

HIS 210—US History through the Civil War
Lecture #9—Governing the New Nation—Part 1

Goals for the Lecture: 1) For students to understand the rationale behind the structure of the Articles of Confederation. 2) For students to understand the full extent of the difficulties that the nation faced during the 1780s, and be able to show how the structure of the national government under the Articles of Confederation made it impossible for the government to respond effectively to the problems caused by the nation's debts.

Outline

Creating State Governments

1775-1780: All 13 states write their original state constitutions

1780: All 13 states begin revising their state constitutions

Creating a National Government

Articles of Confederation

Challenges to the Confederation

Spain closed the Port of New Orleans to American farmers and merchants

British troops occupying Ohio Valley forts and arming Native Americans

Pirates threatening US trade in the Mediterranean Sea

Low morale in the Confederation Congress

No ability to borrow money from foreign countries

Confederation Congress Responses

Import Tax—Denied

Northwest Ordinances

IDs

Articles of Confederation—The first constitution of the United States. It created a central government with limited powers; it was replaced by the Constitution in 1788.

Northwest Ordinances—Three laws (1784, 1785, 1787) that dealt with the sale of public lands in the Northwest Territory and established a plan for the admission of new states to the Union.

Creating State Governments

- a) In 1776, all attention was on state governments, where the new ideas, about liberty, equality, and government were being put into practice. **Between 1775 and 1780, each of the 13 states adopted a new written constitution. It was important that these new constitutions be written down because the British constitution had not been and American political leaders were concerned with protecting individual rights and specifying the powers of the government. Americans believed that not having a written constitution was a major flaw of the British constitution that they were not going to repeat.**
- b) The new state governments were the products of both theory and experience. **Because the Revolutionaries feared concentrations of power, the powers of governors were sharply curtailed.** In two states, Pennsylvania and Georgia, the position of governor was abolished and replaced with a council. In other states

governors were given term limits or required to run for re-election every year. Because the colonists had seen royal governors appoint their cronies to powerful positions, governors also were stripped of their power of appointment.

- c) **These new state governments were wrestling with critical issues in forming their new state constitutions—in particular, the definition of citizenship and the extent of political participation. Who would be allowed to vote and hold office were two major questions that each state dealt with in its own way.**
- d) The state constitutions reflected the variety of opinion on this matter of democracy within a republic. **At one end of the spectrum was Pennsylvania, whose constitution abolished all property requirements and granted the vote to all white males in the state. At the other end were states such as Maryland, whose constitution continued to link property ownership to voting. To hold office in Maryland, a resident had to meet even higher standards of wealth than the voters.**
- e) State constitutional conventions struggled with various questions as they created their new constitutions. As I said, some states abolished the executive branches in their new governments and some made voting practices more democratic, while others held on to traditional property requirements. Although all the state governments held the idea that the legislature should be the primary power broker in the new governments, there were still differences in how states structured their legislatures. Should the legislature consist of one house or two, was a question debated at each convention. Each convention also debated what the qualifications should be to hold office.
- f) Pennsylvania and Maryland again represent the two ends of the democratic spectrum. The remaining states fell somewhere between these extremes. Pennsylvania's constitution concentrated all power to make and implement law in a unicameral, elected assembly. The members of the lower classes who helped draft the constitution made a conscious decision to try and redistribute political power within the state. Pennsylvania also required annual elections to help ensure that representatives were carrying out the people's will.
- g) In Maryland, by contrast, and in most other states, power was divided among an executive and a bicameral legislature. Members of the upper house had to meet higher property qualifications than those in the lower house. In this way, political leaders in Maryland made sure their elite citizens would have a secure voice in lawmaking.
- h) Pennsylvania and Maryland may serve well to demonstrate to extremes of early state governments, but the individual histories of each state tangibly impacted their constitutions. **In states such as New Hampshire, Virginia, and the Carolinas, where coastal elites had dominated the colonial governments, after the war the constitutions reflected attempts to include backcountry and other small farming districts in the political process.** In Massachusetts the first state government had very limited powers as the memories of the elitism of colonial assemblies were still very fresh in the minds of ordinary citizens. **After the Revolution it would be impossible to completely silence or ignore the demands of ordinary citizens who expected some role in the political process as payment for their part in the Revolution.**

