

THE
FATEFUL HOUR
A DRAMA IN THREE ACTS

The Ratification of the United States Constitution
in Poughkeepsie, New York 1788



BY HON. ALBERT M. ROSENBLATT
DIRECTED BY ROGER HENDRICKS SIMON

The Fateful Hour

A Drama in Three Acts

The Ratification of the
United States Constitution
in Poughkeepsie, New York 1788

Written by

Hon. Albert M. Rosenblatt

Directed by

Roger Hendricks Simon

Characters in order of their appearance:

Hendrik Van Schaak

Katerina Van Schaak

Thomas Willson

Penelope Willson

Governor George Clinton

Delegate Jesse Woodhull

Delegate John Sloss Hobart

Delegate Samuel Jones

Delegate #4 (anti-federalist)

Delegate #5 (anti-federalist)

Delegate Robert Livingston

Delegate #3 (anti-federalist)

Delegate John Lansing

Delegate Alexander Hamilton

Delegate Melancton Smith

Delegate John Jay

James Madison

Narrator

Susan B. Anthony

Frederick Douglass

ACT I
Scene 1

Early June, 1788, two couples are sitting along the banks of the Hudson River in Poughkeepsie, New York. Henderick Van Schaak and his wife Katerina sit with Thomas Willson and his wife Penelope.

HENDRICK:

My back is achin' a bit from sittin' here. I sure like the river, but my back likes it a lot less than the rest of me.

KATERINA:

Let's walk around a bit. That'll be good for your back but also good for your legs. Get some exercise.

THOMAS:

Good idea. I don't get around enough, spending a few hours a day makin' barrel staves.

PENELOPE:

Well, it's a good livin' Thomas. Think of all those barrels you've shipped out down river, and some all the way to Philadelphia.

THOMAS:

Yup. D'ya think the folks in Philadelphia used any of my barrels to keep food or to wash clothes last summer?

HENDRICK:

Well, maybe so. It musta' been a busy time in Philadelphia when those people were writing up the Constitution.

THOMAS:

The what? Nothin' wrong with my constitution. I can walk ten miles a day and I can hold my whiskey pretty good!

HENDRICK:

I'm talking about the Constitution of the United States. It's a plan for how to run the government. A bit like a set of instructions for how to operate some machinery, or to run a business, but the

business is the government. A constitution tells you how leaders are chosen, what their jobs are, how long they hold office, who's allowed to hold office, and how to impose taxes, things like that.

THOMAS:

United States Constitution? Don't know what you're talking about. We're a bunch of states, but we sure ain't united.

HENDRICK:

Right. Look at the money situation. We got a New York shilling, a Massachusetts shilling, a Pennsylvania shilling, and they're all different.

THOMAS:

And worse yet, every state is puttin' a tax on the other for shipping anything into their state.

HENDRICK:

And every state has its own set of rules and laws, and one of these days it's gonna' break out into a war between Connecticut and New Jersey about shipping and taxing firewood or something. Mark my words.

PENELOPE:

Well that may be so – but let me ask you – was it any better when we were an English colony? Subjects of the English crown?

[All bow, mockingly]

HENDRICK:

Well I sure remember that! I'm 29 now, but I can remember 13 years ago when someone read the Declaration of Independence on July 4, 1776. I was 16, but I remember like it was yesterday. I can even remember hearing about the Boston Tea Party two years before that. One minute we bowed down to King George the Third, and the next minute we call ourselves the State of New York. And we're not English anymore, we're American.

KATERINA:

Well, we still speak English don't we?

HENDRICK:

Yeah, some of us do. The King's English. Yes, M'Lawd.

[All bow and curtsey]

ALL:

Yes, M'Lawd.

THOMAS:

So, you say they sat down in Philadelphia and wrote up something call the Constitution of the United States, and we bind ourselves together as a Union? How is that supposed to work?

HENDRICK:

Well, near as I can figger' it, we've got 13 states - New York, New Hampshire, Connecticut, Massachusetts, North Carolina, South Carolina, Virginia, Georgia, Maryland, New Jersey, Delaware, and Pennsylvania.

KATERINA:

I count 12.

HENDRICK:

Who'd I leave out?

KATERINA:

Rhode Island. Don't forget Little Rhody. Didn't your Aunt Elizabeth settle there?

HENDRICK:

Thanks goodness!

KATERINA:

Don't be so harsh. She send us a nice linen tablecloth as a wedding gift.

HENDRICK:

Yes. Rhode Island linen. We had to pay a tax on it and that was more than the linen was worth!

