

HIS 210—US History through the Civil War
Lecture #10—Governing the New Nation—Part 2

Goals for the Lecture: 1) For students to analyze how and why political leaders redesigned the government in 1787 and created the US Constitution. 2) For students to understand the major differences in the structure between the Articles of Confederation and the US Constitution. 3) For students to be able to articulate how the changes to the structure of the federal government under the Constitution helped to resolve the problems that the country was facing from the 1780s.

Outline

Creating a New Government

Nationalists call for a stronger national government

Constitutional Convention led by George Washington

Constructing a New Constitution

Large States vs. Small States and the construction of the Congress

Slavery and the Constitution

Northern States vs. Southern States and counting the population

Three-Fifths Compromise

Three-Fold Regional Divide on Slavery

Drafting an Acceptable Document

Checks and Balances within the federal government

The Ratification Controversy

Federalists vs. Anti-Federalists

Ratification Achieved

Securing the support of the BIG 3 (Massachusetts, Virginia, and New York)

Inaugurating George Washington

George Washington was inaugurated in April 1789

IDs

Nationalists—Americans who preferred a strong central government rather than the limited government prescribed in the Articles of Confederation.

Alexander Hamilton—An ardent nationalist and architect of the American fiscal system as Secretary of the Treasury under George Washington.

Shays' Rebellion (1786)—An uprising of farmers in Western Massachusetts in response to unfair debtor laws and insufficient political representation, considered to have been led by Daniel Shays.

James Madison—Virginia planter and political theorist known as the “father of the Constitution”; he became the fourth president of the United States.

Virginia Plan—Fourteen proposals by the Virginia delegation to the Constitutional Convention for creating a more powerful central government and giving the states proportional representation in a bicameral legislature.

New Jersey Plan—A proposal submitted by the New Jersey delegation at the Constitutional Convention for creating a government in which the states would have equal representation in a unicameral legislature.

Three-Fifths Compromise—An agreement to count three-fifths of a state's slave population for purposes of determining a state's representation in the House of Representatives.

Creating a New Government

- a) By 1786, members of the nation's elite believed the survival of the nation was in danger. While the Articles of Confederation might have constructed an effective governing structure to carry out a revolution, it had not proven effective for administrating the new nation. For leaders like George Washington, Alexander Hamilton, and others like them who thought of themselves as **nationalists**, the solution was clear. A stronger national government was needed; one that would have power over the state governments, rather than the other way around.
- b) **In late 1786, support for a stronger national government grew in the key states of Virginia, Massachusetts, and New York.** Powerful men urged a reform agenda that included giving the national government taxing powers, devising an easier amendment process, and providing some legal means to enforce national government policies that a state might oppose. They wanted a national government that could establish diplomatic and trade relations with foreign countries. They also wanted a government that could protect their property and peace of mind. One of the driving forces behind this appeal for reform was **Alexander Hamilton**.
- c) These nationalist leaders called for a meeting of delegates from each state to discuss the problems facing the Confederation government. But they also had a second agenda for that meeting in Annapolis, which was to gauge the potential support for trying to draft a new constitution. When that first meeting failed, they asked Congress to approve another convention in Philadelphia for that May to discuss the problems with interstate commerce and other issues. Some members of Congress were reluctant but **Shays' Rebellion** (See Foner textbook) tipped the balance in favor of the convention because it seemed to lend even more evidence to the argument that the nation was in danger of collapsing and that something needed to be done immediately to save the new Republic.
- d) **In late May 1787 George Washington was elected to call this convention to order by the delegates in attendance.** It would be weeks, even months, before all of the delegates from the participating twelve states would arrive as transportation difficulties and the necessity of settling all business and personal matters before embarking on such a long trip slowed most of the delegates in getting to Philadelphia. In the eighteenth century, before anyone traveled any significant distance they knew that it was necessary to draft a will and set all their personal and business affairs in order before they left because they might not make it back home. By the time the convention was adjourned nearly four months later, delegates had come, gone, come back again, and not come back. Friendships would develop and everyone's patience would be tried time and again as these men would debate point after point in an oppressively humid, locked, room day after day.

