

The Confederation and the Constitution

1776–1790

THIS EXAMPLE OF CHANGING THE CONSTITUTION BY
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ASSEMBLING ARMIES, WILL BE WORTH AS MUCH TO THE
WORLD AS THE FORMER EXAMPLES WE HAVE GIVEN IT.

THOMAS JEFFERSON

The American Revolution was not a revolution in the sense of a radical or total change. It did not suddenly and violently overturn the entire political and social framework, as later occurred in the French and Russian Revolutions. What happened was accelerated evolution rather than outright revolution. During the conflict itself, people went on working and praying, marrying and playing. Many of them were not seriously disturbed by the actual fighting, and the most isolated communities scarcely knew that a war was on.

Yet some striking changes were ushered in, affecting social customs, political institutions, and ideas about society, government, and even gender roles. The exodus of some eighty thousand substantial Loyalists robbed the new ship of state of conservative ballast. This weakening of the aristocratic upper crust, with all its culture and elegance, paved the way for new, Patriot elites to emerge. It also cleared the field for more egalitarian ideas to sweep across the land.



The Pursuit of Equality

“All men are created equal,” the Declaration of Independence proclaimed, and equality was everywhere the watchword. Most states reduced (but usually did not eliminate altogether) property-holding requirements for voting. Ordinary men and women demanded to be addressed as “Mr.” and “Mrs.”—titles once reserved for the wealthy and highborn. Employers were now called “boss,” not “master.” In 1784 New Yorkers released a shipload of freshly arrived indentured servants, on the grounds that their status violated democratic ideals; by 1800 servitude was virtually unknown. Most Americans ridiculed the lordly pretensions of Continental Army officers who formed an exclusive hereditary order, the Society of the Cincinnati. Social democracy was further stimulated by the growth of trade organizations for

artisans and laborers. Citizens in several states, flushed with republican fervor, also sawed off the remaining shackles of medieval inheritance laws, such as primogeniture, which awarded all of a father's property to the eldest son.

A protracted fight for separation of church and state resulted in notable gains. Although the well-entrenched Congregational Church continued to be legally established in some New England states, the Anglican Church, tainted by association with the British crown, was humbled. De-anglicized, it re-formed as the Protestant Episcopal Church and was everywhere disestablished. The struggle for divorce between religion and government proved fiercest in Virginia. It was prolonged to 1786, when freethinking Thomas Jefferson and his co-reformers, including the Baptists, won a complete victory with the passage of the Virginia Statute for Religious Freedom. (See the table of established churches on p. 95.)

The egalitarian sentiments unleashed by the war likewise challenged the institution of slavery. Philadelphia Quakers in 1775 founded the world's first antislavery society. Hostilities hampered the noxious trade in "black ivory," and the Continental Congress in 1774 called for the complete abolition of the slave trade, a summons to which most of the states responded positively. Several northern states went further and either abolished slavery outright or provided for the gradual emancipation of blacks. Even on the plantations of Virginia, a few idealistic masters freed their human chattels—the first frail sprouts of the later abolitionist movement.

But this revolution of sentiments was sadly incomplete. No states south of Pennsylvania abolished slavery, and in both North and South, the law discriminated harshly against freed blacks and slaves alike. Emancipated African Americans could be barred from purchasing property, holding certain jobs, and educating their children. Laws against interracial marriage also sprang up at this time.

Why, in this dawning democratic age, did abolition not go further and cleanly blot the evil of slavery from the



Elizabeth "Mumbet" Freeman (c. 1744–1829), by Susan Anne Livingston Ridley Sedgwick, 1811 In 1781, having overheard Revolutionary-era talk about the "rights of man," Mumbet sued her Massachusetts master for her freedom from slavery. She won her suit and lived the rest of her life as a paid domestic servant in the home of the lawyer who had pleaded her case.

fresh face of the new nation? The sorry truth is that the fledgling idealism of the Founding Fathers was sacrificed to political expediency. A fight over slavery would have fractured the fragile national unity that was so desperately needed. "Great as the evil [of slavery] is," the young Virginian James Madison wrote in 1787, "a dismemberment of the union would be worse." Nearly a century later, the slavery issue did wreck the Union—temporarily.

Likewise incomplete was the extension of the doctrine of equality to women. Some women did serve (disguised as men) in the military, and New Jersey's new constitution in 1776 even, for a time, enabled women to vote. But though Abigail Adams teased her husband John in 1776 that "the Ladies" were determined "to foment a rebellion" of their own if they were not given political rights, most of the women in the Revolutionary era were still doing traditional women's work.

The impact of the American Revolution was worldwide. About 1783 a British ship stopped at some islands off the East African coast, where the natives were revolting against their Arab masters. When asked why they were fighting, they replied, "America is free, Could not we be?"

The Revolution enhanced the expectations and power of women as wives and mothers. As one “matrimonial republican” wrote in 1792,

“I object to the word ‘obey’ in the marriage-service because it is a general word, without limitations or definition. . . . The obedience between man and wife, I conceive, is, or ought to be mutual. . . . Marriage ought never to be considered a contract between a superior and an inferior, but a reciprocal union of interest, an implied partnership of interests, where all differences are accommodated by conference; and where the decision admits of no retrospect.”

Yet women did not go untouched by Revolutionary ideals. Central to republican ideology was the concept of “civic virtue”—the notion that democracy depended on the unselfish commitment of each citizen to the public good. And who could better cultivate the habits of a virtuous citizenry than mothers, to whom society entrusted the moral education of the young? Indeed the selfless devotion of a mother to her family was often cited as the very model of proper republican behavior. The idea of “republican motherhood” thus took root, elevating women to a newly prestigious role as the special keepers of the nation’s conscience. Educational opportunities for women expanded, in the expectation that educated wives and mothers could better cultivate the virtues demanded by the Republic in their husbands, daughters, and sons. Republican women now bore crucial responsibility for the survival of the nation.



Constitution Making in the States

The Continental Congress in 1776 called upon the colonies to draft new constitutions. In effect, the Continental Congress was actually asking the colonies to summon themselves into being as new states. The sovereignty of these new states, according to the theory of republicanism, would rest on the authority of the people. For a time the manufacture of governments was even more pressing than the manufacture of gunpowder.

Although the states of Connecticut and Rhode Island merely retouched their colonial charters, constitution writers elsewhere worked tirelessly to capture on black-inked parchment the republican spirit of the age.

Massachusetts contributed one especially noteworthy innovation when it called a special convention to draft its constitution and then submitted the final draft directly to the people for ratification. Once adopted in 1780, the Massachusetts constitution could be changed only by another specially called constitutional convention. This procedure was later imitated in the drafting and ratification of the federal Constitution.

The newly penned state constitutions had many features in common. Their similarity, as it turned out, made easier the drafting of a workable federal charter when the time was ripe. In the British tradition, a “constitution” was not a written document, but rather an accumulation of laws, customs, and precedents. Americans invented something different. The documents they drafted were contracts that defined the powers of government, as did the old colonial charters, but they drew their authority from the people, not from the royal seal of a distant king. As *written* documents the state constitutions were intended to represent a *fundamental* law, superior to the transient whims of ordinary legislation. Most of these documents included bills of rights, specifically guaranteeing long-prized liberties against later legislative encroachment. Most of them required the annual election of legislators, who were thus forced to stay in touch with the mood of the people. All of them deliberately created weak executive and judicial branches, at least by present-day standards. A generation of quarreling with His Majesty’s officials had implanted a deep distrust of despotic governors and arbitrary judges.

In all the new state governments, the legislatures, as presumably the most democratic branch of government, were given sweeping powers. But as Thomas Jefferson warned, “173 despots [in a legislature] would surely be as oppressive as one.” Many Americans soon came to agree with him.

The democratic character of the new state legislatures was vividly reflected by the presence of many members from the recently enfranchised poorer western districts. Their influence was powerfully felt in their several successful movements to relocate state capitals from the haughty eastern seaports into the less pretentious interior. In the Revolutionary era, the capitals of New Hampshire, New York, Virginia, North Carolina, South Carolina, and Georgia were all moved westward. These geographical shifts portended political shifts that deeply discomfited many more conservative Americans.



