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The Documentary History of the Ratification of the Constitution, vol 19-23, Ratification of the Constitution by the States. New York (Book Review)

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John P. Kaminski et al., eds., The Documentary History of the Ratification of the Constitution, Volumes XIX-XXIII, Ratification of the Constitution by the States. New York. Madison, WI, 2003-2009.

Start with the almost 250-page cumulative index in Volume XXIII of The Documentary History of the Ratification of the Constitution, or DHRC, the last of five volumes on ratification in New York. Predictably, it includes the names of hundreds of people and places associated in one way or another with the ratification of the Constitution in New York. It also includes entries for the major issues in the ratification debates --- army, standing; balanced government; bills of rights; elections (Congress's power to set aside state provisions for Congressional elections in Article I, Section 4, provoked a lot of opposition); militia; President; religious tests (for office); representation; supremacy clause, and taxation, which has almost five columns of sub-entries. Then there are the pseudonyms of newspaper essayists with the name of the author when known or, if followed by a question mark, conjectured.

The surprise, at least for those who think of the DHRC as a collection of documents on a single issue, is the array of other entries. They include abortion (the startling first entry, though the reference doesn't amount to much), ambition, anarchy, aristocracy, bible and biblical references, celebrations (and not just in New York), conscientious objectors, corruption, debt (U.S.) and debtors (federal, private, and state), demagogues, democracy, despotism, due process of law (a phrase that New York more than any other state introduced into American law), Europe, faction, fireworks, God (two columns), habeas corpus, happiness (two columns), human nature, Indians, insurrections (domestic), Jews,

literary references (including several to an array of Shakespeare's plays), music, religion, secession, slave trade and slavery, treason, violence (threatened and real), virtue, war, and women. Then there are the lists of participants in New York City's great celebration of ratification--blacksmiths, boat makers, cordwainers, drum makers, the manufacturers of musical and mathematical instruments, and so on, which together give a snapshot of the occupational structure of a major pre-industrial port.

So detailed an index provides a great tool for political and legal historians, one that is in many ways more efficient than using the search function for digital document collections. It also makes the DHRC a treasure trove for economic, intellectual, literary, social, cultural, and economic historians of late eighteenth century America, not just those with an interest in the politics of ratification.

The DHRC has now been coming out, volume by volume, for over thirty-five years. Merrill Jensen edited the first three volumes, including Constitutional Documents and Records, 1776-1789, and ratification by the first five states, which the Wisconsin Historical Society published in 1976 and 1978. John P. Kaminski took over as project director in 1980 and has worked with an unusually stable set of co-editors including Gaspare J. Saladino and Richard Leffler, both of whom are now retired (although Saladino remains a part-time editor) after spending all or most of their careers working on the DHRC. The series includes six volumes (numbered XIII- XVIII) of Commentaries on the Constitution, Public and Private, consisting of nationally important essays and pamphlets published during the ratification contest roughly in the chronological order in which they appeared. The "Commentaries" volumes also provide tables that show how many times each item was reprinted during the ratification battle and where, which is

critical in assessing their impact. However, fourteen of the twenty-one volumes now in print focus on the ratification of the Constitution in specific states.

In part because the documentary record is far more capacious for some states than others, the space given individual states varies dramatically. Pennsylvania received one volume (II); Delaware, New Jersey, Georgia, and Connecticut share another single volume (III). However, Massachusetts received four volumes (IV-VII), Virginia three (VIII-X), and New York a full five (XIX-XXIII). Supplementary documents are available on microfiche that come with the volumes. Those for Massachusetts are available on the Wisconsin Historical Society website, and are, of course, far easier to use now that computers are more readily at hand than microfiche readers.¹

