

Debating the Federal Constitution

Excerpts from a speech by William Richardson Davie in the *Proceedings and Debates of the Convention of North-Carolina, Convened at Hillsborough, on Monday the 21st Day of July, 1788, for the Purpose of Deliberating and Determining on the Constitution Recommended by the General Convention at Philadelphia, the 17th Day of September, 1787: To Which is Prefixed the Said Constitution* (Edenton, N.C.: Hodge and Wills, 1789).

As you read...

After the Constitution was written and signed, it was sent to the states for *ratification*, or approval. North Carolina held elections for a special convention to debate the Constitution, and it met the following summer, from July 21 to August 4, 1788.

During the debates, William Richardson Davie, who had participated in the Constitutional Convention in Philadelphia in 1787, defended the Constitution and argued forcefully for its ratification. In this speech, he laid out the reasons why it was necessary to replace the Articles of Confederation with an entirely new system of government, and explains why the new central government must govern the people directly and not only through the states.

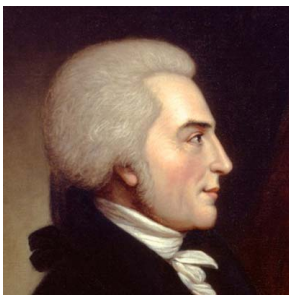


Figure 1. William Richardson Davie was one of North Carolina's most prominent Federalists.

Mr. Chairman, The observation of the reverend gentleman is grounded, I suppose, on a supposition that the federal Convention exceeded their powers...¹ After repeated and decisive proofs of the total inefficiency of our general government, the states deputed the Members of the Convention to revise and Strengthen it: And permit me to call to your consideration, that whatever form of confederate government they might devise, or whatever powers they might propose to give this new government, no part of it was binding until the whole Constitution had received the solemn assent of the people. What was the object of our mission? "To decide upon the most effectual means of removing the defects of our federal union."... The general objects of the union², are, 1st. To protect us against foreign invasion. 2d. To defend us against internal commotions and insurrections. 3d. To promote the commerce, agriculture and manufactures of America. These objects are requisite to make us a safe and happy people, and they cannot be attained without a firm and efficient system of union.

The Confederation cannot defend the country.

As to the first, we cannot obtain any effectual protection from the present Confederation. It is indeed universally acknowledged that its inadequacy in this case, is one of its greatest defects. Examine its ability to repel invasion. In the late glorious war its weakness was unequivocally experienced: It is well known that Congress had a discretionary right to raise men and money, but they had no power to do either. In order to preclude the necessity of examining the whole progress of its imbecility, permit me to call to your recollection one single instance. When the last great stroke was made which humbled the pride of Britain, and put us in possession of peace and independence, so low were the finances and credit of the United States, that our army could not move from Philadelphia, until the Minister of his most Christian Majesty³ was prevailed upon to draw bills to defray the expence of the expedition: These were not obtained on the credit or interest of Congress, but by the personal influence of the Commander in Chief. Had this great project miscarried, what fatal events might have ensued? It is a very moderate presumption, that what has once happened may happen again. The next important consideration which is involved in the external powers of the union, are treaties. Without a power in the federal government to compel the performance of our engagements with foreign nations, we shall be perpetually involved in destructive wars. The Confederation is extremely defective in this point also. I shall only mention the British treaty, as a satisfactory proof of this melancholy fact. It is well known, that although this treaty was ratified in 1784, it required the sanction of a law of North-Carolina in 1787⁴: And that our enemies, presuming on the weakness of our federal government, have refused to deliver up several important posts within the territories of the United States, and still hold them, to our shame and disgrace. It is unnecessary to reason on facts, the perilous consequences of which must in a moment strike every mind capable of reflection.

The Confederation has not been able to regulate commerce or to promote or protect American trade.

The next head under which the general government may be considered, is the regulation of commerce. The United States should be empowered to compel foreign nations into commercial regulations, that were either founded on the principles of justice or reciprocal advantages. Has the present Confederation effected any of these things? Is not our commerce equally unprotected abroad by arms and negotiation? Nations have refused to enter into treaties with us. What was the language of the British Court on a proposition of this kind? Such as would insult the pride of any man of feeling and independence — “You can make engagements, but you cannot compel your citizens to company with them; we derive greater profits from the present situation of your commerce, than we could expect under a treaty; and you have no kind of power that can compel us to surrender any advantage to you.” This was the language of our enemies; and while our government remains as feeble as it has been, no nation will form any connexion with us, that will involve the relinquishment of the least advantage. What has been the consequence? a general decay of trade, the rise of imported merchandise, the fall of produce, and an uncommon decrease of the value of lands. Foreigners have been reaping the benefits and emoluments which our citizens ought to enjoy. An unjustifiable perversion of justice has pervaded almost all the states, and every thing presenting to our view a spectacle of public poverty and private wretchedness.