KATERINA:

Oh, shush!

HENDRICK:

Please pass me a sandwich.

KATERINA:

A what?

HENDRICK:

A sandwich. Haven't you heard of that? It was invented not long ago by the Earl of Sandwich. You put a slice of beef between two slices of bread and you have a sandwich.

KATERINA:

Goodness gracious. What'll they think of next!

THOMAS:

So what about this new-fangled Constitution? How is that supposed to work?

HENDRICK:

The States sent delegates who got together in Philadelphia and wrote up how the new government is supposed to work. They're gonna' call it the federal government.

THOMAS:

Who did all this?

HENDRICK:

The state delegates got together and voted. They all decided that when 9 of the 13 states buy into the Constitution, we will have a union, called the United States of America.

KATERINA:

How does a state come into the Union?

HENDRICK:

As I understand it, every state is holding a convention — to see if they want to adopt the Constitution and join the Union.

THOMAS:

What about New York?

HENDRICK:

Don't you know where you're sittin'? Right here in Poughkeepsie. WE are the State capital, and they're gonna' hold a convention right here to see if New York wants to ratify the constitution and join the Union.

THOMAS:

Well, I'm agin' it. Ratify? I smell a rat.

KATERINA:

Me too!

PENELOPE:

I don't like the idea either. So it's unanimous. No Constitution.

HENDRICK:

Not so fast, Penny. Not so fast. If we don't have a Union of the United States, we're gonna' keep squabblin' and we'll never get anywhere. In Europe, they'll all be laughin' at us. We need a Union!

THOMAS:

Well, the Europeans would never form a Union for themselves. Can you imagine France and England and all them countries calling themselves a European Union? Crazy. Never happen. Not in a hundred years – not in 200 years.

HENDRICK:

As it is now, if some country in Europe wants to sign a treaty with us, they gotta' go to 13 states, one at a time, instead of one treaty with the US of A.

THOMAS:

The US of A? Not for me! I like it fine here in New York. We've got a great seaport, good trade, and we're doing well. Governor Clinton is looking out for us.

HENDRICK:

But look at how bankrupt the states are. We won the Revolutionary War and we're still trying to collect from the states to pay for it. A Union would allow us to collect taxes and sign treaties as a nation.

THOMAS:

New York is independent and steadfast. New York has paid up every shilling of its share of the Revolutionary War!

KATERINA:

But what about the other states?

THOMAS:

New Hampshire has not paid up at all! That's why they're making a state motto in New Hampshire, "Live Free or Die."

HENDRICK:

Gettin' back to this federal constitution – looks like they're lining up on both sides of the issue. But, right now, the New York delegation is strong to vote against the Constitution and that worries me.

THOMAS:

So who's for it?

PENELOPE:

The delegates are polarized! The folks in New York City - business people - versus our people! But we can out-vote them. We've got the governor on our side, and we've got Melancton Smith. If you

ever seen Melancton Smith debate, he's a real powerhouse.

KATERINA:

Who's gonna' debate for the other side - the side for joining the Union?

THOMAS:

Fella' named Hamilton. He and a coupla' other guys wrote something called the Federalist Papers. Lotta hogwash. Hamilton? Too smart by half. He'll never amount to anything.

KATERINA:

Right. He's theatre. Pure theatre.

THOMAS:

Sure. Maybe somebody can write a musical play about him.

HENDRICK:

And well they should! I hear he is a great man – and fighting for an important cause.

PENELOPE:

Oh, Hendrick. So, when's the convention?

HENDRICK:

Next week. At the new courthouse. About a mile up from the river.

THOMAS:

It's gonna' be quite a show. But I think we got the votes to lick 'em.

HENDRICK:

Don't be so sure... Don't be so sure...

THOMAS:

Come on, Hendrick. Get with it! I just spoke to lawyer John Grover. He can read pretty good. He says he read the Constitution and he's got a big problem with it.

KATERINA:

What's that?

THOMAS:

It's got a whole lotta provisions and stuff, but one thing it does not have is a Bill of Rights!

PENELOPE:

No Bill of Rights? Don't we have enough bills now? (Teasingly)
We owe the butcher and the baker and the candlestick maker.

THOMAS:

This is serious. Our rights are important to us. We want to have free speech, and freedom to worship as we wish, Hendrick.

PENELOPE:

Right – without any government telling us what we can say and not say, and telling us that there is an official religion.

KATERINA:

Sure. If this federal government comes in, you can forget New York, and you can forget everything else. New York will get swallowed up by this federal Constitution. That's what will happen, Hendrick.

