



*Why America is Great:*  
**To Form a More Perfect Union**

**Volume V**

## To Form a More Perfect Union

*“It is much easier to pull down a government, in such a conjuncture of affairs as we have seen, than to build up, at such a season as the present.”*

—John Adams to James Warren, 1787<sup>1</sup>

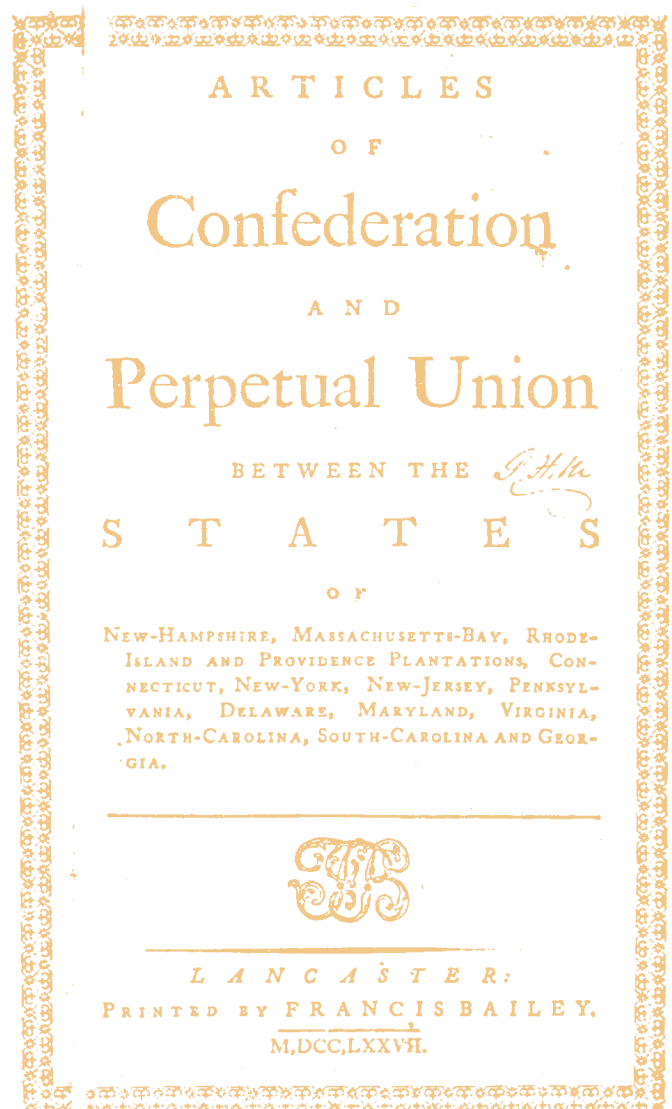
In the autumn of 1781, a young courier on horseback brought word to the Congress that the British had surrendered at Yorktown. After years at war, the 13 struggling, disparate American colonies had dealt a decisive blow to the most powerful military in the world. But the delegates, after hearing the thrilling news, had to take up a collection to pay for the courier’s services. They would have paid him from the treasury except that, at the moment, the nation’s coffers did not contain enough to cover the man’s costs.<sup>2</sup>

The omen boded ill for the young republic. Americans were discovering that they had a long journey ahead of them. Securing independence from Britain was not going to be enough. In order to preserve their newly found freedom, the states had to be united—and they had to have a solid, working government. Americans had claimed the rights of life, liberty, and the pursuit of happiness. But now they had to establish a government both strong enough to *preserve* those rights and balanced enough to let them freely flourish.

## Ripe for Dissolution

Back in 1776, after declaring independence, Congress faced the daunting task of quickly assembling a government—a government for a nation at war. It took Congress nearly a year and a half to agree on a plan, and another two years for the colonies to ratify it. The plan, called the Articles of Confederation, allowed the 13 colonies to operate like small, independent countries, united only in a loose coalition. This was out of necessity—up until the Revolution, the states had been accustomed to operating separately from one another. Each state had its own charter, traditions, and political history. Each had different industries and commercial priorities. Most colonists didn’t even think of themselves as “Americans,” but as “Pennsylvanians,” “New Yorkers,” or “Virginians.”