- i) **Beginning in the 1780s, however, many states began revising their constitutions** and they had two contradictory effects. On the one hand, many of the new constitutions after 1780 included safeguards to protect individual rights for all classes of citizens. On the other hand, these new governments also tended to curb, or slow down, the democratization of government that had been taking place since 1776 as more power was invested in the government.
- j) Even with the opposing trends in these early governments, and the variety one finds from one state to the next, overall post-Revolutionary politics had democratic tendencies. The legislature emerged as the dominant branch of government, and the state constitutions apportioned seats on the basis of population, giving farmers in rapidly growing western areas the representation they had long demanded. In fact, because of backcountry pressure some legislatures moved their state capitals from merchant-dominated seaports such as New York City and Philadelphia to inland cities such as Albany and Harrisburg. Even conservative South Carolina moved its seat of government inland, from Charleston to Columbia.
- k) Most of the state legislatures were filled with new sorts of political leaders. Rather than electing their social “betters” to office, ordinary citizens increasingly chose men of “middling circumstances” who knew “the wants of the poor.” By the mid-1780s middling farmers and urban artisans controlled lower houses in most northern states and formed a sizable minority in southern assemblies. These middling men too the lead in opposing the collection of back taxes and other measures that tended toward “the oppression of the people.”
- l) **The political legacy of the Revolution was complex. Only in Pennsylvania and Vermont were radical Patriots able to take power and create completely democratic institutions. Yet everywhere representative legislatures had more power, and the day-to-day politics of electioneering and interest-group bargaining became much more responsive to the demands of ordinary citizens.**

Creating a National Government

- a) At the start of the Revolution both the public and the colonial assemblies acted as if the Continental Congress was the legitimate national government. Everyone recognized the necessity for some national body to coordinate the execution of a national war. But in actuality, the Congress had no more authority over the colonies than they were willing to give it.
- b) A delegate from Virginia, Richard Henry Lee, proposed that Congress create a permanent national government, a confederation of the states with a written constitution. **(The Articles of Confederation is applicable here)**
- c) John Dickinson, a Pennsylvania moderate, was assigned to draft the **Articles of Confederation. He outlined a governing structure with a weak central government empowered to make treaties, carry on military and foreign affairs, request the states to pay its expenses, and little else.**
- d) **In the early years of the Revolution there was little support for a powerful central government.** That’s exactly what the Americans believed they were rebelling against. And what were they fighting for, after all, but to secure the

absolute sovereignty of their local colonial assemblies? For these Revolutionaries, the rallying cry of “no taxation without representation” had meaning only in the context of their local colonial assemblies, now free from the oppression of the British Parliament and the British king.

- e) The Revolution had not been one battle for independence, but thirteen—proof that a profound localism still trumped any budding identity as “Americans.” These identities were, after all, relational: Patrick Henry, William Patterson, and Richard Henry Lee were Americans when they contrasted themselves with the citizens, government officials, and soldiers of England, but at home, when they looked to their right or left, they were Virginians, New Jerseyites, Connecticut men.
- f) **Consequently, many of the decisions in drafting both the Articles of Confederation and, subsequently the Constitution, were made in response to perceived abuses on the part of the British, or in an attempt to secure rights they had enjoyed under English common law.**
- g) There was no chief executive, only a unicameral Congress in which each state would have one vote.
- h) There was also no separate judiciary under the Articles. Political leaders of all kinds were extremely fearful of tyranny coming from anywhere, so they desired to establish a national government that was still subordinate to the individual state governments. The delegates succeeded in doing so.
- i) The Confederation government had no power to tax or to regulate trade or commerce. The power remained with the states. And the federal government relied on the willingness of the states to finance its operations. This, the Revolutionaries were sure, would prevent tyranny and ensure American “liberty.”
- j) Any act of Congress would require the assent of at least nine of the states. And all of the states had to agree to the Articles of Confederation before they went into effect. And while there would be an amendment process, the Articles would also require unanimity to pass an amendment.
- k) With Congress functioning adequately and state jealousies strong—remember the debates over representation and tax bases—it took Congress more than a year to revise and accept a watered-down version of the Articles of Confederation. Not until March 1781, with the end of the war only a few months away, did the final state, Maryland, ratify the Articles, thereby putting them into effect. By then, the weaknesses in a national government with no means of enforcing its regulations were becoming evident.

Challenges to the Confederation

- a) The Articles of Confederation solidified the sovereignty of the state governments to the detriment of the national government. As the new nation faced many challenges—economic, diplomatic, and social—state sovereignty ensured that the national government would be able to do little to cope with them. The Confederation’s inadequacies soon became apparent as it switched from winning independence to overseeing an independent nation. Its diplomatic record was appalling.