PENELOPE:

Yes, our rights are nothin' to joke about. We want the right to be protected from police bustin' into our homes and searching for things. They should have to get a search warrant.

THOMAS:

Also, we don't want the government quartering troops right in our own homes. That should also be written down in any Constitution. Also, the right to a jury trial — in open court and not behind closed doors. Those are important rights, along with others...

PENELOPE:

When does the convention start?

KATERINA:

June 17.

PENELOPE:

June is bustin' out all over.

HENDRICK:

You said it. The Convention is 3 days from now! Let's just see...

CURTAIN

ACT II

Scene 1

The Poughkeepsie Courthouse on June 17, 1788. The delegates talk with each other. Governor George Clinton, convention chairman, bangs gavel.

CLINTON:

This Convention will come to order! Nine months ago, in Philadelphia, the delegates from the several states met and they drafted the Constitution of the United States. We delegates are here today to debate whether we want to ratify and to adopt said Constitution, and to become one of the United States of America.

WOODHULL:

Point of order Mr. Chairman.

CLINTON:

Yes, Delegate Woodhull.

WOODHULL:

As I understand it, when nine states ratify the Constitution, agree to join, we have a Union. How many have joined so far?

CLINTON:

Thus far, eight.

[A quiet foreboding covers the room. Dead silence and delegates looking at one another, fatefully.]

HOBART:

Which eight have ratified?

JONES:

Delaware was first, then Pennsylvania, New Jersey, Georgia, Connecticut, Massachusetts, Maryland, and South Carolina. The rest of the other states are holding conventions right now?

CLINTON:

Yes. At this very moment New Hampshire is holding its convention, and so is Virginia.

DELEGATE #4:

What if New Hampshire votes to join the Union?

CLINTON:

That would be nine. That makes a Union. That makes the United States of America.

DELEGATE #5:

And then what?

CLINTON:

Lord only knows.

WOODHULL:

But even if New Hampshire joins, that still leaves out the two most important states – New York and Virginia.

CLINTON:

That is true.

HOBART:

And how does Virginia lean?

CLINTON:

It is too close to say. But enough of this speculation, I'm going to call for a rough vote, to see how we stand before we begin our debate. All in favor of ratifying the proposed Constitution and joining the Union? Say aye.

[A few delegates say "Aye."]

All opposed? Say nay.

[Many delegates say "Nay!" loudly.]

The nays have it, but we have yet to begin the debate. So, we start with two of our delegates, Robert Livingston, for the ratification of the Constitution, and John Lansing, against.

LIVINGSTON:

I rise to point out the obvious. Our states are wary of one another, fighting to keep the other states from taxing one another to death. A UNITED States of America under a federal umbrella would repair that woeful condition.

DELEGATE #4:

Umbrella! It will protect us like a sieve!

DELEGATE #5:

Look, I am a wheat farmer. I make my living from the soil and I pay my taxes on time. But our taxes are low enough because New York State makes money from the Port of New York – the busiest and richest port among the states. If we joined the Union we would lose that income and we would be taxed to death. I have a wife and five children to support!

LIVINGSTON:

We would not be losing that money; it would go to the greater good, to all of us as united. The states would respect one another and give full faith and credit to each-others' laws... in a harmonious union that will grow to become a great nation.

DELEGATE #4:

The greater good? What about feeding our own families? That has never been a problem for you, Mr. Livingston – you with your grand estates. How would we prevent this federal government from becoming tyrannical – just like the King of England, Mr. Livingston?

DELEGATE #5:

Right. We just won the war for our independence and now you are putting us under a new kind of tyranny.

LIVINGSTON:

I am afraid, my good friend, that you are not grasping this concept. Your arguments against a federal government sound to me like children blowing bubbles! The words appear and in a moment they vanish – then more bubbles and they too vanish in the air!

DELEGATE #3:

(Loud aside)

I wish he would vanish.

LIVINGSTON:

(Continuing)

How can you be afraid of the federal government? For the first time in history we are a country with no monarch, no king, no queen, and no emperor. We ourselves are the federal government. We will not be ruled by some outside foreign power!

[Chorus of boos and cheers]

CLINTON:

Order! Order! We will now hear from Judge Lansing, against the Constitution.

LANSING:

Yes, my friend, let us speak of concept, Mr. Livingston. Power resides with those who hold it. At present we are New York; we have our own laws, our own protections, and our own rights and liberties – not to mention our wealth from New York harbor, as a

thriving port. With this federal government we will be taxed into submission – to pay heavy federal taxes on top of the taxes we now pay to New York.

