



CENTER FOR THE STUDY OF THE AMERICAN CONSTITUTION

csac.history.wisc.edu > Document Collections > Constitutional Debates: Federalist and Antifederalist Essays > The Debate Over the Nature of Union and Republican Government > State Sovereignty and Union

Edmund Pendleton Speech: Virginia Convention 5 June 1788 (excerpt)

. . . But an objection is made to the form: The expression *We, the people*, is thought improper. Permit me to ask the Gentleman [Patrick Henry], who made this objection, who but the people can delegate powers? Who but the people have a right to form Government? The expression is a common one, and a favorite one with me: The Representatives of the people, by their authority, is a mode wholly inessential. If objection be, that the Union ought to be not of the people, but of the State Governments, then I think the choice of the former, very happy and proper. What have the State Governments to do with it? Were they to determine, the people would not, in that case, be the judges upon what terms it was adopted.

But the power of the Convention is doubted. What is the power? To propose—not to determine. This power of proposing was very broad; it extended to remove all the defects in government: The members of that Convention were to consider all the defects in our General Government: Were not confined to any particular plan. Were they deceived? This is the proper question here. Suppose the paper on your table dropt from one of the planets;—the people found it, and sent us here to consider whether it was proper for their adoption: Must we not obey them? Then the question must be, between this Government and the Confederation: The latter is no Government at all. It has been said that it has carried us through a dangerous war to a happy issue. Not that Confederation, but common danger and the spirit of America, were the bonds of our Union: Union and unanimity, and not that insignificant paper, carried us through that dangerous war. “United, we stand—divided, we fall,” echoed and re-echoed through America, from Congress to the drunken carpenter; was effectual, and procured the end of our wishes: Though now forgot by Gentlemen, if such there be, who incline to let go this strong hold, to catch at feathers, for such, all substituted projects may prove.

This spirit had nearly reached the end of its power when relieved by peace: It was the spirit of America, and not the confederation, that carried us through the war: Thus I prove it; the moment of peace shewed the imbecility of the Federal Government: Congress was impowered to make war and peace; a peace they made, giving us the great object independence, and yeilding us a territory that exceeded my most sanguine expectations; unfortunately a single disagreeable clause, not the object of the war, has retarded the performance of the treaty on our part. Congress could only recommend its performance, not enforce it: Our last Assembly (to their honor be it said) put this on its proper ground;—on honorable grounds;—it was as much as they ought to have done: This single instance shews the imbecility of the confederation: The debts contracted

by the war were unpaid; demands were made on Congress: All that Congress was able to do, was to make an estimate of the debt, and proportion it among the several States:—They sent on the requisitions from time to time, to the States, for their respective quotas: These were either complied with partially, or not at all: Repeated demands on Congress distressed that honorable body, but they were unable to fulfil those engagements which they so earnestly wished: What was the idea of other nations respecting America? What was the idea entertained of us by those nations to whom we were so much indebted? The inefficacy of the General Government, warranted an idea, that we had no Government at all. Improvements were proposed, and agreed to by twelve States, but were interrupted, because the little State of Rhode-Island refused to accede to them: This was a further proof of the imbecility of that Government: Need I multiply instances to shew that it is wholly ineffectual for the purposes of its institution: Its whole progress since the peace proves it. Shall we, then, Sir, continue under such a Government, or shall we introduce that kind of Government which shall produce the real happiness and security of the people? When Gentlemen say, that we ought not to introduce this new Government, but strengthen the hands of Congress, they ought to be explicit: In what manner shall this be done? If the Union of the States be necessary, Government must be equally so; for without the latter, the former cannot be effected. Government must then have its complete powers, or be ineffectual: Legislative to fix rules, impose sanctions, and point out the punishment of the transgressors of these rules,—an Executive to watch over officers and bring them to punishment,—a Judiciary to guard the innocent, and fix the guilty, by a fair trial: Without an Executive, offenders would not be brought to punishment: Without a Judiciary, any man might be taken up, convicted and punished, without a trial. Hence the necessity of having these three branches. Would any Gentleman in this Committee agree to vest these three powers in one body, Congress? No.—Hence the necessity of a new organization and distribution of those powers. If there be any feature in this Government which is not republican, it would be exceptionable: From all the public servants, responsibility is secured, by their being Representatives, mediate or immediate, for short terms, and their powers defined. It is on the whole complexion of it, a Government of laws, not of men: But it is represented to be a consolidated Government annihilating those of the States; a consolidated Government, which so extensive a territory as the United States, cannot admit of, without terminating in despotism: If this be such a Government, I will confess with my worthy friend [George Mason], that it is inadmissible, over such a territory as this country. Let us consider whether it be such a Government or not: I should understand a consolidated Government to be that which should have the sole and exclusive power, Legislative, Executive, and Judicial, without any limitation: Is this such a Government? Or can it be changed to such a one? It only extends to the general purposes of the Union. It does not intermeddle with the local particular affairs of the States. Can Congress legislate for the State of Virginia? Can they make a law altering the form of transferring property, or the rule of descents in Virginia? In one word, can they make a single law for the individual exclusive purpose of any one State? It is the interest of the Federal to preserve the State Governments; upon the latter, the existence of the former depends: The Senate derives its existence immediately from the State Legislatures; and the Representatives and President are elected under their direction and controul: They also preserve order among the citizens of their respective States, and without order and peace, no society can possibly exist. Unless therefore, there be State Legislatures, to continue the existance of Congress, and preserve

