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# RATIFICATION

*The People Debate  
the Constitution,  
1787–1788*

PAULINE MAIER

AUTHOR OF

*American Scripture*

100

BEST BOOKS

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- 16 Painting by Edward Augustus Brackett.
- 17 Portrait by John Singleton Copley, Museum of Fine Arts, Boston.
- 23 *Patrick Henry: Life, Correspondence and Speeches, Volume I*, by William Wirt Henry, New York: 1891.
- 7, 9, 11, 12, 19 John Sanderson and Robert Waln, Jr., *Biography of the Signers to the Declaration of Independence*, vols. 2–9. Philadelphia, 1822–27.
- 4–6, 8, 14, 15, 21, 22, 24–30 John Fiske, *The Critical Period of American History 1783–1789*. Cambridge, Massachusetts, 1898.
- 31 Martha J. Lamb, *History of the City of New York*, vol. II. New York, 1896.
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Praise for

# RATIFICATION



One of the “10 Best Books of the Year” (*The Wall Street Journal*)

One of the “100 Notable Books of the Year” (*The New York Times*)



“*Ratification*, for all its scope and technical detail, is a gripping and eye-opening read. Ms. Maier is a member of that rare breed of historians who write vividly and with a flair for depicting dramatic events.”

—Michael W. McConnell, *The Wall Street Journal*

“Delightful and engrossing. . . . *Ratification* is an ur-text of the Almanac of American Politics.”

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“The ratification of the Constitution was the most comprehensive and consequential political debate in American history. It is quite amazing that the story has never before been told with the knowledge and flair it deserves. Here Pauline Maier, one of the leading historians of the revolutionary era, at the peak of her powers, tells that story with style, wit, and incomparable mastery of the sources.”

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"Pauline Maier has written a magnificent, comprehensive account of the political contests by which the people of America, in James Madison's words, breathed 'life and validity' into the United States Constitution. Her book will stand as the definitive account of the story of the ratification of the Constitution for many decades to come."

—Richard R. Beeman, professor of history, University of Pennsylvania,  
and author of *Plain, Honest Men: The Making of the American Constitution*

"With the confidence of a master, Pauline Maier has told the story of the ratification of the Constitution in a book that will endure for decades."

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"Magisterial. . . . Although historians will continue to write about ratification, it is unlikely that anyone will duplicate what Maier has done. . . . Maier is such a superb historian—a master of the craft—that she has managed as well as anyone could to recover the way ratification happened, beautifully conveying the uncertainty and the tension that the participants experienced."

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—James M. Banner, Jr., *The Weekly Standard*

"Wonderfully recounted."

—Jill Lepore, *The New Yorker*

"Ratification finally enlarges and completes our understanding of how Americans adopted the Constitution. . . . Maier's account of ratification explains not only what happened back then; it also makes clear why this episode merits the brilliant treatment it has finally received."

—Jack Rakove, *Harvard Magazine*

"Large, entertaining, rigorously argued, and formidably researched. . . . Maier's landmark volume will shape all subsequent study of the ratification process."

—R. B. Bernstein, *H-Net Reviews*

"Definitive. . . . [Maier] relates with more authority and in more detail than ever before the long, uncertain course from the Constitution's adoption by the Constitutional Convention in 1787 until its ratification by the states in 1788 and the Bill of Rights soon after. . . . This book is an unsurpassable achievement."

—*Publishers Weekly* (starred review)

"[Pauline Maier] brilliantly tracks the fight over the Constitution's ratification. . . . A scrupulously even-handed presentation based on impressive scholarship."

—*Kirkus Reviews* (starred review)

"Engaging, fast-paced. . . . Maier's monumental study, filled with penetrating conclusions, stands presently as the authoritative account of the ratification of the Constitution. Highly recommended."

—*Library Journal*

"Can new light be shed on the story of the adoption of the Constitution, one of the most written-about topics in American history? Indeed. Thanks to Pauline Maier, new shafts of illumination now show how important this event was and how little we understand it."