EXAMINING THE EVIDENCE

Copley Family Portrait, c. 1776–1777 A portrait painting like this one by John Singleton Copley (1738–1815) documents physical likenesses, clothing styles, and other material possessions typical of an era. But it can do more than that. In the execution of the painting itself, the preeminent portrait painter of colonial America revealed important values of his time. Copley's composition and use of light emphasized the importance of the mother in the family. Mrs. Copley is the visual center of the painting; the light falls

predominantly on her, and she provides the focus of activity for the family group. Although Copley had moved to England in 1774 to avoid the disruptions of war, he had made radical friends in his hometown of Boston and surely had imbibed the sentiment of the age about “republican motherhood”—a sentiment that revered women as homemakers and mothers, the cultivators of good republican values in young citizens. What other prevailing attitudes, about gender and age, for example, might this painting reveal?



Economic Crosscurrents

Economic changes begotten by the war were likewise noteworthy, but not overwhelming. States seized control of former crown lands, and although rich speculators had their day, many of the large Loyalist holdings were confiscated and eventually cut up into small farms.

Roger Morris's huge estate in New York, for example, was sliced into 250 parcels—thus accelerating the spread of economic democracy. The frightful excesses of the French Revolution were avoided, partly because cheap land was easily available. People do not chop off heads so readily when they can chop down trees. It is highly significant that in the United States, economic democracy, broadly speaking, preceded political democracy.



Western Merchants Negotiating the Purchase of Tea, c. 1790–1800 Yankee merchants and shippers figured prominently in the booming trade with China in the late eighteenth century. Among the American entrepreneurs who prospered in the China trade was Warren Delano, ancestor of President Franklin Delano Roosevelt.

A sharp stimulus was given to manufacturing by the prewar nonimportation agreements and later by the war itself. Goods that had formerly been imported from Britain were mostly cut off, and the ingenious Yankees were forced to make their own. Ten years after the Revolution, the busy Brandywine Creek, south of Philadelphia, was turning the water wheels of numerous mills along an eight-mile stretch. Yet America remained overwhelmingly a nation of soil-tillers.

Economically speaking, independence had drawbacks. Much of the coveted commerce of Britain was still reserved for the loyal parts of the empire. American ships were now barred from British and British West Indies harbors. Fisheries were disrupted, and bounties for ships' stores had abruptly ended. In some respects the hated British Navigation Laws were more disagreeable after independence than before.

New commercial outlets, fortunately, compensated partially for the loss of old ones. Americans could now trade freely with foreign nations, subject to local

restrictions—a boon they had not enjoyed in the days of mercantilism. Enterprising Yankee shippers ventured boldly—and profitably—into the Baltic and China Seas. In 1784 the *Empress of China*, carrying a valuable weed (ginseng) that was highly prized by Chinese herb doctors as a cure for impotence, led the way into the East Asian markets.

Yet the general economic picture was far from rosy. War had spawned demoralizing extravagance, speculation, and profiteering, with profits for some as indecently high as 300 percent. State governments had borrowed more during the war than they could ever hope to repay. Runaway inflation had been ruinous to many citizens, and Congress had failed in its feeble attempts to curb economic laws. The average citizen was probably worse off financially at the end of the shooting than at the start.

The whole economic and social atmosphere was unhealthy. A newly rich class of profiteers was noisily conspicuous, whereas many once-wealthy people were

left destitute. The controversy leading to the Revolutionary War had bred a keen distaste for taxes and encouraged disrespect for the majesty of the law generally. John Adams had been shocked when gleefully told by a horse-jockey neighbor that the courts of justice were all closed—a plight that proved to be only temporary.



A Shaky Start Toward Union

What would the Americans do with the independence they had so dearly won? The Revolution had dumped the responsibility of creating and operating a new central government squarely into their laps.

Prospects for erecting a lasting regime were far from bright. It is always difficult to set up a new government and doubly difficult to set up a new type of government. The picture was further clouded in America by leaders preaching “natural rights” and looking suspiciously at all persons clothed with authority. America was more a name than a nation, and unity ran little deeper than the color on the map.

Disruptive forces stalked the land. The departure of the conservative Tory element left the political system inclined toward experimentation and innovation. Patriots had fought the war with a high degree of disunity, but they had at least concurred on allegiance to a common cause. Now even that was gone. It would have been almost a miracle if any government fashioned in all this confusion had long endured.

Hard times, the bane of all regimes, set in shortly after the war and hit bottom in 1786. As if other troubles were not enough, British manufacturers, with dammed-up surpluses, began flooding the American market with cut-rate goods. War-baby American industries, in particular, suffered industrial colic from such ruthless competition. One Philadelphia newspaper in 1783 urged readers to don home-stitched garments of homespun cloth:

*Of foreign gewgaws let's be free,
And wear the webs of liberty.*

Yet hopeful signs could be discerned. The thirteen sovereign states were basically alike in governmental structure and functioned under similar constitutions. Americans enjoyed a rich political inheritance, derived partly from Britain and partly from their own home-grown devices for self-government. Finally, they were blessed with political leaders of a high order in men like George Washington, James Madison, John Adams, Thomas Jefferson, and Alexander Hamilton.



Creating a Confederation

The Second Continental Congress of Revolutionary days was little more than a conference of ambassadors from the thirteen states. It was totally without constitutional authority and in general did only what it dared to do, though it asserted some control over military affairs and foreign policy. In nearly all respects, the thirteen states were sovereign, for they coined money, raised armies and navies, and erected tariff barriers. The legislature of Virginia even ratified separately the treaty of alliance of 1778 with France.

Shortly before declaring independence in 1776, Congress appointed a committee to draft a written constitution for the new nation. The finished product was the Articles of Confederation. Adopted by Congress in 1777, it was translated into French after the Battle of Saratoga so as to convince France that America had a genuine government in the making. The Articles were not ratified by all thirteen states until 1781, less than eight months before the victory at Yorktown.

The chief apple of discord was western lands. Six of the jealous states, including Pennsylvania and Maryland, had no holdings beyond the Allegheny Mountains. Seven, notably New York and Virginia, were favored with enormous acreage, in most cases on the basis of earlier charter grants. The six land-hungry states argued that the more fortunate states would not have retained possession of this splendid prize if all the other states had not fought for it also. A major complaint was that the land-rich states could sell their trans-Allegheny tracts and thus pay off pensions and other debts incurred in the common cause. States without such holdings would have to tax themselves heavily to defray these obligations. Why not turn the whole western area over to the central government?

Unanimous approval of the Articles of Confederation by the thirteen states was required, and land-starved Maryland stubbornly held out until March 1, 1781. Maryland at length gave in when New York surrendered its western claims and Virginia seemed about to do so. To sweeten the pill, Congress pledged itself to dispose of these vast areas for the “common benefit.” It further agreed to carve from the new public domain not colonies, but a number of “republican” states, which in time would be admitted to the Union on terms of complete equality with all the others. This extraordinary commitment faithfully reflected the anticolonial spirit of the Revolution, and the pledge was later fully redeemed in the famed Northwest Ordinance of 1787.



Fertile public lands thus transferred to the central government proved to be an invaluable bond of union. The states that had thrown their heritage into the common pot had to remain in the Union if they were to reap their share of the advantages from the land sales. An army of westward-moving pioneers purchased their farms from the federal government, directly or indirectly, and they learned to look to the national capital, rather than to the state capitals—with a consequent weakening of local influence. Finally, a uniform national land policy was made possible.


**The Articles of Confederation:
 America's First Constitution**

The Articles of Confederation—some have said “Articles of Confusion”—provided for a loose confederation or “firm league of friendship.” Thirteen independent states were thus linked together for joint action in dealing with common problems, such as foreign affairs. A clumsy Congress was to be the chief agency of government.

There was no executive branch—George III had left a bad taste—and the vital judicial arm was left almost exclusively to the states.

Congress, though dominant, was securely hobbled. Each state had a single vote, so that some sixty-eight thousand Rhode Islanders had the same voice as more than ten times that many Virginians. All bills dealing with subjects of importance required the support of nine states; any amendment of the Articles themselves required unanimous ratification. Unanimity was almost impossible, and this meant that the amending process, perhaps fortunately, was unworkable. If it had been workable, the Republic might have struggled along with a patched-up Articles of Confederation rather than replace it with an effective Constitution.

The shackled Congress was weak—and was purposely designed to be weak. Suspicious states, having just won control over taxation and commerce from Britain, had no desire to yield their newly acquired privileges to an American parliament—even one of their own making.

