Chapter 6: Establishing National Institutions
The Early US Government

The Second Continental Congress which met in the Spring of 1775 actually served as the US government until the Articles of Confederation was completed in 1781.

1. Following the end of the fighting and recognition of the US by Britain, the major problem facing Congress was to form a workable government.

2. Once independent, they were outside the commercial protection of the British, many of whose ports, especially in the Caribbean, were now closed to American shipping. American crops were now frozen out of the British West Indies.

- As a result of the closing of these markets, surplus crops of farmers in MA, the Hudson Valleys and Eastern PA piled up, causing farm prices to fall.
The Early US Government

3. The Continental Congress had foreseen this problem and had taken steps to correct it.

- New trade routes were sought while the Revolutionary War was being fought
- Americans were encouraged during the war to develop their own manufacturing goods, to lessen US dependence on British goods.
- The need for some kind of national economic regulation was underscored because different states charged different tariffs.
- A common currency was needed, a problem magnified by the economic depression following the Revolutionary war among farmers who were land rich but cash poor
The Articles of Confederation, 1781-1789

Features (Reactionary)
1. The national government was weakened and not given the authority it needed.
2. Because it was believed that power corrupts, the executive was little more than a figurehead, with no real power, and there was no judicial branch.
3. Although Congress was given broad powers, it was denied the same powers that the people had denied to Parliament:
   • A) Congress could not tax
   • B) Changes could be made only through unanimous consent
   • C) Every state was equal to the other and each received one vote in Congress
   • D) Frequent elections were to be held annually - no one elected delegate could serve for more than three years, but could return after three years.
The Articles of Confederation, 1781-1789

State powers
1. State governments, assumed to be the most powerful, had many powers that the national government had -- right to issue bills of credit, borrow and mint money, deal with foreign governments and engage in war (with Congress's consent)
2. Only states could tax citizens, and legislate regarding family affairs and indebted-ness and the making of contracts
Weaknesses under the Articles of Confederation

1. Amendments required a unanimous consent, so no amendment was ever ratified.

2. **Agriculture**
   a. Farmers suffered during the war, having fences and buildings destroyed and crops burned. The labor supply was depleted because of runaway slaves, encouraged by the British.
   b. After the war, markets closed within the British empire, so that surplus crops drove prices down.

3. **Commerce**
   a. Americans lost markets within the British empire after independence.
   b. Although markets opened in the Far East, and trade increased with France, Dutch West Indies and the Dutch after 1778, the new markets did not offset lost British markets.

4. **Creditors and Debtors**
   a. The absence of cash caused prices to fall sharply, creating demand for some type of paper currency.
   b. Although many states had issued currency, it was not legal tender and did not have to be accepted by creditors.
   c. Congress was unable to pay veterans promised bonuses or back pay and many army officers believed that they were entitled to half pay for life.
Weaknesses under the Articles of Confederation

Currency Crisis

1. States Attempt to Deal with the Currency Crisis
   a. Eastern merchants were pressured by overseas creditors to pay their debts, which forced the merchants to pressure western farmers to settle their debts.
   b. Some states resorted to a banking scheme, whereby banks loaned money to farmers based on the value of their land, but when farmers tried to use this script as currency, the merchants also were reluctant to accept it as legal tender.

2. Daniel Shays's Rebellion In Massachusetts (August - December 1786)
   a. Massachusetts, committed to paying off its Revolutionary debts, had the heaviest state taxes with land bearing about 2/3 of the burden, and also required that every legal transaction be recorded in court (with payment of court costs and legal fees).
   b. Massachusetts farmers, unable to pay their debts, faced foreclosure, having all property, including furniture, seized in order to pay off debts.
   c. One such farmer's protest was led by Daniel Shays, a Continental army officer from Pelham in Hampshire County, who, by mid-1786, with a mob of 1,500, ended court foreclosures by surrounding the Hampshire County courthouse.
Supporters of the Constitution -- **Federalists**

a. They tended to be from the cultured propertied groups along the Atlantic Seaboard.

b. **Federalist Papers** -- **Alexander Hamilton**, the major author.

77 essays published under the name *Publius* in New York Papers from October 1787 - April 1788
Delegate desires
(1) A strong government with the power to tax;
(2) The power to regulate commerce;
(3) The power to raise an army with the power to require military service;
(4) A stronger executive to head the government;
(5) An easier amendment process.