- e) **At the start of the convention the men agreed that the meeting needed to proceed with the utmost secrecy. This wasn't done because the delegates had evil intentions, rather, they desired to speak honestly about the very serious issues at hand; they said, without foreign governments being able to use the information to their advantage, but more important than that was to prevent damage to their own reputations and political futures. They had all come with specific instructions from their state legislatures, and it would be their home-state legislatures they would ultimately have to answer to. Who, then, wished to be on record supporting measures their local governments opposed? Who would dare to exceed or ignore his instructions if such independent actions were made public? Who would vote "yes" on overthrowing the government if the newspapers carried word of this the next day? It was clear that a pledge of secrecy would need to be agreed to and carried out if the convention were to succeed.**
- f) Most of the men gathered in the meeting room were lawyers, merchants, or planters—Americans of social standing. There were some political and intellectual heavy hitters present including Benjamin Franklin, Hamilton, and **James Madison**, who would turn out to be the chief architect of the new Constitution. Madison would be known to posterity as the “father of the Constitution.”
- g) There were also several notable men who were **not present at the convention** including **Thomas Jefferson and John Adams** who were the ambassadors to France and England, respectively, **and both Samuel Adams and Thomas Paine** who opposed any revision of the Articles.
- h) Like Adams and Paine, most of those who opposed significant revision or abandonment of the Articles of Confederation were not present at the convention. As a result the delegates who were at the convention were all nationalists that agreed that changes needed to be made to the present government, but beyond that common ground, there was a lot that divided the delegates. Would this convention concern itself with merely revising the Articles, or would they go ahead and try to design an entirely new government?

Constructing a New Constitution

- a) Ultimately, Edmund Randolph, a delegate from Virginia, would present a plan to the convention delegates that would move them in the direction of replacing the Articles of Confederation. Randolph would offer the **Virginia Plan**, designed by James Madison, to the convention for consideration.
- b) Madison believed that fear of tyranny should not rule out a strong national government. What would be needed were safeguards, built into the structure of government to restrain abuse of power.
- c) Madison's Virginia Plan differed from the Articles of Confederation in three crucial respects. **First**, it rejected state sovereignty in favor of the “supremacy of national authority.” The central government would have the power not only to “legislate in all cases to which the separate states are incompetent” but also to overturn state laws. **Second**, the plan called for a national republic that drew its authority directly from all the people and had direct power over them. As

Madison explained, the new central government would bypass the states, operating directly “on the individuals composing them.” **Third**, the plan called for three distinct branches of government—legislative, executive, and judicial—to replace the Confederation’s Congress, which was performing all three functions. By dividing power in this way, Madison intended to ensure that no individual or group of men could wield too much authority, especially for self-interested reasons. Madison’s plan would also give Congress the power to veto laws passed by the state legislatures and the right to intervene directly if a state acted to interrupt “the harmony of the United States.”

- d) From a political perspective Madison’s plan had two fatal flaws, however. First, state politicians and many citizens would strongly oppose the provision allowing the national government to veto state laws. Second, by assigning great power to the legislature, whose composition was based on population, Madison’s plan increased the influence of voters who lived in the large states. Consequently, delegates from small states rejected the plan, fearing, as a Delaware delegate put it, that the states with many inhabitants would “crush the small ones whenever they stand in the way of the ambitious or interested views.”
- e) Delegates from the small states rallied behind the **New Jersey Plan** devised by William Patterson. This plan strengthened the Confederation by giving the central government the power to raise revenue, control commerce, and make binding requisitions on the states. But it preserved the states’ control over their own laws and guaranteed their equality: each state would have one vote in a unicameral legislature, just as under the Articles of Confederation.
- f) The debate over proportional versus equal representation in the legislature would be a major sticking point for the convention delegates. As the dispute became more heated delegations threatened to walk out of the convention. The delegates were near an impasse and it would take a great compromise to break through it.
- g) That compromise would be composed by a special committee and delivered by Roger Sherman of Connecticut. It used the idea of a bicameral legislature and proposed proportional representation in the lower house and equal representation in the upper house. The Great Compromise resolved one great controversy, but there were others that would need to be resolved.
- h) The convention would need to decide how the representatives to each house would be elected. This would be settled by another compromise. Eligible voters in each state would directly elect their representatives to the lower house and state legislatures would elect their members in the senate.

Slavery and the Constitution

- i) There would be one last major controversy regarding the national congress: how would the population of each state be counted? Rather than a divide between large and small states, this question pitted northern states against southern states. Southern delegates wanted their cake and they wanted to eat it as they took care to argue that slaves should not be included in the population count on which a state’s tax assessments were based. On the other hand, they insisted that these slaves should be included in the population that determined how many seats a state would receive in the House of Representatives.