Two handicaps of Congress were crippling. It had no power to regulate commerce, and this loophole left the states free to establish different, and often conflicting, laws regarding tariffs and navigation. Nor could Congress enforce its tax-collection program. It established a tax quota for each of the states and then asked them please to contribute their share on a voluntary basis. The central authority—a “government by supplication”—was lucky if in any year it received one-fourth of its requests.

The feeble national government in Philadelphia could advise and advocate and appeal. But in dealing with the independent states, it could not command or coerce or control. It could not act directly upon the individual citizens of a sovereign state; it could not even protect itself against gross indignities. In 1783 a group of mutinous Pennsylvania soldiers, whose pay was in arrears, marched to Philadelphia and made a threatening demonstration in front of Independence Hall. After Congress appealed in vain to the state for protection, its members fled to safety at Princeton College in New Jersey. The new Congress, with all its paper powers, was even less effective than the old Continental Congress, which wielded no constitutional powers at all.

Yet the Articles of Confederation, weak though they were, proved to be a landmark in government. They were for those days a model of what a loose confederation ought to be. Thomas Jefferson enthusiastically hailed the new structure as the best one “existing or that ever did exist.” To compare it with the European governments, he thought, was like comparing “heaven and hell.”



Statehouse in 1778, from a drawing by Charles Willson Peale, by William L. Breton, c. 1830

Originally built in the 1730s as a meeting place for the Pennsylvania colonial assembly, this building witnessed much history: here Washington was given command of the Continental Army, the Declaration of Independence was signed, and the Constitution was hammered out. The building began to be called “Independence Hall” in the 1820s.

But although the Confederation was praiseworthy as confederations went, the troubled times demanded not a loosely woven *confederation* but a tightly knit *federation*. This involved the yielding by the states of their sovereignty to a completely recast federal government, which in turn would leave them free to control their local affairs.

In spite of their defects, the anemic Articles of Confederation were a significant steppingstone toward the present Constitution. They clearly outlined the general powers that were to be exercised by the central government, such as making treaties and establishing a postal service. As the first written constitution of the Republic, the Articles kept alive the flickering ideal of union and held the states together—until such time as they were ripe for the establishment of a strong constitution by peaceful, evolutionary methods. Without this intermediary jump, the states probably would never have consented to the breathtaking leap from the old boycott Association of 1774 to the Constitution of the United States.



Landmarks in Land Laws

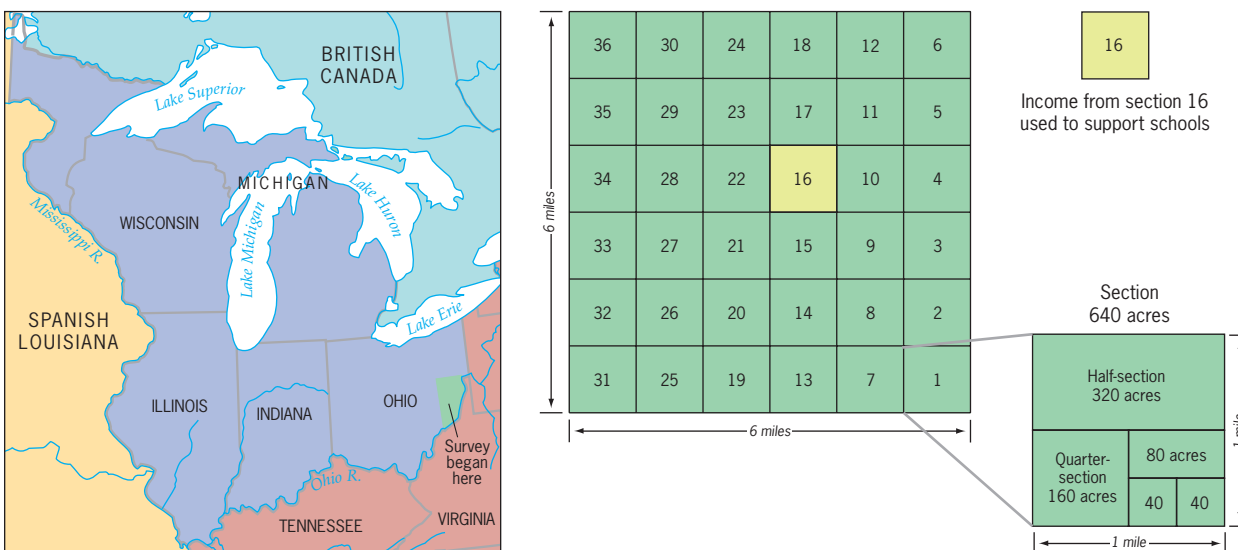
Handcuffed though the Congress of the Confederation was, it succeeded in passing supremely farsighted pieces of legislation. These related to an immense part of the public domain recently acquired from the states and commonly known as the Old Northwest. This area of land lay northwest of the Ohio River, east of the Mississippi River, and south of the Great Lakes.

The first of these red-letter laws was the Land Ordinance of 1785. It provided that the acreage of the Old Northwest should be sold and that the proceeds should be used to help pay off the national debt. The vast area was to be surveyed before sale and settlement, thus forestalling endless confusion and lawsuits. It was to be divided into townships six miles square, each of which in turn was to be split into thirty-six sections of one square mile each. The sixteenth section of each township was set aside to be sold for the benefit of the public schools—a priceless gift to education in the Northwest. The orderly settlement of the Northwest Territory, where the land was methodically surveyed and titles duly recorded, contrasted sharply with the chaos south of the Ohio River, where uncertain ownership was the norm and fraud was rampant.

Even more noteworthy was the Northwest Ordinance of 1787, which related to the governing of the Old Northwest. This law came to grips with the problem of how a nation should deal with its colonies—the same problem that had bedeviled the king and Parliament in London. The solution provided by the Northwest Ordinance was a judicious compromise: temporary tutelage, then permanent equality. First, there would be two evolutionary territorial stages, during which the area would be subordinate to the federal government. Then, when a territory could boast sixty thousand inhabitants, it might be admitted by Congress as a state, with all the privileges of the thirteen charter members. (This is precisely what the Continental Congress had promised the states when they surrendered their lands in 1781.) The ordinance also forbade slavery in the Old Northwest—a path-breaking step, though it exempted slaves already present.

The wisdom of Congress in handling this explosive problem deserves warm praise. If it had attempted to chain the new territories in permanent subordination, a second American Revolution almost certainly would have erupted in later years, fought this time by the West against the East. Congress thus neatly solved the seemingly insoluble problem of empire. The scheme worked so well that its basic principles were ultimately carried over from the Old Northwest to other frontier areas.

Surveying the Old Northwest Sections of a township under the Land Ordinance of 1785.




The World's Ugly Duckling

Foreign relations, especially with London, remained troubled during these anxious years of the Confederation. Britain resented the stab in the back from its rebellious offspring and for eight years refused to send a minister to America's "backwoods" capital. London suggested, with barbed irony, that if it sent one, it would have to send thirteen.

Britain flatly declined to make a commercial treaty or to repeal its ancient Navigation Laws. Lord Sheffield, whose ungenerous views prevailed, argued persuasively in a widely sold pamphlet that Britain would win back America's trade anyhow. Commerce, he insisted, would naturally follow old channels. So why go to the Americans hat in hand? The British also officially closed their profitable West Indies trade to the United States, though the Yankees, with their time-tested skill in smuggling, illegally partook nonetheless.

Scheming British agents were also active along the far-flung northern frontier. They intrigued with the disgruntled Allen brothers of Vermont and sought to annex that rebellious area to Britain. Along the northern border, the redcoats continued to hold a chain of trading posts on U.S. soil, and there they maintained their fur trade with the Indians. One plausible excuse for remaining was the failure of the American states to honor the treaty of peace in regard to debts and Loyalists. But the main purpose of Britain in hanging on was probably to curry favor with the Indians and keep their tomahawks lined up on the side of the king as a barrier against future American attacks on Canada.

All these grievances against Britain were maddening to patriotic Americans. Some citizens demanded, with more heat than wisdom, that the United States force the British into line by imposing restrictions on their imports to America. But Congress could not control commerce, and the states refused to adopt a uniform tariff policy. Some "easy states" deliberately lowered their tariffs in order to attract an unfair share of trade.

