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## Constitution Day, 2007

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# Constitution Day 2007

*Prepared by Robert Berry, Research Librarian, Sacred Heart University*

The Constitution that we honor today was preceded by an extended effort by the states—and by their delegates—to identify foundational principles appropriate to a new government. These principles would have to allow the states to act collectively and decisively in their common interest, while forestalling tyranny.

The arduous process of reaching agreement over, first, the Articles of Confederation, and subsequently the Constitution, is worth recalling. Records of these debates have been preserved and provide a vital link to the past, deepening our understanding of the Founders, the times in which they lived, and the principles they struggled to refine. These records provide a window onto the process of creating a new type of government and the intrinsic difficulty of balancing power.

There were, of course, many intriguing ideas discussed by the delegates to the Continental Congress and, later, to the Constitutional Convention. Benjamin Franklin's draft Articles of Confederation for "The United Colonies of North America" would, for instance, have created a comparatively weak federation that was largely a military alliance with a common treasury.<sup>1</sup>

On June 11, 1776 the Continental Congress appointed a committee composed of Josiah Bartlett, John Dickerson, Edward Rutledge, and others to work on revising the draft Articles.<sup>2</sup> In considering and revising the "Dickerson Draft" the delegates were seeking a structure through which the states—now no longer colonies, but fully sovereign foreign governments—might modify some of their

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<sup>1</sup> "Franklin's Articles of Confederation," in *Journals of the Continental Congress, 1774-1789* (May 10 to Sept. 20, 1775), ed. Worthington C. Ford et al. (Washington, D.C., 1904-37), 2:195-199.

<sup>2</sup> "Draft Articles of Confederation," in Smith, Paul H., et al., eds. *Letters of Delegates to Congress, 1774-1789* (June 17 – July 1, 1776) (Washington, D.C.: Library of Congress, 1976-2000), 4:251.

sovereign powers to create a federation. The final version of the Articles, ratified on March 1, 1781,<sup>3</sup> provided a basic framework for federalism. The external powers of sovereignty—such as war-making and diplomacy—would reside in the United States. The residual powers of government would remain with the states, as the first article made clear:

### **Article I**

**Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.**

The Founders soon became aware of a number of “defects” in the system of government they had devised. Max Farrand, a preeminent scholar of constitutional history, explained that some of the delegates to the Constitutional Convention had begun to feel that the states were too powerful under the Articles. They felt that there needed to be a stronger central government to administer interstate and foreign relations, “to maintain a stable currency,” to “punish piracy ... on the high seas”, to “maintain an effective army and navy” and a host of other concerns that the delegates had come to see as “federal” matters.<sup>4</sup>

Some delegates also felt that the Articles’ placement of “legislative, executive and judicial powers in one body” needed revision. There should be a separate executive body and an “organized federal judiciary.” Congress should, some delegates believed, be made up of “two houses.”<sup>5</sup>

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<sup>3</sup> “Letter of Samuel Huntington to the States,” in Smith, Paul H., et al., eds. *Letters of Delegates to Congress, 1774-1789* (March 2, 1781), 17:5.

<sup>4</sup> Max Farrand, “The Federal Constitution and the Defects of The Confederation.” *The American Political Science Review*, 2, No. 4 (1908): 535-36.

<sup>5</sup> *Ibid.*, 536.

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As delegates to the Convention continued to work out the details of a new structure for government, the issue of the states' representation in Congress became a sticking point. One position emerged on May 29, 1787 when Virginia's Edmund Randolph presented resolutions to the Convention.

These resolutions envisioned a "National Legislature" consisting of "two branches." "[R]ights of suffrage" in both branches would "be proportioned to the Quotas of contribution, or to the number of free inhabitants,"<sup>6</sup> meaning that the number of votes a state had in both houses would be proportionate to that state's population. Under this system, the "Virginia plan," large states would have more votes in the National Legislature than small states. New Jersey's William Paterson warned that under this plan Virginia would have 16 votes, whereas Georgia would have but one.<sup>7</sup>

On June 15, 1787 Paterson presented an opposing plan—"The New Jersey Plan"—under which the National Legislature would continue to consist of one house with each state having a single vote, as had been the case under the Articles.<sup>8</sup> As Wilbur Cross, Governor of Connecticut, observed in his 1937 Constitution Day address, debate over the opposing plan grew bitter, until relief came when "the Connecticut delegation projected a compromise."<sup>9</sup>

In that compromise—the "Connecticut Plan"—representation in a first Branch of the legislature would be proportionate to

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<sup>6</sup> *The Records of the Federal Convention of 1787*, Max Farrand, ed. (May 29, 1787) (New Haven, Yale University Press, 1966), 1:20.

<sup>7</sup> *The Records of the Federal Convention of 1787* (June 16, 1787), 1:259.

<sup>8</sup> *The Records of the Federal Convention of 1787* (June 15, 1787), 1: 243.

<sup>9</sup> *Connecticut. Constitution Day, 1937. Being the Text of the Address given in honor of the One Hundred and Fiftieth Anniversary of the Signing of the Constitution of the United States of American held in Hartford, Connecticut, September 17, 1937, Supreme Court-State Library Building* (Hartford, The State, 1937): 8-9.

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population, whereas “in the second Branch of the Legislature of the United States each state shall have an equal vote.”<sup>10</sup>

The basic design for representation reflected in the Connecticut Compromise was just one of many ingenious mechanisms for balancing power reflected in the Constitution. The efforts of the delegates produced a masterpiece. This is reflected in the elegance of the document’s design and also in the fact Constitution provided a strong and enduring foundation for American government. Franklin Roosevelt acknowledged this in his 1937 Constitution Day address. Given at a time when economic hardship and the rise of fascism were pressing on the minds of Americans, Roosevelt reminded Americans of the Constitution’s sturdiness and the capacity of its principles to withstand innumerable challenges:

The men who wrote the Constitution were the men who fought the Revolution. They had watched a weak emergency government almost lose the war, and continue economic distress among thirteen little republics, at peace but without effective national government.

So when these men planned a new government, they drew the kind of agreement which men make when they really want to work together under it for a very long time.

For the youngest of nations they drew what is today the oldest written instrument under which men have continuously lived together as a nation.<sup>11</sup>

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<sup>10</sup> *The Records of the Federal Convention of 1787* (July 16, 1787), II: 13-14.

<sup>11</sup> Franklin D. Roosevelt, “‘The Constitution of the United States Was a Layman’s Document, Not a Lawyer’s Contract.’ Address on Constitution Day, Washington, D.C. September 17, 1937.” *The Public Papers and Addresses of Franklin D. Roosevelt* (New York: Random House, 1938-), 1937: 362.