

Chapter 12 -- A Convention to Write A New US Constitution Gets Under Way



Dates:
1787

Sections:

- The 1787 Constitutional Convention Opens
- A Host Of Complicated Issues Face The Assembled Delegates

May 14-25, 1787

The 1787 Constitutional Convention Opens



The Constitutional Convention at Independence Hall in Philadelphia is in session for four months, from May 14 to September 17, 1787 – with spotty attendance the norm throughout. Rhode Island boycotts the entire event, infuriating Washington. Delegates from New Hampshire appear nine weeks late. Only two states, Virginia and Pennsylvania, are present on the first day, and a quorum of seven isn't achieved until May 25. Of the 74 men chosen to attend, only 55 ever show up, and less than 30 stay from start to finish.

The 55 delegates who do attend are consistently white males, well-educated, wealthy, and have been active in politics. All have participated in the Revolution – 41 having attended the Continental Congress and 29 having served in the Continental Army. Their careers are diverse: 35 are lawyers (but not all practicing), 14 oversee plantations and slaves, 13 are merchants, 11 are financiers, 7 are land speculators, 4 are doctors, 2 are small farmers, another 2 scientists, and one is a college president. Just over half are slave owners.

At the state level, attendance is well balanced.. Six states are smaller (populations under 300,000) and six are larger. Six are from the North and six are from the mid-to-deep South. Six have very sizable slave populations and six do not.

Composition Of Delegates Who Actually Attend

| North (25) | # Delegates | 1790 Pop (000) | High % Slaves |
|-------------|-------------|----------------|---------------|
| Penn | 8 | 434 | No |
| Mass | 4 | 379 | No |
| NY | 3 | 340 | No |
| Conn | 3 | 238 | No |
| NJ | 5 | 184 | No |
| NH | 2 | 142 | No |
| RI | 0 | 69 | No |
| Border (10) | | | |
| Md | 5 | 320 | Yes |
| Delaware | 5 | 59 | Yes |
| South (20) | | | |
| Va | 7 | 748 | Yes |
| NC | 5 | 394 | Yes |
| SC | 4 | 249 | Yes |
| Ga | 4 | 82 | Yes |

Several prominent figures from prior enclaves are missing from this one, Jefferson and John Adams, serving as ambassadors to Paris and London respectively, along with leading Anti-Federalists such as Sam Adams, John Hancock, Richard Henry Lee, and Patrick Henry.

The work of the convention is thus done by a relatively small number of men with, fair to say, a tilt toward strengthening the hand of the Federal Government vis a vis the individual States. The work is hard and it is contentious. So much so that the delegates agree to operate entirely in closed session – for fear that the acrimony involved in the debates will tear the country apart rather than strengthen its unity.

The “record” of each session is compiled by the unofficial Secretary, James Madison, whose “Notes of Debates in the Federal Convention of 1787” will not be made public until 1840.

Decisions reached by the body are often very close calls, based on horse-trading compromises. Some issues are so divisive they are simply set aside for future generations to resolve. Then comes the need for each State to vote on the agreements. This process is nip and tuck and drags on for over three years, with Rhode Island’s approval in May 1790 and Vermont, as 14th state, agreeing in January 1791.

In hindsight the fact that the Convention actually “institutes a new government” is positively remarkable.

The lion’s share of the credit for this outcome belongs to George Washington, who comes out of retirement to attend, who speaks out on issues only once during the session, but whose reputation for placing the needs of the nation above his own personal preferences sets the standard for the delegates.

Washington is supported throughout by 81 year old Benjamin Franklin who is instrumental in defining the vision and values of the new nation, negotiating disputes among the delegates at the Convention, and codifying the agreements in plain-spoken language. Of all the founding fathers, Franklin alone signs all four documents integral to the Revolution: the Declaration of Independence, the Treaty of Alliance With France, the Treaty of Paris ending the war, and the U.S. Constitution.

In a roomful of 55 strong-willed, often self-interested and hot-tempered delegates, Washington and Franklin act as the two wise men who eventually steer the ship of state into safe harbor.

Time: May 14 – September 17, 1787

A Host Of Complicated Issues Faces The Assembled Delegates

Procedural matters mark the start of the convention. The nation’s “Superintendent of Finance,” Robert Morris of Pennsylvania, nominates Washington to serve as presiding officer. After John Rutledge, the powerful leader of the South Carolina delegation, seconds the nomination, Washington is affirmed unanimously. He will sit at the front of the hall on a raised dais, in an armchair backed with an elaborate carving of a rising sun. He wears his old military uniform, and is addressed through-out as “General Washington.”

