The Confederation and the Constitution

1776 – 1790
Evolution not Revolution

- American Revolution not revolution in sense of total change
  - Did not suddenly change social and political framework (unlike revolutions in France and Russia)
  - More accelerated evolution than revolution
  - Many people in America did not have to change their lives during the war
Evolution not Revolution

- Changes during the Revolution
  - 80,000 Loyalists left America
    - Took traditionally conservative group out of American politics
  - New Patriot elites emerged
  - More egalitarian ideas swept America
The Pursuit of Equality

- Growth of equality after 1776
  - “All men are created equal”
  - Most states reduced (but did not eliminate) property requirements for voting
  - Ordinary people addressed as “Mr.” or “Mrs.” – before only used for upper classes
  - Employers called boss instead of master
  - By 1800, indentured servitude eliminated
  - Growth of trade organizations for artisans
  - End of primogeniture (all father’s property went to oldest son)
The Pursuit of Equality

- Growth of separation of church and state after 1776
  - Congregational Church entrenched in New England; continued to be established
  - Anglican Church (associated with British) reformed as Episcopal Church and disestablished
- 1786 – Virginia Statute of Religious Freedom
  - Fierce struggle over established religion led to separation law supported by Thomas Jefferson
The Pursuit of Equality

- Antislavery after 1776
  - Quakers founded first antislavery society
  - Continental Congress (1774) called for abolition of slavery; most states supported
  - Northern states either abolished slavery or provided for gradual emancipation
The Pursuit of Equality

- Weakness of antislavery after 1776
  - No state south of Pennsylvania abolished slavery
  - Law discriminated against blacks in North and South
    - Could be barred from buying property, holding some jobs, and educating children
    - Laws against interracial marriage passed
The Pursuit of Equality

- Why did abolition not end slavery?
  - Founding Fathers chose political expediency
    - Fight over slavery would have split the nation
The Pursuit of Equality

- Women’s equality
  - A few women escaped from traditional roles
    - A few dressed as men and fought in Revolution
    - 1776 – New Jersey’s constitution gave women right to vote
  - Most women continued in traditional roles
  - Abigail Adams teased her husband that women might start their own revolution if they did not get political rights
The Pursuit of Equality

“republican motherhood”

- Republican ideology – all citizens must make unselfish commitment to public good
- Women entrusted to teach young people moral education and proper republican behavior
- Elevated women’s status and expanded educational opportunities (so they could teach the young)
Constitution Making in the States

- 1776 – Continental Congress asked states to write new constitutions
  - Create themselves as new states, breaking as previous colonies
  - Sovereignty (supremacy of authority or rule) rested with people
Constitution Making in the States

- Massachusetts’ constitutional procedures copied by writers of US constitution
  - Special convention wrote constitution
  - Submitted to people for ratification
  - Could only be changed by another constitutional convention
Constitution Making in the States

- British vs. state constitutions
  - British “constitution” was not a written document, but rather a collection of laws, customs, precedents
  - American state constitutions were written charters
    - Contracts that defined powers of government
    - Grew out of colonial charters
    - Drew authority from people, not king
    - Represented fundamental law, superior to whims of legislatures
Constitution Making in the States

- Commonalities between state constitutions
  - Most included bill of rights – specific guarantees of liberties
  - Most required annual election of legislators
  - All created weak executive and judicial branches
  - Legislatures (most democratic branch) given most power
  - Many newly enfranchised westerners moved capitals from eastern shore to inland areas
Economic Crosscurrents

- States seized former royal lands
  - Most cut up into smaller farms, accelerating spread of economic democracy
  - Excesses of French Revolution did not happen because US had land to give to its discontented people
Economic Crosscurrents

- Manufacturing
  - Given boost from nonimportation (before the war) and cut off of imports during war
  - US had to build its own manufacturing base
  - US still was mainly nation of farmers
Economic Crosscurrents

- Economic drawbacks of independence
  - Britain traded within its empire
  - American ships barred from British and British West Indies harbors
  - Navigation Laws and British trade restrictions now affected US ships even more than before independence
Economic Crosscurrents

