

The Constitution and the New Republic (1787–1800)

(Part One)

The Constitution and the New Republic (1787–1800) period in American history was marked by significant political developments, the establishment of the federal government, and the transition from the Articles of Confederation to the United States Constitution.

The United States under the Articles, 1781-1787

Four years separated the signing of the Treaty of Paris of 1783 and the meeting of the Constitutional Convention in Philadelphia. During that time, the government operated under the Articles of Confederation, which consisted of a one-house congress, no separate executive, and no separate judiciary (court system). **The country faced several major problems:**

❖ Foreign Problems

Relations between the United States and the major powers of Europe were troubled from the start. States failed to adhere to the Treaty of Paris, which required that they restore property to Loyalists and repay debts to foreigners. In addition, the U.S. government under the Articles was too weak to stop Britain from maintaining military outposts on the western frontier and restricting trade.

Economic Weakness and Interstate Quarrels

Reduced foreign trade and limited credit because states had not fully repaid war debts contributed to widespread economic depression. The inability to levy national taxes and the printing of worthless paper money by many states added to the problems. In addition, the 13 states treated one another with suspicion and competed for economic advantage. They placed tariffs and other restrictions on the movement of goods across state lines. A number of states faced boundary disputes with neighbors that increased interstate rivalry and tension.

In more details:

Economic Weakness: In the early years of the new republic, the United States faced significant economic challenges. These weaknesses stemmed from various factors, including:

- **Debt:** The United States emerged from the Revolutionary War with a considerable amount of debt incurred to finance the war effort. Managing this debt and finding ways to pay it off was a significant challenge.

- **Currency Issues:** The country lacked a stable and unified currency system. Different states had their own currencies, which led to confusion and inefficiency in trade and commerce.
- **Trade Disputes:** The United States faced difficulties in international trade due to competition from established European powers and restrictions imposed by them. Additionally, some states imposed tariffs and trade barriers on goods from other states, hindering interstate commerce.
- **Weak Central Authority:** The federal government under the Articles of Confederation had limited powers and lacked the ability to levy taxes or regulate commerce effectively. This weakened central authority contributed to economic instability and hindered efforts to address economic challenges.

Interstate Quarrels: In the early years of the new republic, there were frequent disputes and conflicts between states, known as interstate quarrels. These disputes often arose due to:

- **Trade and Commerce:** States imposed tariffs and trade restrictions on goods from other states, leading to disagreements over trade policies and economic competition.
- **Territorial Claims:** Some states had overlapping territorial claims, particularly in the western frontier areas. Disputes over land ownership and boundaries often led to tensions between states.
- **Navigation Rights:** States with access to major waterways, such as rivers and ports, sometimes clashed over navigation rights and control of waterborne commerce.
- **Political Differences:** States had differing political interests and ideologies, which sometimes resulted in conflicts over issues such as representation in Congress or the balance of power between the federal government and the states.

The Annapolis Convention

To review what could be done about the country's inability to overcome critical problems, George Washington hosted a conference at his home in Mt. Vernon, Virginia (1785). Representatives from Virginia, Maryland, Delaware, and Pennsylvania agreed that the problems were serious enough to hold further discussions at a later meeting at Annapolis, Maryland, at which all the states might be represented. However, only five states sent delegates to the Annapolis Convention in 1786. After discussing ways to improve commercial relations among the states, James Madison and Alexander Hamilton persuaded the others that

another convention should be held in Philadelphia for the purpose of revising the Articles of Confederation.

❖ **Drafting the Constitution at Philadelphia**

After a number of states elected delegates to the proposed Philadelphia convention, congress consented to give its approval to the meeting. It called upon all 13 states to send delegates to Philadelphia "for the sole and express purpose of revising the Articles of Confederation." Only Rhode Island, not trusting the other states, refused to send delegates.

• **The Delegates**

Of the 55 delegates who went to Philadelphia for the convention in the summer of 1787, all were white, all were male, and most were college-educated. As a group, they were relatively young (averaging in their early forties). With few exceptions, they were far wealthier than the average American of their day. They were well acquainted with issues of law and politics. A number of them were practicing lawyers, and many had helped to write their state constitutions. The first order of business was to elect a presiding officer and decide whether or not to communicate with the public at large. The delegates voted to conduct their meetings in secret and say nothing to the public about their discussions until their work was completed.

George Washington was unanimously elected chairperson. Benjamin Franklin, the elder statesman at age 81, provided a calming and unifying influence. The work in fashioning specific articles of the Constitution was directed by James Madison (who came to be known as the Father of the Constitution), Alexander Hamilton, Gouverneur Morris, and John Dickinson. While they represented different states, these convention leaders shared the common goal of wanting to strengthen the young nation. Several major leaders of the American Revolution were not at the convention. John Jay, Thomas Jefferson, John Adams, and Thomas Paine were on diplomatic business abroad. Samuel Adams and John Hancock were not chosen as delegates. Patrick Henry, who opposed any growth in federal power, refused to take part in the convention.