- j) Northern delegates protested vehemently and argued that slaves should be considered property in both instances. It was in the interests of northern delegates to argue such, for if that was the case the North would dominate the lower house. This debate, in an odd way, confirmed the humanity of slaves in the eyes of slaveholders. How else could they contend that the slaves should be counted in the general population?
- k) The compromise that settled this issue was strange, to say the least. The **Three-Fifths Compromise** established that three-fifths of the slave population would be included in a state's critical head count.
- l) **Slavery was discussed during the convention, but it was not a prominent issue. However, its consideration did reveal an important threefold regional division. Speaking for many northerners** Gouverneur Morris of New York condemned slavery as "a nefarious institution" and hoped for its eventual demise. **Reflecting the outlook of many Chesapeake planters**, who wanted to retain the institution but had ample numbers of slaves, George Mason of Virginia advocated an end the Atlantic slave trade. **But delegates from the rice-growing states** of South Carolina and Georgia insisted that slave imports continue warning that otherwise their states "shall not be parties to the Union."
- m) For the sake of national unity, the delegates treated slavery as a political rather than a moral issue. A clause was then added guaranteeing that the slave trade would continue for another twenty years. And another was added that would allow slaveholders to reclaim slaves who had run away to other states. Northerners did not want slavery mentioned directly in the Constitution. Therefore, slaves are mentioned as "all other persons," so as not to give the institution national legal status.

Drafting an Acceptable Document

- a) After the matter of representation had been resolved and slavery left untouched, other debates remained to be had, but no other controversy would threaten to tear the convention apart at its seams. The delegates addressed the issues of checks and balances within the government as Madison's plan had suggested.
- b) For example, the president was named commander-in-chief of the armed forces and given primary responsibility for foreign affairs. To balance these executive powers, Congress was given the right to declare war and to raise an army. Congress received the power to raise and spend tax revenues, but the president could check this power by vetoing congressional legislation. Congress could however, override a presidential veto by a two-thirds majority in both houses.
- c) In the same vein, the president was given the authority to appoint federal court judges, but the Senate had to approve all such appointments.
- d) The independent judiciary that was created was perhaps the most striking difference between the American and British constitutions. Under the British system, judges were appointed and removed at the behest of the king. Under the American Constitution, once judges were approved, they served for life as long as they maintained good behavior. The judiciary checked the Congress by being the final arbiter of a law's constitutionality. Any law the Supreme Court declared unconstitutional would immediately become null and void.

- e) As the delegates had finally cobbled a government together that, if not satisfactory to all in every respect, they believed could perhaps save the nation temporarily, they were all encouraged to sign this document that was the result of all their craftsmanship. Of the 41 delegates still present at the convention's conclusion, 38 did indeed sign it. Four months after it began, the first phase of the battle for a new government ended. But another would begin as the delegates had to return to their states and defend their handiwork.

The Ratification Controversy

- a) On September 19 the delegates began their journeys from the boardinghouses and the homes of friends. Most were headed home; some were bound for New York City, to take their long-vacant seats in the Confederation Congress. A few were already making plans to flee political life for what they considered a well-deserved vacation. **Most of the delegates, however, were bracing themselves for the next phase of the constitutional struggle: ratification of “the plan” by their home states. Unless nine states approved the Constitution, the long months of debate, arguments, negotiation, and compromise would prove futile, and the crisis brought on by an incompetent government would continue. Could they rally the support they needed? No one knew.**
- b) Ironically, the greatest danger to ratification lied in the home states of the two men most intimately associated with the new plan of government. In Madison's Virginia, a fierce contest was brewing, as powerful and influential men began to publicly denounce the Constitution. And in Alexander Hamilton's New York, the well-liked governor, George Clinton, was already mounting an organized campaign of opposition. Without the support of these large and powerful states, any new government was doomed to failure.
- c) **From the beginning the supporters of the Constitution were more politically savvy.** They had found a way to claim unanimous approval of the Constitution by the convention, even though some delegates chose not to sign it. They had taken ratification out of the hands of the Confederation Congress—which could hardly be expected to sign its own death warrant—and away from the state legislatures, which were unlikely to endorse the loss of their own power and prestige. They made full use of the eighteenth century's available media, filling the newspapers—which were largely urban and largely sympathetic to the nationalist perspective—with essays and letters setting out the virtues of the Constitution.
- d) **The anti-federalists found themselves on the defensive in most states, urging voters to be loyal to a government they admitted was in need of repair. Indeed, many confessed they wanted a new government; they just didn't want the government the convention was proposing. Unfortunately for their cause, they had no effective alternative to offer.**
- e) In considering the decision for ratification, however, voters considered more than philosophical arguments about theories of government. They were practical in their decision-making. Voters in states with a stable or recovering economy were more likely to oppose the Constitution because the Confederation system gave them greater independent powers. Those in smaller states, or in states that had geographical or economic disadvantages were likely to favor a strong central