Spain, though recently an enemy of Britain, was openly unfriendly to the new Republic. It controlled the mouth of the all-important Mississippi, down which the pioneers of Tennessee and Kentucky were forced to float their produce. In 1784 Spain closed the river to American commerce, threatening the West with strangulation. Spain likewise claimed a large area north of the Gulf of Mexico, including Florida, granted to the United States by the British in 1783. At Natchez, on



Main Centers of Spanish and British Influence After 1783 This map shows graphically that the United States in 1783 achieved complete independence in name only, particularly in the area west of the Appalachian Mountains. Not until twenty years had passed did the new Republic, with the purchase of Louisiana from France in 1803, eliminate foreign influence from the area east of the Mississippi River.

disputed soil, it held an important fort. It also schemed with the neighboring Indians, grievously antagonized by the rapacious land policies of Georgia and North Carolina, to hem in the Americans east of the Appalachians. Spain and Britain together, radiating their influence out among resentful Indian tribes, prevented America from exercising effective control over about half of its total territory.

Even France, America's comrade-in-arms, cooled off now that it had humbled Britain. The French demanded the repayment of money loaned during the war and restricted trade with their bustling West Indies and other ports.

Pirates of the North African states, including the arrogant Dey of Algiers, were ravaging America's

Mediterranean commerce and enslaving Yankee sailors. The British purchased protection for their own subjects, and as colonists the Americans had enjoyed this shield. But as an independent nation, the United States was too weak to fight and too poor to bribe. A few Yankee shippers engaged in the Mediterranean trade with forged British protection papers, but not all were so bold or so lucky.

John Jay, secretary for foreign affairs, derived some hollow satisfaction from these insults. He hoped they would at least humiliate the American people into framing a new government at home that would be strong enough to command respect abroad.



The Horrid Specter of Anarchy

Economic storm clouds continued to loom in the mid-1780s. The requisition system of raising money was breaking down; some of the states refused to pay anything, while complaining bitterly about the tyranny of “King Congress.” Interest on the public debt was piling up at home, and the nation’s credit was evaporating abroad.

Individual states were getting out of hand. Quarrels over boundaries generated numerous minor pitched battles. Some of the states were levying duties on goods from their neighbors; New York, for example, taxed firewood from Connecticut and cabbages from New Jersey. A number of the states were again starting to grind out depreciated paper currency, and a few of them had

Social tensions reached a fever pitch during Shays’s Rebellion in 1787. In an interview with a local Massachusetts paper, instigator Daniel Shays (1747–1825) explained how the debt-ridden farmers hoped to free themselves from the demands of a merchant-dominated government. The rebels would seize arms and “march directly to Boston, plunder it, and then . . . destroy the nest of devils, who by their influence, make the Court enact what they please, burn it and lay the town of Boston in ashes.”



Debtors Protest, 1787 This drawing done on the eve of the writing of the U.S. Constitution features a farmer with a plow, rake, and bottle complaining, “Takes all to pay taxes.” The discontent of debt-rich and currency-poor farmers alarmed republican leaders and helped persuade them that the Articles of Confederation needed to be replaced with a new constitution.

passed laws sanctioning the semiworthless “rag money.” As a contemporary rhymester put it,

*Bankrupts their creditors with rage pursue;
No stop, no mercy from the debtor crew.*

An alarming uprising, known as Shays’s Rebellion, flared up in western Massachusetts in 1786. Impoverished backcountry farmers, many of them Revolutionary War veterans, were losing their farms through mortgage foreclosures and tax delinquencies. Led by Captain Daniel Shays, a veteran of the Revolution, these desperate debtors demanded that the state issue paper money, lighten taxes, and suspend property takeovers. Hundreds of angry agitators, again seizing their muskets, attempted to enforce their demands.

Massachusetts authorities responded with drastic action. Supported partly by contributions from wealthy citizens, they raised a small army. Several skirmishes occurred—at Springfield three Shaysites were killed, and one was wounded—and the movement collapsed. Daniel Shays, who believed that he was fighting anew against tyranny, was condemned to death but was later pardoned.

Shays’s followers were crushed—but the nightmarish memory lingered on. The Massachusetts legislature

soon passed debtor-relief laws of the kind Shays had championed, seemingly confirming Thomas Jefferson's fear of "democratic despotism." "An elective despotism was not the government we fought for," Jefferson wrote. The outbursts of Shays and other distressed debtors struck fear in the hearts of the propertied class, who began to suspect that the Revolution had created a monster of "mobocracy." Unbridled republicanism, it seemed to many of the elite, had fed an insatiable appetite for liberty that was fast becoming license. Civic virtue was no longer sufficient to rein in self-interest and greed. It had become "undeniably evident," one skeptic sorrowfully lamented, "that some malignant disorder has seized upon our body politic." If republicanism was too shaky a ground upon which to construct a new nation, a stronger central government would provide the needed foundation. A few panicky citizens even talked of importing a European monarch to carry on where George III had failed.

How critical were conditions under the Confederation? Conservatives, anxious to safeguard their wealth and position, naturally exaggerated the seriousness of the nation's plight. They were eager to persuade their fellow citizens to amend the Articles of Confederation in favor of a muscular central government. But the poorer states' rights people pooh-poohed the talk of anarchy. Many were debtors who feared that a powerful federal government would force them to pay their creditors.

Yet friends and critics of the Confederation agreed that it needed some strengthening. Popular toasts were "Cement to the Union" and "A hoop to the barrel." The chief differences arose over how this goal should be attained and how a maximum degree of states' rights could be reconciled with a strong central government. America probably could have muddled through somehow with amended Articles of Confederation. But the adoption of a completely new constitution certainly spared the Republic much costly indecision, uncertainty, and turmoil.

The nationwide picture was actually brightening before the Constitution was drafted. Nearly half the states had not issued semiworthless paper currency, and some of the monetary black sheep showed signs of returning to the sound-money fold. Prosperity was beginning to emerge from the fog of depression. By 1789 overseas shipping had largely regained its place in the commercial world. If conditions had been as grim in 1787 as painted by foes of the Articles of Confederation, the move for a new constitution would hardly have encountered such heated opposition.



A Convention of "Demigods"

Control of commerce, more than any other problem, touched off the chain reaction that led to a constitutional convention. Interstate squabbling over this issue had become so alarming by 1786 that Virginia, taking the lead, issued a call for a convention at Annapolis, Maryland. Nine states appointed delegates, but only five were finally represented. With so laughable a showing, nothing could be done about the ticklish question of commerce. A charismatic New Yorker, thirty-one-year-old Alexander Hamilton, brilliantly saved the convention from complete failure by engineering the adoption of his report. It called upon Congress to summon a convention to meet in Philadelphia the next year, not to deal with commerce alone, but to bolster the entire fabric of the Articles of Confederation.

Congress, though slowly and certainly dying in New York City, was reluctant to take a step that might hasten its day of reckoning. But after six of the states had seized the bit in their teeth and appointed delegates anyhow, Congress belatedly issued the call for a convention "for the sole and express purpose of revising" the Articles of Confederation.

Alexander Hamilton (1755–1804) clearly revealed his preference for an aristocratic government in his Philadelphia speech (1787):

"All communities divide themselves into the few and the many. The first are the rich and wellborn, the other the mass of the people. . . . The people are turbulent and changing; they seldom judge or determine right. Give therefore to the first class a distinct, permanent share in the government. They will check the unsteadiness of the second, and as they cannot receive any advantage by change, they therefore will ever maintain good government."

Every state chose representatives, except for independent-minded Rhode Island (still “Rogues’ Island”), a stronghold of paper-moneyites. These leaders were all appointed by the state legislatures, whose members had been elected by voters who could qualify as property holders. This double distillation inevitably brought together a select group of propertied men—though it is a grotesque distortion to claim that they shaped the Constitution primarily to protect their personal financial interests. When one of them did suggest restricting federal office to major property owners, he was promptly denounced for the unwisdom of “interweaving into a republican constitution a veneration for wealth.”

A quorum of the fifty-five emissaries from twelve states finally convened at Philadelphia on May 25, 1787, in the imposing red-brick statehouse. The smallness of the assemblage facilitated intimate acquaintance and hence compromise. Sessions were held in complete secrecy, with armed sentinels posted at the doors. Delegates knew that they would generate heated differences, and they did not want to advertise their own dissensions or put the ammunition of harmful arguments into the mouths of the opposition.

