









Digitized by the Internet Archive  
in 2008 with funding from  
Microsoft Corporation



3

THE RATIFICATION OF THE FEDERAL CONSTITUTION  
BY THE STATE OF NEW YORK





**STUDIES IN HISTORY, ECONOMICS AND PUBLIC LAW**

EDITED BY THE FACULTY OF POLITICAL SCIENCE  
OF COLUMBIA UNIVERSITY

Volume XCIV]

[Number 3

Whole Number 214

---

**THE RATIFICATION OF THE  
FEDERAL CONSTITUTION BY THE  
STATE OF NEW YORK**

BY

CLARENCE E. MINER, PH.D.



New York

COLUMBIA UNIVERSITY

LONGMANS, GREEN & CO., AGENTS

LONDON: P. S. KING & SON, LTD.

1921

COPYRIGHT, 1921  
BY  
CLARENCE E. MINER

**TO**

**M. L. M.**

**WITHOUT WHOSE UNSELFISH COÖPERATION THIS STUDY  
COULD NEVER HAVE BEEN COMPLETED**



## FOREWORD

The author of the following study is keenly aware of its many shortcomings, and it has seemed wise to make some explanation of what would appear to be two very obvious lapses.

In the first place, it must be evident to even the most casual reader that a great discrepancy exists between the title as indicated, and the amount of space allotted to the actual ratification. It has been the thought, however, that the action of the Poughkeepsie Convention of 1788 was but the culmination of a long series of events, and that the title, in its truest interpretation, included a discussion of the preliminary stages as well as of the final event itself.

The second criticism might very well point out the absence of a certain amount of "local color" in the shape of contemporary comment. Regarding this objection it can only be said that a careful examination of the sources available, revealed a disappointing lack of such material. One must therefore be led inevitably to conclude that either there was a notable lack of interest among the people at large, or that most of the contemporary opinion has failed to survive in any permanent form.



# CONTENTS

## CHAPTER I

### THE LINE-UP OF PARTIES IN THE STATE OF NEW YORK, 1783-1787

|   | PAGE |
|---|------|
| Causes of party division in New York State . . . . .              | 13   |
| Question of the revenue. . . . .                                  | 13   |
| Influence of the manor lords . . . . .                            | 13   |
| Governor Clinton . . . . .  | 14   |
| Alexander Hamilton . . . . .                                      | 14   |
| Congressional impost resolution of 1781 . . . . .                 | 16   |
| Madison's opinion . . . . .                                       | 16   |
| New York law of 1781 . . . . .                                    | 17   |
| Question of trade regulation . . . . .                            | 17   |
| Hamilton's impost speech of 1782 . . . . .                        | 17   |
| Congress' financial statement of 1783 and repeal of New York law. | 18   |
| Revenue proposal of 1783 . . . . .                                | 18   |
| "Address and Recommendation to the States" . . . . .              | 20   |
| Reception by New York State. . . . .                              | 20   |
| Conditional grant of 1785 . . . . .                               | 25   |
| Action of Congress . . . . .                                      | 25   |
| Petition to New York legislature . . . . .                        | 26   |
| Law of 1786 . . . . .   | 27   |
| Rejection by Congress . . . . .                                   | 28   |
| Clinton's attitude toward central government . . . . .            | 28   |
| Struggle in the New York assembly . . . . .                       | 28   |
| Debate on the Governor's speech . . . . .                         | 29   |
| Letters of "Cimon" and "Candidus" . . . . .                       | 30   |
| Protest by Massachusetts . . . . .                                | 34   |
| Hamilton's speech on the impost . . . . .                         | 36   |
| Defeat of the measure. . . . .                                    | 39   |
| Treatment of the Loyalists . . . . .                              | 40   |
| Attempts at reconciliation. . . . .                               | 40   |
| Attitude of the people . . . . .                                  | 41   |
| Whig memorial . . . . .   | 42   |
| Trespass Act . . . . .  | 42   |

|   | PAGE |
|---|------|
| Attitude of Hamilton and Jay . . . . .          | 43   |
| Case of Rutgers <i>vs.</i> Waddington . . . . . | 45   |
| "Phocion"- "Mentor" letters . . . . .           | 45   |
| Attitude of Legislature . . . . .               | 46   |
| Exclusion and privateering bills . . . . .      | 46   |
| Paper money question. . . . .                   | 47   |

## CHAPTER II

### NEW YORK AND THE CONVENTION OF 1787

|  |    |
|--|----|
| Weakness of the Confederation . . . . .                    | 50 |
| Steps to revise the Articles . . . . .                     | 50 |
| Jay's idea as to method . . . . .                          | 51 |
| Resolution for a convention . . . . .                      | 51 |
| Action of New York legislature . . . . .                   | 51 |
| Hamilton, Yates, and Lansing chosen as delegates . . . . . | 53 |
| Instructions. . . . .                                      | 55 |
| Newspaper comment . . . . .                                | 55 |
| Attempt to secure additional delegates . . . . .           | 56 |

## CHAPTER III

### THE "CAMPAIGN OF EDUCATION" IN NEW YORK STATE

|  |    |
|--|----|
| Clinton "Campaign of Education" . . . . .  | 57 |
| "To the (Political) Freethinkers of America". . . . .  | 57 |
| The "Anarchiad" . . . . .  | 58 |
| Report of Yates and Lansing from Philadelphia . . . . .  | 59 |
| Attacks on Clinton . . . . .   | 59 |
| Letters of a "Foreign Spectator". . . . .  | 61 |
| Rising of the Philadelphia convention . . . . .  | 62 |
| Attack on Hamilton . . . . .   | 63 |
| Letters of "Cato", "Caesar", "Cincinnatus", "Federalist"<br>papers, Webster's "Remarks," "Countryman" papers . . . . . | 63 |
| Attack on James Wilson . . . . .   | 70 |
| Federalist Creed . . . . .   | 73 |

## CHAPTER IV

### THE STRUGGLE FOR THE NEW YORK CONVENTION

|  |    |
|--|----|
| Constitution submitted to New York legislature, January 9, 1788. . . . . | 75 |
| Continuation of "Campaign of Education" . . . . .                        | 75 |
| "Americanus" on the Randolph letter . . . . .                            | 76 |
| The "Expositor" papers . . . . .   | 77 |
| "Giles Hickory" on "Government" . . . . .                                | 78 |



|   | PAGE |
|---|------|
| Resolution for convention on ratification. . . . .    | 78   |
| Debate in the New York legislature. . . . .           | 78   |
| Convention decided on . . . . .                       | 82   |
| Local sentiment on Constitution. . . . .              | 82   |
| Increasing bitterness of newspaper articles . . . . . | 85   |
| James Wilson letter. . . . .                          | 85   |
| Attack on Lansing . . . . .                           | 86   |
| Struggle over convention delegates . . . . .          | 86   |
| Various tickets proposed . . . . .                    | 87   |
| "Observations" of a "Columbian Patriot" . . . . .     | 89   |
| Albany declaration of principles . . . . .            | 92   |
| Hamilton's hopes and fears . . . . .                  | 94   |
| Arrangement to communicate with Madison . . . . .     | 95   |
| Results of election of delegates. . . . .             | 96   |

## CHAPTER V

## RATIFICATION

|   |     |
|---|-----|
| Assembling of New York ratification convention. . . . . | 97  |
| Plans of the Anti-federalists. . . . .                  | 97  |
| Strength of the parties . . . . .                       | 97  |
| Hamilton <i>vs.</i> Melancton Smith . . . . .           | 99  |
| Opening of debates . . . . .                            | 99  |
| Question of representation. . . . .                     | 100 |
| Debate on Senate . . . . .                              | 105 |
| Ratification of New Hampshire and its effect . . . . .  | 106 |
| Question of rotation in office . . . . .                | 107 |
| Description of members of convention . . . . .          | 108 |
| Debate on taxation . . . . .                            | 109 |
| Hamilton's speech . . . . .                             | 110 |
| Virginia ratification. . . . .                          | 112 |
| Jay's opinion of the outcome in New York . . . . .      | 112 |
| Confidence of the Anti-federalists . . . . .            | 112 |
| Debate on the requisition system . . . . .              | 113 |
| Question of state sovereignty . . . . .                 | 115 |
| Tendency toward ratification in New York. . . . .       | 117 |
| Close of the debates. . . . .                           | 117 |
| Lansing amendments . . . . .                            | 117 |
| Smith moves for conditional ratification . . . . .      | 118 |
| Ratification of Constitution . . . . .                  | 119 |
| Circular letter. . . . .                                | 119 |
| Adjournment of convention . . . . .                     | 120 |

## CHAPTER VI

| LOCAL ACTION ON THE CONSTITUTION AND THE CIRCULAR LETTER   |     |
|--|-----|
| Randolph-Clinton correspondence . . . . .                  | 121 |
| Activity of Lamb and New York Anti-federalists . . . . .   | 121 |
| Lee's "Letters of a Federal Farmer" . . . . .              | 121 |
| Anti-federalist Committees of Correspondence . . . . .     | 122 |
| Movement for a second convention . . . . .                 | 122 |
| Clinton Circular Letter . . . . .                          | 122 |
| "Federal Republican Club" at New York . . . . .            | 123 |
| Letters drafted to the counties. . . . .                   | 124 |
| Calling of New York legislature. . . . .                   | 124 |
| Failure of the Circular Letter . . . . .                   | 125 |
| Celebrations of ratification. . . . .                      | 125 |
| "General procession" at New York City . . . . .            | 126 |
| Celebrations outside New York City. . . . .                | 128 |
| Riot at Albany . . . . .                                   | 129 |
| Disappearance of agitation for second convention . . . . . | 131 |

## CHAPTER I

### THE LINE-UP OF PARTIES IN NEW YORK STATE

As early as 1781 it was obvious to many thinking men that the Confederation might easily break up unless something was done to strengthen it. What that something was to be was the question which really caused well-defined party divisions in New York. In general the divisions represented the old conflict between local and central authority which had been characteristic of the Revolution.<sup>1</sup> Indeed, the men composing the two groups may be regarded as the lineal inheritors of the old conservative and radical principles of 1765-75. These principles were now to be applied in a somewhat different manner to the solution of several questions of vital importance. Among these none was of more moment than that of the national revenue.

In 1781 in New York there was a large class of men "working for the establishment of a revenue sufficient to discharge the interest and principal of the public debt," while opposed to them were the "Manor Lords" and their friends, who constituted a "peculiar aristocracy", and were the "dominant class in the politics of New York during the period between the Revolution and the adoption of the Constitution."<sup>2</sup> This group

<sup>1</sup> Macaulay, *Natural, Statistical and Civil History of the State of New York*, vol. iii, p. 437, *et seq.*

<sup>2</sup> Beard, *Economic Interpretation of the Constitution of the United States*, pp. 38-58.

had taken advantage of its supremacy to shift the main burden of taxation from land to imports and were thus jealous of any interference with the existing system. Perhaps the best exemplar of the feelings of this class was Governor George Clinton. He was of Irish descent, well educated, and with legal training. He had already become known as a radical patriot leader in the New York assembly, and in the Continental Congress, where he voted for the Declaration of Independence. Brave and energetic, if not always successful in the field, he lacked the scholarship and statecraft of Hamilton, Jay, and Livingston. On the other hand, he was possessed in greater measure than they of those qualities which win popularity, as was proved by his election to the governorship seven times, six in direct succession, making a total of twenty years that he held the office.

On the other side it very early became evident that the outstanding figure was Alexander Hamilton. He was a young man, with keen and expressive eyes, and a firm-set mouth betokening promptness and decision of character. His countenance was intelligent, open and fearless, and so handsome as dangerously to captivate ladies. Slight in figure, his erect bearing and singular self-possession gave him a strongly impressive presence. In argument he possessed the valuable gift not only of presenting his own case in its strongest possible aspect, but of anticipating every objection and counterplan of his opponents. He was equally at home in broad theoretical discussion of abstract principles, and in the exacting task of working out the details of a proposed plan. His very qualities of self-possession and decisiveness often led to excess of confidence, and his impetuosity and lack of tact inclined him rather to override than to conciliate. His early wanderings had prevented

him from forming that strong state attachment which was so marked in his opponent, and his personal beliefs inclined him strongly toward a vigorously administered centralism in government, rather than to local republicanism, which he distrusted. William Pierce, who had an opportunity of observing him at the Federal Convention had this to say:

Colo. Hamilton is deservedly celebrated for his talents. He is a practitioner of the Law, and reputed to be a finished Scholar. To a clear and strong judgment he unites the ornaments of fancy, and whilst he is able, convincing and engaging in his eloquence the Heart and Head sympathize in approving him. Yet there is something too feeble in his voice to be equal to the strains of oratory; it is my opinion that he is rather a convincing Speaker, than a blazing Orator. Colo. Hamilton requires time to think,—he enquires into every part of his subject with the searchings of Philosophy, and when he comes forward he comes highly charged with interesting matter, there is no skimming over the surface of a subject with him, he must sink to the bottom to see what foundation it rests on. His language is not always equal, sometimes didactic, like Bolingbroke's, at others light and tripping like Stern's. His eloquence is not so defusive as to trifle with the senses, but he rambles just enough to strike and keep up the attention. . . . His manners are tingured with stiffness and sometimes with a degree of vanity that is highly disagreeable.<sup>1</sup>

The opposition to the central government which Clinton represented did not, however, appear in full strength at once. In February, 1781, Schuyler and Benson had succeeded in inducing New York to declare its willingness to confer adequate powers on Congress.<sup>2</sup> In the

<sup>1</sup> Farrand, *Records of the Federal Convention*, vol. iii, p. 87.

<sup>2</sup> Bancroft, *History of the Formation of the Constitution of the United States of America*, vol. i, p. 26, *et seq.*

same month Congress sent to the States a request for a grant of a five per cent Continental tax on imports, with certain exceptions as an "indispensible necessity". Regarding this measure, Madison wrote to Edmund Pendleton in May, 1781, that the great difficulty had been to secure a measure which would reconcile the jealousy and suspicion of the states with the vital need of the case.

In order to reconcile these points [he said] the duration of the impost was limited; but limited in so indefinite a manner as not to defeat the object of it. . . . The application of Congress for such a power supposes, indeed, a confidence in them on the part of the States, greater perhaps than many may think consistent with republican jealousy; but if the States will not enable their Representatives to fulfill their engagements, it is not to be expected that individuals, either in Europe or America, will confide in them. As to the method of collection, it was held on the one hand, that the powers asked was in their nature so municipal and in their operation so irritative, that it was improbable that the States could be prevailed on to part with them.<sup>1</sup>

In view of this situation, he continued, it was urged that only the duty be asked, and that the method be left to the states. On the other hand, it was pointed out that, since Congress was held responsible for the debts, "the fund granted for discharging them should be exclusively and independently in their hands," lest it be diverted. Surely, if the states were willing to grant the money, they would not haggle over the method. A possible compromise was also outlined in the suggestion that their scruples might be overcome by "annexing to the office of the collector all the powers incident thereto, and leaving to Congress the right of appointing the officer."

<sup>1</sup> Gilpin, *The Papers of James Madison*, vol. i, pp. 94-5.

The object, as here indicated, seemed, on the surface at least, to have been attained in New York, for on March 19, that state granted the impost "to be collected in such manner, and by such officers as congress should direct,"<sup>1</sup> and repeated this offer in November of the same year. The partisans of a strong central government, represented by Hamilton, now went a step further and began to urge, in the press and elsewhere, that Congress be vested with the full power of regulating trade. This caused the opposing party to take alarm, and though in 1782, at the instance of Hamilton and Schuyler, a proposal came from New York for a constitutional convention, there seems to have been a more or less steady reactionary movement from this time on. In 1782, Hamilton, as a member of Congress, vigorously answered the objections of Rhode Island to the revenue scheme in a speech which went over the whole ground of the controversy. In particular, he discussed the point that the system advocated introduced officers not accountable to the state. In this connection he explained at length the possibility of a division of sovereignty between state and nation. The officers under discussion, he argued, were legal unless actually forbidden in the state constitution, and he pointed out the fact that their very independence of state aid would tend to reassure the creditors—one great object of the measure.<sup>2</sup> All of this and his other arguments were to become very familiar reading in the next few years. Nor was he alone in his anxiety for an effectual settlement of American affairs on a sound financial basis. On February 17, 1783, Duane

<sup>1</sup> Bancroft, *op. cit.*, vol. i, p. 34. *Laws of the State of New York*, 1886, vol. i, 4 s., ch. 31.

<sup>2</sup> Curtis, *History of the Origin, Formation and Adoption of the Constitution of the United States*, vol. i, p. 206, *et seq.*

wrote him from Newburgh expressing his concern for "a better establishment of our General Government on a basis that will secure the permanent union of the States, and a punctual payment of the public debts". He was of the opinion that the legislature would, judging from their recent actions, adopt any reasonable system, and asked for a copy of an act recently passed for the same purpose by Maryland, for, he observed, "The example of a State may be adopted, when any plan of my own might be rejected."<sup>1</sup>

Congress, meanwhile, had also been struggling with the problem. On March 6, 1783, in answer to a memorial, that body made a statement of the financial situation. It declared that every effort had been made (1) to ascertain and liquidate the public debt, and (2) to insure adequate and regular provision for paying the interest. In the first instance, the effort had been successful, but the second scheme, that of the five per cent impost, had been rejected. The requisition system, the statement continued, had been proved by figures to be a failure. That being the case, Congress saw nothing for it but to renew the attempt to secure a grant of the proposed impost. Point was given to this statement when New York, on March 15, 1783, alarmed at the growing power of the Congress, repealed her grant of 1781, and substituted for it one which placed the collection of the impost in the hands of the state.<sup>2</sup>

Following out its declared intention on March 18, 1783, a report was presented to Congress suggesting that the states confer upon it the power of levying a duty of five per cent *ad valorem* on imports, with certain specific exceptions. The purpose of the grant was to

<sup>1</sup> Hamilton, *Works*, vol. i, p. 330.

<sup>2</sup> *Laws of the State of New York* (1886), vol. i, 6 s., ch. 27.



extinguish the public debt; it was to be in force for twenty-five years only; and its collectors were to be appointed by the states, though amenable to, and removable by Congress. Lastly, to be effective, the measure was to receive the assent of all the states. This proposition was put in final form on April 18, 1783, and submitted to the states.<sup>1</sup> Far from ideal or complete though this system was, it at least marked a step in the right direction, and was probably the best that could have been obtained under the circumstances. Concerning the difficulties under which he labored, Hamilton wrote to Washington on April 11, 1783:

There are two classes of men, sir, in Congress, of very different views: one attached to State, the other to Continental politics. The last have been strenuous advocates for funding the public debt upon solid securities; the former have given every opposition in their power; and have only been dragged into the measures which are now near being adopted, by the clamors of the army and other public creditors.<sup>2</sup>

Hamilton himself strongly condemned the measure, (1) as not entirely efficient; (2) as not co-extensive with the debt; (3) as collected by State and not Federal appointees, thereby insuring unevenness of zeal in the collection. In spite of all these objectionable features, however, Hamilton joined with Madison and Ellsworth in urging New York to accept on the grounds of "the obligations of national faith, honour and reputation". Besides, as he shrewdly pointed out to New York, the debts due from the United States to citizens of New York would exceed the quota assigned to her to raise.

<sup>1</sup> Hildreth. *History of the United States of America*, vol. iii, p. 435. Bancroft, *op. cit.*, p. 104. *Journals of the American Congress*, vol. iv., pp. 174-189.

<sup>2</sup> Hamilton, *Works*, vol. i, p. 356.

On April 24, 1783, these three men, acting as a committee, had prepared an "Address and Recommendation to the States, by the United States in Congress Assembled". This, after frankly stating the situation and its difficulties, explained in detail how the proposed system was designed to meet these difficulties. It proposed the continental impost as the best solution, since it was, at once the least burdensome of all the forms available, and had the added advantage of "concerted uniformity" of collection. The Address recalled the various limits placed on the grant to disarm state objection, and estimated the probable returns from the impost at \$915,956.00. The balance of \$1,500,000.00 would have to be raised by the states, and quotas had been assigned accordingly. It enumerated the various sources of income which it was expected would be available for the reduction of the principal of the debt, and, in conclusion, begged the states to consider carefully the dire results of a refusal to accept the system.<sup>1</sup> These views Hamilton also embodied in a letter to Governor Clinton written on May 14, 1783. It is possible, if indeed not probable, that he was moved to this appeal by a letter received two weeks previous from Schuyler, outlining the political situation in New York. The letter declared in part:

Although our Legislature seems still inclined to confer powers on Congress adequate to the proper discharge of the great duties of the sovereign council of these states, yet I perceive with pain that some, chagrined at disappointment, are already attempting to inculcate a contrary principle, and I fear it will gain too deep a root to be eradicated until such confusion prevails as will make men deeply feel the necessity

<sup>1</sup>*New York Packet*, August 7, 1783.

of not retaining so much sovereignty in the states individually.<sup>1</sup>

These attempts to "inculcate a contrary principle" took the form of various articles in the New York press, signed "Calca", "Rough Hewer" and the like, all arguing along the same general line. In the first place, they questioned the wisdom of funding the debt at all. Secondly, even granting this to be desirable, they questioned the wisdom of jeopardizing the sovereignty of the state, and the liberty and happiness of the individual citizens to secure it. Underneath all the arguments was the recurrent note of fear lest Congress should become absolute. On July 17, 1783, there appeared in Loudon's *Packet*, with the note that it was also to appear all over the continent in a similar way, a long article on the financial situation. The writer asserted that a delicate crisis had arisen in the affairs of America, and one in which her honor was at stake. "To be jealous of power—the cant phrase of the day" he denounced as a mere manifestation of jealousy on the part of those who desired no power but their own, or who wanted to avoid a duty. Why be jealous of a Congress chosen by themselves? The simple fact of the case was that a debt had been incurred, and must in honor be discharged. This pretended fear of power was just an attempt to shirk. Congress had appealed to the states; but in reality,

There is no such a thing in the nature of our constitutions, either confederated or individual, or from the circumstances of them as granting money to Congress. The idea is a false one when applied to a republic. Whatever money is raised in a republic is for public service, and this which is now called

<sup>1</sup> Hammond, *History of Political Parties in the State of New York*, vol. i, p. 7.

for is to discharge a public debt. Does a man grant money when he pays debts? Certainly not. A man's creditors may grant him indulgence, but he certainly grants them nothing by paying them.

A grant means a gift, or present, done out of mere good will or good opinion. But here is a debt to be paid, which all America has contracted; and the States in sending up their money for that purpose, grant nothing.<sup>1</sup>

New York, however, refused to be convinced. The more the question of enlarging the powers of the Union was urged, the greater was the development of a stubborn state pride, and the greater the increase in the jealousy and fear of the Union. "Persons and parties in power held tenaciously to the sovereignty which they were enjoying in a practically independent state; and the state's legislation looked toward autonomy." Of this feeling George Clinton was, as has been said, the chief exponent.

A partisan in one sense, he was eminently public spirited in another. He was loyal to the Union and the Confederation, but his hopes and his pride centered on his state. To make that great and prosperous was his first ambition, and his policy and wishes were reflected in the proceedings of the state legislature.<sup>2</sup>

In this spirit he responded in October, 1783, to an appeal for unity by cordially agreeing that the powers of Congress ought to be strengthened. One can well imagine, however, that there was a well-defined mental reservation accompanying this assent, that the strengthening should be done at the expense of some one other

<sup>1</sup> *New York Packet*, July 17, 1783.

<sup>2</sup> Johnston, "New York after the Revolution," in *Magazine of American History*, April, 1893, p. 323.

than New York State. This position he reiterated in January, 1784. Three months later "Rough Hewer" appeared in the *Packet* with a vigorous attack on the revenue proposal, which he branded as merely a new tyranny imposed under the guise of obviating difficulties.<sup>1</sup> The port officers at New York were also naturally opposed to the change, and the net result of all the opposition was the passage, on November 18, 1784, of an impost bill repealing the earlier one, and differing materially from the one submitted by Congress. Thus the original congressional measure, since it required the assent of all the states, was lost.