• **Key Issues**

The convention opened with the delegates disagreeing sharply on its fundamental purpose. Some wanted to simply revise the Articles. Strong nationalists, such as Madison and Hamilton, wanted to draft an entirely new document. The nationalists quickly took control of

the convention. Americans in the 1780s generally distrusted government and feared that officials would seize every opportunity to abuse their powers, even if they were popularly elected. Therefore, Madison and other delegates wanted the new constitution to be based on a system of checks and balances so that the power of each branch would be limited by the powers of the others.

Representation

Especially divisive was the issue of whether the larger states such as Virginia and Pennsylvania should have proportionally more representatives in Congress than the smaller states such as New Jersey and Delaware. Madison's proposal—the Virginia Plan—favored the large states; it was countered by the New Jersey Plan, which favored the small states. The issue was finally resolved by a compromise solution. Roger Sherman of Connecticut proposed what was called the Connecticut Plan or the Great Compromise. It provided for a two-house Congress. In the Senate, states would have equal representation, but in the House of Representatives, each state would be represented according to the size of its population.

Slavery

Two of the most contentious issues grew out of slavery. Should enslaved people be counted in the state populations? The delegates agreed to the Three-Fifths Compromise, which counted each enslaved individual as three-fifths of a person for the purposes of determining a state's level of taxation and representation. Should the slave trade be allowed? The delegates decided to guarantee that slaves could be imported for at least 20 years longer, until 1808. Congress could vote to abolish the practice after that date if it wished.

Trade

The northern states wanted the central government to regulate interstate commerce and foreign trade. The South was afraid that export taxes would be placed on its agricultural products such as tobacco and rice. The Commercial Compromise allowed Congress to regulate interstate and foreign commerce, including placing tariffs (taxes) on foreign imports, but it prohibited placing taxes on any exports.

The Presidency

The delegates debated over the president's term of office-some argued that the chief executive should hold office for life. The delegates limited the president's term to four years but with no limit on the number of terms. They also debated the method for electing a president. Rather than having voters elect a president directly, the delegates decided to assign to each state a number of electors equal to the total of that state's representatives and senators. This Electoral College system was instituted because the delegates feared that too much democracy might lead to mob rule. Finally, the delegates debated what powers to give the president. They finally decided to grant the president considerable power, including the power to veto acts of Congress.

Ratification of the Constitution

On September 17, 1787, after 17 weeks of debate, the Philadelphia convention approved a draft of the Constitution to submit to the states for ratification. Anticipating opposition to the document, the Framers (delegates) specified that a favorable vote of only nine states out of 13 would be required for ratification. Each state would hold popularly elected conventions to debate and vote on the proposed Constitution.

Federalists and Anti-Federalists

Ratification was fiercely debated for almost a year, from September 1787 until June 1788. Supporters of the Constitution and its strong federal government were known as **Federalists**. Opponents were known as **Anti-Federalists**. Federalists were most common along the Atlantic Coast and in the large cities while Anti-Federalists tended to be small farmers and settlers on the western frontier.

The Federalist Papers

A key element in the Federalist campaign for the Constitution was a series of highly persuasive essays written for a New York newspaper by James Madison, Alexander Hamilton, and John Jay. The 85 essays, later published in book form as *The Federalist Papers*, presented cogent reasons for believing in the practicality of each major provision of the Constitution.

Outcome

The Federalists won early victories in the state conventions in Delaware, New Jersey, and Pennsylvania—the first three states to ratify. By promising to add a bill of rights to the Constitution, they successfully addressed the Anti-Federalists' most telling objection. With New Hampshire voting yes in June 1788, the Federalists won the necessary nine states to achieve ratification of the Constitution. Even so, the larger states of Virginia and New York had not yet acted. If they failed to ratify, any chance for national unity and strength would be in dire jeopardy.

Virginia

In 1788, Virginia was by far the most populous of the original 13 states. There, the Anti-Federalists rallied behind two strong leaders, George Mason and Patrick Henry, who viewed the Constitution and a strong central government as threats to Americans' hard-won liberty. Virginia's Federalists, led by Washington, Madison, and John Marshall, managed to prevail by a close vote only after promising a bill of rights.

Other States

News of Virginia's vote had enough influence on New York's ratifying convention (combined with Alexander Hamilton's efforts) to win the day for the Constitution in that state. North Carolina in November 1789 and Rhode Island in May 1790 reversed their earlier rejections and thus became the last two states to ratify the Constitution as the new "supreme law of the land."

❖ Adding the Bill of Rights

Did the Constitution need to list the rights of individuals? Anti-Federalists argued vehemently that it did, while Federalists argued that it was unnecessary.

