
Completing a Peaceful Revolution

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Sitting in Philadelphia during the long hot summer of 1787, the framers accomplished a peaceful revolution. Instead of revising the Articles of Confederation as they had been directed by Congress, they hammered out a Constitution which created a new and powerful central government. A final concern was how to have this new document become the supreme law of the land. The Articles of Confederation required approval of any changes by all 13 states, but the framers knew that would never work; after much discussion they settled upon this language in Article VII:

"The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same."

Congress then passed the buck. Without deciding upon the merits of the Constitution, without even using that controversial word, Congress approved a resolution asking the state legislatures to call conventions for ratification. The process began, accompanied by an outpouring of commentary in newspapers, brochures and broadsides by fervent supporters and opponents of the proposed new government. The most important and influential of these, now known as "The Federalist Papers," were carried in New York papers starting in October, 1787, over the pen name Publius.

Pennsylvania, one of the big states, called the first convention, but tiny Delaware was first to ratify, with a unanimous vote on December 6, 1787. Pennsylvania ratified on the 12th by a two-to-one margin, followed within a month by New Jersey, Georgia and Connecticut.

In Massachusetts the road was decidedly bumpy. By early 1788 the process in the state had begun to bog down and opposition was mounting. Antifederalist tracts were widely circulated, especially in the west-

ern counties, where memories of Shays's Rebellion two years earlier and its forceful suppression by the state government underlined the differences between the agrarian west and the commercial east. Harding¹ identifies "two chief characteristics . . . which most directly fostered the development of the opposition" in Massachusetts:

"1. The inordinate self-confidence of the mass of the people as to their ability to pass upon the most abstruse questions of government, and 2. A pronounced antagonism in political matters between the upper and the lower classes." The former trait, he went on, is "in large part due to the fostering influence of frequent participation in the business of the town meeting."

Delegates to the convention (all men, of course) were chosen by the towns, the number from each town depending upon its 1784 valuation.² Thus Sandwich, which then included Bourne, sent two delegates and Falmouth one; there were nine in all from Cape Cod and a grand total of 355, more than twice the size of the legislature. Forty-six towns chose to send no representatives; 31 of these were in Maine, four on Cape Cod.

There is little information on how and why the delegates were selected or what instructions they were given, if any.³ We do know that Sandwich instructed against the Constitution, whereupon delegate Thomas Bourn resigned despite his Antifederalist views, saying "the greatest idiot may answer your purpose as well as the greatest man" under such orders.⁴ Thomas Nye was chosen to replace him.

The convention opened on January 9 in the Brattle Street Church in Boston, the State House being too small. Historians agree that the Constitution would have been soundly defeated had the vote been taken

immediately.⁵ If Massachusetts had failed to ratify, the proposed new federal government would have been in serious jeopardy. Several factors combined to turn the tide. Although the opposition may have had the numbers, including 29 who had fought with Captain Shays, the Federalists had the most prestigious figures: Nathaniel Gorham, Rufus King and Caleb Strong, who had supported the Constitution in Philadelphia, former Governor James Bowdoin, Judge Francis Dana and lawyer Theophilus Parsons. Antifederalist Elbridge Gerry, who had refused to sign the Constitution, was defeated as a Boston delegate but was invited to attend and provide information. He left in disgust in mid-convention. Governor John Hancock was elected president of the convention but as a canny politician expressed no opinion and, pleading an attack of gout, stayed home. Samuel Adams was present but he, too, bided his time. John Adams, an ardent Federalist, was American Minister in London, so his voice was not heard. The Federalists resisted efforts to hurry the decision. They discussed the Constitution section by section, patiently responding to the criticism of the opponents. They appear gradually to have won converts by their calm and logical argument.

The concerns of the Massachusetts Antifederalists were the same as those raised, thoughtfully discussed and carefully settled by compromise in Philadelphia. Biennial election of Congress was seen as an abdication of the people's right to turn out an unpopular government. The strong executive smacked too much of monarchy; the President would be "an elected king."⁶ A treaty could be accomplished by two-thirds of a quorum in the Senate — only ten men at that time. The power to tax was too dangerous. Clearly Massachusetts citizens trained in town meeting were wary of any delegation of power.