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"Maier has the reach and savvy to pull the stories of 13 disparate and strong-willed states into one story. Even better, Maier has drawn upon vast new documentation on the state ratification conventions gathered since 1976 by the Wisconsin Historical Society. Because this research project focuses heavily on grassroots debate, Maier's account is far richer in detail than was previously possible."

—Mike Pride, *Concord Monitor* (New Hampshire)

"Maier eruditely yet accessibly revives a neglected but critical passage in American history."

—*Booklist*

ALSO BY PAULINE MAIER

*American Scripture: Making the Declaration of Independence*

*The Old Revolutionaries: Political Lives in the Age of Samuel Adams*

*From Resistance to Revolution: Colonial Radicals and the  
Development of American Opposition to Britain, 1765-1776*



To the memory of my mother,

Charlotte Rose Winterer Rubbelke  
(February 23, 1917–November 8, 2009),

and my fellow historian, mentor, and dear friend,

Thomas N. Brown  
(April 27, 1920–October 23, 2009)



*The United States, 1787-1788*

## INTRODUCTION



### *Playing Games*

**T**his book tells the story of one of the greatest and most probing public debates in American history, one that occurred at the end of the American Revolution and involved far more than the handful of familiar “founding fathers.” It is the story of how “We the People” decided whether or not to ordain and establish the Constitution of the United States.

The drama formally began on September 17, 1787, when the Constitutional Convention (or, as contemporaries called it, the federal Convention) adjourned and released to the public the Constitution it had written in secrecy. At that point the Constitution was nothing more than a proposal. In fact, it was a proposal from a body of men who had acted without authority since the delegates had been appointed to propose changes to the Articles of Confederation, not to design a new government. The federal Convention specified how the Constitution should be ratified: not, they said, by the Confederation Congress with the unanimous consent of the thirteen state legislatures, which was required for approving amendments to the Articles of Confederation, but by special ratifying conventions elected by “We the People” in each of the states. And approval need not be unanimous: Once nine states ratified the Constitution, it would go into effect among those ratifying states.

Debate over the Constitution raged in newspapers, taverns, coffeehouses, and over dinner tables as well as in the Confederation Congress, state legislatures, and state ratifying conventions. People who never left their home towns and were little known except to their neighbors studied the document, knew it well, and on some memorable occasions made their views known. What the people and the convention delegates they chose decided had everything to do with making the United States into what George Washington called a “respectable nation.”

The most surprising thing about this book, perhaps, is that it wasn't written long ago. There are shelves of books on the federal Convention, far more than have attempted to tell the story of ratification. (In this book the convention happens between the Prologue and Chapter 1, when the delegates are leaving Philadelphia with printed copies of the Constitution in their bags.) I suspect most Americans think George Washington was inaugurated a week or two after the Convention, if they think about it at all. They assume ratification was automatic, which it was not.

I don't mean to imply that historians have neglected the subject. Many books on the Convention include a chapter or two that give a quick summary of the ratification process. There are also a handful of books that might qualify as general histories of ratification. One, which discusses both the federal Convention and ratification, was written in German and is only now being published in translation. Two others tell the story almost incidentally while exploring the role of the "Antifederalists" or the background of the Bill of Rights and, perhaps for that reason, did not tell it altogether successfully.<sup>1</sup> The authors of those two books struggled with problems of organization with which I sympathize. It's no easy thing to tell the story of an event that happened in thirteen different places, sometimes simultaneously.

Other historians have backed away from telling the full story, I suspect, because the documentary record is massive and widely dispersed in both central and local archives throughout the thirteen original states and other parts of the republic. Faced with a subject that might demand more than a single working life to study comprehensively, historians have done what they are trained to do: They examined "workable" parts of the subject—ratification in a single state, for example, one group of contenders, or the arguments made during the ratification struggle. (*The Federalist* alone has inspired something of a small industry.) Alternatively, the distinguished historians Forrest McDonald and Jackson Turner Main studied ratification as a whole to answer specific, limited questions: Was Charles Beard's economic interpretation of the Constitution right? Who were the "Antifederalists"?<sup>2</sup>