The caliber of the participants was extraordinarily high—“demigods,” Jefferson called them. The crisis was such as to induce the ablest men to drop their personal pursuits and come to the aid of their country. Most of the members were lawyers, and most of them fortunately were old hands at constitution making in their own states.

George Washington, towering austere and aloof among the “demigods,” was unanimously elected chairman. His enormous prestige, as “the Sword of the Revolution,” served to quiet overheated tempers. Benjamin Franklin, then eighty-one, added the urbanity of an elder statesman, though he was inclined to be indiscreetly talkative in his declining years. Concerned for the secrecy of their deliberations, the convention assigned chaperones to accompany Franklin to dinner parties and make sure he held his tongue. James Madison, then thirty-six and a profound student of government, made contributions so notable that he has been dubbed “the Father of the Constitution.” Alexander Hamilton, then only thirty-two, was present as an advocate of a super-powerful central government. His five-hour speech in behalf of his plan, though the most eloquent of the convention, left only one delegate convinced—himself.

Most of the fiery Revolutionary leaders of 1776 were absent. Thomas Jefferson, John Adams, and Thomas



Rising Sun Symbol at the Top of Washington’s Chair

This brass sun adorned the chair in which George Washington sat during the Constitutional Convention. Pondering the symbol, Benjamin Franklin observed, “I have the happiness to know it is a rising and not a setting sun.”

Paine were in Europe; Samuel Adams and John Hancock were not elected by Massachusetts. Patrick Henry, ardent champion of states’ rights, was chosen as a delegate from Virginia but declined to serve, declaring that he “smelled a rat.” It was perhaps well that these architects of revolution were absent. The time had come to yield the stage to leaders interested in fashioning solid political systems.



Patriots in Philadelphia

The fifty-five delegates were a conservative, well-to-do body: lawyers, merchants, shippers, land speculators, and moneylenders. Not a single spokesperson was present from the poorer debtor groups. Nineteen of the fifty-five owned slaves. They were young (the average age was about forty-two) but experienced statesmen. Above all, they were nationalists, more interested in preserving and strengthening the young Republic than in further stirring the roiling cauldron of popular democracy.

The delegates hoped to crystallize the last evaporating pools of revolutionary idealism into a stable political structure that would endure. They strongly desired a firm, dignified, and respected government. They believed in republicanism but sought to protect the

Thomas Jefferson (1743–1826), despite his high regard for the leaders at the Philadelphia convention, still was not unduly concerned about Shaysite rebellions. He wrote in November 1787,

“What country before ever existed a century and a half without a rebellion? . . . The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure.”

American experiment from its weaknesses abroad and excesses at home. In a broad sense, the piratical Dey of Algiers, who drove the delegates to their work, was a Founding Father. They aimed to clothe the central authority with genuine power, especially in controlling tariffs, so that the United States could wrest satisfactory commercial treaties from foreign nations. The short-sighted hostility of the British mercantilists spurred the constitution framers to their task, and in this sense the illiberal Lord Sheffield was also a Founding Father.

Other motives hovered in the Philadelphia hall. Delegates were determined to preserve the union, forestall anarchy, and ensure security of life and property against dangerous uprisings by the “mobocracy.” Above all, they sought to curb the unrestrained democracy rampant in the various states. “We have, probably, had too good an opinion of human nature in forming our confederation,” Washington concluded. The specter of the recent outburst in Massachusetts was especially alarming, and in this sense Daniel Shays was yet another Founding Father. Grinding necessity extorted the Constitution from a reluctant nation. Fear occupied the fifty-sixth chair.



Hammering Out a Bundle of Compromises

Some of the travel-stained delegates, when they first reached Philadelphia, decided upon a daring step. They

would completely *scrap* the old Articles of Confederation, despite explicit instructions from Congress to *revise*. Technically, these bolder spirits were determined to overthrow the existing government of the United States by peaceful means.

A scheme proposed by populous Virginia, and known as “the large-state plan,” was first pushed forward as the framework of the Constitution. Its essence was that representation in both houses of a bicameral Congress should be based on population—an arrangement that would naturally give the larger states an advantage.

Tiny New Jersey, suspicious of brawny Virginia, countered with “the small-state plan.” This provided for equal representation in a unicameral Congress by states, regardless of size and population, as under the existing Articles of Confederation. The weaker states feared that under the Virginia scheme, the stronger states would band together and lord it over the rest. Angry debate, heightened by a stifling heat wave, led to deadlock. The danger loomed that the convention would unravel in complete failure. Even skeptical old Benjamin Franklin seriously proposed that the daily sessions be opened with a prayer by a local clergyman.

Dr. James McHenry (1753–1816), a delegate from Maryland to the Constitutional Convention of 1787, took notes on the arguments made for and against the drafting of a new constitution:

“Gov. Randolph observed that the confederation is incompetent to any one object for which it was instituted. The framers of it wise and great men; but human rights were the chief knowle[d]ge of the times when it was framed so far as they applied to oppose Great Britain. Requisitions for men and money had never offered their form to our assemblies. None of those vices that have since discovered themselves were apprehended.”

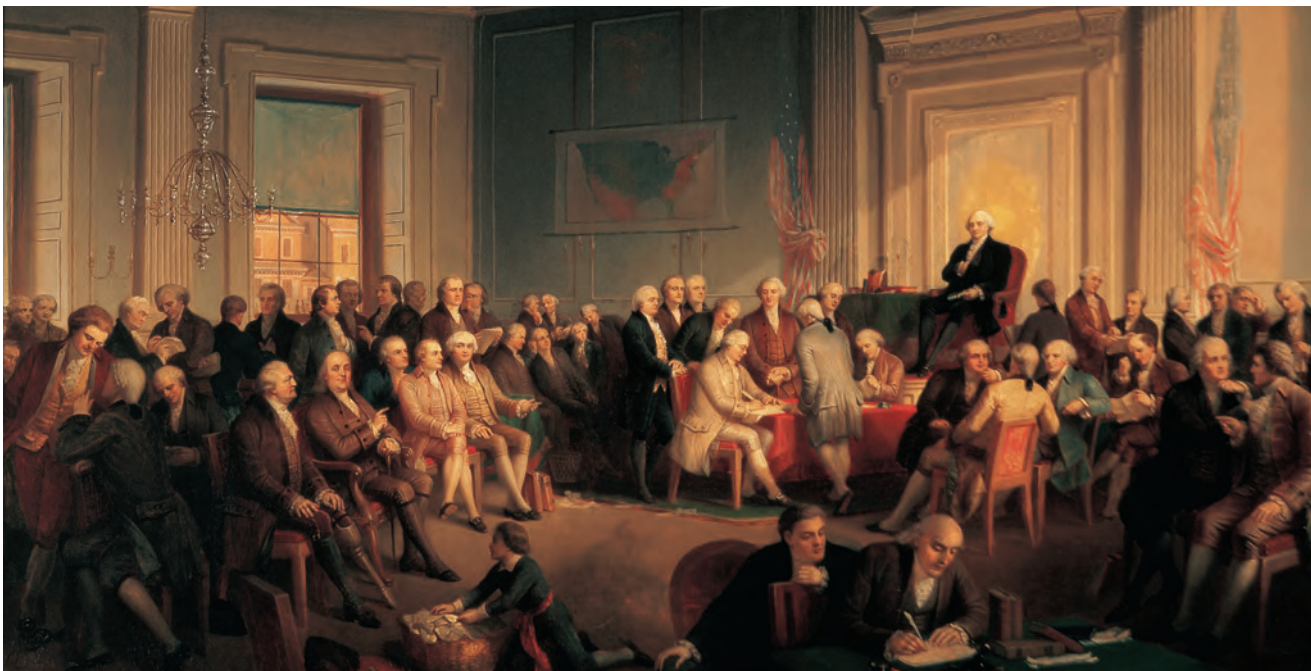
Evolution of Federal Union

| Years | Attempts at Union | Participants |
|-----------|---|--------------|
| 1643–1684 | New England Confederation | 4 colonies |
| 1686–1689 | Dominion of New England | 7 colonies |
| 1754 | Albany Congress | 7 colonies |
| 1765 | Stamp Act Congress | 9 colonies |
| 1772–1776 | Committees of Correspondence | 13 colonies |
| 1774 | First Continental Congress (adopts The Association) | 12 colonies |
| 1775–1781 | Second Continental Congress | 13 colonies |
| 1781–1789 | Articles of Confederation | 13 states |
| 1789–1790 | Federal Constitution | 13 states |

After bitter and prolonged debate, the “Great Compromise” of the convention was hammered out and agreed upon. A cooling of tempers came coincidentally with a cooling of the temperature. The larger states were conceded representation by population in the House of Representatives (Art. I, Sec. II, para. 3; see Appendix at the end of this book), and the smaller states were appeased by equal representation in the

Senate (see Art. I, Sec. III, para. 1). Each state, no matter how poor or small, would have two senators. The big states obviously yielded more. As a sop to them, the delegates agreed that every tax bill or revenue measure must originate in the House, where population counted more heavily (see Art. I, Sec. VII, para. 1). This critical compromise broke the logjam, and from then on success seemed within reach.

