

Monday - 19 -

State Constitution Making

- I. Need to Establish Fundamentality - people had no choice -
- II. Problem of Amending -
- III. Problem of Enumerating Rights -
- IV. Effort to Establish a Mixed-Balanced Government
- V. Separation of Executive from Legislature -

- A. Legislature's Existence
- B. Enumeration of Executive's Power -
- C. Limited Executive's Appointment Power -
- D. Judicial Tenure - Separate from executive.
- E. Systematic Representation - districts in state
- F. Residency Requirement -
- G. Prohibit Plurality - all equal

VI. Establishment of Ideal Terms

- A. Religion and the State
 - 1. Jefferson's Act for Establishing Religious Freedom

B. Relation of State to Property

- 1. property qualification for executive - (10005 prop)
- 2. property qualification to vote
- 3. primogeniture and entail ended where necessary

C. Status of Individual before the Law

- D. Status of Women
- E. Slavery
 - 1. why slavery survived

not in agreement
states effect
long cut 3 years
some fast only 1 yr

Justice of Peace
some elected
by people
not common

Cons. Exec had to much power
districts in state
assembly or legislature
meet - gov could call
sp. legislative
2. enumerate exec

Personnel - among gov
by resolution divided
Cheaper to buy
good as labor supply

general rule to go to population
instead of geographical - had to reside in
district he represented (almost
universal)

The Articles of Confederation

- I. John Dickinson Draft - put together doc 1777 - 1781 redraft
 - A. Unicameral - permanent league of friendship
 - B. Limited U.S. Government Control
 - C. No Executive coin - borrow -
 - D. Taxing Basis
- II. Challenges to It
 - A. Representation
 - B. Taxation
 - C. U.S. Control of the West

legislational goal.
doc under which
similar to act of conf in
civil war.

- 1. states end their western land claims
- 2. Land Ordinance of 1784, 1785, and Northwest Ordinance (1787)

plurality - not one office at a time
no distinct notion of separation of power.

unicameral
1 state - 1 vote

religion of state -
st const did not establish a religion of state +
govt.

mass Congreg -
new England to 1830 - strong to cut churches
most colonies - began to develop because no
dominant church -

Jefferson's act for est. freedom.
should separate church -

not done away with but groundwork
for such a qualification.

2nd Issue - State to Property

Trad notion in Engl Soc. had to have prop
to hold office.

- 70% men owned property,
1. no stake in Society,
 2. "independent if no owning of Property."
- trad. English Concepts -

neither repudiated in st constitutions

property of state
5 states specific had prop qual. for
voting -

tools -

pat N.H. If you paid Taxes -

all tax on "head" or "man"

Primogeniture & entail - If a man dies without -
est to oldest son
people can specify who
inheritance could not go.

The Constitution

I. Three Interpretations

- A. John Fiske (1880s): Economic Chaos *argued - art of conf scraped - 1st govt weak - Interpretation point.*
- B. Charles Beard (1913): Suppressed Conservative Oligarchy
- C. Gordon Wood, Creation of the American Republic, 1776-1787 (1969)

Progressive influence

II. Three Essential Groups

- A. National Financial Group: Robert Morris
 1. Continental Impost
 2. National Commercial Group
- B. National Commercial Group
- C. Diplomatic Group: John Jay

III. Forming the Constitution

- A. The Annapolis Convention, September, 1786
- B. The Delegates and the Convention, May-September, 1787
- C. No Disagreement on Adding Powers to Federal Government

- no contest* 1. taxing powers (Article I, Section 8)
- no contest* 2. commerce clause - *Indians*
- supreme ct. no contest* 3. judiciary branch (Article III) *federal ct system*
- 4. prohibition on states (Article I, Section 10) *one effort tax*
- 5. limits on congressional commercial power (Article I, Section 9)

D. Recast Thinking on Fundamental Points

- 1. that size leads to factionalism
 - a. James Madison's use David's Hume's idea
 - b. Federalist #10 and #51 - multiplicity of groups

E. Problem of Dual State System

- 1. Virginia plan - *nervation - federated state - states would have powers - state powers which would people obey.*
- 2. supreme law of the land clause (Article VI)
 - a. insurrections led by individuals

D. Separation of Powers

- 1. the scheme
- 2. Why a Senate? Federalist #62
- 3. a place act (Article I, Section 2)

IV. Ratification Process (Article VII)

- A. State Conventions Rather Than Legislatures
- B. Isolation of Those Who Opposed Ratification
- C. Good Chance for 9 States
- D. Why it Passed
 1. bill of rights issue
 2. no major interests hurt
 3. force of exclusion

Solving minor problems. Governance of a national govt accomplished. 1st generation of Revolution are considered spec power

art of confederation - 1776 - John Dickinson - key phrase - a permanent league of states. Friendship

1. unicameral govt - each state one vote
2. Fine aspects of power
 - 1 - external relations *law of shipping*
 - 2 - power over issues of sea - shipping
 3. coin money - bc
 - 4 - borrow money
 - 5 - be in trade with Indian
 - 6 - settle disputes bet states
 - 7 - limit boundary claims & create new states

Challenges in 3 point

1. representation in congress
2. small states in congress
3. large states didn't like to pay more tax

And also challenge - national govt would have no power to tax

Independent: state would collect taxes for fed govt. Difficult to get from states. (over) major slave states didn't want but on population Art 5: Tax based on emp. real estate

- 3 - Nat'l govt had control of West -
- 1 - states - sea to sea charters
 - 2 - States had to cede western lands
issue had ratification to 1781.
1st N.Y., Virginia,

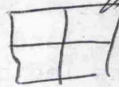
Really not ideological - they were
pragmatic -
central art ratified - 9 names
Virginia had own sec of foreign affairs.

1 - art did create a national govt.

* series of land acts -

1785 (1784) Land Ordinance -
set up a means by which to survey lands
2 6 square miles 1" x 1" = townships
units of Counties - Counties unit of states
1785. buy a section = 3600 acres.

unique to am -
eventually reduced
to 1/4 section.



set aside 4 sections - held by Federal govt &
sold by Fed govt.

min price - \$4 an acre.

one section for public education.

Size of states
from West land
(1787) N.W. ordinance - specified land N of Ohio
never created into no less than 3
nor more than 5 states.

self-govt in territories.

could become 60,000
state when

Pres. appt gov -

people would have territorial legislators
could become states when pop became 60,000.

no slavery N of Ohio road.
first surveying in Ohio.