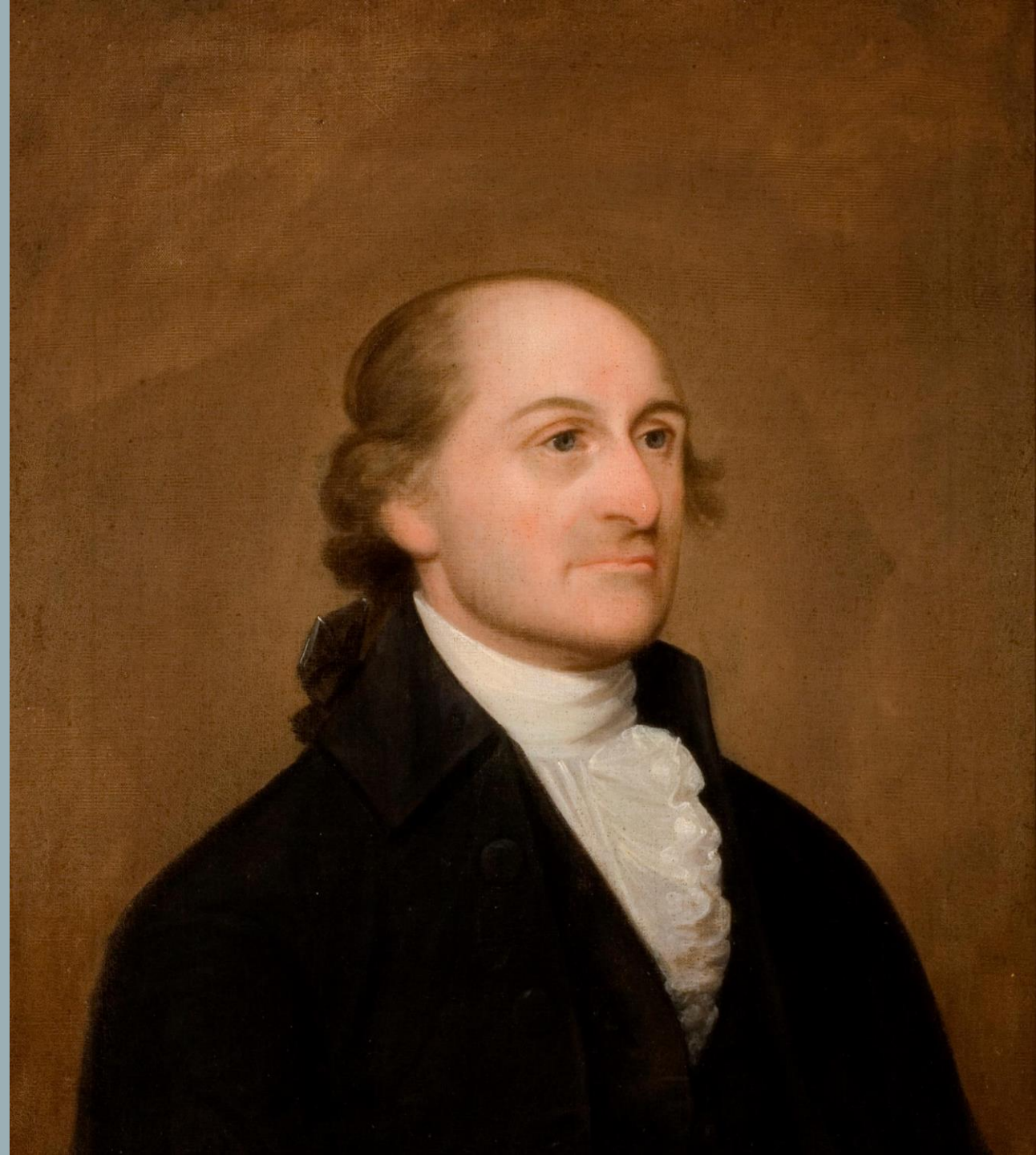


JOHN JAY AND THE CONSTITUTION

Few Americans made a more significant contribution to the Constitution than John Jay.

One of the leaders of the Federalist Party, Jay felt strongly that the only way the country could survive on the international stage was to appear as one unified entity, not as a league of states.

He knew that getting support for a strong federal government would not be easy, but it would be necessary.





NEW YORK STATE CONSTITUTION

John Jay was one of the lead authors of the New York State Constitution. The document, which was approved in April 1777, was designed to replace the Colonial Royal Charter, giving all the power to the newly independent State of New York.

Many of the rights and freedoms found in the New York State Constitution would go on to influence the United States Constitution. The state constitution established the concept of self-governing, no governmental sponsored religion, and a state court system. It also was one of the first constitutions to create three branches of government: executive, legislative and judicial.