At present the series still has five (or, with Vermont, six) states to cover. The editors expect the records for Maryland and South Carolina to take one volume (XI), and that those for New Hampshire and Vermont, which did not become a state until 1791, to appear in another (XII) along with documents on the Confederation Congress's Election Ordinance of September 13, 1788, which announced that the Constitution had been ratified and called the first federal elections. Rhode Island and North Carolina, which ratified only after the new government had begun, will each get two (or perhaps three) volumes. Additional volumes will be dedicated to the states' ratification of the first ten amendments to the Constitution.² However, the volumes published so far, including the multi-volume sets for Massachusetts, Virginia, and New York, cover the major contests in which the Constitution's fate---and, arguably, that of the United States--- was decided. Those for Massachusetts are memorable for the richness of the local records, especially the town meetings, the editors recovered. However, the recently published set on New

York is probably the most important of all because it includes critical information on the final weeks of the New York convention, the story of which was previously almost impossible to recover.

There were good reasons why historians, with a few notable exceptions, have in general preferred discussing the polemical literature rather than focus on the state ratifying conventions despite their importance. As James H. Hutson noted in 1986, no records were kept of the debates in several state ratifying conventions. Moreover, the debates of state conventions that were recorded by “shorthand men” for publication in newspapers and/or books are often seriously flawed. The stenographers were inexperienced and incapable of taking down verbatim transcripts of the proceedings; they were known to let speakers “fix” the texts of their speeches before publication, and they were generally biased toward the Federalists who hired them or subsidized the publication of their work.³ Occasionally, too, they missed parts of the debates or, as with David Robertson at the Virginia convention, they were forced to sit in out-of-the way places and had trouble hearing speakers with soft voices--- such as James Madison.

By collecting and collating the published debates with official journals (which record basic information like the election of officers, adoption of rules, motions made and the like, but not the content of speeches), newspaper accounts, notes kept during the convention debates by delegates or others in attendance, and extensive private correspondence, the DHRC reduces historians’ dependence on any one source and makes it possible to reconstruct many state convention debates. Many of those sources are unavailable for the Philadelphia Convention since it was secret, which the ratifying conventions were not. The gain is particularly great for New York because Francis

Childs' The Debates and Proceedings of the Convention of the State of New York...

(New York, 1788) covered the debates with fullness for only two of the convention's six weeks, which ran from June 17 to July 26, 1788. Up until July 2, the convention, acting as a committee of the whole, went through the Constitution, provision by provision, in a relatively conventional way. Then, after the Antifederalist/Republican⁴ majority shrugged off both New Hampshire's and Virginia's decisions to ratify even though they meant the Constitution would go into effect with or without New York, the Federalists stopped debating. Before long the convention descended into a confusing maze of motions, with many critical decisions being made off the convention floor.

Although the Antifederalist/Republicans had 46 delegates to the Federalists' 19 when the convention first met, the convention decided on July 25, 1788, to ratify by a vote of 30-25, and without demanding prior amendments or any other crippling conditions that the "Antis" had insisted upon. (Its final vote the next day to adopt a ratification form along with both "explanatory" and "recommendatory" amendments was even closer: 30-27.)⁵ Historians have long struggled to explain that turnabout, and the DHRC editors provide a detailed summary of the secondary literature in the "Note on Sources" at the beginning of DHRC XIX (see especially pages lxxv-lxxvii). In The Eleventh Pillar: New York State and the Federal Convention (Ithaca, N.Y., 1966), Linda Grant De Pauw made a particularly heroic effort to piece together the story from a range of printed and archival sources. The convention records in DHRC XXII and XIII have, however, still more documents on the convention's proceedings, including crucial notes taken by the delegates, arranged speech by speech, source by source, day by day, for easy comparison and analysis. They also include letters that tell what was happening behind

the scenes and the arrival of information that probably influenced delegates, including the “Anti” leader Melancton Smith, whose tortured course in the final weeks of the convention was critical to the convention’s outcome.⁶ As in detective novels, each new clue helps to solve the mystery---or at least to eliminate false theories, such as that Alexander Hamilton’s oratory or the letter he received from James Madison, saying a state’s ratification had to be “*in toto, and for ever*” with no conditions, explain the Federalists’ victory.⁷