DELEGATE #4:

What does Livingston know? He knows only his own wealth and privilege. The federal government will grow and grow, using our taxes! More taxes! Federal taxes!

LANSING:

With nothing to stop it. There is a provision in the Constitution saying that the federal power is supreme!

JONES:

Judge Lansing, you were a delegate in Philadelphia where they wrote those provisions – were you not?

LANSING:

I was, but we were deceived! We were betrayed! Going to Philadelphia, I had been assured that we were not about to write a new constitution! All the states have been operating pretty well as a confederation. Each state has been independent – and we all went to Philadelphia to tidy things up a bit. But as soon as I saw what Mr. James Madison was up to, I walked out and left Philadelphia, along with my colleague Robert Yates. That left Mr. Hamilton as the only delegate – a minority of one.

[Laughter]

DELEGATE #5:

(in an aside)

Good. That is where he belongs. By himself.

CLINTON:

That brings us to Mr. Hamilton.

HAMILTON:

Thank you Governor. I will begin with a question that seems to have eluded my friends who oppose the Constitution. Is there a

single soul in this courtroom who can deny that we are a rag-tag confederation of states? Feeble in power, threadbare in finance, and drowning in political chaos? By joining the federal union we will not lose rights, we will gain in power and in wealth and stature.

DELEGATE #4:

But we will lose our power as a port!

DELEGATE #5:

And the federal Constitution has no Bill of Rights! Would Mr. Hamilton want a government unchecked by a bill of rights? It invites tyranny!

[A noisy hubbub erupts. A messenger comes into the room, breathlessly, and hands a paper to Governor Clinton.]

CLINTON:

We have just been informed that New Hampshire has ratified the Constitution and has joined the Union.

CLINTON:

(downcast and somber)

That makes nine states. The United States of America has just been created!

[A hush comes over the room.]

CLINTON:

Let us adjourn and think this through.

Act II

Scene 2

The Poughkeepsie Courthouse on July 2, 1788.

CLINTON:

We will now hear from Melancton Smith, against the Constitution.

SMITH:

I will talk about representation. The proposed Constitution provides for a House of Representatives. Every state would have

representatives based on the population of the state. The larger the state's population the more representatives for that state. That makes sense. But, gentlemen, what of the slaves? Do they count in tallying up the population of the state? Yes! Each slave counts as three-fifths of a person. Imagine that! Slavery, gentlemen, is an evil traffic in human beings. They are held in bondage, in defiance of every idea of benevolence and contrary to all principles of liberty. For every five slaves it counts as three.

DELEGATE #3:

What does that mean in terms of the United States House of Representatives?

SMITH:

It means, sir, the more slaves in a state, the more power that state has in the United States Congress.

DELEGATE #4:

That means the Southern states can pass laws in the United States Congress to support slavery!

SMITH:

Exactly so. Thousands of these unhappy people are brought here by "unfeeling, unprincipled, barbarous, and avaricious wretches." The slaves are torn from their country, their friends and tender connections in Africa, and brought here. It is simple arithmetic. For every slave in the south, the Southern states "are to be rewarded by having an increase of members in the [House of Representatives]."*

[A large commotion ensues. A messenger runs up to Governor Clinton with another message. Clinton reads the message aloud.]

*From Brutus III (Melancton Smith) NY Journal Nov. 15, 1787
[https://archive.csac.history.wisc.edu/Brutus_III\(1\).pdf](https://archive.csac.history.wisc.edu/Brutus_III(1).pdf)

CLINTON:

(Somber, ominous tone)

We are informed that Virginia has just ratified the Constitution and has joined... the Union.

CURTAIN

Act III

Scene 1

The Poughkeepsie Courthouse.

CLINTON:

We have just been informed that Virginia has ratified the Constitution and has joined the Union. The United States of America now includes a state as important and consequential as New York. It is a fateful hour. Let us consider what options lie before us.

DELEGATE #4:

We can remain outside the Union and continue as New York. But that would split the United States in half. There would be the United States north of us and the United States south of us. New York State would be a separate country, on our own.

CLINTON:

And that would enable New York to trade with both parts of the United States and to engage in treaties with the United States.

DELEGATE #5:

I agree with you, Governor. I may not be a politician who uses big words. I'm a butcher, but I can see right through Mr. Hamilton's talk. Good on the outside but empty on the inside! He would have us join the Union and dissolve us into nothingness. Why not unite with Canada? As it is, New York borders Canada to the North. We have a long border with Canada along Lake Ontario.

