



National Gov. vs. Confederation: Did Convention Exceed Its Mandate?

Two hundred and twenty-seven years ago this week, the Constitutional Convention began in earnest at the State House in Philadelphia. From [secrecy](#) to the future of the confederation, the deliberations turned serious — and seriously acrimonious — very quickly.

After deciding on the rules that would govern the proceedings, delegates prepared to hear proposals on the critical issue that led to the convention: amending and improving the Articles of Confederation.



The last paragraph from the report of the Continental Congress calling for the convention of the states held in Philadelphia beginning in May 1787 resolved that:

In the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union.

Delegates knew they had a hard row to hoe, as Article XIII of the Articles of Confederation mandated that regarding any changes made to the Articles: “Nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.”

When the work got underway that warm day in late May, that legally binding and constitutional provision was ignored.

Edmund Randolph, governor of Virginia and nominal leader of the Old Dominion’s august delegation, stood and proposed what was known as the “Virginia Plan.”

Before presenting the 15 points of his plan (a plan undoubtedly written by his colleague James Madison), Randolph “expressed his regret that it should fall to him rather than those who were of longer standing in life and political experience to open the great subject of their mission; but as the Convention had originated from Virginia, and his colleagues supposed that some proposition was expected from them, they had imposed this task on him.”

Randolph would probably regret being the target of the attacks that followed after his fellow delegates learned the details of his proposal.

Declaring his respect for the framers of the Articles of Confederation — the legally binding constitution at the time — Randolph laid out Virginia’s plan for a “national” government composed of a unicameral “national legislature,” a “national executive” chosen by the national legislature, and a “national



judiciary.”

While very little of the Virginia Plan bears any resemblance to the Constitution that would come out of that convention several months later, to the delegates present on May 29, 1787, the most remarkable and reprehensible (to many) aspect of the recently revealed “correction” of their constitution was the use of the word “national.”

Notably missing from the Virginia Plan was any mechanism for state approval of the national legislature. This omission seemed to suggest that under this new form of government, the national authority would operate directly on citizens of the several states, something novel and, according to most, radical.

Left slack-jawed by the salvo from the nationalists, the delegates voted to adjourn and to convene the next day to consider these issues of immense gravity.

Not missing a beat, though, Randolph rose on May 30 and moved that the convention commit itself to the following mission: “That a national government ought to be established consisting of a supreme legislative, executive, and judiciary.”

Not a sound was heard after this shocking suggestion.

Pierce Butler of South Carolina was the first to break the silence, asking Randolph to prove that “the existence of the states cannot be preserved by any other mode than a national government.”

It was that word “national” that disturbed many of the delegates. They knew from their study of history that should such a government be adopted, the confederacy of sovereign states would cease to be and that a nation would rise up in its place.

To us, “national” is synonymous with “federal” and we don’t blink twice or think anything nefarious of the word national. Many of the most respected members of the founding generation were not of that mind. They understood national to mean “consolidated,” and they understood “consolidated” to be unlimited and despotic.

William Patterson stood and informed his colleagues that “the idea of a national government, as contradistinguished from a federal one, never entered into the mind” of any members of the state legislatures who had granted the delegates their commissions to attend the convention.

Luther Martin of Maryland agreed and felt such a constitution would be a betrayal of his fellow citizens. “When I took my seat in the convention, I found them attempting to bring forward a system which, I am sure, never had entered into contemplation of those I had the honor to represent,” he wrote later.

At the end of the convention, Virginia’s own Richard Henry Lee wrote, “Had the idea of a total change [from the Confederation] been stated, probably no state would have appointed members to the convention.... Probably not one man in ten thousand in the United States had an idea that the old ship was to be destroyed.”

Advocates of the Virginia Plan insisted that the states would be left sovereign and that the national government would confine itself within a limited, well-marked constitutional sphere of operation.

Randolph defended the plan, downplaying the claim of consolidation, saying that his plan “only meant to give to the national government power to defend and protect itself — to take, therefore, from the respective legislatures of states no more sovereignty than is competent to this end.”

James Wilson of Pennsylvania added that the national government “did not mean one that would



Written by [Joe Wolverton, II, J.D.](#) on June 4, 2014

swallow up the state governments.” He insisted that he was “tenacious” of preserving the power of the states, describing them as “absolutely necessary for certain purposes which the former could not reach.”

That, of course, sounds similar to James Madison’s explanation in *Federalist* 45 of the proper allocation of power provided by the Constitution:

The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.

When the vote was called on Randolph’s motion “that a national government ought to be established consisting of a supreme legislative, executive, and judiciary,” the vote was overwhelming in the affirmative; only Connecticut opposed the motion, with the New York delegation divided.

Beyond the vote, however, there is something more important both historically, and to our own day where many on the [Right and Left](#) are clamoring for and spending millions to promote a convention to revise our own Constitution. Of the 12 states that sent delegates to the Constitutional Convention of 1787, not a single one authorized those delegates to approve or even consider a national government.

And, as John Taylor of Carolina wrote regarding this nearly unanimous betrayal of their commissions, “By excluding the word national from all their credentials, they [state governments] demonstrated that they well understood the wide difference between a federal and a national union.”

Charles Pinckney of South Carolina put a fine point on the matter, recognizing the necessity of state sovereignty in any constitution that would come out of the convention: “No position appears to me more true that this: that the general government cannot effectually exist without reserving to the states the possession of their local rights.”

This proposition was made mandatory by the Tenth Amendment’s reservation to the states and the people of all but those powers delegated to the federal government in the Constitution.

For our day the lesson is clear: We must restore the power of the states or the national government will soon become the consolidated tyranny that many of the Founders feared.

Image: Scene at the Signing of the Constitution of the United States by Howard Chandler Christy

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