

# John Jay, Author of the Letter Calling for a Convention for the Bill of Rights

Founding Father and 1st Chief Justice of the Supreme Court

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## On the need for New York to call for the use of Article V:

*“Let us be unanimous in pursuing the object to get a convention to reconsider the constitution. [I] think gentlemen are at liberty to consider the circumstances that we are in. [I myself] wish some amendments as well as others. [I] wish... we may go hand in hand to obtain them.... All [are] pleased because we have the highest possible prospect of a convention for Amendments. We are now one people pledged for amendments.”* [23 DHRC 2289](#).

## Text of the New York Circular Letter, written by Jay with help from Alexander Hamilton and John Lansing:

*“We observe that Amendments have been proposed and are anxiously desired by several of the States, as well as by this; and we think it of great Importance that effectual measures be immediately taken for calling a Convention, to meet at a period not far remote: for we are convinced that the Apprehensions and Discontents which those Articles occasion, cannot be removed or allayed, unless an Act to provide for it, be among the first that shall be past by the New Congress.*

*As it is essential, that an application for the purpose should be made to them, by two thirds of the States, We earnestly exhort and request the Legislature of your Commonwealth to take the earliest opportunity of making it—we are persuaded that a similar one will be made by our Legislature at their next Session; and we ardently wish and desire, that the other States may concur in adopting and promoting the Measure.... And as we desire nothing more than that the Amendments proposed by this or other States be submitted to the Consideration and Decision of a General Convention, We flatter ourselves that motives of mutual Affection and Conciliation will conspire with the obvious dictates of sound Policy to induce even such of the States as may be content with every Article in the Constitution, to gratify the reasonable desires of that numerous Class of American Citizens who are anxious to obtain Amendments of some of them.”* [23 DHRC 2335](#).

**Advocacy for a Convention:** Jay was not a supporter of most of the numerous amendments demanded by those who had opposed the Constitution. But he trusted in the fact that the Convention process is inherently slow. Jay believed that if it took three years to get the Convention, the delegates would be deliberative enough that good proposals may come from it. He saw no reason to fear the process and never advocated against it.

*“I wish that measure may be adopted with a good grace, and without delay or hesitation. So many good reasons can be assigned for postponing the session of such a convention for three or four years, that I really believe the great majority of its advocates would be satisfied with that delay. After which I think we should not have much danger to apprehend from it.”* [From John Jay to George Washington, September 21, 1788](#).

*“The measure of a new convention to consider and decide on the proposed amendments will, I think, be expedient to terminate all the questions on the subject. If immediately carried, its friends will be satisfied, and if convened three years hence, little danger, perhaps some good, will attend it.”* [From John Jay to Edward Rutledge, October 15, 1788](#).

## The Nuances of John Jay's Position

**On a second convention instead of ratification:** Jay opposed the efforts to obtain a second Philadelphia style convention that would be proposed instead of ratifying the Constitution or as a condition without which ratification wouldn't count:

*"Suppose this plan to be rejected, what measures would you propose for obtaining a better? Some will answer, let us appoint another Convention, and as every thing has been said and written, that can well be said and written on the subject, they will be better informed than the former one was, and consequently be better able to make and agree upon a more eligible one. This reasoning is fair, and as far as it goes has weight; but it nevertheless takes one thing for granted, which appears very doubtful; for although the new Convention might have more information, and perhaps equal abilities, yet it does not from thence follow that they would be equally disposed to agree."* [An Address to the People of the State of New York, 15 April 1788](#) (written under the name "A Citizen of New York")

**On the use of the Article V Convention for the Bill of Rights:** Later, after ratification by 10 States, the Constitution was going into effect, including the Article V Convention. As Jay wrote [to George Washington on June 24, 1788](#), *"The accession of New Hampshire does good - and that of Virginia would do more."* And [to Francis Corbin on July 4](#), *"The accession of Virginia is an event most welcome to our federalists."* On July 17, 1788, Anti-Federalist leader Melancton Smith proposed the use of the Convention process to obtain amendments before New York would fully participate in the Union. Jay and Hamilton argued this condition would make ratification invalid and instead suggested the ratification be unconditional with an understanding that the convention process be used. Smith agreed to this new plan, which divided those opposed to the Constitution and seemed to, for the first time, lead to a coalition willing to ratify. Jay was sharply critical of the notion that a "Bill of Rights" was necessary at all. Jay wrote to George Washington saying:

*"I am inclined to think that the new plan will expel the other, and I wish it may, not because I approve of it, but because I prefer it as being less exceptionable than the other."* [To George Washington from John Jay, 17 July 1788](#).

Although Jay had argued previously that the Bill of Rights was unnecessary, he agreed to write the Circular Letter, quoted above. Even while remaining skeptical about the particular amendments sought for by his political opponents, Jay argued that the slow deliberative process of the Article V Convention was nothing to be feared and could result in beneficial proposals. He also advocated that the response of Congress to the advocacy for the convention should be to propose the amendments themselves, rather than fighting against the will of the people. This is clear from more complete quotes from the letters cited above:

*"The opponents in this State to the Constitution decrease and grow temperate. Many of them seem to look forward to another Convention rather as a measure that will justify their opposition, than produce all the effects they pretend to expect from it. I wish that measure may be adopted with a good grace, and without delay or hesitation. So many good reasons can be assigned for postponing the session of such a convention for three or four years, that I really believe the great majority of its advocates would be satisfied with that delay. After which I think we should not have much danger to apprehend from it; especially if the new government should in the meantime recommend itself to the people by the wisdom of its proceedings, which I flatter myself will be the case. The division of the power of government into three departments is a great and valuable point gained; and will give the people the best opportunity of bringing the question whether they can govern themselves to a decision in their favor."* [From John Jay to George Washington, Sep. 21, 1788](#).

*"The opposition which was violent has daily become more moderate, and the minds of the people will gradually be reconciled to it in proportion as they see the government administered in the manner you mention. The measure of a new convention to consider and decide on the proposed amendments will, I think, be expedient to terminate all the questions on the subject. If immediately carried, its friends will be satisfied, and if convened three years hence, little danger, perhaps some good, will attend it."* [From John Jay to Edward Rutledge, October 15, 1788](#).

**John Jay was not among the staunchest advocates for either the Bill of Rights or the Convention process among our founders. But any claim that the person who wrote the letter advocating for the first use of an Article V Convention was an opponent of its use is simply misguided.**