Shortly after the ratification of the New York State Constitution, on May 8, 1777, the New York Provincial Congress elected Jay the Chief Justice of the New York Supreme Court of Judicature.

YOUR LIVES, YOUR LIBERTIES, YOUR PROPERTY, WILL BE AT THE DISPOSAL ONLY OF YOUR CREATOR AND YOURSELVES. YOU WILL KNOW NO POWER BUT SUCH AS YOU WILL CREATE; NO AUTHORITY UNLESS DERIVED FROM YOUR GRANT; NO LAWS BUT SUCH AS ACQUIRE ALL THEIR OBLIGATION FROM YOUR CONSENT.

-JOHN JAY, SEPTEMBER 9, 1777.



ARTICLES OF CONFEDERATION

The Articles of Confederation was an agreement among the thirteen original states of the United States of America that served as the country's first governing document. It was approved, after much debate by the Second Continental Congress, on November 15, 1777.

The document provided clearly written rules for how the states' "league of friendship" would be organized. Little changed politically once the Articles of Confederation went into effect, as ratification did little more than legalize what the Continental Congress had been doing.

The Articles did not go into effect until March 1, 1781 after all thirteen states had ratified it.

Two years later, in 1783, The Treaty of Paris was signed, making the United States its own independent country. The peace treaty left the United States independent and at peace, but with an unsettled governmental structure. The Articles of Confederation gave the Federal government no power, which it desperately needed.

CONSTITUTIONAL CONVENTION

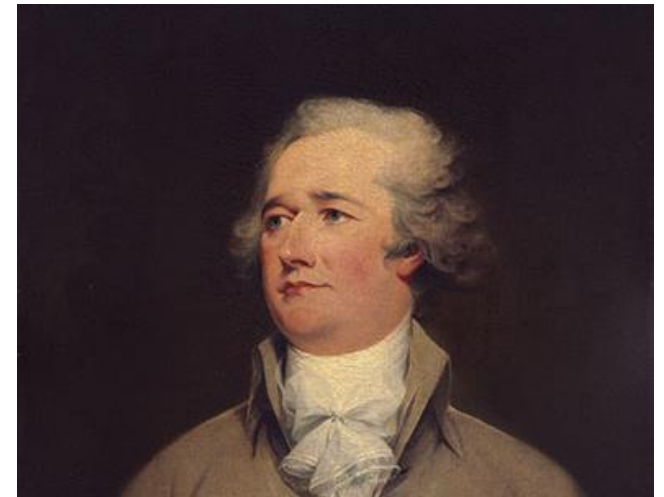
When the delegates met at the Constitutional Convention in Philadelphia in May of 1787, their plan had been to amend the Articles of Confederation.

James Madison brought with him a blueprint for a new form of government. Madison's "Virginia Plan" suggested giving the federal government power over the states, the formation of a bicameral legislature, and the need for three branches of government.

The debate over the Constitution raged on for months until it was signed on September 17, 1787 by 39 delegates from thirteen states.

John Jay was not a delegate to the Constitutional Convention. Delegates were selected by each state's governor. George Clinton, New York's governor, was an Antifederalist and did not support the Constitution. The only Federalist delegate from New York was Alexander Hamilton.

Each state was required to have a ratification convention within six months. Nine of the thirteen states needed to ratify for the Constitution to become law. New York was going to be one of the most difficult to get on board.



