

Chapter 8

Local Control vs. National Authority

The Founders came to Philadelphia in order to expand on the powers granted the national government under the Articles of Confederation. They generally agreed that the nation could not survive unless the national government had the power to assess and collect taxes, stop the states from issuing money, stop interstate tariffs, and enforce treaties. Many of the Founders did not wish to stop with these revisions. They sought nearly unlimited powers for the national government, including the power to veto all state laws contrary to the Constitution. Others jealously guarded the rights and powers of the states and feared that the revitalized national government might crush the states which, they felt, were far more responsive to the will of their inhabitants than a large and far-away government could be. What follows is a reconstruction of speeches on this topic given at the Constitutional Convention:



The Debate

Colonel Hamilton of New York: *Two equal sovereign states cannot exist within the same boundaries. You cannot give powers to two governments over the same people. If you give powers to Congress and to the states, you will have either a bad (I should say two bad) governments or no government at all. What is to be done? I hardly dare tell you because I am afraid that we do not yet have the courage to face the issue squarely. I am afraid that I might shock you and the public. But I must speak.*

There is no reason to keep state governments the way we have them today. They are not necessary for any great purpose – neither for agriculture, commerce, revenue, or defense. Yes, they are necessary to administer laws, but not to make them. The states need not continue to have any great authority. We can all but abolish them and have one government for all the people of the country – one national government with states as administrative lines or jurisdictions for carrying out the laws, which will be made equally for all the people. I hope I have not shocked you too much.

I have made my observations. Will the people accept them? Not at the present. But if things keep going as they are under the Articles, it won't be long before the people see the need for unity and overcome their silly fondness for democracies. They will lose their prejudices and see the need for a United States government as strong as England's.

Mr. Mason of Virginia: *I agree with the distinguished Colonel Hamilton of New York. We need a national government. But that does not mean we must abolish the state governments or make them absolutely insignificant. The states are as necessary as the national government and we must be careful to preserve them.*

Mr. Wilson of Pennsylvania: *The danger, my friends, is not that the national government will swallow the states, but that the states will swallow the national government. If the national*

government were to extend its power, the people would be no less free for it. A citizen of Delaware is not freer than a citizen of Virginia; nor would either be freer than a citizen of America. So no fatal consequence would result if the national government were to absorb the state governments.

Suppose, however, the reverse were to occur. Suppose the states were gradually to assert an independence from the national government. Gentlemen, that is why we have come to Philadelphia this hot summer – to prevent a recurrence of the problems currently experienced from too much state government.

Mr. Martin of Maryland: Mason is absolutely right about the importance of the state governments. I would never consent to Colonel Hamilton's plan, and I understand it too well. We are making the national government stronger to protect the states. Let us not lose sight of that object.

When we separated from England, the American people decided to establish thirteen separate state governments instead of one national government. To these states they look for the safety of their lives, liberties, and properties. They formed the national government to defend the states against foreign nations in case of war, and to defend the smaller states against the ambitious designs of the larger states. If we grant unnecessary power to the national government, we will defeat the original purpose of the Union. We should not give our protector, the national government, the power to swallow up the states that it is created to protect.

Colonel Hamilton of New York: By abolishing the states, I do not mean that there will be no boundary between states and national government. I do not intend to turn the country into one unit under one government. There will still be states and state government. But I mean one thing: the national government must not be limited; it must have infinite authority. If we limited the national government, the states would gradually swallow it up. We cannot allow that. Let the states exist, but let them exist as boundaries within which to carry out national law. Let us have one nation, not thirteen separate nations.

Mr. Madison of Virginia: I consider the veto on the laws of the states as essential to the security of the national government. The necessity of the national government rises from the desire of the states to follow their particular interests in opposition to the national interests. This desire will continue to disturb the system unless it is effectively controlled. Nothing short of a veto on state laws will control it. Confidence cannot be put in state courts as guardians of the national authority and interests.

