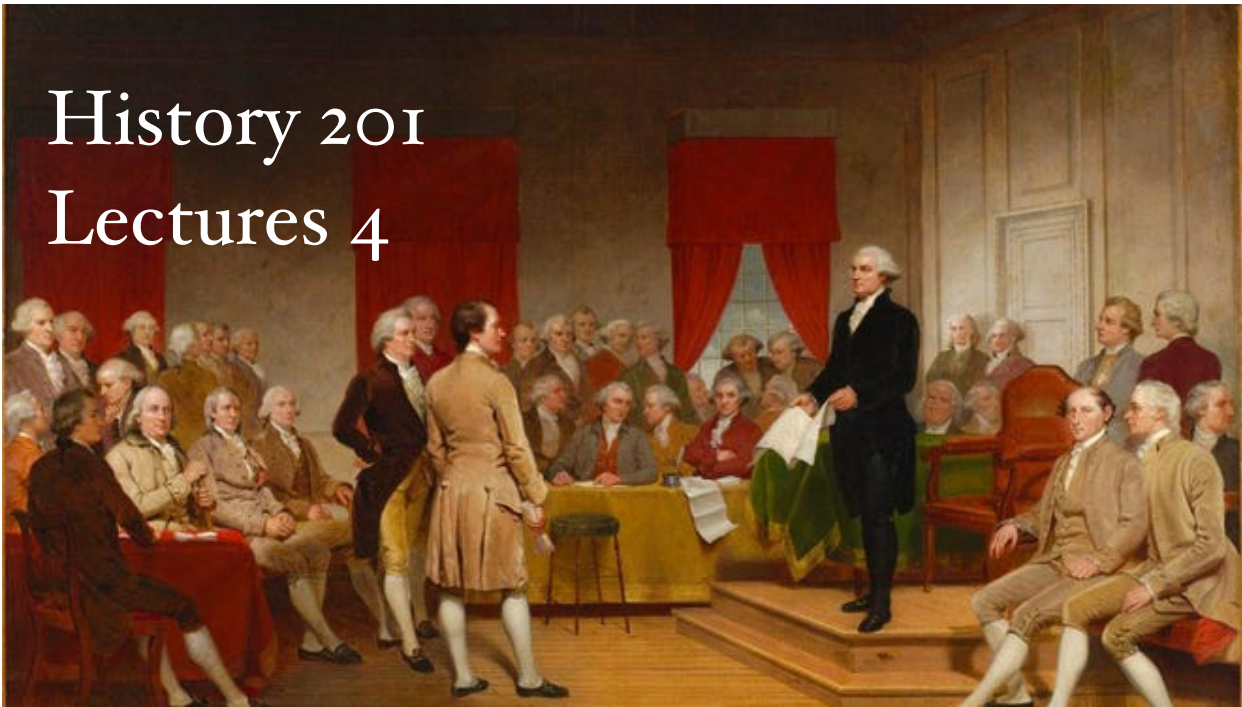


History 201

Lectures 4



From Confederation to Constitution

In 1783 the United States was an independent country with a huge territory, and an equally huge national debt. Americans threw one wingding of a party to celebrate independence and peace and the prosperity that should naturally ensue once the royal brute of Britain was defeated. In one year the nation would be plunged into a deep depression, its debt would be even larger, and in order for the states to meet their obligations, Americans were taxed at a rate seven times higher than they would have been taxed if they had paid all of the taxes that Britain wanted them to pay. They were five years away from a second constitution.

The Articles of Confederation created a league between sovereign states. Each state had one vote in the Continental Congress, and unanimous consent was necessary to pass legislation. The Congress was empowered to borrow money, regulate currency, establish a postal service, regulate Indian affairs and settle interstate disputes.

There were some defects to the confederate system which became apparent fairly quickly. These defects were all due to the fact that the congress was given inadequate powers to govern the states.

- 1) Congress was unable to levy taxes.
- 2) Congress could not regulate foreign or interstate commerce.
- 3) Congress could not enforce its laws.
- 4) finally, the Continental Congress was only a legislative body. It had neither an executive or judicial branch.

The critical years from 1783 to 1789 were filled with economic problems. Most of these were caused by post-war deflation, and the failure of the new states to reorganize their business activities.

Without the power to tax, Congress was forced to make do on the requisitions which they were supposed to receive from the states. The states frequently failed to meet their obligations to Congress, and the Congress had no means by which to force the states to meet their obligations. The national debt increased. Now, some states, primarily in the South were able to meet their revolutionary obligations and their payments to Congress. The worst offenders in both areas were the New England states.

In the area of trade, the heavy importation of foreign goods drained what little hard currency the nation had. Britain banned American shipping from West Indian ports, so the West Indian trade, which had

supported much of New England before the revolution was not available.

There was no uniform currency in the various states, which hindered merchants who wanted to expand their markets across state lines. Paper money was of uncertain value, and often counterfeited. Each state had its own varieties of coins. Finally, the various states began to charge tariffs on goods from other states.

Another problem was debt. When a country is plagued by economic uncertainty there are always a lot of people who find themselves in debt. Debtors found themselves unable to secure funds to repay loans, taxes and settle mortgages. This problem became fuel for rebellion in Western Massachusetts. In 1786, under the leadership of Daniel Shays a group of farmers and mechanics staged a series of riots known as Shays' Rebellion. They attempted to prevent courts from issuing judgements against debtors and to prevent the foreclosures on mortgages. Finally troops were dispatched and the revolt was quickly ended. But the rebellion had aroused the country to the dangers of weak central government.

A lot of Americans worried about the problems inherent in the Articles in general, but they were really worried about Shay's rebellion. What if there were similar rebellions in every state? This uncertainty not only threatened trade and the economic order, but it also threatened the social and legal order as well. Some of these folks had become nationalists, that is, they believed that the only way to preserve the status quo, and/or the principles of the revolution from economic disaster and social anarchy was to create a stronger national government. Some of the groups who were the most nationalistic in their outlook were (1) the Continental Army officers. They had been treated very poorly by the state governments after the war. They were dismissed, with the blessings of the nation, but they were worried that there was no standing army, and the nation still had many enemies. They wanted the United States to do what European nations did, retire the officer corps on half pay so that they could be easily called up when necessary in the national defense. (2) holders of the national debt. The Continental Congress and the states had issued lots of bonds and other paper debt instruments during the war. After the war the states refused to pay off the national paper until they had

paid their state debts. Some states didn't really want to pay off the national debts at all. So the only sure way that the holders of the national debts saw to get their money back was to create a national government that would honor its obligations. (3) nationalists on principle. People like Alexander Hamilton were convinced that the Articles of Confederation placed too much power in the hands



Shays' Rebellion: Rebel dunks tax collector while friends look on.

of the state legislatures. These bodies were too popular, too democratic. Hamilton was convinced that the survival of the new republic in the midst of great and powerful monarchies like Britain and France depended on a strong central government.

