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Chapter 09 - The Confederation and the Constitution

I. The Pursuit of Equality

1. The American Revolution was more of an accelerated evolution than a revolution.
2. However, the exodus of some 80,000 Loyalists left a great lack of conservatives.
 - This weakening of the aristocratic “upper crust” let Patriot elites emerge.
3. The fight for separation of church and state resulted in notable gains.
 - The Congregational church continued to be legally established (tax supported) by some New England states, but the Anglican Church was humbled and reformed as the Protestant Episcopal Church.
4. Slavery was a large, problematic issue, as the Continental Congress of 1774 had called for the abolition of slavery, and in 1775, the Philadelphia Quakers founded the world’s first antislavery society.
 - This new spirit that “all men are created equal” even inspired a few slave owners to free their slaves.
5. Another issue was women. They still were unequal to men, even though some had served (disguised as men) in the Revolutionary War.
 - There were some achievements for women such as New Jersey’s 1776 constitution which allowed women to vote (for a time).
 - Mothers devoted to their families were developed as an idea of “republican motherhood” and elevated women to higher statuses as keepers of the nation’s conscience. Women raised the children and thereby held the future of the republic in their hands.

II. Constitution Making in the States

1. The Continental Congress of 1776 called upon colonies to draft new constitutions (thus began the formation of the Articles of the Confederation).
 - Massachusetts contributed one innovation when it called a special convention to draft its constitution and made it so that the constitution could only be changed through another specially called constitutional convention.
 - Many states had written documents that represented a fundamental law.
 - Many had a bill of rights and also required annual election of legislators.
 - All of them deliberately created weak executive and judicial

- branches since they distrusted power due to Britain's abuse of it.
 - In most states, the legislative branch was given sweeping powers, though some people, like Thomas Jefferson, warned that "173 despots [in legislature] would surely be as oppressive as one."
- 2. Many state capitals followed the migration of the people and moved westward, as in New Hampshire, New York, Virginia, the Carolinas, and Georgia.

III. Economic Crosscurrents

1. After the Revolution, Loyalist land was seized, but people didn't chop heads off (as later in France).
2. Goods formerly imported from England were cut off, forcing Americans to make their own.
3. Still, America remained agriculturalist by a large degree. Industrialization would come much later.
4. Prior to war, Americans had great trade with Britain, and now they didn't. But they could now trade with foreign countries, and with any nation they wanted to, a privilege they didn't have before.
5. Yankee shippers like the *Empress of China* (1784) boldly ventured into far off places.
6. However, inflation was rampant, and taxes were hated. The rich had become poor, and the newly rich were viewed with suspicion. Disrespect of private property became shocking.

IV. A Shaky Start Toward Union

1. While the U.S. had to create a new government, the people were far from united.
2. In 1786, after the war, Britain flooded America with cheap goods, greatly hurting American industries.
3. However, the states all did share similar constitutions, had a rich political inheritance from Britain, and America was blessed with men like Washington, Madison, Jefferson, Hamilton, and John Adams, great political leaders of high order.

V. Creating a Confederation

1. The new states chose a confederation as their first government—a loose union of states where a federal and state level exist, yet the state level retains the most sovereignty to "do their own thing."
 - For example, during the war, states had created their own individual currencies and tax barriers.
2. The Articles of the Confederation was finished in 1777, but it was finally completely ratified by the last state, Maryland, on March 1, 1781.
3. A major dispute was that states like New York and Virginia had huge tracts of land west of the Appalachians that they could sell off to pay off their debts while other states could not do so.
 - As a compromise, these lands were ceded to the federal government, which pledged to dispense them for the common good of the union (states would be made).
 - The Northwest Ordinance later confirmed this.

