THE NEW NATION (THE CRITICAL PERIOD): 1783-1789

I. Constitution making in the states
   A. Continental Congress in 1776 called upon the colonies to draft new constitutions.
      -- Sovereignty of new states would rest on the authority of the people according
      to the theory of republicanism (representative gov’t)
   B. Features of State Constitutions
      1. Most included a bill of rights: protected liberties from government
         encroachment.
      2. Most required annual election of officers
      3. All created weak executive and judicial branches by present day standards.
         Why?
      4. All legislatures were given sweeping
      5. Poorer western districts (hitherto disenfranchised) were much better
         represented.

II. The Economy in the 1780s.
   A. America suffered a depression during the 1780s.
      1. Huge national and state debts were left from the Revolution.
      2. Excessive use of credit to purchase consumer goods after the war
      3. Lack of currency
      4. Farmers demanded laws to help their plight - and at times acted violently
      5. Runaway inflation was ruinous to many citizens
   B. Seizure of Loyalist holdings were moderately significant
      1. Many estates were confiscated and cut up into small farms.
      2. Helped accelerate economic democracy
      3. New rich class of conspicuous profiteers emerged
   C. Economic democracy preceded political democracy: land readily available and
      inexpensive.
   D. Manufacturing was bolstered by nonimportation agreements
      1. Americans lost markets in the British Empire (Navigation Laws)
      2. New commercial outlets compensated for lost ones (Baltic region; Asia)

III. Foreign Policy challenges of the New Nation
   A. Britain
      1. Refused to make a commercial treaty or repeal its ancient Navigation Laws.
      2. British remained active along the far reaches of the American frontier.
         a. Purpose probably to maintain an alliance with the Indians and to form a
            barrier to prevent American attack of Canada.
         b. Supplied Indians and encouraged them to raid frontier settlements.
         c. String of British trading posts on American soil remained
         d. Britain claimed that US broke pledge to with regard to debts and the
            Loyalists
      3. Although some Americans urged punitive economic action against British,
         Congress did not have power to control commerce.
   B. Spain
      1. Closed the Mississippi River at the mouth in 1784
         --Hurt pioneers in TN & KY, who used New Orleans as port for their goods.
      2. Claimed a large area north of the Gulf of Mexico, incl. Florida which was given
         to the U.S. by the British in 1783.
   a. Land-hungry Americans had expanded at the expense of Native Americans.
   b. Like Britain, Spain supplied Indians in the Southwest
      -- Georgia in particular in danger of being overrun by Creeks.
   c. Together with England, Spain prevented U.S. from exercising effective
      control over about 1/2 of its total territory.
   a. Many frightened western settlers were ready to go to the Spanish so Indian
      raids would stop and for access to the Mississippi.
   b. James Wilkinson, a young American army officer from Kentucky, took an
      oath of loyalty to the king of Spain in exchange for trading concessions.
      i. Wilkinson urged Kentuckians to set up an independent state, which could
         then enter into lucrative agreements with the Spanish.
      ii. The plot collapsed in 1788 when Spain reopened the Mississippi River.
5. Proposed Jay-Gardoqui Treaty (1786) -- Never ratified
   a. Separate peace treaty after Revolutionary War that secured trading rights
      w/ Spain for northeastern merchants while recognizing Spain’s supremacy
      on the Mississippi River.
   b. Northerners feared that the opening of the west would draw away
      population, and thus, influence from the East.
      i. Real-estate values and markets in the east would be diminished.
      ii. Closing off the Mississippi would slow movement west and open
           markets for the U.S. in the Caribbean.
   c. Vehemently opposed by southern colonies and western territories (KY, TN)
      who believed that New England was gaining at their expense.
      a. Created an impulse among some to break away from the U.S.
      b. Opposition led others to view a strong central gov’t as only means to
         keep U.S. intact.
C. France
   1. Demanded repayment of money loaned during the war.
   2. Restricted U.S. trade with its profitable West Indies and other ports.
D. The Mediterranean -- North African Pirates (Barbary Pirates)
   1. America’s Mediterranean commerce was being ravaged by pirates from Algiers,
      Tunis, Tripoli, and Morocco.
      a. Yankee sailors were either enslaved or held for ranson.
      b. Bey of Algiers particularly harsh to American shipping.
      c. U.S. previously enjoyed protection under Britain who paid for its subjects’
         protection
         -- Without protection, & without money to pay, U.S. was vulnerable.
IV. Creating a Confederation
   A. Second Continental Congress was weak during the Revolutionary War
      1. Only controlled military affairs and foreign policy (not domestic issues)
      2. No constitutional authority: individual states were sovereign
   B. Ratifying Articles of Confederation (1781)
      1. Articles adopted in 1777 but final ratification delayed until 1781 (less than 8
         mos. before Yorktown)
      2. Western lands were main point of contention
         a. 7 states had enormous tracts of land extending westward; NY & VA.
         b. 6 states, incl. PA & MD had no territory beyond Alleghenies
i. Complained other states would not have large land holdings if it wasn't for their help in winning the war.
ii. Large states could sell their land to pay off pensions & debts incurred during the war while landless states would have to tax themselves
iii. Proposed turning trans-Allegheny land to central gov't.
c. Unanimous approval was required to ratify the Articles of Confederation -- Maryland held out until March 1, 1781 until NY surrendered its western claims and Virginia seemed inclined to follow suit
d. Congress pledged to create new territories--later become states with equal status--from western lands.

