

Chapter Nine:

Articles of Confederation and the Constitution

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Chapter Nine: Articles of Confederation and the Constitution

9.1 INTRODUCTION

During the Revolutionary War, American colonists papered over many of their regional differences in order to fight the British. However, much still separated the Revolution's participants. Nationalism grew during the war, but the states still saw themselves as separate entities. Moreover, many residents initially did not see much need for a central government. American leaders thus relied on virtue or patriotism to help form bonds between the people. According to historian John Murrin, patriotism "would inspire the settlers to sacrifice their private interests, even their lives, for the general welfare."¹ To win the war and maintain the peace, however, American leaders recognized the need for a political framework; patriotism alone would not suffice. So from 1776 to 1789, they worked to lay out government structures for the states and the nation. The war gave Americans an opportunity to put the ideas of the *Declaration of Independence* into practice. Furthermore, it allowed them to address many of the political and economic problems that had emerged under the British system.

Americans debated how to structure their state and national governments. Most colonists agreed that the consent of the governed was necessary, but they did not always agree on how this consent was to be given. Ultimately in both the state and national systems, they settled on a republican framework in which elected representatives mediated the will of the people. When it came to this national system, though, Americans debated how much power should be given to the central government. Most framers initially favored a weak central government that would defer to the rights of the states, an approach they adopted in the *Articles of Confederation*. Political, social, and economic problems during the 1780s, however, prompted them to reconsider their initial ideas. At the Constitutional Convention of 1787, delegates met to revise the *Articles of Confederation*; this document was quickly set aside as they developed a new framework, which became the United States Constitution. Enough states ratified the document for the new government to be put in place in 1789.

9.1.1 Learning Outcomes

After completing this chapter, you should be able to:

- Explain the formation of the individual state governments and assess how ideas about republicanism and democracy influenced the deliberations over state constitutions.

- Explain the need for an overarching political framework for the newly-independent American states and analyze the first attempts to provide structure for the American states, including the Second Continental Congress and the Articles of Confederation.
- Identify the accomplishments and weaknesses of the central government under the Articles of Confederation and explain the need for a central government stronger than that created by the Articles.
- Analyze the provisions and nature of the United States Constitution, including such concepts as nationalism, federalism, constitutionalism, and democracy.
- Explain the differences between the Virginia Plan, the New Jersey Plan, and the Connecticut Compromise, and analyze why the smaller states did not like the Virginia Plan.
- Understand the conflict between the rights of the individual states and the rights of the national government and assess the importance in this conflict of such clauses as the “necessary and proper” clause and the Tenth Amendment.
- Discuss the issues that arose at the time of the ratification of the U.S. Constitution and differentiate between the two factions that debated the Constitution in the states: Federalists and Antifederalists.
- Explain the powers given to each branch of government by the Constitution.

9.2 THE STATE GOVERNMENTS

The American colonies began to transition to independent republics or states in the months after Lexington-Concord in 1775. First, the residents overthrew royal authority by closing courts and chasing royal officials out of office. Then, to meet the demands of war, they set up provincial congresses to fill the void left by the departing British governments. Finally, they worked to create lasting governments that would promote order and independence. Most states found it easier to depose their governments than to construct new ones. However, the people avidly took to the cause. “The building of this permanent founding of freedom,” says historian Gordon S. Wood, “became the essence of the Revolution.”² As John Adams noted in 1776:

“How few of the human race have ever enjoyed an opportunity of making... [a] government, more than of air, soil, or climate, for themselves or their children! When, before the present epoch, had three millions of people full power and a fair opportunity to form and establish the wisest and happiest government that human wisdom can contrive?”³

9.2.1 The Need for New Constitutions

Even before the Declaration of Independence, the Continental Congress addressed the need to write new state constitutions. Many revolutionaries saw the formation of new republics as an instrumental part of the move toward independence. More importantly, the necessities of war prompted Massachusetts to ask Congress for guidance on replacing colonial authority. It needed an established body to help maintain order, tax the citizens, staff the militia, and ensure public safety. In June 1775, the Continental Congress instructed Massachusetts to resume its Charter of 1691, which Parliament annulled in the Massachusetts Government Act of 1774, as a temporary solution to the lack of government. New Hampshire and South Carolina then requested advice on whether or not to form new governments.⁴

Into 1776, members of the Continental Congress discussed whether to issue a resolution on the formation of state governments and how specific their instructions should be if they made a recommendation. It seemed most delegates wanted to say something, but the precedent they might set troubled them. For example, John Adams worried about making any resolution on government because “if such a Plan was adopted it would be if not permanent, yet of long duration: and it would be extremely difficult to get rid of it.” However, as the nation ebbed closer to declaring independence, calls for action by the Continental Congress increased, leading to two separate resolutions in May.⁵

On May 10, 1776, Congress recommended to the “United Colonies” that “where no government sufficient to the exigencies of their affairs have been

hitherto established, to adopt such government as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.” On May 15, 1776, Congress resolved that it was “necessary that the exercise of every kind of authority under the said crown should be totally suppressed, and all the powers of government exerted, under the authority of the people of the colonies.”⁶ By that point, New Hampshire and South Carolina had temporary constitutions in place, and the rest of the states began the process of forming governments almost immediately. In June, Virginia adopted the first permanent constitution.

Historian Gary B. Nash sees these two resolutions as a “virtual declaration of independence.” Over the course of five years as the war continued, the former colonies worked diligently to fulfill the promise of independence by creating new governments. While their new constitutions varied by state, the people seemed to agree “that the consent of the governed was the only true source of political authority.” Some states applied this idea more radically than others, meaning some states implemented quite experimental constitutions while others followed the British model more closely. The internal debates over constitution-making led to divisions among Americans that the Founding Fathers obscured in their attempt to promote a vision of unity at the time of the nation’s creation.⁷

9.2.2 Political Thought Shaping the State Constitutions

Most of the states followed an orderly process in forming their new governments. New Hampshire, Massachusetts, New York, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, Georgia, and Vermont, then in the process of declaring independence from New York, held special conventions to draft their constitutions. According to historian Marc W. Kruman, the conventions “located sovereignty in the people, who in turn, would instruct a political body to act on their behalf to form governments.” Given that the electorate chose the representatives for these conventions, they effectively consented to the government formed by the conventions. In South Carolina and Virginia, the state legislature wrote the constitutions. In Connecticut and Rhode Island, the legislature simply deleted all references to royal authority, and both governed themselves much as before, since they were essentially self-governing under their colonial charters. Most of the states completed their work in 1776 and 1777, although it took Massachusetts until 1780 to finalize its constitution.⁸

Based on their colonial experiences, most Americans agreed the people should be the source of political authority. They did not support the maintenance of a monarchy or the adoption of pure democracy; rather, they

sought to implement republicanism. In the late 1780s, James Madison said a republican government “derives all its powers directly or indirectly from the great body of the people; and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior.” The people, broadly construed in Madison’s interpretation of republicanism, exercised their power by electing representatives to the governing body.⁹ In addition to their belief in republicanism, Americans shared similar assumptions about the structure of government, the role of the governor, and the nature of representation, though, they certainly did not agree on every detail.

The Structure of Government

Many states believed in the need to define the people’s liberties before creating a government. Virginia took the lead on this issue when George Mason drafted the Declaration of Rights in 1776 and Thomas Jefferson drafted the Statute of Religious Freedom in 1777. The Declaration of Rights stated that “all men are by nature equally free and independent and have certain inherent rights” which the state could not violate. Furthermore, it suggested a government “ought to be, [sic] instituted for the common benefit, protection, and security of the people, nation, or community.” Finally, it protected the people’s common law rights, such as the right to a free press, the right bear arms, and the right to a speedy jury trial. Several states, including Delaware and North Carolina, followed Virginia’s lead in issuing a specific declaration on the rights of the people; other states, including New York and Georgia, embedded the ideas of the declaration directly into their constitutions.¹⁰

The Statute of Religious Freedom, which the Virginia legislature finally approved in 1786 at the urging of James Madison, ended state support

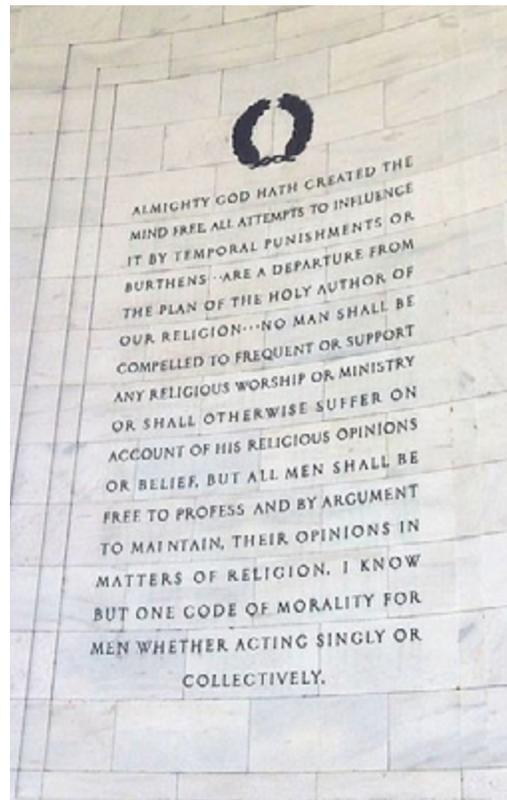


Figure 9.1 Virginia Statute of Religious Freedom | In 1777, Thomas Jefferson drafted the Statute of Religious Freedom. Jefferson was very proud of his effort to separate church from state and he wanted the statute to be included in his epitaph. And so, the U.S. government chose it as one of the inscriptions for the interior walls of the Jefferson Memorial.

