

ISSUE BRIEF

“Information to Action”

Topic: Balanced Federalism

Title: *WHY WE HAVE OUR CONSTITUTION* by Joshua Charles

Why We Have Our Constitution

September 17 is “Constitution Day,” because on that day, the Constitution was officially approved by the Philadelphia Convention, and submitted for ratification to Congress, and the state conventions.

What is often forgotten is that the Constitution didn’t come out of nowhere. It arose in the midst of a time many Americans perceived as increasingly chaotic.

Since nearly the beginning of the Revolutionary War, the Articles of Confederation were the “constitution” of the United States (placed in quotes to distinguish it from our current Constitution). The Articles established an extremely de-centralized form of government in which each state retained its sovereignty, and Congress had no sovereign right to levy taxes, raise armies, etc. In many ways, it was a miracle America won the war with Great Britain, because whenever Congress needed to raise supplies of any kind (financial, war material, etc.), it was essentially a request with which the individual states could comply or not.

Once the war was won, and peace with Britain finalized in 1783, the flaws of the Articles began exhibiting themselves in peacetime as well. The finances of the new country were a mess, as European lenders were not truly dealing with one country, but thirteen separate ones, each attempting to manage what was truly a national financial situation as individual states. Diplomacy was not unified, nor was national defense. At the same time, there were uprisings against the imposition of taxes, such as Shays’ Rebellion in Massachusetts, against which Congress was powerless to render assistance given the lack of centralized authority in the Articles.

It was in this context—financial, diplomatic, and military—that many believed a new Constitution with more centralized authority was required. Indeed, with respect to certain objects, that’s precisely what the Constitution did. It centralized power over international relations and national defense in the federal government, especially the executive branch. It also empowered the new government to levy taxes directly on American citizens, whether their individual states agreed or not.

But this centralization did not come without its own concerns. Many worried the new federal government would violate the rights and liberties Americans had won during the Revolution. Prominent figures refused to support the Constitution unless it also had a Bill of Rights that spelled out key liberties the federal government could not violate. In response, the supporters of the Constitution promised to amend it to include such a Bill of Rights. They kept this promise, and in

1791, the first ten amendments to the Constitution were ratified outlining rights to freedom of religion, speech, and the like, that the federal government could not touch.

The Constitution presented to the American people on September 17, 1787 represented an attempt to centralize power, but in a way that prevented it from becoming tyrannical. That the new Constitution provided for a far more powerful national government than the Articles of Confederation is beyond dispute. But it also divided that power, ensuring that no one branch of government, nor the federal government as against the state governments, could ever gain a monopoly on that power. This balancing act was further reinforced by the inclusion of the Bill of Rights.