Hamilton and his friends now proceeded to get into the fight with renewed earnestness. On March 7, 1785, appeared a memorial from the inhabitants of New York to the legislature of the state. This at once called forth a reply from "Sidney" which roundly declared that "the Legislature which should give the last fiat to the impost and regulation of trade would sign the death-warrant of American liberty". The memorial failing to move the Clintonians, the Chamber of Commerce on March 14, issued a similar one, pointing out the imperative need of speedy action if the trade of the United States was not to perish.<sup>2</sup> Through its Committee of Correspondence, the Chamber then proceeded to carry the war into the counties, by means of a circular letter to the various supervisors. Here an attempt was made to disarm opposition by pointing out the close connection of interest between merchant and landholder, and vigorous, united, patriotic effort was called for to prove to the enemies of America that "their insidious politics in peace, are of as

<sup>1</sup> *New York Packet*, March 17, 1785.

<sup>2</sup> *Ibid.*, March 14, 1785.

little effect as their open attempts in war." The newspapers teemed with discussions, articles, letters, *etc.*, by "Consideration", "Rough Hewer" (Abraham Yates), "Unitas", "Sidney" and many others, sarcastic, inflammatory, patiently logical, or merely hortatory. A characteristic letter appeared in the *Packet* of April 4, in answer to "Rough Hewer". Written in a sarcastic vein, it pretended to agree entirely with all his arguments, even while exposing their stupidity. Thus, for example:

The public creditors are numerous, and by the settlement of their accounts, a large body of men will at once be thrown into greater affluence, and what use they may make of the widened sphere of action, consequence and power, or how the very entrails of the state may be affected, it is impossible to say. The experience of ages, the native disposition of man to domineer, and the ticklish state of our affairs at present, justify every suspicion and fear upon this view of things. I shudder to think of the temptations to which luxury and dissipation will expose these individuals, by the sudden acquisition of *what is due to them*. It is well known, on the other hand, that poverty gives rise to numerous virtues, *etc.*

Interesting in this connection is the reappearance of the old line of cleavage, so familiar in the days of pre-revolutionary excitement of "mechanics" against "aristocrats", in the form of a letter from "An Exiled Mechanic" sounding a note of warning against electing lawyers to the forthcoming assembly lest they thereby strengthen the "mercantile interest."<sup>1</sup>

As the arguments used in this discussion are to a very large extent the germs of, if not indeed the actual arguments used in the later and more momentous constitu-

<sup>1</sup> *New York Packet*, April 7, 1785. Cf. also Becker, "History of Political Parties in the Province of New York", in *University of Wisconsin Bulletin*, History Series 2, *passim*.

tional struggle, it may not be amiss to consider them somewhat in detail. Summed up, the objections to the plan seem to have been that: (1) It granted too much power. (2) It was unconstitutional, since states as sovereigns could not grant away their sovereignty. (3) The funding system was, in itself, pernicious. (4) The arrangement had a tendency to perpetuate itself. (5) There was a temptation toward the misuse of funds. (6) It would result in too much consolidation, and thus destroy liberty. On the other side the two main arguments used were: (1) the effect of present conditions on public opinion in Europe, and (2) the ruinous condition of American trade and commerce.<sup>1</sup>

On June 20, 1785, a meeting of merchants at the Exchange urged, as the only hope for the country, the vesting in Congress of complete power to regulate trade. Hamilton, Duer, Malcolm, Robert Troup, Schuyler, Livingston and others, spared no effort to secure the passage of the impost, but the most that could be accomplished by the close of 1785 was a fifteen-year grant of the right to regulate commerce, though no duties could be collected within the state except by legislative permission. From the standpoint of the public debt and a national revenue system, such a concession was practically worthless. That this was the opinion of those in authority is shown by the fact that on February 9, 1786, Congress deemed it necessary

that it be earnestly recommended to the states of New York and Georgia, to take into their immediate consideration the . . . recommendation of the 18th of April, 1783 . . . which proposes an investment of the United States with power to levy, for the use of said states, certain duties upon goods im-

<sup>1</sup> *New York Packet*, Mar. 17, April 21, July 14, 1785.

ported into the said states from any foreign port, island, or plantation, and to comply with the same.<sup>1</sup>

A week later a resolution was adopted as part of a special financial report, setting forth that New York had as yet made no move to comply with the request of 1783, and urging definite action in the matter at once.<sup>2</sup> These mild protests stirred up the usual pamphlet warfare. On the 20th of February, five days after the passage of the resolution referred to, the New York *Daily Advertiser* contained a long article defending the position of New York on the impost matter, and demanding that she be not committed until the other states had declared themselves on the plan. Hamilton, with his usual energy, threw himself into the struggle, and did his best to lay the spectre of abuse of power and loss of liberties, so diligently invoked by the opposition. Thus "the conferring on Congress the power of levying a national impost, was the great dividing question on which the two parties that existed in America were arrayed."<sup>3</sup>

In March a petition was sent to the state legislature on behalf of the inhabitants of New York City. It prayed the adoption of the system of 1783 as the only one which could give "energy to the union or prosperity to commerce". It declared that "all the motives of public honor, faith, reputation, interest, and safety, conspire to urge a compliance". It argued that the scheme was perfectly constitutional, according to the 13th Article of Confederation, which expressly provided for any alteration agreed to in a Congress of the United States, and afterwards "confirmed by the Legislature of

<sup>1</sup> *New York Daily Advertiser*, February 9, 1786.

<sup>2</sup> *Ibid.*, February 15, 1786.

<sup>3</sup> Hamilton, J. C., *History of the Republic*, vol. ii, p. 168.



each state." It decried the idea of danger in making the grant to a body of men chosen by the people themselves, and urged that "government implies trust; and every government must be trusted so far as is necessary to enable it to attain the ends for which it is instituted; without which, insult and oppression from abroad, confusion and convulsion at home."<sup>1</sup> All the eloquence of the supporters of the impost, however, was in vain. New York, in the persons of the Clinton, or controlling faction, "had her little system of duties all nicely arranged for what seemed to be her own interests, and she would not surrender this system to Congress."<sup>2</sup> It was contended that neither Congress nor legislature could alter state constitutions, or that of the confederation, but must build on them; that to surrender the impost power would be to give away "an authority that inheres necessarily in the respective legislatures of each state"; that any deviation from the "fundamental principles of the American constitutions" would mean ruin to the states; that for Congress to hold purse and sword meant tyranny; that a republic of little republics was the one hope against despotism, *etc.*<sup>3</sup> The legislature assented to this position, and May 4, 1786, passed an impost law which granted the required duties, but vested in the state "the sole power of levying and collecting the duties". The collectors were made answerable to the state and the duties were receivable in bills of credit or in specie. This measure being so radically different from the plan proposed was tantamount to a rejection and was so regarded by Congress. On August 11, 1786, that body returned the act to Clinton with the recom-

<sup>1</sup> Bancroft, *op. cit.*, vol. i, p. 263; Hamilton, *Works*, vol. ii, p. 334.

<sup>2</sup> Fiske, *The Critical Period of American History, 1783-1789*, p. 219.

<sup>3</sup> Bancroft, *op. cit.*, p. 264, *et seq.*

mendation that he convene a special session of the legislature to reconsider it,—the regular session being then over.<sup>1</sup> Clinton, having been just re-elected governor for the fourth time, sure of his influence and popularity, felt strong enough to disregard the wishes of Congress. He, therefore, wrote a very suave note in reply, in which he professed the highest regard for that body, and the greatest regret that he was unable to comply with its request. He was, he said, only empowered to call an extra session for extraordinary business, and as the impost had been so repeatedly and thoroughly aired, he did not see his way clear to considering it as such. In other words “he plainly told Congress that he did not think it of much importance whether the impost succeeded or failed, whether the national treasury was full or empty, whether the interest on the loans was paid or unpaid.”<sup>2</sup> Repeated urging failed to move him from this position, and a deadlock ensued which held up the entire governmental machinery.

On January 2, 1787, the assembly met in New York City for the regular session. To this assembly came Hamilton as a member through “the vigorous exertions of the merchants—and of his political friends”. He, with Schuyler in the senate, became at once the rallying point of the Anti-Clintonians and a storm-center. As it was soon to appear, he had not abated any of his determination in the matter of the Federal impost. He was resolved to secure it if it was humanly possible, but if not, at least to use the resultant intolerable condition of affairs as a club to secure a revision of the Articles of

<sup>1</sup> Stevens, “New York and the Federal Constitution” in *Magazine of American History*, vol. ii, p. 385, *et seq.* *Laws of the State of New York*, vol. i, 9 s., ch. 61.

<sup>2</sup> McMaster, *op. cit.*, vol. i, p. 370.

Confederation. On the 13th Clinton delivered the customary message. In connection with the requisitions for the coming year, he submitted the impost plan, without any comment save that "it hath been so repeatedly submitted to the consideration of the legislature and must be well understood", and the further significant remark that he was "persuaded that your dispositions are truly foederal".<sup>1</sup> The address was referred to a committee composed of Alexander Hamilton, James Gordon and Samuel Jones to be answered. Jones, the third member of the committee, was destined to figure more or less prominently in the subsequent struggle. A grandson of Thomas Jones of Queens County, Samuel Jones had studied law under William Smith, later Chief Justice of New York. He took no active part in the Revolution, and at the close of the war became interested in politics. He held many offices, and was repeatedly elected to the Assembly. He has been called "the father of the New York bar", and it was said by a contemporary that

no one surpassed him in clearness of intellect, and in moderation and extreme simplicity of character; no one equalled him in his accurate knowledge of the technical rules and doctrines of real property, and his familiarity with the skillful and elaborate, but now obsolete and mysterious black-letter learning of the common law.

Three days later came the report of the committee and with it the first gun of Hamilton's attack. The answer, in taking up the various items of the address, pointedly omitted all reference to the Governor's action with regard to the special session. This at once roused the ire of the Clintonians, and Jones moved an amendment

<sup>1</sup> *New York Journal*, January 18, 1787; *Journal of the Assembly of the State of New York*, 10 s., p. 6.

definitely approving Clinton's stand. With the issue thus squarely joined, a long and bitter debate followed. In the course of this debate, which centered around Hamilton and Jones as protagonists; not only was the main question considered, *i. e.*, whether or not an extraordinary occasion really existed, but the discussion ranged far and wide over the whole field of the relations existing between state and confederation. At the conclusion of the struggle, however, the amendment was adopted by a vote of 36 to 9. Public feeling now again became intense. At the end of January, 1787, a heated controversy developed in the press between one "Cimon" who favored the impost, and the representative of the opposition, who wrote under the pseudonym of "Candidus". In his first number, January 31st, "Cimon" begged people not to be alarmed or misled by "fawning sycophants."

For God's sake gentlemen look into this business . . . is it agreeable to common sense, or possible in the nature of things, that an elected body of men—removable at pleasure and of short continuance at most,—men, too commonly selected of known abilities, and approved integrity; that *they* should enter into a combination to destroy the fair fabric of liberty which *themselves* have had so great a share in rearing and establishing.<sup>1</sup>

He pointed out that constant suspicion was making officials afraid to have any initiative at all. He warned them that sooner or later power must be given somewhere if they were not to justify the prophecies of their enemies, and by "jealousies and want of virtue" put an end to their independence. State authorities, the writer asserted, naturally opposed the measure, since it "would

<sup>1</sup> *New York Daily Advertiser*, January 31, 1787.

deprive them of one of the grand props of their power", and a particular warning was sounded against Jones. In conclusion he exhorted his readers to rely upon "the unawed eloquence of a Hamilton, and the steady patriotism of a Malcolm".<sup>1</sup> At the end of a week came the answer of "Candidus." In it, after rebuking "Cimon" for abuse of those who disagree with him, he propounded a series of questions: (1) Is there anything lacking except the law empowering Congress to collect the revenue? (2) Is not money raised by each state just as good for debts as if raised by Congress? (3) Has not New York uniformly contributed the amount asked through her own lawful channels? (4) Is such grant of power necessary? (5) Will not such a grant "effect an essential change both in the federal and state governments"? (6) Has the State of New York the power to transfer such authority? These questions he challenged "Cimon" to answer.<sup>2</sup> The latter promptly replied two days later, contemptuously describing the questions as emanating from a "sterile brain". Nevertheless he took the trouble to answer them at some length, making a strong plea for the subordination of local powers in favor of a stronger general government.<sup>3</sup> In two more days "Candidus" returned to the charge. After declaring that the answers of "Cimon" did not answer, he accused him of begging the question and evading the crux of the whole matter, *viz.*, whether or not the legislature had

<sup>1</sup> *New York Daily Advertiser*, January 31, 1787. William Malcolm was a member of the Assembly from New York County in 1786 and 1787. He served on various committees, including Ways and Means. In 1776 he was Major of a New York regiment and became successively Colonel and Deputy Adjutant-General of the Northern Department. He died in 1792.

<sup>2</sup> *Ibid.*, February 6, 1787.

<sup>3</sup> *Ibid.*, February 8, 1787.

the right to give to Congress any such power as asked for.<sup>1</sup> At this time also appeared "Candid Remarks upon the Republican" by "Patrioticus", This was a vehement attack upon an anti-impost pamphlet. It asserted that the real reason for withholding the collecting power, while granting the money, was the very distinct disinclination "to metamorphose" vain promises into "substantialities". "That is, we are still as willing to promise as ever we were, but are by no means disposed to put it into the power of any body of men to compel us to fulfill our engagements." Unfortunately, people have lost faith, and should we judge from experience, as "Republican" asks us to do, "we should have been convinced long since that the requisitions of Congress for the purpose of raising a revenue still have been and now are, treated with as little regard as the whistling of the winds". To point his illustration he gave figures to prove that during the war—with our political salvation at stake, when the

chains of slavery were rattling about our ears, and every tree presented us a gallows ready to the hand of British indignation—it appears that each inhabitant—had paid in taxation some small trifle more than one dollar, which went quite up to the enormous sum of two shillings per man a year. What a glorious fund to support a war against Great Britain! The purchase of independence and intoxication are about equal, and some are careless whether the joys of each are not equally permanent.

True, money, not power, should be the first aim of Congress, but how in the name of common sense could we get one without the other? Experience showed all too plainly that people or bodies do not always pay their

<sup>1</sup> *New York Daily Advertiser*, February 13, 1787.

debts voluntarily. As for power, our own legislature is far more arbitrary and dangerous than Congress could ever be. One of the true reasons for opposing taxation was that certain leading men knew that if their neighbors were taxed they "could not decently escape paying their proportion."<sup>1</sup> In the same issue appeared an editorial letter which declared "the federal government trembles to its base and threatens ruin by its fall, . . . can it be propped or Phoenix-like must a new one rise from its ashes".<sup>2</sup> Gradually the dispute waxed more and more heated. "Thersites" begged "Cimon", as a master of the "incomparable art of scurrility", to make short work of his opponents, "Candidus" and "Rough Hewer". In a sarcastic letter he even gave an outline of such an attack. Beginning with February 19, 1787, there appeared a very strong series of papers in favor of the impost. Almost every kind of appeal was made. The writer was at various times judicial, sarcastic, and humorous. He declared that he was as heartily in favor of a restriction of dangerous power as any one could be, but he demanded proof of the danger. Then followed a satirical description of the result of rejecting the impost—heavy taxes, ruined trade, *etc.* The absurdity was pointed out of requiring Congress to pay a debt and then not giving them power so to do. New York helped to contract the debt—New York must get behind and help pay it. As to the power of Congress: "If we cannot repose any confidence in that body, why do we acknowledge them our ruling head? Certainly it is foolish to suspect the men whom we choose to represent us. If America cannot afford any other than venal men, all

<sup>1</sup> *New York Daily Advertiser*, February 13, 1787.

<sup>2</sup> *Ibid.*

government clearly soon must cease.”<sup>1</sup> In his second letter, the writer stated the crux of the matter thus: “an extension of the powers of Congress in certain cases, or a total dissolution of the powers of the union,”<sup>2</sup> and demanded what was to be done about expenses in case the plan was rejected. He warned that taxes, *etc.*, would increase by leaps and bounds. On February 21st, “Cimon” again wrote in answer to “Candidus” denying his statement that there was no power to grant the impost as Congress asked it. The legislature had, he asserted, assumed, on several occasions, the right of interpreting the Constitution, and had even sanctioned measures at one time or another which were against it in spirit, or even in letter.<sup>3</sup> Hard on the heels of this statement came the concluding number of the “Considerations”. This stressed the fact that the impost was for the purpose of paying a debt of honor, that its operation was clearly defined and restricted, and that a failure to grant it as asked would be equivalent to a vote of “Want of Confidence” in Congress. It called attention also to the abundant means ready to the hand of the state, by which its prestige and power could be maintained even against the Federal Government itself.<sup>4</sup> By this time the other states were thoroughly disgusted by New York’s stand, and on the 23rd of September a letter, reprinted from Massachusetts, sharply inquired how much longer she would be forced to put up with obstructionist tactics. It demanded a recall of the Massachusetts Congressional delegates as useless and expensive, and the creation of a new Legislature for the New

<sup>1</sup> *New York Daily Advertiser*, February 19, 1787.

<sup>2</sup> *Ibid.*, February 20, 1787.

<sup>3</sup> *Ibid.*, February 21, 1787.

<sup>4</sup> *Ibid.*, February 22, 1787.



England group, leaving the rest to pursue their own "imbecile and disjointed plans, until they have experimentally learnt the folly, danger and disgrace of them, and acquired magnanimity and wisdom sufficient to join a confederation that may rescue them from destruction." <sup>1</sup>

Meantime the champions of the impost in the assembly had not been idle. On February 15, the matter was taken up and at once the house split into two distinct groups. Those favoring the full grant of power to Congress rallied to the support of Hamilton, already the possessor, at thirty, of an enviable reputation. A trained lawyer, an officer of distinction, at one time a member of Washington's military family, connected by marriage with the influential Schuyler family, he was an antagonist to be reckoned with. Opposed to him were foemen worthy of his steel. George Clinton, leader of his party, at this time forty-seven years old, was possessed of great political gifts and long training. In private life he was "frank, amiable, and warm in his friendships," while in political activities he possessed "art, cunning, and a good share of understanding." A zealous patriot, he had been a member of the assembly of 1760, headed its Whig minority in 1768 and served in the Continental Congress of 1775. He had seen active service during the war, besides being a member of various regulating committees which kept a jealous eye on Tory activities. In addition, he seems to have had a keen ability to judge men.

Ably seconding Clinton was Melancton Smith of Dutchess County, somewhat older than his chief. A prominent business man of Poughkeepsie, some time sheriff of Dutchess County, he was noted for "his love of reading, tenacious memory, powerful intellect, and for

<sup>1</sup>*New York Daily Advertiser*, February 23, 1787.

the metaphysical and logical discussions of which he was a master." He had served in the first Provincial Congress of New York, in the Continental Congress and on the committee to detect conspiracies. At this time he was engaged in business in New York City.

Associated with Clinton and Smith were Robert Yates and John Lansing. The former had been a member of the Albany Committee of Safety, and Chairman of the Committee on Military Operations in 1776-7. A member of both first and second Provincial Congress," and of the State Constitutional Convention, he was at this time one of the justices of the Supreme Court of the State. John Lansing, lawyer and Mayor of Albany, was the youngest of the quartet. He had trained for the bar with James Duane and Yates, and later received practical experience as a member of the New York assembly, being at one time Speaker of that body. He had also served in the Congress of the United States.

The Clinton party, under the guidance of these men, opposed the proposed grant as too dangerous. They were willing to grant the five per cent duty, but demanded that the collection be controlled by the state as a check. In the effort to make them change their minds Hamilton now delivered his famous speech on the impost. In this address in a final desperate effort, he made use of every possible argument which his fertile brain could suggest. Point by point he took up the case against the grant. Such a grant was first of all, not illegal or unconstitutional, although it was true that all power was forbidden to Congress unless by grant of the people. Might not the people, however, grant to their representatives in the legislature, and they in their turn grant to Congress, and was not this power derived from the people? Nor did such a grant run counter to the

provision in the New York State Constitution that "the supreme Legislative power *within this State* shall be vested in a Senate and an Assembly". This obviously meant that such should be the case in apportioning authority and power within the state, just as the governor was made the supreme executive authority. To insist on the other interpretation, and to deny any jurisdiction whatever to any outside power, was absurd, since it automatically abolished even the federal executive, and hence the very Union itself. This absurdity became still more obvious when the theory was carried to its ultimate conclusion, for it would necessitate the recall of the various powers already delegated, such as power of taxation, power over the life and property of the citizens, regulation of weights and measures, *etc.* These being recalled, the federal government would cease to exist, and then what would become of the provisions authorizing the sending of delegates to a congress which did not exist and would have no power if it did? Thus New York, by the very act of sending delegates to Congress, presupposed a grant of powers necessary for the existence of that body,—of which the one asked was the most vital. To clinch the point, reference need only be made, he claimed, to the circumstances under which the system was created. During the Revolution, union was the paramount idea, and Congress was granted, and exercised, wide powers. New York tacitly recognized the legality of this proceeding by sending delegates to the meetings of the Congress. When these wide powers were to some extent abridged by the Confederation, it was, however, with the express reservation of all the old power, *if needed*. Having thus disposed of the constitutional objection, Hamilton next attacked the more elusive and dangerous charge that such a grant would

endanger the liberties of America. If this were so, then they were themselves guilty of a grave crime, for the suggestion embodied in the impost had had its origin in the declaration of Judge Hobart of New York that "adequate supplies to the federal treasury, can never flow from any system which requires the intervention of thirteen deliberatives between the *call* and the *execution*." Not only was this proposal accepted without any objection, but no longer ago than the last session of the legislature had it been proposed to go still further and grant to Congress complete control of trade. Why then this sudden panic and alarm over such a well-accepted principle? The speaker then proceeded to demonstrate that, even lacking such a precedent, the danger feared was wholly imaginary. He dwelt upon the fluctuating membership of Congress, which made combinations difficult, if not actually impossible; he emphasized the immeasurably greater hold of the state upon its people through local ties; and he pointed out that this, together with the interest of the host of state officials, would form so effective a bar to tyranny that it was not a question of the central government absorbing the states, but rather the reverse. In the third place, Hamilton set about proving that, granted its constitutionality, and its innocuousness, the measure was desirable from the revenue point of view. He proceeded to show the utter failure of the requisition system, under which, during the last five years, New York alone had paid up her quota. Not only this, but she had paid two hundred per cent of it. In other words, the others enjoyed the benefits, and New York paid the bill. So openly was the situation recognized by some of the states, that they did not even go through the motions of complying with the requisitions. It was up to New York. She must either continue to

be the burden bearer, or adopt this system. The only other alternative was a refusal point-blank to be longer imposed upon, and this would simply mean the wrecking of the union. Were the opposition prepared to go that length? He pointed out also that it was folly to think of "compelling" the states to pay, or to expect them to agree to the New York plan with its local bias,—or to live up to the agreement if they did,—since the "faith" of the States had long since proved a worthless guarantee. Incidentally he remarked that the foreign creditors might very well be expected to begin to be ugly before long, and the United States *must have money*. It was therefore simply a question of accepting the Congressional system, with its possibility of higher duties through lack of state competition, or of submitting to heavy direct taxation. Thus, having attempted to justify the measures on the ground of legality, expediency and efficiency, Hamilton rested his case.