VI. The Articles of the Confederation: America's First Constitution

1. The main thing to know regarding the Articles is that they set up a very weak government. This was not by accident, but by plan. The reason a weak government was desired was simply to avoid a strong national government that would take away unalienable rights or abuse their power (i.e. England).
2. The Articles had no executive branch (hence, no single leader), a weak Congress in which each state had only one vote, it required 2/3 majority on any subject of importance, and a fully unanimous vote for amendments.
3. Also, Congress was pitifully weak, and could not regulate commerce and could not enforce tax collection.
 - States printed their own, worthless paper money.
 - States competed with one another for foreign trade. The federal government was helpless.
4. Congress could only call up soldiers from the states, which weren't going to help each other.
 - Example: in 1783, a group of Pennsylvanian soldiers harassed the government in Philadelphia, demanding back pay. When it pleaded for help from the state, and didn't receive any, it had to shamefully move to Princeton College in New Jersey.
5. However, the government was a model of what a loose confederation should be, and was a significant stepping-stone towards the establishment of the U.S. Constitution.
6. Still, many thought the states wielded an alarmingly great of power.

VII. Landmarks in Land Laws

1. The Land Ordinance of 1785 answered the question, "How will the new lands in the Ohio Valley be divided up?" It provided the acreage of the Old Northwest should be sold and that the proceeds be used to pay off the national debt.
 - This vast area would be surveyed before settlement and then divided into townships (six miles square), which would then be divided into 36 square sections (1 mile square) with one set aside for public schools (section #16).
2. The Northwest Ordinance of 1787 answered the question, "How will new states be made once people move out there?" It made admission into the union a two stage affair:
 - There would be two evolutionary territorial stages, during which the area would be subordinate to the federal government.
 - When a territory had 60,000 inhabitants, they wrote a state constitution and sent it to Congress for approval. If approved, it's a new state.
 - It worked very well to solve a problem that had plagued many other nations.

VIII. The World's Ugly Duckling

1. However, Britain still refused to repeal the Navigation Laws, and closed down its trading to the U.S. (proved useless to U.S. smuggling). It also sought to annex Vermont to Britain with help from the Allen brothers and Britain continued to hold a chain of military posts on U.S. soil.
 - One excuse used was that the soldiers had to make sure the U.S. honor its treaty and pay back debts to Loyalists.

2. In 1784, Spain closed the Mississippi River to American commerce.
3. It also claimed a large area near the Gulf of Mexico that was ceded to the U.S. by Britain.
 - At Natchez, on disputed soil, it also held a strategic fort.
4. Both Spain and England, while encouraging Indian tribes to be restless, prevented the U.S. from controlling half of its territory.
5. Even France demanded payment of U.S. debts to France.
6. The pirates of the North African states, including the arrogant Dey of Algiers, ravaged U.S. ships in the area and enslaved Yankee sailors. Worse, America was just too weak to stop them.

IX. The Horrid Specter of Anarchy

1. States were refusing to pay taxes, and national debt was mounting as foreign credibility was slipping.
2. Boundary disputes erupted into small battles while states taxed goods from other states.
3. Shays' Rebellion, which flared up in western Massachusetts in 1786.
 - Shays' was disgruntled over getting farmland mortgages. Notably, the inability to get land is the same motivation for rebellion as Bacon's Rebellion back in 1676 in Virginia. And, the desire for land was also the motivator of the Paxton Boys in Pennsylvania in 1764.
 - Daniel Shays was convicted, but later pardoned.
 - The importance of Shays' Rebellion: The fear of such violence lived on and paranoia motivated folks to desire a stronger federal government.
4. People were beginning to doubt republicanism and this Articles of the Confederation.
5. However, many supporters believed that the Articles merely needed to be strengthened.
6. Things began to look brighter, though, as prosperity was beginning to emerge. Congress was beginning to control commerce, and overseas shipping was regaining its place in the world.

X. A Convention of "Demigods"

1. An Annapolis, Maryland convention was called to address the Articles' inability to regulate commerce, but only five states were represented. They decided to meet again.
2. On May 25, 1787, 55 delegates from 12 states (Rhode Island wasn't there) met in Philadelphia to "revise the Articles only."
 - Among them were people like Hamilton, Franklin, and Madison.
 - However, people like Jefferson, John and Sam Adams, Thomas Paine, Hancock, and Patrick Henry were not there. Notably the Patriots like Sam Adams were seen as too radical.

XI. Patriots in Philadelphia

1. The 55 delegates were all well-off and mostly young, and they hoped to preserve the union, protect the American democracy from abroad and preserve it at home, and to curb the unrestrained democracy rampant in various states (like rebellions, etc...).