Arguments for a Bill of Rights

Anti-Federalists argued that Americans had fought the Revolutionary War to escape a tyrannical government in Britain. What was to stop a strong central government under the Constitution from acting similarly? Only by adding a bill of rights could Americans be protected against such a possibility.

Arguments against a Bill of Rights

Federalists argued that since members of Congress would be elected by the people, they did not need to be protected against themselves. Furthermore, people should assume that all rights were protected rather than create a limited list of rights that might allow unscrupulous officials to assert that unlisted rights could be violated at will. In order to win adoption of the Constitution in the ratifying conventions, the Federalists finally backed off their position and promised to add a bill of rights to the Constitution as the first order of business for a newly elected Congress.

The First Ten Amendments

In 1789, the first Congress elected under the Constitution acted quickly to adopt a number of amendments listing people's rights. Drafted largely by James Madison, the amendments were submitted to the states for ratification. The ten that were adopted in 1791 have been known ever since as **the U.S. Bill of Rights**. Originally, they provided protection against abuses of power by the central (or federal) government. Since the ratification of the 14th Amendment in 1868, most of the protections have been extended to apply to abuses by state governments as well.

First Amendment:

Freedom of religion, speech, press, assembly, and petition.

Second Amendment:

Right to keep and bear arms in order to maintain a well-regulated militia.

Third Amendment:

No quartering of soldiers in private homes.

Fourth Amendment:

Protection from unreasonable searches and seizures.

Fifth Amendment:

Right to due process of law, freedom from self-incrimination, and protection from double jeopardy.

Sixth Amendment:

Rights of accused persons, including the right to a speedy and public trial.

Seventh Amendment:

Right of trial by jury in civil cases.

Eighth Amendment:

Freedom from excessive bail, cruel and unusual punishments.

Ninth Amendment:

Recognition that the people have other rights not explicitly listed in the Constitution.

Tenth Amendment:

Powers not delegated to the United States by the Constitution are reserved to the states or the people.

These amendments collectively establish fundamental rights, limit government power, and emphasize the importance of individual liberties and state sovereignty within the American legal framework.

Washington's Presidency

Members of the first Congress under the Constitution were elected in 1788 and began their first session in March 1789 in New York City (then the nation's temporary capital). People assumed that George Washington would be the Electoral College's unanimous choice for president, and indeed he was.

- **Organizing the Federal Government**

Washington took the oath of office as the first U.S. president on April 30, 1789. From then on, what the Constitution and its system of checks and balances actually meant in practice would be determined from day to day by the decisions of Congress as the legislative branch, the president as the head of the executive branch, and the Supreme Court as the top federal court in the judicial branch.

Executive Departments

As chief executive, Washington's first task was to organize new departments of the executive (law-enforcing) branch. The Constitution authorizes the president to appoint chiefs of departments, although they must be confirmed, or approved, by the Senate. Washington appointed four heads of departments: Thomas Jefferson as secretary of state, Alexander Hamilton as secretary of the treasury, Henry Knox as secretary of war, and Edmund Randolph as attorney general. These four men formed a cabinet of advisers with whom President Washington met regularly to discuss major policy issues. Today, presidents still meet with their cabinets to obtain advice and information.

Federal Court System

The only federal court mentioned in the Constitution is the Supreme Court. Congress, however, was given the power to create other federal courts with lesser powers and to determine the number of justices making up the Supreme Court. One of Congress' first laws was the Judiciary Act of 1789, which established a Supreme Court with one chief justice and five associate justices. This highest court was empowered to rule on the constitutionality of decisions made by state courts. The act also provided for a system of 13 district courts and three circuit courts of appeals.

Hamilton's Financial Program

Alexander Hamilton, who was the Secretary of the Treasury, had a plan to fix the money problems of the United States government. His plan had three main parts. First, he wanted to pay off all the money the country owed to other people and also take on the debts that the states had from the Revolutionary War. Second, he wanted to help American businesses grow by putting high taxes on things brought in from other countries. This would make American-made goods cheaper and help businesses here. Third, he wanted to make a big bank for the country. This bank would keep the government's money safe and make paper money that was good all over the country.

People in the North, especially rich merchants, liked Hamilton's plan because it helped them directly. They supported his idea for high taxes and a bank. But not everyone liked Hamilton's ideas. Some people called Anti-Federalists were worried that giving more power to the central government would take power away from the states. Thomas Jefferson, who was one of the Anti-Federalists, didn't like Hamilton's plan because he thought it only helped rich people and not poor farmers who owed money. After a lot of arguing, Congress finally agreed to Hamilton's plan, but they changed some things. They didn't make the taxes as high as Hamilton wanted, and they moved the capital of the country to a place in the South as a compromise with Jefferson.