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for the Anglican Church and separated one's religious belief from one's civil liberties. As Jefferson said, "no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever...nor shall otherwise suffer on account of his religious opinions or belief, but that all men shall be free to profess, and by argument to maintain, their opinions in matters of Religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities." Most states adopted the principle of religious toleration for Christians in their constitutions, though some were more tolerant than others. Georgia Constitution suggested that people had "the free exercise of religion" so long as it was "not repugnant to the state." However, it also indicated those eligible for public office "shall be of the Protestant [sic] religion." The South Carolina Constitution, however, provided religious toleration only to those "who acknowledge there is one God...and that God is to be publicly worshipped."¹¹

With these liberties in mind, the states sought to establish balanced governments that would allow the people to participate in their government but would have checks on the people's will. During the revolution, most Americans continued to see the British system as the most enlightened form of government in the world because it contained elements of monarchy, aristocracy, and democracy in the Crown, the House of Lords, and the House of Commons respectively. When the system functioned properly, it would prevent the monarch from becoming despotic and the people from becoming disorderly. Therefore, the best way to prevent tyranny or anarchy was to create a system in which several bodies shared political power.¹²

To many Americans, the British perversion of its mixed government, especially Parliament's attempts to undermine colonial charters, justified the move toward independence. As they approached constitution-making, the Americans envisioned an end to monarchy, but not an end to mixed government. The bigger question for most revolutionary leaders centered on which branch of the government should have the most influence. When Virginian Carter Braxton wrote a pamphlet calling on the representative assembly to elect members of the state's upper house for life, Richard Henry Lee called the ideas "contemptible." Lee did not object to having a bicameral legislature; rather, he objected that Braxton's proposal seemed too aristocratic. Therefore, the Americans worked diligently to define the role of the governor and determine representation in the legislature so as to achieve a mixed government.¹³

The Role of the Governor

Americans in the Revolutionary Era held traditional views about power, especially when it came to the governor. Based on their reading of history and their own colonial experience, many believed that an appointed or an

elected governor could become drunk with power and tyranny would ensue. Yet, they still saw the need for an executive of some kind to help manage the state. Consequently, most states modified the traditional role of the governor when drafting their constitutions. Fearing the restrictions of their rights, most states made the governor strictly an administrator. In his draft of the Virginia Constitution, Thomas Jefferson indicated the governor could not, among other things, veto legislation, call into or dismiss the assembly, declare war, raise an army, make peace, coin money, or pardon criminals. While not every state specifically spelled out governors' powers, they clearly limited the role the executive would play in making laws.¹⁴

To further limit the governor's power, most state constitutions had the legislature, not the people, choose the governor on an annual basis so that the governor would not become beholden to the voters. They also placed limits on the number of consecutive terms a governor could serve to prevent the emergence of an elected monarchy. Most states also curbed the governor's power of patronage to prevent him from using his right to appoint officials to develop an independent source of power. Finally, the states supported the separation of powers. As the residents of Boston noted in instructions to their constitutional convention delegates, "It is essential to liberty, [sic] that the legislative, judicial, and executive powers of government be, as nearly as possible, independent of, and separate from each other" in order to avoid "a wanton exercise of power." In insisting on the separation of powers and clearly demarcating the responsibilities of each branch, the states hoped to prevent the executive from influencing the other branches of government. Pennsylvania was the only state without a chief executive; instead, it opted to have an elected governing council appointed by the legislature. Meanwhile, New York vested considerably more power in the hands of its governor than did the other states.¹⁵

The Nature of Representation in the Legislatures

Americans saw the legislature as the most important branch of their state governments because they possessed most of the powers formerly held by the governor and they made the laws; this respect for the legislature later appeared in the U.S. Constitution. The legislature no longer served simply to check the power of the governor. Rather, they governed the state, which marked a clear shift in political power. As such, representation became the cornerstone of free government in the American states because it provided the best security of the people's liberties. As the states drafted their constitutions, they focused on providing equal representation for the people so as to preserve or undermine elite control of the government depending on the radical or conservative nature of the state conventions. Given their respect for the British system of a mixed and balanced government, most states opted for bicameralism, or a two-house legislature. However,

Pennsylvania, Vermont, and Georgia implemented unicameralism, or a single-house legislature.¹⁶

Debates about the merits of virtual representation versus actual representation had played a large role in the road to the revolution and continued to play a part in determining the nature of representation. In the 1760s, the colonists increasingly protested that the members of Parliament could never represent their interests; in other words, they challenged the theory of virtual representation. Most colonists did not want to send representatives to Parliament; they wanted local assemblies to make the decisions affecting them. The Americans translated their concerns about virtual representation to their constitution-making in the late 1770s. In his *Thoughts on Government*, John Adams noted the assembly “should be in miniature, an exact portrait of the people at large. It should think, feel, reason, and act like them.” Drafters took his ideas to heart as they planned for representation; however, they also believed the ablest men, the natural aristocracy, would serve in the assemblies. Moreover, these men, according to a contemporary newspaper, “would employ their whole time for the public good.”¹⁷

Many revolutionaries believed a direct connection existed between the length of service in an assembly and the propensity for corruption or manipulation by the governor. Thus all the states, except South Carolina, held annual elections for their lower house. While delegates to the upper house served longer terms, they too faced regular election. Maryland’s constitution provided for the election of delegates to the lower house every year and the upper house every five years. To ward off against the possibility that legislatures would act for special interests, most states required legislators to live within the community they represented. Georgia’s constitution required that a person live in the state for at least one year and the county for at least three months before representing a county in the legislature.¹⁸

Some states also made an effort to ensure the equality of representation in the legislature. Pennsylvania’s constitution based representation on the number of taxable residents in an electoral district and provided for reapportionment based on a census every seven years. North Carolina’s constitution continued the colonial practice of having a set number of representatives from each county in the state and had provisions for including new counties in the legislature. Finally, most states set property qualifications for members of their assemblies, with the lower house set at one level and the upper house set at a higher level. Some delegates did argue they could only live up to John Adams’s call to make legislatures an “exact portrait” if they chose members from the middling sorts. However, the majority thought those with more property could better serve the public good.¹⁹

9.2.3 Divisions on the Road to Republican Government

As the people thought about creating their state governments, questions about the structure of the legislative branch and the extension of voting rights tended to divide them more than did other issues. Historian Francis D. Cogliano suggested that the American people split into two camps, democrats and elitists, on the political questions raised by the revolution. The democrats were men whose involvement in the war made them more politically aware. Most hailed from humble origins and distrusted the elites' ideas about the structure of the government and the electorate. They wanted to give the common people more power in drafting state constitutions because the common people would bring honesty, common sense, and plain understanding to the process. The elitists, the leading figures in colonial politics, on the other hand, favored a government closely modeled on the British system and an electorate composed primarily of property-holding men. They feared excesses of democracy, especially a decentralized government, would lead to anarchy.²⁰ Pennsylvania and Massachusetts, which wrote the most radical and most conservative constitutions respectively, struggled to balance the interests of the democrats and the elitists. Meanwhile, New Jersey temporarily expanded the electorate in a way that no other state seriously considered when it allowed single women to vote.

Pennsylvania

Given that the democrats controlled the constitutional convention, Pennsylvania adopted the most radical state constitution of the Revolutionary Era. When it came time to select the members of the convention, Pennsylvania's lawmakers allowed all taxpaying men who would swear an allegiance to the revolutionary cause to vote for delegates. Since most elites remained loyal to Britain, they could not participate in the process of making the constitution. A majority of the voters in 1776, and the delegates they selected to frame the government, came from the middling ranks of society. The small farmers, merchants, lawyers, and artisans who served as drafters firmly believed in the democratization of politics; they thought all people, not just property owners, should have a say in the government.²¹

During their deliberations, as Gary B. Nash notes, the delegates "considered and then rejected three of the most honored elements of English republican thought." They chose not to implement bicameral legislature; they felt a unicameral legislature would better serve the common good. They decided not to have a governor; instead, they implemented a weak elected governing council to manage the state, not to make laws. Finally, they abandoned traditional notions about voting rights; they expanded suffrage to all taxpayers instead of all property holders, meaning most adult males

could vote—a policy known as taxpayer suffrage. Beyond these changes, the delegates proposed to have annual elections for the assembly by secret ballot instead of by voice, to open all legislative sessions to the public, to make all proposed laws subject to public debate for one year, to impose term limits for government service, to create a Council of Censors to meet every seven years to review the legislature’s performance, and to provide for reapportionment every seven years based on a census.²²

Through these measures, the framers hoped to create the most democratic form of republican government possible. Skeptical of wealthy property holders, who governed Pennsylvania in colonial times, many democrats saw their constitution as a means to check the growth of absolute power. Inside and outside of Pennsylvania, however, the elitists reacted negatively to the work of the convention. The criticisms began as soon as the convention released the proposed constitution for public comment. Pennsylvanian Benjamin Rush described the constitution as “rascally.” Meanwhile, North Carolinian William Hooper called it “a Beast without a head.”²³ Many elitists hoped to cripple the constitution after its adoption in 1776. They called for the legislature to amend the constitution; they withdrew from the legislature to deny the majority a quorum, blocking any new measures necessary to fight the war; and they refused to serve as justices of the peace, sheriffs, and militia officers even when elected to do so.

