

The Federal Convention of 1787

2023 Constitutional Literacy Institute

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What happened at the Convention?

- Constitution-making through negotiation in a representative body
- Three months of debate and compromise, focused on iterative drafting and redrafting
- The compound republic or *imperium in imperio*? “Neither national nor a federal constitution; but a composition of both”
- A result no individual delegate would have fully anticipated

What was the task of the Convention?

Framing a new constitution or amending the Articles of Confederation

Address of the Annapolis Convention (1786)

“...it may essentially tend to advance the interests of the union, if the States, by whom they have been respectively delegated, would themselves concur, and use their endeavours to procure the concurrence of the other States, in the appointment of Commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Fœderal Government adequate to the exigencies of the Union; and to report such an Act for that purpose to the United States in Congress Assembled, as when agreed to, by them, and afterwards confirmed by the Legislatures of every State will effectually provide for the same.”

What was the task of the Convention?

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Morris and Randolph confront the question:

The propositions of Mr. RANDOLPH which had been referred to the Committee being taken up. He moved on the suggestion of Mr. G. Morris, that the first of his propositions to wit "Resolved that the articles of Confederation ought to be so corrected & enlarged, as to accomplish the objects proposed by their institution; namely, common defence, security of liberty & general welfare:" -should be postponed, in order to consider the 3 following:

1. that a Union of the States merely federal will not accomplish the objects proposed by the articles of Confederation, namely common defence, security of liberty, & genl. welfare.
2. that no treaty or treaties among the whole or part of the States, as individual Sovereignties, would be sufficient.
3. that a national Government ought to be established consisting of a supreme Legislative, Executive & Judiciary.

The motion for postponing was seconded by Mr. Govr. MORRIS and unanimously agreed to.

....

On the question as moved by Mr. Butler, on the third proposition it was resolved in Committee of the whole that a national governt. ought to be established consisting of a supreme Legislative Executive & Judiciary." Massts. being ay-Connect.-no. N. York divided [Col. Hamilton ay Mr. Yates no] Pena. ay. Delaware ay. Virga. ay. N. C. ay. S. C. ay.

How do we know what happened?

The Official Journal

The Official Journal of the Convention kept by William Jackson as secretary

- A “carelessly kept” record of debate or a faithful record of the negotiated text?
- Procedure: revision of document via line-by-line readings and collective redrafting
 - Formality provides clarity
 - Successive redrafting ensures every substantive issue is discussed at least three times
- What was the function of the secretary?
 - What has been proposed?
 - What has been agreed?
 - What would be the effect of a proposal?
- Entrusted to Washington in 1787 and deposited with Congress in 1796

How do we know what happened?

Personal Notes of the Delegates

Madison's Notes of the Debates

- A personal journal with summaries of speeches, tallies of votes, and a record of resolutions
- Later edited in the 1790s - extent of changes is contested
- Sold to Congress in 1837; published in 1840

Notes of other delegates, including Yates, Hamilton, Paterson, Martin, et al.

What happened in the Convention?

The Actors and the Action

- 12 delegations (59 people): George Washington, James Madison, Gouverneur Morris, James Wilson, Benjamin Franklin, Alexander Hamilton, George Mason, William Paterson, Oliver Ellsworth, Edmund Randolph, Luther Martin, et al.
- Met between 14th May and 17th September 1787
- In total considered around 80 separate documents
- Around 1016 paragraphs and amendments considered
- Split discussion into 14 separate committees (including the plenary session and the 'committee of the whole')
- Around the same number of decisions taken

What happened in the Convention?

The Plot

- Preface: The Rules Committee ([s6286](#))
- Act I: The Randolph/Virginia Plan proposed, debated, and amended ([s6200](#))
 - In committee of the Whole: 30 May to 13 June ([s6288](#))
 - Challenged by Paterson/New Jersey Plan and Hamilton Plan: 15-18 June
 - Debated in plenary session: 19 June to 26 July
- Act II: The Committee of Detail: 26 July to 5 Aug (Wilson, Randolph, Rutledge et al.)
- Act III: Committee of Detail's draft debated/amended: 6 Aug to 17 Sept
 - Committee on Style (G. Morris et al.)

What happened in the Convention?

Mapping the negotiated text