There were other objections. The explicit recognition of slavery and the slave trade was abhorrent

and equating a slave to three-fifths of a freeman in apportioning Congressional seats (Article I, Section 2) rewarded the South for its evil system. Prohibition of a religious test for office opened the door to Popery. The Maine delegates worried that the Constitution would derail their bid for separation from Massachusetts, then a growing issue. Finally, the absence of a bill of rights was a major concern; the framers had omitted it on the grounds that existing state constitutions — including Massachusetts — already guaranteed these basic liberties, but many on both sides wanted the same safeguards in a central government.

The solution devised by the Federalists was to approve the Constitution along with a list of proposed amendments which were to be urged upon the new Congress at its first session. There were nine such amendments, relating mostly to commerce, taxes and lawsuits; only one wound up in the final bill of rights. However, this "conciliatory proposition" was a brilliant stroke which not only helped carry the cause in Massachusetts but was adopted by all but one of the succeeding conventions and gave strong impetus to the Constitutional bill of rights.

Seeking the strongest endorsement, Rufus King and other Federalists approached the still uncommitted — and still absent — Governor Hancock with an offer: If he would support the Constitution with the proposed amendments, the Federalists would support him for re-election. Furthermore, they suggested, if Virginia rejected the Constitution — then a strong possibility — Washington could not serve and Hancock would have to be considered "the only fair candidate for President."⁷

Hancock accepted, made his way to the convention and rose to introduce the proposal. It was the beginning of the end. Samuel Adams announced his support and so did several of the more eloquent among

the opposition. There were a few more days of discussion, including an abortive attempt by the opposition to adjourn and a last minute effort by Adams to include more amendments spelling out the equivalent of a bill of rights. The move alarmed leaders on both sides and Adams prudently withdrew it. The vote was taken on Feb. 6, 1788.

It was close. The Constitution won 187 to 168, a shift by 10 delegates would have spelled defeat. The geographical bias was clear: the five coastal counties supported the Constitution 102 to 19, the five western counties opposed it 128 to 60, and Maine split 25 to 21. In Barnstable County all voted Aye except the two instructed Sandwich delegates who voted Nay.⁸

In an extraordinary display of good grace the spokesmen for the opposition rose one by one to declare their acceptance: they had been "fairly beaten" by "a majority of wise and understanding men" and they would return to their homes and "try to infuse a spirit of harmony and love among the people."⁹ Then all hands adjourned to the State House for "a decent repast" of roast ox and rum amidst "truly conciliatory" toasts.¹⁰

The example of Massachusetts was crucial; the remaining states were keenly concerned with the vote there. During the Massachusetts debates, the New Hampshire convention met and the Federalists were outnumbered two to one.¹¹ They were able to win postponement until after the vote was taken in Boston. In June New Hampshire became the ninth state to ratify, by a 57-46 vote, following Maryland in April and South Carolina in May. Virginia followed New Hampshire by four days — dashing Hancock's presidential hopes — then New York and eventually, after Washington had been inaugurated, Rhode Island and North Carolina completed the ratification.

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Notes

1. Samuel B. Harding, *The Contest Over the Ratification of the Federal Constitution in the State of Massachusetts*, Longmans Green & Co., New York, 1896. Reprinted by Da Capo Press, New York, 1970. p. 1.
2. Jonathan Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution as Recommended by the General Convention at Philadelphia in 1787*. J.B. Lippincott Co., Philadelphia, 1941, Vol. II, p. 2.
3. Harding, op. cit., p. 48.
4. Harding, op. cit., p. 57, quoting *Salem Mercury*, Jan. 15, 1788.
5. Harding, op. cit., p. 67.
Catherine Drinker Bowen, *Miracle at Philadelphia*, Little Brown Co., Boston, 1966, p. 284.
6. Harding, op. cit., p. 43, letter of William Symmes, Andover.
7. Harding, op. cit., p. 86, quoting *Life of Rufus King*, p. 319, edited by Charles R. King, New York, 1894-1896.
8. Elliot, op. cit., p. 180.
9. *Ibid.*, p. 182.
10. Harding, op. cit., p. 106.
11. Charles W. Roll Jr., "We, Some of the People: Apportionment in the Thirteen State Conventions Ratifying the Constitution." *Journal of American History* 56, June 1969.