Because Congress can't tax the people, it can't pay back the debt from the war.

While this is a true representation of our situation, can our general government recur to the ordinary expedient of loans? During the late war, large sums were advanced to us by foreign states and individuals. Congress have not been enabled to pay even the interest of these debts with honour and punctuality. The requisitions made on the states have been

every where unproductive, and some of them have not paid a stiver⁵. These debts are a part of the price of our liberty and independence; debts which ought to be regarded with gratitude and discharged with honour. Yet many of the individuals who lent us money in the hour of our distress, are now reduced to indigence in consequence of our delinquency. So low and hopeless are the finances of the United States, that the year before last Congress were obliged to borrow money even to pay the interest of the principal which we had borrowed before. This wretched resource of turning interest into principal, is the most humiliating and disgraceful measure that a nation could take, and approximates with rapidity to absolute ruin: Yet it is the inevitable and certain consequence of such a system as the existing Confederation.

States make the rules about citizenship, and so those rules are not uniform.

There are several other instances of imbecility in that system. It cannot secure to us the enjoyment of our own territories, nor even the navigation of our own rivers. The want of power to establish a uniform rule of naturalization through the United States is also no small defect, as it must unavoidably be productive of disagreeable controversies with foreign nations. The general government ought in this, as in every other instance, to possess the means of preserving the peace and tranquility of the union. A striking proof of the necessity of this power lately happened in Rhode-Island: A man who had run off with a vessel and cargo, the property of some merchants in Holland, took sanctuary in that place; application was made for him as a citizen of the United Netherlands by the Minister, but as he had taken the oath of allegiance, the state refused to deliver him up, and protected him in his villainy. Had it not been for the peculiar situation of the states at that time, fatal consequences might have resulted from such a conduct, and the contemptible state of Rhode-Island might have involved the whole union in a war.

The states overstep their authority under the Articles, and Congress can't do anything about it.

The encroachments of some states on the rights of others, and of all on those of the confederacy, are incontestible proofs of the weakness and imperfection of that system. Maryland lately passed a law granting exclusive privileges to her own vessels, contrary to the articles of the Confederation: Congress had neither power nor influence to alter it, all they could do, was to send a contrary recommendation. It is provided by the 6th article of the Confederation, that no compact shall be made between two or more states without the consent of Congress; yet this has been recently violated by Virginia and Maryland, and also by Pennsylvania and New-Jersey. North-Carolina and Massachusetts have had a considerable body of forces on foot, and those in this state raised for two years, notwithstanding the express provision in the Confederation that no forces should be kept up by any state in time of peace.

As to internal tranquility, without dwelling on the unhappy commotions in our own back counties, I will only add, that if the rebellion in Massachusetts⁶ had been planned and executed with any kind of ability, that state must have been ruined, for Congress were not in a situation to render them any assistance.

Another object of the federal union is, to promote the agriculture and manufactures of the states;⁷ objects in which we are so nearly concerned. Commerce, Sir, is the nurse of both. The merchant furnishes the planter with such articles as he cannot manufacture himself, and finds him a market for his produce. Agriculture cannot flourish if commerce languishes; they are mutually dependant on each other. Our commerce, as I have before observed, is unprotected abroad, and without regulation at home, and in this and many of the states ruined, by partial and iniquitous laws — laws which, instead of having a tendency to protect property and encourage industry, led to the depreciation of the one, and

destroyed every incitement to the other — laws which basely warranted and legalised the payment of just debts by paper, which represents nothing, or property of very trivial value.

It would be dangerous simply to give Congress more power, so the power of the central government must be divided among various branches.