Signing of the Constitution of the United States, 1787 George Washington presided from the dais as the Constitutional Convention’s president. At a table in the front row sat James Madison, later called the Father of the Constitution, who recorded the proceedings in shorthand. Daily from 10 A.M. to 3 P.M., from late May through mid-September 1787, the fifty-five delegates wrangled over ideas for a new federal government.



One of the Philadelphia delegates recorded in his journal a brief episode involving Benjamin Franklin, who was asked by a woman when the convention ended,

"Well, Doctor, what have we got, a republic or a monarchy?"

The elder statesman answered,

"A republic, if you can keep it."

In a significant reversal of the arrangement most state constitutions had embodied, the new Constitution provided for a robust—though still legally restrained—executive in the presidency. The framers were here partly inspired by the example of Massachusetts, where a vigorous, popularly elected governor had suppressed Shays's Rebellion. The president was to have broad authority to make appointments to domestic offices—including judgeships—as well as veto power over legislation. Yet presidential power was far from absolute. The president, as commander in chief, was granted the power to wage war, but Congress retained the crucial right to *declare* war—a division of responsibilities that has been an invitation to conflict between president and Congress ever since.

The Constitution as drafted was a bundle of compromises; they stand out in every section. A key compromise was the method of electing the president indirectly by the Electoral College, rather than by direct means. While the large states would have the advantage in the first round of popular voting, as a state's share of electors was based on the total of its senators and representatives in Congress, the small states would gain a larger voice if no candidate got a majority of electoral votes and the election was thrown to the House of Representatives, where each state had only one vote (see Art. II, Sec. I, para. 2). Although the framers of the Constitution expected election by the House to occur frequently, it has happened just twice, in 1800 and in 1824.

Sectional jealousy also intruded. Should the voteless slave of the southern states count as a person in apportioning direct taxes and in according representation in the House of Representatives? The South, not wishing to be deprived of influence, answered "yes." The North

replied "no," arguing that, as slaves were not citizens, the North might as logically demand additional representation based on its horses. As a compromise between total representation and none at all, it was decided that a slave might count as three-fifths of a person. Hence the memorable, if arbitrary, "three-fifths compromise" (see Art. I, Sec. II, para. 3).

Most of the states wanted to shut off the African slave trade. But South Carolina and Georgia, requiring slave labor in their rice paddies and malarial swamps, raised vehement protests. By way of compromise, the convention stipulated that the slave trade might continue until the end of 1807, at which time Congress could turn off the spigot (see Art. I, Sec. IX, para. 1). It did so as soon as the prescribed interval had elapsed. Meanwhile, all the new state constitutions except Georgia's forbade overseas slave trade.



Safeguards for Conservatism

Heated clashes among the delegates have been overplayed. The area of agreement was actually large; otherwise the convention would have speedily disbanded. Economically, the members of the Constitutional Convention generally saw eye to eye; they demanded sound money and the protection of private property. Politically, they were in basic agreement; they favored a stronger government, with three branches and with checks and balances among them—what critics branded a "triple-headed monster." Finally, the convention was virtually unanimous in believing that manhood-suffrage democracy—government by "democratic babblers"—was something to be feared and fought.

Daniel Shays, the prime bogeyman, still frightened the conservative-minded delegates. They deliberately erected safeguards against the excesses of the "mob," and they made these barriers as strong as they dared. The awesome federal judges were to be appointed for life. The powerful president was to be elected *indirectly* by the Electoral College; the lordly senators were to be chosen *indirectly* by state legislatures (see Art. I, Sec. III, para. 1). Only in the case of one-half of one of the three great branches—the House of Representatives—were qualified (propertied) citizens permitted to choose their officials by *direct* vote (see Art. I, Sec. II, para. 1).

Yet the new charter also contained democratic elements. Above all, it stood foursquare on the two great principles of republicanism: that the only legitimate government was one based on the consent of the

Strengthening the Central Government

| Under Articles of Confederation | Under Federal Constitution |
|---|---|
| A loose confederation of states | A firm union of people |
| 1 vote in Congress for each state | 2 votes in Senate for each state; representation by population in House (see Art. I, Secs. II, III) |
| Vote of 9 states in Congress for all important measures | Simple majority vote in Congress, subject to presidential veto (see Art. I, Sec. VII, para. 2) |
| Laws administered loosely by committees of Congress | Laws executed by powerful president (see Art. II, Secs. II, III) |
| No congressional power over commerce | Congress to regulate both foreign and interstate commerce (see Art. I, Sec. VIII, para. 3) |
| No congressional power to levy taxes | Extensive power in Congress to levy taxes (see Art. I, Sec. VIII, para. 1) |
| Limited federal courts | Federal courts, capped by Supreme Court (see Art. III) |
| Unanimity of states for amendment | Amendment less difficult (see Art. V) |
| No authority to act directly upon individuals and no power to coerce states | Ample power to enforce laws by coercion of individuals and to some extent of states |

governed, and that the powers of government should be limited—in this case specifically limited by a written constitution. The virtue of the people, not the authority of the state, was to be the ultimate guarantor of liberty, justice, and order. “We the people,” the preamble began, in a ringing affirmation of these republican doctrines.

At the end of seventeen muggy weeks—May 25 to September 17, 1787—only forty-two of the original fifty-five members remained to sign the Constitution. Three of the forty-two, refusing to do so, returned to their states to resist ratification. The remainder, adjourning to the City Tavern, celebrated the toastworthy occasion. But no members of the convention were completely happy about the result. They were too near their work—and too weary. Whatever their personal desires, they finally had to compromise and adopt what was acceptable to the entire body, and what presumably would be acceptable to the entire country.



The Clash of Federalists and Antifederalists

The Framing Fathers early foresaw that nationwide acceptance of the Constitution would not be easy to obtain. A formidable barrier was unanimous ratification by all thirteen states, as required for amendment by the still-standing Articles of Confederation. But since absent Rhode Island was certain to veto the Constitution, the delegates boldly adopted a different scheme. They

stipulated that when nine states had registered their approval through specially elected conventions, the Constitution would become the supreme law of the land in those states ratifying (see Art. VII).

This was extraordinary, even revolutionary. It was in effect an appeal over the heads of the Congress that had called the convention, and over the heads of the legislatures that had chosen its members, to the people—or those of the people who could vote. In this way the framers could claim greater popular sanction for their handiwork. A divided Congress submitted the document to the states on this basis, without recommendation of any kind.

The American people were somewhat astonished, so well had the secrets of the convention been concealed. The public had expected the old Articles of Confederation to be patched up; now it was handed a startling new document in which, many thought, the precious jewel of state sovereignty was swallowed up. One of the hottest debates of American history forthwith erupted. The antifederalists, who opposed the stronger federal government, were arrayed against the federalists, who obviously favored it.