The temper of the opposition was at once shown. No attempt was made to answer Hamilton, or to make out a case. His arguments were ignored, and the vote being taken resulted in a defeat for the impost—36 to 21.<sup>1</sup> With this defeat Hamilton and his friends gave up the fight along the line of the impost. They realized that they were fighting what a contributor to the *Daily Advertiser* bitterly termed a "pre-concerted majority" against which argument was useless, and so they proceeded to turn their energies to securing a revision of the Articles. Thus as one writer has said: "The vote of the New York legislature on the impost decided the fate of the Confederation."<sup>2</sup>

While the matter of the Continental impost was, by

<sup>1</sup> Hamilton, *Works*, vol. ii, p. 353, *et seq.*

<sup>2</sup> Hamilton, J. C., *op. cit.*, vol. iii, p. 236.

virtue of its far-reaching effects, the question of most importance from 1781 to 1786, there were, nevertheless, other matters which occupied as great, if not a greater, place in the minds of the people at the time. One of these which was a potent factor in party divisions in New York was the question of the treatment of the Loyalists, or "Tories". Immediately after the peace three main parties developed on this question, along the lines of cleavage made familiar during the Revolution. In the first place there was a group of Tories, some of whom cherished the hope that England would somehow, sometime, regain control. Others desired a restoration of citizenship and estates, with the idea of regaining their own power and prestige when time should have partly obliterated the memory of the events of the war. A second group was composed of the violent Whigs who had suffered much and to whom, in consequence, the name Tory was anathema. Between these groups was a third, that of the moderates, who deprecated violence, and favored a gradual restoration to citizenship of such Tories as were, or would be, loyal to the new regime. In the contest which was to come Hamilton, the Livingstons and the Schuylers were to be found in this group, while the Clintons and their followers were enrolled in the party of revenge.<sup>1</sup> Feeling ran particularly high in New York City, since it had been the scene of many injustices during the war, and the Whigs were most bitter. In their bitterness they showed little discretion, or even what might be called good sense. Some of the moderates conceived the idea of carrying out their scheme of gradual repatriation of the Tories through the agency of an assembly ball, which should reestablish

<sup>1</sup> Parton, *Life and Times of Aaron Burr*, p. 167, et seq.

little by little the social lines disrupted by the war. Upon the true reason for its establishment being discovered, there was at once a vigorous attack opened upon it in the press, in the form of savage and threatening letters, which, of course, defeated the object of the whole undertaking. Many of the Tories in New York were still rich in spite of confiscations, and the sight of their prosperity helped to inflame the minds of the populace, many of whom the war had left with a crushing burden of debt. Add to these the persons who had acquired control of confiscated Tory property, and feared an attempt by the owners to recover it, and the usual discontented element composed of dock-laborers, soldiers, etc., and we find that "the community, from these various causes, was fast becoming divided into two embittered factions of creditors and debtors."<sup>1</sup> In January, 1784, "Hampden" writing in the *New York Journal* denounced the policy of fraternizing with the Tories, declared that they could not be trusted, and wound up by advising them to leave speedily and not to tempt Providence.<sup>2</sup> At the same time "the Whig Mechanics, Grocers, Retailers, and Tavern-keepers of the City of New York, who have been Exiles" are found petitioning the Aldermen, in a more or less mandatory form, to be very circumspect in licensing Tories to do business. The substance of the petition was also embodied in an instruction to the New York members of assembly, which declared that equal privileges for Tories was "inconsistent with sound policy, and natural justice, and insulting to the feelings of the good citizens of this State."<sup>3</sup> Some color was given to the charges of the radical

<sup>1</sup>Hildreth, *History of the United States*, vol. iii, p. 467.

<sup>2</sup>*Independent Gazette*, January 22, 1784.

<sup>3</sup>*Ibid.*, January 29, 1784.

Whigs by letters like the following, which was printed in Holt's paper of January 31, 1784. It was written from London to a gentleman in Boston and foretold emancipation from the "tyrannical and arbitrary Congressional Government under which you have for some time groaned—a government for cruelty and ferocity not to be equalled by any but that in the lower regions, etc." The editor in publishing it does so with the comment: "The foregoing is a very proper recommendatory letter for the re-admission of the Refugees into this or any other of the confederated States."<sup>1</sup> About the middle of February the views of the Whigs of New York were summed up in a memorial addressed to the senate and assembly, which declared that the Tories were a menace and demanded the immediate passage of the Alienation Bill directed at them. Pending official action the Tories were jeered at, and taunted in the streets, and at last a meeting of the Sons of Liberty was called in the old way to meet at Vandewater's. There after much strong language had been indulged in, it was resolved that all the Tories must quit the city by May 1st. This, however, produced no result, and both sides settled down to await the result of the legal battle. One of the most savage of the acts directed against the Tories, had been the so-called "Trespass Act". This was a law, passed March 17, 1783, which declared that if any person had been obliged to leave his home, owing to the occupation by the enemy, he might sue as trespassers those who had subsequently taken possession of the premises. Against such a suit the defendant was not allowed to plead a military order as justification.<sup>2</sup> For a time it seemed as

<sup>1</sup> *Independent Gazette*, January 31, 1784.

<sup>2</sup> *Laws of the State of New York*, vol. i, 6 s., ch. xxxi.



if a reign of terror was imminent, but this was averted through the good sense and moral courage of one man. As early as June 1, 1783, Alexander Hamilton had written a long letter to Clinton pointing out the danger of too much punishment of the Tories. Any confiscation of their lands, he warned him, could be interpreted by the British as a violation of the treaty stipulations and cause reprisals. Moreover, he pointed out "the impolicy of inducing, by our severity, a great number of useful citizens, whose situations do not make them a proper object of resentment, to abandon the country, to form settlements that will hereafter become our rivals, animated with a hatred to us which will descend to their posterity."<sup>1</sup> He denied that he favored the enemies of his country, and declared that he was solely interested in "the cause of national honour, safety and advantage."<sup>2</sup> In the same strain Jay wrote from Passy on July 19, 1783, to Governor William Livingston that he would be very sorry to see indiscriminate condemnation of the Tories. "For my part," he declared, "I wish that all except the *faithless* and *cruel* may be forgiven."<sup>3</sup>

On the same day he communicated somewhat more fully to R. R. Livingston his views concerning the Tories remaining in New York: "As to the residue, who have either upon principle openly and fairly opposed us, or who from timidity, have fled from the storm and remained inoffensive, let us not punish the first for behaving like men, nor be extremely severe to the latter because nature had made them like women."<sup>4</sup> On September 1, 1783, the "Refugee Citizens of New York"

<sup>1</sup> Hamilton, J. C., *op. cit.*, vol. ii, p. 537.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Correspondence and Public Papers of John Jay*, vol. iii, p. 55.

<sup>4</sup> Jay, *op. cit.*, vol. iii, p. 63.

presented a petition to Clinton outlining their grievances. In the first place, they had returned to find the best in control of men who "exerted themselves to support our enemy, and to defeat the measures which have been pursued for the preservation of our lives, liberty and the establishment of our freedom and independence;" men who could not be trusted and who would be dangerous later. Therefore they asked that they be allowed to repossess themselves of their property at the old pre-war rate, and not be forced to pay the excessive figure demanded by the present holders. In this way, the petition declared, Clinton would provide for "faithful and zealous citizens and subjects in preference to those who have been open and avowed enemies."<sup>1</sup> On September 28, 1783, Jay again wrote from Passy, this time to Hamilton. He said, in part :

The Tories are as much pitied in these countries as they are execrated in ours. An undue degree of severity towards them would, therefore, be impolitic as well as unjustifiable. They who incline to involve that whole class of men in indiscriminate punishment and ruin, certainly carry the matter too far. It would be an instance of unnecessary rigour, and unmanly revenge, without a parallel, except in the annals of religious rage, in the times of bigotry and blindness. What does it signify where nine-tenths of these people are buried? I would rather see the sweat of their brows fertilizing our fields than those of our neighbours, in which it would certainly water those seeds of hatred, which, if so cultivated, may produce a hedge of thorns against us. Shall all be pardoned then? By no means. Banish and confiscate the estates of such as have been either faithless or cruel, and forgive the rest.<sup>2</sup>

<sup>1</sup>Broadside, September 1, 1783.

<sup>2</sup>Jay, *op. cit.*, pp. 90-91.

By far the most striking illustration however of popular feeling was furnished by the case of Elizabeth Rutgers *vs.* Joshua Waddington, tried under the provisions of the Trespass Act. The side of the defendant, a rich Tory merchant, was naturally not the one which appealed to the popular fancy. Nevertheless, Hamilton, then only twenty-five, but already a marked man along various lines, undertook the defense. Basing his case upon the argument that he had so often used against similar actions, he won the decision on the ground of contravention of the Treaty and of public policy. The result, as could have been foreseen, at once caused a great furor. According to the familiar Revolutionary precedent a mass meeting was called at Vandewater's which was largely attended by those interested in similar cases. The meeting denounced the decision as dangerous, pernicious, and nullifying the authority of the legislature, which latter body heatedly declared it to be "subversive of all law and good order".<sup>1</sup> Nor did the effects of the decision end there. Hamilton, severely criticized for his attitude in the case, wrote in defence of his policy of sane treatment of the Tories a series of essays under the name of "Phocion". These were at once replied to by Isaac Ledyard, under the name of "Mentor", and so acrimonious did the discussion become, that only the personal interposition of Ledyard prevented the carrying out of a plot formed by some of his friends to challenge Hamilton, one after another, until he should have been killed, and in that way most effectively silenced. Furthermore, the case caused a recrudescence of the old class hatred against lawyers, which had marked the period of the Revolution. In line with this feeling "the

<sup>1</sup>Hamilton, J. C., *op. cit.*, vol. iii, pp. 11-20.

mechanics were . . . assured that aristocracies were the bane of society, that of all aristocracies that of the lawyers was the worst,"<sup>1</sup> and that they would surely be set against the Mechanics Incorporation Bill then pending.

While this sort of activity was going on out-of-doors the legislature manifested a no less violent spirit. It had been elected by only a small part of the voters, and was completely dominated by the violent party, championed by the Governor. The leader of this party in the Senate was Abraham Yates, Jr., and in the House Colonel Lamb, and under their direction all loyalist petitions were rejected and several violent bills passed. Hamilton had protested vigorously and continuously, his protests culminating in the "Phocion" pamphlets, in which he declared that to call the Whigs defenders of liberty was a "mockery of common sense". This bold policy he continued to pursue as a member of the legislature of 1787. In January of that year a bill was introduced in the Senate to exclude from seats in that body all those who had favored the British. This was at once attacked by the Hamilton-Livingston group on the ground of expediency, and after considerable debate, and three separate votes, beaten. A week later the assembly took up the matter on motion by Jones. The exclusion provision was now made to apply not only to those who had favored the British, but to any who had engaged in privateering against the United States. The measure was promptly denounced by the conservatives as an abridgment of constitutional rights for the sake of satisfying private resentment. In addition to its injustice, it could not, they said, even be defended as expedient, since

<sup>1</sup> McMaster, *op. cit.*, vol. i, p. 254.

the word "privateer" includes also the term "letters of marque" which practically every merchant was obliged to take out as a protection. Therefore, carried to a logical conclusion, the measure meant the exclusion of the whole merchant class. Was it wise thus at the very outset of a new government to antagonize such a powerful and influential body, many of whose members had been truly patriotic, though often forced, as part owners of vessels, etc., to take action agreeable to the majority stockholders? Against this moderate view was urged the argument that once an enemy meant always an enemy. The Tories, it was reiterated, were dangerous men, already plotting to regain their lost control, and needed to be carefully watched. Innocent men there might be among them, but these could easily clear themselves, while the law might yet be enforced against the others. As to the question of constitutionality . . . the law being necessary for the protection of the Constitution, was *ipso facto* legal. As a result of the prolonged debate the moderates finally succeeded in defeating the measure by a vote of 32 to 21,<sup>1</sup> so that on February 21, 1787, Jay could write to John Adams that the state had greatly modified its severe treatment of the Tories, and restored the majority of those resident to citizenship. He hoped that the resentment would continue to die down, and be replaced by "reason and good faith." Thus the second great question still further operated to widen the breach between the parties already rapidly assuming definite lines in New York State.

This ever-widening breach was emphasized still more by a third great question, that of paper money. This had been more or less of a moot point throughout the

*New York Daily Advertiser*, February 6, 7, 1787; *Journal of the Assembly of the State of New York*, 10 s., p. 37.

whole of the colonial period, and had its staunch advocates as well as its bitter enemies. In general, in New York, on the side of paper money were to be found the city shop-keepers, country merchants, manufacturers and the debtor class, while ranged in opposition were the merchants, importers, stockholders, moneyed men, and creditors. The friends of the system introduced a bill to legalize it, whereupon the usual war of pamphlets ensued. Primarily its opponents objected to the system on the ground that, having no definitely worked out plan of redemption, it would rapidly depreciate and hence be a hindrance to commerce.<sup>1</sup> On the other hand, its advocates urged that opposition by the merchants was just the reason for adopting the system. By using it foreign trade would be cut down, and agriculture fostered, which would be a good thing for the country.<sup>2</sup> This view was promptly combated with the statement that what hit one class in one way would hit all classes in some way—debts and estates would shrink, prices would rise, and there would be wide-spread suffering. In addition “Honest Farmer” declared: “it ~~an~~ the *working* farmers that want to have the money made; it is the jockeying men that want bad money to go to the honest labouring folks in the back part of the country, and tell them a fine story and get their *good* things for it”. The writer then went on to advocate hard money, since if people had to pay cash there would not be so much foolish extravagance.<sup>3</sup> In spite of the objections the measure passed, and with its passage the discussion merged into the question of the impost, the advocates of paper

<sup>1</sup> *New York Packet*, April 11, 1785.

<sup>2</sup> *New York Daily Advertiser*, February 18, 1786.

<sup>3</sup> *Id.*

money seeking to prove that the grant of so much power to Congress would sound the knell of the system, while the impost men declared that, on the contrary, paper would be benefited by the change. In his speech on the impost, Hamilton after enumerating the causes which had saved paper money from depreciation, and declaring them still operative, maintained that paper would not be affected by the passage of the continental impost, since the system was based on a reciprocal agreement between merchant and farmer, and on the need for money. Besides, the proposed additional state impost and other contemplated taxes, by being made receivable in paper, would provide the necessary outlet, and keep up the credit of the system.

Thus, from 1783 to 1787, there was a slow but steady separation into two great camps of opinion, roughly corresponding to the radical and conservative Whigs of the previous era,<sup>1</sup> and the appearance of the new Constitution found both sides fully organized, conscious of each other's strength, and thoroughly familiar with the ground over which the argument must travel.

<sup>1</sup>*Lamb Papers*, Ledlie to Lamb, Jan. 15, 1788.

## CHAPTER II

### NEW YORK AND THE CONVENTION OF 1787

THE weakness of the Confederation, plainly manifest in 1781, was emphasized by the attitude of New York in the matter of the impost, and by the studied contempt with which the Congress was treated by her governor. The struggle had brought out clearly for all who chose to see, that, to quote Washington, there was "more wickedness than ignorance mixed with our councils,"<sup>1</sup> and it was clearly recognized by the advocates of a strong government that any attempt to improve the conditions, deplorable as they were, would be rendered difficult by the opposition of "ignorance and design."<sup>2</sup> Men like John Jay were becoming more and more convinced that the Confederation was fundamentally wrong, and that the only hope lay in an entirely new scheme, but they knew equally well that any such government would be instantly opposed by local leaders, who, like Clinton, would see in it a diminution of their own power. The action of New York on the impost had, however, made some steps imperative, and, therefore, it was determined by the leaders to "secure by a circuitous route the assembling of a Convention to 'revise' the Articles of Confederation, with the hope of obtaining, outside of the legal framework, the adoption of a revolutionary programme."<sup>3</sup> That this was not regarded as an ideal way

<sup>1</sup> *Correspondence and Public Papers of John Jay*, vol. iii, p. 195 *et seq.*

<sup>2</sup> *Ibid.*

<sup>3</sup> Beard, *Economic Interpretation*, p. 63.



of securing their end, is indicated by a letter which Jay wrote to Washington early in 1787. After outlining what he considered the changes necessary to make the Confederation efficient, he declared that he doubted the wisdom of the convention scheme, coming as it did from the state legislatures. It would have no powers, he insisted, to make material alterations, since "they who hold commissions can by virtue of them neither retrench nor extend the powers conveyed to them."<sup>1</sup> The best they could do would be to recommend, and that would produce "endless discussion, perhaps jealousies and party heats."<sup>2</sup> He proposed, as an alternative, that state conventions should be appointed by the people to send delegates to a general convention, which should "take into consideration the Articles of Confederation, and make such alterations, amendments, and additions thereto as to them should appear necessary and proper, and which being by them ordained and published, should have the same force and obligation which all or any of the present articles now have."<sup>3</sup>

Nevertheless, since the original proposal seemed to be the best obtainable at the time, notice was served on February 16 that a motion would be introduced into the New York assembly instructing its delegates in Congress to recommend a Convention to revise the Articles in such a way "as a majority of the representatives shall judge proper and necessary to render them adequate to the preservation and government of the Union."<sup>4</sup> On the 17th this resolution was duly introduced by Malcolm, in the form announced, but after some discussion, was amended by striking out the words "a majority of," and by substituting the word "sup-

<sup>1</sup> Jay, *op. cit.*, vol. iii, p. 227, *et seq.*

<sup>2</sup> *Ibid.*, p. 228.

<sup>3</sup> *Ibid.*, p. 229.

<sup>4</sup> Hamilton, J. C., *History of the Republic*, vol. iii, p. 239.

port" for the word "government." In this form it went to the senate, where a three-cornered fight at once developed between Schuyler, Yates and Haring. Finally the senate also passed the resolution—by one vote—and it was duly transmitted to Congress.<sup>1</sup> Concerning this action, Jay wrote John Adams:

New York has instructed her delegates to move in Congress for a recommendation to the States to form a convention; for this State dislikes the idea of a convention unless countenanced by Congress. I do not promise myself much further immediate good from the measure than that it will tend to approximate the public mind to the changes which ought to take place.<sup>2</sup>

On the same day that this letter was written, Congress sanctioned the convention idea, and on the 23rd a message from Governor Clinton conveyed this information to the assembly, which referred the matter to a Committee of the Whole for consideration.<sup>3</sup> In this committee, five days later, Hamilton offered a resolution in accordance with the recommendations of Congress, calling for the appointment of five delegates in March.<sup>4</sup>

In the senate the Clinton party, fearing the effect of a strong central government, at once attempted to nullify the effect of the resolution by inserting a proviso that no changes should be made "repugnant to or inconsistent with the constitution of the State." This motion, after extended debate, was defeated by the casting vote of the president of the senate, but the purpose of the opposition was partly achieved in that the number of delegates was reduced from

<sup>1</sup> Stevens, "New York and the Federal Constitution" in *Magazine of American History*, vol. ii, p. 389, *et seq.* Hamilton, *op. cit.*, vol. iii, p. 240.

<sup>2</sup> Jay, *op. cit.*, vol. iii, p. 234.

<sup>3</sup> *New York Daily Advertiser*, February 28, 1787.

<sup>4</sup> *Ibid.*, March 1, 1787; Hamilton, *op. cit.*, vol. iii, p. 241.

five to three.<sup>1</sup> In accordance with the terms of the resolution the election was held, and on March 6, Robert Yates, Alexander Hamilton, and John Lansing, Jr. were duly chosen as delegates receiving 52, 49 and 26 votes respectively. It is a singular fact that this vote seems to have been accepted without comment at the time. In none of the three leading New York newspapers, the *Packet*, the *Daily Advertiser*, and the *Journal*, is there anything more than the bare announcement that "by joint ballot of the senate and assembly, The Hon. Robert Yates, Alexander Hamilton, John Lansing Jun, were chosen delegates to represent this state in the Convention to be held at Philadelphia in May next."<sup>2</sup> There is no indication of any particular interest in the event, and, in the case of the senate, the votes are not even recorded.

It seems probable that this apparent lack of interest was due to the fact that New York State had already furnished delegates to two conventions of a similiar nature. In 1781 John Sloss Hobart and Alexander Hamilton had represented the state at the Hartford Convention which urged a more uniform and efficient method of taxation. In 1786 Hamilton and Egbert Benson were New York's delegates to the Annapolis meeting which had for its object the settlement of commercial difficulties in the interest of the greater stability of the Confederation.

The movement for the Convention of 1787, while it had momentous results, did not differ materially from the others in its early stages, and to this fact, perhaps, may be ascribed the apathy of the people in general. Such conventions had come to be more or less familiar, and the

<sup>1</sup> Bancroft, *History of the Formation of the Constitution*, vol. i, p. 274. *Journal of the Assembly of the State of New York*, 10 s., pp. 70, 71.

<sup>2</sup> *New York Daily Advertiser*, March 7, 1787.

ruling party doubtless felt itself secure in its majority. The reasons for the actual number of votes cast for each of the delegates, must remain a matter for speculation, as there is no light thrown by contemporary accounts. Of the three men, Lansing was, as already noted, a lawyer and Mayor of Albany, of whom a contemporary wrote: "He has a hesitation in his speech, that will prevent his being an Orator of any eminence. His legal knowledge, I am told, is not extensive nor his education a good one. He is, however, a man of good sense, plain in his manners, and sincere in his friendships."<sup>1</sup> Though a believer in the Clinton principles, he was shrewd enough to be able to see very clearly the economic effects of the possible change. Robert Yates, though also a lawyer, and a judge, was apparently not of any startling ability as an orator. Neither of these gentlemen was particularly on record at the time as to his political creed. Hamilton, the minority member of the delegation, was interested, as he had always been, in the creation of a government which should be attractive to the financial, mercantile, and creditor classes. His political ideal may thus be summed up in his own words.

All communities divide themselves into the few and the many. The first are the rich and well-born, the other the mass of the people. The voice of the people had been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact. The people are turbulent and changing; they seldom judge or determine right. Give, therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage from a change, they therefore will ever maintain good government. Can a democratic assembly who annually revolve in the mass

<sup>1</sup>William Pierce, "Character Sketches of Delegates to the Federal Convention" in Farrand, *op. cit.*, vol. iii, p. 90.

of the people be supposed steadily to pursue the public good? Nothing but a permanent body can check the imprudence of democracy. . . . It is admitted that you cannot have a good executive upon a democratic plan.<sup>1</sup>

Even the partial victory of the Hamilton group was looked upon askance by the Clintonians, and it was made very clear to the delegates that they attended the forthcoming convention with extremely definite instructions. They were given distinctly to understand that they went

for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and to the several legislatures such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the several states, render the Federal Constitution, adequate to the exigencies of government, and the preservation of the Union.<sup>2</sup>

As is usual in such crises, interested outsiders were not slow to offer advice and suggestions for the aid of the delegates in their labors at Philadelphia. On the 24th of March "Reason" contributed to Childs' *Daily Advertiser* "A thought for the Delegates to the Convention to be held at Philadelphia." The "thought" here set forth was destined to be an oft-repeated one in the later struggles over ratification. "Reason" asserted that no revision at all was possible on the basis of the government as then organized. The country, he insisted, was too big, had too varied interests, for one central government to be possible. He dismissed, as a contradiction in terms, the idea of a confederation of sovereign states, since he recognized the possibility of but one sovereignty in any government. Therefore, he advocated, not one, but "three Republics, who should enter

<sup>1</sup>Farrand, *Records of the Federal Convention*, vol. i, p. 299.

<sup>2</sup>*Journal of the New York Assembly*, 10 s., p. 84; Elliott, *Debates on the Federal Constitution*, vol. i, p. 127.

into a perpetual League or Alliance for mutual defence." This league was to be based on "National Faith" which would, he claimed be reinforced by the instinct of self-preservation "as each state would have much to apprehend from the subjugation of either of the others."

~~On April 16th~~ Hamilton again endeavored to secure two additional delegates, suggesting the names of Jay, R. R. Livingston, Egbert Benson, or James Duane, but the attempt was again blocked by the senate who were unwilling to do anything that might strengthen Hamilton's position. As finally constituted, therefore, the representation to the Constitutional Convention from the State of New York was safely in the hands of those who oppose any undue strengthening of the central government. With this assured, the local leaders set about making their position doubly sure by judiciously creating or fostering a public opinion favorable to their views, in case, by chance, anything went "wrong" at the Convention.

### CHAPTER III

#### THE "CAMPAIGN OF EDUCATION" IN NEW YORK STATE

ON the 25th of May, 1787, the Constitutional Convention began its sessions at Philadelphia, in secret, and it was not until September, 1787, that the result was given out. In the meantime, the leaders of both parties in New York had spared neither time nor effort to repair their fences, and prepare the ground for the reception of that result, whatever it might be.