The debate caused a major divide in Pennsylvania, which continued into the post-revolutionary years. In 1790, the elitists ultimately won the battle over the constitution when the state adopted a new constitution that included a bicameral legislature, a governor with veto power, and an independent judiciary. However, the new constitution retained taxpayer suffrage. Moreover, with the exception of Virginia and Delaware, the states followed Pennsylvania’s lead in expanding the electorate. Some implemented taxpayer suffrage, while others lowered the property qualifications for voting.²⁴

Massachusetts

For all of its revolutionary ferment in the 1760s and 1770s, Massachusetts adopted the most conservative constitution of the Revolutionary Era. While the elitists controlled the process, the democrats repeatedly called for measures to disperse power among the people. Initially, the General Court, the legislature, moved slowly because it seemed unsure whether they even had the right to author a constitution. By the time it secured permission from the electorate to frame the government, elitists in the legislature wanted to draw out the constitution making in hopes of curbing the most radical ideas of the democrats in the state.²⁵

In 1777, the General Court asked the towns to authorize the two houses to work as one body to write a constitution, which it would submit to the voters for inspection. Essentially, the united legislature would serve as the constitutional convention. To garner as much support as possible for the drafting process, the legislature temporarily expanded the electorate to all free adult males. A majority of towns approved the proposal, though some dissenting towns thought a special constitutional convention should be called and others wanted more than just inspection of the new constitution. To address the concerns of the towns, the legislature agreed to hold new elections for the General Court before work on the draft began, allowing the voters to choose the people from their town to work on the constitution. Finally, in the summer the newly elected General Court selected a drafting committee.²⁶

The structure of the legislature, unicameral or bicameral, and the composition of the electorate proved the most contentious issues for the drafting committee during the six months of debate on the constitution. The elitists won a bicameral legislature with strict property qualifications on who could serve; the democrats won taxpayer suffrage for the lower house but not for the upper house and the governor. In 1778, the drafting committee completed its work, and the legislature submitted the constitution to the voters for approval. Four out of five towns rejected the proposed constitution, with many towns voting unanimously against it. Many people objected, said Gary B. Nash, to what they “saw as an attempt to deny political rights to ordinary men.”²⁷

The concerns of the ordinary people over the proposed constitution suggested the impact the fight for independence had on ideas of democratization. Frustrated elitists, after eight months of stalling, concluded they had no choice but to propose a separate constitutional convention because the state’s economic problems continued to grow worse and the sitting government had lost much of its legitimacy. The people overwhelmingly approved voting for a special convention in 1779. At that point, John Adams returned to Massachusetts from Paris where he had been working on securing an alliance with France. Braintree chose him as one of their delegates to the convention. The drafting committee, which he was not chosen to serve on, asked him to draw up the first draft of the new constitution.²⁸

Adams wrote a very conservative constitution that drew largely on his *Thoughts on Government*. He began with a declaration of rights but proceeded to create a government strikingly similar to the colonial system in terms of providing for a bicameral legislature and a powerful governor. Adams also eliminated the provision for taxpayer suffrage for the lower house; all voters had to own property. Moreover, he increased the property

qualification for running for the upper house and for governor. Since the constitution clearly tilted toward the elitists, Adams suggested that all free adult males vote in a referendum on the constitution. In so doing, if the document passed, then the democrats could not legitimately complain about any perceived disenfranchisement. In 1779, the convention sent Adams's constitution to the voters. In 1780, the delegates declared that two-thirds of the voters approved the constitution; shortly thereafter, it took effect. Massachusetts still uses Adams's constitution with a few modifications. Nevertheless, social divisions caused by objections to representation in the legislature plagued Massachusetts throughout the 1780s.²⁹

New Jersey

State constitutions generally extended suffrage to more American men by providing for taxpayer suffrage or reducing the property qualifications for men. Georgia, South Carolina, North Carolina, and Virginia continued the colonial practice of denying free blacks the right to vote, but, in the other states, the constitutions did not distinguish between free blacks and free whites. No state considered letting slaves, servants, felons, or the mentally disabled vote. Revolutionary fervor, however, did cause some Americans to question whether women should have the right to vote. Although political leaders around the country discussed the issue, only New Jersey went so far as to allow single women suffrage.³⁰

Opponents of women's suffrage pointed to women's dependent state to justify disenfranchisement. The *Essex Result*, likely written by Theophilus Parsons of Massachusetts, suggested women did not possess the discretion to vote because of the "natural tenderness and delicacy of their minds, their retired mode of life, and various domestic duties." Furthermore, most states still practiced the doctrine of coverture. Married women could not own property nor did they pay taxes; therefore, in many states they did not meet the qualifications for voting.³¹ Proponents of women's suffrage noted the inequity in barring single, property-holding women from voting. Virginian Hannah Corbin suggested to her brother Richard Henry Lee, a member of the Continental Congress, that single women should either possess the right to vote or should be exempt from paying taxes on their property; he privately agreed with her. While delegates to the constitutional convention mulled over voting rights, an anonymous New Jersey politician, made the same point.³²

Beginning in 1775, New Jersey's Provincial Congress received petitions from residents asking for taxpayer suffrage; the state legislature responded by reducing the property qualifications for voting. When the Continental Congress instructed the colonies to write constitutions, the expanded electorate in New Jersey selected delegates to the constitutional

convention. The drafting committee initially suggested language granting all “freeholders and householders...worth fifty pounds” the right to vote. For over a year, delegates to the constitutional convention discussed voting rights, as evidenced by the changes in the suffrage clause from the initial to the final draft. According to the New Jersey Constitution, adopted in 1776, “All inhabitants of this Colony...who are worth fifty pounds...clear estate...and have resided within the county in which they claim a vote for twelve months immediately preceding the election, shall be entitled to vote for Representatives in Council and Assembly; and also for all other public officers, that shall be elected by the people of the county at large.” Therefore, women who met the property requirements could cast ballots. Suffrage for single women in New Jersey ended in 1807 when the state revised its constitution. However, the fact women could and did vote under the original constitution set a precedent for ending the gendered division of

Sidebar 9.1: The Political Role of Women in the Early Republic

On March 31, 1776, Abigail Adams wrote to her husband John that she longed to hear the Continental Congress declared independence. More importantly, she suggested that when the delegates, including her husband, came together to write a new code of laws that they “would Remember the Ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands.” She also implied that American women would engage in their own rebellion should they have no voice in the new government. In his response, John noted “As to your extraordinary Code of Laws, I cannot but laugh.”⁶⁷ John Adams recognized the importance of the women in his life. He would not have been able to serve in the Continental Congress if Abigail did not run the family farm, and all through his years of public service he relied on her for advice on a variety of political issues. However, in 1776 he could not conceive of a shift in the public role of women in American society and his attitude did not seem to bode well for the short-term future of women’s rights. And yet, later that same year, New Jersey saw fit to allow at least some women the right to vote.⁶⁸ Given the public debate during and after Revolution about women’s rights, historians have disagreed on why New Jersey gave women the right to vote.

Mary Beth Norton maintains “the constitution’s phraseology probably represented a simple oversight on the part of its framers” because the inclusion of women did not spark much debate in New Jersey. In other words, if the public had known about this “novel extension of the suffrage,” then they most surely would have discussed the issue more than they did. On the other hand, Judith Apter Klinghoffer and Lois Elkis argue that the inclusion of women was no oversight, given that delegates debated the issue of suffrage for over a year. Klinghoffer and Elkis suggest “the revolutionary-era political strife responsible...for the politicization of new population segments, including women, was so strong in New Jersey that it led to the extension of the suffrage to single women.” Along the same lines, Marc W. Kruman and Gary B. Nash suggest the discussion of women’s suffrage alone showed how much the revolution transformed American life. In the end, the effort to end women’s suffrage in New Jersey, says Linda Kerber, was “one of a series of conservative choices that Americans made in the postwar years as they avoided the full implication of their own revolutionary radicalism.”⁶⁹

9.2.4 Before You Move On...

Key Concepts

While fighting a war with Great Britain, the rebellious colonies also framed their individual governments because revolutionary leaders saw constitution-making as an important part of the move toward independence. So in 1776, the Continental Congress instructed the states to set up new governments. For the next five years, the states worked on their constitutions. While the governments they created varied by state, the framers agreed on the need to form republican governments based on the consent of the governed. They also worked diligently to secure the people's liberties from abuse by the state. To ensure that outcome, most states opted for mixed governments composed of a legislature, a chief executive, and a judiciary. Moreover, a majority of states granted extensive power to the representative assembly, whether they adopted a bicameral or a unicameral system, and they made the governor an administrator rather than a legislator. To prevent corruption, they worked to ensure equal representation in the assemblies and a regular rotation of officeholders. At the same time, most states retained property qualifications for government service. While most states agreed on the structure of government, questions about the structure of the legislative branch and the composition of the electorate divided the population. In Pennsylvania, elitists opposed the decision to adopt a unicameral legislature. In Massachusetts, democrats opposed retaining high property qualifications for voting. In New Jersey, the delegates took the unprecedented step of allowing single women the right to vote. The debates over the provisions of the state constitutions showed how much the political thought in the Revolutionary Era affected the American people; they also influenced the drafting of a national constitution.