These are some of the leading causes which brought forward this new Constitution. It was evidently necessary to infuse a greater portion of strength into the national government: But Congress were but a single body, with whom it was dangerous to lodge additional powers. Hence arose the necessity of a different organization. In order to form some balance, the departments of government were separated, and as a necessary check the legislative body was composed of two branches. Steadiness and wisdom are better ensured when there is a second branch to balance and check the first. The stability of the laws will be greater, when the popular branch, which might be influenced by local views, or the violence of party, is checked by another, whose longer continuance in office will render them more experienced, more temperate and more competent to decide rightly.

The national government must be built on and responsible to the people.

The Confederation derived its sole support from the state Legislatures; this rendered it weak and ineffectual: It was therefore necessary that the foundations of this government should be laid on the broad basis of the people. Yet the state governments are the pillars upon which this government is extended over such an immense territory, and are essential to its existence. The House of Representatives are immediately elected by the people. The Senators represent the sovereignty of the states; they are directly chosen by the state Legislatures, and no legislative act can be done without their concurrence. The election of the Executive is in some measure under the controul of the Legislatures of the states, the Electors being appointed under their direction.

The two houses of Congress will represent the interests of both small and large states.

The difference in point of magnitude and importance in the members of the confederacy, was an additional reason for the division of the Legislature into two branches, and for establishing an equality of suffrage in the Senate. The protection of the small states against the ambition and influence of the larger members, could only be effected by arming them with an equal power in one branch of the Legislature. On a contemplation of this matter, we shall find, that the jealousies of the states could not be reconciled any other way. The lesser states would never have concurred unless this check had been given them, as a security for their political existence against the power and encroachments of the great states. It may be also proper to observe, that the Executive is separated in its functions from the Legislature as well as the nature of the case would admit, and the Judiciary from both.

Since the Confederation has no executive branch, the only way to enforce its laws on the people is by military force, which would be disastrous.

Another radical vice in the old system, which was necessary to be corrected, and which will be understood without a long deduction of reasoning, was, that it legislated on states instead of individuals; and that its powers could not be executed but by fire or by the sword; by military force, and not by the intervention of the civil magistrate. Every one who is acquainted with the relative situation of the states, and the genius of our citizens, must acknowledge, that if the government was to be carried into effect by military force, the most dreadful consequences would ensue. It would render the citizens of America the most implacable enemies to one another. If it could be carried into effect against the small states, yet it could not be put in force against the larger and more powerful states. It was therefore absolutely necessary that the influence of the magistrate should be introduced, and that the laws should be carried home to individuals themselves....

Such a large nation can be held together only by involving the people directly in its government and by using the structure of the central government to balance their diverse interests.

The great extent of country appeared to some a formidable difficulty; but a confederate government appears at least in theory, capable of embracing the various interests of the most extensive territory: Founded on the state governments solely, as I have said before, it would be tottering and inefficient. It became therefore necessary to bottom it on the people themselves, by giving them an immediate interest and agency in the government. There was however, some real difficulty in conciliating a number of jarring interests, arising from the incidental, but unalterable, difference in the states in point of territory, situation, climate, and rivalry in commerce. Some of the states are very extensive, others very limited: Some are manufacturing states, others merely agricultural: Some of these are exporting states, while the carrying and navigation business are in the possession of others. It was not easy to reconcile such a multiplicity of discordant and clashing interests. Mutual concessions were necessary to come to any concurrence. A plan that would promote the exclusive interests of a few states, would be injurious to others. Had each state obstinately insisted on the security of its particular local advantages, we should never have come to a conclusion; each therefore amicably and wisely relinquished its particular views. The federal Convention have told you, that the Constitution which they formed, “was the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of their political situation rendered indispensable.” I hope the same laudable spirit will govern this Convention in their decision on this important question.

The business of the Convention was to amend the Confederation by giving it additional powers. The present form of Congress being a single body, it was thought unsafe to augment its powers, without altering its organization. The act of the Convention is but a mere proposal, similar to the production of a private pen. I think it a government which, if adopted, will cherish and protect the happiness and liberty of America; but I hold my mind open to conviction; I am ready to recede from my opinion if it be proved to be ill-founded. I trust that every man here is equally ready to change an opinion he may have improperly formed. The weakness and inefficiency of the old Confederation produced the necessity of calling the federal Convention: Their plan is now before you, and I hope on a deliberate consideration every man will see the necessity of such a system. It has been the subject of much jealousy and censure out of doors. I hope gentlemen will now come forward with their objections, and that they will be thrown out and answered with candour and moderation.⁸

On the web

William Richardson Davie (1756–1820)

<http://www.learnnc.org/lp/pages/4293>

William Richardson Davie was a prominent North Carolina lawyer, delegate to the Constitutional Convention, governor, and founder of the University of North Carolina.