Breaking a complex topic into pieces and delegating the parts to different authors is another way of tackling outsized subjects. There are two fine books with chapters by different authors on ratification in each of the original thirteen states.<sup>3</sup> I have used those books (and the other studies of ratification) with great benefit, but, because they look at the states separately, a lot of the story falls into the cracks between chapters. They miss the ways contenders learned from what came before, to say nothing of the tension when—as in February 1788, after the New Hampshire convention adjourned without voting—it looked as if the Constitution's prospects could easily unravel; or in June 1788 when, after eight of the required nine states had ratified, three state conventions met simultaneously.

They miss, too, the popular excitement, which reminded me at times of Americans' obsession with the final games of the World Series, but with greater intensity because everyone understood that the results would last far longer than a season. The analogy is, I think, appropriate, since politics was in a real sense the first national game, and the debates about the Constitution marked the beginning of American national politics. Indeed, the ratification contest was the first national election, although it was more like a series of primaries than a presidential election since the votes were cast not on a single day but successively, in one state after another. Over and over observers tried to calculate how what happened in one state would affect what came later, which itself served to bind the nation together more tightly. One Massachusetts observer commented in November 1787 that newspapers, which were filled with news and commentary on the Constitution, were "read more than the bible at this time,"<sup>4</sup> which was saying something in New England. And as discussions spread from the press and taverns to homes, the arguments even involved—in a world where politics was supposedly confined to white men—women. The "whole story," in short, is something more than the sum of its parts.

The state ratifying conventions and the debates that surrounded the election of delegates to those conventions are at the center of the book. It describes only the beginning of the newspaper and pamphlet debates—"the war of printed words"—and not in great detail except where they had an obvious impact on the debates in state conventions or upon the electorates that chose delegates to those conventions. That means readers who want a careful analysis of *The Federalist*, for example, will have to go elsewhere. Except for the state of New York, it was less influential in 1787 and 1788 than in later times, when it was too often read as if it were a dispassionate, objective analysis of the Constitution, not a partisan statement written in the midst of a desperate fight in a critical state.

At one time I worried about telling the stories of a series of conventions all of which discussed the same document. Then I remembered that Americans and other human beings spend a lot of time watching the same game played night after night, week after week. No one game is exactly the same as the others. Similarly, the conventions in each state played out differently. To add to the interest, they all began (unlike, say, baseball or football games) with the delegates, or players, negotiating the rules by which they would play. It wasn't always clear, moreover, for which team some players fought, or if they were on a team at all, and every convention brought an entirely new set of players. How a convention developed depended on the character of the state, its history and traditions, the relative strength of the contenders, the strategies they took (which were reflected in the rules they adopted), and occasionally some outside event. What happened in earlier conventions also

changed the “game” in certain particulars for those that followed. That’s why no two conventions were identical. Each had (and has) its own fascination.

Each also had its own cast of colorful characters. Some of the “usual suspects” had roles to play, including George Washington, James Madison, Alexander Hamilton, Patrick Henry, even Thomas Jefferson, who was at the time in Paris, where he would witness the beginnings of the French Revolution. Others such as James Wilson, William Findley, Rufus King, Edmund Randolph, George Mason, Edmund Pendleton, Melancton Smith, and James Iredell are less familiar today, to our loss. But the real delights of this broad-based story, I think, are the local figures whom almost nobody has ever heard of before. Some are nameless, like the townsmen in rural Richmond, Massachusetts, who attended no fewer than four informational meetings before deciding that the Constitution in the form proposed was no darned good. Others are faceless: Few portraits survive of the backbenchers in the conventions, who often came out in the days immediately before the vote and expressed their convictions with a wonderful, honest eloquence. Or the portraits, as with more famous founders, are often of them as old men, which obscures how young many delegates were—in their thirties, an age when they often had to juggle responsibilities to their young families with the public responsibilities they had assumed. Participation in their state ratifying convention was for most their one brief part in history, what the New Yorker Gilbert Livingston called the greatest transaction of his life. The way they played their roles helps us understand why Nathan Dane, another relatively unknown person who appears in these pages, referred to Americans as an intelligent people. We owe them our attention, and they reward us richly for hearing them out.