- New trading partners (with foreign countries)
  - Had not been available before independence
  - US shipping reached Europe, Baltic area, and even China
Economic Crosscurrents

- Economic and social problems
  - Rampant speculation and profiteering during war (up to 300%)
  - State governments had borrowed money they couldn’t ever repay
  - Runaway inflation
  - Congress did not pass effective economic laws
  - Average person probably worse off after war than before
  - Noisy new rich class; once wealthy people now poor
  - War and revolution led to some disrespect for law and taxes
A Shaky Start Toward Union

- Revolution gave Americans responsibility for creation and operation of new government
  - Prospects not good for creation of permanent government
A Shaky Start Toward Union

- Political difficulties
  - Difficult to set up new government
  - Americans suspicious of authority
  - Lack of unity among colonists
  - Conservative Tory influence gone
  - Americans lost common cause of Revolution
A Shaky Start Toward Union

- Economic difficulties
  - Economic depression hit bottom in 1786
  - British manufacturers flooded American market with goods, killing new American industry
A Shaky Start Toward Union

- Hopeful signs for government
  - 13 states basically alike in governmental structure and had similar constitutions
  - Americans had strong political heritage
    - Based on British traditions and their own experience as colonies
  - Had great political leaders
Creating a Confederation

1776 – 1781 – colonies separate and sovereign states

- Coined money, raised armies and navies, passed tariffs on goods from other states

Second Continental Congress

- Only a conference of ambassadors from 13 colonies, not an actual government
- Controlled some aspects of foreign policy and military affairs, but without real constitutional authority
Creating a Confederation

- **Articles of Confederation**
  - 1776 – Congress appointed committee to create new government
  - 1777 – Articles of Confederation finished
  - 1781 – finally ratified by all 13 states, only 8 months before end of war
Creating a Confederation

Problem in ratification of Articles was western land claims

- 6 states had no claims west of Alleghenies
- 7 states had claims (including Virginia and New York) based on earlier charter grants
- States with land claims could sell their extra land to pay off debts from Revolution
  - States without claims could not do this, although they fought in Revolution also
  - States without land claims wanted western land turned over to national government
Creating a Confederation

- Approval of the Articles came when states compromised on land issue
  - Last holdout Maryland ratified Articles when New York and Virginia gave up western land claims
  - Congress promised to use land for “common benefit”
    - Would use land to form new states (not colonies) equal to 13 original states
Western Land Cessions to the United States, 1782–1802
Creating a Confederation

- Impact of the land compromise
  - Unified states behind using the land for common purposes
  - Pioneers moved west, buying land directly from national government
    - Weakened local (state) influence
  - Uniform land policy made possible
The Articles of Confederation: America’s First Constitution

- Articles were loose confederation; a “firm league of friendship”
  - Independent states who worked together in common problems (like foreign affairs)
- Congress was primary agency of government
  - No executive branch
  - Judicial arm left to the states
The Articles of Confederation: America’s First Constitution

- Weakened Congress
  - Each state had 1 vote; smaller states had same voice as larger states
  - 9 (of 13) states required for passage of bill
  - Amendment to Articles required unanimity
    - Almost impossible, but fortunate – if it had been easier to amend them, US might have stayed with weak Articles instead of replacing them

- Articles could only deal with independent states; could not act directly on individual citizens

- Purposely made weak
  - States had just won control from British Parliament; did not want American Parliament
The Articles of Confederation: America’s First Constitution

- Two crippling handicaps of Congress
  - Could not regulate commerce
    - Each state established different and conflicting laws regarding tariffs and navigation
  - Could not enforce tax collection
    - Congress passed quotas for each state
    - States could contribute (or not) on voluntary basis
    - Congress lucky to get 1/4 of its quota per year
The Articles of Confederation: America’s First Constitution