V. America's First Constitution: The Articles of Confederation

A. Provisions-
   Amendments to the Articles required unanimous consent (severely weakened effectiveness of the government).

B. Articles of Confederation were weak and ineffective between states.
   1. Intentional -- gave individual states more power
      1. Linked 13 states for joint action to deal with common problems, such as foreign affairs.
      2. Congress was the chief agency of the gov't
         a. No executive branch: remnants of suspicion of tyrannical leaders
         b. No judicial branch: left to the individual states
   3. Each state had a single vote: Disproportionate power for small states
   4. Bills required 2/3 vote
   2. Two crippling limitations:
      a. No power to regulate commerce - resulted in conflicting laws
      b. Could not enforce its tax-collection program.
   3. Could not act directly upon individual citizens from a sovereign state.
   4. Susceptible to revolutionary challenges
      a. Newburgh “Conspiracy” (1783)
         i. Cause: Soldiers in the Continental Army were not paid regularly throughout the war and the money they did receive was often worthless due to inflation.
         ii. Some high-ranking officers, Congressional nationalists, discussed possibility of using the army to force the states to surrender more power to the national government.
         iii. Washington successfully appealed to the officers to end the conspiracy.
      b. 1783, threat from dangerous PA soldiers demanding back pay forced Congress to move temporarily to Princeton, NJ.
         -- Penn. gov't would not aid or protect the federal Congress.

C. Notwithstanding Article’s weaknesses, it became a significant step toward the Constitution

D. Landmark Land Laws
   1. Land Ordinance of 1785
      a. Acreage of the Old Northwest (modern-day Ohio, Indiana, Illinois, Michigan) should be sold; proceeds to pay national debt.
      b. Region split into townships six miles square, split into 36 sections of 1 sq. mi. -- 16th section set aside to be sold for the benefit of public schools.
      c. Contrasted with land south of the Ohio River where disorganized settlement was the rule.
2. Northwest Ordinance of 1787  
   a. Old Northwest regions would first begin as a territory, subordinate to the fed. gov't.  
   b. Territories would become a state when it had 60,000 inhabitants; equal status w/ other states.  
      i. Significance: By not subordinating states, it ensured peace between east & west.  
      ii. Bill was farsighted: principles were carried over to other frontier areas.  
   c. Forbade slavery in Old Northwest—north of the Ohio River.  
      i. Major advantage gained by the North; future states would not be slave and thus ally themselves with the South.  
      ii. Southerners could cross state lines and reclaim fugitive slaves.  