The day-by-day convention records and the documents the convention adopted take up all of volume XXII and a first section of XXIII, and constitute some 664 out of the 2,811 pages in the five New York volumes. The series also provides succinct, expert introductions, a chronology, a bibliography, and a wealth of other documents on the debate over the Constitution in New York, the legislative proceedings in calling the convention, county elections, and the aftermath of ratification, as well as that copious index. Volume XXI has a long appendix with documents on New York City’s massive celebration of the Constitution’s ratification on July 23, 1788, two days before the New York convention added its name to the ratifying states, and another section on the state’s celebrations of the Fourth of July in 1788, including those in the city of Albany where a group of “Antis” opened the day by burning a copy of the Constitution. For them, that was a perfectly patriotic act: they said the Constitution undermined the rights they had fought for in the revolutionary war. Local Federalists disagreed, and by the end of the day, the two groups had engaged in a violent “fracas” that left many injured and Hilton’s tavern, an “Anti” hangout, in shambles.

Such documents take the story well beyond the conventions alone. They give us a glimpse of America in 1787-1788, of its people in their homes, taverns, and streets, their convictions, rituals, and customs. There is, in short, material enough to inform and enlighten scholars in many disciplines, in and out of the academy, who have an interest in the United States at the moment when “We the People” finally decided to grant their central government power enough to assume, as the Declaration of Independence put it, an equal station among “the powers of the earth.” The DHRC captures that moment in all its complexity and powerfully demonstrates again how the great documentary editions currently being published can extend and transform our knowledge of the past.

--- Pauline Maier, MIT

¹ <http://www.wisconsinhistory.org/ratification/supplements/>, accessed June 15, 2010.

² <http://www.wisconsinhistory.org/ratification>, accessed June 15, 2010.

³ James H. Hutson, “The Creation of the Constitution: The Integrity of the Documentary Record,” Texas Law Review 65(1986), 1-39, esp. 20-24. Hutson was particularly concerned with the versions of the state convention debates reproduced by Jonathan Elliot in his multi-volume Debates in the Several State Conventions on the Adoption of the Federal Constitution.... (Philadelphia, 1827, 1828, and 1830, then repeatedly reprinted thereafter), which historians generally used for convenience before publication of the DHRC and still consult for states not yet covered by the DHRC.

⁴ Those who opposed ratification of the Constitution without prior amendments called themselves “Antifederalists” in the upper Hudson Valley of New York, while those in the states’ southern counties tended to refer to themselves as “Republicans.”

⁵ Pauline Maier, Ratification: The People Debate the Constitution, 1787-1788 (New York, 2010), 396.

⁶ See especially Nathan Dane to Smith, New York, July 3, 1788, and Samuel Osgood to Smith and Samuel Jones, New York, July 11, 1788, DHRC XXI: 1254-59, 1308-10.

⁷ Robin Brooks contested the theory about Hamilton’s oratory in “Alexander Hamilton, Melancton Smith, and the Ratification of the Constitution in New York,” WMQ 3d Ser., XXIV (1967), 339-58; Madison to Hamilton, New York, [July 20, 1788], in Harold C. Syrett, ed., The Papers of Alexander Hamilton, V (New York, 1962), 184-85.[Cite DHRC for letter?] John Lansing, Jr., who at that point in the convention led the Antifederalist/Republicans, quickly dismissed the letter “as an impression of the Moment---or as an opinion.” Debates of July 24, 1788, DHRC XXIII: 2293 (from the notes of Gilbert Livingston). That was, in fact, a justified reading of Madison’s letter, which said “my opinion is that a reservation of a right to withdraw if amendments be not decided on under the form of the Constitution within a certain time, is a conditional ratification, that it does not make N. York a member of the New Union....” Madison had no right [“authority” a better word?] to speak for Congress, only to say how he thought it would respond to what he, but perhaps not his colleagues, considered a conditional form of ratification.