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## Government by Constitution

Shays' Rebellion exposed the weakness of the Articles of Confederation. American elites especially realized that they needed to create a stronger government.

Some suspected that the aftermath of the Revolution had resulted in too much democracy. Recall that many elites intended to simply replace the British as the new leaders. They radicalized the people to fight, but immediately lost control of the changes fostered by the war.

A decade later, these leaders were prepared to reassert their control through a second, conservative "revolt." This time, they would alter the government not through war, but through constitutional revision.

Before examining the national constitution, we'll look at the state level, where some of the important issues were initially dealt with.

Most Americans identified more closely with their state, rather than the national government. They were Virginians, New Yorkers or Pennsylvanians before they were Americans.

As early as 1774, the continental Congress directed the states to create republican governments. During the war 11 of the 13 did draw up constitutions in various ways. All decided that a written and very specific constitution was necessary considering the English "Constitution" was a collection of laws, traditions and unwritten concepts that allowed for abuse.

The new constitutions were tangible documents that limited government's activity. Also, after some experimenting, the proper method for forming a government was the constitutional convention. Rather than having the regular legislative body draft constitutions, a special group of duly elected delegates, representing the people, would draft these written documents for ratification by the people, who in the process "transferred" their sovereign power to the new representative government.

Some of the similarities include:

Frequent elections and term limits.

Shift from very rich legislators to middle-class legislators (who were still relatively wealthy).

Somewhat broader voting rights (but still not universal white male suffrage).

Very weak executive with no veto power (though Pennsylvania did not even have a governor).

The possibility in a few places that people other than white males (for example women and free blacks) could vote if they met certain qualifications in tax-paying or property holding.

Some form of Bill of Rights to guarantee personal liberty.

Still, many of these state constitutions were weak and would need revisions.

## FEDERAL CONSTITUTION

George Washington was very distressed by Shays' Rebellion and even considered leading his old army to crush the rebellion.

Instead, he and other elites slowly began the process of covertly undermining the Articles of Confederation and replacing it with a stronger central government that would ultimately protect their concerns (and property!).

At Mount Vernon in 1785 and Annapolis in 1786, small conventions convened to consider interstate commerce and transportation. Little was accomplished and they decided to meet again in Philadelphia in 1787.

The Philadelphia convention was supposed to "revise" the Articles of Confederation, but Alexander Hamilton and James Madison had already agreed that the Articles were unfixable. Thus, the 55 delegates that met that summer created, in secret, a new government.

Who were these delegates? George Washington was the President of the convention, but did little. He feared what might happen to his reputation if the effort failed. He could claim that he did nothing if this was the case!

The delegates were generally younger men, the average age was 40, though Hamilton and Madison were in their 30s. Ben Franklin was the oldest, age 81. These men were not the makers of the American Revolution, but its heirs. Only 3 had been part of the Stamp Act Congress, only 8 had signed the Declaration of Independence, and only 2 wrote the Articles of Confederation.

Madison had prepared for the convention by reading nearly 200 books on government (so don't complain about this course's reading requirement!) and agreed with John Adams's thoughts on governmental checks and balances.

There were several issues that caused potential problems and required compromises:

Representation – would each state have one vote or would representation be based on population? The small states like New Jersey, Delaware and Connecticut were concerned about the power of large states and eventually a "Great Compromise" was the result. They agreed to use both. In the Senate, each state has equal representation (2 Senators), and in the House of Representatives representation is based on population, with larger states having more representatives.

Slavery – Would the Constitution recognize slavery? It would, though never

specifically saying slavery, but rather involuntary servitude. Should slaves be recognized for purposes of representation based on population? Northerners opposed this since it would disproportionately increase Southern power. In the end, slaves were counted not as whole people but a 3/5ths of a person. Thus, in the 3/5ths Compromise, every 5 slaves equaled 3 people for representation.

Executive – Many still feared a strong executive. However, they all realized that George Washington would be the first president. Washington had had the opportunity to become a dictator during the war and could have established a dictatorship with himself as the leader. But he didn't, so he was a safe choice. But there was still concern about the future and so an Electoral College was created. It was a buffer between the people and the President so technically, voters selected Electors who then voted for the President.

Ratification – of the 55 delegates that wrote the Constitution only 39 signed it, the others thought that it granted too much power to the central government.

A word about the word “federal.” Politically, “federal” means a loose decentralized government, thus the term “confederation.”

Those opposing the new government feared it's central power, but failed to capitalize. Those wanting the new, stronger government immediately called themselves “Federalists.” This was contradictory and hypocritical of course, but calling yourself federalist implied that the new government was still going to be decentralized. Those opposing the new Constitution ended up being labeled “Anti-Federalists.” In other words, they were for a stronger central government, which, of course, was untrue. Confused? So were the people at the time.

Eventually, the new Federal Constitution was ratified, but the vote in some places was very close. Ultimately the Anti-Federalists were able to get a concession from the Federalists. They agreed that the first business of Congress was to add a Bill of Rights to protect the citizens from the power of Government!

Also, within a short time, the Federalists themselves would split between those who really wanted a strong government and those wondering if their initial support might have been wrong.



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