Test Yourself

1. As the states began to adopt constitutions during the Revolutionary War, they chose to create republics over monarchies or democracies.
 - a. True
 - b. False
2. Which of the following men drafted the Virginia Statute of Religious Freedom?
 - a. George Mason
 - b. George Washington
 - c. James Madison
 - d. Thomas Jefferson

3. Pennsylvania adopted one of the most conservative constitutions of the Revolutionary Era.
 - a. True
 - b. False

4. No state constitution in the Revolutionary Era allowed women the right to vote.
 - a. True
 - b. False

[Click here to see answers](#)

the political community.³³

9.3 THE ARTICLES OF CONFEDERATION GOVERNMENT

By 1777 it had become obvious that if the new American states were to succeed diplomatically in gaining allies in their rebellion against Britain, then a more inclusive national government than the Second Continental Congress, which had been conducting the war until that point, would have to exist. A government that spoke and legislated for the states as a whole was needed. And so in 1777, the Second Continental Congress appointed a committee to draft a constitution for the states, which, when ratified, would bind them into a “firm league of friendship” for their common defense, the security of their liberties, and their mutual and general welfare. There was to be a common treasury that would “defray the charges of war.”³⁴

In terms of a national structure, this constitution, or the Articles of Confederation, created a one-house congress composed of two delegates from each state who served one-year terms. The “President of the United States” was the chair of the Confederation Congress, elected by its members; there was no separate executive branch, no national judiciary, and no national headquarters. While Congress could pass laws for the states as long as three-quarters of its members approved, borrow and coin money, and conduct diplomatic relations, it could not regulate trade, tax the states, or, without a national judiciary, enforce its laws. Congress also lacked the power to keep the states from issuing their own currency and imposing their own tariffs. The Articles of Confederation was released to the states for ratification, and by 1781, the states had approved it. It would be in effect for eight years until it was replaced by the U.S. Constitution.³⁵

9.3.1 The “Critical Period”

The period during which the Articles were in effect, 1781-1789, was first called a “critical” one for the new United States, by John Quincy Adams in 1787 as he addressed the graduating class of Harvard University. It was, he insisted, a time when the new U.S. was “groaning under the intolerable burden of...accumulated evils.”³⁶ It was, in other words, a period of diplomatic and financial challenge and internal confusion. While trade flourished and new markets were opened with the Dutch, Swedes, Prussians, Moroccans, and Chinese, the need for a national bank, with the power to issue government bonds and tax, was acute. The weak national government, the result of a reaction to the restrictions placed on the colonies after the French and Indian War, faced continuing crises with which it had a hard time coping, especially when it came to dealing with foreign governments and the nation’s war-related debt. Many Americans assumed the transition from their status as British colonies to an independent nation would go smoothly. However, such attitudes were misplaced because foreign governments saw the United States as weak and treated the new government accordingly. Furthermore, many Americans believed prosperity would come quickly after the war; trade did resume, but efforts to fund the debt at the national and state levels caused problems.

Establishing sovereignty over territory ceded to the United States in the Treaty of Paris proved difficult. First, the British excluded American ships from their ports, which impacted the trade of timber, wheat, and other goods. They also did not evacuate all of their trading posts in the Northwest. Merchants found other markets and they also engaged in smuggling, but the Confederation Congress lacked the power to do more to secure a commercial treaty or to force the British to evacuate American land. Second, the Spanish disputed the border between New Spain and the United States. They also closed the Mississippi River to American traffic, which significantly affected the ability of southerners to conduct their international trade through New Orleans. Congress sent John Jay, the secretary of foreign affairs, to negotiate with Spain and instructed him to stand up for American rights in the Southwest. When it became clear his Spanish counterpart would not budge, Jay deviated from his instructions. He sacrificed navigation on the Mississippi for a commercial treaty. However, southerners in Congress blocked the measure. Many states did not want Congress to negotiate on their behalf; they wanted to make their own commercial arrangements. Thus, issues with Great Britain and Spain continued to fester.³⁷

During the war, the Confederation Congress struggled to meet its financial obligations, and this pattern continued in the postwar years because the central government lacked a dedicated source of revenue. Early in the conflict,



Figure 9.2 Dealing with the Nation's Debt | Robert Morris, a Pennsylvania merchant, served as the first minister of finance for the Confederation Congress from 1781 to 1784. During that time he struggled in vain to devise an acceptable plan to fund the nation's debt.

Artist: Charles Willson Peale
Source: Library of Congress

Congress issued paper currency to finance the war; the currency lost value almost immediately and so the government printed more money. Large amounts of paper currency in circulation, which could not be exchanged for specie or coin, did not bode well for the financial health of the new country. In 1781, Robert Morris became the Confederation's minister of finance, and he proposed two measures to remedy the nation's financial problems. He suggested imposing a five percent tax on all foreign imports. However, Rhode Island and Virginia opposed the measure, and since the vote needed to be unanimous, that effort to raise revenue failed. Morris also proposed the creation of a national bank but could not convince enough members of Congress of the importance of a bank. After Morris

left the government, some members of Congress tried again to win support for the import tax in 1784. They again failed, after which they simply let the states choose how to pay their portion of the debt.³⁸

Just as the Confederation Congress struggled to meet its financial obligations, so too did many states. They resorted to high taxes to fund their debt. In doing so, they angered the people who could not afford to pay those taxes. Many citizens resented the personal economic problems they faced in the 1780s, and they had little desire to contribute to their states' efforts to fund the public debt. As frustration mounted, nationally-minded leaders looked for ways to address the weakness of the central government. In December 1786, leaders from New York, New Jersey, Pennsylvania, Delaware, and Virginia met in Annapolis, Maryland to discuss the possibility that the states would grant Congress the right to regulate commerce. The New Jersey delegation, along with delegates from other states like Alexander Hamilton and James Madison, hoped for greater change. However, those present could do little to enact change because so few states participated in the Annapolis Convention. The fear of the republican experiment failing had not yet reached crisis proportions. Added to the financial woes was the fact that American artisans were demanding new supplies of paper money and creditors to be paid in gold or silver. By 1785 the demand for paper money had become so insistent that seven states began issuing what would

become worthless paper.

Despite the overwhelming problems the Confederation Congress faced, it did in fact create two long-lasting pieces of legislation that addressed the Northwest Territory, ceded by Britain to the United States at the end of the Revolutionary War. The Land Ordinance of 1785 divided the area north of the Ohio River Valley and west of the Appalachians into townships, six miles squared. The townships were in turn divided into thirty-six sections: thirty-five were to be sold, and one was to be set aside for schools. Each section consisted of 640 acres, which were sold for no less than \$1.00 per acre. Settlers and speculators began to pour into the region, paving the way for a series of conflicts as the Americans insisted on taking land from the Indians, who had not acquiesced to the Treaty of Paris and considered the land rightfully theirs.³⁹

The Northwest Ordinance, which followed in 1787, set out the process by which a territory could become a state. It specified that if a territory had fewer than 5,000 white adult males, it would be governed by a governor and a three-judge panel, all of whom were to be appointed by the Confederation Congress. When a territory held 5,000 to 60,000 white male inhabitants, a legislature could be elected by all white males, but the governor was still appointed by Congress. When the population of a territory exceeded 60,000, it could adopt a constitution—which must forbid slavery and protect religious freedom—and apply for statehood, which would be granted by Congress. The measure gave Congress greater control over the settlement of the western territories; self-government came only with statehood. And finally, the Northwest Ordinance barred slavery, except as punishment for a crime in the territory, though it did provide for the return of fugitive or runaway slaves.⁴⁰

For the most part, however, the period during which the Articles of Confederation was in effect was indeed “critical” for the fledgling country; the final straw came in 1786 with the rebellion of a group of Massachusetts farmers led by Daniel Shays.⁴¹

9.3.2 Shays’s Rebellion

One of the most serious challenges to the Confederation government, and an important impetus to calling for a constitutional convention, came in the form of a “rebellion,” or what Alexander Hamilton called a Massachusetts “civil war” led by a “desperate debtor,”⁴² Daniel Shays. Like farmers in many states, those of western Massachusetts suffered from high taxes, crushing debt, and widespread foreclosures. These farmers, in an effort to influence the legislature and governor in Boston and forestall foreclosures on their

lands, drafted a list of grievances, among which were the following:

1. the present system of taxation operated “unfairly between the poor and the wealthy classes”
2. There existed “a shortage of cash money”
3. “farm goods [were] not accepted as payment for debts and taxes”
4. Taxes and the fees charged by lawyers and the courts were too high
5. “State government officials are being paid fattened salaries”⁴³

By fall, 1786, resistance to the policies of the Massachusetts state government had escalated to the point of an insurrection led by Daniel Shays, a Revolutionary War veteran. Marching through the countryside of Massachusetts, Shays and his men succeeded in taking over the Court of Common Pleas in Northampton, Massachusetts in an effort to prevent the trials of indebted farmers. The Governor of Massachusetts, with help from bankers and merchants in the eastern part of the state, raised troops and quickly crushed the rebellion.

Despite the fact that Shays’s “rebels” numbered only 1,200, many of America’s most distinguished and reasoned leaders evidently believed that anarchy was about to consume all of the states and that Shays’s Rebellion might just be the spark that set it off. According to many, mob rule was at hand. James Madison, reading reports that set the number of farmers at 12,000, came to the conclusion that the whole affair had been instigated by the British.⁴⁴ Even George Washington cried out, “What, gracious God, is man that there should be such inconsistency and perfidiousness in his conduct?”

Some leaders, however, took a view different from that of Washington and Madison, regarding Shays’s Rebellion as an almost legitimate form of popular protest, a sign of the vigor and political alertness of the populace and of their determination to guard their liberties. “What signify a few lives lost in a century or two,” Jefferson wrote. “The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. It is its natural manure.” In a letter, Jefferson explained himself further to James Madison, who



Figure 9.3 Trouble in Western Massachusetts | In 1787, Daniel Shays, pictured here with Job Shattuck, led farmers in Western Massachusetts in an uprising against the state government to protest the treatment of indebted farmers.

Artist: Unknown
Source: National Portrait Gallery, Smithsonian Institution

shared Washington's attitude about Shays's rebels:

I am anxious to learn your sentiments on the late troubles in the eastern states. So far as I have yet seen, they do not appear to threaten serious consequences...Those states have suffered by the stoppage of the channels of their commerce, which have not yet found other issues. This must render money scarce and make the people uneasy. This uneasiness has produced acts absolutely unjustifiable; but I hope they will provoke no severities from their governments...