DELEGATE #4:

Canada? Not for me. Canada is part of the British Empire. That is almost like going back to England. We fought the War for our Independence! And I have a wound to prove it! Right here! Wanna see it?

[Points to his rib]

HAMILTON:

Gentlemen, gentlemen. I too fought in the War, and I understand independence as well as you! May I remind our anti-constitutional friends that if New York State refuses to join the Union, the City of New York would break away and become part of the United States. That would leave New York State without New York City. New York State would no longer have its chief port! Instead of having New York City and its income from shipping, New York State would rely on roosters and cows!

DELEGATE #4:

(aside to DELEGATE #5)

There goes Hamilton again. He speaks down to us as if we were roosters and cows.

DELEGATE #4

(in an aside)

M-o-o-o to you, Mister Hamilton. Stop lecturing me, sir. You talk as if you are giving us a sermon from Mount Olympus. Mr. Hamilton, I may not have your education but I know my rights and I know better than you what is good for me and my family and my community!

DELEGATE #4:

(to the assembly)

I think there may be a path forward. I suggest we do join the Union – but not on Mr. Hamilton's terms – on OUR terms.

HAMILTON:

Our terms? Our terms? And what might that involve?

DELEGATE #4:

That we join on the condition that the Constitution first be amended to include a Bill of Rights. That would include freedom of speech and the free exercise of religion.

DELEGATE #3:

Yes, and freedom from unreasonable searches by police, public trials, due process and the like. I say, first come the Amendments and then a Bill of Rights, and then we join.

JAY:

That is not joining – it is half-joining, and it will create nothing but mischief. I propose that first we ratify the Constitution and join the Union and then, as one of the United States, we recommend amendments.

DELEGATE #5:

Recommend? Recommend? Like baying to the moon. Once they have us in their pocket, we will have no power to demand any of our rights.

CLINTON:

That is true. It is now a question of the cart before the horse. Of course, we can join the Union first and then make recommendations, but we have no guarantee that they will be accepted. Or we can join on condition that the Constitution be amended. I submit that the amendments must come before we ratify. Before we join the United States. “History does not furnish a single instance of a government once established, voluntarily yielding up its powers to secure the rights and liberties of the people.”* First things first. The cart must follow the horse. I have never seen a cart that pulls a horse.

DELEGATE #4:

(in an aside)

And I have never seen a governor that pulls a cart.

* George Clinton, New York Ratifying Convention, 11 July 1788
The Founders’ Constitution - Volume 1, Chapter 8, Document 39
<http://press-pubs.uchicago.edu/founders/documents/v1ch8s39.html>

HAMILTON:

Open your eyes! Before the Revolution of 1776 we were British subjects. The British had absolute power over us and we had no share in representation although we were taxed. But Britain is 3000 miles away and now they have no power over us. There may be some things in the Constitution that we might want to change but a majority of American patriots now think the Constitution is sufficient. I am thinking about our children and our children's children.

DELEGATE #4:

Children? Look at the shortcomings of the document. Do you want your children to be overrun by a federal government? By officials miles away from us, in some other part of the country? People we do not know? I will not have it Mr. Hamilton.

HAMILTON:

Let us look to the security and beauty of the Constitution and not only to its defects. If we go it alone, we cannot possibly exist without an alliance with Britain. Within a short time we will be crawling back to Britain – on our hands and knees!

DELEGATE #4:

I have a thought. What if we ratify but conditioned on there being another convention in which the amendments are to be considered, and if they don't hold another convention we have the right to withdraw from the Union?

HAMILTON:

This raises the question of whether the United States will accept New York on a conditional basis.

DELEGATE #3:

(neutrally)

Will it, Mr. Hamilton?

HAMILTON:

I cannot say. But I will write to James Madison as to this.

[Pen in hand, spotlighted, writing to James Madison.]

HAMILTON:

Would the United States accept New York on a conditional basis?

Act III

Scene 2

James Madison sits spotlighted, opposite Hamilton, reading his response to Hamilton.

MADISON:

My Dear Hamilton, The Constitution requires an adoption in toto and for ever. A state is either in or out; there is no half- way in this. Reserving the right to withdraw is a conditional ratification. It would not make New York a member of the new Union... This idea of ratifying conditionally was started in our own state convention in Richmond, and it is considered as worse than an outright rejection.*

Act III

Scene 3

July 23, 1788 at the Poughkeepsie Courthouse, Govenor Clinton holds a letter.