A motley crew gathered in the antifederalist camp. Its leaders included prominent revolutionaries like Samuel Adams, Patrick Henry, and Richard Henry Lee. Their followers consisted primarily, though not exclusively, of states' rights devotees, backcountry dwellers, and one-horse farmers—in general, the poorest classes. They were joined by paper-moneyites and debtors, many of whom feared that a potent central government

Ratification of the Constitution

| State | Date | Vote in Convention | Rank in Population | 1790 Population |
|-----------------------------------|---------------|--------------------|--------------------|-----------------|
| 1. Delaware | Dec. 7, 1787 | Unanimous | 13 | 59,096 |
| 2. Pennsylvania | Dec. 12, 1787 | 46 to 23 | 3 | 433,611 |
| 3. New Jersey | Dec. 18, 1787 | Unanimous | 9 | 184,139 |
| 4. Georgia | Jan. 2, 1788 | Unanimous | 11 | 82,548 |
| 5. Connecticut | Jan. 9, 1788 | 128 to 40 | 8 | 237,655 |
| 6. Massachusetts (incl. Maine) | Feb. 7, 1788 | 187 to 168 | 2 | 475,199 |
| 7. Maryland | Apr. 28, 1788 | 63 to 11 | 6 | 319,728 |
| 8. South Carolina | May 23, 1788 | 149 to 73 | 7 | 249,073 |
| 9. New Hampshire | June 21, 1788 | 57 to 46 | 10 | 141,899 |
| 10. Virginia | June 26, 1788 | 89 to 79 | 1 | 747,610 |
| 11. New York | July 26, 1788 | 30 to 27 | 5 | 340,241 |
| 12. North Carolina | Nov. 21, 1789 | 195 to 77 | 4 | 395,005 |
| 13. Rhode Island | May 29, 1790 | 34 to 32 | 12 | 69,112 |

would force them to pay off their debts—and at full value. Large numbers of antifederalists saw in the Constitution a plot by the upper crust to steal power back from the common folk.

Silver-buckled federalists had power and influence on their side. They enjoyed the support of such commanding figures as George Washington and Benjamin Franklin. Most of them lived in the settled areas along the seaboard, not in the raw backcountry. Overall, they were wealthier than the antifederalists, more educated, and better organized. They also controlled the press. More than a hundred newspapers were published in America in the 1780s; only a dozen supported the antifederalist cause.

Antifederalists voiced vehement objections to the “gilded trap” known as the Constitution. They cried with much truth that it had been drawn up by the aristocratic elements and hence was antidemocratic. They likewise charged that the sovereignty of the states was being sub-merged and that the freedoms of the individual were jeopardized by the absence of a bill of rights. They decried the dropping of annual elections for congressional representatives, the erecting of a federal stronghold ten miles square (later the District of Columbia), the creation of a standing army, the omission of any reference to God, and the highly questionable procedure of ratifying with only two-thirds of the states. A Philadelphia newspaper added that Benjamin Franklin was “a fool from age” and George Washington “a fool from nature.”



The Great Debate in the States

Special elections, some apathetic but others hotly contested, were held in the various states for members of the ratifying conventions. The candidates—federalist or antifederalist—were elected on the basis of their pledges for or against the Constitution.

With the ink barely dry on the parchment, four small states quickly accepted the Constitution, for they had come off much better than they expected. Pennsylvania, number two on the list of ratifiers, was the first large state to act, but not until high-handed irregularities had been employed by the federalist legislature in calling a convention. These included the forcible seating of two antifederalist members, their clothes torn and their faces red with rage, in order to complete a quorum.

Massachusetts, the second most populous state, provided an acid test. If the Constitution had failed in Massachusetts, the entire movement might easily have bogged down. The Boston ratifying convention at first contained an antifederalist majority. It included grudging Shaysites and the aging Samuel Adams, as suspicious of government power in 1787 as he had been in 1776. The assembly buzzed with dismaying talk of summoning another constitutional convention, as though the nation had not already shot its bolt. Clearly the choice was not between this Constitution and a better one, but between this Constitution and the creaking



The Struggle over Ratification

This mottled map shows that federalist support tended to cluster around the coastal areas, which had enjoyed profitable commerce with the outside world, including the export of grain and tobacco. Impoverished frontiersmen, suspicious of a powerful new central government under the Constitution, were generally antifederalists.

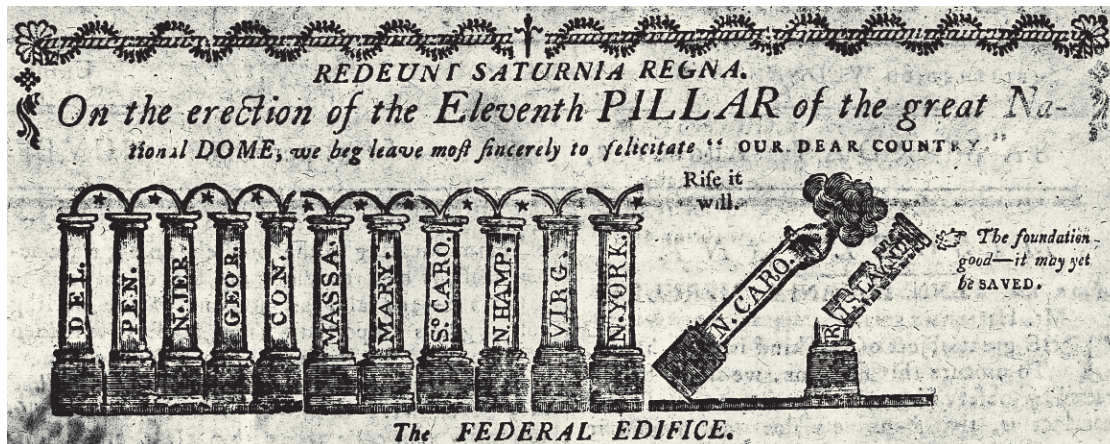
Articles of Confederation. The absence of a bill of rights alarmed the antifederalists. But the federalists gave them solemn assurances that the first Congress would add such a safeguard by amendment, and ratification was then secured in Massachusetts by the rather narrow margin of 187 to 168.

Three more states fell into line. The last of these was New Hampshire, whose convention at first had contained a strong antifederalist majority. The federalists cleverly arranged a prompt adjournment and then won over enough waverers to secure ratification. Nine

states—all but Virginia, New York, North Carolina, and Rhode Island—had now taken shelter under the “new federal roof,” and the document was officially adopted on June 21, 1788. Francis Hopkinson exulted in his song “The New Roof”:

*Huzza! my brave boys, our work is complete;
The world shall admire Columbia's fair seat.*

But such rejoicing was premature so long as the four dissenters, conspicuously New York and Virginia, dug in their heels.



A Triumphant Cartoon It appeared in the *Massachusetts Centinel* on August 2, 1788. Note the two laggards, especially the sorry condition of Rhode Island.

The Four Laggard States

Proud Virginia, the biggest and most populous state, provided fierce antifederalist opposition. There the college-bred federalist orators, for once, encountered worthy antagonists, including the fiery Patrick Henry. He professed to see in the fearsome document the death warrant of liberty. George Washington, James Madison, and John Marshall, on the federalist side, lent influential support. With New Hampshire about to ratify, the new Union was going to be formed anyhow, and Virginia could not very well continue comfortably as an independent state. After exciting debate in the state convention, ratification carried, 89 to 79.

New York also experienced an uphill struggle, burdened as it was with its own heavily antifederalist state convention. Alexander Hamilton at heart favored a much stronger central government than that under debate, but he contributed his sparkling personality and persuasive eloquence to whipping up support for federalism as framed. He also joined John Jay and James Madison in penning a masterly series of articles for the New York newspapers. Though designed as propaganda, these essays remain the most penetrating commentary ever written on the Constitution and are still widely sold in book form as *The Federalist*. Probably the most famous of these is Madison's *Federalist* No. 10, which brilliantly refuted the conventional wisdom of the day that it was impossible to extend a republican form of government over a large territory.

Richard Henry Lee (1732–1794), a prominent antifederalist, attacked the proposed constitution in 1788:

“‘Tis really astonishing that the same people, who have just emerged from a long and cruel war in defense of liberty, should now agree to fix an elective despotism upon themselves and their posterity.”

The same year, prominent Patriot Patrick Henry (1736–1799) agreed that the proposed constitution endangered everything the Revolution had sought to protect:

“This constitution is said to have beautiful features; but when I come to examine these features, Sir, they appear to me horridly frightful: Among other deformities, it has an awful squinting; it squints towards monarchy: And does not this raise indignation in the breast of every American? Your President may easily become King: Your Senate is so imperfectly constructed that your dearest rights may be sacrificed by what may be a small minority; . . . Where are your checks in this Government?”



The First Coin Authorized by Congress, 1787
 The Fugio cent was minted by a private company and remained in circulation until the 1850s. The word *Fugio* (“I fly”) and the sundial show that time flies; “Mind Your Business” urges diligence.

New York finally yielded. Realizing that the state could not prosper apart from the Union, the convention ratified the document by the close count of 30 to 27. At the same time, it approved thirty-two proposed amendments and—vain hope—issued a call for yet another convention to modify the Constitution.