The "campaign of education" had been early begun by the Clinton party, and all through the spring and summer of 1787 the New York press was filled with articles *pro* and *con*, representing every shade of opinion, and making every variety of appeal. On May 24th there appeared in Mr. Childs' paper the first of a series of articles addressed "to the (Political) Freethinkers of America." The writer commented that, though the power and object of the Convention were perhaps a little hazy, it was obvious that essential reforms were necessary, and that the patriotism and common interest which made the old Confederation workable during the war, must be replaced by something more substantial. The great object to be attained, he contended, was not a government necessarily perfect for all time, but "a government equal to the exigencies of the country, and made capable of anticipating the important changes which await it."<sup>1</sup> On the 26th the *Independent Journal* echoed this sentiment by declaring that, whatever the outcome, all must

<sup>1</sup> *New York Daily Advertiser*, May 24, 1787.

agree that "a strong and efficient executive power must be somewhere established" and that this being done, the form was a secondary consideration, so long as it was based on "the principle of universal justice, probity and honour."<sup>1</sup> The "Anarchiad," a poem running serially in the *Daily Advertiser*, also solemnly warned that

one potent head  
Must rule your states, and strike your foes with dread.  
The finance regulate, the trade controul,  
Live thro' the empire and accord the whole.<sup>2</sup>

On June 2nd, the second address to the "Political Free-thinkers" appeared. In it the author took up the dissensions arising from the increase of executive power, and sought to prove that a division of power was essential if so large a territory as America was to be governed without tyranny.

That a power, adequate to government purposes cannot rest in a single form, consistently with individual liberty, is a truth that, in this enlightened age, requires less arguments to support it, than even the feeble ones that are contained in these papers. With this view of the subject, all that seems left to be determined is, whether a general governing power for these states is necessary and expedient? Whether they may not exist as independent sovereignties, preserving only a friendly communion in a Congress, who shall be authorized to propose measures for their general good, and thro' whom the states may correspond abroad?<sup>3</sup>

On the same day, "Harrington," in the *Independent Journal*, advised the "Freemen of the United States" that, as government was a complicated science, far beyond the

<sup>1</sup> *The Independent Journal*, May 26, 1787.

<sup>2</sup> *New York Daily Advertiser*, May 31, 1787, et seq.

<sup>3</sup> *Ibid.*, June 2, 1787.



grasp of the ordinary mortal, it was better to center it in the hands of those who knew. The Confederation did very well, but it had outlived its usefulness, and some new compact was necessary if there was not to be a gradual decline into a despotism by force of circumstances. This disaster could be avoided by giving more power to the central government and less to the states. In this way an orderly, efficient government would result, which would benefit alike the public creditor, the farmer, the merchant, the manufacturer, the mechanic, and the unemployed—in addition to pleasing the lovers of peace and order.<sup>1</sup>

Meantime, the very secrecy of the Convention proceedings, while it was to some a proof of undisturbed unanimity, gave rise to uneasiness on the part of others. This uneasiness was increased by the report made to Clinton by Yates and Lansing, who left the Convention early in July. They embodied their views in a letter to the governor in which they declared that they had come home because the Convention was violating the instructions given them, which bound them to revision, in consequence of which they felt that they had no power to proceed further. They also declared it their belief that no central government adequate for the whole United States could be established without being despotic.<sup>2</sup> The situation gave Clinton an advantage which he was not slow to utilize, and at once there began to be widespread rumors "of projects . . . hostile to the liberties of the people."<sup>3</sup>

As time went on, the tone of the discussion became more threatening. The cause of the people was taken up by the friends of the Convention. Clinton was compared, by

<sup>1</sup> *The Independent Journal*, June 2, 1787.

<sup>2</sup> Elliot, *Debates in the Several State Conventions on the Adoption of the Federal Constitution*, vol. i, p. 480.

<sup>3</sup> Hamilton, J. C., *op. cit.*, vol. ii, p. 369.

name, to royal officials, like Dunmore and Hutchinson, and accused of using a specious pretension to the love of liberty to cloak tyranny, just as they used the fetish of "loyalty" and "good government." It was hinted that "the same steps must be taken with the present breed of Tories" as were taken with their earlier prototypes.<sup>1</sup> On the 21st of July, a still more serious attack was made upon Clinton. In a long article which, it subsequently developed, was written by Hamilton, he was boldly accused of trying, if reports were true, "to prepossess the public mind against the hitherto undetermined and unknown measures of a body to whose councils America has, in a great measure, entrusted its future fate, and to whom the people in general look up under the blessing of heaven, for their political salvation."<sup>2</sup> The article then took up several alleged statements of the governor to the effect that the Convention would only stir up trouble by discussing non-existent evils; that the existing government was perfectly adequate; and that more confusion would be the only result. In answer, the article pointed out, that, notwithstanding the fact that the evils complained of were asserted to be non-existent, they were very obvious to a large number of people. The government might be perfectly adequate as it stood, but such it evidently was not in the opinion of the states, since they had sent delegates to the new Convention; and it emphatically was not so regarded by foreign nations, as their contempt for it showed. Moreover, for a thoroughly adequate and respected government, the Congress had had singular difficulty in keeping a quorum, or in attracting the best minds to its membership. Finally, granting it to be possible that no improvement might result, was not the experiment at least worth trying? With all due respect to the governor and his beliefs,—granting that

<sup>1</sup> *New York Daily Advertiser*, June 23, 1787.

<sup>2</sup> *Ibid.*, July 23, 1787.

they were sincere—in view of the fact that a convention had been decided upon, his attitude was “unwarrantable and culpable,” and aroused grave doubts as to whether he was after all sincerely working for the public good, and not really a dangerous seeker after personal power.<sup>1</sup> This warning was emphasized a few days later by “An Admirer of Anti-Federal Men” who bade them “Stand Firm and Have a Jealous Eye” lest they be deceived by several “leading men who are trying to wean the people from “everything which bears the name of federal.” The writer urged them to trust those “illustrious characters” who are now convened at Philadelphia. Even should their work be not wholly satisfactory at first, it could be amended until it was.<sup>2</sup>

A less violent and more conciliatory note was sounded in a series of papers professedly by a “Foreign Spectator,” entitled “An Essay on the Means of Promoting Federal Sentiments in the United States.” As his basic idea, the “Spectator” took the statement that the strength of a federal government rests on the good-will of the people. The more of this good-will it had, obviously the stronger it would be. In securing that good-will, there were, he said, four necessary steps: “(1) to promote a general disposition for order and government; (2) to limit the political union of the respective states; (3) to prevent any partial affection between two or more; (4) to render the confederacy an object of general attachment.” In order to secure these ends in the fullest manner, “Political knowledge cannot be too much encouraged,” since this would cause a gradual disappearance of the intense individualism and suspicion, which were great factors in the problem. All, of course, could not hope to become equally well-informed, however,

<sup>1</sup> *New York Daily Advertiser*, July 21, 1787.

<sup>2</sup> *Ibid.*, July 26, 1787.

and there must always be some wise leaders. These as a group, must, in all fairness, be given full power, trust and obedience, since while they are not infallible, they are more to be trusted than

tumultuary multitudes, or the discontented individuals scattered over the country . . . The necessity of human affairs requires even obedience to laws evidently wrong; and nothing but measures atrociously and immediately pernicious can justify resistance, when the people have the right to remonstrate, and to change the legislators in a short time.

The article then made a strong plea for the elimination of local politics, and the "instructed" delegate, and urged the people to take the broad ground of national issues and to encourage the delegates to think of themselves as representatives of the whole rather than of the part. This would cause better men to serve, since more scope would result. Finally, the more virtuous a people were the less they were inclined to suspect others of selfishness or interested motives. The American, he warned, must watch the faults of indolence; an undue emphasis on wealth, which sometimes led to corruption; and a tendency towards laxity in religion. These faults should all be remedied, since the more complicated the problem of government, the more need for virtue.<sup>1</sup>

On September 20, 1787, the Convention reported its finished work to the Congress, which, eight days later, transmitted it to the states. With the rising of the Convention, the "well drilled" Clinton party began to manifest a greater, or at least a more obvious, activity in New York, and the fight became more bitter for the control of what was rightly regarded as a pivotal state. This, however, had been

<sup>1</sup> *New York Daily Advertiser*, August 13-29, 1787.

expected by the advocates of the Constitution, and one of them commented that it would not "make an impression so injurious as the same circumstance would in some other States"<sup>1</sup> An attempt was early made to combat the statements concerning Clinton's attitude contained in Hamilton's attack of the 21st of July, but unfortunately for the success of the attempt, it endeavored to discredit Hamilton, rather than to disprove the charges. In order to do this, it was insinuated that he had been dismissed by Washington in disgrace. Hamilton at once took up the challenge, and silenced his traducers by securing a full vindication over the General's signature. Hamilton expressed himself as calmly confident of the outcome in New York, although he admitted that there was

no saying what turn things may take when the full flood of official influence is let loose against it. This is to be expected; for though the Governor has not publicly declared himself, his particular connection, and confidential friends are loud against it.<sup>2</sup>

On September 27, 1787, the *New York Journal* began to publish a series of articles from the pen of Governor Clinton. These were written over the name "Cato," and addressed "To the Citizens of the State of New York." In his first number, "Cato" declined to commit himself as to the side he had chosen, but merely begged his readers to

deliberate . . . on this new national government with coolness; analyze it with criticism; and reflect on it with candor; if you find that the influence of a powerful few, or the exercise of a standing army, will always be directed and exerted for your welfare alone, and not to the aggrandizement of themselves,

<sup>1</sup> *Documentary History of the Constitution of the United States*, vol. xi, pt. i, p. 293.

<sup>2</sup> Hamilton, *Works*, vol. i, p. 444.

and that it will secure to you and your posterity, happiness at home and national dignity and respect from abroad, adopt it; if it will not, reject it with indignation . . . better to be where you are for the present, than insecure forever afterwards. Turn your eyes to the United Netherlands, at this moment, and view their situation; compare it with what yours may be, under a government substantially similar to theirs.

He reminded them that they were dealing with "measures not men;" and that the exalted rank of the advocate did not of necessity justify the measure.<sup>1</sup>

Hamilton immediately entered the lists against the governor, and on October 11, 1787, appeared the first number by "Caesar." First of all, "Cato" was severely rebuked for his attempt to set up strife and disorder. "Caesar" then went on to say that it was impossible now to reconsider the work of the Convention, as that body was dissolved, and that it was absurd to reject a plan *in toto* simply because some parts of it were not perfect. The best thing "Cato" could do, if he were the patriot he claimed to be, would be to get behind the new scheme, "sent forth with a unanimity that is unequalled in ancient or modern story;" push its adoption, and insure its successful working by electing Washington as President. The contribution ended with the significant remark that it would be "more healthy for this country, and *this state*, that he should be induced to accept of the presidency of the new government, than that he should be solicited again to accept of the command of an army."<sup>2</sup>

This thinly veiled threat roused "Cato," and in his next number he roundly denounced it as an open attempt at despotism, by shutting off free deliberation on a vital matter. The Convention, he asserted, had so far exceeded its

<sup>1</sup>Ford, P. L., *Essays on the Constitution of the United States*, p. 249.

<sup>2</sup>*Ibid.*, p. 285.

powers that Congress did not dare to recommend the result, as evidenced by the fact of their merely passing it on without comment.

This new government, therefore, founded in usurpation, is referred to your opinion as the origin of power not heretofore delegated, and to this end, the exercise of the prerogative of free examination is essentially necessary; and yet you are unhesitatingly to acquiesce, and if you do not, the American Fabius, if we may believe Caesar, is to command an army to impose it.

He denied any desire to stir up strife, but maintained that he merely wished to

excite you to, and assist you in, a cool and deliberate discussion of the subject, to urge you to behave like sensible freemen. Think, speak, act, and assert your opinions and rights, . . . let the same good sense govern you with respect to the adoption of a future system for the administration of your public affairs that influenced you in the formation of the present.

With this end in view, he announced his intention of discussing in detail the new scheme, and comparing it with "the experience and opinions of the most sensible and approved political authors" in order to show "That its principles and the exercise of them, will be dangerous to your liberty and happiness."<sup>1</sup>

With this statement of the case "Caesar" vigorously and emphatically took issue. Impatiently declaring that he was not particularly impressed by the "majesty of the multitude," he advised the people at large peaceably to acquiesce in the decisions of those who were politically wiser than themselves. If they persisted in listening to demagogues who kept "ringing in their ears the gracious sound of

<sup>1</sup> Ford, *op. cit.*, p. 254.

their *absolute* Sovereignty," they would sooner or later awake to find that they were nothing but the tools of those same demagogues. As to "Cato's" charge that Congress was afraid to recommend the system, their action was due rather to "a delicate attention to the members of the late Convention, to a few of their own body, and to the people of America at large." Finally he declared that the fathers of the country sought "to obtain liberty for no particular State, but for the whole Union, indissolubly connected under one controlling and supreme head."<sup>1</sup>

True to his promise, "Cato," on October 25th, began a detailed analysis of the Constitution, in a series of powerful articles. The most noted of the replies brought forth by this series of articles were the famous "Federalist" papers, of Hamilton, Jay and Madison, which are yet the most complete expression of the views of the framers of the Constitution. The arguments of both sides foreshadowed the discussion in the Poughkeepsie Convention, and indicated clearly the points at issue. First of all, "Cato" attacked the basic principle of one large, consolidated government. This he declared impossible since the interests of the country were so varied and its territory so large, that proper central control was impossible. Factions would be sure to spring up;—this will necessitate a standing army, and, in that case, "can mildness and moderation exist in a government where the primary incident in its exercise must be force? "

Moreover, the sentiment of union, so strong in a small group like the family, becomes progressively weaker in state and national relations. In the second place, he declared the executive branch faulty since the wording was not clear; the powers granted to the President were too extensive; the method of choice was most indirect and the District of

<sup>1</sup> Ford, *op. cit.*, p. 286, *et seq.*



Columbia would cause the setting up of a "court" with all its vices. The Vice-President he objected to as unnecessary, and even dangerous, since he blended legislative and executive functions, and gave undue prominence to his state. In view of all this

Will not the exercise of these powers therefore tend either to the establishment of a vile and arbitrary aristocracy or monarchy? The safety of the people in a republic depends on the share or proportion they have in the government; but experience ought to teach you, that when a man is at the head of an elective government invested with great powers, and interested in his re-election, in what circle appointments will be made; by which means an *imperfect aristocracy* bordering on monarchy may be established.<sup>1</sup>

With the beginning of this series the controversy became more general, and there was a bewildering number of articles, and arguments, *pro* and *con*. On the one hand, "Cato" was supported by "Cincinnatus" in the *New York Journal*, who declared that the Constitution would create a "monstrous aristocracy," which would necessarily "swallow up the democratic rights of the union; and sacrifice the liberties of the people to the power and domination of a few." Cincinnatus also objected to the absence of a bill of rights, guaranteeing liberty of conscience, *etc.*, and to the idea of a standing army.<sup>2</sup> As an offset to "Cincinnatus," and in support of Hamilton's position, the *New York Daily Advertiser* voiced the sentiments of "A Citizen of Philadelphia" (Pelatiah Webster) in "The Weakness of Brutus Exposed; or Some Remarks in Vindication of the Constitution proposed by the late Federal Convention, against the objections and gloomy Fears of that Writer." The

<sup>1</sup> Ford, *op. cit.*, p. 255, *et seq.*

<sup>2</sup> *The New York Journal*, November 1, 1787.

“ Citizen ” considered that a confederated government such as the one proposed was necessary to prevent interstate disputes and disputes arising with foreign powers, brought on by the states. He then took up the objections urged against the plan. The opposition held that “ the Thirteen States should continue thirteen confederated republics under the *direction* and *controul* of a supreme federal head for certain defined national purposes only.” This, he pointed out, was precisely what the Constitution provided. Power, it was true, might be abused, but the only way absolutely to prevent this was to have no power at all—an obvious absurdity. All government implied trust, and the new system provided a most adequate arrangement of checks. He asserted that the only changes so far as the states were concerned would be to make them more dignified, and to cause some alterations in nomenclature, *etc.* Since this was the situation :

’Tis vain, ’tis childish, ’tis contentious to object to a constitution thus framed and guarded, on a pretence that the commonwealth may suffer by a bad administration of it ; or to withhold the necessary powers of government from the supreme rulers of it, lest they should abuse or misapply those powers. This is an objection which will operate with equal force against every institution that can be made in this world, whether of policy, religion, commerce, or any other human concern, which can require regulations ; for ’tis not possible to form any institution however necessary, wise and good, whose uses may not be lessened or destroyed by bad management.<sup>1</sup>

On November 17th “ A Constant Reader,” then, as now, a familiar journalistic figure, submitted through the agency of Mr. Childs’ paper some “ Observations on Government, *etc.*” While the writer was an admirer of the Constitution

<sup>1</sup>Ford, *Pamphlets on the Constitution of the United States*, p. 117, *et seq.*

as it stood, he felt that by adopting certain suggestions of his, the instrument might be rendered perfect. He proposed a three-fold executive, composed of a President, Chief-Justice and Superintendent of Finance. The President should have very wide powers, the Chief Justice should have control of the judiciary, and the Superintendent of Finance should take charge of the revenue and the appointment of officials. The combined executive should act as a Council of Revision to consider the work of the legislative body. The advantages claimed for such a system were a respectable but not dangerous power for the president, and a proper independence of the people on the part of the other two. The Executive was to be checked by an Auditor-General chosen by the House during pleasure.<sup>1</sup>

Along the same line of compromise was "Medium," who urged that, both parties being well-intentioned, if a bill of rights could be agreed upon, it would probably solve the problem.<sup>2</sup> This proposal, however, does not seem to have had any result other than that usually attending the efforts of the peace-maker.

"A Countryman" now entered the lists with the sweeping statement that he wished the Federal Convention had never existed. He declared that it had been the victim of "the more artful and designing Members, who have long envied the great Body of the People, in the United States the Liberties which they enjoy," and protested against allowing even so eminent a name as that of Washington to sanction injustice. Let the legislature nullify the whole proceeding, he demanded, on the ground that the delegates exceeded their instructions.<sup>3</sup> Other articles condemned the Senate as "a

<sup>1</sup> *The New York Daily Advertiser*, November 17, 1787.

<sup>2</sup> *The New York Journal*, Nov. 21, 1787.

<sup>3</sup> *De Witt Clinton Mss.*, George Clinton to De Witt Clinton, Dec. 22, 1787.

monster in the political creation, which we ought to regard with horror,"<sup>1</sup> declared the legislative provisions too vague; asserted that "a general presumption that rules will govern well is not a sufficient security;" and denounced the power to export "Americans as Soldiers" given by making treaties the supreme law.<sup>2</sup>

In defense of the work of the Convention, "Americanus" answered "Cato" by declaring that a Federal government in which the states retained full sovereignty was an impossibility. He ridiculed "Cato's" fear of the executive, and challenged him to show that it possessed a single unnecessary power. He quoted his adversary's own authority, Montesquieu, against him, that "the the Executive power ought to be in the hands of a Monarch, because this branch of Government having need of despatch, it better administered by one than many."

He also decried the traditional idea that a republic must have a small territory and declared that Montesquieu's statements to that effect were meant to apply to a pure democracy or to an obligarchy. As a matter of fact, through the various checks, a large representative republic was safer than a small pure democracy. He reiterated the opinion of "Caesar" that the people are "totally unfit for the exercise of any of the powers of the Government," and declared that the more power they had the worse anarchy prevailed. Power, he maintained, must be derived *from*, not exercised *by* the people.<sup>3</sup>

On November 29th, "Cincinnatus" came out with a personal attack on James Wilson, in the course of which he accused him of a long cherished desire to overthrow the

<sup>1</sup> Ford, *Essays*, p. 265.

<sup>2</sup> *The New York Journal*, November 22 and 23, 1787.

<sup>3</sup> *The New York Daily Advertiser*, November 23, 1787.

existing system, and objected to this being allowed to pass upon what he had helped to fashion. He denounced him as inconsistent for opposing a standing army as "dangerous to liberty" in the Pennsylvania Constitution, and urging it now to "maintain the appearance of strength."<sup>1</sup> This personal note was repeated in an attack upon Franklin by the "Countryman," who impugned his patriotism by quoting from his writings in 1764 passages which by inference supported a standing army.<sup>2</sup> In the midst of all this welter of words, a gleam of sardonic humor appeared in the "Newsmonger's Song" published in the *Daily Advertiser* of November 23. Two of its characteristic verses read:

Come on brother scribblers 'tis idle to lag,  
 The Convention has let the cat out of the bag,  
 Write something at random, you need not be nice,  
 Public Spirit, Montesquieu, and great Dr. Price  
 Down, down, down, derry, down.

Talk of Holland and Greece, and of purses and swords  
 Democratical mobs and congressional lords;  
 Tell what is surrendered, and what is enjoy'd,  
 All things weigh alike, boys, we know, in a void  
 Down, down, down, derry, down.

The governor, meanwhile, postponed the call of the legislature in order that the discussion might go to its full length, and the closing weeks of 1787 saw no diminution in its intensity. "An old Customer" complained bitterly to Mr. Childs of a publication derogatory to the Constitution which was being circulated in Connecticut. Though anonymous, it is obviously the production of one who "enjoys a comfortable salary in the State alluded to (*i. e.* New York) and has been so furious and violent against all federal measures for many years, that he foresees the ceasing and determining

<sup>1</sup> *The New York Journal*, November 29, 1787.

<sup>2</sup> *Ibid.*, December 2, 1787.

of that salary whenever our Commerce is properly regulated.”<sup>1</sup>

“Americanus” continued his assault upon the practice of using obsolete maxims of “systematic writers, however celebrated,” instead of plain ordinary sound common-sense. The “Countryman” and “Cato” continued to warn of the danger of the gradual increase in the power of the senate, and the vagueness of the restrictions placed upon the government as a whole, and they were joined by “Cincinnatus” in painting a gloomy picture of the evils to be expected from a government which promised everything, and therefore would be compelled to resort to crushing taxation when its creditors began to demand fulfillment of the promises. In support of their forebodings, “A Republican” in an address “To the People of the State of New York” declared that the new Constitution, by abrogating existing laws, released from their responsibility financial officers, and thus encouraged defaulters, particularly as it guaranteed debts *against* the United States, but not those due to it. The suggestion was made that some, at least, of the clamor for immediate ratification might emanate from certain gentlemen “largely concerned in the monied transactions of the United States, and whose accounts remain unsettled.”<sup>1</sup>

There was also noticeable an increase in the satirical or burlesque letters, on one side or the other. For example “Roderick Razor” addressed to Mr. Childs a long piece purporting to come from one who “can say off about standing armies, and juries without trial and the extinguishing the liberty of speaking and printing, and excise, and all them things, as well as my betters; whose betters I expect one of these days to be.”

<sup>1</sup> *The New York Daily Advertiser*, December 5, 1787.

<sup>2</sup> *The New York Journal*, December 6, 1787; *The New York Daily Advertiser*, December 27, 1787.

The correspondent then proceeded to talk learnedly of the doctrine of "circum rotation," which he denied was accurately described as "the boiling of a pot, and the scum's rising up;" of "Stocracy" and "Montesque;" and quoted the opinions of his neighbors, Squire Sour Crout, and Squire Clip Purse Van Clink de Gelt, to the effect that the true republican theory was for the virtuous minority, oppressed by the impious majority, to pull down the whole structure and perish in the ruins.<sup>1</sup> On the other hand, the defenders of the scheme were satirized in a letter from "One of the Nobility," who advocated the adoption of the Constitution "without the least hesitation, examination, alteration, or amendment." The mass of the people the writer of the letter described as "mere orang outangs—blockheads, numskulls, asses, monkeys, sheep, owls, and lobsters,—and only created to be subservient to the pleasures and interests of their superiors: . . . all the offices of the government are, by the laws of nature, appropriated to men of family, fortune and genius."

In conclusion, the letter appended the "Political Creed of the every Federalist," which included:

- (1) Infallibility of the Convention.
- (2) Ignorance of the people.
- (3) Non-essentiality of securing the rights of man.
- (4) Superiority of aristocratic government.
- (5) Cowardice of Americans, hence a standing army.
- (6) Lack of necessity for freedom of press and trial by jury.
- (7) The opposition of State officials to the new scheme through selfish motives though the State constitutions are not affected.
- (8) The Constitution as the best form of government ever offered to the world.