These strong local loyalties heavily influenced the writing of the Articles. Congress knew that in order to obtain the states’ consent for the new plan they would have to tip the scales of power in the states’ favor. Article II of the final draft read: “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.”<sup>3</sup> Practically speaking, this gave the states executive power. The central government, embodied in Congress, was limited to governing the country through the 13 state legislatures. And while Congress remained the central body, it had very little real power.



This system carried the young nation through the revolution. But when the war ended, the “firm league of friendship” rapidly unraveled as the states turned their attention inward. And without the states’ cooperation, Congress was powerless to collect taxes, muster troops, or regulate commerce. States quarreled over tariffs and territorial boundaries. Some began building their own armies and navies. “Our whole system is in disorder,” lamented Alexander Hamilton, who was working as Receiver of Continental Taxes.<sup>4</sup> “It is neither fit for war or peace.... Held together by the slenderest ties, we are ripening for a dissolution.”<sup>5</sup> Americans began to see that the urgency of war, rather than the Articles, had fashioned the temporary bond between the states. This bond survived only as long as the British threat.

Why did the Articles of Confederation fail? In the months following the war, several flaws came to light. First, the government did not have a clear executive. Many Americans, skittish of a strong central government after their experiences under Great Britain, preferred to concentrate power in their state legislatures. And the state legislatures—very unwilling to compromise their authority, traditions, or interests—resisted efforts to establish a strong national body. Of course, those same interests also made the states very unwilling to work with each *other*. When conflicts arose between the states, Congress could do very little to resolve them.

A second flaw, originating in the first, was Congress’s inability to levy taxes. The country was deeply in debt by the end of the war, but Congress had no practical means for generating revenue. It could only *request* that the states contribute their share to the national treasury. The states that complied were often late in sending their dues; some refused to pay at all. Without revenue, the government was incapable of promoting commerce, establishing credit, or defending the new country’s vulnerable borders. Congress pleaded with the states to grant her greater powers of taxation, but the states could never achieve the unanimity required to amend the Articles.

A third fundamental flaw was the confederation’s inability to confront external threats. Despite its recent victory against England, America was still susceptible to foreign encroachment. The British not only possessed Canada but also maintained military posts throughout the northeastern frontier. The Spanish were eager to expand their settlements northward from Florida. At various times they provoked Native American tribes into harrying American settlers, so much so that Georgia, at one point, was forced to invoke martial law.<sup>6</sup> Congress was expected to address such challenges, but it could not depend on assistance from the states. While each state was technically required to provide a quota of troops for the national defense, state legislatures were unwilling to risk the lives of their citizens (or spare manpower) for a weak and unpopular central government. Congress’s impotence also weakened America’s reputation abroad. The nation’s credit was shaky, and other countries were leery of negotiating with American ambassadors.

The weakness of the confederation also had serious implications for domestic policy. Without a strong central government to check their power, state-level leaders misused their authority. Faced with a post-war economic depression, state legislatures imposed high tariffs on importations from other states. Small states such as Delaware and Connecticut felt economically exploited by their more heavily populated neighbors like New York and Massachusetts. Many states issued their own currencies, printing huge amounts of almost worthless paper money in an attempt to boost their sagging economies. The resulting inflation was so severe in some states that creditors fled from those who owed them. Rhode Island legislators passed regulations deliberately designed to line their pockets, earning them the nickname “Rogue Island.”<sup>7</sup>

The final crisis came when bands of farmers, deeply in debt, began marching on state legislatures and courthouses. The largest of these insurrections, Shays’ Rebellion, erupted in Massachusetts in the fall of 1786. Former Revolutionary War captain Daniel Shays led a crowd of protestors in running

judges out of the state Supreme Court building. The Massachusetts legislature lacked the resources to respond and appealed to Congress for help. But Congress had no resources either. A few months later, when Shays and a host of over 1,000 tried to seize an arsenal, the state was forced to rely on a privately funded militia to disperse the mob. Shaken by the incident, Americans began to realize that complete weakness in the central government spelled weakness for them all. While extreme centralization could lead to tyranny, extreme decentralization could lead to chaos. In order to survive, America needed to make dramatic changes.