In March of 1785, committees from Maryland and Virginia met at Mount Vernon to discuss navigation on the Potomac River and Chesapeake Bay. During the course of their discussion they realized that many states had issues with each other, and at the prompting of Washington's personal secretary, Alexander Hamilton, the Maryland and Virginia delegates agreed to invite representatives from all of the states to a conference the next summer to discuss the problems involved in the confederation. The Annapolis Conference met in the summer of 1786. It was attended by delegates from five states. These states adopted a resolution by Alexander Hamilton which called for a

convention of all the states to meet in Philadelphia in May of 1787 to create an overhaul of the central government. The Continental Congress endorsed the resolution with reservations.

The convention at Philadelphia was attended by 55 of the most important leaders of the country. Certain of the delegates revealed themselves as very special and able leaders. Among the most important were James Madison and George Mason of Virginia; Benjamin Franklin of Pennsylvania; William Patterson of New Jersey; and Alexander Hamilton of New York. The president of the convention was George Washington.

It is fortunate that the most notable radical firebrands were elsewhere. These individuals would have been less likely to support the idea of a strong federal government. After all, the British government had been a strong central government. They would have feared the a strong central government would infringe on the liberties of states and individuals. Notable absentees were Thomas Paine, Patrick Henry, Sam Adams and Thomas Jefferson.

The delegates all agreed that whatever the form of the new government, it should have the power to levy taxes, regulate interstate and international trade, protect private property, pay off the national debt, coin and borrow money and provide for the national defense.

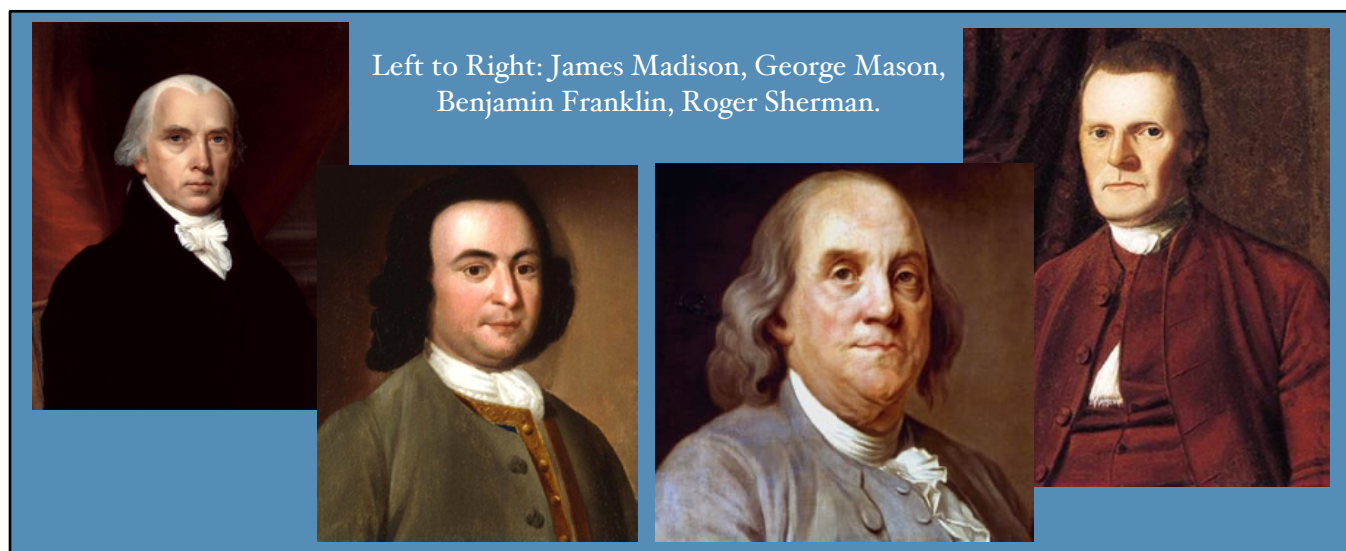
On May 25th, 1787, James Madison and George Mason presented a plan for a new government that we call the Virginia Plan. The plan called for a two house legislature with representatives in both houses apportioned on the basis of population. The lower

house would be elected by popular vote, the upper house would be appointed by the lower. The plan would create an executive chosen by the national legislature. There would be a national judiciary with a supreme court. The Virginia Plan was supported by the larger states. Because the legislature was apportioned based on population, more populous states would have greater power in government.

The smaller states—New Jersey, Connecticut, Rhode island, Delaware and Maryland. were worried that their needs would be ignored, and that this new government would create a tyranny of the large states over the small ones.

At the request of William Patterson of New Jersey, delegates from the smaller states met in secret at midnight in the church across from the hall. There, they created a new plan of government called the New Jersey Plan. Patterson presented it to the convention. Their plan provided for a single legislature in which all states would have equal representation. The executive would consist of a committee chosen by the legislature. There would be a national judiciary but no supreme court.

The convention became deadlocked over which plan to adopt. The larger states supported the Virginia Plan, while the smaller states supported the New Jersey Plan. Ben Franklin worried that the deadlock would continue through the summer, and nothing would be accomplished. He decided to influence the convention, “at a distance.” Franklin befriended the Reverend Roger Sherman, a delegate from Connecticut. Franklin and Sherman had served on the committee that had produced the Declaration of Independence in the summer of 1776. Although Sher-



man and Franklin were about as different in character as they could be, Franklin discovered that one thing they had in common was that they both enjoyed good food. Franklin began taking Sherman to the best places to eat in Philadelphia, and while they enjoyed good food, Franklin discussed the Constitutional plans with Sherman. He convinced Roger Sherman to introduce a compromise plan that would have the best features of both the Virginia and New Jersey Plans. Sherman's "Connecticut Compromise" called for an upper house with equal representation and a lower house based on population. After several days of debate and some modifications Sherman's compromise was finally accepted.

