1. A Shaky Start Toward Union

• Disruptive forces stalked the land:
  – Departed Tories left political system inclined toward experimentation and innovation
  – Economy stumbled post-Revolution

• Yet thirteen sovereign states:
  – Shared similar political structures
  – Enjoyed rich political inheritance
  – Were blessed with good political leaders

II. Constitution Making in the States

• Constitutional Congress in 1776 called on colonies to draft new state constitutions:
  – Asked colonies to summon themselves into being as new states
  – Sovereignty of new states would rest on authority of the people
  – Connecticut and Rhode Island merely retouched their colonial charters
  – Others would write new constitutions

II. Constitution Making in the States (cont.)

• Massachusetts called for special convention to draft its constitution and then submitted final draft to the people for ratification:
  – Once adopted, constitution could only be changed by another constitutional convention
  – Its constitution remained longest-lived constitution in world

II. Constitution Making in the States (cont.)

• Common constitutional features:
  – As written documents, constitutions represented fundamental law, superior to ordinary legislation
  – Most contained bills of rights— protect prized liberties against legislative encroachment
  – Most required annual election of legislators
  – All created weak executive and judicial branches
II. Constitution Making in the States (cont.)

- In new governments, legislatures were granted sweeping powers:
  - Democratic character reflected by presence of many from recently enfranchised western districts
  - Their influence was demonstrated when some states moved capitals into interior

III. Economic Crosscurrents

- Economic changes:
  - States seized control of former crown lands
  - Land was cheap and easily available
  - In America, economic democracy preceded political democracy
  - Revolution also stimulated manufacturing

III. Economic Crosscurrents (cont.)

- Drawbacks of economic independence:
  - Most British commerce reserved for loyal parts of the empire
  - American ships now barred from British and British West Indies harbors
  - Fisheries were disrupted
- Americans could freely trade with foreign nations
  - New commercial outlets (e.g., China in 1784) partially compensated for loss of old ones

III. Economic Crosscurrents (cont.)

- War spawned demoralizing speculation and profiteering.
- State governments borrowed more than they could repay.
- Runaway inflation ruined many.
- Average citizen was worse off financially at the end of Revolution than at start.

III. Economic Crosscurrents (cont.)
• Whole economic and social atmosphere was unhealthy:
  – A newly rich class of profiteers was conspicuous
  – Once-wealthy people were destitute
• Controversies leading to Revolution had bred:
  – keen distaste for taxes
  – encouraged disrespect for laws in general

15 □ IV. Creating a Confederation
• Second Continental Congress:
  – Little more than a conference of ambassadors
  – Was totally without constitutional authority
  – Asserted some control over military and foreign policy
• In all respects, thirteen states were sovereign:
  – Coined money
  – Raised armies and navies
  – Erected tariff barriers


16 □ IV. Creating a Confederation (cont.)
• Articles of Confederation:
  – Adopted by Congress in 1777, but not ratified by states until 1781
• Chief point of contention was western lands:
  – 6 states had no holdings beyond Allegheny Mtns
  – 7 (esp. New York & Virginia) held huge acreage
  – Land-rich states could use trans-Allegheny tracts to pay off debts

17 □ IV. Creating a Confederation (cont.)
  – Unanimous approval of Articles by all thirteen states was required:
    • Maryland held out until March 1781 to get agreement by New York to surrender its western lands
    • Congress pledged to dispose of these vast areas for “common benefit”
    • Promised to carve out a number of “republican” states, which overtime would be admitted to union
    • Pledge redeemed in Northwest Ordinance of 1787 (see Map 9.1).
    • Disposal of western lands helped encourage union
V. The Articles of Confederation: America’s First Constitution

- Articles of Confederation:
  - Provided for loose confederation or “firm league of friendship”
  - Thirteen independent states linked together to deal with common problems, such as foreign affairs
  - Congress was chief agency
  - No executive branch
  - Judicial issues left almost exclusively to states

(cont.)