Virginia or Randolph Plan (May 1787)
  a. Presented by Edmund Randolph (1753-1813) and drafted by James Madison, it proposed fifteen resolutions (known as the "Virginia Plan of Union") that favored a new government.
  b. Its main features:
     (1) a bicameral national legislature which represented the states proportionally (thus ending the states having power as states) with the lower house elected by the people, and the upper house elected by state legislatures;
     (2) an executive chosen by the legislature for a single seven-year term;
     (3) a judiciary including a supreme court and inferior courts
Philadelphia Constitutional Convention, 1787

New Jersey or Paterson Plan (June 1787)
Main features included:
(1) Equal representation of each state, regardless of size or population;
(2) Congressional power to tax and regulate foreign and interstate commerce;
(3) Congressional appointment of a plural executive with no veto power and a supreme court;
(4) US treaties and acts of Congress would be the supreme law of the states.

Great Compromise - national representation, proposed by Roger Sherman (CN)
a. An upper house (Senate) would be based on equal representation and vote as individuals
b. A lower House of Representatives would be proportionally represented.
c. A census every ten years would determine the number of representatives per state.
Philadelphia Constitutional Convention, 1787

Other Compromises

Three-Fifths Compromise - Counting of Slaves
(1) The South wanted slaves to be counted as people for population and representation purposes but not for taxation purposes.
(2) The convention agreed to count five slaves as three, making both taxes and representation proportional to the number of population counting only 3/5 slaves.

The South wanted a 2/3 vote before imposing tariffs (duties); the North wanted slavery abolished
(3) Import tariffs would be determined by a simple majority vote in Congress, but export tariffs, thought to hurt the South, were forbidden.
(4) Congress would make no laws regarding the slave trade for twenty years.

The selection of a President
(1) The president would be elected for a four-year term and could be re-elected.
(2) The candidate receiving the majority of votes of the electors would be President and the second place candidate would be vice-president.
(3) If no one had a majority, the top five candidates who received votes would be voted upon by the House of Representatives.
Philadelphia Constitutional Convention, 1787

Other Compromises

**Elastic Clause** of Article I listed specific powers reserved for the national government, giving Congress **whatever power** was necessary and proper to carry them out.

The Constitution also provided for three branches of government, each with distinct powers:

1. **Executive Branch**, overseen by a chief executive or president (elected by an electoral college chosen by the states), with veto power, power to make treaties, served as commander-in-chief of the military, and federal and judicial appointments
2. **Legislative Branch**, composed of two houses (Senate and the House of Representatives) which could override a presidential veto by a two-thirds vote, can declare war, Senate confirms presidential appointments and ratifies treaties with a two-thirds vote and the House of Representatives can impeach the executive
3. **Judicial Branch**, the most weakly defined of the three, composed of judges appointed by the executive but **confirmed** by Congress with lifetime tenure
George Washington 1789-1797

- Only president in American history to be unanimously drafted as President by the electoral college
- Turned down the title of “king” and of lifetime appointment
- He brought honor and a level of class to the presidency.
- Established first presidential cabinet
  - Sec. of State - Jefferson
  - Sec. of Treasury - Hamilton
  - VP - John Adams
- Limited use of the veto
- Two term limit
The Bill of Rights,
1791

- Drafted by Madison - he feared that new amendments would weaken the national government

- 9th Amendment - “The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people”

- 10th Amendment - “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

- Judiciary Act of 1789 - Supreme Court established
• 1790 - tension between British and Spanish
  • US remains neutral to avoid unnecessary conflict
  • US tariffs on English goods (didn’t want to disrupt trade with England)

• 1793 - war between British and French
  • Conflict between Hamilton and Jefferson
    • Hamilton in favor of English (more stable, better navy)
    • Jefferson in favor of French (warmed to them as a foreign emissary)
      • Hamilton also uses the French Revolution as an opportunity to remove the US from treaties signed with the French Monarchy (1778) - he argues they are now void
  • Citizen Genet, 1793 - French Emissary sent to keep a political relation open with US. Washington eventually expels after he exercises too much political freedom and creates conflicts between the British and Americans
The father of our national debt

- Hamilton is Washington’s most trusted advisor
- His plan was to shape policy to favor the rich
- They would then be happy and their largess would *trickle down* to the poor.
- Hamilton had the national government assume all current debts to create a national line of credit ($54 million + $13 million in interest) - Assumption

- Issue of speculators led to a debate with Madison (paid in full vs. half and half)
The bank battle

- In exchange for taking on debt:
  - Tariffs - mainly for revenue but also for protection against foreign competition
  - Excise Tax - tax on certain goods, most notably at the time whiskey

- Hamilton wanted a national bank similar to England’s that would print government backed paper money. Hamilton also envisioned an America driven by commerce and industry (bank sponsored loans are required for this to happen)

- Jefferson and Madison argued this was unconstitutional. Jefferson envisioned a country dominated by local economies and small yeoman farmers
Enumerated vs. Implied powers

- Argument between Jefferson and Hamilton was over the implied powers vs. enumerated powers of the national government.