- Confederation
  - Supported by colonists after Revolution as reaction against powerful European governments
    - Like comparing “heaven and hell” – Jefferson
  - Colonists eventually realized more powerful central government (federation) needed
The Articles of Confederation: America’s First Constitution

- Articles were important step to Constitution
  - Outlined general powers of central government
  - Kept states together after Revolution
    - State support for stronger government evolved
    - States would not have supported stronger government (US Constitution) without intermediary step (Articles)
Landmarks in Land Laws

- Congress succeeded in passing farsighted legislation
- Important laws dealt with Old Northwest
  - Northwest of Ohio River, east of Mississippi River, south of Great Lakes
Landmarks in Land Laws

- Land Ordinance of 1785
  - Land of Old Northwest to be sold; money to go to paying off national debt
  - Land surveyed and divided into 6 mile square townships
    - Townships divided into 36 sections of 1 mile each
    - 16th section set aside for public schools
- Contrasted with land south of Ohio River
  - Chaotic settlement, uncertain ownership, and fraud
Surveying the Old Northwest

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Income from section 16 used to support schools

Section 640 acres

Half-section 320 acres

Quarter-section 160 acres

80 acres

40

40
Landmarks in Land Laws

- Northwest Ordinance of 1787
  - Solution to problem of colonies
    - First territories accepted to learn how to be states in 2 evolutionary steps
    - Then, when territory had 60,000 people, accepted into union fully equal with other states
  - Forbade slavery in Old Northwest
    - Few slaves already there exempted
  - Saved US from future revolution of East vs. West
  - Used to expand US territory across continent
The World’s Ugly Duckling

- Foreign relations strained with European powers
- France and Britain worked with Indians to prevent US from effectively controlling about 1/2 its territory
The World’s Ugly Duckling

- Britain refused to send ambassadors to America for 8 years

- Trade with Britain
  - British leaders believed trade with America would be renewed without begging the states
  - Refused to repeal Navigation Laws
  - Closed American trade with West Indies (although American smugglers got around this)
The World’s Ugly Duckling

- British scheming in Northwest
  - Tried to annex Vermont
  - Held chain of trading posts on American territory
    - Excuse was because American states had not paid off debts to British and Loyalists
    - Real reason was to work with Indians to prevent future American attack on Canada
Main Centers of Spanish and British Influence After 1783
The World’s Ugly Duckling

- American response to Britain
  - Some wanted restrictions on British imports
    - Congress could not control commerce
    - States refused to adopt uniform tariff policy
    - Some states lowered tariffs to get more British trade
    - Restrictions probably would have hurt America more than Britain
The World’s Ugly Duckling

- Spain now openly unfriendly to America
  - Had fought with French (against British) during Revolution – though not actually ally of US
  - Controlled mouth of Mississippi; used by US farmers to ship produce
  - 1784 – Spain closed river to American commerce, threatening West
  - Claimed large area north of Gulf of Mexico
  - Claimed Florida (given to US by British in 1783)
  - Held for at Natchez, on disputed soil
  - Worked with Indians to stop US expansion at Appalachians
The World’s Ugly Duckling

- Former ally France
  - Demanded repayment of debts from Revolution
  - Restricted trade with West Indies ports
The World’s Ugly Duckling

- Pirates in North African state
  - Threatened US shipping and captured US sailors
  - British had purchased protection, which colonists had benefited from
  - US now too weak to fight, too poor to bribe
The World’s Ugly Duckling

- Effect of foreign difficulties
  - US leaders in favor of stronger national government (like John Jay, secretary of foreign affairs), hoped humiliation would lead to Americans forming stronger government
The Horrid Specter of Anarchy

- Economic problems in mid-1780s
  - Some states refused to pay any money to Congress
  - States still complained about power of Congress
  - Public debt increasing and US credit abroad worsening
The Horrid Specter of Anarchy

- Problems between states
  - Fighting over boundaries
  - Some states passed tariffs on other states
  - Some states printed depreciated currency
The Horrid Specter of Anarchy

