

Constitution a mere makeshift, a series of unfortunate compromises. The advocates of the Constitution, realizing the impending difficulty of obtaining the consent of the States to the new instrument of Government, were anxious to obtain the unanimous support of the delegations from each State. It was feared that many of the delegates would refuse to give their individual assent to the Constitution. Therefore, in order that the action of the Convention would appear to be unanimous, Gouverneur Morris devised the formula "Done in Convention, by the unanimous consent of the States present the 17th of September . . . In witness whereof we have hereunto subscribed our names." Thirty-nine of the forty-two delegates present thereupon "subscribed" to the document.¹²

The convention had been called to revise the Articles of Confederation. Instead, it reported to the Continental Congress a new Constitution. Furthermore, while the Articles specified that no amendments should be effective until approved by the legislatures of all the States, the Philadelphia Convention suggested that the new Constitution should supplant the Articles of Confederation when ratified by conventions in nine States. For these reasons, it was feared that the new Constitution might arouse opposition in Congress.

Three members of the Convention—Madison, Gorham, and King—were also Members of Congress. They proceeded at once to New York, where Congress was in session, to placate the expected opposition. Aware of their vanishing authority, Congress on September 28, after some debate, decided to submit the Constitution to the States for action. It made no recommendation for or against adoption.

Two parties soon developed, one in opposition and one in support of the Constitution, and the Constitution was debated, criticized, and expounded clause by clause. Hamilton, Madison, and Jay wrote a series of commentaries, now known as the Federalist Papers, in support of the new instrument of government.¹³ The closeness and bitterness of the struggle over ratification and the conferring of additional powers on the central government can scarcely be exaggerated. In some States ratification was effected only after a bitter struggle in the State convention itself.

Delaware, on December 7, 1787, became the first State to ratify the new Constitution, the vote being unanimous. Pennsylvania ratified on December 12, 1787, by a vote of 46 to 23, a vote scarcely indicative of the struggle which had taken place in that State. New Jersey ratified on December 19, 1787, and Georgia on January 2, 1788, the vote in both States being unanimous. Connecticut ratified on January 9, 1788; yeas 128, nays 40. On February 6, 1788, Massachusetts, by a narrow margin of 19 votes in a convention

¹² At least 65 persons had received appointments as delegates to the Convention; 55 actually attended at different times during the course of the proceedings; 39 signed the document. It has been estimated that generally fewer than 30 delegates attended the daily sessions.

¹³ These commentaries on the Constitution, written during the struggle for ratification, have been frequently cited by the Supreme Court as an authoritative contemporary interpretation of the meaning of its provisions.