the form of ratification include the right of New York to secede from the Union if amendments to the Constitution were not adopted within a certain number of years. Hamilton then read a letter he had received in which James Madison said that "a reservation of a right to withdraw" was "a conditional ratification" and as such unacceptable to Congress. The following day, Lansing's motion was rejected 31 to 28. The committee of the whole approved the final form of ratification 31 to 28 and unanimously resolved that a circular letter be prepared to be sent to the states "pressing in the most earnest manner, the necessity of a general convention to take into their consideration the amendments to the Constitution, proposed by the several State Conventions." On July 26th the Convention approved the committee of the whole's report to ratify the Constitution with recommendatory amendments by a vote of 30

to 27. John Jay then brought in the proposed circular letter which was unanimously approved. Federalists, according to Philip Schuyler, had with "perseverence, patience and abilities . . . prevailed against numbers and prejudice."

### **Convinced by Circumstances**

Why then did the New York Convention, with an Antifederalist majority, ratify the Constitution? As the debate over the Constitution progressed and as one state after another adopted the new form of government, a rising tide of public opinion came to favor adoption. It was felt that all of the ratifying states could not be wrong, and that the Constitution should be given a chance.

Convention Antifederalists were far from being unanimous. From the very beginning, only a few leaders, among them Governor Clinton, were willing to hazard such a drastic step as unqualified rejection. Federalist strategy also contributed to the adoption. The ability to keep the Convention in session during the first critical weeks ultimately set the stage for ratification. For the most part, Federalist strategists played a waiting game of conciliation. They let John Lansing and Melancton Smith orchestrate the Convention. Federalists' perseverance and stamina were much more important than their touted eloquence.

The single most important factor in obtaining ratification, however, was simply the course of events taking place throughout America. Hamilton admitted that "Our arguments confound, but do

not convince--Some of the leaders however appear to me to be convinced by circumstances. The ratification by New Hampshire and, most important, by Virginia were determining factors. New York could not kill the Constitution by itself. The new government was going into effect with or without New York. Since New Jersey, Pennsylvania, and Delaware had already ratified the Constitution, New York was isolated without a chance of establishing a middle confederacy. By staying out of the Union, New York would lose the federal capital and most of the benefit of its lucrative state impost. Furthermore, the threat of civil war within New York or the secession of the southern district from the state were real and serious possibilities. Finally, the all-important task of amending the Constitution seemed most obtainable if New York was part of the Union. Antifederalists had not been converted to Federalism. For the most part, they maintained their objections to the Constitution and viewed ratification as the lesser of two evils.

The most important Antifederalist delegate to moderate was Melancton Smith, the self-proclaimed Convention manager. While attending the Convention, Smith regularly corresponded with Antifederalist friends in New York City. On June 28th he wrote Massachusetts Congressman Nathan Dane that he wanted "to support the party with whom I am connected as far as is consistent with propriety--But, I know, my great object is to procure . . . good amendments."

On July 3rd Dane wrote Smith a lengthy, insightful letter.

If the Constitution were not ratified, violence would surely occur. The result of such violence would be "at least a system more despotic than the old one we lay aside, or the one we are adopting." Dane told Smith that "our object is to improve the plan proposed: to strengthen and secure its democratic features; to add checks and guards to it; to secure equal liberty by proper Stipulations to prevent any undue exercise of power, and to establish beyond the power of faction to alter, a genuine federal republic. to effect this great and desirable object the peace of the Country must be preserved, candor cherished, information extended and the doors of accommodation constantly kept open."

To accomplish these ends, amendments to the Constitution had to be proposed in the first federal Congress. "For any state now to stand out and oppose" the ratification of the Constitution would be a mistake. If New York did not unconditionally ratify, Dane believed that those "men who wish to cement the union of the states on republican principles will be divided and have but a part of their strength in Congress where they ought to have the whole. . . . Men in all the states who wish to establish a free, equal, and efficient government to the exclusion of anarchy, corruption, faction, and oppression ought in my opinion to unite in their exertions in making the best of the Constitution now established."

Melancton Smith responded to Dane: "I entirely accord with you in Opinion." Smith, however, knew that he faced a divided Antifederalist party. "Time and patience," he said, "is necessary

to bring our party to accord, which I ardently wish." Dutchess County Antifederalist delegate Zephaniah Platt sided with Smith "not from a conviction that the Constitution was a good one or that the Liberties of men were well Secured. No--I voted for it as a Choice of evils in our own present Situation." The Constitution, he wrote, "Must and would now go into operation. the only Chance remaining was to get a Convention as Soon as possible to take up our Amendments & those of other States while the Spirit of Liberty is yet alive." In sum, Platt said "that we have Endeavoured to consider all Sides of the question & their probable consequence--on the whole [we] desided on what we Supposed was for the Intrest and peace of our State under present Circumstances."