### **To Another Convention, with Dragging Feet**

The idea for a national convention to resolve the country's difficulties came from James Madison, a young statesman in the Virginia Assembly. In the spring of 1785, he orchestrated a meeting between Virginia and Maryland to settle a dispute over control of the Potomac River. Delegations from both states met at General George Washington's estate, Mount Vernon, to discuss the issue at hand. The gathering was cordial and productive; the parties not only reached consensus over the Potomac, but also patched up trade disagreements between the two states. Encouraged by this success, Madison suggested a larger assembly of states to settle outstanding commercial conflicts. The following year, a modest convention met in Annapolis, Maryland. Though attended by only a dozen delegates from five states, the Annapolis Convention made an important move. The delegates passed a resolution to summon representatives from all 13 states to address the country's critical condition. Congress authorized the proposal.

Despite the urgent need for such an assembly, the states were slow to respond. When the Convention opened on May 14, 1787, representatives from only two states, Pennsylvania and Virginia, were present. It was two weeks before the assembly achieved quorum. Months would pass before some delegates arrived. The Georgian delegation was delayed on their 800-mile trek north. New Hampshire did not have enough money to send representatives until August. Rhode Island outright refused to send a delegation.<sup>8</sup> But those who eventually did come—55 in all—were at the top of their class politically and intellectually. Over three-fourths had served in the Continental Congress, and several had sat in their respective state assemblies. Eight had signed the Declaration of Independence and seven had served as governors. Some—most notably General Washington, who was elected president of the Convention—had fought in the Revolutionary War. And still others had helped write their state constitutions—experience that was to prove crucial in the days to come.

### ***National, Not Merely Federal***

Most representatives came to the Convention expecting to simply revise the Articles of Confederation. But others, notably Madison and Edmund Randolph of Virginia, along with Alexander Hamilton of New York, had different plans. For some time, these men had been writing, speaking, and debating with their peers on the need for an entirely *new* form of government. While they agreed with many of the *principles* enshrined in the Articles, they believed the confederate system was too weak to uphold them. They knew a loose association of 13 “sovereigns” would not survive, and that a government that communicated only with *state legislatures* could not long preserve the liberty of *individual citizens*. The only solution to the crises at hand was to devise a central government that was tied directly to the people, and that was strong enough to act on their behalf.



Madison, Randolph, and Hamilton came prepared. On the morning of May 29, shortly after the Convention opened, Randolph rose and presented to the assembly a new plan of government, encapsulated in 15 “resolves.” This document, later called the Virginia Plan, was to set the stage for the Convention’s historic work. The plan described a government in which power was divided between three separate branches: legislative, executive, and judicial. It also provided for a bicameral (two-branch) legislature, with one house elected by the people and the other elected by the first house.

When Randolph sat down, the house was silent. Most of the delegates had come to the Convention expecting to hear creative proposals, but this plan had sweeping implications.<sup>9</sup> To some delegates, especially those from smaller states, the thought of surrendering state sovereignty to a central government was a bad as returning to British rule. And Randolph added an even deeper twist to the matter as the week progressed. On the morning of May 30, he proposed to alter the wording of the Virginia Plan’s first resolution. As it stood, the resolution proposed that the Articles be “corrected and enlarged” to more effectively fulfill their role. But now let it read, he said, “that a Union of the States *merely federal* will not accomplish the objects proposed by the articles of Confederation,” and “that a *national* Government ought to be established consisting of a supreme Legislative, Executive & Judiciary.”<sup>10</sup>

Every delegate present understood the dramatic import of such a suggestion. A *federal* system, which the Articles embodied, was a loose compact between its members. It rested merely upon the “good faith” of the states, trusting them to defend each other and sacrifice their own interests for the good of the whole. The Articles had demonstrated exceptionally the feebleness of such a system. Yet the alternative, a *national* government, made small-state men shake in their boots. “National” conjured up images of a strong, impersonal, faraway central government, both unable and unwilling to sympathize with the needs of its smaller subjects. How would the small states compete with their larger neighbors for the attention of a national government?