E. Failure of the Articles of Confederation  
1. Problems continually plaguing the government.  
   a. Requisition system of raising money from states was breaking down.  
   b. Interest on the public debt was piling up at home.  
   c. Several states quarreled over boundaries, creating a number of minor battles.  
   d. Some states were placing tariffs on goods from other states.  
   e. Some states were printing depreciated paper currency.  

2. Shays' Rebellion (1786)  
   a. W. Mass., impoverished backcountry farmers losing farms through mortgage foreclosures and tax delinquencies; many were ex-Revolutionary war veterans. -- Some went to debtors' prisons  
   b. Led by Captain Daniel Shays, debtors demanded cheap paper money, lighter taxes, and suspension of mortgage foreclosures.  
   c. In 1786, Shays organized farmers to march on several cities: closed courthouses and prevented the courts from seizing any more farms or throwing debtors into prison. Next, marched to Springfield where state's Supreme Court was in session and where the arsenal was kept.  
   d. Wealthy New Englanders provided money for a large militia in the region.  
   e. Jan. 1787, Shays and 1,200 farmers marched on the arsenal.  
      i. Military opened fire, four farmers died; the rest scattered; the revolt was over  
      ii. Shays was arrested but later pardoned.  
   f. Significance:  
      i. Propertied class feared that the Revolution had created a “mobocracy.”  
      ii. Many prominent citizens cried out for a stronger central gov't.  
   g. Rebellion was latest in series of east vs. west rebellions in American history  
      i. Bacon’s Rebellion (1676) in Virginia.  
      ii. Leisler’s Rebellion (1691) in New York.  
      iii. Paxton Boys (1764) in Pennsylvania.  
      iv. Regulator Movement (1771) in North Carolina  

3. Annapolis Convention (1786)  
   a. Principle purpose: Set to settle issue of interstate commerce.  
   b. Only 5 states showed up.  
   c. Alexander Hamilton gained a commitment to call upon Congress to summon a convention the next year in Philadelphia.  
      -- The purpose would be to overhaul the Articles of Confederation.
VI. Creation of the Constitution

A. The Constitutional Convention

1. Each state sent participants (except R.I.)
   a. Leaders were all appointed by the state legislatures, whose members had been elected by voters who could qualify as property owners.
   b. 55 delegates convened on May 25, 1787 in the Philadelphia statehouse.
   c. Most all were men of high prestige and conservative
      --- Jefferson, in Paris, called the group a "convention of demigods"
   e. Washington elected chairman; presided over the convention.
   f. Notables present: Franklin, Hamilton, Madison

2. Sessions were held in complete secrecy
   -- Delegates did not want to advertise their dissension or give fuel to the opposition.

B. James Madison—"Father of the Constitution"

1. Three major concepts Madison brought with him to the Convention that became part of the Constitution:
   a. National principle: National gov’t should be stronger than the states.
      i. Madison would have preferred making states mere administrative bodies but the delegates would never have agreed.
      ii. Madison believed government drew its power from the people, not the states.
   b. Separation of powers: influenced the eventual structure of gov’t.
      i. Each independent of each other with specified powers.
      ii. Improve upon state legislatures that dominated, esp. lower house.
   c. Benefit of an "extended republic" to control faction and limit negative impact of self-serving politicians (later Federalist X)

2. "Father" title somewhat of a misnomer as others contributed heavily to the document as well (especially Charles Pinckney, Roger Sherman, & James Wilson)

C. Articles of Confederation were scrapped

1. Went against Congress's explicit wish to revise.
2. In effect, U.S. overnment was peacefully overthrown
3. States were now in danger of losing their sovereignty

D. The issue of representation in Congress was the biggest issue of the Convention.

1. Two major plans debated regarding representation in Congress:
   a. "The Large-State Plan" (Virginia Plan) -- written by Madison
      i. Representation in both houses of a bicameral Congress should be based on population—"proportional representation."
      ii. Larger states would thus have a political advantage.
   b. "The Small-State Plan" (New Jersey Plan)
      i. "Equal representation" in a unicameral Congress by states, regardless of size & population.
      ii. Weaker states feared that under Virginia's plan stronger states would band together and dominate the rest.
   c. Impasse between large & small states threatened to break up the convention.

