

# The Origins of the Constitution

Before the colonies signed the Treaty of Paris ending the Revolutionary War in 1783, they ratified the Articles of Confederation in 1781,

- The Articles provided a weak union of near sovereign states without a strong central government which is exactly what the colonists wanted because they feared the tyranny of Great Britain.
- The Americans who gathered in Philadelphia in 1787 to write a new federal constitution for the new country had an enormous selling job to their fellow delegates and fellow Americans.

- 19<sup>th</sup> century Historian John Fiske argued that the failings of the Articles of Confederation were so obvious that they were not able to hold America together during the critical period- 1781-1788- and the country rapidly drifted toward anarchy.
- In the 20<sup>th</sup> century before World War I, historian Charles A. Beard argued that the critical period was not very critical and that the United States was growing economically.
- Beard argued that a strong central government was needed to check the power of majorities and possess sufficient taxing power to pay the public debts.

## America in the 1780s

- The Treaty of Paris brought economic problems to the new United States of America. For eight years armies had swept across the countryside, destroying the property of farmers.
- Indians pushed back the line of settled farming on the frontier.
- In the Carolinas the British armies had destroyed the dikes that allowed for the cultivation of rice.
- In Virginia the labor force had been depleted by the flight of Loyalist slaves and British removal of others.

- Under the 1763 treaty ending the French and Indian War, Spain controlled the mouth of the Mississippi River and taxed Americans who used New Orleans as a port for their commerce.
- They kept the Mississippi River closed because they feared American ambition and expansion.
- By winning the war, Americans had lost the British imperial customers. They were excluded from trade with the British West Indies and Canadian ports.
- After 1783 agents from British firms set up shop in every American port and began to out compete Americans in the transatlantic trade in British goods.

- The livelihoods of American craftspeople and manufacturers were also uncertain after the Revolution.
- Some states like New York and Massachusetts engaged in trade wars with each other.
- Congress couldn't impose taxes, so it stopped paying the interest and principal of the national debt. The value of government securities-the promise of Congress to pay back money it had borrowed during the Revolution- dropped sharply.
- Debtors demanded paper money, and most states printed it but did not make it "legal tender."

- The economic distress of the Confederation period began to have political repercussions.
- People looked to the government to solve economic problems.
- An active nationalism, especially among the young men who had served in the Continental Army or in Congress, grew in power and influence. This nationalism made them aware of the inadequacies of localism.

- Before 1776 Americans had looked to Europe for religious, cultural, and intellectual leadership. After the Revolution Americans looked to themselves and their own country.
- To these nationalists, the weaknesses of the Confederacy were humiliating. They wanted a new system.
- The nationalists were even more disturbed by the weakness of the new country in foreign affairs.
- France remained friendly and upheld trade privileges specified by treaty, but Spain and Britain were antagonistic.



- The British continued to occupy forts and trading posts on American soil and excluded Americans from the profitable West Indies trade.
- The British hampered the American fur trade by continuing to occupy key trading posts and forced Americans to surrender the Northwest trade to Canadian rivals.
- On the other hand, the Americans had not lived up to the provisions of the Treaty of Paris that compensated Loyalists for their property losses, and they had not paid all prewar debts they owed the British merchants.

- Congress encouraged the states do both of these things, the states ignored Congress.
- John Adams, American minister to London, pleaded with the British to adopt a more generous trade policy toward Americans and that the evacuate the northwestern posts. Britain refused and Congress did not have the power to retaliate by imposing duties on British imports.

- Lord Sheffield, a defender of British shipping interests said that it would “not be any easy matter to bring the American states to act as a nation. They are not to be feared as such by us.”
- America also had problems with Spain that Congress could not effectively address. Spain restricted America’s Mississippi commerce and it also refused to allow American ships to trade with its colonies in Latin American.

- Finally, in 1785 Congress had to act to keep the profitable trading relationship between the United States and Latin America from being cut off. Congress authorized John Jay, the secretary of foreign affairs, to open negotiations with Spain over these issues.
- The Spanish minister was willing to make trade concessions with Spanish American ports, but he would not agree to the right of tax free deposit at New Orleans.

- The Spanish position suited some Americans. Several influential easterners feared that rapid western growth would drain population from the east and lead to western secession from the United States.
- Northeastern merchants would enjoy expanded trade opportunities with Spain if there was the right of tax free deposit, but these merchants didn't see much advantage in the right of deposit. But it was just this right to unload their cargo at New Orleans and transfer it to oceangoing ships that was the crucial matter to the westerners.