The small-state men challenged the new wording. What, exactly, was meant by a “national” government? “[I]n all communities there must be one supreme power, and one only,” responded Gouverneur Morris of Pennsylvania. While a federal system could act only *through* the states, he said, an effective national government had “a compleat and compulsive operation” over them.<sup>11</sup>

These were strong words. Roger Sherman of Connecticut acknowledged that the Articles had, indeed, proven themselves deficient in many respects, but he did not consider it prudent to start dismantling the present system. After all, establishing a “compleat and compulsive” central government would entail dramatic changes. In what manner, for example, would the people be represented under this new arrangement?

In answer to this query, the delegates consulted Resolve 2 of the Virginia Plan: “[T]he rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of



free inhabitants.” George Read of Delaware declared that his state had forbidden him to vote any modification to the current “rule of suffrage,” which gave the states equal representation.<sup>12</sup> If the Convention put forth a vote on this subject, he said, Delaware might be forced to quit the assembly. Alarmed at the prospect of losing its fragile quorum so early in the proceedings, the house voted to adjourn for the day to permit liberal discussion.

The free afternoon and evening gave the members a chance to clear their heads and ponder the issues at hand. Certainly, none of them were unaccustomed to political wrangling; every member at the Convention brought with him years of experience. In addition, every man knew that the nation’s adversaries were powerful and menacing. Indeed, word from abroad was not encouraging. John Adams, serving as ambassador in London, had recently sent word that British ministers refused to negotiate with the confederation, believing its future too uncertain.<sup>13</sup>

Perhaps these harsh realities weighed upon the delegates’ minds as they reconvened the following day. Something must have impressed them, for even the small-state men seemed suddenly open to discussion of a national government. Almost immediately after the president opened the session, the Convention passed a resolve establishing a bicameral legislature, consisting of a House of Representatives and a Senate. This measure required little debate; even though the Articles had appointed only one legislative body, almost every state legislature contained two houses.

### **The Matter of Representation**

However, talk then turned to the mode of election for these two assemblies. Under the Articles, members of Congress were appointed by the state legislatures. In contrast, the Virginia Plan prescribed *popular* election for the House, and election *by* the House for the Senate, thereby eliminating state legislatures from the entire elective process. Sherman protested that this gave too much power to the public. “The people immediately should have as little to do as may be about the Government,” he said. “They want [for] information and are constantly liable to be misled.”<sup>14</sup> Elbridge Gerry, whose native Massachusetts had so recently suffered at the hands of “the people” in Shays’ Rebellion, heartily agreed. “The evils we experience flow from the excess of democracy. The people do not want virtue, but are the dupes of pretended patriots.”<sup>15</sup> George Mason of Virginia rebuffed both of them, arguing that a branch drawn directly from the people would identify with the people’s needs more readily than an assembly chosen by their politicians. James Madison agreed, saying that he “considered the election of one branch of the National Legislature as essential to every plan of free Government.”<sup>16</sup> He acknowledged Gerry’s fears of popular ignorance, but considered it vital to the strength of the republic that at least one legislative body be chosen directly by the people. Mason and Madison’s arguments must have satisfied enough of the small-state men, for the assembly proceeded to pass the resolution on popular election for the House.

Over the next two weeks, the Convention moved from one topic to the next, arguing over everything from a congressional veto on state laws to government salaries. Although



THE SENATE CHAMBER IN 1800.

the sessions were long and the debates seemingly interminable, the delegates were able to achieve consensus on a remarkable number of issues. By mid June, the small states had even won the fight to give state legislatures control over senatorial elections. However, once they achieved this victory, they grew more demanding. Concerned that proportional representation would sap their power against the large states, they began to insist upon equal representation not only in the Senate but also in the House. Under a system of proportional representation, said David Brearley of New Jersey, the three most populated states—Virginia, Pennsylvania, and Massachusetts—would effectively dictate policy for the other ten. “Judging of the disparity of the States by the quota of Congress,” he said, Virginia, for example, “would have 16 votes, and Georgia but one.”<sup>17</sup> Wouldn’t this allow the large state to tyrannize the smaller?