- Congress, though dominant, was hobbled:
  - Each state had a single vote
  - All important bills required support of nine states
  - Any amendment to Articles required unanimous ratification
  - Congress was weak—and was purposely designed to be weak

(cont.)

- Two major weaknesses of Articles:
  - Congress had no power to regulate commerce
  - Congress could not enforce its own tax-collection

- Congress could advise, advocate, and appeal:
  - In dealing with states, it could not coerce or control
  - Nor could it act directly on individuals

(cont.)

- New Congress, with paper power, was less effective than Continental Congress.
- Yet, Articles proved to be a landmark:
  - As first written constitution of Republic, Articles were significant step toward later Constitution
  - Outlined general powers of national government
  - Kept alive ideal of union and held states together
  - With Articles, great leap from old Association of 1774 to current
Constitution not possible

VI. Landmarks in Land Laws

• Passages of public domain legislation:
  --Old Northwest = area northwest of Ohio River, east of Mississippi River, south of Great Lakes
  --Land Ordinance of 1785 (see Map 9.2) set up orderly process to sell land in Old Northwest and use proceeds to pay national debt:
    • After surveyed, land divided into townships, then into sections
    • Sixteenth section sold to fund education

VI. Landmarks in Land Laws (cont.)

• Northwest Ordinance of 1787:
  --Governance of old Northwest -- how nation would deal with its colonies:
    • First temporary tutelage, then permanent equality
    • First, two evolutionary territorial stages under subordination to federal government
    • Once a territory had 60,000 inhabitants, it could be admitted by Congress as a state
    • Ordinance forbade slavery in old Northwest

VII. The World's Ugly Duckling

• Relations with Britain remained troubled:
  --England refused to send a minister to America
  --Declined to negotiate a commercial treaty or to repeal Navigation Laws
  --Closed West Indies trade to the states
  --Tried, with help of Allen brothers of Vermont, to annex rebellious area to Canada
  --Maintained a chain of trading posts on U.S. soil
  --Continued fur trade with Indians
VII. The World’s Ugly Duckling: (cont.)
- Spain was openly hostile to new Republic:
  - Controlled all-important Mississippi River on which pioneers shipped their produce
  - In 1784 Spain closed river to American commerce threatening West with strangulation
  - Claimed large areas north of Gulf of Mexico
  - Schemed with Indians to keep Americans east of Appalachians
  - Because Spain & Britain influenced Indians, America unable to exercise control over half of its territory (see Map 9.3).

VII. The World’s Ugly Duckling (cont.)
- France, America’s friend, cooled off now that Britain humbled
- North African pirates ravaged America’s Mediterranean commence
- New nation too weak to fight pirates and too poor to pay bribes.

VII. The Horrid Specter of Anarchy
- Economic problems, mid-1780s:
  - System of raising tax money was breaking down
  - Interest on public debt was escalating
  - Some states were levying their own duties
  - Some were printing depreciated paper money
- Shays’s Rebellion in western Massachusetts:
  - Impoverished farmers lost land through mortgage foreclosures and tax delinquencies

VII. The Horrid Specter of Anarchy (cont.)
- Led by Captain Daniel Shays, desperate debtors demanded:
  - State issue paper money, lighten taxes, and suspend property takeovers
VII. The Horrid Specter of Anarchy
(cont.)
• Shays’s followers were crushed, but memory remained:
  – Massachusetts passed debtor-relief laws
  – Shays’s outburst caused fear among propertied class
  – Civic virtue insufficient to rein in self-interest
  – Needed stronger central government to block “mobocracy”

VII. The Horrid Specter of Anarchy
(cont.)
• How critical were conditions under Articles?
  – Conservatives, protecting their wealth, exaggerated seriousness of nation’s plight
  – They sought to amend Articles to create more muscular central government
  – Both friends and critics of the Confederation agreed it needed strengthening, but disagreed over how much its powers should be increased
  – Economy actually improved, late 1780s