The mass of mankind under...a government wherein the will of everyone has a just influence enjoys a precious degree of liberty and happiness. [There will be occasional turbulence]...but I hold it that even a little rebellion now and then is a good thing.⁴⁵

The unhappiness of the farmers spread to other areas of the northeast where similar rebellions broke out. Although the unrest was put down in several months, the fact that the Confederation Congress did not take a stand on the rebellions and could not send troops into the states underscored the problem, long voiced by leaders like George Washington, James Madison, and Alexander Hamilton, that a stronger national government was needed, one with power to create and maintain peace and harmony within the states, between the states, and between the states and the national government. Thomas Jefferson looked at the situation from the standpoint of diplomatic weakness mused in 1786: "The politics of Europe render it indispensably necessary that with respect to everything external, we must be one nation only, firmly held together."⁴⁶

The *Articles of Confederation* thus assumed the role of chief culprit in causing the need for a stronger government. Traditional accounts assail the Articles for being too democratic, as evidenced by the fact that the national government lacked the independent power to tax, pay down the national debt, raise an army, turn back the threat posed by such mobs as the participants of Shays's Rebellion, and guarantee prosperity. An economic downturn following the revolution has frequently been attributed to the Articles. Therefore, in the development of the Constitution, the Founding Fathers have usually been praised for recognizing the need for a federal government that could force the states in the interests of order and liberty.

9.3.3 Before You Move On...

Key Concepts

The United States had been established and functioned under the notion that a constitution was necessary in the creation and definition of a government. It was desirable in order to define and perhaps limit the scope of a central government and to protect the rights of the people and the states. England's adoption of a Bill of Rights in 1689 and the ideas publicized during the Enlightenment, like those of the Baron Montesquieu and Jean Jacques Rousseau, led the Continental Congress to create a committee in 1777 to draft a constitution; this first constitution was called the *Articles of Confederation*. Described as a "firm league of friendship," the Articles reflected the distrust of its members and of the states generally of a central government that wielded too much power. Reeling from their recent experience with Britain and her attempt to tighten her hold on the colonies, the delegates who drafted the Articles created a government that was powerless in most areas. Although the Confederation Congress could pass laws, it had no authority to enforce them, as there was no separate executive or judicial branch. The Confederation Congress could request funds from the states but could not tax; it could request troops but could not draft citizens.

Sometimes called a "critical" period, the seven years that the Articles were in effect were ones of little significant progress for the new United States. Two land ordinances were passed, but, for the most part, the government under the Articles was ineffective and powerless. It could not do much to solve border issues with Spain and Great Britain, nor could it do anything to secure better commercial relations with those countries. To make matters worse, the Articles made it almost impossible for the Confederation Congress to resolve issues of public finance caused by the war. By 1787 it was obvious that a stronger central government was called for if European countries were to take the United States seriously.

Test Yourself

1. Under the Articles of Confederation, the national government consisted of
 - a. Congress and a court system.
 - b. Congress and an executive.
 - c. Congress, a court system, and an executive.
 - d. Congress.

2. Which of the following was a power given to the national government in the Articles of Confederation?
 - a. The right to collect taxes from the states.
 - b. The right to enforce laws passed by the Confederation Congress.
 - c. The right to pass legislation.
 - d. The right to draft troops.
 - e. All of the above were powers possessed by the national government.

3. The Land Ordinance of 1787
 - a. specified the process by which a territory could become a state.
 - b. divided the northwest territory into townships.
 - c. basically left the course of the territories to the territories themselves with little oversight from the central government.
 - d. addressed the parish system in Louisiana.

[Click here to see answers](#)

9.4 THE NEED FOR A STRONGER GOVERNMENT: CREATING THE U.S. CONSTITUTION: ANNAPOLIS AND PHILADELPHIA

By 1785 a conviction had developed among several influential leaders in the various states that greater inter-state cooperation was needed if the United States was to reach its true economic potential. In that year, leaders from Virginia and Maryland met at Mount Vernon at the invitation of George Washington to discuss, among other things, navigation of the Potomac River. As those assembled came to agreements, they increasingly acknowledged the efficacy of an expanded meeting, which would include at the least Pennsylvania and Delaware, states struggling over transportation between the Chesapeake Bay and the Ohio River. The result was a convention held at Annapolis in 1786 to which nine states named representatives, though representatives of only five attended (absent were the New England states, the Carolinas, and Georgia). Despite the disappointing showing at Annapolis, Alexander Hamilton was determined to follow up on the idea of a states-wide meeting and presented a resolution to the Confederation Congress for a convention “to render the constitution of the Federal Government adequate to the exigencies of the Union.”⁴⁷ When the resolution

calling for such a meeting passed through Congress, the wording was a bit different: those who met in Philadelphia would have as their “sole and express purpose...revising the Articles of Confederation.”⁴⁸ Some states were slower than others to respond, but by May, 1787, eleven states had elected representatives. The meeting convened on May 14, though it was not until May 25 that a quorum was reached and George Washington elected president of the proceedings. The delegates worked through the summer, releasing the document on September 17, 1787.

During the weeks before the meeting was to convene, it became apparent that there were two schools of thought as to the ultimate goals of those who would attend. One group, centered on Edmund Randolph of Virginia and including Thomas Jefferson, currently Ambassador to France, held onto the idea that the Articles need only to be revised, patched like a fabric, as Jefferson commented. On the other hand, leaders like George Washington, John Jay, Alexander Hamilton, and James Madison believed that the Articles should be thrown out and an entirely new outline of government drawn up. Madison had become convinced before his arrival in Philadelphia that there should be a bi-cameral legislature, a separate judicial branch, and an executive, separate from either of the other branches. The central government should have the right of taxation and the power of the veto over state laws “in all cases whatsoever.” In this phrase he echoed the wording of the Declaratory Act of 1766, passed upon the repeal of the Sugar Act by Parliament.⁴⁹ In 1787, Madison prepared a tract entitled *Vices of the Political System of the United States* in which he made clear his leanings. Historian Joseph J. Ellis comments that the document “reads like an indictment of the Confederation Congress prepared by a relentless special prosecutor” as in the tract, Madison decries the encroachment of the states on the federal government and on the laws of each other, their failure to “comply with Constitutional requisitions,” and their unconcern for the “common interest” of the citizens of the United States.⁵⁰

And so on May 25, a quorum of twenty-nine delegates from nine states empowered by their state governments to revise the Articles of Confederation met at Independence Hall in Philadelphia, the site of the drafting of the Declaration of Independence. Rhode Island was the only state that did not participate at all in the proceedings. The delegates met for four months, and when the convention ended, they emerged with a document that laid out a completely new plan of government. Those who gathered in Philadelphia were an impressive array of American leaders: Benjamin Franklin from Pennsylvania; James Madison, George Washington, George Mason, and Edmund Randolph from Virginia; William Paterson from New Jersey; James McHenry from Maryland; Charles Pinckney and John Rutledge from South Carolina; and Elbridge Gerry from Massachusetts. Several notable

Americans were not present at the convention: Thomas Jefferson, who, along with Benjamin Franklin, Robert Livingston, and John Adams had drafted the *Declaration of Independence*, was in France, John Adams was in Europe trying to raise money to pay off war debts, and Patrick Henry, who distrusted all centralized governments, refused to participate, claiming he “smell[ed] a rat.” Both Jefferson and Adams, however, kept a close eye on developments in Philadelphia.

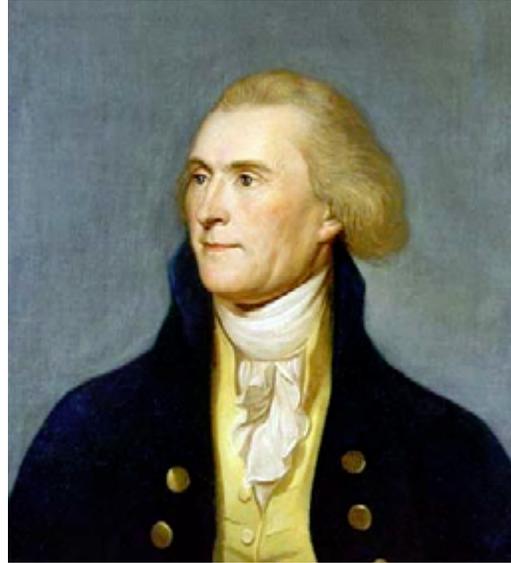


Figure 9.4 Jefferson and the Constitution | Thomas Jefferson, one of the authors of the Declaration of Independence, was not present at the Constitutional Convention, but closely monitored its proceedings from France.

Artist: Charles Willson Peale
Source: Diplomatic Reception Rooms, U.S. Department of State

Despite the fact that the states had empowered delegates to “revise” the *Articles of Confederation*, within days, those in attendance reached two important decisions: their deliberations must be held in secrecy, and the Articles should be scrapped in favor of a completely new document. Edmund Randolph, who later introduced the Virginia Plan, explained the reasoning behind the latter decision, pointing out that the Articles did not “protect the United States from attacks from foreign powers,” it did not “secure harmony and blessings to the states,” nor was it “superior to State constitutions.”⁵¹ Similarly, Alexander Hamilton wrote to George Washington in July: “the people begin to be convinced that their ‘excellent form of government’ [the Articles] as they have been used to call it, will not answer their purpose; and that they must substitute something not very remote from that which they have lately quitted.”⁵² The latter, an allusion to the British monarchy, probably overstated the leanings of the convention as a whole and may have been more the preference of Washington and Hamilton, both of whom were ardent proponents of a strong national government.