CLINTON:

Well, there we have it, a conditional ratification is unacceptable to Mr. Madison. We are either in the Union or out. For my part, better out than in.

[Unruly shouting and foot stamping among the array. Governor Clinton continuously gavels the desk in an attempt to restore order.]

*<https://founders.archives.gov/documents/Hamilton/01-05-02-0012-0086>; Stephen L. Schechter, *The Reluctant Pillar, New York and the Adoption of the Federal Constitution*, 113, fn 155

CLINTON:

Order! Order!

DELEGATE #4:

I too am out! I am not a wealthy man. I am a shoemaker, and some of you know that I sell my shoes far and wide. Even to some of the rich folk in New York City. Some of my shoes may even be fancy enough to be worn by the elegant Mr. Livingston.

[Laughter]

DELEGATE #4:

If we join this so-called Union, New Yorkers will be taxed so heavily that they will not have enough money to buy a toothpick let alone a pair of shoes!

[Scattered cries of “Hear, hear!”]

HOBART:

Do you realize what you are saying? If we do not join the Union, New York City will break away and join the Union and the rest of the state will be left in the cold.

[Foot stamping, disorder]

JONES:

All right. I have heard enough. I am convinced that it is better inside the Union than outside the Union. And they will not accept us conditionally, and so I propose that we remove the words “upon condition” and that we ratify and adopt the Constitution unconditionally... and that we do so in full confidence that the Constitution be amended at a convention to be held for that purpose. *

SMITH:

(somerly)

I believe we are at the crossroads... The Constitution is imperfect. It lacks a Bill of Rights and it contains provisions that we find disagreeable. But under the circumstances we would not do well

*Kaminski Documentary History, Vol XXIII, [New York 5] at 2280, 2283. Motion by Samuel Jones ; Smith agrees, see 2280, 2281, 2283, 2338

to reject it, and to have the United States to the north of us and the United States to the south of us.

CLINTON:

(angrily to Melancton Smith)

Melancton, you have been steadfast in opposing the Constitution. You have been solid as a rock. As a debater you have won the delegates to our side – against the Constitution – and against Mr. Hamilton. Do not yield now! Your political future is at stake!

[Smith paces the floor, anguished, and speaks to himself out loud.]

SMITH:

If we do not join the Union we will divide the United States into three. Joining Canada is too far-fetched an idea. If we declare ourselves a separate nation, we will be surrounded by other nations – not only abroad but at our own doorstep. It is a recipe for failure! On the other hand, if we join the Union and become part of the United States, we can get our Bill of Rights once inside the Union rather than out.

[A long pause]

CLINTON:

(to Smith)

I cannot forgive you if you join them and vote to ratify the Constitution.

SMITH:

I am sorry, Governor. After much reflection... I conclude that we should ratify and join the Union now. We will put our trust in Mr. Madison that he will support a Bill of Rights for the new nation.

DELEGATE #3:

Trust? Trust you say?

WOODHULL:

Yes, I say trust. I came here ready to vote against the Constitution and I am still not happy with it. But I have to ask myself what this

Revolutionary War was all about. I was a Colonel in the Orange County militia, just across the river. My wife and I have seven children and I can't risk their future and mine. I'm being realistic. I am ready to sign on.

JAY:

Yes, I urge that we ratify the Constitution in full confidence that the amendments follow, at a future constitutional convention.

CLINTON:

Let us call for a vote. All in favor of ratifying the Constitution under these terms...

[Hands raise, Clinton counts the votes.]

30 in favor. All opposed?

[Hands raise, Clinton counts the votes.]

27 opposed. The motion is carried. New York will ratify the Constitution and join the United States of America.

JAY:

I know that there are those among us who are not happy with this turn of events. But we can cure their misgivings by seeing to it that the Constitution is amended to include a Bill of Rights. I propose that we circulate a letter among others who also want to see amendments to the Constitution.* As follows:

[Reads aloud]

JAY:

We the members of the Convention of this State, have deliberately and maturely considered the proposed Constitution, and we find some of the provisions objectionable. We would seek the amendments first, before ratifying, but that would separate us from our sister states, and so we ratify unconditionally but we ask you, in the other states, to join with us in seeking amendments at a convention to be held for that purpose.

[Shouts of "Hear, hear!" from the other delegates]

*Kaminski, Documentary History Vol XXIII, New York [5] at 2339

CLINTON:

This Convention is now adjourned. New York is part of the United States of America.

