

Chapter 18 -- Compromises Reached On Congressional Power And Slavery



Dates:
1787

Sections:

- An Enumerated List Of Powers Is Approved For The Congress
- Nagging Divisions Over Slavery Persist

Time: August 6, 1787

An Enumerated List Of Powers Is Approved For The Congress



By the end of July the delegates begin to sense that what they set out to do back in May might actually be within their reach. A whole new government, still respectful of each state's sovereignty, but bound together by a central authority dedicated to the common good for all.

The time has come for the many lawyers in the room to worry about the fine print – especially codifying the exact powers of the new Congress they intend to create. The “Virginia Plan” simply assigns it “any tasks the States are incompetent to do.”

This “left-overs” definition is far too vague for the delegates, and on July 26 they create a “Committee of Detail” to enumerate the powers one by one.

A Colonial Magistrate

This very powerful group is chaired by John Rutledge of South Carolina, known to colleagues as “the Dictator” for his dual role during the war as Governor of his state and Commander-in-Chief of its military forces. He is joined by Edmund Randolph of Virginia, Oliver Ellsworth of Connecticut, James Wilson of Pennsylvania and Nathaniel Gorham of Massachusetts.

After a two week adjournment, the committee reports out on August 6, including a list of about thirty specific recommendations. Edmund Randolph, who authored the “Virginia Plan,” also crafts this

document. In a Preamble, he expresses his hope that each power is clear as written and yet flexible enough to accommodate external change. Thus his stated goals:

1. To insert essential principles only; lest the operations of government should be clogged by rendering those provisions permanent and unalterable, which ought to be accommodated to times and events: and
2. To use simple and precise language, and general propositions, according to the example of the constitutions of the several states.¹

Front and center in the list is assigning the “power of the purse” to the new Congress. Instead of the futile reliance on “voluntary State donations” under the Thirteen Articles, the House is authorized:

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare; but all Duties, Imposts and Excises shall be uniform throughout the U.S.

Delegates, however, remain very aware of America’s visceral opposition to burdensome taxes, tracing from the Boston Tea Party to Shay’s rebellion.

Thus “direct” taxes on a given person’s income or wealth are ruled out in favor of “indirect” taxes -- “Duties or Imposts” (later called “Tariffs”) on imported or exported goods, and “Excises” aimed mainly at taxing the manufacture, sale or consumption of certain goods (e.g. spirits).

Another important financial change gives Congress the power:

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures.

This takes control of the money supply out of the hands of State banks (with their often grossly inflated “bills of credit” printed locally) and places it at the Federal level.

A third proposal relates to war powers:

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

The enumeration goes on, granting Congress the authority to: raise armies, call forth the militia, build a navy, suppress insurrections, negotiate and enforce treaties, regulate commerce, establish post offices and postal routes, promote science and the arts, issue patents, set up appeals courts, punish counterfeiters and high seas pirates, oversee the naturalization process.

Finally the Federalists slip in one last “catch-all” clause, authorizing Congress to:

Make all laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States.

This “necessary and proper” clause will boomerang after the original Constitution is signed and the Convention adjourns. It will result in a set of ten amendments known as The Bill of Rights, not approved

until December 1791, wherein the Anti-Federalists succeed in reining in the scope and power of the Federal Government.

Time: July to August 1787

Nagging Divisions Over Slavery Persist



"Learning Is Wealth"

While the 3/5ths Clause has enabled the convention to move forward, issues surrounding slavery continue to touch a raw nerve every time they surface.

Southerners are already becoming wary of Northern intentions, and they press hard for three guarantees in the final Constitution:

1. Continuation of the slave trade with Africa until 1808.
2. A promise that Northern states will return fugitive slaves to the South.
3. Iron clad assurance that slavery shall continue over time in America.

Push back materializes on all counts. Gouvernor Morris assails the entire practice of slavery.

I would never concur in upholding domestic slavery.

Maryland's Luther Martin resists the further importation of slaves.

Even the Virginia plantation owner, James Madison, expresses discomfort over the high moral aims of the new government and the suspect ethics of human bondage.

I think it wrong to admit in the Constitution the idea that there could be property in men.

Given these sentiments, it is not by accident that the final Constitution, largely drafted by Madison himself, never once references the word "slavery" in its text.

But the debates prove that dismissing slavery in writing is far easier than resolving it in practice. Just below the outward mask of diplomacy, the two sides remain far apart on the issue.

- The North wishes it could wash its hands of the "African problem," especially since their presence is no longer important to economic progress in the region. Perhaps the new nation, in service to white men, would be best served by turning back the clock and shipping the blacks off to Africa?

- The South rejects this thinking entirely. For better or for worse, the economic well being of its entire region now rests on slavery. The North must recognize this fact as well as its original complicity in supporting slave trading in the first place. If true comity is to prevail within the new government, the North needs support the continuation of slavery, not try to erase its presence.

As John Rutledge of South Carolina puts it:

I would never agree to give a power by which the articles relating to slaves might be altered by the States not interested in that property and prejudiced against it.

Recognizing fundamental impasses here, the delegates continue to search for a temporary truce based on compromises and ground-rules to dampen the conflicts.