order and peace among the inhabitants, this General Government which Gentlemen suppose will annihilate the State Governments, must itself be destroyed: When therefore the Federal Government is in so many respects so absolutely dependent on the State Governments, I wonder how any Gentleman reflecting on the subject, could have conceived an idea of a possibility of the former destroying the latter. But the power of laying direct taxes is objected to. Government must be supported; this cannot be done without a revenue: If a sufficient revenue be not otherwise raised, recurrence must be had to direct taxation: Gentlemen admit this, but insist on the propriety of first applying to the State Legislatures. Let us consider the consequence that would result from this: In the first place, time would be lost by it: Congress would make requisitions in December, our Legislature do not meet till October; here would be a considerable loss of time, admitting the requisitions to be fully complied with: But suppose the requisitions to be refused; would it not be dangerous to send a collector, to collect the Congressional taxes, after the State Legislature had absolutely refused to comply with the demands of Congress? Would not resistance to collectors be the probable consequence? Would not this resistance terminate in confusion, and a dissolution of the Union? The concurrent power of two different bodies laying direct taxes, is objected to: These taxes are for two different purposes, and cannot interfere with one another: I can see no danger resulting from this; and we must suppose, that a very small sum more than the impost would be sufficient: But the representation is supposed too small: I confess I think with the Gentleman who opened the debate, (Mr. Nicholas) on this subject; and I think he gave a very satisfactory answer to this objection, when he observed, that though the number might be insufficient to convey information of necessary local interests to a State Legislature; yet it was sufficient for the Federal Legislature, who are to act only on general subjects, in which this State is concerned in common with other States. The apportionment of representation and taxation by the same scale is just: It removes the objection, that while Virginia paid one sixth part of the expences of the Union, she had no more weight in public counsels than Delaware, which paid but a very small proportion: By this just apportionment she is put on a footing with the small States, in point of representation, and influence in counsels: I cannot imagine a more judicious principle than is here fixed by the Constitution: The number *shall not exceed* one for every 30,000. But it is objected that the number *may be* less. If Virginia sends in that proportion, I ask, where is the power in Congress to reject them? States might incline to send too many; they are therefore restrained: But can it be doubted, that they will send the number they are intitled to? We may be therefore sure, from this principle unequivocally fixt in the Constitution, that the number of our Representatives shall be in proportion to the increase or decrease of our population. I can truly say, that I am of no party, nor actuated by any influence, but the true interest and real happiness of those whom I represent; and my age and situation, I trust, will sufficiently demonstrate the truth of this assertion: I cannot conclude, without adding that I am perfectly satisfied with this part of the system.

CITE AS: John P. Kaminski et al., eds., *The Documentary History of the Ratification of the Constitution*, Vol. IX: Virginia [2] (Madison, Wis.: Wisconsin Historical Society Press, 1990), 945–49.