NARRATOR: *(voice)*

As it turned out, it was not necessary to hold a second national convention. James Madison was good to his word. In 1791 the United States Congress adopted amendments creating the federal

Bill of Rights that included free speech, freedom of religion, freedom of the press, due process, and the other rights we cherish as Americans.

[Applause – as if the play is over. Susan B. Anthony appears in 19th century garb.]

ANTHONY:

Excuse me – is this play over? Say you? To my mind this is not over; it is just starting! You speak of rights, but...

CLINTON:

I'm sorry madam, but who are you? And by what right do you intercede here and interrupt these proceedings?

ANTHONY:

I am Susan B. Anthony, I am a woman and I speak for the rights of women!

CLINTON:

Indeed.

ANTHONY:

Yes. Indeed! I just saw your convention. 57 men with white hair and not a single woman with a voice to be heard!

CLINTON:

And what would you say?

ANTHONY:

The Declaration of Independence of 1776 recited that “All men are created equal.” But I soon enough learned that the Declaration of Independence did not say that all people were created equal. In 1848 — a full sixty years after New York joined the Union — I was part of a group of women who held a convention in Seneca Falls, New York. It was the first Womens’ Rights Convention in the United States, and it was a start of the right of American women to vote.

CLINTON:

The right to vote?

ANTHONY:

Yes. After America abolished slavery, the Constitution gave former slaves the right to vote. But that right was for men only. So I went to the polls in 1872 and I demanded the right to vote. What happened? I was arrested as a criminal and fined \$100.

CLINTON:

Where did this happen?

ANTHONY:

In my own hometown! – Not halfway across the world, but in Rochester, New York. I died in 1906 and I never got to see American woman get the right to vote. That finally happened when the 19th amendment was passed... in 1920.

[Frederick Douglass appears on stage, dressed in 19th century attire.]

DOUGLASS:

Mr. Chairman! Mr. Chairman!

CLINTON:

And who are you, Sir?

DOUGLASS:

I am Frederick Douglass. And Ms. Anthony is not the only one

with a grievance of lost rights – or I should say rights that were never gained!

HAMILTON:

Never gained? What does that mean? Didn't you ever get the right to vote?

DOUGLASS:

Not in my lifetime! Nor in yours, sir. I am a Black man, my mother was an enslaved Black woman, and my father was white. That meant I was born into slavery, because slavery followed the mother not the father.

DELEGATE #3:

Where is your argument going?

DOUGLASS:

I will tell you. When I was about 20 years old, I disguised myself as a sailor and ran away from slavery and I became a free man. People got to know me, and I gave speeches about what slavery meant and how I was able to escape.

DELEGATE #3:

Yes, go ahead...

DOUGLASS:

In 1852 – a few years before the Civil War – I gave a speech on July 5th, in Upstate New York, about the celebration of the 4th of July. You know, July 4th, the celebration of the Declaration of Independence! That's the document declaring "That all men are created equal."

[Douglass turns to James Madison.]

Mr. Madison, you are considered the father of the United States Constitution, are you not?

MADISON:

So it is said.

DOUGLASS:

As the father, did you ever regard me as one of your children?

MADISON:

Sir??

DOUGLASS:

I mean as a child of the Constitution. I have carefully read the Constitution and the word slave or slavery is nowhere to be found in it. May I ask why so?

MADISON:

It is nothing to celebrate. Many consider slavery a necessary evil.

DOUGLASS:

A necessary evil? Is it really all that necessary?

MADISON:

Regrettably, the entire economy of the South is built on it.

DOUGLASS:

But after a time the Southerners stopped calling it a necessary evil and began calling it a – positive good as advocated by Senator John Calhoun.

MADISON:

That is true.

ANTHONY:

May I interject? I have a question for Mr. Melancton Smith.

SMITH:

Yes, Madam?

ANTHONY:

You might declare yourself a champion of liberty and you disapproved of the 3/5ths Clause — How came you to exclude women from your convention?

SMITH:

It is an evolving situation I assure that I respect and honor my wife...

ANTHONY:

You do. How reassuring.

SMITH:

...and that in our home, her voice carries as much authority as mine.

ANTHONY:

Indeed? Does the law allow her to vote at any public election?

SMITH:

All in the fullness of time...

ANTHONY:

It is now the year 1788 — by the fullness of time do you mean 1920? 132 years later?

SMITH:

My wife would cast a wiser vote than many of my friends, but the matter is not within my control. It is not an issue at present.

ANTHONY:

Not an issue? Indeed? In all of your complaints about the shortcomings of the Constitution did you once call it inadequate in that it denies the women the right to vote?