At this point the Convention closed its doors to the public and went into secret deliberations. The most important reason for the secrecy was that at this point the delegates had decided to create a new government. This meant that, in effect, each member had committed treason against his state government and the Articles of Confederation. Many of the delegates had not been sent to create a new, federal system, only to revise the old one. So the secrecy became necessary. The delegates concluded their secret discussions on September 17, 1787. The finished document was put into literary form by Gouverneur Morris of Pennsylvania. The new document was made public immediately thereafter.

The Constitution as it was originally passed was the product of compromise. No one was entirely pleased with all of it and several compromises were necessary in order to hold the Convention, and the United States together. The Convention hit two snags over the question of slavery. The northern states had abolished the institution during the

Revolution, arguing that slavery was incompatible with the ideals of the Declaration of Independence and, thus, the goals of the Revolution. A number of the northern delegates at the Convention wanted the new constitution to abolish slavery, but the southern delegates would have none of it, and threatened to walk out of the Convention should abolition appear in the new constitution. To avoid destroying the union before it was even created, the delegates agreed that the federal government would take up the question of slavery again in 1808, in other words the delegates agreed to "kick that particular can down the road" for another two decades. The second compromise over slavery was over whether slaves should count for apportionment of the House of Representatives. Northerners were shocked when their southern colleagues insisted that they should. Proponents of slavery had argued in the past that slaves were property, and could not be citizens, but, in a rather bizarre turnabout, Southern delegates now argued that, at least as far as the census and apportionment went, slaves should be counted the same as citizens. Northern delegates said, "If they are slaves, and thus chattel property, would we be expected to count our cattle as citizens?" Once again Southern delegates threatened to walk if they didn't get their way, and a compromise was reached. The Three-Fifths Compromise stated that every five slaves would be counted as three "persons" for the purpose of apportionment.

Another compromise had to do with international commerce and tariffs. At the time of the Constitutional Convention, the North was industrialized and produced many finished goods. The South still had an agricultural economy, and



still exported raw goods like cotton and tobacco to Europe, and imported many finished goods from Britain. Northern states wanted the government to be able to impose import tariffs on finished products to protect against foreign competition and encourage the South to buy goods made in the North and impose export tariffs on raw goods to increase revenue flowing into the United States. However, the Southern states feared that export tariffs on their raw goods would hurt the trade upon which they relied quite heavily. Additionally, the northern delegates wanted export tariffs on goods going to international markets as a means to encourage southern planters to sell their raw materials to them, rather than to their foreign competitors. Put simply, northern delegates wanted tariffs of both kinds in order to manipulate southern commerce. Southerners who bought the bulk of their finished goods from Europe would be hit by import tariffs, and since they sold the bulk of their produce to Europe, they would also be hit by *export* tariffs—a double whammy. The compromise mandated that tariffs were only to be allowed on imports from foreign countries and not exports from the United States. This compromise also dictated that interstate commerce would be regulated by the federal government.

As it was passed, the Constitution had very few safeguards for the rights of individual citizens. James Madison and others argued that such safeguards weren't necessary, because the states had bills of rights in their constitutions, and the federal government would rarely intrude into the affairs of the people of the states. But, this became a sticking point at the state ratifying conventions. So, to calm fears of a tyrannical federal government, Federalists promised to pass a series of amendments to protect the rights and liberties of the people. They did so in the first session of the First Congress and came up with ten amendments to the Constitution that are called collectively the Bill of Rights.

So let's briefly look at what the Convention came up with. Congress was the most powerful body, and the most representative. The House of Representatives was the only popularly elected branch of government. The House held the purse strings, thus, as in the English system, the most representative body controlled the money. The Senate was elected, not by popular election, but by the state assemblies.

The Senate became a kind of House of Lords, it was expected to be comprised of the most important citizens from each state and was expected to represent the interests of the states themselves. The least powerful division of government was the chief executive. The president is the commander in chief of the military, but he can't declare war. He gets to make lots of appointments, but only with the advice and consent of the senate. He can grant pardons. He gets to make an annual state of the union address to Congress. He can veto legislation, but it is not a monarchical veto, it is subject to an override by Congress.

Much of the power of the new national government is couched in Article I, Section 10 of the Constitution. This is a list of things that the national government can do and the states cannot. It represents the specific complaints of the nationalists against the state governments under the Articles. But the sword cuts, or at least once cut, both ways, since the list enumerates what the government can do, it also implies that whatever is not on the list the government cannot do. Additionally, the Tenth Amendment to the Constitution constrains the federal government *only* to those things *specifically* granted to it in the Constitution. All other powers are reserved to the states, or to the people.

The Convention decided to get each state to convene a ratifying convention to decide on whether or not to accept the Constitution. In the state conventions a movement grew up quickly against the Constitution. They were called the Anti-Federalists. They liked the new document not at all. But they started with a distinct disadvantage. The Federalists (as the supporters of the Constitution were called) had a document, they had a program, they had a plan. The Anti-Federalists were not organized. They had nothing new to offer, only criticism of the new Constitution. The Anti-Federalists argued that political thinkers had ever recommended small republics that were close to, and in touch with the people. They worried that a large national government would lose touch with the people, and would eventually turn into a despotic, remote government, concerned only with its own existence, power, and aggrandizement. They worried that the power to create a standing army and tax would end the United States up with exactly the

kind of government that they had just gotten rid of in the Revolution. They also worried that the national government would run roughshod over the state governments. They argued that the representation in the House, the only truly democratic body in the whole national government was not representative enough. How could 65 people represent the whole population of more than three million? Anti-Federalists argued that the lack of term limits in the Constitution invited abuse and corruption. Every state constitution had term limits and frequent elections (usually annual), but the Constitution had longer terms, and no term limits. Anti-Federalists argued that power corrupts, and that the longer an elected official stayed in office, the longer he would continue in office. Long terms and reelection allowed representatives to make friends, exercise influence, making reelection easier. Eventually, Anti-Federalists argued, elective positions would become life-time positions, and people serving, essentially, life terms would have no reason to pay any attention to their constituents and would only serve their own interests.

