



Written by [Joe Wolverton, II, J.D.](#) on August 7, 2023

## This Week at the Constitutional Convention of 1787: First Draft of Constitution Presented to Delegates

This was a big week in 1787. The delegates at the Constitutional Convention gathered in Philadelphia finally received printed copies of the first draft of what would become the new Constitution of the United States.

John Rutledge of South Carolina, chairman of the Committee of Detail, presented a draft of a constitution that ran to seven folio pages, with broad margins for delegates to make notes.

Although based on the plan proposed by Edmund Randolph on May 29, the document presented by the Committee of Detail included many portions of the Articles of Confederation and of the plans that had been presented by William Paterson and Charles Pinckney, as well as assorted provisions from various state constitutions that the committee thought applicable.



Regarding the sources relied upon by the Committee of Detail in composing its first draft, historians have located several key documents, including a nine-page book written by Edmund Randolph recording what amounted to his ideas for a new constitution. This document was apparently written during the convention, and is extensively marked up by Randolph and John Rutledge.

An additional document written in the hand of James Wilson has been found, as well, and it includes parts of the Randolph plan as well as parts of the New Jersey (Paterson) and Pinckney plans. This document was given to Rutledge, who edited it just as he had done with the one written by Randolph, and then a clean copy was made and sent off to the printer.

As presented to the convention on August 6, 1787, the first draft of the Constitution consisted of a preamble and 23 articles divided into 41 sections. A copy of the text of that document can be [found here](#).

There is one part of that first draft that is particularly noteworthy.

Let's look at the original preamble, which reads:

We the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish, the following Constitution for the government of ourselves and our posterity.

That's quite a bit different from the preamble that made it into the final version of the Constitution.



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It's also different than the preamble to the Articles of Confederation, [which reads](#):

Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusetts-Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia.

When at the close of the convention the Committee of Style presented its final draft of the Constitution, the wording of the preamble was *entirely changed*. It reads (as you well know if you ever watched *Schoolhouse Rock*):

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

The change is not only stylistically very different, but is politically very different, too.

When the the convention began, it was understood that in order for any amendment to be added to the Constitution — that is to say, the Articles of Confederation — all the states would have to approve it. That was the process as laid out in Article XIII of the Articles of Confederation.

You see, the convention of 1787 was not authorized to create an entirely new form of government laid out in an entirely new constitution. No, Congress authorized the convention to meet “for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein....”

So, with that authority in mind, the preamble could list the names of all the states because any amendments would have been agreed to by all the states. That was the law, and that was the “sole and express purpose” for calling the convention in the first place.

But on August 31, the convention decided by a vote of 8-3 that, rather than requiring the approval of *all* the states to add amendments to the Constitution (again, the Articles of Confederation), the approval of only nine states would be necessary to pass an amendment, which in this case, would be an entirely new Constitution.

It obviously became necessary to eliminate from the preamble the names of the states, because it would be impossible to know in advance which states would ratify the proposed Constitution and which would not. Hence, “We the people of the United States” supplanted the names of all 13 states.

There is one little statement made by Rufus King of Massachusetts during the debates of August 31 that deserves a little light to be shined on it. [James Madison wrote](#) in his notes on the convention that, regarding the issue of changing the Articles of Confederation in such a radical way without the permission of Congress or the states:

Mr. King observed, that the Constitution of Massachusetts was made unalterable till the year 1790; yet this was no difficulty with him. The State must have contemplated a recurrence to first principles, before they sent deputies to this Convention.



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Look at that last sentence. Can you imagine a similar statement being made by some delegate at a second amendments convention? After all, the convention of 1787 was called an “amendments convention.” Imagine if a representative of one of the states stood up at that future convention and said:

I know the Constitution says we need the ratification of three-fourths of the states before an amendment is added to the Constitution, but I move that we only require the approval of a majority of the states. After all, the states surely understood that by sending us here, we might ignore the Constitution and be guided by a higher set of principles.

That’s what happened on August 31, 1787, and it could most certainly happen again.

As for the “first principles” Mr. King cited, James Madison explained it this way: “The people were, in fact, the fountain of all power, and by resorting to them, all difficulties were got over. They could alter constitutions as they pleased.”

King agreed, declaring, “Conventions alone, which will avoid all the obstacles from the complicated formation of the Legislatures, will succeed....”

Any American that treasures our Constitution should pay close attention to the events of August 31, 1787. For on that date, the power of “conventions of states” was described in all its immeasurable and uncontrollable power — power that most of the delegates at the Convention of 1787 believed gave them the right to ignore “all the obstacles” of the Constitution and be guided by a different set of rules.

If such a convention ever takes place again, and the delegates decide to throw out the current Constitution and create a new constitution establishing a new form of government, we can’t say we weren’t warned.





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