IX. A Convention of “Demigods”
• Annapolis convention of 1786:
  – Called to deal with commercial disputes
  – Nine states appointed delegates, only 5 attended
  – Alexander Hamilton got convention to call for meeting in Philadelphia in 1787 to bolster entire fabric of Articles of Confederation
  – Eventually Congress agreed to a convention “for the sole and express purpose of revising” Articles
  – Each state sent representatives, except Rhode Island

IX. A Convention of “Demigods”
(cont.)
• 55 emissaries from 12 states convened in Philadelphia on May 25, 1787
• Sessions were held in secrecy, with armed sentinels at doors
• Caliber of participants was extraordinarily high—“demigods,” Jefferson called them
• Most were lawyers with experience at state constitution-making
• George Washington was elected chairman
• Benjamin Franklin served as elder statesman

IX. A Convention of “Demigods”
(cont.)
• James Madison's contributions were so notable he was dubbed “the Father of the Constitution”
• Alexander Hamilton advocated a super-powerful central government
• Most Revolutionary leaders of 1776 were absent
• Jefferson, J. Adams, and Thomas Paine in Europe
• Samuel Adams & John Hancock were not elected
• Patrick Henry was elected from Virginia, but declined, declaring he “smelled a rat.”
  – Time had come to fashion a solid political system

X. Patriots in Philadelphia
• The 55 delegates:
  • A conservative, well-to-do body of lawyers, merchants, shippers, land speculators, moneylenders
  • Not a single person from the debtor groups
  • Young (average age 42) but experienced statesmen
  • Nationalists, more interested in preserving young Republic then stirring popular democracy
  • Hoped to crystallize evaporating pools of Revolutionary idealism into stable political structure that would endure

X. Patriots in Philadelphia
(cont.)
Wanted a firm, dignified, & respected government:
• Believed in republicanism, but sought to protect American experiment from weakness abroad and excesses at home
• Wanted central government to control tariffs in order to secure commercial treaties from foreign nations
• Determined to preserve union, forestall anarchy, and ensure security of life & property against uprisings by “mobocracy”
• Curb unrestrained democracy rampant in several states
• Motivated by fear

XI. Hammering Out a Bundle of Compromises
• Some delegates decided to completely scrap Articles of Confederation
  – Despite explicit instructions from Congress to revise
  – Were determined to overthrow existing government by peaceful means (see Table 9.1)

XI. Hammering Out a Bundle of Compromises (cont.)
• Proposals:
  • Virginia Plan—“large-state plan”: representation in both houses of bicameral Congress would be based on population—an arrangement that advantaged larger states
  • New Jersey Plan—“small-state plan”: provided for equal representation in unicameral Congress, regardless of size and population
    – Bitter debate Because small states feared Virginia scheme would allow domination by large states

XI. Hammering Out a Bundle of Compromises (cont.)
• The Great Compromise:
  • Larger states gained representation by population in House of Representatives (Art. I, Sec. II, para. 3 see the Appendix)
  • Smaller states were appeased by equal representation in Senate (Art. I, Sec. III, para. 1)
• Agreed that all tax bills or revenue measures must originate in House, where population counted more heavily (Art. I, Sec. VII, para. 1).
• Compromise broke deadlock

46 XI. Hammering Out a Bundle of Compromises (cont.)
• The final Constitution was:
  • Short Because grew from Anglo-American common law legal tradition
  • Provide flexible guide to broad rules of procedures rather than detailed laws
  • The original (unamended) Constitution contained just 7 articles and took about 10 pages to print

47 XI. Hammering Out a Bundle of Compromises (cont.)
• The President:
  • Broad authority to make appointments to domestic offices, including judgeships
  • Power to veto legislation
  • Not absolute power to wage war
  • Congress retained crucial right to declare war
• Constitution a bundle of compromises:
  – Elect president indirectly by Electoral College rather than by direct means

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49 XI. Hammering Out a Bundle Compromises (cont.)
  – A state's share of electors based on total of its senators and representatives in Congress (see Art. II, Sec. I, para. 2)
  – Slavery and Constitution (see Table 9.2):
    • Three-fifths compromise: slave as three-fifths of a person for representation (see Art. I, Sec. II, para. 3)
    • Slave trade could continue until end of 1807 (see Art. I, Sec. IX, para 1).