Next comes a gentlemen’s pledge to conduct the proceedings in secrecy, doors and windows shut, despite the stifling summer heat -- with some 600 pages of notes captured by Madison, as record keeper.

From there the business of the convention gets under way quickly.

Most of the delegates share Washington’s observation that the Articles of Confederation need to be re-worked, given the hard lessons learned from conducting the war and the financial and economic crises that follow.

But having a shared problem is not the same as arriving at a shared solution.

This will prove especially true for the Anti-Federalists who are present. One who is not, Patrick Henry, goes so far as to declare “I smell a rat” upon learning of the secrecy pledge. His fear, and that of his faction, is that a re-write of the Articles will result in a victory for those who favor an all-powerful centralized government that behaves like the British monarchy – distant from the people, dictatorial in power, taxing and spending at will, totally eroding the sovereign prerogatives of the individual states.

These concerns, voiced most shrilly by the Anti-Federalists, will set the stage for the vigorous debates that occur over the next four months. A host of diverse and important issues will assume center stage at various times:

1. How will authority for governing be split between the Federal vs. State levels?
2. Does the Federal Government need more than just a Legislative branch?
3. How will representation within the Legislature be apportioned across the states?
4. How will the interests of small states vs. larger states be protected in Legislative voting?
5. How will the interests of states with large vs. small slave populations be balanced?
6. How will the rights of any minority groups be protected against the will of the majority?
7. What range of powers will be granted to the Legislative Branch?
8. How will the government be sufficiently funded?
9. Can an Executive Branch be created with enough, but not too much, power?
10. How should the Executive be chosen and for how long a term?
11. What should the Executive’s role be in relation to the military?
12. What checks and balances will exist between the Executive and the Legislature?
13. How will state compliance with federal laws be monitored and assured?
14. Should there be a Judicial Branch created to oversee the legal system?
15. How might such a Judiciary be structured and what powers would it have?

| Sidebar | | |
|--|----------------|--|
| A Short Profile Of Several Less Famous Founding Fathers At Philadelphia | | |
| Name and Age | State | Impact |
| John Dickinson, 54 | Delaware | His “two solar systems” speech clarifies roles of the national government vis a vis the states |
| Oliver Ellsworth, 42 | Connecticut | Input to Connecticut Plan, member of Committee on Detail |
| Elbridge Gerry, 43 | Massachusetts | Challenges South on “counting slaves,” leads Anti-Federalist drive for state legislatures to ratify, refuses to sign |
| William Johnson, 59 | Connecticut | Chairs Committee of Style & Arrangement, input to Conn. Plan, calming influence start to finish |
| Rufus King, 32 | Massachusetts | Serves on Committee of Style & Arrangement |
| Luther Martin, 39 | Maryland | Opposes slave trade, voice for Anti-Federalist faction |
| George Mason, 62 | Virginia | Anti-Federalist who still pushes for supremacy of the people, demands Bill of Rights and second convention, refuses to sign |
| Gouverneur Morris, 35 | Pennsylvania | Aristocratic by birth, a witty debater, makes most motions at convention. Lead author of final Constitution, proposes strong one man President, openly attacks slavery |
| William Patterson, 41 | New Jersey | Authors New Jersey Plan opening several key issues |
| Charles Pinckney, 29 | South Carolina | Only delegate to openly defend the practice of slavery |
| Charles C. Pinckney, 41 | South Carolina | A lead spokesman for the Southern states, later runs for President as a Federalist. |
| Edmund Randolph, 34 | Virginia | Authors key Virginia Plan and Committee on Detail report, calls for a flexible Constitution changing with the times, also amendments, critical role throughout, refuses to sign |
| John Rutledge, 48 | South Carolina | The “Dictator,” famed General during the war and planter. Another key spokesperson for South, Chairman of Committee on Detail, defends need for slavery, supports strong Executive |
| Roger Sherman, 66 | Connecticut | Once a shoemaker, he authors the Enumeration Clause (3/5 th slave count) in support of the Great Compromise, input to Connecticut Plan, strong role in ratification |
| James Wilson, 45 | Pennsylvania | Leads Connecticut Plan with two senators per state enabling the Great Compromise, Committee on Detail, voice for closure, supports equality of new western states |

Note: Hamilton is 30, Madison 36, Washington 55, Franklin 81. Average life expectancy for white males is 38.