National Bank

Jefferson argued that the Constitution did not give Congress the power to create a bank. But Hamilton took a broader view of the Constitution, arguing that the document's "necessary and proper" clause authorized Congress to do whatever was necessary to carry out its enumerated powers. Washington supported Hamilton on the issue, and the proposed bank was voted into law. Although chartered by the federal government, the Bank of the United States

was privately owned. As a major shareholder of the bank, the federal government could print paper currency and use federal deposits to stimulate business.

Foreign Affairs

Washington's first term as president (1789-1793) coincided with the outbreak of revolution in France, a cataclysmic event that was to touch off a series of wars between the new French Republic and the monarchies of Europe. Washington's entire eight years as president, as well as the four years of his successor, John Adams, were taken up with the question of whether to give U.S. support to France, France's enemies, or neither side.

The French Revolution Americans generally supported the French people's aspiration to establish a republic, but many were also horrified by reports of mob hysteria and mass executions. To complicate matters, the U.S. - French alliance remained in effect, although it was an alliance with the French monarchy, not with the revolutionary republic. Jefferson and his supporters sympathized with the revolutionary cause. They also argued that, because Britain was seizing American merchant ships bound for French ports, the United States should join France in its defensive war against Britain.

Proclamation of Neutrality (1793)

Washington, however, believed that the young nation was not strong enough to engage in a European war. Resisting popular clamor, in 1793 he issued a proclamation of U.S. neutrality in the conflict. Jefferson resigned from the cabinet in disagreement with Washington's policy.

The Jay Treaty (1794)

The Jay Treaty, negotiated in 1794 by Chief Justice John Jay and British diplomats, sought to resolve lingering issues between the United States and Great Britain following the American Revolutionary War. The treaty aimed to address disputes such as British occupation of western forts, trade imbalances, and British interference with American shipping.

The Pinckney Treaty (1795)

Totally unexpected was the effect that the Jay Treaty had on Spain's policy toward its territories in the Americas. Seeing the treaty as a sign that the United States might be drawing closer to Spain's longtime foe Britain, Spain decided to consolidate its holdings in North America. The Spanish influence in the Far West had been strengthened by a series of Catholic

missions along the California coast but they were concerned about their colonies in the Southeast. Thomas Pinckney, the U.S. minister to Spain, negotiated a treaty in which Spain agreed to open the lower Mississippi River and New Orleans to American trade. The right of deposit was granted to Americans so that they could transfer cargoes in New Orleans without paying duties to the Spanish government. Spain further agreed to accept the U.S. claim that Florida's northern boundary should be at the 31st parallel (not north of that line, as Spain had formerly insisted).

Domestic Concerns

In addition to coping with foreign challenges, stabilizing the nation's credit, and organizing the new government, Washington faced a number of domestic problems and crises.

American Indians

Through the final decades of the 18th century, settlers crossed the Alleghenies and moved the frontier steadily westward into the Ohio Valley and beyond. In an effort to resist the settlers' encroachment on their lands, a number of the tribes formed the Northwest (or Western) Confederacy. Initially the tribes, including the Shawnee, Delaware, Iroquois, and others under the Miami war chief Little Turtle, won a series of bloody victories over the local militia. Americans on the frontier were incensed by evidence that the British were supplying the American Indians with arms and encouraging them to attack the "intruding" Americans. In 1794 the U.S. army led by General Anthony Wayne defeated the Confederacy tribes at the Battle of Fallen Timbers in northwestern Ohio. The next year, the chiefs of the defeated peoples agreed to the Treaty of Greenville, in which they surrendered claims to the Ohio Territory and promised to open it up to settlement.

The Whiskey Rebellion (1794)

The Whiskey Rebellion of 1794 was a significant uprising in the newly formed United States, primarily centered in western Pennsylvania, triggered by the federal government's imposition of an excise tax on whiskey production and sales to alleviate the national debt from the Revolutionary War. Farmers in the region, heavily reliant on whiskey production for income, protested the tax, citing its disproportionate impact on small-scale producers and infringement upon principles of representation. The rebellion escalated to violence against federal tax collectors, prompting President George Washington to mobilize a militia force to

suppress the uprising. The federal militia swiftly quelled the rebellion without major casualties, leading to the arrest and subsequent pardoning of many involved. This event underscored the federal government's authority to enforce laws and maintain order, establishing a precedent for centralized power in the young nation.

Western Lands

In the 1790s, the Jay Treaty and the victory at the Battle of Fallen Timbers gave the federal government control of vast tracts of land. Congress encouraged the rapid settlement of these lands by passing the Public Land Act in 1796, which established orderly procedures for dividing and selling federal lands at reasonable prices. The process for adding new states to the Union, as set forth in the Constitution, went smoothly. In 1791 Vermont became the first new state, followed by Kentucky in 1792 and Tennessee in 1796.