<sup>1</sup>*The New York Daily Advertiser*, December 11, 1787.

The final article of the "Creed" ran as follows:

- (9) I believe, that to speak, write, read, think, or hear anything against the proposed government is damnable heresy, execrable rebellion, and high treason against the sovereign majesty of the convention. . . . And lastly, I believe that every person who differs from me in belief, is an infernal villain.<sup>1</sup>

Truly indeed, might Knox write Washington from the City of New York, in December,

Respecting this state it is difficult to determine with any precision. The City, and the enlightened and independent men of the Country are generally for it. The warm friends of the new Constitution say that the majority of the people are in its favor, while its adversaries assert roundly that the majority is with them.<sup>2</sup>

<sup>1</sup> *The New York Journal*, December 12, 1787.

<sup>2</sup> *Documentary History of the Constitution of the United States*, vol. xi, pt. i, p. 403.



## CHAPTER IV

### THE STRUGGLE FOR THE NEW YORK CONVENTION

ON January 9, 1788 the New York legislature met for its annual session. Governor Clinton in his speech, submitted without comment the work of the Federal Convention, and the accompanying papers, including the letter of Yates and Lansing. A federal correspondent wrote exultantly the following day,

It is with inexpressible satisfaction I inform you, that there is a great probability of a majority of the Assembly of this State being in favor of the new Constitution . . . Cato and the Rough Hewer are both here, using their utmost endeavors to create jealousy among the people . . . but happy for the State, the people well know from what principle their extreme anxiety proceeds . . . their conduct has given ocular demonstration to the world, that self-interest, the basest motive that can disgrace a statesman, is all they have in view.<sup>1</sup>

This rejoicing, however, was premature, as subsequent events were to prove, events which more experienced eyes already foresaw. The opening days of the month had seen a continuation of the attack on the legislative section of the new scheme by "Cato" who voiced his objection to the close connection between the senate and the President; to the method of regulating elections; and to various other details.<sup>2</sup> This criticism was seconded by the "Country-

<sup>1</sup>*New York Daily Advertiser*, January 28, 1788.

<sup>2</sup>Ford, *Essays*, p. 275, *et seq.*

man" in a series of articles complaining of vagueness and ambiguity in the document. Regarding the *Federalist* he remarked:

As to Mr. Publius, I have read a great many of his papers, and I really cannot find out what he would be at; he seems to me as if he was going to write a history, so I have concluded to wait and buy one of his books when they come out.<sup>1</sup>

The federalist champion, "Americanus," was equally active. In a long essay of January 12th, he set out to calm the fears of those jealous of states' rights by citing the physical law, that, with distance from a given center, cohesion gives way to repulsion. Hence the people would rally round the state first of all, and any "iron-handed despotism" must presuppose a "force equal to the united strength of the yeomanry of these States. I leave it to any man, whom party prejudices have not totally bereft of his senses, to calculate the chance against such an event ever happening."<sup>2</sup> As to the liberties of the people being safe under the new system, this was assured, provided elections were free, frequent, and periodical. "Americanus" also dealt somewhat at length with the views of Randolph on the Constitution. The main points touched upon by him were: (1) the ambiguities of statement (2) the eligibility of the President for reelection (3) the power given to the President to fill vacancies; grant judicial commissions; and pardon treason (4) Limitations of state and federal power (5) Provision making treaties the supreme law (6) The method of trial of impeached senators (7) the salaries of senators (8) the limits of judicial power (9) the desirability of a second convention. Taking up these various points one by

<sup>1</sup> *New York Journal*, January 10, 1788.

<sup>2</sup> *New York Daily Advertiser*, January 12, 1788.

one, "Americanus" tried to show that the objections were either unfounded in fact, or that the provision in the Constitution as it stood was the best that could be done. For example;—granting that it was possible to define and limit powers to a certain extent in a document like the Constitution, still some latitude was obviously necessary. In other words: "the Constitution may say about *what*, but cannot say *how* this power shall be exercised."<sup>1</sup> As to the calling of another convention on amendments, as suggested, "Americanus" strongly opposed it, since there had been so many different ideas expressed and discussed that a second meeting would simply be a Tower of Babel.

Toward the last of January, a new voice appeared, in the person of the "Expositor," who carried on the attack on the Constitution in the form of an ironical defence of the instrument. Why worry, he asked, about a bill of rights, when "the whole, even to the resolves and letter which accompany the constitution, is little else than as copious a one, as ever perhaps, any known body of men stipulated for in the same manner."<sup>2</sup> As his name indicated, the writer proposed to interpret the ambiguities in the Constitution in the light of the conduct and assumed motives of the convention. In the first place, he pointed out, that the convention, in the preamble, stressed the "ourselves and posterity," and then mentioned the "United State of America." Where, he demanded, did they get the authority to "establish" a Constitution? Why not say "Of our own etc." and be done with it! He expressed himself as delighted with the liberality of the qualifications for representatives: "None of your little, contracted, whiggish criterions, such as, reputable character, good sense, an invariable friend to the independence of the United States, to the rights and

<sup>1</sup> *New York Daily Advertiser*, January 21, 1788.

<sup>2</sup> *New York Journal*, January 24, 1788.

liberties of the people &c.,"<sup>1</sup> and charmed with the beautiful latitude of the provision allowing each house to expel a member with the concurrence of two-thirds, for anything, —or nothing. The taxation provision he also considered a work of art, allowing as it did, the inclusion of three-fifths of "all other persons *etc.*" thus covering women, children in arms, or even those yet to be born.

Finally, a more elaborate discussion of the whole question appeared in the *American Magazine* by "Giles Hickory," entitled "Government." The ground taken was that the legislative body ought to be "a standing convention, invested with the whole power of their constituents." Denial was made of the generally accepted dictum that a representative was the "servant of the people" and insistence was made that, as the collective sense and wisdom of those whom they represented, the legislative body was just as much sovereign as the people assembled in convention. Therefore, "that a Legislature should have unlimited power to do *right*, is unquestionable; but such a power they cannot have, unless they have all the power of the State; which implies an unlimited power to do *wrong*."<sup>2</sup>

Even with such a power, however, freedom of elections and a union of interests would safeguard liberty. So far from being a "compact" in the ordinary sense of the term, government, the argument asserted, originated in necessity and utility, and the few must bow to the majority.

Meantime, the main battle-ground had shifted to the New York legislature at Poughkeepsie. On January 31st, Egbert Benson forced the issue by introducing in the assembly a resolution to call a convention for the ratification of the Constitution. On this resolution the assembly went into Committee of the Whole and "some very interesting

<sup>1</sup> *New York Journal*, January 31, 1788.

<sup>2</sup> *American Magazine*, January, 1788, p. 75, *et seq.*

debate" followed. The chief participants in this were Benson himself, Schoonmaker, Gordon, Jones and Harison, and the discussion hinged mainly on the form of the resolution by which the matter should be submitted to the people. Benson proposed to issue the call for the convention in the non-committal form used by Congress in transmitting the Constitution, and the efforts of his opponents were directed towards amending the resolution in such a way as to get before the people a distinct indication of their party feeling. With this end in view, Schoonmaker proposed to incorporate in the preamble to the resolution an amendment describing the method by which the delegates to the Philadelphia convention had been chosen; outlining their exact authority; and stating the fact that this authority had been exceeded.<sup>1</sup> This he declared was for the purpose of placing the true facts of the case before the voters. In this he was supported by Jones.

Benson at once objected that the amendment was an attempt to prejudice the people, and denied its usefulness. Harison agreed to this contention, and declared that it was not the business of the assembly to decide whether or not the powers of the delegates had been exceeded. The people in convention, he held, were to be the judges of that point. Jones thereupon denied any intention of prejudicing the people, but insisted that they should have the facts on which to base their final judgment, and among these facts he placed the statement that the new system would "if adopted, . . . materially alter the Constitution and Government of this State, and greatly affect the rights and privileges of the people thereof."<sup>2</sup>

Benson retorted by challenging the motives of the opposition, and finally Harison summed up the position of the

<sup>1</sup>*New York Journal*, February 21, 1788.

<sup>2</sup>*New York Daily Advertiser*, February 12, 1788.

federalists by declaring: (1) that the proposed amendment tended to prejudice the people (2) that it was unnecessary, as the matter had been thoroughly aired, and all the facts presented. On the vote being taken, the amendment was lost 27 to 25, and a second attempt to amend likewise failed.<sup>1</sup>

The next day the question was taken up in the senate. Here the duty of arguing for the Constitution fell largely upon James Duane, supported by Lawrence, Schuyler and Morris, while the opposition was led by Yates. The contest somewhat resembled that in the lower house, the opposition endeavoring, by various means, to gain time and prolong discussion without coming to vote. For this purpose Yates, at the outset, moved to commit. Duane at once opposed this, declaring that, as they had no power to amend, they must either accept or reject at once. This was met by the familiar "filibustering" tactics on the part of the opposition. Williams and Yates contended that the matter required full debate, and demanded that the resolutions calling the convention be read, in order to determine its powers. Furthermore, the matter had been under consideration for too short a time, and there were many objections which remained to be urged. It was not a matter to be forced through in a hurry. In reply Duane held that the matter had been already discussed *ad nauseam*. The senate could not refuse to call a convention, so why hesitate at a perfectly routine matter? There would be plenty of time later for objections, he promised the opposition. Yates then plainly showed his hand. He insisted that the people should know just how far the delegates had exceeded their power, and to that end he demanded that all the documents in the case be read and the results published. For himself he declared: there is not a step towards this business that I ever agreed to;

<sup>1</sup> *New York Daily Advertiser*, February 12, 1788; *New York Journal*, February 21, 1788.

nor is there a sentence in it that I ever will agree to. . . . I would be for rejecting it altogether; and I would consider it as a piece of blank paper only that the other States have let it go to the people.<sup>1</sup>

Duane courteously, but firmly, refused to be convinced, and on the vote being taken, the motion was lost 7 to 12.

A further demand for the time being made, Duane proposed to debate the matter, paragraph by paragraph, to enable those in doubt to make up their minds. To this Yates responded that all he wanted was time to consider, whereupon he was reminded by Morris that he had just declared his mind made up. Considerable discussion on the motion followed, and eventually the resolution appointing delegates was read. Yates then declared that this had not been adhered to by the convention, but on demand, declined to give the reasons for his assertion. The resolution was then discussed in detail, the anti-federalists using every device to prolong discussion, and the federalists blocking them wherever they could. Again and again Yates reiterated his plea for time to consider, and lay the matter before the people. Finally Duane, losing patience, declared that there had been talk enough. Objections he would be glad to consider, but not mere discussion. As to the charge of undue haste "he had seen the Senate determine on many important resolutions in half an hour." Replying to an objection raised, he declared that it was not his purpose to recommend the Constitution at all. The most that the senate could do was to submit it to the people, and in view of the deplorable national situation, it was the duty of the senate to do this without further delay. In this emphatic statement of the case he was supported by Lawrence, while the opposition still maintained its position in the person of

<sup>1</sup>*New York Daily Advertiser*, February 8, 1788.

Williams, who insisted that the people who were too poor to take the newspapers were still in great need of data on the whole matter. In spite of this contention a vote to postpone was lost—10 to 9. A motion to concur with the other house was then passed 11 to 8,<sup>1</sup> and on February 3, Jay wrote to Washington from New York that the convention had finally been decided upon. He added, however, that the opposition was still numerous and busy, but, “as the Ballance of Abilities and Property is against them, it is reasonable to expect that they will lose ground as the People become better informed.”<sup>2</sup>

While the matter was thus being fought out in the assembly, the contest was not relaxed elsewhere, nor did the decision in favor of a convention cause a cessation of the campaign to influence popular opinion. On February 12th, Francis Silvester wrote De Witt Clinton from Kinderhook asking for information on the new constitution and declaring his part of the state “very much divided about it.”<sup>3</sup> The familiar local and personal note of the Revolutionary period now began to reappear. On the 6th of February, the *New York Daily Advertiser* reprinted from the *Lansingburg Advertiser* a communication from “A Citizen.” This sarcastically thanked Messrs. Yates and Lansing in the name of the state for the services which “your extreme zeal for the *interests of your country and individual States*, have induced you to render as Members of the late General Convention.” Then followed a bitter arraignment of them for leaving instead of sticking it out. Their published letter was ridiculed, and they were charged with having betrayed the confidence of their constituents, and deserted the cause

<sup>1</sup> *New York Daily Advertiser*, February 8, 1788.

<sup>2</sup> *Bureau of Rolls and Library—U. S. Dept. of State Bulletin*, vol. xi, pt. i, p. 471.

<sup>3</sup> *De Witt Clinton Mss.*



when it was most in danger. "Citizen" declared that it was ridiculous to assert that the convention had exceeded its power, since no limit had been put on its authority to amend.

On February 9th, a notice appeared in the press, declaring that the people of Orange and Ulster counties, having duly met and considered the Constitution proposed,

every one present declared that they would not (*i. e.* adopt) but on the contrary, oppose it as a system calculated to destroy that equal liberty, which they now enjoy, and which is secured by the happy constitution and government which has been established at the expense of the blood and treasure of so many worthy citizens; and to manifest their disapprobation of the scheme and opinion of its pernicious tendency, they caused the said constitution to be burned in the most public place of the town with the usual circumstances of disrespect and contempt.<sup>1</sup>

Again, on February 14th, at Kingston, a meeting unanimously condemned the Constitution, in the course of nominating two members to the forthcoming convention. The "Countryman" continued his analysis of the proposed frame of government. He took issue with the statement that it was the duty of every good citizen to accept the document, even though it might not be perfect. On the contrary, he said that he held it

*the indispensable duty of every citizen, good and bad, not to acquiesce in the devices and institutions of men, which are directly opposite or repugnant to the word of god; but by all and every just and prudent means, continually endeavour to procure a reformation or amendment of everything which is essentially wrong.*

He also condemned "Publius" for bringing into his discussions much irrelevant matter. In conclusion, he demanded

<sup>1</sup>*New York Journal*, February 9, 1788.

to know how nine state conventions could be expected to agree on the Constitution, if, as the federalists held, a second convention could not do so.<sup>1</sup>

The "Expositor" continued to point out defects in the system, among which he from time to time enumerated the grant of the power of impeachment to the House of Representatives; the large power of the Senate; the office of Vice-President, which he considered unnecessary "unless for parade, ostentation and expence, or giving some one state an advantage;" the great power given to the Supreme Court; and the right of Congress to regulate elections.<sup>2</sup> Along the same line were the letters of "Brutus," which had been the subject of Pelatiah Webster's "Remarks," in the earlier part of the discussion. Finally, "Giles Hickory" continued to emphasize in succeeding installments his views on the importance of free elections, the desirability of broad powers for representatives, albeit for only a limited period, *etc.* Otherwise he believed, "Under the restrictions with which your Delegates are fettered *the greatest idiot may answer your purpose, as well as the greatest man.*"<sup>3</sup> He attacked the insistence upon a bill of rights, and an unalterable Constitution. This was based, he said, upon two suppositions, "viz., that the Convention which frames the government is *infallible*; and that future Legislatures will be *less honest,—less wise—and less attentive to the interests of the State* than a present Convention. The first supposition is *always false*, and the last is *generally so.*"<sup>4</sup> On February 21st, in spite of the formidable activity of the Clinton party, Madison was able to sum up the situation by declaring that, although New York was much divided, there

<sup>1</sup> *New York Journal*, February 14, 1788.

<sup>2</sup> *Ibid.*, February 28, 1788.

<sup>3</sup> *American Magazine*, March, 1788, p. 204, *et seq.*

<sup>4</sup> *Ibid.*

still seemed to be a balance on the right side, and that it seemed to him that the state must go with her eastern sisters, "let the direction be what it may."<sup>1</sup>

With the approach of the time for electing delegates to the convention which was to pass upon the Constitution, both sides increased their activity, and the personal equation became more and more apparent in the discussion. The articles in the press descended from the high plane of "Brutus" and "Caesar," and now appeared signed "Friend to Truth," "Freeman," and the like. Their tone likewise became more bitter. Madison informed Edmund Randolph on March 3rd that the failure of New Hampshire to ratify had encouraged the opposition in New York, "who are unquestionably hostile to everything beyond the *Federal* principle."<sup>2</sup> Signs of this feeling had already been manifested in the reports from Orange and Ulster localities. On March 6th, Greenleaf's paper published a letter signed "J. B——n." This was dated from Boston, February 12th, and was alleged to be a bona-fide communication to James Wilson of Pennsylvania. It had been reprinted, the paper announced, from a Philadelphia issue, in order to give "some faint idea of the juggling carrying on by the well born few." It congratulated Wilson on his successful muzzling of the press and misrepresentation of public opinion. He was reminded that the "P—t O—e" was still in their hands, which would greatly facilitate control of the press. Success must be attained since then "We shall be able to keep the people at a proper distance and establish our numerous friends and relations in lucrative and substantial offices." In conclusion the letter said,

We have gained much by deceiving one part of the continent

<sup>1</sup> *U. S. Bureau of Rolls and Library*, vol. xi, pt. i, p. 518.

<sup>2</sup> Gilpin, *The Papers of James Madison*, vol. ii, p. 670.

with plausible accounts from the other; pray, do not discontinue this; have you no more town or county meetings to publish? What M—— says is very true; almost all of our strength lies in the trading towns; and his remark is just that they would consent to go to the devil, if they thought they could again sell as many British goods as they formerly did.<sup>1</sup>

An answer to the above letter, purporting to be from Wilson, appeared in the issue of March 10th. Wilson complained that he was having a hard time, as the merits were all on the other side, and people were beginning to wake up. He rejoiced that things had pulled through successfully in Massachusetts, without too much investigation, which might have been dangerous. He was relieved that the people were soon to be in a position where they could not interfere, but was very bitter against the country members in his section, because they could not be corrupted, but remained "coarse, country animals," who actually presumed to think for themselves and to claim equality with their betters.

A violent quarrel had already broken out over an attack upon Lansing in the *Albany Gazette*, and both sides issued articles in their defence. On the 7th in an article by, or attributed to, Francis Hopkinson, in the *Journal*, the anti-federalists were denounced as "base and unworthy scribblers, incapable of argument, to whom neither education or experience hath furnished any knowledge of the subject."<sup>2</sup> The letter then proceeded to attack by name two Philadelphians, Benjamin Workman, and Peter Van Gelder, who promptly retorted with the lie direct.

Personal efforts were also made on each side. On March 9th, Duane was urged to use his influence in Duanesburgh, to secure a federal delegation from Albany. On the 10th of the same month, Knox wrote to Washington,

<sup>1</sup>*New York Journal*, March 6, 1788.

<sup>2</sup>*New York Journal*, March 19, 1788.

<sup>3</sup>*Duane Mss.* Letter from Albany to Duane.

The business in this state is critically circumstanced, and the parties nearly balanced. The issue will depend greatly on the industry of the different sides. I am apprehensive that the antifederalists will be the most indefatigable. The federalists say they shall have a small majority certainly—but it is to be apprehended that their confidence will prove highly injurious to the cause.<sup>1</sup>

On the 12th, the federal committee of Albany, through its secretary, Robert McClallen, wrote Duane urging the necessity of having Duanesburgh vote "right." He asked Duane to use his influence with Watts, Dirk Lefferts, Augustus Van Cortlandt, Augustus Van Horn, Peter Kissam, "and any other Gentlemen who have any Connections in this County," to the end that they might likewise pass on the word. Any letters or documents for this purpose might, he added, be sent to him to be forwarded to their destination.<sup>2</sup>

On March 13th "Freeman" nominated for the convention Robert Troup, William Gilbert, Robert Boyd, Nathaniel Lawrence, James M. Hughes, William Malcolm, Isaac Stoughtenburgh, John Ray and Samuel Jones, as "moderate men" who would "judge coolly, and fairly, and act prudently."<sup>3</sup> On March 17th, a somewhat more interesting ticket was proposed by "A Citizen." It consisted of R. R. Livingston, James Duane, Melancton Smith, John Jay, Richard Varick, Isaac Roosevelt, John Lawrence, Samuel Jones, Alexander Hamilton.<sup>4</sup>

An open appeal was made to class feeling by the publication of a letter from "A Lover of Truth and Decency." Ostensibly a defence of the "Rough Hewer," it condemned

<sup>1</sup>U. S. Bureau of Rolls and Library, vol. xi, pt. i, p. 537.

<sup>2</sup>Duane Mss.

<sup>3</sup>New York Journal, March 13, 1788.

<sup>4</sup>Ibid., March 17, 1788.

those who traduced him, on account of his once having been a shoemaker. This, declared the correspondent, was the strongest proof of his inherent worth, since he had risen "from a mechanical profession" to "the highest honors in his country." He asserted that the whole thing was an attempt to "trample upon the honest and free mechanics of this country, and to render them contemptible."<sup>1</sup> Along this same line was an article reprinted by Greenleaf from a Philadelphia paper. After charging that the federal "arguments" consisted in vilifying their opponents, it declared that when the antis used these same tactics on notorious public defaulters,

Oh, they cry out, shame upon you, low-born gentry; to call such grand big men public defaulters, their characters are sacred; it is blasphemy to touch their names; if they owe the public millions, the people must sit down and bear it patiently without so much as a murmur.<sup>2</sup>

On the other side, "Timon" on March 22nd made a strong appeal "To the Farmers of the State of New York," setting out the intolerable state of public affairs, which could not help but grow better under any decent government. It charged the opposition plainly with being influenced by the fear of losing office or power. On the same day a curiously non-partisan ticket was proposed by "Freeman" on the ground that those named in it had "distinguished themselves by their patriotism and valor." The list included Hamilton, R. R. Livingston, Duane, Isaac Stoughtenburgh, Richard Morris, Richard Harison, John Lawrence, John Lamb, Melancton Smith.

By this time the anti-federalists seem definitely to have given up hope of swinging New York City or County, and,

<sup>1</sup> *New York Journal*, March 18, 1788.

<sup>2</sup> *Ibid.*, March 22, 1788.

indeed, John Lansing wrote to Lamb, the great supporter of the party in New York City, "Despairing of receiving any aid from New York we have made explicit arrangements here which we have every reason to suppose will answer our purpose."<sup>1</sup> Incidentally, in the same communication, he expressed himself as quite sure of a satisfactory delegation from Albany. Despite this admission of doubt in some cases, the opposition did not relax its efforts, and beginning in April of 1788, there appeared in the press a series of "Observations on the New Constitutions, and on the Federal and State Conventions" by a "Columbian Patriot,"<sup>2</sup> which was circulated freely by the New York Committee as a campaign document.<sup>3</sup> The "Patriot" made the usual inflammatory attack on the system as a menace to the liberties of America—purchased by "the purple tide that flowed from the veins of her martyred heroes." He objected particularly to the creation of long term officials, and to the general ambiguity of the document, which he declared was marked,

on the one side with the *dark secret* and *profound intrigues* of the statesman, long practised in the purlieus of despotism; and on the other, with the ideal projects of *young ambition*, with its wings just expanded to soar to a summit which imagination has painted in such gaudy colours as to intoxicate the *inexperienced votary*, and send *him* rambling from State to State to collect materials to construct the ladder of preferment.<sup>4</sup>

Among the defects which he found in the proposed scheme were the following: it failed to secure liberty of press or conscience; the judiciary was unlimited; there was an am-

<sup>1</sup> *Lamb Papers*, Lansing to Lamb, March 23, 1788.

<sup>2</sup> *New York Journal*, April 2, 1788.

<sup>3</sup> *Lamb Papers*. Letter from New York Committee, April 6, 1788.