Other Anti-Federalists complained of a lack of religious provisions. Nothing kept a Roman Catholic, or even an atheist from being president of the United States. The states still had state supported churches and required some kind of religious oath of officeholders. The new Constitution didn't mention churches or religion at all. New England Anti-Federalists were worried that the new government might establish a national church, and since most of the states were Episcopalian (what Anglicans became after the Revolution), these New England Congregationalists were worried that a nationally supported church might persecute other denominations. They also worried about the idea of a single capital and where it might be created. The Constitution stated that a national capital that would not be part of a state nor treated as a state, would be created, but it didn't say where it would be. One Anti-Federalist combined the two worries. He said that at some point the pope might become president, and plant his capital in Beijing. What the Anti-Federalists have in common with all of their criticism, some of which might sound a bit silly to us, is that they all reflect real fears of corruption and abuse of power. The worst fears were centered around the lack of a bill of

rights in the document. What would keep the new government from acting as London had toward the states and the people. Another fear was voiced by Patrick Henry of Virginia. He asked what kind of nation would the Constitution create? And at what price to Virginians (or Rhode Islanders, or New Yorkers)? How much personal liberty and personal and regional identity would the citizens of the states have to give up to become citizens of the new federated United States?

The ratification process was a hard fought campaign in most states. Delaware was quick to ratify, as was Pennsylvania, and most of the middle states. When the ratifying convention met in Massachusetts, supporters of the Constitution simply didn't have the votes to ratify it until the Federalists promised a bill of rights, then it passed by a vote of 187-168. At any rate, in the first months of 1788, Georgia, Connecticut, Massachusetts, Maryland, South Carolina and New Hampshire ratified. After long and savage struggles New York (30-27) and Virginia (89-79) ratified. Only North Carolina and Rhode Island remained. North Carolina ratified the Constitution in November, 1789, and Rhode Island, after failing to get the votes to ratify in 1788, finally ratified it, by popular vote (the only popular vote) in the spring of 1790, by which time the new government was already set up.

Did the Constitution represent the will of the American people? Not really, at least not by modern standards. As I noted, only Rhode Island ratified it by popular election, so only one state actually put it to that test. But the transition from the Articles to the new federal system was smooth. There were no protests. The people seem to have accepted it. An indication of their acceptance was the first election under the Constitution. There were no bitter election struggles over the new settlement. Anti-Federalists seemed willing to set aside differences and see if the new government would work. The elections were a triumph for the Federalists, most of the Senators and Congressmen elected had supported the new Constitution, and George Washington became the first president with any challenger.

This might be a good time to take a look at George Washington. Lots of historians have written about him, and generally he is portrayed somewhere between a saint and God's anointed. They say lots of

things about old George that just plain were not so. They say that he was an ardent churchgoer (he wasn't), that he married Martha for love (money actually), the cherry tree incident didn't even really happen. Even the British liked him, after all any Brit is better than the French, even a rebel! The British government celebrated Washington's British-style revolution as opposed to the dreadful French Revolution and the terror that followed. The British government even raised a statue of George Washington in a small park in London!

Most of Washington's contemporaries, friends and enemies alike, characterized him as cool in a crisis, a capable leader in war and peace, but neither particularly smart nor very likable. He was somewhat wooden, distant and aloof. At home at Mount Vernon, he was different, but in public he was distant and almost painfully solemn and stolid. He was very popular. He was chosen both to preside over the constitutional convention and to be the first president because in many ways he was the manifestation in human form of the Revolution. Without him we don't know if the Constitutional Convention or the new nation would have fared so well. In spite of the regional, economic and philosophical disputes that grew up in his first presidency, both Alexander Hamilton, his Secretary of the Treasury, and Thomas Jefferson (Secretary of State), who cordially hated each other, begged Washington to run again.

The First Congress was unique. It was a sort of second constitutional convention. It had two very important functions. First it had to come up with a bill of rights. Secondly, it had to decide the ambiguities within the new constitution and turn it into a practical, workable system of government. Everything that was done was done for the first



time, and the members of the First Congress were painfully aware that their behavior would set the precedent for every Congress to follow. They spent a great deal of time debating stuff that seems a bit silly to us, but was very important to them. What would be the proper form of address for government officials? The Senate debated titles for three weeks. Titles were very meaningful in the 18th century. We were a lonely republic in a political world of kings, and we had a reputation for subverting governments. If titles were too high and mighty we might invite anger, bitterness and revolution at home and amuse European monarchs who would then not take us seriously. The federal titles had to be imposing enough to awe local and state officials, however. This problem of precedence was illustrated when, in October, 1789, President Washington visited Boston, and John Hancock, governor of Massachusetts, insisted that the president make a state call on *him*. Washington felt that, as president, the opposite should take place. After three days

The First Congress of the United States after passing the ten Amendments that make up the Bill of Rights.



Hancock finally visited the president, conveniently excusing himself for not coming sooner. It seems that his gout had been acting up! Finally, the title of the president became just Mr. President. At one point, during an angry Senate debate, one Senator recommended that the rather corpulent, and really annoying, Vice President John Adams should receive the formal title “Your Rotundity.”

More important business was centered around economics. There was general agreement that most of the revenue would come from taxes on trade. Tariffs on tonnage (fees charged on foreign vessels to dock in American ports) was to be the most important source of revenue. A sectional division grew up almost immediately on the question of tariffs. The South wanted low tariffs; the North demanded high tariffs to protect their fledgling industries from England and other foreign producers. An argument broke out between Hamilton and Madison over the use of revenues on trade. Madison argued that tariffs should be used to reward America’s friends and allies, and to punish her enemies. Hamilton argued that one rate should be applied to all. The *real* issue was over where the future of the United States lay. To Hamilton we were still a weak and immature nation, dependent on Great Britain for trade and investment. To break with Britain was economic suicide. Madison felt that too close an economic bond with Britain was very risky. Both Madison and Jefferson hoped to form closer ties with our revolutionary ally, France. Southerners felt that Hamilton supported the North to the detriment of the South, and saw in the higher tariffs that Hamilton supported, a conspiracy to make the South foot most of the bills.

The new national government, by fits and starts, began the arduous process of putting itself together and, as we will see, began to grow up during George Washington’s first two terms in office and the leadership of the Federalists.