The Founding Fathers held many principles in common. They believed in John Locke’s natural rights theory that all people were entitled to life, liberty, and property—what Jefferson called “the pursuit of happiness” in the *Declaration of Independence*—and were proponents of the idea of the Baron Montesquieu, an Enlightenment writer of France, that the best political system was one in which power was shared by more than one branch of a national government. Most of the delegates did not want a monarchy, and they wanted the states to be recognized as separate entities, holding some independent power of their own. Many of the delegates

distrusted true democracy, in which all men over a certain age would have the right to vote, holding firm to the belief that freeholders, those owning land, were the best guarantors of liberty; in other words, many delegates thought landholders were the only ones who should be allowed to vote. With rare exception, American historians have seen the creation of the Constitution as the triumph of an effort to create a government of ordered liberty, an achievement seldom duplicated elsewhere. Because this effort represented a reversal of the American Revolution's trend toward greater democratization and decentralization of power, historians have usually taken pains to describe the Confederation era (1781-1787) as a time of dangerous economic and political instability requiring the strongest counter-measures to overcome it.

However, divisive issues became apparent almost from the first week of deliberations. One had to do with the relative power of the national and state governments and the manner in which representatives to the central government should be apportioned. Those who were proponents of the rights of the states were predominantly from the smaller states of Delaware, New Jersey, Connecticut, and Maryland, and were satisfied with the traditional structure, true of every congress since independence, of equal representation for all states, regardless of population. They were also convinced that the states should exercise some power independently of the national government. Nationalists like George Washington, Alexander Hamilton, and James Madison, on the other hand, who favored a strong central government with legislative representation based on population, tended to be from the larger states. Their verbiage pointed to the powerlessness of the Confederation government, which was clearly too weak to enjoy diplomatic or domestic success, and touted the need for representation to be based on population. Those states with the greater population should be granted the largest number of seats in the national legislature, for after all, why should the residents in large states receive less representation than those living in small states? A stronger central government, with representation based on population, was called for. Of course, there were also reasons why the small states might want a stronger central government, as they, like the large states, wanted a government that could regulate commerce, maintain order against disturbances like Shays's revolt, create and maintain a healthy economy, and protect the republic against the diplomatic encroachments. As Oliver Ellsworth commented, "We were partly national; partly federal. I trusted that on this middle ground a compromise would take place."⁵³ Benjamin Rush of Pennsylvania echoed this sentiment when he wrote to John Adams that "with such excellent principles among us...there is little doubt of our adopting a vigorous and compound federal structure," in other words, a system of government in which power is divided between a central

governing authority and constituent political units, like states.⁵⁴

Similarly, sectional divisions became apparent as the delegates debated the institution of slavery. Should slavery be recognized at all in the document being framed? How were slaves to be counted for purposes of representation and taxation, or should they be counted at all? Should the document provide for the abolition of slavery altogether, and, if it were not abolished, should its existence be limited in some way?

9.4.1 Debating the Plans for Government

On May 29, a plan for a central government was introduced by Edmund Randolph of Virginia. Called the “large state” or “Virginia” Plan, it called for a two house “National Legislature,” an independent executive, and a national judiciary. In terms of Congressional delegates, voters would elect the lower house, the lower house would select the upper house from a list of nominees from the state legislatures, and both houses would choose the President and the judiciary. Although the Plan was praised by the larger states, representatives of the small states were quick to point out that under this plan the less populous states might very likely have no representatives in the upper house and very little input into who was elected president. Consequently, in mid-June, William Paterson presented a “small state” or “New Jersey” Plan. This plan envisioned a national government consisting of a one house legislature with equal representatives from all states, a plural executive, and an independent judiciary.⁵⁵

As the Convention debated the features of each plan, a committee, headed by Roger Sherman of Connecticut, drafted what has been called the Great Compromise (also called the Connecticut Compromise in honor of its architects)⁵⁶ which dealt with representation in the House and Senate and became a prominent feature of the U.S. Constitution. Sherman and Oliver Ellsworth, both of Connecticut, suggested a two house national legislature, with the lower house elected by the freeholders, the upper house by the state legislatures, and the President by electors, to be chosen by the state legislatures. In the lower house, the House of Representatives, representation was apportioned according to the population of the individual states; each state would have two representatives in the upper house or Senate.⁵⁷

A second compromise, known as the Three-Fifths Compromise, addressed the issue of slavery. Some of the delegates wanted the institution abolished completely, though these were in the minority. Most Southern representatives wanted slaves counted by head for purposes of determining numbers of legislators, but did not want them counted when determining the imposition of national taxes on the states. The Northern states wanted just the opposite. The Three-Fifths Compromise settled this controversy:

a slave would be counted as three-fifths of a person for the purpose both of determining representation and taxation. Another issue dealt with the slave trade. Many wanted the slave trade with Africa stopped completely, as had already occurred in some Northern states, while Southern slave holders strongly objected to its cessation. The compromise reached was that the slave trade would not be stopped before 1808. A last agreement was reached over the use of the word “slave” in the Constitution; the term was not used. Instead, the document refers to “free persons” and “all other persons,” in other words, the enslaved.

9.4.2 The Nature of the Government

In the end, what was created was a government that was neither strictly national nor strictly federal, but rather contained elements of each. On the one hand, there was a separate executive branch, consisting of a president and connected executive departments. The president would be elected by electors, who themselves were elected by the state legislatures. Thus the executive would be indirectly elected, as would be the Senate, which was the upper house of the two-house Congress. The Senate, like the electors, was to be elected by the state legislatures. Only the House of Representatives was popularly elected. There was a national judiciary consisting of a Supreme Court, whose justices would be appointed by the president and would serve life terms. The number of justices that would sit on the high court was not established, nor was a lower court system created. The power to create “Tribunals inferior to the supreme Court” was given to Congress in Article I, section 8.

The final draft of the Constitution obviously adheres to the Baron Montesquieu’s idea of checks and balances, as the president would appoint judges, who in turn had to be approved by the Senate. All bills would have to pass both the House and Senate to become laws, and, while the president could make treaties, these also had to be approved by the Senate. The president could veto Congressional laws, but vetoes could be overridden by a two-thirds vote of both houses of Congress. A provision for the removal of a sitting president placed a further check on the executive. The House of Representatives could impeach, or indict, the president. Once indicted, the president would be tried by the Senate, with the Chief Justice of the Supreme Court presiding. Nor was the Supreme Court exempt from checks, as Congress could impeach judges, and the approval of the Senate was required to confirm presidential appointments to the judiciary. The un-amended Constitution had no provision for judicial review, the right of the Supreme Court to review Congressional laws to determine their constitutionality.

In the two centuries since the adoption of the Constitution, power has been

classified according to type: those powers that are enumerated, or actually listed in the Constitution as belonging to one of the branches of the national government; those that are implied, using such devices as the “necessary and proper clause” of Article I, section 8 (see Annotated Constitution below); those that are shared between the states and the national government; and those which are reserved to the states by the Tenth Amendment.

The 1787 Constitution also had both national and federal features. In terms of nationalism, Congress was given broad powers that could be expanded by Article I, section 8, known as the “necessary and proper” clause; by the Supremacy Article, which proclaimed that the Constitution and all laws made under it were the “supreme law of the land;” and by the fact that the un-amended Constitution had no Bill of Rights. On the other hand, the states were recognized as individual entities in Article IV and were given jurisdiction over their own internal affairs through the reserved powers of the Tenth Amendment.

James Madison proclaimed in Number 39 of the *Federalist Papers*, which were written mainly by Madison and Alexander Hamilton, that: “The constitutional reallocation of powers created a new form of government, unprecedented under the sun. Every previous national authority either had been centralized or else had been a confederation of sovereign states. The new American system was neither one nor the other; it was a mixture of both.”⁵⁸

9.4.3 The U.S. Constitution Explained: An Annotation of

The Key Clauses	Annotation of the Clauses
<p><i>Article I, Section 2</i></p> <p>Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other Persons.</p>	<p>This is known as the three-fifths clause, precipitated by the debate over how to count slaves in determining the number of representatives a state would be entitled to in the House of Representatives. It was one of three clauses in the original Constitution that provided legal protection for slavery. Note that the authors of the Constitution consciously avoided the term “slave,” while the clause is clearly referring to the slave population. This reflects the ambiguity felt by the Founding Fathers over the “peculiar institution,” particularly in the wake of the Revolution, with its cries of liberty and equality.</p>

CHAPTER NINE: ARTICLES OF CONFEDERATION AND THE CONSTITUTION

<p><i>Article I, Section 3</i></p> <p>The Senate of the United States shall be composed of two Senators from each state, chosen by the legislature thereof, for six years; and each Senator shall have one vote.</p>	<p>This clause is reflective of the “Great Compromise” which provided equal representation for smaller states in the federal government. It also reflects the Founding Fathers’ fear of “democracy out of control,” by placing the election of Senators beyond the direct influence of the general electorate.</p>
<p><i>Article I, Section 8: The “Necessary and Proper Clause”</i></p> <p>To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.</p>	<p>This phrase comes at the end of Section 8, which enumerates the various duties and powers of Congress. It also represented one of the first great Constitutional controversies after its ratification, when Alexander Hamilton referred to it in his defense of the creation of the Bank of the United States. This clause became the basis for the doctrine of “implied powers,” which allowed Congress to act in a manner not explicitly stated in the Constitution, as long as it acted in a manner “necessary and proper” to execute the powers delegated to it.</p>
<p><i>Article I, Section 9: The Slave Importation Clause</i></p> <p>The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.</p>	<p>Here is another clause relating to slavery while avoiding the use of the term. Only two states chose to continue importing slaves during this period: South Carolina and Georgia. While the clause did not exactly mandate the end of the slave trade, Congress dutifully drafted and passed a law in 1807 that made the importation of slaves into the United States illegal. This law went into effect on January 1, 1808. It highlights an interesting paradox about slavery that existed until the Civil War, where individuals in the South could speak of the “evils” of the slave trade, and yet somehow separate that from the institution of slavery, which they held to be a positive good.</p>

Article II, Section 1

Each state shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector. The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate.