FEDERALIST PAPERS

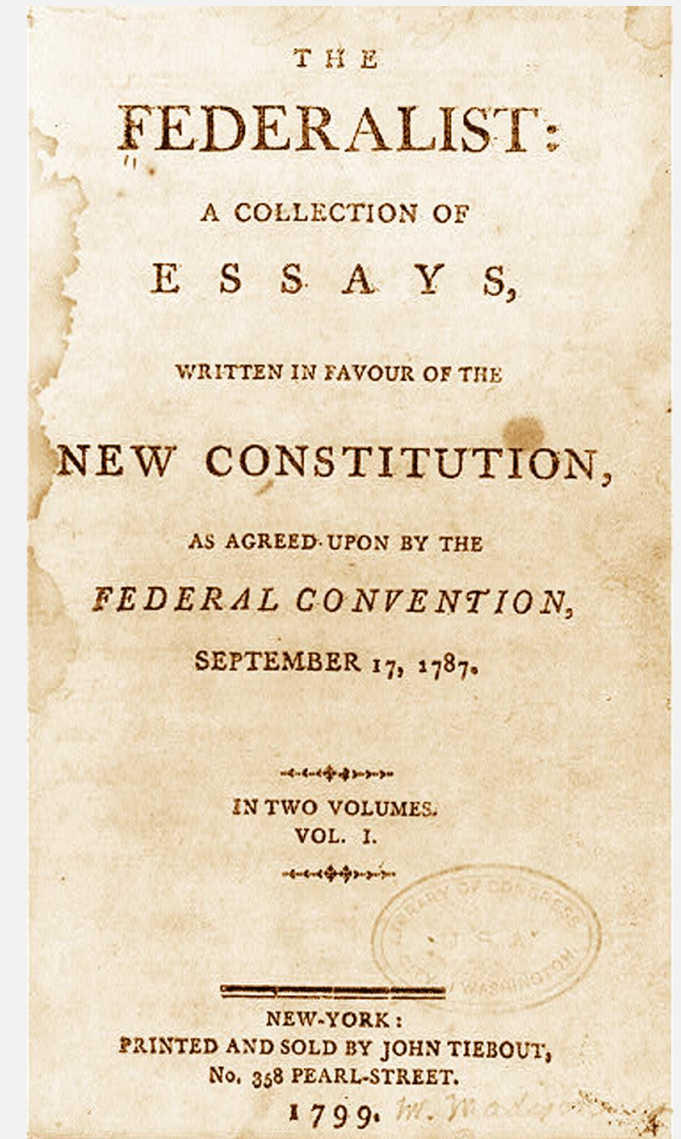
Alexander Hamilton had lived in New York for his entire adult life. He knew that the ratification of the Constitution would be difficult in a state where Antifederalists were the majority. He reached out to John Jay and James Madison, and the three agreed to write a series of essays in response to constitutional opposition.

On October 27, 1787, about five weeks after the Constitution was ratified by the Congress, the first of *The Federalist Papers* appeared in the *Independent Journal*, a New York newspaper. *Federalist No. 1* was written by Hamilton. The next four essays were written by Jay and they focused on the dangers that foreign influence would likely have on the states if they remained so disunited from one another.

In total, the three men wrote 85 essays, all published under the pseudonym "Publius." The authors of *The Federalist* intended to influence the voters to ratify the Constitution.

New York became the eleventh state to ratify the Constitution on July 26, 1788, Although it had already become the law of the land after New Hampshire became the ninth state to ratify it in June.

After Virginia's ratification on June 25, New York had no other option but to ratify, despite the antifederalist sentiment in the state. They would not be able to survive economically as the only state that was not part of the country.



IT HAS BEEN FREQUENTLY REMARKED, THAT IT SEEMS TO HAVE BEEN RESERVED TO THE PEOPLE OF THIS COUNTRY, BY THEIR CONDUCT AND EXAMPLE, TO DECIDE THE IMPORTANT QUESTION, WHETHER SOCIETIES OF MEN ARE REALLY CAPABLE OR NOT, OF ESTABLISHING GOOD GOVERNMENT FROM REFLECTION AND CHOICE, OR WHETHER THEY ARE FOREVER DESTINED TO DEPEND, FOR THEIR POLITICAL CONSTITUTIONS, ON ACCIDENT AND FORCE.

-FEDERALIST #1

OTHER FOUNDERS' VIEWS

Many of the founders had differing views on the Constitution. Some supported it, others were against it, but almost all of the founders thought that the Articles of Confederation needed to be abolished.