- **Shays’ Rebellion**
  - 1786 – rebellion of poor farmers in western Massachusetts
  - Farmers were losing farms because of foreclosures and nonpayment of taxes (to pay off Revolutionary War debt)
  - Revolutionary War veteran Daniel Shays led debtors
    - Demanded state-issued paper money, lighter taxes, and end of foreclosures
    - Marched to courthouse to enforce demands with guns
Shays’ Rebellion
The Horrid Specter of Anarchy

- Massachusetts government response to Shays’ Rebellion
  - Small army (financed in part by rich) fought debtors
    - Several killed and movement fell apart
  - Shays condemned to death but pardoned
  - Passed debtor-relief laws (that Shays had demanded)
The Horrid Specter of Anarchy

Effects of Shays’ Rebellion

- Increased elites’ fears of “democratic despotism”
- Elites feared that liberty of Revolution was going too far
- Many among upper classes began thinking about stronger national government as solution
  - Some even proposed bringing in a European king to govern
The Horrid Specter of Anarchy

- How critical were conditions under Articles?
  - Conservatives exaggerated seriousness to get change (to protect wealth and status)
  - Poorer and states’ rights people argued the situation was not that bad
The Horrid Specter of Anarchy

- Many agreed Articles needed strengthening
  - Key question was how to do this while keeping states’ rights protected
- America could have gotten by with amended articles
  - Completely new government saved US many problems
The Horrid Specter of Anarchy

- Nationwide problems getting better as Constitution was written
  - States returning to sound money (abandoning worthless paper money)
  - Depression ending and foreign trade increasing
- If problems as bad as portrayed by foes of Articles, anti-Constitution forces would not have been so strong
A Convention of “Demigods”

- Fighting between states over commerce led to convention

- 1786 – Annapolis Convention
  - Called by Virginia to discuss trade issues
  - 9 states sent delegates; only 5 came, so no action could be taken
  - Hamilton called on Congress to appoint convention to meet in Philadelphia in 1787
A Convention of “Demigods”

- Congress (under pressure from states) called for convention in Philadelphia
  - “for the sole and express purpose of revising” the Articles of Confederation
A Convention of “Demigods”

- All states but Rhode Island (where support for paper money was strong) sent delegates
  - Appointed by state legislatures, whose members were elected by voters (who were property holders)
  - Brought together propertied men, but not men who only looked out for their class
A Convention of “Demigods”

- May 25, 1787 – 55 delegates assembled in red-brick statehouse in Philadelphia
  - Small number and secrecy (enforced by guards at door) allowed compromise
  - Extremely high caliber of men
    - Jefferson called them “demigods” (part men, part gods)
    - Most were lawyers; most had experience writing constitutions in their own states
A Convention of “Demigods”

- George Washington unanimously elected president; lent his enormous prestige to convention
- Benjamin Franklin (81 years old) had chaperones to prevent him from talking
- James Madison studied government extensively; named “father of the Constitution” for his important contributions
- Alexander Hamilton argued for powerful national government but convinced no one
A Convention of “Demigods”

- Most of the radicals from Revolution were not there
  - Thomas Jefferson, John Adams, Thomas Paine in Europe (serving US government)
  - Samuel Adams and John Hancock not elected
  - Patrick Henry (strong supporter of states’ rights) refused to attend because he “smelled a rat”
- Probably better they weren’t there; convention needed leaders to form Constitution, not revolution
Patriots in Philadelphia

- Characteristics of the 55 delegates
  - Conservative and from upper classes: lawyers, merchants, shippers, land speculators, moneylenders
    - No representative from poorer classes
  - 19 owned slaves
  - Young, but experienced
    - Average age was only 42
  - Nationalists who wanted preservation of US
  - Not interested in furthering extent of popular democracy
Patriots in Philadelphia

The delegates and government power

- Believed in republicanism but wanted to protect it from weakness abroad and excesses at home
- Wanted strong, respected government to protect against problems with foreign countries (especially British trade abuses)
Patriots in Philadelphia