2. The "Great Compromise" (Connecticut Compromise) -- Roger Sherman
a. Smaller states conceded representation by population in the House of Representatives.
b. Larger states conceded equal representation in the Senate
   -- Each state would have two senators.
c. Every tax bill would originate in the House since big states would have
to bear a larger burden of taxation.
d. Large states benefited more from the compromise.

E. Strong, independent executive branch created.
   1. Reversed arrangement most state constitutions had embodied; weak governors
   2. Presidential powers:
      a. military commander in chief
      b. wide powers to appoint domestic offices incl. judgeships.
      c. veto of legislation.
   3. Electoral College to be used to elect president rather than direct vote.
      a. Electors would be chosen by the states; electors would cast their votes
      b. Vast majority of the people excluded from voting for president.

F. North-South issues came to dominate the convention
   1. Slavery was the biggest issue.
      a. The Northern states apparently compromised heavily on slavery issues in
         order to gain passage of the Northwest Ordinance which banned slavery
         north of the Ohio River.
      b. ‘Three-fifths’ Compromise (Art. I, Sec. II, para. 3)
         i. North argued that slaves should not be counted since they were not
            citizens. -- Proposing abolition would have ended the convention
         ii. South argued their smaller population would lead to northern
             domination.
         iii. Compromise: Slaves would count as 3/5 of a person for representation
              purposes in the House.
         iv. Equality was sacrificed for union. -- Most northerners and many
             southerners believed slavery would eventually die out.
             -- Most northerners also believed blacks inferior and freedmen could
             work only as menial laborers.
      c. African slave trade to end in 1808.
         i. Most states wanted to immediately end the importation of slaves.
            -- By 1779 all states except the deep south had outlawed the importation
            of slaves.
         ii. S.C. & GA protested, claiming they required slave labor for rice
            production.
      d. Fugitive slave provision allowed southerners to cross state lines to reclaim
         their "property." -- This is another example of northerners caving in to
         southern demands.
   2. Commerce Compromise
      a. Resolved conflict between agricultural (slave) and more industrial
         (northern) states.
      b. Congress could tax imports but not exports.
      c. Major irony of the North-South compromises:
         i. South gave up power to the North because it expected South would
            soon be dominant anyway due to population increase in the southwest.
ii. The North gave up slavery to the South because it thought slavery would eventually die out anyway.

iii. Both sides were wrong.

G. Checks & Balances/ separation of powers
1. Idea originally advocated by Baron de Montesquieu -- Spirit of the Laws
2. Three branches of gov’t:
   a. Executive: enforces the law
   b. Legislative: makes the law
   c. Judiciary: interprets the law

H. The "elastic clause" (Article I, Section 8, paragraph 18)
1. "Congress shall have the power to... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers..."
2. Nationalists wanted a general grant that would grant broad power to the gov’t.
   a. States’ rights advocates wanted enumeration of powers to limit gov’t power.
   b. Clause gave Congress the flexibility to meet the social and technological changes of the past two centuries.

I. Congress gained the right to regulate commerce, both foreign and domestic.
1. "Supremacy Clause"
   a. The Constitution became the “supreme law of the Land.”
   b. Federal power superceded state power.

J. Conservative safeguards
1. Purpose was to check the excesses of the "mob"
   -- Convention unanimous in feeling that manhood-suffrage democracy was something to be feared and fought.
2. Safeguards:
   a. Federal judges were appointed for life
   b. President was elected indirectly by the Electoral College
   c. Senators chosen indirectly by state legislatures
3. Only the House of Representatives were permitted to choose their officials by direct vote of qualified (propertied white male) citizens.