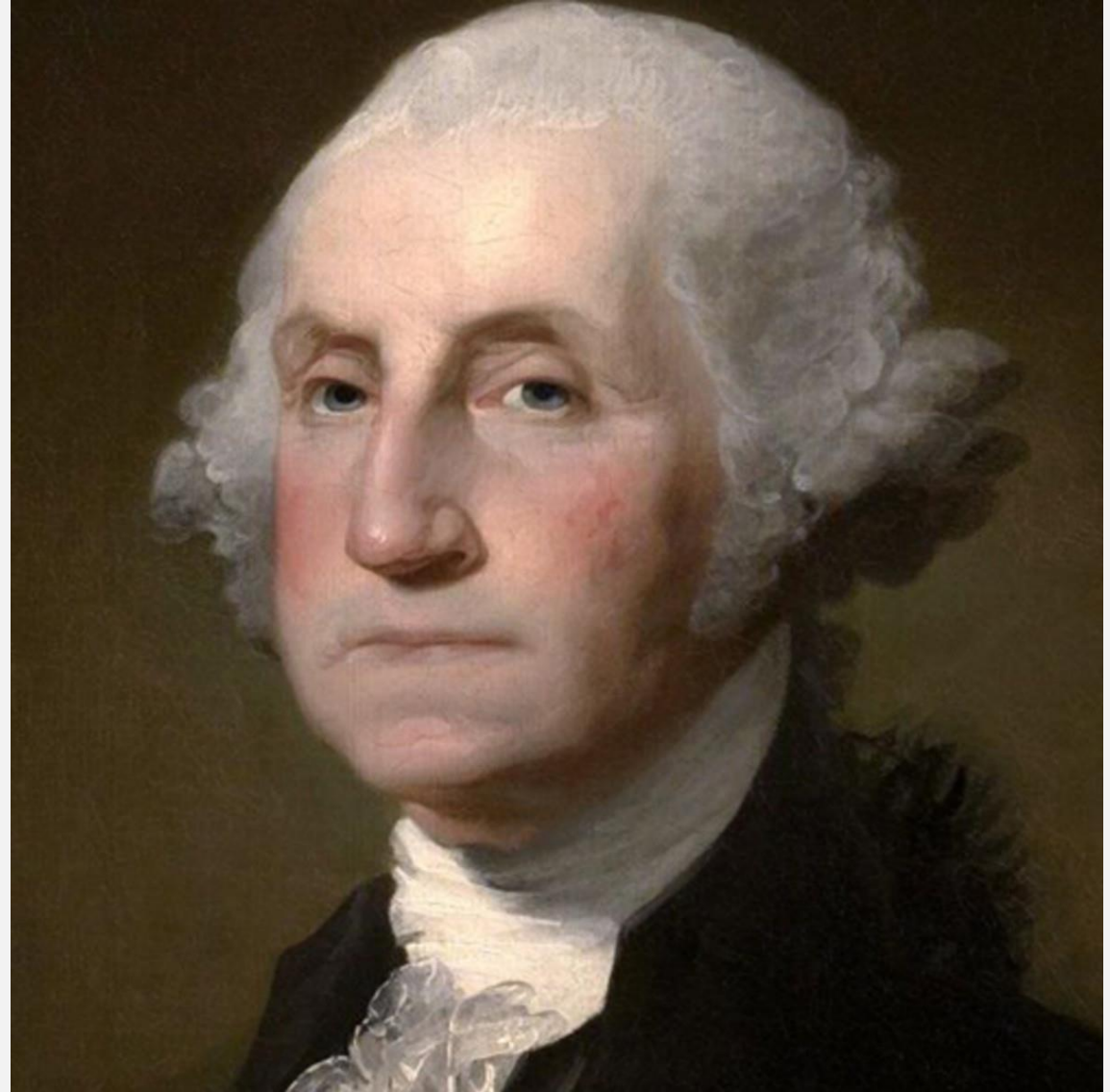
GEORGE WASHINGTON

George Washington had retired to his farm in Virginia after the American Revolution. At first refusing to attend the Constitutional Convention, Washington was persuaded by Henry Knox and James Madison. Upon arriving in Philadelphia, Washington was quickly named president of the convention.

I do not conceive we can exist long as a nation, without having lodged somewhere a power which will pervade the whole Union, in as energetic a manner as the authority of the different State governments extends over the several States.

-George Washington to John Jay, August 15, 1786

Many historians argue that it was Washington's support of the Constitution that convinced many voters to ratify.





THOMAS JEFFERSON

While not involved in the Constitutional Convention, Thomas Jefferson was still involved in the debate. Writing often from France to James Madison and John Jay, Jefferson was concerned about the Federal government having too much power.

He was strongly in favor of a Bill of Rights to protect the rights of individual citizens. He wrote:

The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.

-Thomas Jefferson to Colonel Edward Carrington,
January 16, 1787

JOHN ADAMS

John Adams was in England serving as a diplomat in 1787. Adams had served his country from the very beginning, and was one of the earliest advocates of colonial independence from Great Britain.

The author of the *Massachusetts Constitution and Declaration of Rights of 1780*, Adams was also a champion of individual liberty. He wholeheartedly supported the Constitution and favored the addition of the Bill of Rights.

He wrote in *A Defence of the Constitutions of Government of the United States of America, 1787*,

Without three divisions of power, stationed to watch each other, and compare each other's conduct with the laws, it will be impossible that the laws should at all times preserve their authority, and govern all men.





SLAVERY

The words “slave” and “slavery” are not found anywhere in the original body of the Constitution, however more than half of the delegates at the Constitutional Convention were slave owners.

Some delegates argued that slavery was morally wrong and should be outlawed. Others argued that slave owning was an issue of property rights and it should be left up to the individual states to pass legislation governing it. All the delegates knew that without the support of the slave owning states the Constitution would not be ratified.