The Federalist Regime

Last time we looked at George Washington, and i tried a bit to illustrate his character and personality. I pointed out that Washington was a logical choice for first president because he was, in many ways, the symbol of the American Revolution. Now i want to talk a little about his presidency and the period of American history dominated by the Federalists.

Washington set up his cabinet appointments based on two criteria. First, he chose able men, secondly, he chose a balanced mix of northerners and southerners. His cabinet appointments included Alexander Hamilton (Secretary of the Treasury, Thomas Jefferson (Secretary of State), and Henry Knox (Secretary of War). Of his appointments the two most important were Hamilton and Jefferson. It is worth while to say a little about each of them because both had an enormous impact on the way the nation turned out. Later on i will spend time on Jefferson, this today we will look at Hamilton.

Hamilton was born on the little island of Nevis, in the Caribbean. In his teens he came to America and entered King's College in New York. There, while studying law, he was influenced by radicals who were leading the revolt against British authority. He published several revolutionary pamphlets, and, at the age of 22 joined the Continental Army and served as an officer of artillery. Hamilton's personally, intellect and leadership brought him to Washington's attention. Washington made him his principal aide toward the end of the war and his personal secretary after the war was over. Hamilton had both an excellent knowledge of the law and a very shrewd understanding of economics. For these reasons president Washington appointed him to be Secretary of the Treasury.

Hamilton confronted several economic problems in his new job. He had to solve the problem of state and national debts; to figure out how to provide revenue for the federal government. He wanted to establish a national bank. He wanted to create tariffs to protect America trade and commerce.

In 1789, the United States government still owed some \$56 million to American and foreign creditors. The states individually owed some \$18 million more. Some people believed the new government should repudiate old debts and start over. Hamilton argued that the United States would be unable to have any effective commercial relationships with other nations if it began as a bankrupt. Hamilton tried to repay all of the government's debts. He also got Congress to agree to assume the states' debts as well. The repayment of these debts had two effects: First, payment to U.S. creditors placed good currency on the economy, making

economic growth possible. Second, the United States gained a sound financial reputation with commercial interests abroad. This was important if the nation was to become a powerful merchant state.

Hamilton's assumption policy had bitter critics. Most opposition came from southerners. The southern states had already paid off most or all of their revolutionary debts. They believed that Hamilton was now asking them to help to pay off the northern state debts as well. There was some justice in this complaint. Most of the outstanding state debt was in the north. Southerners felt that the assumption plan was a northern conspiracy to impoverish the south and let the north off the hook. The assumption bill was defeated three times under Madison's leadership in the House. It finally passed when Hamilton agreed that, in return for passage, the new national capital would be in the South. The plan was still by no means popular in the South. The Virginian legislature denounced it as unconstitutional and dangerous to the liberties of the people.

The problem remained of how to secure national revenues. Hamilton chose to raise money in three ways: through tariffs—that is customs duties on imports; through excise taxes on domestic goods—especially taxes on distilled liquor; and through the sale of federal lands.

In order to establish a sound currency, Hamilton suggested that the United States Create a national bank. This element of Hamilton's plan sparked a bitter debate on the nature of the Constitution. Hamilton asked Congress to charter a national bank that was private and yet supported by the national government.

This obvious model for the American bank, the Bank of England, was worrisome to some Americans because the English bank had become a symbol of both British oppression and British political corruption. Southerners and small farmers everywhere feared, despised and distrusted banks and bankers. They argued that bankers did not *earn* a living by honest toil, they earned their income from the fruits of the labor of honest, hard working people. In addition the bank that Hamilton envisioned was to enrich and enable commerce and industry. It would not loan money to farmers or planters. After a long and often bitter debate the Congress created the Bank of the United States in 1791.

Madison and Jefferson argued that the Bank was unconstitutional since there was no provision for it in the Constitution. Hamilton argued successfully that the power to establish the Bank was an "implied" power. The Constitution authorized Congress to make laws which are "necessary and proper" for carrying out the other powers. The

The First Bank of the United States in Philadelphia. The neo-classical design of the bank was intended to recall the democracy and splendor of ancient Greece.



Constitution gave the government the right to tax, to coin money and to regulate commerce—all of these activities would be easier if the U.S. had a national bank.

Washington was impressed by Hamilton's argument and signed the bank charter into law. This was a turning point for Madison. Since 1786, James Madison had allied himself with Hamilton to increase the power of the national government. Now, in the face of the Bank controversy, Madison realized that the Constitution could be molded into a powerful positive system of government. That scared the heck out of him. Up until 1791, Madison had seen the federal system as primarily creating a negative government, that is a government that restrained the states without being too energetic itself. Hamilton's plans showed Madison that the federal system could also become economically and politically as powerful, and therefore as potentially corrupt and evil as the British system.

In December of 1791, Alexander Hamilton dropped the third plank of his economic policy—his *Report on Manufacturing*. The report was the embodiment, on paper, of Hamilton's dream of what the United States should become, and how Congress should help. Hamilton argued that the future of America was not agrarian but industrial and commercial. Congress should do everything in its power to encourage the growth of domestic trade and industry. Hamilton called for high protective tariffs, bounties on industrial and technical innovation, and large tax rebates to encourage growth in manufacturing and exports.

Hamilton envisioned an industrial North trading finished goods with Europe and the American South and West. The South and West would provide the raw materials for northern industry. For Hamilton, all regions would prosper from this system. He argued that the national government could promote industry because the Congress had the power to do

whatever it could to promote the "general welfare." Madison and other southerners, and some

westerners were horrified. First they saw the policy as a plan to place the South and West into a sort of mercantile bondage to the North. This was not very different from what Americans had escaped under the British colonial system. Why trade London and Glasgow for Boston and New York? Secondly, if Hamilton's view became the vision of the future, then the government could use the general welfare clause to do anything! They began to wonder if Patrick Henry's fear that the federal government could become unlimited and despotic might not be the case.



So, two visions of the future of the United States began to emerge during the early 1790s. We have seen Hamilton's notion. Madison and Jefferson held on to the view that the United States should continue to be an agrarian republic. They placed their faith, not in industry and commerce, but in the ability of the small independent freeholders to choose their governors from a natural aristocracy of larger landholders. Jefferson stated, "those who labor in the earth, are the chosen of god, [in] whose breasts he has made his peculiar deposit for substantial and genuine virtue." For Jefferson and Madison, when you can support your own family on your own land, only then are you truly free and independent of someone else. Cities and factories destroyed independence. If you work for someone else—if your daily bread is supplied by someone else—then you are in their debt to such a great extent that you no longer have independence. You think as they think, argued Jefferson, you vote as they vote.