K. Constitution based on principle that the only legitimate gov’t was one based on the consent of the governed. (John Locke)
1. "We the People..."
2. Older theory of the social contract was replaced by idea that the people delegate their authority to the gov’t.

L. End of the convention: no members completely satisfied--convention an exercise in compromise
1. Why no Bill of Rights?
   a. Since most states’ bill of rights often began with “all men are by nature born free”, Southerners believed it would hypocritical to include such a statement when slavery was provided for in the Constitution.
   b. States already had their own bills of rights attached and states’ righters believed that these should remain binding.
   c. Some delegates feared a new gov’t might feel free to do anything that was not expressly prohibited.
   d. Most important practical reason: delegates believed they had reached a fragile consensus that could collapse if new revisions were to be considered
M. Ratification of the Constitution would require 9 states
   1. Provision adopted over concerns support was not unanimous (required by Articles of Confederation)
   2. If ratified, Constitution would be supreme law of the land in those states that ratified it.
   3. Congress submitted the Constitution to the states w/o recommendation of any kind.
      a. People shocked that the Articles of Confed. was to be scrapped.
      -- Secrecy had left the country in the dark.
      b. Many feared sovereignty would end

VII. Ratification Debate in the States: pro-Constitution advocates vs. antifederalists
   A. Special elections held in the various states for members of the ratifying conventions.
   B. Four small states quickly ratified: DE, NJ, GA, CT
      -- Constitution (“Great Compromise”) favored small states in the Senate
   C. Pennsylvania first large state to ratify
   D. Massachusetts was the critical test
      1. Failure to ratify could have resulted in the demise of the entire movement.
      2. Initially, Boston ratifying convention contained a majority of anti-federalists.
      3. Main issue became lack of a bill of rights in the Constitution
         -- Federalists promised the first Congress would add one by amendment.
      4. Ratification passed 187-168
   E. Three more states ratified: MD, SC, NH
   F. Constitution officially adopted on June 21, 1788.
   G. Last four states: Ratified because they had to; not because they wanted to
      1. Virginia, largest & most populous state, strongly anti-federalist
         a. Patrick Henry among the fiercest critics; Constitution would kill liberty.
         c. James Mason: “Father of the Bill of Rights”
            -- Refused to sign the Constitution until these rights were added.
         d. Virginia ratified shortly after NH as Constitution now ratified by 9 states.
            -- Did not want to be an isolated independent state.
      2. New York
         a. Only state to have manhood-suffrage vote for members of the ratifying convention.
         b. The Federalist Papers (85 in all)
            i. Alexander Hamilton joined John Jay and James Madison in writing an influential series of articles for the New York newspapers
            ii. Most important commentary ever written on the Constitution
            iii. Federalist X. by Madison is the most famous
               -- Refuted conventional wisdom that it was impossible to extend a republican form of government over a large territory.
      3. South Carolina & Rhode Island
         a. Ratified only after the new government had been in effect for several months.
         b. Both states ruggedly individualist
         c. Rhode Island only state not to attend the Constitutional convention

VIII. The Constitution as a Conservative triumph
A. Nationalists triumphed as the leaders of the state ratification conventions were those who had attended the Constitutional Convention. -- Ratification would have come easier if a bill of rights had been included prior to ratification

B. Articles of Confederation overthrown by a minority of conservatives
   1. In effect, 11 states seceded from the Confederation; two left out in the cold.
   2. Many ex-Revolutionary leaders were now peacefully overthrown; counterrevolution.

C. Majority had not spoken
   1. Only 1/4 of adult white males had voted for delegates to ratifying conventions.
   2. Constitution would probably have been defeated with manhood-suffrage vote.

D. Safeguards were erected against mob-rule excesses—democracy limited during early years of the republic.

E. Restored economic & political stability of the colonial era.

F. Principle of popular, democratic government was preserved.

G. Checks & Balances reconciled potentially conflicting principles of liberty & order.