<sup>4</sup> *New York Journal*, April 2, 1788.

biguous blending of executive and legislative; it abolished jury trial in civil causes; it misplaced the control of the militia and the standing army, as well as of the revenue; it gave Congress the power to fix salaries; it neglected to provide for rotation in office; it gave the Supreme Court of the United States appellate jurisdiction; the representation was inadequate; the electorate was inadequate; the senate term was too long; there was no bill of rights; the country was too large; the framers had overstepped the bounds of their delegated power; it divided the Union by providing for ratification by only nine states; and finally, it was submitted to the people without any advice from either the Congress or the state legislatures. Many of these objections were of course merely repetitions of earlier points made familiar to the general public by "Cato," "Rough Hewer" and their followers, but as proof of their validity, the "Patriot" drew attention to what he characterized as the very obvious effort to rush the Constitution through. In the case, however, of New York, she had, he declared, "motives that will undoubtedly lead her to a rejection, without being afraid to appeal to the understanding of mankind to justify the grounds of their refusal to adopt a Constitution, that even the framers dare not risque to the hazard of revision, amendment, or reconsideration, lest the whole superstructure should be demolished by more skilful and discreet architects." <sup>1</sup>

The efforts of the position in the upper part of the state were crowned with more success than in New York and vicinity. Duane's agent in Duanesburgh was not encouraging in a report which he wrote on April 8th. Acting upon prior instructions he had seen Colonel Oothout, had his directions

<sup>1</sup>*New York Journal*, April 5, 1788.



Consarning the Constitution and am a doing all I can in Respect of it. I have had Letters from Albany from Jacob Cuyler but I find that Peapol in Senanity [Schenectady?] and Schohare are Much Devided and Likewise in Mogomery County. I Rather think as the Report at present the Major part of the people are against the New Constitution.<sup>1</sup>

Close on the heels of this report came word from an exultant anti-federalist at Albany that

Anti-federal measures stands very well with us and if we do not relax in our duty there is all hopes that we may carry the day. Altho' the unremitted exertions that is made by the better sort of people, how stands matters with you in New York, let me have a line on the subject. We are in close action from morning to night so that little time is spent with me on any other subject.<sup>2</sup>

More convention nominations continued to be added to those already in the field. One, sponsored by an anonymous, but frankly partisan, contributor, declared hotly "the adoption of the constitution is devoutly to be wished, and I am only sorry that there is not more monarchy and aristocracy in its form . . . . Peculation might then receive its punishment, instead of rising to legislative honor." After further declaring tht he was willing to be called a "knave, a fool and an interested man," the writer proceeded to put in nomination, Alexander McComb, Col. Brooks, William Gilbert, B. Livingston, John Broome, John Blagg, N. Hazard, William Maxwell, and Daniel McCormick.<sup>3</sup> A second ticket, from "A Citizen and friend of Good Order," while not so outspoken, was quite as significant in its choice of such men as

<sup>1</sup> *Duane Mss.* Myers to Duane.

<sup>2</sup> *New York Daily Advertiser*, April 10, 1788.

<sup>3</sup> *New York Journal*, April 14, 1788.

Clinton, Hobart and Deming.<sup>1</sup> The Constitutional Society of Dutchess County, fearful lest "if the proposed constitution is adopted, we shall involve ourselves in many difficulties incompatible with a free people," submitted the names of Zephania Platt, General Swartwout, Melancton Smith, Ezra Thompson, Gilbert Livingston, John DeWitt, and Jonathan Akin.<sup>2</sup> "Marcus," declaring the question at issue to be "whether you shall remain freemen or not," nominated George Clinton, John Jay, Marinus Willett, John Sloss Hobert, Isaac Stoughtenburgh, G. W. Ludlow, Robert Troup, J. Lawrence, Morgan Lewis, as citizens of whom not "the smallest doubt exists, either of their integrity or patriotism."<sup>3</sup> On the 24th, a number of citizens submitted to the "Independent Electors of the city and county of New York" the names of George Clinton, Isaac Roosevelt, Richard Morris, John Jay, Alexander Hamilton, John Lawrence, Marinus Willett, William Deming, and Nicholas Bayard.<sup>4</sup> From Albany came the names of Robert Yates, John Lansing, Jr., Henry Oothout, Peter Vrooman, Dirck Swart, Israel Thompson, and Anthony TenEyck. Accompanying these names was a sort of declaration of principles which may well be used to summarize the opinions of the Albany, if not indeed of all, the anti-federalists. First of all, their great object was the old cry that the delegates had exceeded their authority. Among the others were: that the government was consolidated, not federal; that its powers were too great; that the representation was too small; that the Senate was too powerful; the Congressional control of elections; that Congress had the power to levy taxes and

<sup>1</sup> *New York Journal*, April 14, 1788.

<sup>2</sup> *Ibid.*, April 21, 1788.

<sup>3</sup> *Ibid.*, April 22, 1788.

<sup>4</sup> *Ibid.*, April 24, 1788.

to create federal tax-collectors; that federal law superseded state law; that slaves were counted in representation; that state bills of credit were prohibited; that a standing army in peace time was created; that Congress had power over the militia; that the government controlled salaries and immigration; that freedom of religion was not expressly guaranteed; that the powers of the President and of the Supreme Court were too extensive; that freedom of the press and trial by jury were not assured; that federal officers might be appointed in the states; that the scheme would involve great expense; that the ratification by nine states only would cause a schism; that there was no bill of rights; and, finally, that the whole thing was the product of secret, and therefore, suspicious, deliberations.<sup>1</sup>

A few days later these opinions were still further illustrated by a letter "To the Tenants of the County of Albany," by a "Tenant." This, after rejoicing that the Constitution was in the hands of the people, warned them that a vote for it meant a vote to exclude themselves from choosing the executive or the senate; for a poll tax; to exclude juries from civil cases; for a standing army subject to the President; for vexatious appeals in law; for a federalized militia; for doubled government expenses; for the loss of their constitutional rights. They were urged that if they did not want all this, at the "will and pleasure of a few great and rich men," they ought to insist on previous amendments.<sup>2</sup>

Both parties strained every nerve to capture the Poughkeepsie convention. King wrote to John Langdon on the 16th of April that it was "exquisitely problematical" what the issue of the struggle would be. By the middle of May the crisis was passed, and reports of the various elections

<sup>1</sup> *New York Journal*, April 26, 1788.

<sup>2</sup> *Ibid.*, April 29, 1788.

began to come in. Abraham Oothout, one of those to whom Duane had entrusted the management of the campaign in the upper part of the state, wrote bitterly of the

unexpected Exertions there was made in this place [Schenectady] in opposition to the Adoption of the Constitution, Sufficient to make one feel for the Distresses we are going to bring on ourselves true the Dread that is brought on us that are no Judges of the necessity of a form of Government at the time of Election, it could be Easily perceiv'd that those few of us that were in favour of the Constitution were Looked upon as belonging to the tyrannic party. I hope however that we may still carry the Mijority true the state.<sup>1</sup>

Hamilton, in a letter to Gouverneur Morris, thus expressed his hopes and fears in the crisis :

In this State, as far as we can judge, the elections have gone wrong. The event, however, will not certainly be known till the end of the month. Violence, rather than moderation, is to be looked for from the opposite party. Obstinacy seems the prevailing trait in the character of its leader. The language is, that if all the other States adopt, this is to persist in refusing the constitution. It is reduced to a certainty, that Clinton has in several conversations declared the *Union unnecessary*; though I have the information through channels which do not permit a public use to be made of it.

We have, notwithstanding this unfavorable complexion of things, two sources of hope—one, the chance of a ratification by nine States, before we decide, and the influence of this upon the firmness of the *followers*; the other, the probability of a change in sentiment in the people, auspicious to the Constitution.

The current has been for some time running towards it; though the whole flood of official influence, accelerated by a torrent of falsehood, early gave the public opinion so violent

<sup>1</sup>Duane Mss. Abraham Oothout to Duane, May 19, 1788.

a direction in the wrong channel, that it was not possible suddenly to alter its course. This is a mighty stiff simile, but you know what I mean; and after having started it, I did not choose to give up the chase.<sup>1</sup>

The substance of this letter he repeated in one to Madison, dwelling upon the futility of argument. Nevertheless he added, "We shall leave nothing undone to cultivate a favorable disposition in the citizens at large."<sup>2</sup> In conclusion, he asked that he arrange for expresses to relay the news from Virginia to Poughkeepsie. While Hamilton's estimate of the situation was agreed to by Knox and John Jay, the latter took a somewhat more hopeful view than his colleagues. In a letter to Washington, while he admitted the Clinton majority in the forthcoming convention, he remarked,

it is doubtful whether the leaders will be able to govern the party. Many in opposition are friends to union and mean well; but their principal leaders are very far from being solicitous about the fate of the Union; they wish and mean, if possible, to reject the Constitution with as little debate and as much speed as may be. It is not, however, certain that the greater part of their party will be equally decided, or rather equally desperate.

An idea has taken air that the southern part of the State will at all events adhere to the Union; and, if necessary to that end, seek a separation from the northern. This idea has influence on the fears of the party. I cannot find that they have as yet so looked forward to contingent events, or even to those the most probable, as to have united in, or formed any system adapted to them.<sup>3</sup>

<sup>1</sup> Hamilton, *Works*, vol. i, p. 452.

<sup>2</sup> *Ibid.*, vol. i, p. 453.

<sup>3</sup> *The Correspondence and Public Papers of John Jay*, vol. iii, p. 334.

As returns continued to come in, the result was no longer in any doubt. On May 31st, New York City and vicinity went federal, on June 2nd, Albany, as had been expected, went into the other column, as did Dutchess, Suffolk, and Orange. June 3rd gave the anti-federalists Ulster, but the federalists Westchester. On June 5th Columbia and Montgomery went for Clinton, while Washington hung in the balance.<sup>1</sup> Thus, by June 8th, Hamilton was forced to admit defeat. From his study of the situation he deduced that (1) the anti-federalists were equally hostile to both Constitution and Union, and (2) that they dared not risk a flat rejection, but would rather try a policy of delay, in the hope that something might turn up.<sup>2</sup>

With the assembling of the convention in the Court House at Poughkeepsie, the "campaign of education" drew to a close. Victory remained with the Clintonians, and the power of local leaders was once more triumphantly vindicated.

<sup>1</sup> Ellis, *History of Columbia County*, p. 46: *McKesson Papers*.

<sup>2</sup> Hamilton, *Works*, vol. i, p. 454; *U. S. Bureau of Rolls and Library*, vol. xi, pt. i, p. 686.

## CHAPTER V

### RATIFICATION

IN the middle of June, 1788, the members of the New York Convention began to assemble at Poughkeepsie. Both sides realized that the struggle was to be a bitter one, and had returned their sturdiest fighters. The two-thirds majority party was headed by Clinton, Yates, Lansing, and, above all by Melancton Smith, "one of the ablest debaters in the country," while among the federalist champions were Hamilton, R. R. Livingston, and John Jay. The "campaign of education," just brought to a close, had thoroughly prepared the ground, and the issues at stake were fully understood. Arrangements had been made by Hamilton to keep in touch with the leaders in New Hampshire and Virginia, while Lamb and his associates at New York City were doing a similar service for the opposition.

The anti-federalist party assembled with a definite program. A direct rejection of the proposed scheme might work political harm, therefore, safe in their majority, it seemed best to them to try for a long adjournment. Thus the scheme, in operation might work itself out, and New York might then take whatever action seemed best for her. Hamilton suspected this plan and, the day before the meeting of the Convention, was in receipt of a letter from Madison, confirming his suspicions, and informing him that the same tactics were to be tried in Virginia.<sup>1</sup>

As the convention lined up, the federalists controlled the

<sup>1</sup> Hamilton, *Works*, vol. i, p. 457.

delegations from Kings, New York, Queens, Richmond, and Westchester; the antifederalists, those from Albany, Clinton, Columbia, Montgomery, Ulster, and Washington, while two counties, Dutchess and Suffolk, were divided.<sup>1</sup> As to the sentiments of the opposition, Jay wrote Washington that they were much divided and that it was a question whether the leaders would be able to control them as they wished. The majority however were in high spirits, for as one of them wrote Lamb,

Notwithstanding the Éclat with which the Federalists left the City, and the Impressions on their Mind of their Weight and Importance; yet I believe there has not been a Time since the Revolution, in which the *well born* who are the Leaders of that Party, have felt and appeared so uninfluential, as they feel and appear at this Time and Place. *How are the mighty fallen!* is an Apostrophe applicable to their desponding Countenances—and ought at least to teach their High blown Imaginations a Lesson of Humility in future.

Unanimity and Harmony reign among the antis. The Promptitude with which they assembled, their Concurrence in Sentiment and their Determination to bind their Force in the same Point are the highest evidence thereof . . . and shut out the shadow of Hope, in the Federalists of creating Divisions.<sup>2</sup>

On the 19th of June, preliminaries having been disposed of, rules adopted, *etc.*, the convention went into Committee of the Whole, and debate on the Constitution began. One writer says, in describing the scenes which followed:

The debates in the Convention of New York are like a Homeric battle, Hamilton against a host. His mind "like an ample shield, took all their darts, with verge enough for more." The

<sup>1</sup> Libby, O. G., *The Geographical Distribution of the Vote . . . on the Federal Constitution*, p. 17.

<sup>2</sup> *Lamb Papers*, Hughes to Lamb, June 18, 1788.



display of intellectual power is the more remarkable from his total lack of faith in the plan . . . Instead of a Federal Union, he wished a legislative Union, with exceptions of power, and a senate embodying the good features of the Senate of Rome; both it and the President to be elevated above party by a tenure beyond party.<sup>1</sup>

This debate continued, with little interruption, for over a month, during which period a most minute inspection of the instrument took place. It early became apparent that the contest lay mainly between Hamilton and Smith, and, indeed, the former, almost from the first, concentrated his attention upon the delegate from Dutchess County, realizing that he was his ablest adversary. The two men were well matched, and yet a curious contrast. As a foil to Hamilton's brilliant, nervous oratory, and masterful, confident impetuosity, "The style and manner of Smith's speeches were plain, dry and syllogistic; and it behooved his adversary to understand well the ground on which he stood, and the principles he advanced, or he might find it somewhat embarrassing to extricate himself from a subtle web of specious reasoning . . ." <sup>2</sup> To his ability in metaphysical discussion, Smith added an undaunted courage, and a singular gift of moderation.

Chancellor Livingston opened the debate with a suave speech in which he congratulated the delegates on the possession by all Americans of a common language, religion, and set of fundamental ideas, as a basis of union. Since all power was derived from the people, it really made very little difference where it was formally lodged. The need however, for union, was very great, even in such a power-

<sup>1</sup> Clason, "Convention of New York, 1788," in *Magazine of American History*, vol. xvi, p. 158.

<sup>2</sup> Hamilton, *History of the Republic of the United States*, vol. ii, p. 530. Bancroft, *Formation of the Constitution*, vol. ii, p. 341.

ful state as New York, on account of its coast-line, *etc.* There were two alternatives only, the old Confederation and the proposed Constitution. It was not contended that the scheme advanced was perfect, but it was held that it was at least deserving of a careful and thorough consideration.<sup>1</sup> The next day, Lansing of Albany answered on behalf of the antifederalists. Admitting that all power originated from the people, he held that the state governments were safer depositories than a central one, since they "will always possess a better representation of the feelings and interests of the people at large." He did not expect a perfect system, but declared that it was quite possible in his opinion to make the old Confederation workable. As to the need for union—much as he desired it—"apprehension of its dissolution ought not to induce us to submit to any measure which may involve in its consequences the loss of civil liberty."<sup>2</sup>

With the close of this cautious and courteous fencing, the real debate began. Livingston answered Lansing, and then Smith proposed to debate the Constitution paragraph by paragraph. When the convention reached the paragraph on representation, a prolonged discussion followed. Smith declared himself in favor of the union, and against passion or mere declamation in the present crisis. He maintained that the question was not whether the Confederation was *bad*, but whether the Constitution was *good*. He then objected to the provision under discussion as unjust, since it gave too much power to the slave-holders, and inadequate, since the districts were too large. He expressed his relief at the definite statement that "the intent of the Constitution was not a confederacy, but a reduction of all the

<sup>1</sup> Elliot, *Debates . . . on the adoption of the Federal Constitution*, vol. ii, p. 205, *et seq.*

<sup>2</sup> *Ibid.*, pp. 217, 220.

states into a consolidated government.”<sup>1</sup> Hamilton followed Smith and summed up the points of the previous speakers. He declared that he was not pessimistic, but that real danger did exist if the union was not strengthened. He attacked the requisition system, which Lansing had warmly supported: “Sir, if we have national objections to pursue, we must have national revenues. If you make requisitions, and they are not complied with, what is to be done? It has been observed to coerce the states is one of the maddest projects that was ever devised.” Then after showing the hopelessness of trying to revise the old Confederation, Hamilton took up the subject of the representation. The provision, he pointed out, had been a compromise to avoid an absolute deadlock. Moreover, it was only just, since the negroes were being used as part of the basis for taxation. The question of changing the ratio of representation, he asserted, could be left to congress. In conclusion he stated a principle to which he was to revert many times during the debate—that the states had so many inherent advantages that federal annihilation of their liberties was an idea “repugnant to every rule of political calculation.”<sup>2</sup>

On the 21st, after a brief speech by Williams of Washington, the debate between Hamilton and Smith was resumed. The latter declared the representation clause dangerously ambiguous. To be just, representation should be large enough to include all classes, otherwise the government will fall into the hands of the “natural aristocracy.” Such a government, being out of sympathy with the masses, would be oppressive, and, being small, could easily be corrupted. To this Hamilton replied: “Sir, the general sense of the people will regulate the conduct of their representatives.”

<sup>1</sup> Elliott, *op. cit.*, p. 222, *et seq.*

<sup>2</sup> *Ibid.*, p. 239.

The elaborate system of checks and balances guaranteed safety from oppression, beside which he again pointed out, was the eternal jealousy of the states. Then turning to the main argument, he denied the desirability of a large number of representatives, illustrating his points by reference to the Constitution of the State of New York. Such a scheme would not be efficient,—pure democracies never are; it was not requisite to inspire confidence, since a good administration would do that, it was not necessary, since only those needed to be represented who were interested in the aims of government-matters which few are capable of grasping. As to the danger of the “natural aristocracy,” since it was caused by an inherent trait of humanity, “it is what neither the honorable member nor myself can correct; it is a common misfortune, that awaits our state constitution as well as all others.” In conclusion, he declared,

After all, sir, we must submit to this idea, that the true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect in proportion as the current of popular favor is checked. This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to; where in the organization of the government, the legislative, executive, and judicial branches are rendered distinct; where, again, the legislature is divided into separate houses, and the operations of each are controlled by various checks and balances, and, above all, by the vigilance and weight of the state governments,—to talk of tyranny, and the subversion of our liberties, is to speak the language of enthusiasm.<sup>1</sup>

Smith, however, declared himself still unconvinced, Lansing was of the like opinion, and, in spite of Hamilton’s

<sup>1</sup> Elliott, *op. cit.*, p. 257.

efforts, Charles Tillinghast could write, on that same day, to Lamb at New York, that the party was holding firm, against the arts of Hamilton, Jay and Livingston. Jay, he added, would be very dangerous to a less determined group. Smith and Lansing, he reported were hot after Hamilton. Incidentally he remarked, "You would be surprized, did you not know the Man, what an *amazing Republican* Hamilton wishes to make himself be considered. *But he is known.*"<sup>1</sup>

The next day Clinton, in one of his infrequent speeches, declared that he was in search of information. How, he asked, could so small a body of representatives be properly conversant with the needs of so vast a country, and the local interests of its parts? "A few men, possessed of but a very general knowledge of these objects, must alone furnish Congress with that information on which they are to act; and on these few men, in the most interesting transactions must they reply."<sup>2</sup> To this query, Hamilton responded rather impatiently that, so far, the arguments of the opposition had been based not on probability, but on remote possibility. If it was logical to assume that only the minimum required for a quorum would be present under the new system, then take a similar case under the old régime. Here a matter could have been decided by eighteen men. The states, however, would not maintain a small representation, since each man had one vote and the government was paying the expenses. Minute knowledge of local affairs he held not to be required, since all questions were general, and expert advice could always be called for if necessary.<sup>3</sup>

The argument continued to rage, *pro* and *con*, Harison,

<sup>1</sup> *Lamb Papers*, Tillinghast to Lamb, June 21, 1788.

<sup>2</sup> Elliot, *op. cit.*, vol. ii, p. 262.

<sup>3</sup> *Ibid.*

Lansing, R. R. Livingston, Smith and Jay all taking part. One interesting tilt occurred between Smith and the Chancellor. The latter, in his remarks, ridiculed what he denominated the "Phantom Aristocracy."

Does a man possess the confidence of his fellow-citizens for having done them important services? He is an *aristocrat*. Has he great integrity? Such a man will be greatly trusted: he is an aristocrat. Indeed, to determine that one is an aristocrat, we need only be assured that he is a man of merit.

If, as the opposition asserted, the aristocrat was not fit to represent the people, the only ones left from which to choose were "the rogue and the robber; . . . the poor, the blind and the lame." This sally at once brought a resentful reply from Smith in defence of his ideas.<sup>1</sup> Whether taking any actual part in a particular debate or not, Hamilton nevertheless watched it very keenly, as his brief bulletins to Madison indicate. In one he said "Our arguments confound, but do not convince," while in another he noted, that the opposition was weakening and that "an air of moderation is now assumed."<sup>2</sup> On the 23rd William Duer wrote Madison: "A few of the Leaders, (amongst which I think I may without Scruple class the Governor) would, if they could find Support, go farther; and Hazard Every thing rather than, agree to any System which tended to a Consolidation of our Governments." The party, however, would not follow, so it was not a question of rejection, but merely of amendment or adjournment. Virginia's action, he added, would clinch the matter.<sup>3</sup> As an index of the widespread interest in the deliberations at Poughkeepsie, came the letter from Myers at Duanesburgh, wanting to

<sup>1</sup> Elliott, *op. cit.*, p. 277, *et seq.*

<sup>2</sup> Hamilton, *Works*, vol. i, p. 459, *et seq.*

<sup>3</sup> U. S. Bureau of Rolls and Library, vol. xi, pt. i, p. 748.

know a little how our present Plan the New Constitution comes on as I am Sure that I have had a good Dele of trubel for mr Cuyler in behalfe of the Same not to my profit thow he knows I am allways to sarve him whean I think it for good . . . .<sup>1</sup>

On June 24th Gilbert Livingston made a violent attack upon the senate, which he painted as intrenched in a federal town isolated by "an impenetrable wall of adamant and gold, the wealth of the whole country flowing into it," and gradually becoming oblivious of the needs of their countrymen. He advocated a limited term and the recall, as a remedy for this evil. His remarks led to a debate on the subject between R. R. Livingston and Lansing. The Chancellor vigorously opposed his kinsman's proposal since it would deprive the country of senators just when they were becoming useful through their experience. The recall, he argued, would subject the members of the senate to "all the caprices, the parties, the narrow views, and illiberal politics of the state governments," when, as was sometimes necessary, local interests must be sacrificed to great national ends. After ridiculing the danger of corruption, the speaker concluded,

The people are the best judges who ought to represent them. To dictate and control them, to tell them whom they shall not elect, is to abridge their natural rights. This rotation is an absurd species of ostracism—a mode of proscribing eminent merit and banishing from stations of trust those who have filled them with the greatest faithfulness. Besides, it takes away the strongest stimulus to public virtue, . . . the hope of honors and rewards, . . . . We all know that experience is indispensably necessary to good government. Shall we, then, drive experience into obscurity?