Jefferson and Madison and their supporters were worried by the growth of industry and its effect on workers, and they were worried by the growth of banking and the corruption that they felt was inherent in the banking industry. They were especially worried that the power of the federal government might not be easy to constrain. For

them energetic, positive government was a threat, rather than a support to individual liberty.

Jefferson believed that federal government should not regulate and promote, but should deal with differences among and between the states, diplomacy, defense, and should leave everything else alone.

By the end of Washington's first term the line was fully drawn between Alexander Hamilton and Thomas Jefferson. There were lotsa political parties in the states, but as yet none at the national level prior to this split. National parties were both unexpected and unwelcome. "party" and "faction" in 18th century America and England were dirty words. Political parties were considered a danger in a republic, because republics thrived on unity and consensus. They were destroyed by faction and division. Americans looked at history and found that every great historical republic, Athens, Rome, Venice, Holland, all were destroyed by factional strife.

The bad reputation of parties even lingered after America parties emerged. Each side accused the other of being a "party" or "faction," and creating division, and claiming that *their* party reflected consensus and unity.

Parties began to emerge in 1791. Until that point these disputes had centered around Washington's Cabinet and the House of Representatives, but in late 1791, they went public when each side created its own newspaper. Alexander Hamilton used Treasury contracts to fund the creation of the *Gazette of the United States*. Jefferson and Madison followed suit shortly thereafter by creating the *National Gazette*, and supporting it with state department printing contracts. At that point, the "first party system" was born. The Federalist party coalesced around Alexander Hamilton. Thomas Jefferson and James Madison became the leaders of the Republican Party.

The two parties were centered as much on

personalities as on issues. Much of the party rhetoric was pure character assassination. The politicians of today are rank amateurs, kindergarten bullies, by comparison to the mudslingers of this period. Two images of each party slowly began to emerge, a federalist view, and a republican view.

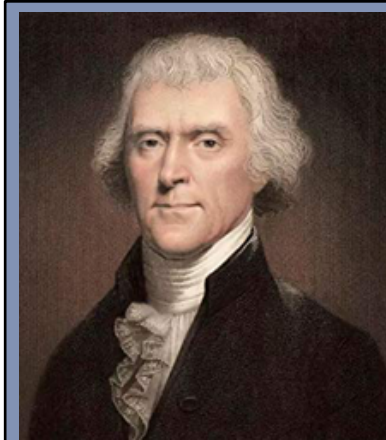
To Federalists—they are the defenders of the Constitution, they had secured the nation from anarchy and their policies would promote peace, order, and prosperity for all Americans. Their

opponents, the Republicans, were atheists, anarchists, wildmen, bitter enemies of the Constitution and of social and political order. They would plunge the nation into riot, disorder, godlessness and poverty.

To Republicans—they were defending the last rampart of the Constitution as it was written from the Federalists who would make the federal government a tool to overwhelm the states and the people. Federalists, the Jeffersonians argued, were monarchists and despots, enemies of republican ideas, and conspirers to take away the liberty of the people.

The Federalists' flexed their domestic muscle in an event called the Whiskey Rebellion. In doing so they alienated many of their earlier supporters and at the same time sent a stark example of the power of the new federal government.

Farmers in the western frontier country raised corn as their primary cash crop. The cost of transporting corn on the cob across the Appalachian and Allegheny Mountains was so prohibitive as to make the trip ridiculous. If a farmer in western Pennsylvania filled his cart with corn and struck out across the Appalachians to deliver his product in Philadelphia, he would have to feed the oxen to get there, and what does he feed them? Why corn, of course. Sp, he would arrive in Philadelphia with hungry oxen and an empty cart. Even if he had corn to sell, there was plenty of corn in eastern Pennsylvania, so his corn wouldn't fetch a high enough price to make the trip worth while. On the



Thomas Jefferson

other hand, that farmer could distill his corn into whiskey, and carry the whiskey to Philadelphia, and make good money. It's easier to carry since about 15 pounds of corn makes one gallon of whiskey. And a gallon of whiskey fetches a vastly higher higher price than 15 pounds of corn. Distilled spirits were in great demand on the Eastern Seaboard, and prices for corn whiskey were more stable than corn prices. Until the American Revolution Americans had imbibed rum, lots of rum, but because of the closing of the West Indies to American shipping and the association of rum with "Britishness," Americans began drinking American Whiskey instead.

These farmers believed that Hamilton's excise tax on distilled liquor was unfair. They argued that the burden of paying for the federal government was placed almost entirely upon their shoulders. Four counties in Western Pennsylvania began to resist paying the whiskey excise tax. Washington issued a proclamation of warning that was ignored. In 1794, violence broke out. Mobs attacked a federal inspector who was forced to flee for his life. The governor was afraid that he would lose his popularity among voters if he called out the militia, so he did nothing. Hamilton advised Washington to take stern action to prove that the federal government would not tolerate local disobedience to federal law. Washington sent out 15,000 troops (a force of 1,000 would have been enough) to put down the rebellion. Needless to say, the rebellion ended immediately. Hamilton went along and saw that 18 men were arrested for treason. They were tried and convicted, but all of them were pardoned by Washington.

The Whiskey Rebellion did much to make the Federalists unpopular among the middle classes all over the country. This was especially true on the frontier. Frontiersmen felt that the federal government had [1] been far too harsh on the Pennsylvania farmers, and [2] were using the excise tax on whiskey to tax the poor in favor of the rich. As the popularity of the Federalists declined people began to look elsewhere for leadership in the years

to come. That leadership was to fall directly, if not immediately, upon the shoulders of Thomas Jefferson and the Republicans. The real crisis between Federalists and Republicans came, though, in the new nation's foreign relations, so let's look at them now.



Whiskey Rebels apply tar and feathers to a whiskey-tax collector. Note, some of the rebels are wearing Continental Army coats.