The delegates and democracy
- Wanted protection against “mobocracy” (extreme democracy)
  - Especially protection of property against democratic spirit of “leveling” rich and poor
Hammering Out a Bundle of Compromises

- Most delegates decided at Philadelphia to scrap the Articles of Confederation instead of just revising them (as they had been instructed to do)
Hammering Out a Bundle of Compromises

- Virginia Plan (the “large-state plan”)
  - Representation in bicameral (2 houses) Congress would be based on population

- New Jersey Plan (the “small-state plan”)
  - Representation in unicameral (1 house) Congress would be equal, regardless of size or population (as under Articles)

- Bitter arguments over 2 plans almost broke up the convention
Hammering Out a Bundle of Compromises

- The Great Compromise
  - Larger states got proportional (based on population) representation in the House of Representatives
  - Smaller states got equal representation in the Senate
  - Every tax or revenue bill had to start in the House (where population was more important)
Hammering Out a Bundle of Compromises

- The president’s powers
  - Powerful, though legally restrained
  - Inspired by powerful Massachusetts governor who had put down Shays’ rebellion
  - Could appoint domestic officers and veto legislation
  - Had power to wage war, but not power to declare war
Hammering Out a Bundle of Compromises

- Electing the president
  - Compromise between large and small states
  - Large states had advantage in initial voting
    - Number of electors based on total number of representatives and senators
  - Small states had advantage in second round
    - If no candidate got majority of electoral votes, election thrown to House of Representatives, where each state would have 1 vote
    - Framers believed this would happen often, but it has only happened twice (1800, 1824)
Hammering Out a Bundle of Compromises

- Sectional divisions over slavery
  - Should slaves in South (who could not vote) count as a person in apportioning direct taxes and in representation in House of Representatives?
  - South said “yes”; North said “no”
  - Decided that slave counted as 3/5 of a person (three-fifths compromise)
Hammering Out a Bundle of Compromises

- Ending the slave trade
  - Most states wanted to end slave trade
  - South Carolina and Georgia needed slaves in rice fields
  - Decided that slave trade could continue until 1807 (20 years after writing Constitution)
  - Congress ended slave trade immediately in 1808
  - All state constitutions except Georgia forbade overseas slave trade
Delegates agreed on all basic principles:
- Economy: sound money and protection of private property
- Politics: strong government with 3 branches and checks and balances
- Voting: opposed to universal manhood suffrage (government by “democratick babblers”)
Safeguards for Conservatism

- Safeguards against too much democracy
  - Federal judges appointed for life
  - President elected indirectly by Electoral College
  - Only for House of Representatives did (property-owning) citizens vote directly
Safeguards for Conservatism

- Republicanism in the Constitution
  - Only legitimate power based on consent of the governed
  - Powers of government limited by Constitution
  - Virtue of people (not power of state) was where guarantee of liberty was
Safeguards for Conservatism

- May 25 – September 17, 1787 – 17 hot, muggy weeks of compromise
  - Constitution as written did not please everyone
    - Only 42 of original 55 stayed entire summer
    - Only 39 of 42 people there signed
      - Other 3 went back to states to campaign against Constitution
    - Compromise led to workable solution that most could accept
Signing of the Constitution, 1787
The Clash of Federalists and Antifederalists

- Ratifying the Constitution
  - Amendment to Articles required all 13 states’ approval
    - Rhode Island certain to veto Constitution (didn’t even send delegates to convention)
  - Delegates decided that when 9 states had ratified Constitution through specially elected conventions, would be law for those states
    - Went over heads of Congress (that had called convention) and state legislatures (that had sent delegates)
    - Appealed directly to people (who voted for special conventions to ratify)
  - Divided Congress submitted Constitution to the people
The Clash of Federalists and Antifederalists

- Antifederalists assembled against Constitution
  - Generally led by prominent men from Revolution (Sam Adams, Patrick Henry, Richard Henry Lee)
  - Supporters included states’ rights supporters, the poorest classes (small farmers, backcountry dwellers), and debtors (feared powerful central government would force them to pay off debts)
  - Saw Constitution as plot by elites to steal power from commoners
The Clash of Federalists and Antifederalists