The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each state having one vote; A quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

Here, again, is a clause that limits the influence of the general electorate on the federal government, by placing the buffer of “electors” between the electorate and the candidate. The original wording of this clause also caused problems in the election of 1800, when Thomas Jefferson and Aaron Burr received the same number of votes, although it was clearly intended for Burr to be the Vice President. The existence of the Electoral College has created two other incidents where the president ultimately was chosen by the House of Representatives, in the elections of 1824 and 1876.

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<p><i>Article III</i></p> <p>The judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.</p>	<p>The Articles of Confederation did not make provision for a national court system and consequently the enforcement of the laws of the Confederation Congress was left up to state courts, which might, or might not, enforce them. Most delegates to the Constitutional convention believed that an independent judiciary was necessary to the well-being of a national government. Notice that only the Supreme Court was established; the lower courts, if there were to be some, would be created by Congress, and the judges appointed by the president with the approval of the Senate. The first lower courts were created in the Judiciary Act of 1789.</p>
<p><i>Article IV, Section 1</i></p> <p>Full Faith and Credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved and the Effect the effect thereof.</p>	<p>The “full faith and credit” clause specifies that every state will recognize and respect the laws and judicial decisions of every other state. This is one statement that confirmed the future existence of independent state governments.</p>
<p><i>Article IV, Section 2</i></p> <p>No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.</p>	<p>This is the last of the three clauses in the Constitution that deal with slavery. Again, the word slave is avoided in the writing of the clause. This is perhaps the most powerful of the clauses in terms of providing a Constitutional protection for slavery, because it mandates federal support for the return of runaway slaves.</p>

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<p><i>Article VI</i></p> <p>The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made under the Authority of the United States, shall be the supreme Law of the Land.</p>	<p>Article VI is called the “Supremacy Article” and is an example of the nationalist sentiments of the Constitutional Convention. The intention of this Article is to make clear that in a conflict between the laws of the state and the laws of the nation, in other words laws passed the U.S. Congress, Congressional law would be supreme. The first Supreme Court case in which the Supremacy Article was cited was that of <i>McCulloch v. Maryland</i> in 1819, in which the high Court used both the necessary and proper clause to affirm the right of Congress to establish a bank and the Supremacy Article to maintain that state law could not tax a national institution. The majority opinion of the Supreme Court stated clearly “that we are unanimously of opinion that the law passed by the Legislature of Maryland, imposing a tax on the Bank of the United States is unconstitutional and void.” Moreover, “the people have, in express terms, decided it by saying, ‘this Constitution, and the laws of the United States, which shall be made in pursuance thereof,’ ‘shall be the supreme law of the land.’”⁵⁹</p>
<p><i>Article VII</i></p> <p>The ratification of the conventions of nine states, shall be sufficient for the establishment of this Constitution between the states so ratifying the same.</p>	<p>Here one can see how the Founding Fathers attempted to separate the process of adopting the new Constitution from the influence of the general electorate. The rarely-used conventional method required each state to choose delegates who would debate its merits and then vote for or against the Constitution. Interesting also was the choice of nine as the number of states necessary to ratify the Constitution. What if four states had rejected it? Fortunately, that was never an issue.</p>

Key Clauses

9.4.4 Ratification: The Constitution Debated in the States

Article VII of the Constitution states that the document would go into effect when “the Conventions of nine states,” not quite three-quarters, had approved it. The document was released to the states in September 1787, and soon debates began over its merits, the structure of the government it created, and the powers given to the central government and the states (a few state powers were listed). The debates intensified in the fall of 1787. Those who spoke in favor of the Constitution had several advantages. Calling themselves Federalists, they were well-organized, literate, and provided a positive message. The irony was that, in terms of political orientation, they were in fact nationalists, favoring a strong central government. They deliberately chose the name “Federalist” in order to stress the federal nature of the government defined by the Constitution and direct the attention of those they were trying to persuade away from the fact that the central government was imbued with remarkable powers. It was, in fact, more national than federal. Their opponents made the mistake of calling themselves “Antifederalists,” thus giving two impressions: their message was basically negative, and they were opposed to federalism. In terms of political theory, many of these men, like Patrick Henry, George Mason, and Richard Henry Lee, felt that the Constitution created a central government at the expense of the states, were in fact federalists.

Federalists and Antifederalists

Antifederalists, like perhaps a majority of Americans in 1787, opposed the founders’ decision to replace rather than revise the Articles of Confederation. Patrick Henry, in newspapers, the Antifederalist Papers, and debates in the Virginia state legislature, pointed out that the drastic changes to the Articles of Confederation had been unwarranted and unnecessary. “Unless there be great and awful dangers,” he warned in Antifederalist Paper No. 4, “[this] change is dangerous, and the experiment ought not to be made.” Richard Henry Lee agreed that “important changes in the forms of government [should]...be carefully attended to in all their consequences.” And George Mason, also from Virginia, warned that a single executive was a lightning rod for disaster: “If strong and extensive Powers are vested in the Executive, and that Executive consists only of one Person, the Government will of course degenerate.”

In addition, Antifederalists disliked the fact that the Constitutional Convention was held in secrecy during the drafting itself and that the ratification process was replete with extra-legal irregularities. Requiring not unanimity as the Articles of Confederation had done, but only nine

states for ratification, the Founding Fathers changed the rules to guarantee success, but they did so at some cost to traditional parliamentary procedure. Equally worrisome was the fact that the founders wisely refused to submit the document to the state legislatures, reasoning that the states would not voluntarily agree to surrender their existing powers. So, they required that special conventions elected for the purpose of considering ratification be given the task of considering the issue. When many Antifederalists, objecting to this change in rules, refused to vote for delegates to the ratification conventions, those elected turned out to be overwhelmingly, and not surprisingly, Federalist in opinion.

Another point of contention was that the document did not contain a bill of rights, adding to a general feeling that the document was hostile to popular participation in government.⁶⁰ Antifederalists took this position, but so did many who would otherwise be in favor of approving the document. Historian Robert Middlekauff comments that the Constitution faced an uphill battle, and “the absence of a bill of rights was the reason.”⁶¹ A last point made by many Antifederalists was that representation as defined by the Constitution, that is, two Senators from each state and a maximum of 435 members of the House of Representatives, would be inadequate to appropriately represent the population of a large nation, which the United States would invariably become.⁶²

The Federalists, on the other hand, were primarily well-to-do bankers and wealthy planters like Alexander Hamilton, George Washington, James Madison, and Benjamin Franklin. In addition to being well-organized and literate, they published an impressive tome of well-constructed arguments, the *Federalist Papers*. The *Papers*, written largely by Madison, Hamilton, and John Jay, explained the advantages of a strong national government, though at the same time emphasizing in the minds of their readers that the government’s structure was also federal. In *Federalist No. 2*, Jay defined the issue at hand: “whether it would conduce more to the interest of the people of American that they should...be one nation, under one federal government, or that they should divide themselves into separate confederacies.”⁶³ Alexander Hamilton warned his readers of an “alarming danger---those which will in all probability flow from dissensions between the States themselves.” Weak nations allowed themselves to be forced into a confederation⁶⁴ while a “FIRM Union” provided a barrier against domestic faction and insurrection.⁶⁵ Now regarded as a classic collection of rigorous thinking on matters of political science, these documents did sway opinion that was wavering or in doubt. The authors explained the diplomatic and domestic advantages that would come from a strong central government. Not only would “the dangers to which we should be exposed, in a state of disunion, from the arms and arts of foreign nations” be avoided by a strong central authority, but also would be “those which will in all probability

flow from dissensions between the States themselves, and from domestic factions and convulsions.”⁶⁶

Historian Charles Beard argued in 1913 that conflict over the Constitution could be seen in economic class terms with wealthy property holders in favor of the Constitution and poorer elements of the community opposed. While economic concerns were important in determining an American’s opinion on the Constitution, it nevertheless appears not to have been a struggle between haves and have-nots. Rather, it appears that urban Americans, rich and poor alike, were in favor of ratification, believing that the Constitution would encourage commerce and business activity. Both rich and poor rural Americans, however, opposed it. Their opposition was not good news for the Federalists because the vast majority of Americans were the people whom Jefferson called “the chosen people of God,” in other words, the farmers.

The final decision that led to the ratification of the Constitution was the promise that a bill of rights would be included in any Constitution ratified by the states. The necessary nine states were obtained when New Hampshire ratified the document in 1788. New York and Virginia only narrowly approved the document, New York by three votes and Virginia by five. Without the approval of these large states, the Constitution and perhaps the American national experiment would have been doomed. The victory of the Federalists became complete when Rhode Island ratified the document in 1790. The prospects for its success were unclear, but one factor helped. Most of the Antifederalists, including Patrick Henry, who were bitter in their defeat, retired from national politics. Consequently, nearly all those elected to the first Congress under the Constitution were Federalists, that is, friends of the government created by of the Constitution. For all practical purposes,

9.4.5 Before You Move On...

Key Concepts

By 1785, it had become obvious that a stronger central government was needed, one that would be able to speak for the new American states as a whole. In 1787, delegates therefore met in Philadelphia; these delegates were elected and empowered by the state legislatures to revise the Articles of Confederation. The document that emerged from what came to be called the Constitutional Convention was very different from the Articles of Confederation, which had been scrapped shortly after the convention reached a quorum. The U.S. Constitution created a government that was both national and federal. As national, it gave expanded powers to the central government; as federal, it

recognized the individual states as enduring entities. The lack of a bill of rights created a problem during ratification, as the Federalists and Antifederalists took their messages to the states. By 1789, however, despite the objections raised by those who opposed adoption, nine states had approved the document, and it was put into effect.