During Washington's second term in office the diplomatic strength of the United States was put to the test. This was because Great Britain and her allies were at war with France. In 1778 the U.S. Had made a treaty with France. In return for French aid during the Revolution, The United States agreed to help to defend the French West Indies should France and Britain ever go to war with each other. But Washington had no desire to see the new nation drawn into a European war.

The french government sent Edmond Genêt to the United States to demand that Washington honor the 1778 treaty. He landed in Charleston, South Carolina in April of 1793 and began to fit out privateers, enlist sailors and purchase weapons before he had even presented his credentials to the government. Many Americans welcomed and supported Genêt, and hoped that the U.S. Would honor the treaty and support France. Other

Americans, especially the Federalists, supported Britain. Washington ignored both sides.

On April 22, 1793, he issued a proclamation of neutrality that stated that American citizens were forbidden to take any part in hostilities between European nations. Congress endorsed Washington's statement by passing the Neutrality Act.

Washington then received Genêt as the French representative. But when Genêt continued to agitate for America support in the war, Washington demanded that he be recalled. But, by this time, a new government had been established in France.

The new government was hostile to the faction that had sent Genêt. If he went back to France he would have been greeted only by the guillotine. Genêt apologized to Washington, and the president allowed Genêt to settle in the United States.

During the war between Britain and France, Britain considered any country that was not allied with her to be allies of France. As a result, British naval ships began to seize American vessels, confiscate their cargo and place many Americans sailors under impressment.

Because of this issue and several others related to the post revolution treaty, Washington sent John Jay, the Supreme Court Chief Justice, to London to negotiate with the British government. British offenses included:

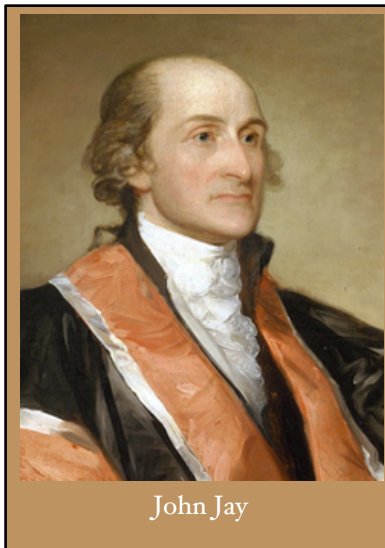
1. Her refusal to abandon her northwestern fur posts and forts.
2. Her policy of keeping Indians hostile to the American government.
3. Her failure to open West Indian ports to United States commerce.
4. British seizures of American trading vessels in the French West Indies.
5. British impressment of American sailors.

The British got the best of the negotiations. The treaty that resulted from the talks were fairly one sided in favor of the British. In large part, the reason

that the treaty was so one sided was the fact that Alexander Hamilton assured the British all the way through the treaty process that the United States would not make war upon Britain, no matter what the outcome. So the Jay had no bargaining chip, no stick to use against Britain. The resulting treaty stated that the British would surrender their fur posts by June of 1796 (they didn't), and that West Indian ports would be opened to the U.S. (they weren't). No mention was made of either the impressment issue or of the seizures of American ships or cargoes.

The treaty was so unpopular that the Federalists had difficulty in getting Congress to ratify it. Besides the fact that it was a bad treaty, another factor made it unpopular. In a popular republic style is just as important as content.

Jay's behavior at the Court of St. James was not acceptable to the American public. When Jay was introduced at court, he gave a little speech praising the justice and benevolence of King George III. This is what diplomats do when introduced as a new diplomat. But this was King George III, you remember him, the Royal Brute of Britain...



John Jay

The Republican newspapers also carried stories of Jay's social activities with London society. Republican papers said, "see, the British are corrupting this Federalist snob who doesn't have the republican spirit to resist."

The treaty passed in Congress, but only just barely, and to get it passed, Washington had to use up his prestige and reputation to do it. Federalists tried to get it passed in secret, but the Republican papers leaked the terms of the treaty to the public. It was a disaster for the Federalists; Alexander Hamilton was stoned in public the day after the treaty was leaked.

Oddly, Jay's treaty had an unexpected benefit. The negotiations convinced Spain that the United States and Great Britain were close to an alliance. Spain had just signed a treaty with the French Republic

and thus faced a probable war with Britain. They decided that it would be in their best interest to conclude a treaty with the United States to insure that the U.S. would remain neutral in any hostilities between Britain and Spain. In 1795, Spain concluded a treaty with American diplomat Thomas Pinckney. In it they granted every demand that the American government had made on Spain since 1783. The treaty settled a dispute over the boundaries of Florida and Georgia; the Spanish agreed to stop encouraging Indian attacks into the United States from Florida. Most importantly, Spain gave American river vessels the right to navigate the Mississippi River, and to transfer goods at the port of New Orleans duty free. That right was especially important to western farmers who were able to trade their jugs of whiskey and bundles of furs down the Mississippi instead of over the rugged trails through the mountains in the East.

The news of the Jay treaty especially annoyed the French government. James Monroe had been in Paris attempting to renew friendly relations with the French government, but was not having much luck.

In 1797 Charles Pinckney succeeded Monroe as ambassador to France. The French government refused to allow pinkeye to remain on French soil. President Adams, who went into office in March of 1797, finally sent John Marshall and Eldridge Gerry to join Pinckney. The U.S. diplomatic team was ignored for several weeks. Finally three french officials (referred to as 'X, Y and Z in U.S. diplomatic documents) visited the Americans. They said that in order to be recognized by the French government they would have to apologize publicly to France for remarks made by President Adams in Congress, and pay the French government a bribe of \$250,000. When news of the "XYZ Affair" reached the United States, many Americans demanded war. Harbors were fortified, the army was expanded, war ships were built and Washington was recalled to command the army.

During this so-called "Quasi-War with France" in 1798, more than 80 French armed vessels were seized by American privateers and war ships. Neither Adams nor the French government wanted war. A new commission was sent to France. When they reached Paris in 1800, Napoleon was in power. Napoleon and the American diplomats signed a convention which permitted the United States to ignore the Treaty of 1778. It also reopened trade between the two nations.

The XYZ Affair inspired this political cartoon in 1797. The French government is the monster with the dagger, demanding money from the Americans.