  - If it doesn’t specifically state in constitution - than that power belongs to the states (Jefferson)

  - If the constitution does not forbid it, than national government can exercise that power (Hamilton)

- Loose vs. Strict construction

  - Loose construction – Hamilton plays the necessary and proper card (Article I, Section 8, Paragraph 18)
Domestic Issues

- Fugitive Slave Law 1793
- To Amend and Supplementary to the Act, Entitled, "An Act Respecting Fugitives from Justice, and Persons Escaping From the Service of Their Masters," Approved February 12, 1793
- Washington never made a public statement about slavery to avoid dividing the nation.
- Keeping the Union together was more important
- Whiskey Rebellion, 1794 (issue of whiskey tax)
Washington’s legacy

- Avoided permanent treaties
- Avoided European conflicts
- Established a two term precedent (willingly stepped down from power)
- Brought prestige to the office of the presidency
- Left behind a stable and functioning government
- General of the Armies (above five star general)
- Never addressed the issue of slavery (but did eventually emancipate his slaves)
Jay’s Treaty 1794

- **Issues** - British troops stationed in Northwest Territory States, arguments of trade rights.

- Pushed by Hamilton - Britain removes troops and allows Americans some trade rights with British merchants.

- Hamilton’s vision of an America dominated by trade and industry needs British markets. (France is in revolution so not an option)

- Jay’s Treaty (along with bank war) creates a permanent division of politics into multiple “camps” that of Jeffersonians and Hamiltonians
John Adams - 1797-1801 (Federalist)

- End of the French Alliance
- French were angry that Congress favored England (Jay Treaty)
- Adam’s election was also a sign of American favoritism towards the British
- France began impounding American vessels bound for England. Also refused to hear from any American ambassadors
- Adams sent 3 different ambassadors to negotiate trade agreements with the French (Marshall, Gerry, Pickney)
- French are in position of power - Napoleon is dominant power on European continent and they demand payment before hearing from American ambassadors.
XYZ Affair

- Charles Talleyrand believed that America had yet to establish its own culture - and that it would always favor Britain in international affairs.

- As the French minister of foreign affairs, Talleyrand wanted a $250,000 bribe before he would agree to negotiate.

- American emissaries refuse to pay and French continue to impress American merchant ships.

  - Federalists in Congress argued that a strong navy should be built to protect American merchants and a permanent Department of the Navy.

  - Republicans were unwilling to support/fund a “national” expense such as a navy and demanded to see evidence showing Adams had done everything possible to seek out a political solution with France.
XYZ Affair

- Adams sends a message out to Congress claiming he had done everything possible to negotiate with France
  - However, Republicans believe Adams is lying to gain support for the Federalist party’s desire to establish a navy
- Adams releases the documents revealing the efforts made abroad but he deletes the names of the French agents and instead uses X, Y, and Z
  - Jean Hottinguer (X); Pierre Bellamy (Y); Lucien Hauteval (Z)
  - This fueled anti-French sentiment which took of the form of stopping trade with France, seizing French ships, and revoking all treaties dating back to 1778
Alien and Sedition Laws

- Adams (paranoid) felt the Jeffersonian Republican opposition to him - was a criminal conspiracy.

- Pressured congress to pass 3 Alien Acts:
  1. Alien Enemies Act - restraint of enemy aliens in time of war
  2. Naturalization Act - (immigrants were suspected of being Republicans) made 14 year requirement for citizenship
  3. Alien Friends Act - president could deport enemies
  4. Sedition Act - the most repressive. Fines and imprisonment for any who “conspire with intent to oppose any measure of the government. Included writing, speaking, publishing any defaming information against the gov’t or Pres. (restricts freedom of speech and press)
Sedition Acts under fire

- **Kentucky and Virginia Resolutions** - led by Madison and Jefferson (Nov. and Dec. of 1798) - In both cases argued the constitutionality of the resolutions and felt that states have the right to nullify the laws (nullification issue) Jefferson went so far as to call them “void and of no force”

  - Jefferson was VP at this time

- Both resolutions failed due to lack of support - however - they exposed the issue of sovereignty between the state and national governments that had yet to be answered.
Federalists vs. Republicans

Rule by the best people
Hostility to the extension of democracy
Powerful central government
Loose interpretation of the constitution
Government is to foster business
Protective Tariffs
Pro-British
National Debt is a blessing when properly funded
Restriction on free speech and press
Strong navy
Concentrated on the seacoast

Rule by the informed masses
Friendly to the extension of democracy
Strict interpretation of the constitution
No special favors for business, agriculture is a different story
No special favors for manufacturers
Pro-French
National debt is a bane
Reduction of federal office holders
Encourage state banks
Minimal navy for coastal protection
Concentrated in the South, agricultural areas and back country.