Test Yourself

The Constitutional Convention

1. The Constitutional Convention met in 1787 for the purpose of revising the Articles of Confederation.
 - a. True
 - b. False
2. The Virginia Plan is also known as
 - a. the “small state plan.”
 - b. the “large state plan.”
 - c. the New Jersey Plan.
 - d. the Connecticut Compromise.
3. During ratification debates, the Antifederalists were really Federalists.
 - a. True
 - b. False
4. Who among the following was NOT a Federalist?
 - a. George Washington
 - b. Patrick Henry
 - c. James Madison
 - d. Alexander Hamilton
5. The Three-Fifths Compromise dealt with the issue of representation and taxation.
 - a. True
 - b. False

the Antifederalists disappeared, but, in the future, other American groups

The Constitution

1. The necessary and proper clause has had the effect of limiting the power of the national government.
 - a. True
 - b. False

2. The source of powers “reserved” to the states is the
 - a. Supremacy Article.
 - b. full faith and credit clause.
 - c. Tenth Amendment.
 - d. necessary and proper clause.

3. The “full faith and credit” clause applies to
 - a. the national judiciary.
 - b. interstate relations.
 - c. Congressional power.
 - d. the Supremacy Article.

4. Which of the following is NOT a Congressional power enumerated in the U.S. Constitution?
 - a. The right to create a lower national court system
 - b. The right to enforce its laws
 - c. The right to declare war
 - d. The right to negotiate treaties
 - e. Neither b or d were Congressional power

5. According to the Constitution, _____ appoints judges; these appointments must be approved by _____.
 - a. The Senate; the Presidency
 - b. The President; the Supreme Court
 - c. The President; the House of Representatives
 - d. The President; the Senate

[Click here to see answers](#)

9.5 Conclusion

would revive their cautionary warnings about the dangers of concentrated American power.

While fighting their war for independence, Americans quickly realized the importance of framing new state governments. Leaders of the revolution thought that creating state governments would help underscore the fight for independence by implementing structures based on the consent of the governed. However, they seemed a little more reluctant to form a national government. They worried that forming a national government might undermine the very rights for which the people fought. Therefore, in the late 1770s and 1780s, the American people debated the framework of their new governments because no one was quite sure how much power to place in the hands of either the people or the national government.

In the end, most states adopted constitutions modeled on the British system. At the same time, they expanded the electorate to give the people a greater say in their government. At the national level, leaders initially created a weak central government in the Articles of Confederation so as to preserve the rights of the state. However, the ineffectiveness of the Confederation Congress pushed nationally-minded leaders to propose revisions to the overarching political framework. In 1787, delegates met in Philadelphia. Rather than revise the Articles, as the state legislatures instructed them, they devised an entirely new system that gave the central government greater authority but also tried to balance that power with the rights of the states. In 1788, although the people greatly debated the proposed framework, enough states ratified the document for the United States Constitution to take effect the following year. At that time, Americans looked to create the “more perfect union” the framers outlined in the preamble.

9.6 CRITICAL THINKING EXERCISES

- How did the state constitutions show the promise and the limits of American revolutionary thought?
- During the ratification period, supporters of the Constitution referred to themselves as “Federalists,” even though they supported a government that could be called national due to its structure and the central government’s amount of accrued power. Why did they choose this name? What did they hope to achieve among the American populace? And why was Antifederalists, the name taken by the opponents of the Constitution, an unfortunate choice?
- In what ways did the “necessary and proper clause” and the Tenth Amendment create the basis for conflict between the states and the national government?
- Why is the Tenth Amendment a natural inclusion in a statement of rights that belong to U.S. citizens?

9.7 KEY TERMS

- *Articles of Confederation*
- Bicameralism
- Bill of Rights
- Checks and Balances
- Congressional Resolutions of May 1776
- Constitutional Convention
- Electoral College
- Oliver Ellsworth
- Enumerated Powers
- Federalists v. Antifederalists
- Full faith and credit clause
- Great/ Connecticut Compromise
- Alexander Hamilton
- House of Representatives
- Impeachment
- Thomas Jefferson
- Land Ordinance, 1785
- John Locke
- James Madison
- Mixed and Balanced Governments
- National Judiciary
- Natural rights
- Necessary and Proper clause
- New Jersey Plan
- Northwest Ordinance, 1787
- Presidential veto
- Property Qualifications
- Republicanism
- Reserved powers
- Second Continental Congress
- Shays's Rebellion
- States' rights v. the rights of the State
- Supremacy Article
- Taxpayer Suffrage
- Tenth Amendment: Reserved powers
- *The Federalist Papers*
- Three-Fifths Compromise
- Townships; sections
- U.S. Senate
- Unicameralism
- Virginia Declaration of Rights
- Virginia Plan
- Virginia Statute of Religious Freedom
- George Washington
- Women's Suffrage

Date	Event
1776	Continental Congress instructed the states to devise state governments; George Mason drafted Virginia's Declaration of Rights; New Hampshire, South Carolina, Virginia, New Jersey, Delaware, Pennsylvania, Maryland, and North Carolina adopted new state constitutions; Connecticut and Rhode Island revised their colonial charters
1777	Thomas Jefferson drafted the Virginia Statute of Religious Freedom; Georgia and New York adopted new state constitutions
1778	South Carolina revised its constitution
1781	Massachusetts adopted a constitution; The <i>Articles of Confederation</i> took effect
1784	New Hampshire revised its constitution
1785	Land Ordinance outlined a plan for surveying and selling government lands
1786	Virginia legislature approved the <i>Statute of Religious Freedom</i>
1786-1787	Shays's Rebellion
1787	Constitutional Convention held in Philadelphia
1787-1788	<i>The Federalist Papers</i> were published
1788	Confederation government was phased out
1790	Pennsylvania revised its constitution; Rhode Island became the last state to ratify the Constitution

9.8 CHRONOLOGY

The following chronology is a list of important dates and events associated with this chapter.

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ANSWER KEY FOR CHAPTER NINE: ARTICLES OF CONFEDERATION AND THE CONSTITUTION

Check your answers to the questions in the Before You Move On Sections for this chapter. You can click on the questions to take you back to the chapter section.

Correct answers are **BOLDED**

Section 9.2.4 - p394

1. As the states began to adopt constitutions during the Revolutionary War, they chose to create republics over monarchies or democracies.
A. TRUE
b. False
2. Which of the following men drafted the Virginia Statute of Religious Freedom?
a. George Mason
b. George Washington
c. James Madison
D. THOMAS JEFFERSON
3. Pennsylvania adopted one of the most conservative constitutions of the Revolutionary Era.
a. True
B. FALSE
4. No state constitution in the Revolutionary Era allowed women the right to vote.
a. True
B. FALSE

Section 9.3.3 - p401

1. Under the Articles of Confederation, the national government consisted of
a. Congress and a court system.
b. Congress and an executive.
c. Congress, a court system, and an executive.
D. CONGRESS.
2. Which of the following was a power given to the national government in the Articles of Confederation?
a. The right to collect taxes from the states.
b. The right to enforce laws passed by the Confederation Congress.
C. THE RIGHT TO PASS LEGISLATION.
d. The right to draft troops.
e. All of the above were powers possessed by the national government.
3. The Land Ordinance of 1787
A. SPECIFIED THE PROCESS BY WHICH A TERRITORY COULD BECOME A STATE.
b. divided the northwest territory into townships.
c. basically left the course of the territories to the territories themselves with little oversight from the central government.
d. addressed the parish system in Louisiana.

Section 9.4.5 - p416

The Constitutional Convention

1. The Constitutional Convention met in 1787 for the purpose of revising the Articles of Confederation.
A. TRUE
b. False

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2. The Virginia Plan is also known as
 - a. the "small state plan."
 - B. THE "LARGE STATE PLAN."**
 - c. the New Jersey Plan.
 - d. the Connecticut Compromise.

3. During ratification debates, the Antifederalists were really Federalists.
 - A. TRUE**
 - b. False

4. Who among the following was NOT a Federalist?
 - a. George Washington
 - B. PATRICK HENRY**
 - c. James Madison
 - d. Alexander Hamilton

5. The Three-Fifths Compromise dealt with the issue of representation and taxation.
 - A. TRUE**
 - b. False

The Constitution

1. The necessary and proper clause has had the effect of limiting the power of the national government.
 - a. True
 - B. FALSE**

2. The source of powers "reserved" to the states is the
 - a. Supremacy Article.
 - b. full faith and credit clause.
 - C. TENTH AMENDMENT.**
 - d. necessary and proper clause.

3. The "full faith and credit" clause applies to
 - a. the national judiciary.
 - B. INTERSTATE RELATIONS.**
 - c. Congressional power.
 - d. the Supremacy Article.

4. Which of the following is NOT a Congressional power enumerated in the U.S. Constitution?
 - a. The right to create a lower national court system
 - b. The right to enforce its laws
 - c. The right to declare war
 - d. The right to negotiate treaties
 - E. NEITHER B OR D WERE CONGRESSIONAL POWER**

5. According to the Constitution, _____ appoints judges; these appointments must be approved by _____.
 - a. The Senate; the Presidency
 - b. The Presidents; the Supreme Court
 - c. The Presidents; the House of Representatives
 - D. THE PRESIDENTS; THE SENATE**