

# **Did the Constitutional Convention Run Away?**

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## Did the Constitutional Convention Run Away?

Certain historians have claimed that the Constitutional Convention was a runaway convention because the delegates exceeded the authority given to them by Congress. The main allegation that they make against how the Constitution was adopted is that Congress only gave the Constitutional Convention the power to amend the Articles of Confederation and the convention overstepped its authority by proposing a new document.<sup>1</sup> But in order to answer this question we first must ask, what was the origin of its authority?

Let us say for now that the authority of the convention came from Congress. Critics will say that Congress only gave the convention the power to amend the Articles of Confederation and report these amendments back to them, but this is not completely true. On February 21, 1787, when Congress was debating the resolution calling for the convention, the New York delegate proposed this method in a resolution that said that the convention be held:

“... for the purpose of revising the Articles of Confederation and perpetual Union between the United States of America and reporting to the United States in Congress assembled and to the States respectively such alterations and amendments of the said Articles of Confederation as the representatives met in such convention shall judge proper and necessary to render them adequate to the preservation and support of the Union.”<sup>2</sup>

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<sup>1</sup> Michael P. Farris, *Constitutional Law for the Enlightened Citizen*, Purcellville, Virginia: HSLDA, 2006. 71.

<sup>2</sup> Report of Proceedings in Congress; February 21, 1787 ; The Avalon Project: Documents in Law, History, and Diplomacy, Yale Law School, [http://avalon.law.yale.edu/18th\\_century/const04.asp](http://avalon.law.yale.edu/18th_century/const04.asp)

But this resolution failed. The one that passed was from Massachusetts, and it proposed that the Constitutional Convention be held:

“... 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 as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government and the preservation of the Union.”<sup>3</sup>

This resolution gave the Constitutional Convention the power to make changes to the Articles of Confederation and send back something other than the original articles, a new “federal constitution.”

The second resolution also says that the delegates should write the constitution to fix the “exigencies” or urgent needs in the government. So unlike the first resolution, this one acknowledges that there is a crisis in the government, and instead of just adding “support” to the current government, the second resolution wants to address the crisis and do what is necessary to preserve the union between the states. Based on the authority given by Congress, it seems that the convention did not overstep its bounds that much at all.

But the truth is, it really is not safe to assume that the authority of the Constitution Convention came from Congress. In 1786, the year before Congress got involved, Virginia, New York, and Pennsylvania called the Annapolis Convention with the other states to discuss how to improve commerce and trade. A total of five states sent delegates to the convention, and they decided that there needed to be a Constitutional Convention, so they sent a report to the states

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<sup>3</sup> Report of Proceedings in Congress; February 21, 1787.

and Congress calling for one. The Virginia assembly unanimously approved the Annapolis recommendation, sent out its own letter to the other states inviting them to attend, and appointed its own delegation, headed by George Washington.<sup>4</sup>

Following Virginia's lead, about half of the states appointed delegates and gave them instructions before Congress even got involved.<sup>5</sup> This shows that the authority of the Constitution Convention did not come from Congress, but from the states. James Madison, who attended the Annapolis Convention, also credits it as the starting point for the Constitutional Convention:

“The proposed and expected convention at Annapolis, the first of a general character that appears to have been realized, and the state of the public mind awakened by it had attracted the particular attention of Congress and favored the idea there of a convention with fuller powers for amending the Confederacy.”<sup>6</sup>

What finally got Congress involved was Shay's Rebellion. Shay's Rebellion was an armed uprising that took place in Massachusetts during the winter of 1786-1787. The government was completely helpless in stopping it, and it showed just how badly the Articles of Confederation had to be changed. After the rebellion, Congress passed the resolution calling for

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<sup>4</sup> Jack Rakeove, *Original Meanings*, New York: Alfred a. Knopf, Inc. 1996, 45.

<sup>5</sup> Rakeove. 46.

<sup>6</sup> James Madison, *Notes of Debates in the Federal Convention of 1787*, New York: W.W. Norton, 1987. 12.

the convention, and then six more states sent delegates bringing the total up to twelve.<sup>7</sup> So the resolution from Congress really only supported the call from the Annapolis Convention.

One thing that must also be considered is that the Union was in a crisis. The current government was not working, and the Union was in danger of dissolving. Many people felt that this justified what they were doing at the convention. As James Madison wrote in his personal notes recording the debates in the convention:

“Mr. Randolph, was not scrupulous on the point of power. When the salvation of the Republic was at stake, it would be treason to our trust, not to propose what was found necessary.”<sup>8</sup>

And Madison recorded that Alexander Hamilton stated:

“...we owed it to our Country, to do on this emergency whatever we should deem essential to its happiness. The states sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was not clearly within our powers, would be to sacrifice the means to the end.”<sup>9</sup>

A final point on whether the convention overstepped its authority is the fact that the people at the convention did not have the power to ratify the resulting constitution. Their only job was to

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<sup>7</sup> Larry Schweikart and Michael Allen, *A Patriot's History of the United States*, New York: Penguin Books, Ltd, 2004, 109 – 110.

<sup>8</sup> Madison. 127.

<sup>9</sup> Madison. 130.

propose the amendments and changes that would be necessary to create a Constitution that would be as effective as possible. As James Madison reported:

“Mr. Wilson contended that as the convention were only to recommend, they might recommend what they pleased.”<sup>10</sup>

“Mr. Pinkney...thought the convention authorized to go any length in recommending, which they found necessary to remedy the evils which produced this convention.”<sup>11</sup>

In other words, because the states were in charge of ratifying the new document, the convention was well within its power to propose whatever they thought would work the best.

In summary, the Constitutional Convention was not a runaway convention for several reasons. Firstly, Congress actually rejected a resolution directing the convention to only amend the Articles of Confederation, but passed a resolution allowing them to render a new constitution. Secondly, there is the fact that the authority for the convention came from the Annapolis Convention and half the states had already appointed delegates before Congress got involved. Finally, the Constitutional Convention felt that the resolution allowed them to propose whatever was needed to solve the crisis, because the job of ratifying the new constitution that they proposed, was still held by the states.

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<sup>10</sup> Madison. 155.

<sup>11</sup> Madison. 127.

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## **Stephen Mayfield Biography**

Stephen Mayfield is home schooled and in twelfth grade at Mayfield Home Academy. He is also taking Honors Calculus I & II at the University of San Antonio, Texas, as a high school student. His favorite subjects are math and science and he has accepted admission into the Texas A&M Dwight Look School of Engineering for the Fall 2014. Stephen attended the South West Research Institute, Young Engineers and Scientists program in the summer of 2012. He has done over thirty hours of community service with Kinetic Kids and is currently doing volunteer work with 4H, and is a member of their sports-shooting team. His hobbies are sports shooting and weight lifting.