

# Tea Party Gets the Constitution Wrong

**Exclusive:** The Tea Partiers love to cite the U.S. Constitution as supporting their contempt for the federal government. But they don't realize that the Constitution represented the most important assertion of central authority in American history, writes Robert Parry.

By Robert Parry

It is now an article of faith in the Tea Party and on the American Right that the Founders wrote the U.S. Constitution to restrict the power of the federal government and protect states' rights. But that analysis is simply wrong.

Like any government document, the Constitution can only be understood in the context of what it replaced and why. The Constitution superseded the Articles of Confederation, which guided the new country starting in 1777. The Articles granted broad authority to the states with only a weak national government.

As the Revolutionary War wore on and during the early years of peace, many American leaders – including George Washington, John Adams, James Madison, Alexander Hamilton and Thomas Jefferson – came to view the Articles as unworkable and a threat to the survival of the new nation.

The Continental Army was especially disdainful of the Articles because they didn't grant taxing authority to the national government and thus when the states reneged on promised funding, which they did frequently soldiers were left without pay and munitions.

The answer to this political crisis took shape in 1786 with a growing movement for a much stronger federal government, leading to secret meetings in Philadelphia in 1787 to draft a new governing document, the Constitution.

The Constitution created the framework for a powerful federal authority that could not only declare war and negotiate treaties, but could tax, print money, regulate interstate commerce and undertake a host of other governing activities.

Besides the sweeping federal authority delineated by the Constitution, the document also dropped key language from the Articles of Confederation that had suggested the supremacy of the states.

The Articles had described the United States not as a government or even a nation, but as "a firm league of friendship" among the states "for their common defense, the security of their liberties, and their mutual and general welfare."

If that suggestion of the states' supremacy wasn't clear enough, the Confederation's Article II declared: "Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated." And very few powers were delegated to the federal government.

That powerful states' rights language was either eliminated by the Constitution or substantially watered down.

### **The Tenth Amendment Argument**

Tea Party activists will often cite the Tenth Amendment to the Constitution as evidence that the Founders were strong advocates for states' rights, since it says "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."

But again the Tea Partiers are missing the point. The Constitution granted broad powers to the federal government even the regulation of national commerce so there were far fewer powers left for the states. The Tenth Amendment amounted to a sop to mollify the anti-federalist bloc that was trying to block ratification of the Constitution by the 13 states.

To further appreciate how modest the Tenth Amendment concession was, you also must compare its wording with Article II of the Confederation. Remember, Article II says "each state retains its sovereignty, freedom, and independence," while the Tenth Amendment simply says powers not granted to the federal government "are reserved to the States" or individuals.

Stripped out of the new national governing document were the principles of state "sovereignty" and state "independence." In effect, American "sovereignty" had been transferred to the Republic that the Constitution had created. States were no longer dominant; they were subordinate to "we the people" as represented in the "union," the United States of America.

Of course, the anti-federalists did not entirely go away, especially when it became clear to the agrarian South that its economic model, based on slavery, was losing ground to the growing industrial power of the North and the influence of the emancipation movement.

In the early 1830s, Southern politicians led the "nullification" challenge to the federal government, asserting that states had the right to nullify federal laws, such as a tariff on manufactured goods. But they were beaten back by President Andrew Jackson who threatened to deploy troops to South Carolina to enforce the federal supremacy established by the Constitution.

In December 1832, Jackson denounced the “nullifiers” and declared “the power to annul a law of the United States, assumed by one State, incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it was founded, and destructive of the great object for which it was formed.”

Jackson also rejected as “treason” the notion that states could secede if they wished, noting that the Constitution “forms a *government* not a league,” a reference to the line in the Articles of Confederation that had termed the fledgling United States “a firm league of friendship” among the states, not a government.

The nullification crisis was defused, but a few decades later, the South’s continued resistance to the constitutional preeminence of the federal government led to secession and the formation of the Confederacy. It took the Union’s victory in the Civil War to firmly settle the issue of the sovereignty of the national Republic over the states.

However, the defeated South still balked at the principle of equal rights for blacks and invoked “states’ rights” to defend segregation during the Jim Crow era. White Southerners had amassed enough political clout, especially within the Democratic Party, to fend off civil rights for blacks.

### **Ending Segregation**

The battle over states’ rights was joined again in the 1950s when the federal government finally committed itself to enforcing the principle of “equal protection under the law” as prescribed by the Fourteenth Amendment. Many white Southerners were furious that their system of segregation was being dismantled by federal authority.

The South’s anger was reflected in the prevalence of the Confederate battle flag on pickup trucks and in store windows. White Southerners were expressing the bravado of secession even if it was more tough talk than anything real.

Gradually, the American Right retreated from outright support of racial segregation and muffled the threats of secession (although the idea still surfaces once in a while as it did in recent comments by Texas Gov. Rick Perry).

Instead, the Right has sought to impose a reinterpretation of the Constitution by revising the history of the United States and pretending that the Founders designed the Constitution as a document to establish the supremacy of the states over the federal government.

This revisionist view is now at the heart of the Tea Party movement and has powerful propaganda support from the right-wing news media. Since few Americans understand the reasons for the Constitution or the fact that it represented a major consolidation of federal power this right-wing disinformation campaign has proved effective.

Tea Party activists add to the misimpression about the Founders' intent by dressing in Revolutionary War costumes and channeling the Founders' supposed hatred of the federal government. The Tea Partiers wave "Don't Tread on Me" flags as if the American revolutionaries were addressing that to their own government, not the British colonialists.

(Interestingly, the Tea Partiers ignore another common banner of the era, showing a serpent representing the 13 colonies cut into pieces with the instruction, "join or die." That banner recognized the need of the disparate American states to cooperate as one nation or perish.)

The Right's so-called "originalist" thinking about the Constitution how the Founders allegedly disdained federal authority also ignores the fact that nearly all the Founders were advocates of replacing the Articles of Confederation (the state sovereignty document) with the Constitution.

Among its biggest advocates was George Washington who commanded the Continental Army when it was hamstrung by the lack of resources caused by the absence of federal taxing authority in the Articles of Confederation. Washington presided at the Constitutional Convention and was elected the nation's first president under the Constitution.

Though the Tea Party doesn't want to admit it and it is an inconvenient truth for the American Right the Constitution represented the most important expansion of federal power in American history.

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**Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, *Neck Deep: The Disastrous Presidency of George W. Bush*, was written with two of his sons, Sam and Nat, and can be ordered at [neckdeepbook.com](http://neckdeepbook.com). His two previous books, *Secrecy & Privilege: The Rise of the Bush Dynasty from Watergate to Iraq* and *Lost History: Contras, Cocaine, the Press & 'Project Truth'* are also available there.**

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