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51 XII. Safeguards for Conservatism
• Agreement among delegates was large:
– Economically, they demanded sound money and protection of private property
– Politically, they favored a strong government with three branches, and with checks & balances
– Rejected manhood-suffrage democracy

52 XII. Safeguards for Conservatism (cont.)
– Erected safeguards against excesses of “mob”:
  • Federal judges were appointed for life
  • President to be elected indirectly by Electoral College
  • Senators were chosen indirectly by state legislatures (see Art. I, Sec. III, para. 1)
  • In House of Representatives, qualified (propertied) citizens permitted to choose their officials by direct vote (see Art. 1, Sec. II, para. 1).

53 XII. Safeguards for Conservatism (cont.)
• Democratic elements in new charter:
  – Stood on two great principles of republicanism
    • Only legitimate government was one based on consent of the governed
    • Powers of government should be limited—in this case by a written constitution
    • Virtue of the people, not authority of the state, was ultimate guarantor of liberty, justice, and order
  • After 17 weeks—May 25 to September 17, 1787—only 42 of original 55 remained to sign Constitution
  • 3 of 42 refused to sign

54 XIII. The Clash of Federalists and Antifederalists
• Framers foresaw that nationwide acceptance of Constitution would be difficult:
  – Unanimous ratification by all thirteen states required by still-standing Articles of Confederation
  – Because Rhode Island certain to veto, delegates stipulated that when 9 states had approved through specifically elected conventions, Constitution would be supreme law in those states
55 XIII. The Clash of Federalists and Antifederalists (cont.)
   • American people were handed a new document (see Table 9.3):
     — Antifederalists—opposed a stronger federal government
     — Federalists—supported a strong federal government

56 XIII. The Clash of Federalists and Antifederalists (cont.)
   — Antifederalists (Samuel Adams, Patrick Henry, Richard Henry Lee) were states' rights devotees (see Map 9.4), backcountry dwellers, small farmers, paper-moneyites and debtors
   — Federalists (George Washington, Benjamin Franklin) were those who lived on seaboard, wealthy, educated, better organized
   — Antifederalists argued document drafted by elite would weaken states & threaten individual liberties

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58 XIV. The Great Debate in the States
   • Special elections held for members of ratifying conventions (see Table 9.4)
     — Candidates—federalist or antifederalist—were elected based on whether they were for or were against Constitution
     • Four small states quickly accepted Constitution
     • Pennsylvania was first large state to ratify
     • Massachusetts presented challenges, including demand for bill of rights

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61 XIV. The Great Debate in the States (cont.)
   — Once assured of such a protection, Massachusetts ratified by margin of 187 to 168
   — Three more states then signed
   — New Hampshire was the last
   — All but Virginia, New York, North Carolina, and Rhode Island had taken shelter under "new federal roof"
– Document officially signed on June 21, 1788

62 ☐ XV. The Four Laggard States
   • Virginia:
     • Provided fierce antifederalist opposition
     • They claimed document was death warrant of liberty
     • Federalists G. Washington, J. Madison, and John Marshall lent
       influential support
     • After intensive debate, state convention ratified it 89 to 79

63 ☐

64 ☐ XV. The Four Laggard States
   (cont.)
   • New York:
     • Alexander Hamilton joined John Jay and James Madison in a
       series of federalist newspaper articles
     • The Federalist Papers were most penetrating commentary ever
       written on Constitution
     • Most famous one is Madison's *Federalist* No. 10
     • Refuted that it was impossible to extend a republican form of
       government over a large territory
     • New York finally yielded, ratifying by count of 30 to 27