Lansing supported the measure on the ground that it was

<sup>1</sup>*Duane Papers*, Myers to Duane, June 23, 1788.

necessary in order to secure a proper dependence of the senators upon the states. He denied that it interfered with efficiency, or that the recall would be used as a result of party violence. In proof of his contention, he cited the Confederation. Even if abuses should result, however, they could easily be checked. At this juncture Hamilton also joined in the discussion. He pointed out that in order to stabilize the popular feeling, which was always more or less erratic, a small, permanent, largely independent body, like the senate, was essential. However much the general public might desire the good of their country, they "do not possess the discernment and stability necessary for systematic government." Thus, a very salutary check would be destroyed by the proposed change. Once more he emphasized the fact that the state governments were far too powerful and essential to be in any danger of extinction. Of the contrary, he asserted that, through their officials, they would form the nucleus of a powerful resistance to oppression, before which the central government must inevitably give way. This being so, it was not dangerous, but wise, to establish the senate as a check upon popular prejudices. To Hamilton's arguments Lansing merely observed that, despite the large state power referred to, the only *real* way open to coerce the government was by revolt—a situation which the Livingston amendment aimed to remedy.<sup>1</sup>

When the discussion had progressed so far, word came that New Hampshire had ratified, and that the new system was thus actually in being. This dealt a severe blow to the morale of the opposition, but by no means broke it. A refusal to ratify now meant being left out of the Union. This as the antifederalist group well knew, "meant treaties, it

<sup>1</sup> Elliot, *op. cit.*, vol. ii, p. 296, *et seq.*



meant a navy, it meant a string of forts along a frontier still to be wrested from the British, it meant ministers at every foreign court, consuls at every great seaport abroad, and an army of tide-waiters and gaugers at every dock at home." All this meant increased taxation, which they were not prepared to advocate. Moreover, in the case of the southern counties, rejection would have spelled ruin, since as a foreign nation they would lose the revenue accruing from the trade of New Jersey and Connecticut. Also these same counties had it in their power to seriously cripple the state, since they controlled both banks of the Hudson and could dictate as to the foreign trade.<sup>1</sup>

The day after the New Hampshire news arrived, Livingston, in the course of the continued debate on the senate, called attention to the significance of the event, and boldly declared that the question was now one of union or disunion. To this, Smith retorted that the action had been a foregone conclusion with him, and therefore did not change his views in the least. Lansing went further by declaring that the fact that nine states had ratified, should not "force us to adopt a system which is dangerous to liberty."<sup>2</sup>

With this grim determination on the part of the opposition, the debate continued. Hamilton now singled out Smith as his target, and day after day bombarded him with argument, appeal, explanation, or denial, for the purpose of winning him over. Smith, on his part, continued to emphasize the necessity for rotation in office as a most salutary check upon the representatives, and as a means of keeping alive the interest of the people. He took issue with Hamilton concerning the danger of the recall, the importance of local interests, *etc.*, and contended that the federal office-holders under the new system would largely outweigh in importance

<sup>1</sup> McMaster, *op. cit.*, vol. i, p. 497; Libby, *op. cit.*, p. 17, *et seq.*

<sup>2</sup> Elliot, *Debates*, vol. ii, p. 325, *et seq.*

those of the state, and thus break down that fancied security. In reply, Hamilton went over his original ground still more carefully. After showing the reason for the contrasting powers of the senate and the house, and pointing out the danger of confusing one with the other, he again indicated the check exercised upon the senate by means of biennial elections and the like. On the other hand, he repeated his assertion that the legislatures, being in many cases merely "the image and echo of the multitude," were apt to be unstatesmanlike in their views of large questions. He declared that a clear distinction ought to be made between the "rights" of state, and its "interests." The former were inviolable, and carefully guarded, but the latter should sometimes give way to the larger interests of the nation. In answer to this Smith contented himself with a general denial of the truth of the statements.<sup>1</sup>

The discussion now became more general, and various phases of the question were considered by Jones, Clinton, Jay, Duane, Smith, and others. The arguments had mainly to do with the method of choice and the distribution of the representatives. In the course of the debate, Smith declared with some bitterness that there was no sense in calling a convention if no changes could be made in the document submitted to its consideration. A letter written at this time by an observer to a friend in Connecticut gave a very interesting, and a surprisingly impartial, word picture of the various speakers. The letter read in part:

Col. H.——— stands the political porcupine, armed at all points and brandishes a shaft to every opposer: a shaft powerful to repel and keen to wound. The C———r pours a stream of eloquence deep as the Ganges, and irresistible as the Cadaraqui. Mr. J—y's reasoning is weighty as gold, polished as silver, and

<sup>1</sup> Elliott, *op. cit.*, vol. ii, p. 525, *et seq.*

strong as steel. Mr. H——n's harangues combine the poignancy of vinegar with the smoothness of oil: his manner wins attention; his matter proselytes the judgment.

Mr. S——h, the anti champion, adds the subtilty of Locke to the candour of Sydney. If his elocuting is hesitating, it is still eloquent; and the exertions of his mind exhibit a man formed for investigations and debate. G——r C——n has spoken but seldom; but his silence does not proceed from a consciousness that he has not powers to persuade or arguments to convince.

Mr. L——g is often upon the floor, and has that respect paid him by his auditors, which none but men of abilities can obtain: he is heard with attention. Besides these Mr. J——s, Mr. G. L——n, and Mr. W——ms, have made remarks, and Judge M——s observations, very pertinent to the occasions on which they were delivered. . . . Upon the whole I believe, that in no state in America has the new Constitution been fairer canvassed, abler defended, or more powerfully opposed. What will be the result I dare not divine.<sup>1</sup>

The subject of debate ~~now~~ shifted to taxation. A preliminary speech was made by Mr. Williams, in which the power of taxation as it stood was condemned, as opening a door "to the appointment of a swarm of revenue and excise officers, to prey upon the honest and industrious part of the community." It was, he further declared, very dangerous, since "The command of the revenues of a state gives the command of everything in it. He that has the purse will have the sword; and they that have both have everything." He therefore proposed to amend by prohibiting excise on articles grown or manufactured in the United States, and direct taxes except in case of a deficit, and even then only after a requisition had failed.<sup>2</sup> The question being thus stated,

<sup>1</sup> *New York Journal*, July 4, 1788, Letter of June 26, 1788.

<sup>2</sup> Elliot, *op. cit.*, p. 331.

Smith opened the debate, and "with his usual good sense proved clearly to persons capable of conviction, the dangers resulting to the liberties of the people from the depositing of such essential and indefinite powers into the hands of men so little responsible as the Congress under the new Constitution will be."<sup>1</sup> His principal criticism was that federal taxes would inevitably lead to the extinction of state taxes, and, therefore, to the death of the states. In such a system as the one proposed, clashes of jurisdiction were certain, and the control of the army would always insure victory for the federal government. He also reiterated his preference for state governments as against men far away and not conversant with local interests.

In reply to these arguments Livingston asserted that there were really only two points at issue, (1) the excise, (2) the question of the method in direct taxation. He believed that while it might be perfectly proper and safe to omit the excise now, as our industries grew our imports would decrease, and therefore, a new source of revenue would be essential. The simple result would then be heavier direct taxation. As to the second point, the requisition system had been—or *should have been*—shown to be an utter failure. To adopt it now would be simply to invite calamity, and such a system would sound the knell of the credit of the United States abroad. Concurrent jurisdiction was, he contended, perfectly feasible, as illustrated by the local government of New York.

Livingston was followed by Hamilton, who, being on familiar ground, made what was probably his most important speech throughout the duration of the convention. Although speaking to the specific question of taxation, his speech was practically a summary of the federalist arguments in support of the new government, as they had been

<sup>1</sup>*De Witt Clinton Mss.*, Clinton to Tillinghast, June 27, 1788.

developed up to that date. He declared that the essentials of good government were two in number: (1) free and pure representation, and (2) mutual checks. Where these two existed fully, no power, however great, could be dangerous. As to what constituted "safe" representation, the speaker asserted that it was obviously impossible to say off-hand; but one thing was certain—that "the idea of taking the ratio of representation in a small society, for the ratio of a great one, is a fallacy which ought to be exposed." Provided that the powers *were* divided, the question of *how* they should be apportioned became rather one of the convenience than anything else. The objects of government were numerous, extensive, and important, and "Everyone must acknowledge the necessity of giving powers in all respects, and in every degree, equal to these objects." The argument decried the existence of exclusive jurisdiction in revenue matters, and once more emphasized the fallacy of the statement that "no government but a despotism can exist in a very extensive country." This, while it may have been true so far as the ancient, non-representative democracies were concerned, was inapplicable to such a system as that in the United States, where the central government could at best be given only general powers, while all special concerns were to be regulated by the states. Finally, Hamilton closed with a variation of a familiar argument. He declared: "In whatever direction the popular weight leans, the current of power will flow; wherever the popular attachments lie, there will rest the political superiority."<sup>1</sup>

In forwarding to Madison the news of the ratification of New Hampshire, Hamilton said, apropos of the effect of the arguments of the advocates of the new system: "There are some slight symptoms of relaxation in some of

<sup>1</sup> Elliot, *op. cit.*, p. 356.

the leaders; which authorises a gleam of hope, if you do well: but certainly I think not otherwise . . . .”<sup>1</sup> This letter perhaps crossed one from Virginia, giving the news of her ratification, with recommendatory amendments, and in the face of an active and vigorous minority. Warning was also sent of the movement being launched to secure a second convention. In a letter to Washington, Jay regarded the situation somewhat more pessimistically. “The complection of our Convention,” he wrote,

is such as was expected. They have hitherto proceeded with Temper and moderation, but there is no Reason to think that either Party has made much Impression on the other. The Leaders in opposition seem to have more extensive Views than their Adherents, and untill the latter percieve that circumstance, they will probably continue combined. The greater Number are I believe averse to a vote of Rejection—some would be content with recommendatory amendments—others wish for explanatory ones to settle Constructions which they think doubtful—others would not be satisfied with less than absolute and previous amendments; and I am mistaken if there be not a few who prefer a separation from the Union to any national Government whatever. They suggest Hints of the Importance of this State, of its capacity to command Terms, of the policy of its taking its own Time, and fixing its own Price, &c.—they intimate that an adjournment may be expedient, and that it might be best to see the operations of the new Governnt. before they receive it.

The people however are gradually coming right notwithstanding the singular Pains taken to prevent it. The accession of New Hampshire does good—and that of Virginia would do more. . . .<sup>2</sup>

On the other hand, De Witt Clinton could write to

<sup>1</sup>*U. S. Bureau of Rolls and Library*, vol. xi, pt. i, p. 757.

<sup>2</sup>*Ibid.*, p. 765.

Tillinghast at New York City, "The Republican members are . . . united as one man, and the terrors thrown out by the Chancellor in his introductory speech are considered by them with contempt,"<sup>1</sup> and Clinton himself the following day assured Lamb that,

The Friends to the Rights of Mankind outnumber the advocates for Despotism nearly two to one. Yesterday the Debates began on the Third Clause respecting Representation. The most that has been said by the new Government men, has been only a second edition of Publius, well delivered; One of the New York Delegates has in substance tho' not explicitly thrown off the Mask, his arguments tending to shew the Necessity of a Consolidated Continental, to the exclusion of any State Government. This however he has recalled today as finding it would do their Cause Injury.

At the same time he took occasion to thank Lamb for keeping in touch with Virginia, and told him of the appointment of a Committee of Correspondence, with Yates as Chairman.<sup>2</sup>

On June 28th, Hamilton continued his attack on the taxation amendment, by introducing, over Clinton's protest, papers to prove that New York State had suffered greatly from the requisition system. He was willing, he declared, to grant that the anti-federalists were sincere in their desire for a more effective central government, despite their rather curious manifestation of this desire during the discussions on the impost, and as an aid to the accomplishment of this desire, he urged the advantages of the concurrent taxation idea. The state resources would always be larger than those of the Union, and as for the government monopolizing the sources of revenue to the exclusion of the states, both justice and prudence forbade this, except in the case of dire

<sup>1</sup>*De Witt Clinton Mss.*, Clinton to Tillinghast, June 27, 1788.

<sup>2</sup>*Lamb Papers*, Clinton to Lamb, June 28, 1788.

necessity, when it would be justified anyhow.] As to the proposed requisition scheme, it simply reduced the question to this:

The states will either comply, or they will not. If they comply they are bound to collect the whole of the tax from the citizens. The people must pay it. What, then, will be the disadvantage of its being levied and collected by Congress in the first instance? . . . But if the states do not comply, what is the consequence? If the power of a compulsion be a misfortune to the state, they must now suffer it without opposition or complaint. I shall show, too, that they must feel it in an aggravated degree.

Moreover, under the requisition system, a margin of money above the actual need would be called for, in order to cover delays and defaults, while by direct action this would be obviated. Also, if direct taxes are only to be used as a last resort, then the impost would be loaded to its capacity, and New York, being an agricultural state, would suffer.<sup>1</sup>

Lansing replied to these arguments by asserting that the requisition system as asked for in the proposed amendment was not the old one, whose failure he asserted was due either to actual inability to pay, or to the failure to use proper pressure. The new system, he claimed, proposed to use force upon delinquent states, except where payment was really impossible, and he failed to see wherein Congress could do more. As to the question of direct taxation, he declared that the states were the best judges of how and when this should be levied. In conclusion, he caused a sensation by declaring that Hamilton, in convention, had advocated that the states be stripped of powers in the interests of the federal government. This the latter instantly denied, as related by Clinton in his communication to Lamb.<sup>2</sup>

<sup>1</sup> Elliot, *op. cit.*, p. 367, *et seq.*

<sup>2</sup> *Ibid.*



The chief event of the next few days was the tilt between Chancellor Livingston and Messrs. Gilbert Livingston, Williams and Smith, on the subject of the requisition system. Duane having opened the matter in a "long, and well-detailed speech," was supported by the Chancellor in "a fine vein of humor . . . and his whole speech was a stream of delicate satire and truly Attic eloquence." This provoked "serious and illiberal invective" from the Chancellor's kinsman, followed by a monumental speech by the gentleman from Washington, who having "brandished his falchion in a most gigantic style" but to no effect—"after a few harmless circles in the air—restored the mighty weapon peaceful to its scabbard." Smith then made a temperate speech, after which the Chancellor replied to all "with perfect temper, and with the most engaging good humor."<sup>1</sup> Treadwell of Suffolk also attacked the section in an impassioned speech. He declared:

This government is founded in sin, and reared up in iniquity; the foundations are laid in a most sinful breach of public trust, and the top-stone is a most iniquitous breach of public faith; and I fear if it goes into operation, we shall be justly punished with the total extinction of our civil liberties.<sup>2</sup>

Yates and Hamilton continued to discuss the point of state sovereignty under the new plan, and Jay also took a minor part in the debate. One of the members of the convention wrote to a friend in New York.

I wish it was in my Power to inform you that our Convention had agreed to adopt the Constitution, or Even what the Propable Event will be.

Our opponents keep themselves much at a distance from us

<sup>1</sup> *New York Daily Advertiser*, July 8, 1788.

<sup>2</sup> Elliot, *op. cit.*, p. 405.

and we Cant Collect any of their Sentiments Either out or in Doors by any means whatever.

In our discussions on the Constitution we have got only to the 8th. Section of the first Article. The time is mostly taken up in reasoning on the impropriety of their Proposed amendments.

I now only Can suggest that the Event of Verginia may influence their determination, should they reject I think it Propable our Convention will, but should they adopt, I am not Clear ours will, they may then Propose an Adjournment to Collect the Scence of their respective Constituents, Tho all will depend on their Leaders, Hope shall be able to Write you more by Saturday next.<sup>1</sup>

During the debate on the following day, the "Event of Verginia" was duly communicated to the convention, greatly discomfiting the rank and file of the opposition, and probably giving the decisive blow, though Clinton, earlier in possession of the information, asserted that so far as he could see, the news had produced no effect. The extremists maintained their position with dogged determination, and, indeed, Clinton's view seemed to be shared by certain of the federalists as well. A letter from Poughkeepsie on July 3rd mournfully declared:

We fondly (but in vain) expected that the ratification of Virginia would have a very serious effect on the minds of the antifederal party, and would have constituted so forcible an appeal to their apprehensions, that it would have compelled them to adopt a system different from that destructive one they seem intent on pursuing.

We find that the powers of eloquence and argument are un-availing; we shall therefore refrain from any further exertions in defence of the Constitution.<sup>2</sup>

<sup>1</sup>Hasbrouck, *History of Dutchess Co.*, p. 177.

<sup>2</sup>*New York Daily Advertiser*, July 7, 1788.

Not so the leaders, however, for on the next day Jay sent word to Washington that "The Unanimity of the Southern District, and their apparent Determination to continue under the Wings of the union, operates powerful on the Minds of the opposite Party. The constitution constantly gains Advocates among the People and its Enemies in the Convention seem to be much embarrassed."<sup>1</sup>

In order to speed up the proceedings, the federalists, at this point, adopted the practice of refusing to comment on, or debate the various amendments introduced. This rather mystified the opposition, even Clinton commenting upon it as "somewhat singular," and tended to accentuate the vague uneasiness already visible among them. Indeed, as later events proved, the worst of the battle was over, and the tide now began to set more and more strongly toward ratification. Hamilton, congratulating Madison on the action of Virginia, albeit he expressed his sorrow that amendments should have accompanied it, commented that the opposition, being divided, was trying to work out some scheme of conditional ratification.<sup>2</sup> By the 8th of July the detailed discussion of the Constitution by paragraphs had been finished. The division among the antis was becoming more and more obvious, and the federalist leaders were beginning to breathe easier than they had since the convention assembled. Jay noted that "The Ground of *Rejection* . . . seems to be entirely deserted" and Hamilton expressed himself as decidedly hopeful. He declared that, recognizing the breach in the enemy's defences, he would go as far as he could in compromise and concur in any reasonable recommendation.<sup>3</sup>

On July 11th Lansing introduced a series of amendments, explanatory, recommendatory and conditional, which were

<sup>1</sup> U. S. Bureau of Rolls and Library, vol. xi, pt. i, p. 767.

<sup>2</sup> Hamilton, *Works*, vol. i, p. 463.

<sup>3</sup> U. S. Bureau of Rolls and Library, vol. xi, pt. i, p. 767.

to be a prerequisite to ratification, and which Clinton declared were the *ne plus ultra* of the "antis." These were referred to a committee consisting of Jay, Duane, Chief Justice Hobart, Ryerse, Lefferts, Hatfield, Yates, Lansing, Smith, Tredwell, Haring, Jones, and Gilbert Livingston. This committee promptly deadlocked over the word "conditional" and no decision could be reached.<sup>1</sup> Jay then moved to ratify with a recommendation of certain amendments "deemed useful or expedient," and this was the signal for a prolonged debate, which really represented the desperate "last ditch" stand of the antis. This gradually narrowed down to a contest between Hamilton, Jay and the Chancellor on the one side, and Lansing, Clinton and Smith on the other, with Hamilton, as usual, concentrating on Smith. For a considerable time the issue hung in the balance. On July 15th, Smith moved to amend Jay's proposal so as to read that the ratification was *on condition* that the proposed amendments were made by a second convention. The following day Judge Hobart moved to adjourn but this was lost—almost two to one—and a similar fate befell a motion by Duane to postpone Smith's motion in favor of the original Jay plan. Concerning the Hobart motion, De Witt Clinton wrote that "The ostensible reasons were that as a change of circumstances had taken place since the election of the members, it would be proper that they should go home and consult their constituents, but the real design was I believe different."<sup>2</sup>

Smith's motion was then taken up again and debated at great length, much to the surprise of Madison, who was amazed that the proceedings should be so long drawn out, with one side so obviously beaten. During this debate several amendments were adopted by more or less large

<sup>1</sup> *New York Daily Advertiser*, July 15, 1788.

<sup>2</sup> *De Witt Clinton Mss.*, Clinton to Tillinghast, July 28, 1788.

majorities, and finally, on July 23rd, it was moved to substitute in Smith's motion for the words "express condition that" the words "in Confidence that" amendments would be adopted. This amendment was carried by a vote of 40 to 19.<sup>1</sup> The defection of Melancton Smith, their principal champion, which had been the goal of Hamilton's untiring efforts, sealed the fate of the opposition. A vain attempt was made by Lansing to insert a provision authorizing New York to withdraw if amendments were not made within a certain time, but this was lost,<sup>2</sup> and the next three days were mainly taken up with putting the ratification, with its lists of suggested amendments, into final form. This was accomplished on July 26th, and on that day the ratification was formally voted, thus bringing the long contest to an end. Clinton, in a brief speech, while declaring his belief that people would never be satisfied without amendments, promised to use his influence to promote tranquility and good order.<sup>3</sup>

The federalist victory was, however, by no means an overwhelming one, being gained only by the narrow margin of three votes, (30-27, July 26, 1788), and being further qualified by the fact that the convention unanimously adopted a circular letter to the various states, urging a second convention to consider the various amendments proposed at Poughkeepsie and elsewhere. This was a concession to the strength of the antis, but even so, it was bitterly opposed by many of the federalist leaders, who, like Washington, feared that it would "set everything afloat again."<sup>4</sup>

<sup>1</sup> Elliot, *Debates*, vol. ii, p. 405, *et seq.*; *McKesson Papers*; MSS. Journal of Convention.

<sup>2</sup> Smith, "The Movement towards a Second Constitutional Convention," in Jameson, *Essays in the Constitutional History of the United States*, p. 88, *et seq.*

<sup>3</sup> *New York Daily Advertiser*, Aug. 1, 1788.

<sup>4</sup> Smith, *op. cit.*

or, like Madison, regarded it as of a "most pestilent tendency," and extremely dangerous.<sup>1</sup> Concerning this action of the New York federalists, an eminent historian has said:

The more dignified, the more honorable course would under such circumstances have been to turn a deaf ear to the offers and suggestions of the enemy, firmly refuse to give one inch of ground, and let them if they dared go out of the Union. That moment a reaction would have begun. Hundreds, nay thousands, of simple-hearted, well-meaning Antifederalists, who, while it was still doubtful if nine States could be found to accept the Constitution, were its bitter foes, would, the instant they saw the New Roof up, and completed and New York not under it have become its warm friends. New fears, new dreads, would have tormented them; a great cry for another Convention would have gone up, and before a year was out the Constitution would have been ratified by a splendid majority, despite the machinations of Clinton and his band.<sup>2</sup>

The convention, having finished its work, adjourned, the members going to their respective homes. The New York delegates arrived in the city on July 28th, and each one was received with a salute of eleven guns in recognition of his services. On the 8th day of August R. R. Livingston wrote from the Manor to Duane,

I must also Congratulate you, and all lovers of our State on the adoption of the federal Constitution, in which you had so great a share of trouble. I feel happy on the occasion, and could now wish that all opposers would be Quiet & settle their minds & be composed, and heartily joyn the federals & promote the happiness of the States in general, the great object of the whole, which pray God grant.<sup>3</sup>

<sup>1</sup> *U. S. Bureau of Rolls and Library*, vol. xi, pt. ii, p. 16.

<sup>2</sup> McMaster, *op. cit.*, vol. i, p. 350.

<sup>3</sup> *Duane Mss.*, R. R. Livingston to Duane—August 8, 1788.

## CHAPTER VI

### LOCAL ACTION ON THE CONSTITUTION AND THE CIRCULAR LETTER

WHILE the chief interest in the ratification question naturally centered in the debates at Poughkeepsie, there was more or less activity throughout the state as well. As early as the seventh of March, 1788, Clinton had been in receipt of a letter from Randolph of Virginia, outlining the amendments which his state proposed to submit to a second convention. This had obviously been intended to reach him in time to influence the New York Legislature, but was rather inexplicably delayed. Two months later Clinton answered Randolph's letter in a most artistic and suave missive, a typical Clinton masterpiece, so addressed that it might appear to be a private communication, and yet obviously intended for public use.<sup>1</sup>

Very early a society, of which John Lamb, the Collector of the Port of New York, was the leading spirit, was formed in that city to combat the Constitution. This organization, as part of the general anti-federalist "campaign of education," circulated a series of pamphlets and essays intended to disparage the new frame of government, among them Lee's "Letters of a Federal Farmer." On the 12th of April the Albany Committee, writing to the heads of the New York organization in regard to some propaganda material not yet received, at the same time acknowledged the arrival of

<sup>1</sup> Smith, "Movement towards a Second Constitutional Convention" in Jameson, *Essays*, p. 88, *et seq.*

a piece by "a Columbian Patriot." This the committee considered to be very good but their only fear was that it was over the heads of the people whom it was intended to influence. The letter noted also that certain packages of documents intended for use in Montgomery and Washington Counties had been duly forwarded to the committees there. The writers express great confidence in the outcome at Albany: "Our opponents here are busy day and night—and be assured that we are by no means idle. . . . We expect a Majority in almost every district of this county, except Manor of Renselaer, and even there we shall draw off a pretty considerable detachment."<sup>1</sup>

The New York City antis planned an organization of national scope, and by means of Committees of Correspondence, so familiar as a Revolutionary expedient, proceeded to establish relations with those of like sentiment in Virginia, South Carolina, North Carolina, Maryland and New Hampshire. To combat the activities of this "Federal Republican" organization, as the group at New York were called, Hamilton inaugurated the *Federalist* papers.<sup>2</sup>

When the ratification of the Constitution by the State of New York had become an accomplished fact, through the action of the Poughkeepsie Convention, the efforts of this group of irreconcilables were turned towards securing the assembling of the second convention on amendments, as proposed in the Circular Letter, adopted as part of the ratification. This letter, dated July 28, 1788, and addressed to the Governors of the States, contained a statement of the position of the Clinton party. It declared that the Constitution had been carefully considered and that several

<sup>1</sup>Lamb Papers, Albany Committee to New York Committee, cf. also *supra*, ch. iv.