XII. Hammering Out a Bundle of Compromises

1. The delegates quickly decided to totally scrap the Articles and create a new Constitution.
 - Virginia's large state plan called for Congressional representation based on state population, while New Jersey's small state plan called for equal representation from all states (in terms of numbers, each state got the same number of representatives, two.)
 - Afterwards, the "Great Compromise" was worked out so that Congress would have two houses, the House of Representatives, where representation was based on population, and the Senate, where each state got two representatives
 - All tax bills would start in the House.
2. Also, there would be a strong, independent executive branch with a president who would be military commander-in-chief and who could veto legislation.
3. Another compromise was the election of the president through the Electoral College, rather than by the people directly. The people were viewed as too ignorant to vote.
4. Also, slaves would count as 3/5 of a person in census counts for representation.
 - Also, the Constitution enabled a state to shut off slave importation if it wanted, after 1807.

XIII. Safeguards for Conservatism

1. The delegates at the Convention all believed in a system with checks and balances, and the more conservative people deliberately erected safeguards against excesses of mobs. Such as...
 - Federal chief justices were appointed for life, thus creating stability conservatives liked.
 - The electoral college created a buffer between the people and the presidency.
 - Senators were elected by state legislators, not by the people.
 - So, the people voted for 1/2 of 1/3 of the government (only for representatives in the House).
2. However, the people still had power, and government was based on the people.
3. By the end of the Convention, on Sept. 17, 1787, only 42 of the original 55 were still there to sign the Constitution.

XIV. The Clash of Federalists and Anti-federalists

1. Knowing that state legislatures would certainly veto the new Constitution, the Founding Fathers sent copies of it out to state conventions, where it could be debated and voted upon.
 - The people could judge it themselves.
2. The American people were shocked, because they had expected a patched up Articles of the Confederation and had received a whole new Constitution (the Convention had been very well concealed and kept secret).
3. The Federalists, who favored the proposed stronger government, were against the anti-federalists, who were opposed to the Constitution.
 - The Federalists were more respectable and generally embraced the cultured and propertied groups, and many were former Loyalists. These folks lived nearer the coast in the older areas.
4. Anti-federalists truthfully cried that it was drawn up by aristocratic elements and was therefore anti-democratic.
 - The Anti-federalists were mostly the poor farmers, the illiterate, and states' rights devotees. It was basically the poorer classes

who lived westward toward the frontier.

- They decried the dropping of annual elections of congressional representatives and the erecting of what would become Washington D.C., and the creation of a standing army.

XV. The Great Debate in the States

1. Elections were run to elect people into the state conventions.
2. Four small states quickly ratified the Constitution, and Pennsylvania was the first large state to act.
3. In Massachusetts, a hard fought race between the supporters and detractors (including Samuel Adams, the “Engineer of Revolution” who now resisted change), and Massachusetts finally ratified it after a promise of a bill of rights to be added later.
 - Had this state not ratified, it would have brought the whole thing down.
4. Three more states ratified, and on June 21, 1788, the Constitution was officially adopted after nine states (all but Virginia, New York, North Carolina, and Rhode Island) had ratified it.

XVI. The Four Laggard States

1. Virginia, knowing that it could not be an independent state (the Constitution was about to be ratified by the 9th state, New Hampshire, anyway), finally ratified it by a vote of 89 to 79.
2. New York was swayed by The Federalist Papers, written by John Jay, James Madison, and Alexander Hamilton, and finally yielded after realizing that it couldn't prosper apart from the union.
3. North Carolina and Rhode Island finally ratified it after intense pressure from the government.

XVII. A Conservative Triumph

1. The minority had triumphed again, and the transition had been peaceful.
2. Only about 1/4 of the adult white males in the country (mainly those with land) had voted for the ratifying delegates.
3. Conservationism was victorious, as the safeguards had been erected against mob-rule excesses.
4. Revolutionaries against Britain had been upended by revolutionaries against the Articles.
 - It was a type of counterrevolution.
5. Federalists believed that every branch of government effectively represented the people, unlike Anti-federalists who believed that only the legislative branch did so.
6. In the U.S., conservatives and radicals alike have championed the heritage of democratic revolution.

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