

Inside the First Congress: Debating the Bill of Rights

Center for Legislative Archives

Station 4 Worksheet: The Balance of State and Federal Power

Part 1: Proposals from State Ratifying Conventions

Massachusetts Convention, February 6, 1788

That it be explicitly declared that all Powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised.

New Hampshire Convention, June 21, 1788

That it be Explicitly declared that all Powers not expressly & particularly Delegated by the aforesaid Constitution are reserved to the several States to be, by them Exercised.

Questions:

1. What does the word “explicitly” as used in these proposals indicate about the states’ opinion of the proper reading of the Constitution as a Charter of Government?
2. How does the phrase “expressly and particularly,” reflect the two states’ anxiety about future changes in federal power?
3. What balance of state and federal power is expressed in these proposals?



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Station 4 Worksheet Continued: The Balance of State and Federal Power

Part 2: The Balance of State and Federal Power

James Madison introduced a constitutional amendment based on the proposals from state ratifying conventions in the House of Representatives on June 8, 1789.

That the following language be inserted into the Constitution as Article VII:

The powers not delegated by this Constitution, nor prohibited by it to the States, are reserved to the States respectively.

Questions:

1. How did Madison's omission of the phrase "expressly and particularly" make his proposal different from those submitted by the states?
2. To what extent does the tone of Madison's proposal indicate a different expectation about the future relationship of state and federal powers?
3. Article I, Section 8 of the Constitution says "Congress shall have the power to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

How would Madison's proposal affect the interpretation of this clause?

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Part 3: Representation as It was Submitted by Congress to the States

Proposed Amendment XII as sent by Congress to the states for ratification on October 2, 1789 (Ratified as Amendment X)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Questions:

1. This amendment divides powers three ways: those delegated to Congress, those reserved to the states, and those reserved to the people. How does adding the phrase “to the people” change the amendment? Why?
2. Would this amendment create a better balance of state and federal power if the word “expressly” was inserted between “not” and “delegated”? Be sure to explain your answer.