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What made it possible for me—in my sixties—to take on this sprawling subject is a landmark editorial project, *The Documentary History of the Ratification of the Constitution* (or DHRC), which has been published since 1976 by the Wisconsin Historical Society. There are to date twenty-one thick volumes in print, most of which pull together documents on ratification in individual states. The editors scoured newspapers, major archives, and even local libraries, where they sometimes found material that I suspect no historian has ever used before. The size of the documentary record varies dramatically for different states. Pennsylvania received one volume; the records for Delaware, New Jersey, Georgia, and Connecticut together take up another. Virginia, however, required three volumes, Massachusetts four, and New York five.

In the end, the DHRC lays the foundation for something of a revolution in our understanding of the ratification of the Constitution. Unlike the modern editions of the papers of Washington, Jefferson, Hamilton, and Madison (which I have also used with great profit), the DHRC documents

the grass-roots story of the people and the Constitution. To be sure, its volumes include hundreds of letters by the men with familiar names, but they also reproduce a collection of records that tells how the towns of Massachusetts and, to a lesser extent, Connecticut responded to the Constitution. The DHRC includes a letter that tells of a friendly fight over the Constitution at a home in Biddeford, Maine; accounts of joyful celebrations of ratification in several states, and also of the “fracas” in Albany on July 4, 1788, after some fifty “Antifederalists” celebrated Independence Day by burning the Constitution, which was for them a perfectly patriotic act. These volumes, in short, reach down to the people and the places they lived.

The project still has five of the original thirteen states to cover: New Hampshire, South Carolina, Maryland, North Carolina, and the renegade Rhode Island. But it has completed work on eight states, including the four major state conventions that marked critical stages in the ratification process—Pennsylvania, Massachusetts, Virginia, and New York. I should say the editors completed work on those states, which get the lion’s share of attention here, in the nick of time for me: The final New York volume came out just as I was finishing the book. For the five states not yet in the DHRC, I had to depend on old-fashioned research and far less comprehensive documentary records. I was also more dependent than usual on the work of others. Fortunately, some of that work is magnificent.

The recording of the convention debates is, I think, a part of the story of ratification as well as one way we learn that story. In brief, “shorthand men” often recorded the debates for publication in contemporary newspapers, whose daily reports were later pulled together and published as books. In some states, Federalists hired individuals to record the debates for subsequent publication as books without the intervening newspaper stage. The printed “debates” were never exact. They gave summaries of speeches rather than complete texts and often favored the Constitution’s supporters over its critics. The debates of the Pennsylvania convention are the most extreme example: They included only the speeches of two leading Federalists, as if nobody else were there. Occasionally the shorthand men simply missed parts of the debates. In transcribing their handwritten notes, they might well also have imposed a coherence on the debates that was lost to listeners or that depended on a use of voice and gesture and so would have been lost if spoken words were simply translated into print. By coordinating the published debates (where they exist, which they don’t for all states) and official journals with newspaper stories, letters, and the private notes delegates sometimes took during the conventions, the DHRC helps get around those problems. It makes it possible to tell some stories—the final part of the New York convention, for example—that were almost impossible to tell before.

The DHRC also helps historians avoid the pitfall of repeating the Feder-

alists' version of the story and their descriptions of their opponents uncritically. Let me be clear on this: I have no doubt that we need to understand the Federalists' understanding of the Constitution. In many ways they provided the intellectual foundations of American government. For that and several other reasons, good and bad, we tend to believe everything they said. From a certain perspective, they won, and winners generally tell the stories. The Federalists were intelligent and articulate, the kind of people with whom historians tend to identify and so to trust. After two hundred years of stable constitutional government (with one notable and very bloody exception), it's hard to find fault with those who supported ratification of the Constitution as written. What they said seems wise and persuasive, which is to say true.