DOUGLASS:

(Addressing Madison)

When you wrote the Federalist Papers, you stated that Blacks were considered both as human beings and as property. Did you sir?

MADISON:

I did, but you must understand...

DOUGLASS:

(interrupting)

Property? Like a bag of oats? And you were promoting a Constitution in which my people were counted as 3/5ths of a person. Do you have any idea of the inhumanity of that?

MADISON:

In my defense, I might point out that we did write a provision in the Constitution by which the importation of slaves may be stopped after 1807.

DOUGLASS:

True enough, but surely you know that after 1807, slavery not only thrived but the number of slaves actually grew — from 700,000 to 4 million. Do you know why? Because Black women were sexually abused so they could produce more slaves. More property, to use your terminology. Have you any idea of the degradation and humiliation in that?

HAMILTON:

I was born out of wedlock and I have been called a Creole Bastard, I know something of degradation and humiliation.

DELEGATE #3:

Ahem, not to mention your infamous escapades with Poughkeepsie's own Mrs. Reynolds.

HAMILTON:

Yes, and I have been blackmailed by her husband.

DOUGLASS:

Your extra-marital affair, Mr. Hamilton, was a matter of choice. Being born black is not a matter of choice.

HAMILTON:

Touche.

ANTHONY:

And by the way, not even the famous Mrs. Reynolds had the right to vote! I have heard men complain of long lines at the polls, and that — my goodness! — they sometimes are made to wait for up to an hour in order to cast their vote. How does that compare with waiting 132 years?

SMITH:

Your point is well taken, Madam.

NARRATOR: (*voice*)

James Madison kept his promise. In 1791 the Constitution was amended to include a Bill of Rights. And in 1920 the Constitution was amended giving women the right to vote. Slavery ended, but it took a Civil War. Issues of equality, discrimination, and equal protection, however, are always with us. These are matters we think about as we go forward today. Indeed, the battle does go on... Let us hope we address these issues with sensitivity and humanity.

CURTAIN

Program Notes

The characters in the drama are based on these people.

George Clinton (1739-1812) New York's first governor, he served as a brigadier general in the continental army and later as Vice-President of the United States from 1805 to 1812.

Jesse Woodhull (1735-1795) A yeoman farmer who served as a Colonel in the First Regiment, Orange County Militia.

John Sloss Hobart (1738-1805) An associate justice of the Supreme Court of Judicature of New York from 1777 to 1798. He was elected to the United States Senate from New York as a Federalist in 1798, serving briefly before accepting a federal judgeship.

Samuel Jones (1734-1819) A lawyer and a member of the Anti-Federalist Party served in the New York State Assembly from 1786 to 1790.

Robert Livingston (1746-1813) The first Chancellor of New York, he administered President George Washington's first oath of office. The Livingston family historic site, called Clermont, is in southwestern Columbia County.

John Lansing (1754-1829?) A justice of the New York Supreme Court from 1790 to 1798, and chief justice from 1798 to 1801. He was the second Chancellor of New York from 1801 to 1814, and in 1817 served as a special commissioner to resolve New York City and New York County claims to land in Vermont.

Alexander Hamilton (1755/1757-1804) An American military officer, statesman, and Founding Father, he served as the first secretary of the treasury from 1789 to 1795 during George Washington's presidency. Along with James Madison and John Jay, he was an author of the Federalist Papers.

Melancton Smith (1744-1798) A merchant and lawyer who served as both Sheriff and Justice of the Peace of Dutchess County. As

leader of the anti-constitution membership at the 1788 convention, he played a key role in convincing reluctant delegates to ratify the Constitution.

John Jay (1745-1829) The first Chief Judge of New York and of the United States Supreme Court, he was Governor of New York from 1795-1801. During his administration New York began the gradual abolition of slavery in New York in 1799. Along with James Madison and Alexander Hamilton, he was an author of the Federalist Papers.

James Madison (1751-1836) The chief architect of the US Constitution and served as President of the United States from 1809 - 1817.

Susan B. Anthony (1820-1906) A prominent figure in the women's suffrage movement and an abolitionist. She lived in Rochester, NY and was a friend of Frederick Douglass.

Frederick Douglass (1818-1895) An abolitionist and social reformer, he escaped slavery in 1838 and went on to become a national leader of the abolitionist movement in Massachusetts and New York. An attendee of the Seneca Falls Convention in 1848, he encouraged them to keep a controversial resolution that advocated for women to seek the right to vote.