Federalists versus Anti-Federalists

<http://www.sog.unc.edu/programs/civiced/resources/docs/FederalistsAntifederalists8.pdf>

In this lesson from the North Carolina Civic Education Consortium, students will explore the Articles of Confederation and the Articles’ influence in revising the Constitution of 1787.

Students will experience the sentiments of Federalists and Anti-Federalists by participating in a partner debate as either North Carolina Federalist James Iredell or Anti-Federalist Willie Jones.

The U.S. Constitution and slavery

<http://www.sog.unc.edu/programs/civiced/resources/docs/USConstitutionandSlavery.pdf>

In this lesson from the North Carolina Civic Education Consortium, students will explore the Preamble to the U.S. Constitution and the liberties and freedoms it sets forth. Students will then discuss the tensions between the institution of slavery and Constitutional fundamentals. Assuming the role of a Congressional representative in the year 1790, students will debate a Quaker petition to Congress calling for an immediate end to the slave trade, requiring them to examine the historical reality of the institution of slavery in the newly formed states.

More from LEARN NC

Visit us on the web at www.learnnc.org to learn more about topics related to this article, including Constitution, North Carolina, United States, William Davie, government, and history.

Notes

1. Congress had asked the Convention in Philadelphia to revise the Articles of Confederation. Many opponents of the new Constitution charged that the Convention had gone beyond its authority and that the Constitution therefore was not valid.
2. Note the three major functions Davie believes the central government has. Even though he wanted to greatly expand its power, these are still quite limited compared with what the federal government does today!
3. The King of France, Louis XVI.
4. The Treaty of Paris, which ended the War of American Independence, was signed by representatives of the United States and Great Britain on September 3, 1783 (in, of course, Paris). Congress ratified the treaty on January 14, 1784; King George III signed it in April, and the ratified copies were exchanged in Paris on May 12, at which point the war was officially ended.

One of the provisions of the treaty was that the states would return to Loyalists property that had been confiscated during the Revolution. But individual states refused to do so, and Congress had no way to force them to comply. In 1785, in fact, the North Carolina legislature actually prohibited state courts from hearing lawsuits by former Loyalists trying to recover their property. Then in 1787, the daughter of a former Loyalist filed a lawsuit, *Bayard v. Singleton* (see <http://www.learnnc.orghttp://www.northcarolinahistory.org/encyclopedia/117/entry>), to recover property her father had willed to her. Her lawyers argued that North Carolina's 1785 law violated the state constitution, which guaranteed citizens the right to a jury trial when they faced the loss of property. In November 1787, the state legislature decided that the court had the right to hear the case, and the court decided that it could not enforce a law in violation of the state constitution. *Bayard v. Singleton* thus helped to establish the principle of *judicial review*, the right of a court to overturn laws it found to be unconstitutional.

Here, William Davie is referring to the November 1787 act of the legislature. That act, he says, *sanctioned* or approved the Treaty of Paris, and only then did the treaty really take effect in North Carolina.

5. A *stiver* or *stuiver* was a Dutch coin of small value.

6. Shays' Rebellion, a farmers' revolt against the state of Massachusetts in 1786–87. The farmers were angry about high taxes and debt that there was not enough cash in the state to pay — similar problems to those behind North Carolina's Regulation.
7. Davie, like most Federalists, wanted the government to support manufacturing, so that the nation could better defend itself and because it would strengthen the entire country economically. Most Anti-federalists thought that the United States should be an agricultural nation, and should import its manufactured goods from Europe, and they tended to see cities as dangerous and immoral places.
8. Most of the opponents of ratification, led by Willie Jones of Halifax, refused to debate, because they knew they were a majority and would win the vote.

Image credits

More information about these images and higher-resolution files are linked from the original web version of this document.

Figure 1 (page 1)

Posthumous portrait of William Richardson Davie, painted by Charles Willson Peale in 1826. Portrait property of the Dialectic and Philanthropic Societies Foundation, Chapel Hill, North Carolina. Original image available from UNC Libraries / Documenting the American South (http://docsouth.unc.edu/unc/display_images/davie.html). All Rights Reserved.