- b) After the surprising success of the nation's Paris peace commissioners, America suffered a series of embarrassments from foreign nations, large and small. Every effort to protect American interests ended in failure.
- c) When Spain closed the port of New Orleans to American shipping in order to slow the influx of Americans into the territory adjoining and overlapping Louisiana, the Confederation recognized the crisis that would follow. Without a gateway to the ocean, settlers coming from Kentucky and Tennessee would be cut off from the much-needed supplies and deprived of any access to markets for their crops.
- d) Yet American ambassadors could make no headway in persuading Spain to reopen the port for they had no leverage in the negotiations. As westerners' confidence in the Confederation faded, they devised their own solutions. One frontier entrepreneur even went as far as to sign a loyalty oath to the Spanish government in exchange for trade concessions.
- e) At the same time, the British openly defied the terms of the Paris treaty by refusing to evacuate their Ohio Valley forts. Their continued presence was an affront to American sovereignty, but it was also a real threat to peace on the frontier. Commanders in these forts operated as agent provocateurs, providing Ohio Valley Indians with encouragement, arms, and ammunition as they mounted organized resistance to American settlement.
- f) The Spanish offered the same assistance to the Choctaw, Creeks, and Cherokee along the southern frontier. The Confederation could do little to force the British out or to prevent either foreign nation from helping the Indians. Britain's terms for giving up their western forts were the repayment by Americans planters and merchants of personal debts to British creditors and compensation to Loyalists for confiscated property. But Congress had no money to pay these debts and obligations itself, and it had no means to compel the state legislatures to pay their share of the debts.
- g) The Confederation had no military clout, either. With a peacetime army of fewer than seven hundred poorly equipped soldiers, it could not drive the British out or control the violence in the frontier. Thus, when southern tribes threatened to mount a full-scale war, Georgia and North Carolina took matters into their own hands. Both states undercut the authority of the national government by negotiating independent treaties with the Indians on their borders.
- h) Grim as these failures were, they paled in comparison to the humiliation of the American merchant marine in the Mediterranean. Without the protection of the British navy, American vessels carrying goods to southern European markets were easy prey for Barbary Coast pirates. In 1785 the Dey of Algiers seized an American ship, confiscated its cargo, and imprisoned its crew. When ransom demands arrived, Congress could not meet the captor's price. Crew and captain suffered in prison, victims of one government's greed and another's poverty. When the ruler of Tripoli offered to insure safe passage to all American ships—for a price—Congress could not raise the protection money. By 1786 the survival of this valuable trade route was in question.
- i) Perhaps the most telling sign of a failing government was the morale of Congress itself. The Confederation had rapidly reached a point where the government was

near paralysis. Tired of dealing with problems they could not solve, congressmen from every state preferred to stay home.

- j) And who could blame them, really? Every day Congress faced a host of angry creditors, foreign and domestic, clamoring for repayment of wartime loans. But the federal treasury was empty and Congress had no means to fill it. Congress' only source of wealth was the generosity of the states and when they went rogue in their support of the federal government, Congress could do nothing.
- k) All over Europe American diplomats found it impossible to secure new loans, for no one was willing to lend money to a nation that could not honor its existing debts. Veterans who held government certificates, widows who had lent their small fortunes to the war effort, and wealthy speculators who had gambled on the government retiring its debt were losing all faith in a government that turned out empty pockets to its creditors.
- l) Still in financial crisis, the Confederation devised two creative plans to solve its financial problems. Both ultimately failed. First, it placed its hopes in raising revenues through the sale of the Ohio Valley lands that had been grudgingly given up by the states. Congress produced a series of well-thought-out and well-designed plans for the division of these lands, their sale, and their political progression from territorial status to statehood. The **Northwest Ordinances** that resulted were, without question, the government's finest peacetime accomplishment.
- m) The ordinances made arrangements for the formation of five new states out of the territory, which would be able to elect representatives to the Congress once they met three conditions: the population had to reach 60,000 free inhabitants, they needed to prohibit slavery north of the Ohio River, and they had to allow for speculators as well as free citizens to purchase land directly from the government.
- n) But, even if no one challenged the government's right to the revenues from the sale of western land, few settlers were willing to buy that land without the promise of military protection. The hoped-for flood of income never grew larger than a trickle. With no funds to arm a military and no military to secure the funds, Congress was forced to look elsewhere for revenue.
- o) In 1785 Congress asked permission to levy a small import tax. The states said "no." With that, the Confederation Congress seemed to abandon all hope of solvency.