- The United States also suffered continuing harassment from the North African pirates.
- Congress passed the Land Ordinance of 1785 in an attempt to transfer government owned real estate to private individuals. The debate was whether or not to adopt the New England system of first surveying the land and then selling it in compact parcels or adopt the southern scheme of selling a receipt for a particular number of acres and then allowed the buyers to choose the land and then survey it.

- The Land Ordinance of 1786 was patterned after the New England method. It mandated orderly surveying and compact tracts, although allowing for the large block sales that speculators preferred.
- In 1784 Congress attempted to force the Northwestern tribes to surrender a major portion of their lands to white settlers. They negotiated the treaties of Fort Stanwix and Fort McIntosh, but were not able to enforce them.

- The Confederation Congress could claim the major political accomplishment of the Northwest Ordinance that provided government for the region north of the Ohio River and west of Pennsylvania..
- The Ordinance established guidelines for statehood. It also provided a bill of rights for citizens of the territories and prohibited slavery in the new states to be carved from the territory.
- It also established the important principle that the new states would be equal to the original thirteen.



- By 1785, many Americans felt that the country needed a more powerful and effective central government to serve its interests and fulfill its hopes.
- Five states attended a conference in September 1786 and proposed that representatives for all 13 states meet at Philadelphia in May 1787 to discuss political changes in the Articles of Confederation.
- In the meantime, Shay's Rebellion took place in Massachusetts. Massachusetts had the heaviest taxes in New England and by the summer of 1786 hardship and discontent among farmers had reached a fever pitch.

- After armed attacks from discontented farmers and debtors, the Massachusetts legislature attempted to ease the burden of debtors, but people armed and drilled as if they were fighting the Revolutionary War all over again. Led by Daniel Shays, a former Continental Army officer, they men formed a committee to resist what they considered intolerable conditions.
- In Boston, Governor James Bowdoin raised a military force to put down the dissenters and some of the wealthy citizens of Boston contributed \$25,000.

- In January 1787, Shay's forces met the governor's army at Springfield. The state troops fired one artillery volley and the rebels fled.
- President Washington and the nationalists were mortified and didn't think events could be any more embarrassing for the United States.
- Finally on February 21, Congress voted to ask the states to send delegates to a constitutional convention in Philadelphia. All of the states except Rhode Island sent them.

- After debating different plans, the delegates modified both plans. The new government of the United States would have vastly expanded central powers, but these powers would be spelled out and not left to Congress to decide.
- There would be a balance between executive, legislative, and judicial powers of the government.
- Congress would represent the citizens of the United States and not the separate states and members of Congress would vote as individuals and not just to decide how the vote of their state should be cast.

- In the Senate each state would be equally represented regardless of population. In the House of Representatives, the population of the state would determine the number of representatives.
- A crucial question the delegates faced was: Were slaves property or were they people? With the “three fifths compromise” the Founding Fathers treated the slave both as property and as three-fifths of a human being. They also included a Fugitive Slave law that enabled states to recover slaves runaways from other states.

- Congress also postponed any prohibition of the foreign slave trade until after 1808.
- Federalists favored the new federal government.
- John Hancock proposed that nine amendments be added to the constitution to protect citizens against possible federal oppression.
- Delaware, Pennsylvania, and New Jersey were the first to ratify the Constitution. Georgia, Connecticut, and Massachusetts soon followed. Maryland, South Carolina, and North Carolina, New Hampshire, New York and Virginia were next, with Rhode Island the only state refusing to ratify the Constitution.

The new United States government adopted the first ten amendments to the Constitution, called the Bill of Rights. The first nien guaranteed the rights of free speech, press, and, assembly, and prohibited the federal government from making any law “respecting the establishment of religion or prohibiting the free exercise thereof.”

- Many people of the time had an interest in the Constitution. Ordinary people like farmers, planters, craftspeople, creditors, and merchants wanted to protect their interests and improve their circumstances.
- Patriots wanted to have a more effective government and assert their country's position in the world community.



- The elite of America and the advocates of strong restraints on debtors and social levelers supported the new government, but thoughtful and politically active citizens of every social persuasion also supported the new government.
- Slaves were represented only as  $\frac{3}{5}$  of a person and women were not represented at all.