65 ☐ XV. The Four Laggard States
   (cont.)
   – North Carolina, after a hostile convention, adjourned without taking
     a vote
   – Rhode Island didn't summon a convention, rejected Constitution by
     popular referendum
   – Two most ruggedly individualist centers remained true to form

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67 ☐ XV. The Four Laggard States
   (cont.)
   • No lives were lost, but riots broke out in New York and Pennsylvania.
   • Lots of behind-the-scenes pressure on delegates who had promised
     to vote against Constitution.
XV. The Four Laggard States (cont.)

- Last four states ratified, not because they wanted to, but because they had to:
  - Could not safely exist outside new nation

XVI. A Conservative Triumph

- A minority triumphed—twice:
  - A militant minority of radicals engineered military Revolution that cast off British constitution
  - A militant minority of conservatives engineered peaceful revolution that overthrew inadequate Articles of Confederation
- A majority had not spoken:
  - Only ¼ of adult white males voted for delegates to ratifying conventions

XVI. A Conservative Triumph (cont.)

- Conservatism was victorious, but principles of republican government were maintained through a redefinition of popular sovereignty:
  - Antifederalists claimed only legislatures could represent the people
  - Federalists claimed each branch of new government could represent the people
  - With self-limiting system of checks and balances among 3 branches, Constitution reconciled conflicting principles of liberty and order

XVII. The Pursuit of Equality

- Equality was watchword everywhere:
  - Most states reduced property-holding requirements for voting
  - Ordinary men and women demanded to be addressed as “Mr.” and “Mrs.”
  - Employers called “boss,” not “master”
  - Pretentious Continental Army officials who formed Society of the Cincinnati faced ridicule

XVII. Pursuit of Equality (cont.)

- Protracted fight to separate church and state resulted in notable gains:
  - Anglican Church disestablished; reformed as Protestant Episcopal Church
  - Struggle to separate religion and government proved fierce in Virginia
– In 1786 Thomas Jefferson and co-reformers won with passage of Virginia Statute for Religious Freedom (see Table 5.1).

XVII. Pursuit of Equality (cont.)

• Egalitarian sentiments challenged slavery:
  – Philadelphia Quakers in 1775 founded world’s first antislavery society
  – Several Northern states called for either abolishing slavery outright or for gradual emancipation
  – Even in Virginia, a few idealistic masters freed their slaves

XVII. Pursuit of Equality (cont.)

Revolution of sentiments was incomplete
  – Domestic slave trade grew dramatically
  – Most of North end slavery only gradually
  – No state south of Pennsylvania abolished slavery
  – In both North and South, law discriminated against freed blacks and slaves alike

XVII. Pursuit of Equality (cont.)

• Why not more rapid changes:
  – Fledgling idealism of Founding Fathers was sacrificed to political expediency
  – A fight over slavery would fracture fragile union
    • “Great as the evil (of slavery) is, a dismemberment of the union would be worse” James Madison (1787)
  – Nearly a century later, slavery did wreck Union—temporarily

XVII. The Pursuit of Equality (cont.)

• Also incomplete was extension of equality to women:
  – New Jersey’s new constitution (1776) for a while allowed women to vote
  – In general civil status of women not changed

XVII. The Pursuit of Equality
• Central to republican ideology was:
  – Civic virtue—democracy depended on unselfish commitment of each citizen to public good
  – Who could better cultivate virtue than mothers to whom society entrusted moral education of young
  – Idea of “republican motherhood” elevated women to prestigious role as special keepers of nation's conscience

XVII. The Pursuit of Equality (cont.)
  – Educational opportunities for women expanded so wives and mothers could better cultivate virtues demanded by Republic
  – Republican women now bore responsibility for survival of nation