The power of vetoing the improper laws of the states is at once the most mild and certain means of preserving the harmony of the system. Its usefulness is sufficiently displayed in the British system. Nothing could maintain the harmony and the subordination of the various parts of the empire but the right by which the Crown stifles in the birth every act of every part tending to disrupt the whole. It is true that the Crown has abused this power, but we do not have the same reason to fear such abuse in our system. As to sending all the laws to the national legislature, that might be made unnecessary. The state could be given power to put laws into effect immediately if they are of great necessity.

Mr. Lansing of New York: It is proposed that the national legislature shall have a negative [veto] on the laws of the states. Is it conceivable that there will be leisure for such a task? There will be on the most moderate calculation as many laws sent up from the states as there are days in the year. Will the members of the national legislature be competent judges? Will a gentleman from Georgia be a judge of the wisdom of a law that is to operate in New Hampshire? Such a veto would be more injurious than that of Great Britain before the Revolution.

Mr. Pierce of Georgia: *We are now met to remedy the difficulties under the Articles of Confederation, and our difficulties are great, but not, I hope, insurmountable. State distinctions must be sacrificed so far as the general government shall render it necessary – without, however, destroying them altogether.*

Mr. Sherman of Connecticut: *The whole thing is ridiculous. State courts will protect the authority of the Union. They will do the job of negating any state law that the national government would wish to veto.*

Mr. Martin of Maryland: *From the best judgment I could form while at this convention, I've come to the opinion that ambition and interest have so far blinded the understanding of some of you people writing this constitution; that you are working only to erect a government from which you will benefit, and that you are completely insensitive to the freedom and happiness of the states and their citizens. I most honestly believe that your purpose is to totally abolish all the state governments, and build in their ruins one great extensive empire. You want this empire to raise its rulers and chief officers far above the herd of mankind, to enrich them with wealth, and to encircle them with honors and glory. This honor and glory will be won at the cost of humiliation and enslavement of the average citizens whose sweat and toil will be used to enrich these greedy men.⁵:*

Three important positions considered at the Convention include:

That the national government should have the power to make laws in all cases in which the harmony of the United States may be interrupted and to veto all laws passed by individual states that contradict or violate the Constitution.

(Hamilton, King, Morris, Franklin, Dickinson, Madison, and Washington strongly supported this position; they were supported by: Gorham, Paterson, Williamson, and Wilson.)

That the national government should make laws binding on the people of the United States only in cases that clearly concern the common interests of the country, but otherwise should not interfere with the governments of the individual states.

(Martin, Lansing, Mason, and Gerry strongly supported this position; they had some backing from Randolph.)

A third position that would require a compromise between the two aforementioned possibilities. (Brearly, Ellsworth, and Sherman would probably play a leading role in this attempt to work out a third position.)

Student Exercises

1. Restate the issue before the convention, using your own words.
2. Take notes on the reading covering the convention debate. Make sure that you have understood each of the speeches. You should be able to figure out: (a.) what the person is saying, (b) how he is supporting his point, (c) whether or not you agree with him and why.

⁵Max Farrand, ed., *The Records of the Federal Convention*, New Haven, Connecticut, 1937. Speeches have been freely adopted from this source. Speeches have been freely adopted from this source.

3. If your delegate has a position on the issues in this debate, summarize this position in not fewer than 20 words. Then write a 100-150-word statement giving several strong arguments supporting his case. You should use arguments that delegates with similar views made in their speeches, and you should make references to things that have been discussed in class before; **or**
4. If it is your turn to make a speech, write a really strong speech (of 200-250 words), showing why you think the issue is important and why people should agree with you. Use dramatic flourishes, humor, and analogies. You should borrow arguments from other delegates and make reference to things discussed in class. Give the kind of speech you'd enjoy hearing. Practice the speech at home; **or**
5. If your delegate does not have a position on this issue, come to class ready to be convinced or to make a deal.