The small states were defending familiar territory. Under the Articles of Confederation, each state had exercised a single vote in Congress. Armed with this precedent, the small-state men emphasized the need to preserve the confederate model. Indeed, many states had specifically commissioned their representatives only to *revise* the Articles. William Patterson of New Jersey warned against transgressing such boundaries, “or we should be charged by our Constituents with usurpation.”<sup>18</sup> The small states, rallying behind Patterson, decided to prepare an alternative to the Virginia Plan.

When the assembly met again on June 15, Patterson presented to the Convention a nine-point *revision* of the Articles of Confederation. The proposal, called the New Jersey Plan, preserved the independence of the states from a central government. Where the Virginia Plan appointed a bicameral legislature, a single executive, and proportional representation, the New Jersey Plan proposed a *single* legislative body, a *plural* executive, and *equal* representation. The Virginia Plan designed a government that operated directly upon the people; the New Jersey Plan, a government that worked through the state legislatures.

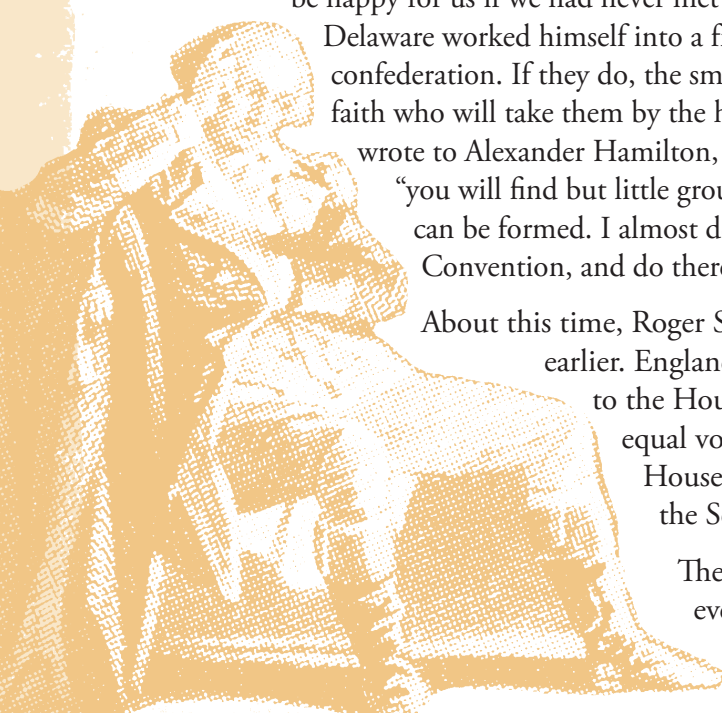
Unfortunately for the small states, they had waited too long to make their case. By this time, many of the delegates were convinced that the Articles needed to be replaced by a stronger system. The Convention debated the New Jersey Plan for only two days before Madison trounced it in a long speech and the body voted it down. But the small states refused to surrender their fight for equal representation. Likewise, the large states would not give up on proportionate representation.

As the days passed, compromises were repeatedly rejected; debate turned into diatribe. Jonathan Dayton of New Jersey called the Virginia Plan “an amphibious monster.”<sup>19</sup> John Dickinson of Pennsylvania snapped, “if the General Government should be left dependent on the State Legislatures, it would be happy for us if we had never met in this room.”<sup>20</sup> Small-state defender Gunning Bedford of

Delaware worked himself into a frenzy. “The large states,” he warned, “dare not dissolve the confederation. If they do, the small ones will find some foreign ally of more honor and good faith who will take them by the hand and do them justice.”<sup>21</sup> On July 10, George Washington wrote to Alexander Hamilton, who had returned to New York several days previously, “you will find but little ground [here] on which the hope of a good establishment can be formed. I almost despair of seeing a favorable issue to the proceedings of the Convention, and do therefore repent having had any agency in the business.”<sup>22</sup>

About this time, Roger Sherman repeated a suggestion he had made nearly a month earlier. England’s House of Lords, to protect its rights, had a vote equal to the House of Commons. So why shouldn’t the states each have an equal vote in *one* of the houses of the American legislature? Let the House allow votes to each state according to population, but let the Senate permit each state one vote only.<sup>23</sup>