But the Federalists also controlled the documents on which historians depend. They owned most of the newspapers. They sometimes paid those who took notes on the convention debates or subsidized the publication of their transcripts. In some places, above all Connecticut, Federalists forcibly blocked the circulation of literature critical of the Constitution. In Pennsylvania, as one little-known letter in the DHRC proves, they even tried to suppress evidence that anyone had anything negative to say about the Constitution, and so to suggest that everyone was simply shouting "huzzah."<sup>5</sup> They were not trying to distort history. They were struggling to win a very tough fight on behalf of what they understood as the nation's welfare in a world where the rules of the political game were different from those of today.

And sometimes what they said was questionable at best—that those who opposed ratifying the Constitution as written simply continued an older opposition to central government, for example; or that they were mostly state officeholders worried for their jobs; or that they opposed the Constitution for some other personal reason, not from a commitment to the public good. That's getting ahead of the story, but it helps explain why I decided to use the word "Antifederalist" for critics of the Constitution only where it appears in quotations, almost all by Federalists, or where the designated persons willingly accepted the name, as in the upper Hudson Valley of New York. The words we use, especially names, shape the stories we tell, and "Antifederalist" was a Federalist term. To use the Federalists' language—to tell the story in their terms—tends to give them the game, or at least to tip the story further in their direction.

I make no case against other historians—including the editors of the DHRC, to whom I am greatly indebted—who refer to all people who opposed ratification of the Constitution without amendments as "Antifederalists." They are following an old historical convention and will no doubt insist that they need some word for the people they call "Antifederalists," which I understand. Moreover, there is some evidence that, once the ratification fight



was over, “Antifederalist”—like “Quaker” or “Puritan,” both of which began as terms of opprobrium—lost some of its old implications. My sense, however, is that the Pennsylvanian William Findley spoke for many others in 1796 when he said that the people who raised objections to the Constitution during the ratification struggle were “called Anti-federalists, as a name of reproach,” and then added, “I do, and always did, treat the appellation with contempt.”<sup>6</sup> For that reason I preferred to type out “critics of the Constitution” and its synonyms over and over.

I have, however, used “Federalist” for the supporters of the Constitution because they accepted the name, which they also invented. Even their opponents sometimes spoke of the “so-called federalists” or the “feds.” I nonetheless use the term with some hesitation because it tends to suggest that there was something called a Federalist party in 1787 and 1788, which there was not, at least in anything like the form that emerged later, and that the fight over the Constitution was a two-sided contest between them and the opponents they called “Antifederalists,” which, again, it was not. But there’s time enough to get into that.

This book follows logically from my earlier work on the Revolution. (I would say it culminates that work, except I’m not ready to down-tool yet.) I began writing about the local resistance organizations that evolved into a movement for American independence in *From Resistance to Revolution* (1972), and in *The Old Revolutionaries* (1980) I wrote brief portraits of the men who led that resistance. Then, in *American Scripture: Making the Declaration of Independence* (1997), I described the state and local “declarations” of independence that preceded and made possible the familiar Declaration of Independence that the Continental Congress adopted on July 4, 1776. That long-term exploration of the local and popular foundations of politics in the Revolutionary era seems, in retrospect, to have led inevitably toward a book on the people and the Constitution. It feels almost providential that the DHRC finished publishing its volumes on the most critical states just in time to let me to write that book.

In the course of studying ratification, I also came to realize that few adult Americans have read the Constitution, at least since they were in high school, if then. I’ll confess a personal dream that the book will make them better acquainted with the document (understanding, of course, that some provisions have since been changed). I propose a voluntary quiz after finishing the book. Readers might measure their understanding of the Constitution against that of the freemen of eighteenth-century Belchertown, Massachusetts, who described their reasons for considering the Constitution a threat to their rights and privileges as follows: “1st. there is no bill of Right[s]. For other Reasons See artical 1 Section 2-3-4 and 8[,] artical 2d Section 1 & 2[,] artical 3d Section 1 and [Article] 6. With many other obvi-