Last-ditch dissent developed in only two states. A hostile convention met in North Carolina, then adjourned without taking a vote. Rhode Island did not even summon a ratifying convention, rejecting the Constitution by popular referendum. The two most ruggedly individualist centers of the colonial era—homes of the “otherwise minded”—thus ran true to form. They were to change their course, albeit unwillingly, only after the new government had been in operation for some months.

The race for ratification, despite much apathy, was close and quite bitter in some localities. No lives were lost, but riotous disturbances broke out in New York and Pennsylvania, involving bruises and bloodshed. There was much behind-the-scenes pressure on delegates who had promised their constituents to vote against the Constitution. The last four states ratified, not because they wanted to but because they had to. They could not safely exist outside the fold.



A Conservative Triumph

The minority had triumphed—twice. A militant minority of American radicals had engineered the military Revolution that cast off the unwritten British constitu-



Banner Paraded by the Society of Pewterers in New York City, 1788
 This silk banner was carried by members of the Society of Pewterers in a parade in New York City, July 23, 1788, to celebrate the impending ratification of the United States Constitution by New York State. The enthusiasm of these craftsmen for the Constitution confirms that not all federalists were well-to-do.

tion. A militant minority of conservatives—now embracing many of the earlier radicals—had engineered the peaceful revolution that overthrew the inadequate constitution known as the Articles of Confederation. Eleven states, in effect, had seceded from the Confederation, leaving the two still in, actually out in the cold.

A majority had not spoken. Only about one-fourth of the adult white males in the country, chiefly the propertied people, had voted for delegates to the ratifying conventions. Careful estimates indicate that if the new Constitution had been submitted to a manhood-suffrage vote, as in New York, it would have encountered much more opposition, probably defeat.

Conservatism was victorious. Safeguards had been erected against mob-rule excesses, while the republican gains of the Revolution were conserved. Radicals such as Patrick Henry, who had ousted British rule, saw themselves in turn upended by American conservatives. The federalists were convinced that by setting the drifting ship of state on a steady course, they could restore economic and political stability.

Yet if the architects of the Constitution were conservative, it is worth emphasizing that they conserved the principle of republican government through a redefinition of popular sovereignty. Unlike the antifederalists, who believed that the sovereignty of the people resided in a single branch of government—the legislature—the federalists contended that every branch—executive, judiciary, and legislature—effectively represented the people. By ingeniously embedding the doctrine of self-rule in a self-limiting system of checks and balances among these branches, the Constitution reconciled the potentially conflicting principles of liberty and order. It represented a marvelous achievement, one that elevated the ideals of the Revolution even while setting boundaries to them. One of the distinctive—and enduring—paradoxes of American history was thus revealed: in the United States, conservatives and radicals alike have championed the heritage of republican revolution.

Two Massachusetts citizens took opposite positions on the new Constitution. Jonathan Smith, a farmer unsympathetic to Shays's Rebellion of 1787, wrote,

"I am a plain man, and I get my living by the plow. I have lived in a part of the country where I have known the worth of good government by the want of it. The black cloud of Shays rebellion rose last winter in my area. It brought on a state of anarchy that led to tyranny. . . . When I saw this Constitution I found that it was a cure for these disorders. I got a copy of it and read it over and over. . . . I don't think the worse of the Constitution because lawyers, and men of learning, and moneyed men are fond of it. [They] are all embarked in the same cause with us, and we must all swim or sink together."

Amos Singletary (1721–1806), who described himself as a "poor" man, argued against the Constitution:

"We fought Great Britain—some said for a three-penny tax on tea; but it was not that. It was because they claimed a right to tax us and bind us in all cases whatever. And does not this Constitution do the same? . . . These lawyers and men of learning and money men, that talk so finely and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill. . . . They expect to be the managers of the Constitution, and get all the power and money into their own hands. And then they will swallow up all us little folks, just as the whale swallowed up Jonah!"

Chronology

- | | |
|---|--|
| <p>1774 First Continental Congress calls for abolition of slave trade</p> <p>1775 Philadelphia Quakers found world's first antislavery society</p> <p>1776 New Jersey constitution temporarily gives women the vote</p> <p>1777 Articles of Confederation adopted by Second Continental Congress</p> <p>1780 Massachusetts adopts first constitution drafted in convention and ratified by popular vote</p> <p>1781 Articles of Confederation put into effect</p> | <p>1783 Military officers form Society of the Cincinnati</p> <p>1785 Land Ordinance of 1785</p> <p>1786 Virginia Statute for Religious Freedom Shays's Rebellion Meeting of five states to discuss revision of the Articles of Confederation</p> <p>1787 Northwest Ordinance Constitutional Convention in Philadelphia</p> <p>1788 Ratification by nine states guarantees a new government under the Constitution</p> |
|---|--|

VARYING VIEWPOINTS

The Constitution: Revolutionary or Counterrevolutionary?

Although the Constitution has endured over two centuries as the basis of American government, historians have differed sharply over how to interpret its origins and meaning. The so-called Nationalist School of historians, writing in the late nineteenth century, viewed the Constitution as the logical culmination of the Revolution and, more generally, as a crucial step in the God-given progress of Anglo-Saxon peoples. As described in John Fiske's *The Critical Period of American History* (1888), the young nation, buffeted by foreign threats and growing internal chaos, with only a weak central government to lean on, was saved by the adoption of a more rigorous Constitution, the ultimate fulfillment of republican ideals.

By the early twentieth century, however, the progressive historians had turned a more critical eye to the Constitution. Having observed the Supreme Court of their own day repeatedly overrule legislation designed to better social conditions for the masses, they began to view the original document as an instrument created by elite conservatives to wrest political power away from the common people. For historians like Carl Becker and Charles Beard, the Constitution was part of the Revolutionary struggle between the lower classes (small farmers, debtors, and laborers) and the upper classes (merchants, financiers, and manufacturers).

Beard's *An Economic Interpretation of the Constitution of the United States* (1913) argued that

the Articles of Confederation had protected debtors and small property owners and displeased wealthy elites heavily invested in trade, the public debt, and the promotion of manufacturing. Only a stronger, more centralized government could protect their extensive property interests. Reviewing the economic holdings of the Founding Fathers, Beard determined that most of those men were indeed deeply involved in investments that would increase in value under the Constitution. In effect, Beard argued, the Constitution represented a successful attempt by conservative elites to buttress their own economic supremacy at the expense of less fortunate Americans. He further contended that the Constitution was ratified by default, because the people most disadvantaged by the new government did not possess the property qualifications needed to vote—more evidence of the class conflict underlying the struggle between the federalists and the antifederalists.

Beard's economic interpretation of the Constitution held sway through the 1940s. Historians like Merrill Jensen elaborated Beard's analysis by arguing that the 1780s were not in fact mired in chaos, but rather were hopeful times for many Americans. In the 1950s, however, this analysis fell victim to the attacks of the "consensus" historians, who sought explanations for the Constitution in factors other than class interest. Scholars such as Robert Brown and Forrest McDonald convincingly disputed Beard's evidence about delegates' property ownership and refuted his portrayal of the masses as propertyless and disfran-

chised. They argued that the Constitution derived from an emerging consensus that the country needed a stronger central government.

Scholars since the 1950s have searched for new ways to understand the origins of the Constitution. The most influential work has been Gordon Wood's *Creation of the American Republic* (1969). Wood reinterpreted the ratification controversy as a struggle to define the true essence of republicanism. Antifederalists so feared human inclination toward corruption that they shuddered at the prospect of putting powerful political weapons in the hands of a central government. They saw small governments susceptible to local control as the only safeguard against tyranny. The federalists, on the other hand, believed that a strong, balanced national government would rein in selfish human instincts and channel them toward the pursuit of the common good. Alarmed by the indulgences of the state governments, the federalists, James Madison in particular (especially in *Federalist* No. 10), developed the novel ideal of an "extensive republic," a polity that would achieve stability by virtue of its great size and diversity. This conception challenged the conventional wisdom that a republic could survive only if it extended over a small area with a homogeneous population. In this sense, Wood argued, the Constitution represented a bold experiment—the fulfillment, rather than the repudiation, of the most advanced ideas of the Revolutionary era—even though it emanated from traditional elites determined to curtail dangerous disruptions to the social order.