<sup>2</sup>Hamilton, *History of the Republic*, vol. ii, p. 369, et seq.; Lodge, *Alexander Hamilton*, p. 66.



amendments were deemed necessary. In fact, the communication continued, these amendments appeared to the anti-federalists to be so absolutely vital, that only a profound desire for union, and the belief in the possibility of their subsequent consideration, could have brought about ratification at all. Unless such amendments were made, the Constitution would be very unacceptable to a large party in New York State. Since other states were also known to desire amendments, it was felt that immediate steps ought to be taken in this direction in order to allay discontent. The appeal concluded by asking for the coöperation of the other states, even though they might themselves be satisfied with the system as it was, with the view of securing a hearing, if nothing more, for the proposed amendments.<sup>1</sup>

On July 12th DeWitt Clinton, who kept the New York antifederalists constantly informed of the progress of events at Poughkeepsie, had written to Tillinghast that the "business of the Convention" was now "wound up to a crisis." The letter had then described the various kinds of amendments which had been introduced by Lansing as (1) explanatory; (2) conditional; (3) recommendatory, including those intended to provide a bill of rights, clarify ambiguities, set at ease various doubts, *etc., etc.* This last group Clinton described as by far the most numerous, and important. It was this group also, which was most attacked by the other side, who regarded it as impossible to grant. Nevertheless, the writer was confident that their objections would be overruled, that the ratification on this basis would be accepted, and that then "our Representatives in Congress can be of service in calling another Convention."<sup>2</sup>

On October 30, 1788, the "Federal Republican Club" met at Fraunce's Tavern in the City of New York, and pro-

<sup>1</sup> Elliot, *Debates*, vol. ii, p. 413, *et seq.*

<sup>2</sup> *Lamb Papers.*

ceeded to organize with a view to furthering the purposes outlined in the Circular Letter. Present at this meeting were Marinus Willett, Melancton Smith, David Gelston, John Lamb, Ezekial Robins, Solomon Townsend, Nathaniel Lawrence, James Hughes, Samuel Jones, and Charles Tillinghast. After choosing Willett as Chairman, and Tillinghast as Secretary, the meeting proceeded to appoint a Committee of Correspondence to spread broadcast the reason for New York's ratification, and the terms on which it was brought about. For this duty were chosen Smith, Lamb, and Hughes, with instructions to get in touch with the other states, and with the various New York counties, make the required explanations, and bespeak their aid in bringing about the call for the new convention.<sup>1</sup>

Five days later a meeting of the Committee, was held, at which Tillinghast and Gelston were also present. At this time a letter to the various counties was drafted. This set forth the fact that the Constitution had been ratified by the Clinton party, not on its merits, but for the sake of preserving the union, and in view of the fact that divided votes in other states gave promise of a speedy demand for amendments. The letter urged the formation of county committees to carry on the work for the new Convention, and as a guide to procedure, outlined the method adopted at New York. A similar letter was then drafted addressed to the various States, with which the committee was in relation. The propaganda, ambitious and thorough as it was, was to a great extent superseded and rendered unnecessary in New York State, by the special session of the legislature called by Governor Clinton for December 8, 1788. The ostensible reason for changing the usual date for the assembling of the Legislature, was the necessity of ratifying,

<sup>1</sup> *Lamb Papers.*

<sup>2</sup> *Ibid.*

as soon as possible, the work of the Poughkeepsie Convention, but it has been said that

It seems more probable that this recommendation (*i. e.* to call a second convention) and the early call of the legislature, were intended to afford evidence of the sincerity of his past opposition to the federal constitution, and as a manœuvre to keep his party together in the state of New York.<sup>1</sup>

The Circular Letter was the chief weapon which the anti-federalists seem to have relied upon to influence public opinion. The procedure of the federalists in consenting to its adoption had been bitterly condemned by many leaders as "a signal of concord and hope to the enemies of the Constitution everywhere" and the letter itself had been declared dangerous since an early Convention called as it suggested, "will evidently be the offspring of party and passion, and will probably for that reason alone be the parent of error and public injury."<sup>2</sup> As the event proved however, the danger had, in most cases, been over-estimated. Connecticut, Massachusetts, and Pennsylvania all declined to act in the matter, the project fell to the ground, and, says Mr. Schouler, "Antifederalism now lay prostrate, crushed to the earth by its own desperate violence."<sup>3</sup>

On the other hand, the ratification was the signal for an outburst of joyful enthusiasm on the part of the federalists. New York City, the great stronghold of the party, had long been making plans to celebrate the event. As early as the 28th of June, the tradesmen were making preparations for a great procession to be held to mark the ratification of

<sup>1</sup>Hammond, *History of Political Parties*, vol. i, p. 34.

<sup>2</sup>Gilpin, *The Papers of James Madison*, vol. ii, p. 674, Madison to Washington.

<sup>3</sup>Schouler, *History of the United States of America under the Constitution*, vol. i. p. 79.

nine states, but this was postponed from day to day as the progress of affairs was anxiously watched. The usual Fourth of July celebration in the city had a marked federal bias, for, in addition to the regular meeting of the Society of the Cincinnati at Bardin's thirteen enthusiastic federalists assembled at "Mr. Dawson's Tavern in the town of Brooklyne" and drank such truly Federal toasts as:

The New Constitution—May the year, month and day in which it was form'd, and the Illustrious Members who subscribed it, be ever held in grateful remembrance by every true American [and] May continual disappointment, and never-dying remorse, pain, poverty and contempt, ever attend those antifederalists who, thro' motives of interest, stand opposed to a government, formed for the good of their country.<sup>1</sup>

On July 10th the *New York Daily Advertiser* under the heading "Ship News—Extra," chronicled the arrival of the "Federal Constitution," Perpetual Union, Commander, from Elysium. As passengers this vessel carried Messrs. Flourishing Commerce, Public Faith, Confidence, and Justice, also General Prosperity, and Mr. National Energy. In her cargo she included thirteen large packages of union, peace, friendship, mutual concessions, forbearance, and regard for universal prosperity. In the same column it noted the sailing of "The Old Confederacy," Imbecility, master, with a cargo of English colors, paper money, pine barren and legal-tender acts, local prejudices, jealousy and seeds of discord. News was also communicated of the total loss, with all hands, of the sloop "Anarchy" which had been wrecked on the Rock of Union.

Finally, on the 23rd of July, the long delayed "general procession of mechanics, &c." was held. It was quite an elaborate affair, consisting of ten divisions, representing

<sup>1</sup> *New York Daily Advertiser*, July 5, 1788.

fifty-eight different trades and professions, and was liberally supplied with floats, costumes and symbolic banners. The Grand Marshal for this occasion was Richard Platt, who was "designated by a blue coat, red sash, and white feather tipped with black" and assisting him were thirteen Deputy Grand Marshals, Colonel W. S. Livingston, Colonel Giles, Major Bleecker, Capts. Fowler, Stagg, Dunscomb and Morton, Messrs. J. R. Livingston, Daniel LeRoy Thomas Durie, Edward Livingston, Staats Morris, and John Lefferts. Each of these functionaries was to be "clad in a uniform white coat with blue cape and sash, wear a white feather tipped with blue and, carry a speaking trumpet."

The procession formed in the Fields, and the line of march was to be down Broadway to Great Dock Street, to Hanover Square, to Queen Street, to Chatham Street, to Division Street, to Arundel Street, to Bullock Street, ending at Mr. Bayard's. Here an inspection was held, followed by a dinner, and at five in the evening the procession was to reform, retrace the line of march to the Fields, and there be dismissed. Guns signaled the start, and were fired to mark the drinking of each toast during the dinner.<sup>1</sup> Writing to the New York delegates at Poughkeepsie concerning the affair, the Grand Marshal reported

I am desired to inform You that the most remarkable regularity & decorum prevailed during the whole Day—not a single person appeared intoxicated; nor a single offence given, or injury done to any One—

The Citizens at large are too sensibly impressed with the importance of the cause they have espoused to suffer it to be disgraced by any act of violence, or even illiberality.<sup>2</sup>

<sup>1</sup> *New York Journal*, July 23, 1788.

<sup>2</sup> *Duane Mss.*, Platt to the New York Delegates, July 23, 1788.

The only jarring note was the rather contemptuous account of the procession which appeared in the antifederalist *New York Journal*. The writer of the account referred slightly to the "Grand Procession" which "paraded to and fro, and walked up and down" and altogether "made a very pompous appearance, and was conducted in a regular and decent manner." This slur being promptly resented, an apology was made for what the writer described as "a vein of innocent humor . . . not intended to reflect or censure."<sup>1</sup>

On Saturday, July 26th, came the news of the final ratification. A "*Supplement Extraordinary*" to the *New York Independent Journal* thus described its reception.

On Saturday evening about 9 o'clock arrived the joyful tidings of the adoption of the New Constitution, at Poughkeepsie, on Friday, July 26, Yeas 30 Nays 25 Majority 5. . . . The bells in the City were immediately set a ringing, and from the Fort and the Federal Ship Hamilton, were fired several Salutes. The Merchants at the Coffee-House testified their joy by repeated huzzas; and a large body of Citizens, headed by a number of the first characters, went to the houses of the Members of the Convention, and gave three Cheers, as a testimony of their approbation of the glorious Event brought about by their united, unremitted, and toilsome Exertions. . . . In short a general joy run through the whole City and several of those who were of different Sentiments drank freely of the Federal Bowl, and declared they were now perfectly reconciled to the New Constitution.<sup>2</sup>

Outside of the City of New York the course of events was much the same, though things did not always move so

<sup>1</sup>*New York Journal*, July 24, 1788.

<sup>2</sup>*New York Independent Journal, Supplement Extraordinary*, July 23, 1788.

smoothly. At Albany a serious riot occurred on the Fourth of July. The federalists in the city had planned a parade to celebrate the ratification of the Constitution by the State of Virginia. The antifederalists, however, vigorously protested, and in deference to their feelings in the matter, the federalists cancelled their arrangements. On July 4th, however, the anti-federalists paraded on their own account as a demonstration against the constitution, in the course of which parade a copy of the new scheme was ceremoniously burned. This action incensed the federalists, who at once organized an informal parade of their own. This met with no difficulty until it reached Green Street, where it encountered the forces of the opposition, and was peremporarily ordered to halt. This order brought on

a general battle—with swords, bayonets, clubs, stones &c. which lasted for some time, both parties fighting with the greatest rage, and determined obstinacy, till at length the antifederalists being overpowered by numbers, gave way and retreated, many into the house of a Mr. Hilton, where they made a second stand. . . . .

The federalists promptly proceeded to rush the building, and severely damaged it. The net result of the encounter was the defeat of the antifederalists, at the cost of one killed and eighteen wounded, of whom twelve were federalists and six antifederalists.<sup>1</sup> This lamentable occurrence was, however, smoothed over, though for some time feeling ran very high in the city, and on July 28th the federal committee, through its chairman, Robert M'Clallan, issued the following statement:

<sup>1</sup>*Impartial Gazetteer and Saturday Evening's Post*, July 12, 1788; *New York Journal*, July 11, 1788.

Albany, July 28, 1788.

In Committee

The Ratification of the Constitution for the Government of the United States, by the Convention of this State, after a full and an ample Discussion, is an Event, from which we may, with much Confidence, hope to derive a Variety of the most beneficial Consequences; and among others, that of a Restoration of Harmony between the Citizens of the States in general, and of this in particular, Pervaded with Sentiments and Principles favorable to good Government, and mutual Conciliation, we are happy that we can now with Propriety, not only, congratulate our immediate Constituents, but Every Class of Citizens, on the accomplishment of an Event so ardently wished for by America in general. And under the joyful Prospect of its encreasing the Peace and Happiness of our Common Country, we earnestly entreat the Citizens in general of this City, to partake in a Public Rejoicing, and to join in a Federal Procession, on Friday, the 8th. Day of August, next ensuing, to be concluded with a decent American Repast.

By Order of the Federal Committee  
Robert M'Clallen, Chairman.

This "Public Rejoicing" was duly held under the auspices of the Committee and without untoward incident.<sup>1</sup>

At Poughkeepsie, on the Fourth of July, both parties joined in a celebration in which "it is pleasing to remark that amidst all the joy and bustle of the day there was no notice of the present politics of the country—each party acted with delicacy and politeness."<sup>2</sup>

Likewise at Kingston "The greatest harmony and decorum pervaded all ranks of citizens, during the day, affording strong proofs of their patriotism, and disposition

<sup>1</sup> *Albany Journal*, August 4, 1788; *New York Daily Advertiser*, Aug. 19, 1788.

<sup>2</sup> *New York Journal*, July 11, 1788.



to unanimity and peace."<sup>1</sup> There was, however, a suspiciously partisan ring to some of the toasts given on this occasion of "harmony and decorum," as, for example, the one which trusted "That our liberty and independence may not be impaired in its thirteenth year."<sup>2</sup>

On July 26th, a celebration was held at Newburgh, in which the inhabitants assembled as usual, drank patriotic toasts and fired salutes in honor of the occasion.<sup>3</sup> A similar scene was enacted at Mr. Thomas Swart's at Red Hook on August 6th.<sup>4</sup> On August 4th the federalists of Ballstown, assembled at the house of Captain Uriah Gregory. Here "after partaking of an elegant dinner," eleven toasts were drunk, "each accompanied by a volley of small-arms by part of Captain Gregory's Company assembled on the occasion."<sup>5</sup> Other celebrations were held at Flushing (August 8) Hurley (August 12th) and Smithtown (August 18th), in each case exhibiting the usual features of a parade, a dinner, with orators and toasts, and followed by fireworks and salutes.<sup>6</sup>

With the passage of time and the prospect, or at least the possibility, of a second convention, the dispute gradually subsided. On September 21, Jay wrote Washington that "the opponents in this State to the Constitution decrease and grow temperate." He expressed himself in favor of conceding the second Convention, since it would quiet the opposition, and "so many good Reasons can be assigned for postponing the *session* of such a Convention for three

<sup>1</sup> *New York Journal*, July 12, 1788.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Poughkeepsie Journal*, August 12, 1788.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Albany Journal*, August 4, 1788.

<sup>6</sup> *New York Daily Advertiser*, August 15, 29, Sept. 2, 1788.

or four Years that I really believe the great Majority of its advocates would be satisfied with that Delay." <sup>1</sup>

Meantime the new scheme would have a chance to work itself out, and to prove its worth, which was all he asked. In this opinion he was supported by Hamilton who pointed out that "the mode in which amendments may best be made, and twenty other matters" might be used as pretexts for delay.<sup>2</sup> The demand for the second convention failed, however, to materialize, and with the passage of the first set of amendments to the Constitution, all excuse for agitation ceased, and the state of New York settled down to her life with her other sisters under the "New Roof." An interesting side-light is thrown upon the final result by one writer who considers that the adoption of the Constitution was "the triumph of a skillfully directed reactionary movement" which had for its aim "to eliminate as far as possible the direct influence of the people on legislation and public policy" and which had for that purpose "engrafted upon the Constitution just as much of the features of popular government as was necessary to secure its adoption."<sup>3</sup>

<sup>1</sup> *U. S. Bureau of Rolls and Library*, vol. xi, pt. ii, p. 70. Jay to Washington.

<sup>2</sup> Hamilton, *op. cit.*, vol. ii, p. 269, *et seq.*

<sup>3</sup> Smith, *Spirit of American Government*, pp. 32-39.

## BIBLIOGRAPHY

### PRIMARY SOURCES

- The American Magazine*, New York and London, 1787-88.  
*Broadsides*, 1783-1788 (New York Public Library Collection).  
*Bureau of Rolls and Library, United States Department of State, Bull.*, Washington, 1893.  
*De Witt Clinton Letters, etc.* (Mss. in Columbia University).  
*Debates and Proceedings in the Convention of the Commonwealth of Massachusetts held in the year 1788*, Boston, 1856.  
*Documentary History of the Constitution of the United States*, 5 vols., 4to., Washington, 1905.  
*Duane Papers* (New York Historical Society), 10 vols. Miscellaneous collection of letters, reports, draughts of legal papers, etc. Not much arrangement to the volumes and much unimportant material. Some good local color.  
*Duer Papers* (Mss. in New York Historical Society). Two bound volumes of letters, arranged chronologically, and two bundles of miscellaneous letters, etc.  
Elliot (Jonathan), *The Debates in the Several State Conventions on the Adoption of the Federal Constitution, etc.*, Philadelphia, 1881, 5 vols., 8vo.  
Ford (Paul L.), *Essays on the Constitution of the United States, published during its Discussion by the People, 1787-1788*, 4to., Brooklyn, 1892.  
—, *Pamphlets on the Constitution of the United States published during its discussion by the people, 1787-1788*, 4to., Brooklyn, 1888.  
Gilpin (H. D.), *The Papers of James Madison . . . being his correspondence and reports of debates during the Congress of the Confederation, and His Reports of Debates in the Federal Convention*, 3 vols., 8vo., New York, 1841.  
Hamilton (Alexander), *Works*, edited by J. C. Hamilton, 7 vols., 8vo., New York, 1851.  
Jay (John), *The Correspondence and Public Papers of*, edited by H. P. Johnston, New York, 1891.  
*Lamb Papers* (Mss. in the New York Historical Society).  
*Laws of the State of New York, 1777-1801*, 7 vols., 8vo., Albany, 1886.

- McKesson Papers* (Mss. in the New York Historical Society). These include a manuscript journal of the New York Convention of 1788. *New York Assembly Journal*, 1784-90, 6 pts., F°. *U. S. Continental Congress, Journals*, Washington, 1823, 4 vols., 4°.

## NEWSPAPERS

- The Albany Journal, or the Montgomery, Washington and Columbia Intelligencer.*  
*The Country Journal and the Poughkeepsie Advertiser.*  
*The New York Daily Advertiser.*  
*The New York Journal.*  
*The Impartial Gazetteer, and Saturday Evening's Post* (continued after September 20, 1788 as,  
*The New York Weekly Museum.*  
*The Independent Journal or the General Advertiser.*  
*The Independent Gazette or the New York Journal Revived.*  
*The New York Packet.*

## SECONDARY WORKS

- Adams, J. Q., *The Jubilee of the Constitution. A discourse delivered at the request of the New York Historical Society on Tuesday, the 30th of April, 1839*, New York, 1839, 4to.  
 Bancroft, George, *History of the Formation of the Constitution of the United States of America*, New York, 1882, 2 vols., 8vo.  
 Beard, C. A., *An Economic Interpretation of the Constitution of the United States*, New York, 1913, 8vo.  
 Clason, A. W., *Seven Conventions*, New York, 1888, 12mo.  
 —, "Convention of New York, 1788" (in *Magazine of American History*, vol. xvi, pp. 148-158.  
 Curtis, G. T., *History of the Origin, Formation and Adoption of the Constitution of the United States*, New York, 1858, 2 vols., 4to.  
 Fiske, John, *The Critical Period of American History, 1783-1789*, Boston and New York, 1888, 16mo.  
 Hamilton, J. C., *History of the Republic of the United States of America, as traced in the writings of Alexander Hamilton and of his contemporaries*, Philadelphia, 1864, 12 vols., 8vo.  
 Hammond, J. D., *The History of Political Parties in the State of New York*, New York, 1850, 2 vols., 8vo.  
 Hasbrouck, F., *The History of Dutchess County*, New York, Poughkeepsie, 1909, 8vo.  
 Hildreth, R., *The History of the United States of America*, New York, 1849-52, 6 vols., 8vo.  
 Jay, W., *Life of John Jay*, New York, 1833, 2 vols., 4to.

- Jenkins, J. S., *History of Political Parties in the State of New York, from the acknowledgment of the Independence of the United States, to the close of the Presidential Election in Eighteen Hundred and Forty-Four*, Auburn, 1846, 8vo.
- Johnston, H. P., "New York after the Revolution," 1783-1789" (in *Magazine American History*, April, 1893, no. 4, New York, 1893, 8vo.).
- Leake, I. Q., *Memoir of the Life and Times of General John Lamb*, Albany, 1850, 4to.
- Libby, O. G., *The Geographical Distribution of the Vote of the Thirteen States on the Federal Constitution, 1787-1788*, Madison, Wis., 1894, 8vo.
- Lodge, H. C., *Alexander Hamilton*, Boston, 1882, 16mo. (*American Statesmen Series*).
- Macaulay, Jas., *The Natural, Statistical, and Civil History of the State of New York*, New York, 1829, 3 vols., sm., 4to.
- McMaster, J. B., *A History of the People of the United States, from the Revolution to the Civil War*, New York, 1886, 5 vols., 8vo.
- Murphy, J. S. (pub.), *Interesting Documents*, New York, 1819, sm., 8vo.
- Parton, Jas., *The Life and Times of Aaron Burr*, New York, 1858, 8vo.
- Pitkin, T., *A Political and Civil History of the United States of America, from the year 1763 to the close of the administration of President Washington, in March, 1797*, New Haven 1828, 2 vols., 8vo.
- Roberts, E. H., *New York, The Planting and Growth of the Empire State*, New York, 1893, 2 vols., 8vo.
- Sage, B. J., *The Republic of Republics*, Boston, 1881, 8vo.
- Schouler, Jas., *History of the United States of America under the Constitution*, New York, 1880-1913, 7 vols., 8vo.
- Scharf, J. T., *History of Westchester County, New York*, Philadelphia, 1886, 2 vols., 8vo.
- Smith, J. A., *The Spirit of American Government*, New York, 1907, 8vo.
- Smith, E. P., "The Movement towards a Second Constitutional Convention in 1788" (in Jameson, *Essays in the Constitutional History of the United States in the Formative Period 1775-1789*), New York, 1889, 8vo.
- Stevens, J. A., "New York and the Federal Constitution" (in *Magazine of American History*, vol. ii, pp. 385-406).
- Story, J., *Commentaries on the Constitution of the United States*, Boston, 1833, 3 vols., 8vo.
- Tuckerman, Bayard, *Life of General Philip Schuyler*, New York, 1903, 8vo.
- Von Holst, H., *Constitutional and Political History of the United States*, Chicago, 1877, 8 vols., 8vo.
- Whitelock, W., *The Life and Times of John Jay*, New York, 1887, 8vo.

PC









**RETURN TO** **CIRCULATION DEPARTMENT**  
**202 Main Library**

|                 |   |   |
|-----------------|---|---|
| LOAN PERIOD 1   | 2 | 3 |
| <b>HOME USE</b> |   |   |
| 4               | 5 | 6 |

**ALL BOOKS MAY BE RECALLED AFTER 7 DAYS**

1-month loans may be renewed by calling 642-3405  
 1-year loans may be renewed by call

**DUE AS STAMPED BELOW**

|                               |                     |  |
|-------------------------------|---------------------|--|
|                               | <b>MAR - 5 2005</b> |  |
| <b>RECEIVED</b>               |                     |  |
| <b>SEP 28 1984</b>            |                     |  |
| <b>CIRCULATION DEPT.</b>      |                     |  |
| <del><b>MAR 13 1986</b></del> |                     |  |
| <b>JAN 13 1986</b>            |                     |  |
| 3/17                          |                     |  |
| 6/17                          |                     |  |
| <b>RECEIVED BY</b>            |                     |  |
| <b>APR 10 1986</b>            |                     |  |
| <b>CIRCULATION DEPT.</b>      |                     |  |

UNIVERSITY OF CALIFORNIA, BERKELEY

FORM NO. DD6, 60m, 1/83

BERKELEY, CA 94720



8000926673