3/5 COMPROMISE AND THE SLAVE TRADE

The 3/5 compromise was one of the concessions that led to southern support of the Constitution. The compromise stated that each slave was to be counted as 3/5 or 60% of a person when it came to population numbers used to determine congressional representation.

The slave trade was also addressed in the Constitution. Article one, section nine states:

The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

SLAVERY CONTINUED

The issue of fugitive slaves was also contentious. The Fugitive Slave Clause, Article four, Section two, requires a "person held to service or labor" who flees to another state to be returned to the owner in the state from which that person escaped. This clause did also apply to indentured servants but was specifically added to target fugitive slaves.

John Jay was a slave owner at the time of the Constitution and continued to be until 1817. When the first federal census was conducted in 1790, John Jay is recorded as owning five slaves.

In 1865, seventy-eight years after the Constitution was ratified, slavery was deemed illegal in all forms except as a criminal punishment.

WOMEN AND THE CONSTITUTION

All 55 delegates to the Constitutional Convention were white land-owning men. The rights of women are not addressed anywhere in the Constitution and their societal position as second-class citizens was widely accepted.

Women were seen as members of the household; not as part of the larger political body. Heads of households were usually male. Widows and never-married women who were without a father or brother to act on their behalf, may have had some economic control over her household.

Federal law did not allow women the right to vote until 1920 and the ratification of the 19th Amendment. Before its passage, women's rights were addressed and amended to state constitutions individually.

New Jersey was the only state that gave women early voting rights. The state's first constitution in 1776 gave voting rights to "all inhabitants of this colony, of full age, who are worth fifty pounds ... and have resided within the county ... for twelve months." In 1790 the legislature reworded the law to say "he or she," clarifying that both men and women had voting rights. But only single women could vote because married women could not own property. Still, many unmarried women voted in New Jersey in the 1790s and early 1800s.

In 1807, the New Jersey State legislature restricted voting rights to tax-paying, white male citizens. The 1807 law also took away the voting rights of free people of color who had previously been able to vote in New Jersey.

NANCY JAY

After the death of John Jay's wife Sarah in 1802, his daughter Nancy took over running the household. She was nineteen at the time and continued in this role until her father's death in 1829.

Upon his death, John Jay left the Homestead to his son, William. William's wife, Augusta, became the overseer of the household's domestic affairs. Nancy then moved to New York City with her sister Maria where they became active contributors to charitable organizations.

Because Nancy never married, she owned property. In New York, married women were not permitted to keep property until 1848, when the New York Constitution was amended following the *Married Women's Property Act*.

Nancy died in 1856 at 73, with a personal estate of more than \$70,000, which she left to family and numerous charitable organizations.



AFTER THE CONSTITUTION

Once the Constitution became law, the founders worked to establish the government. George Washington was unanimously voted the first president and began appointing his cabinet and the judiciary. He was unsure of what role to give to Jay and was originally leaning towards Secretary of State. But after much thought and conversation with Jay, Washington appointed him Chief Justice of the Supreme Court. Jay was confirmed by Congress without objection and Washington found great delight in telling him the news.

IN NOMINATING YOU FOR THE IMPORTANT STATION WHICH YOU NOW
FILL, I NOT ONLY ACTED IN CONFORMITY TO MY BEST JUDGEMENT; BUT,
I TRUST, I DID A GRATEFUL THING TO THE GOOD CITIZENS OF THESE
UNITED STATES: AND I HAVE A FULL CONFIDENCE THAT THE LOVE
WHICH YOU BEAR OUR COUNTRY, AND A DESIRE TO PROMOTE GENERAL
HAPPINESS, WILL NOT SUFFER YOU TO HESITATE A MOMENT TO BRING
INTO ACTION THE TALENTS, KNOWLEDGE AND INTEGRITY WHICH ARE
SO NECESSARY TO BE EXERCISED AT THE HEAD OF THAT DEPARTMENT
WHICH MUST BE CONSIDERED AS THE KEY-STONE OF OUR POLITICAL
FABRIC.

-GEORGE WASHINGTON TO JOHN JAY, OCTOBER 5, 1789



AFTER THE CONSTITUTION

The Supreme Court had little power in its infancy, and Jay grew tired of the constant travel associated with “riding the circuit.” He resigned from the court in 1795 in order to accept the position of governor of New York. He served as New York’s second governor until 1801 when he retired from political life.

CONCLUSION

John Jay deserves substantial credit for the Federal Constitution. He established that a strong central government was necessary, and provided many of the key concepts in the New York State Constitution that were adopted federally.

He also was able to get support from Antifederalist through personal respect and quiet compromise.

Despite not being a delegate at the convention, John Jay left an indelible mark on the United States Constitution.

