

# The Confederate Constitution

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Special interests have long used the democratic political process to produce legislation for their own private benefit, and the U.S. Constitution contains flaws that make this easier. One attempt to remedy these flaws was the Confederate Constitution.

The Confederate Constitutional Convention opened in February 1861. Robert Barnwell Rhett of South Carolina, called the "Father of Secession" for initiating his state's breakoff from the union, thought that the U.S. model was the best. The other 50 delegates agreed. He nominated Howell Cobb, a Georgia attorney and former Speaker of the U.S. House of Representatives, to preside over the meeting, which was completed by March 11, 1861. By the end of that year, 13 states had ratified the new Constitution.

In broad outline, the Confederate Constitution is an amended U.S. Constitution. Even on slavery, there is little difference. Whereas the U.S. Constitution ended the importation of slaves after 1808, the Confederate Constitution simply forbade it. Both constitutions allowed slave ownership, of course.

In fact, slavery only became a constitutional issue after the war had begun. In his 1861 inaugural address, Abraham Lincoln said, "Apprehension seems to exist among the people of the Southern States that by the accession of a Republican administration their property [is] to be endangered.... I have no purpose, directly or indirectly to interfere with the institution of slavery in the United States where it exists.... I believe I have no lawful right to do so, and I have no inclination to do so."

But the differences in the documents, small as they are, are extremely important. The people who wrote the Southern Constitution had lived under the federal one. They knew its strengths, which they tried to copy, and its weaknesses, which they tried to eliminate.

One grave weakness in the U.S. Constitution is the "general welfare" clause, which the Confederate Constitution eliminated.

The U.S. Constitution gives Congress the power to "lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States."

The Confederate Constitution gave Congress the power "to lay and collect taxes, duties, imposts, and excises, for revenue necessary to pay the debts, provide for the common defense, and carry on the Government of the Confederate States..."

The Southern drafters thought the general welfare clause was an open door for any type of government intervention. They were, of course, right.

Immediately following that clause in the Confederate Constitution is a clause that has no parallel in the U.S. Constitution. It affirms strong support for free trade and opposition to protectionism: "but no bounties shall be

granted from the Treasury; nor shall any duties or taxes on importation from foreign nations be laid to promote or foster any branch of industry."

The use of tariffs to shelter domestic industries from foreign competition had been an important issue since tariffs were first adopted in 1816. Southern states had borne heavy costs since tariffs protected northern manufacturing at the expense of Southern imports. The South exported agricultural commodities and imported almost all the goods it consumed, either from abroad or from Northern states. Tariffs drastically raised the cost of goods in the Southern states, while most of the tariff revenue was spent in the North.

The Confederate Constitution prevents Congress from appropriating money "for any internal improvement intended to facilitate commerce" except for improvement to facilitate waterway navigation. But "in all such cases, such duties shall be laid on the navigation facilitated thereby, as may be necessary to pay for the costs and expenses thereof..."

"Internal improvements" were pork-barrel public works projects. Thus the Southern Founders sought to prohibit general revenues from being used for the benefit of special interests. Tax revenues were to be spent for programs that benefited everyone, not a specific segment of the population.

In another attack on pork-barrel spending, the Confederate Constitution gave the President a line-item veto. "The President may approve any appropriation and disapprove any other appropriation in the same bill." Anticipating the U.S. Constitutional amendment that would become necessary after Franklin Roosevelt's four terms, the President himself would serve only one, six-year term.

In many circumstances, Confederate appropriations required a two-thirds majority rather than a simple majority. Without the President's request, for example, a two-thirds majority of both Houses would have been necessary for Congress to spend any money. This one provision, if adopted in the U.S. Constitution, would eliminate much of the spending that goes on today.

The Confederate Founders also tried to make sure that there would be no open-ended commitments or entitlement programs in the Confederate States. "All bills appropriating money shall specify...the exact amount of each appropriation, and the purposes for which it is made," said the document. "And Congress shall grant no extra compensation to any public contractor, officer, agent, or servant, after such contract shall have been made or such service rendered." Such a provision would have eliminated the cost-overrun," a favorite boondoggle of today's government contractors.

The Confederate Constitution also eliminated omnibus spending bills by requiring all legislation to "relate to but one subject," which had to be "expressed in the title." There would be no "Christmas-tree" appropriations bills or hidden expenditures.

These changes would have had a profound effect in keeping government small and unintrusive. Their inclusion demonstrates much wisdom on the part of Confederate statesmen in improving on the Founding Fathers. Unfortunately, the federal government was not willing to let them give their system a try.