The first time Sherman had advanced this proposal, it wasn’t even taken up for a vote. But over the weeks, as deadlock developed and then persisted, the delegates recalled



the idea and began to see its wisdom. When Sherman broached the subject again, he couched it in more appealing terms, saying that the plan would check both political corruption in the large states and dictatorial tendencies in a band of small states.<sup>24</sup> The Convention debated the matter for a week. Then, almost suddenly, at the opening of business on July 16, the compromise passed with a vote of five states to four, with Massachusetts divided. The deadlock was broken.

In the years to come, members of the assembly would credit the Connecticut Compromise, as it came to be called, with saving the Convention. The delegates still had much to discuss—the appointment of judges, the establishment of tribunals, and the nature of the national executive. But after the struggle over representation, few issues seemed insurmountable. By September, the men had modified the Virginia Plan and transformed it into a constitution. The Convention was, in effect, leading its own revolution. Having waged a war of musket and cannon, America was triumphing in a more unique struggle of fashioning its own identity. Alexis de Tocqueville later described this achievement in his own words:

[W]hat is new in the history of societies is to see a great people, warned by its legislators that the wheels of the government are stopping, turn its regard on itself without haste and fear, sound the depth of the ill, contain itself for two entire years in order to discover the remedy at leisure, and when the remedy is pointed out, submit voluntarily to it without its costing humanity one tear or drop of blood.<sup>25</sup>

## Endnotes

- 1 Catherine Drinker Bowen, *Miracle at Philadelphia: The Story of the Constitutional Convention, May to September 1787* (Boston and Toronto: Little, Brown and Company, 1966), 3.
- 2 *Ibid.*, 5.
- 3 *Articles of Confederation*, Art. 2.
- 4 Alexander Hamilton, “The Continentalist No. III” in *N.Y. Packet*, 9 August 1781, in *Alexander Hamilton and the Founding of the Nation*, ed. Richard B. Morris (New York: Dial Press, 1957), 83.
- 5 Alexander Hamilton to James Duane, 3 September 1780, in *Alexander Hamilton and the Founding of the Nation*, ed. Richard B. Morris (New York: Dial Press, 1957), 92-93.
- 6 Bowen, 31.
- 7 *Ibid.*, 13.
- 8 *Ibid.*, 12, 13, 17.
- 9 *Ibid.*, 38.
- 10 Madison Debates, May 30, 1787; accessed online at The Avalon Project, Yale Law School, Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/debates\\_530.asp](http://avalon.law.yale.edu/18th_century/debates_530.asp). Emphasis added.
- 11 Madison Debates, May 30, 1787; accessed online at The Avalon Project, Yale Law School, Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/debates\\_530.asp](http://avalon.law.yale.edu/18th_century/debates_530.asp).
- 12 *Ibid.*
- 13 Bowen, 26.
- 14 Ralph Ketcham, ed., *The Anti-Federalist Papers and the Constitutional Convention Debates* (New York: Mentor, 1986), 39.
- 15 *Ibid.*, 39-40.
- 16 *Ibid.*, 41.
- 17 Madison Debates, June 9, 1787; accessed online at The Avalon Project, Yale Law School, Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/debates\\_609.asp](http://avalon.law.yale.edu/18th_century/debates_609.asp).
- 18 *Ibid.*
- 19 Bowen, 130.
- 20 *Ibid.*, 185.
- 21 *Ibid.*, 131.
- 22 *Ibid.*, 140.
- 23 Madison Debates, June 11, 1787; accessed online at The Avalon Project, Yale Law School, Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/debates\\_611.asp](http://avalon.law.yale.edu/18th_century/debates_611.asp).
- 24 Madison Debates, July 7, 1787; accessed online at The Avalon Project, Yale Law School, Lillian Goldman Law Library, [http://avalon.law.yale.edu/18th\\_century/debates\\_707.asp](http://avalon.law.yale.edu/18th_century/debates_707.asp).
- 25 Alexis de Tocqueville, *Democracy in America*, trans. and ed. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 106.



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