government that could protect them from their competitive neighbors. Thus the small states of Connecticut and Delaware ratified the Constitution quickly, but in New York and Virginia ratification would be hotly contested.

- f) Federalists and Anti-Federalists also loosely broke down along geographic lines within states. Those in rural less-developed areas of many states tended to oppose ratification because they could see little benefit in a stronger central government that might tax them even more. The urban, coastal, market-oriented centers, by contrast, were eager to see an aggressive national policy regarding foreign and interstate trade. Various groups in these urban centers joined together to support ratification and organized themselves more effectively than the Anti-federalists.
- g) The Anti-federalists railed against the dangerous elitism they saw in the Constitution. They portrayed the Federalists as a privileged minority, ready to tyrannize the people if their powerful national government were approved. The Anti-federalists' most convincing evidence of elitism and its potential for tyranny was that the Constitution lacked a bill of rights. Unlike the state constitutions, the national Constitution lacked specific protections of citizen's civil rights, such as freedom of assembly, press, and so on. The Anti-federalists tried to get voters to believe that this meant that the Federalists wanted to oppress the people and create a government of, by, and for the elite.

Ratification Achieved

- a) As the ratification conventions began in the states, Delaware, New Jersey, Georgia, and Connecticut—all small states—quickly ratified the Constitution. Pennsylvania, although it had actually called its convention first, took a bit longer to ratify because Anti-federalists originally had control of the convention. Once the Federalists gained control, the Constitution was approved.
- b) The situation was much more precarious in Massachusetts initially as the anti-federalist had a slight advantage, due to the significant number of delegates who were backcountry farmers—several of whom had participated in Shay's Rebellion. Federalists were able to strike deals with key delegates and use some questionable tactics with poorer delegates to squeeze the Constitution through. Once Massachusetts ratified, New Hampshire did the same by a small majority. Rhode Island initially rejected the Constitution almost out of hand, which was to be expected. Remember, they sent no delegates to the Constitutional Convention.
- c) But Maryland and South Carolina did ratify, which was important in the battle for Virginia. Nine states had ratified, so technically the government would go into effect, but it was widely known that Massachusetts, Virginia, and New York would need to get behind this government in order for it to stand. In Virginia, it was ultimately the figure of George Washington that tipped the balance in favor of ratification because all knew that he would be the first president of the new republic if the government went into effect. When a vote was finally taken in late June 1788 Virginia ratified the Constitution by a vote of 89 to 79.
- d) While there were other states that had not ratified yet—North Carolina and Rhode Island—everyone's attentions shifted to New York, which would be the most hotly contested convention of them all. In order to gain support, Hamilton and John Jay pledged to endorse the inclusion of a bill of rights. Finally, the New

York convention ratified the Constitution by a vote of 30-27. North Carolina and Rhode Island would finally approve the new government after the new president had taken office.

Inaugurating George Washington

- a) That new president would be George Washington who was chosen by the presidential electors from each participating state. He knew that he was expected to accept this position, for he was one of the few truly national figures of his generation. For regional balance, New Englander John Adams was chosen vice-president.
- b) In April 1789 Washington made his way from Virginia to the temporary national capital in New York City. Everywhere he went there were jubilant celebrations to greet him; all the pomp and circumstance that could be mustered on this most important of occasions.
- c) The parades and salutes masked the uncertainty that Washington and his advisors knew were ahead of them. Everyone in America and around the world would be watching Washington to see if this experiment could be pulled off. Everything Washington did became precedent since there was no other tradition to be followed, so he made decisions very deliberately after much thought. Washington had many decisions to make and he would wind up making nearly one thousand appointments to government posts. But the most important were those to his cabinet. And among his cabinet members was the man, who would chart the economic course of the country for posterity, Alexander Hamilton.