- Federalist supported Constitution
  - Great leaders like George Washington and Benjamin Franklin
  - Most lived in settled areas, along coast
  - Wealthier, better educated, and better organized
  - Controlled press
    - Out of over 100 newspapers on colonies, only about a dozen were antifederalist
## Federalism vs. Antifederalism

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<th>Who are they?</th>
<th>Federalists</th>
<th>Anti-Federalists</th>
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<tbody>
<tr>
<td></td>
<td>Property owners, landed rich, merchants of Northeast and Middle Atlantic states.</td>
<td>Small farmers, shopkeepers, laborers.</td>
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<tr>
<td>Political philosophy</td>
<td>Elitist: saw themselves and those of their class as most fit to govern (others were to be governed).</td>
<td>Believed in the decency of the common man and in participatory democracy, viewed elites as corrupt; sought greater protection of individual rights.</td>
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<tr>
<td>Type of government favored</td>
<td>Powerful central government; two-house legislature; upper house (six-year term) further removed from the people, whom they distrusted.</td>
<td>Wanted stronger state governments (closer to the people) at the expense of the powers of the national government; sought smaller electoral districts; frequent elections, referendum and recall, and a large unicameral legislature to provide greater class and occupational representation.</td>
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<td>Alliances</td>
<td>Pro-British, Anti-French</td>
<td>Anti-British, Pro-French</td>
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The Struggle over Ratification
The Clash of Federalists and Antifederalists

- Antifederalist attacks
  - Constitution was antidemocratic because it had been written by elites
  - Sovereignty of states taken away
  - Individual rights threatened (because of no bill of rights)
  - Dropping of yearly elections for congress
  - Creation of standing army
  - Leaving out of reference to God
  - Questionable ratification procedure (with only 9 states)
The Great Debate in the States

- Special elections held in states to ratify Constitution
  - Candidates elected based on their pledges for or against Constitution
- 4 small states and Pennsylvania ratify quickly
The Great Debate in the States

- Ratification in Massachusetts
  - Very important, 2\(^{\text{nd}}\) most populous state
  - Convention had antifederalist majority; looked like state would not ratify, probably dooming Constitution
  - Federalists guaranteed first congress would pass a bill of rights (primary demand of antifederalists)
  - Ratified by close margin
The Great Debate in the States

- Maryland, South Carolina, and New Hampshire followed Massachusetts
- June 21, 1788 – 9 states had ratified, making Constitution law for those states
  - Constitution unlikely to take hold as long as last 4 states (especially New York and Virginia) did not ratify
The Four Laggard States

- Virginia
  - Strong opposition to Constitution, including Patrick Henry
  - Agreed to ratification in close vote when New Hampshire ratified, since Constitution was no adopted and Virginia could not remain independent
The Four Laggard States

- New York
  - Heavily antifederalist state convention
  - Alexander Hamilton, John Jay, James Madison wrote masterly series of articles in New York newspapers
    - Powerful explanations of how Constitution would work
  - Finally ratified by very close vote to be part of US
    - Also passed 32 amendments and called for new convention to change the Constitution (which did not happen)
The Four Laggard States

- North Carolina
  - Antifederalist convention adjourned without taking a vote

- Rhode Island
  - Did not even assemble convention
  - Constitution rejected by popular vote

- Both these states ratified Constitution after it had been in operation

- Last 4 states ratified not because they wanted to, but because they had to to remain part of US
A Conservative Triumph

- Minority triumphed twice
  - Minority of radicals had carried out revolution against British
  - Minority of conservatives had replaced Articles of Confederation with Constitution
    - Only 1/4 of adult white males (those with property) had voted for delegates to conventions
    - Voting by all males would have sent Constitution to defeat
A Conservative Triumph

- Constitution conserved principle of republican government
  - All 3 branches (not just legislature, as in Articles) represented people
  - People governed through representatives, who were limited by checks and balances