Decline of the Federalists

On March 4, 1797 President John Adams (a Federalist) took the oath of office. A few minutes later Thomas Jefferson, a Republican, was sworn in as vice president. A major problem in the constitutional system of choosing the president and vice president had become apparent. When the Electoral College met, each elector cast two votes. The candidate among those who ran for president who received the most electoral votes became president. The candidate who received the second most votes became vice president. It was expected that the electors would choose to vote for a Federalist “ticket.” In fact, many Federalists did not like John Adams, a few southern electors, who didn’t like Adams thought that they could fix the vote to make Thomas Pinkney (the Federalist vice-presidential choice) president. Some of the New England Federalists found out about the plot and hatched a counter plot to push Adams by not writing in a second choice on their ballots. The results were that Adams won by a slim majority, and Thomas Jefferson, Adams’ political rival, found himself in the vice presidency.

Adams was a flinty New Englander. He was impressed with his own virtue and integrity, and expected others to be impressed as well. He had little tact in political and social areas, and came off as haughty and aloof. This was not a good pose to strike in an age of popular opinion. Adams’ own party was not particularly comfortable with him. He also had a tough act to follow, after all, he succeeded George Washington, whose prestige had grown somewhat when he played Cincinnatus by giving up the presidency and returning home to Mt. Vernon. Remember, Adams also had a vice president who was the leader of what, by 1786, could only be called the opposition party. Adams promptly made things worse by keeping Washington’s entire cabinet, all of whom were personally loyal to Alexander



President John Adams

Hamilton, and most of whom despised Adams.

By the end of the Washington presidency the Republicans had gained in popularity over the Federalists. Situations which caused a weakening of the federalists were Hamilton's taxes, the national bank, the whiskey rebellion, and the war with France. During the Adams administration a series of laws were passed by the Federalist congress which made Adams and the Federalist movement even more unpopular. These laws are collectively called the Alien and Sedition Acts. The measures were passed when anti-French feeling was running high (1789). The Federalists said that these laws were passed to unite the country. It was generally understood by the Federalists that the laws would weaken the Republican party and any other group who spoke out against them. The acts were as follows:

1. The Naturalization Act required all aliens to live in the United States for 14 years before they could apply for citizenship.
2. The Alien Act gave the president the authority to expel any aliens that he judged "dangerous to the peace and safety" of the United States.
3. The Alien Enemies Act authorized the president in time of war or invasion, to banish or imprison any aliens considered a danger to the public security.

The Sedition Act provided that United States citizens could be fined or imprisoned without trial if they said or printed anything that was "false, scandalous or malicious" against the government, the Congress, the president, or any other federal elected official. Had these laws been strictly enforced, they would have ended all opposition to the Federalist party. The Naturalization Act went into effect at once and without much opposition. The Alien and Alien Enemies Acts were not strictly enforced, but their very existence was sufficient to drive many French aliens from the country.

Twenty-five Americans were prosecuted under the Sedition Act. All of them were Republicans. Most of them were printers of Republican newspapers. It is important to note that this law was used very selectively. It provided punishment for anyone who maligned *any* elected official. Jefferson was vice president, but no Federalists editors who published scandalous material about Jefferson were ever prosecuted. The Sedition Act clearly interfered with freedom of the press and of speech. Many Americans felt that the acts were unjust and not in keeping with the terms of the Constitution. Many who had feared that a strong central government would infringe on individual liberty felt that their fears were justified by these laws.

The Republicans were furious. They voiced their protest through two of their greatest thinkers, Thomas Jefferson and James Madison. Jefferson prepared the Kentucky Resolution, and Madison wrote the Virginia

This print depicts the first physical fight on the floor of the United States Congress, between Federalist Roger Griswold (1762-1812) and Republican Matthew Lyon (1749-1822) that broke out over the Alien and Sedition Acts. Several Weeks later, Lyon was arrested and imprisoned under the Sedition Act.



Resolution. These two state laws outlined the idea of the states' rights or "compact theory" of the Constitution. The theory included these ideas:

1. The federal government had been created by the states.
2. The federal government was merely an agent for the states, which operated under an agreement (compact) by which the federal government was delegated its authority by the states.
3. The federal government could be criticized and challenged by the state governments if the federal government began to commit unauthorized or unconstitutional acts, or place undue limitations on personal liberties. Finally, in the extreme case, a state might leave the United States if the federal government acted in a manner which ran against the interests of the state or its people.
4. The states, and not the people, had voluntarily entered the Union, so the state governments might leave it if the contract between state and federal government were violated by the latter

The Kentucky and Virginia Resolutions were sent to other state governments, but to the shock of Jefferson, the other state legislatures refused to pass them. Hamilton was especially shocked by the resolutions. The resolutions were important though. They showed the Federalists that their popularity was beginning to wane. The two resolutions would also become important down the road as they would form the basis for the secession of the southern states in 1860-61.

The presidential campaign of 1800 was bitterly contested by the Federalists and the Republicans. The campaigning by both sides brought an unprecedented number of Americans to the polls. Adams carried New England, New Jersey and Delaware, Jefferson carried everything else. Jefferson won with 73 electoral votes to Adams' 65. Since all of the Republican electors had voted for both Jefferson and Burr, the two were tied for votes, so the election went to the House. There, certain Federalists connived with Burr to prevent the

election from going to Jefferson. 36 ballots were required before the presidency finally went to Jefferson and the vice-presidency to Burr. Burr ultimately lost when Hamilton convinced several Federalist Representatives that, while Jefferson was bad, Burr was far worse. Increasing enmity between Hamilton and Burr, caused the two to duel with pistols in 1804. Burr killed Hamilton, and the New York legislature charged Burr with murder. Burr left New York and disappeared into the West. Because of the difficulty and political intrigue that went on at the House vote, the Twelfth Amendment was created that stated that electors had to state separate ballots for president and vice president.

This election marks the end of Federalist control of the executive and legislative branches of the federal government. During the four months between the election and the inauguration of Jefferson, the Federalist Congress passed the Judiciary Act of 1801. The act increased the number of judges in the federal system to 16. Adams began appointing Federalists to these positions. Adams signed the last commissions of appointment just before midnight on Adams' last day in office. For this reason all of them are called the midnight judges. The most significant of Adams' judicial appointments (though he was not one of the "midnight judges") was John Marshall of Virginia. He was a staunch Federalist. He would dominate the Supreme Court as Chief Justice from 1801 to 1835.

