

Constitutional Topic: Articles of Confederation

The Articles of Confederation was the first attempt at establishing a national government in the New World. It was not entirely successful, which is why the Constitution was established. But it did serve the nation for a decade. So, what are the Articles, what kind of government did they establish, and what was so wrong with them that they had to be replaced? A bit of history may help:

The First Continental Congress was held from September 5 through October 26, 1774, in response to the Intolerable Acts of the King of England, George III. Each of the American colonies except Georgia sent delegates. The delegates created an Association to oppose the British and to boycott British imports. They also adopted resolutions, called the Declaration of Rights and Grievances, outlining the rights of the people and colonies, and agreed to call another Congress if the King did not address their issues to their satisfaction.

The Second Continental Congress convened on May 10, 1775. They were an angry, excited lot. The British Parliament had rejected the declaration sent by the First Congress, and the so-called "shot heard 'round the world" had been fired in Lexington and Concord, Massachusetts the April before. The Second Congress established an armed force, commanded by Virginian George Washington; it established trade regulations; and it authorized the issuance of money. It established ambassadors to be sent forth to other nations to garner support, and urged the colonies to set up organized local governments. It also tried to reconcile with Britain, but when the King sent Hessian mercenaries to the colonies, it was clear the independence was the only solution.

During this time, a very influential document was produced. Common Sense, by Thomas Paine, made very forceful arguments for independence. It railed against the monarchy, calling it illegitimate in its very concept. It also suggested that the House of Lords was a farce and that only the House of Commons could be logically sustained - but that even it was rendered impotent by the monarch. Paine argued for a system of government for what he called the United Colonies: Thirty members of each colony would meet in Congress. One colony would be chosen by lot and one member of that colony would be president of Congress. Each year, another colony would be chosen by lot, and so on, until each colony had held the Presidency one year each. A majority of Congress would be three-fifths and no less. He also

proposed a conference, with representation from the Congress, the state assemblies, and the people, to meet to create a Continental Charter, which would create a constitution. Of utmost importance, he said, would be protection of freedom and property and free exercise of religion. Though the eventual Articles of Confederation had only vague similarities to Paine's Congress, it nonetheless got people talking.

The Second Congress signed the Declaration of Independence in July, 1776, and adjourned on December 12, 1776. The Articles were first proposed by a committee of the Second Congress, a committee headed by John Dickinson, on July 12, 1776.

The Third Continental Congress got underway almost immediately following, on December 20, 1776. This Congress prosecuted the war, and also modified and finalized the Articles of Confederation. On November 15, 1777, the Articles were proposed to the colonies. The Articles originally proposed by Dickinson and his committee were greatly changed before being passed on to the colonies. Originally, for example, the Articles called for a strong central government, a feature the Articles as ratified definitely lacked. The Articles formally changed the designation of the colonies to States.

Because of the war, and disagreements between the colonies, it took three and a half years to get final ratification of the Articles, which had to be ratified by each and every state. Final ratification came on March 1, 1781. The War ended two years later, in April, 1783.

The Articles created a Confederation, called the United States of America. In a confederation, the individual political units, States in this case, maintain their sovereignty (in other words, each is its own nation), but they join together in a coordinated way to deal with certain issues, such as security. This independence of each political unit is seen as both the main advantage and main disadvantage of a confederation. To put it into perspective, many confederations have been tried throughout world history, but none survive today.

Article 1 formally named the confederation.

Article 2 ensures that each state is a free and sovereign state, and establishes that any power not granted the federal government is reserved for the States.

Article 3 establishes a common defense pact, much like present-day NATO.

Article 4 ensures that the citizens of each state are to be treated as a citizen of any state they are visiting; there is to be free travel between states; that no special taxes be levied on the sales of goods to a citizen of another state; established extradition between the states; and established that the decisions of each states' courts would be recognized by all other states.

Article 5 established a Congress. Each state would send between two and seven delegates, and established a three-year term limit for delegates. The delegates from each state had to vote as a block (i.e., one vote per state, regardless of the number of delegates).

Article 6 sets out those powers not available to the states. For example, states shall not have embassies or receive ambassadors; no treaties between states; no standing navies could be kept (except as needed for defense or to protect shipping); and no standing armies, with the same exception; militias are to be kept up, including sufficient stores of materiel; no state may go to war unless attacked.

Article 7 ensures that all officers in the militia placed in national service, at or under the rank of colonel, will be appointed by the state.

Article 8 stipulates that a common treasury will be maintained for the upkeep of a military. Said treasury is to be stocked by payments made by the states, the amount of which will be in proportion to the value of all land and property in the state. Said taxes may be raised by the states in any way they so choose.

Article 9 details the powers of Congress. To make and wage war; to appoint ambassadors; to enter into treaties; to establish maritime courts. The Congress had final authority to settle border disputes between states, or any other inter-state dispute. A complicated method for selecting a panel of judges to hear such disputes is laid forth. The Congress could set the value of coin, but was not able to strike it. It could regulate trade with Indian tribes, and could set post offices and charge postage. It could appoint officers to the army and navy, and set the rules for those forces.

A committee, called the Committee of the States, was built to sit whenever the full Congress was in recess, with one delegate from each state. A President of the Congress was to be chosen, to run the debates (with a one-year term). It could borrow and raise money, with a full accounting of all such monies sent to the states every half-year. Affirmative votes of nine states were required for most Congressional action, including the borrowing of money, declaring war, raising taxes, etc.

Article 10 is a bit complicated - grants the Committee of States the same power as the full Congress to decide those issues Congress has said the Committee could decide; no power not delegated to the Committee can be decided by the Committee, but that no decision requiring the affirmation of nine states may be decided by the Committee.

Article 11 invites Canada to join the United States and provides for other states to be admitted.

Article 12 commits the United States to pay all debts incurred by the colonies prior to the establishment of the Articles.

Article 13 establishes the Articles as the supreme law of the land, and provides for amendment upon ratification of changes by all member states.

The Articles had several things wrong with them. Some are readily apparent, and some took a while to come to bear. The first thing that strikes you when you first read the Articles was the specific number, nine, mentioned in several places, as a minimum required to agree to things like the declaration of war or the admission of new states. As soon as one new state was added, that "nine" would no longer be the two-thirds it was intended to be, and to correct each instance would require the assent of all 13, 14, or whatever number of states. There is another apparent gaffe - the requirement that all changes to the Articles must be unanimous. Several attempts to change the Articles prior to the adoption of the Constitution had been held up by one state's refusal to ratify.

The United States had no independent power of taxation, relying on the good faith of the states to pay bills sent to them for the maintenance of the national treasury. In several instances, such notices were ignored, and since the national government had no power of enforcement, there was little that could be done about the defaults.

The new nation was unable to repel the encroachments of the British on the borders set by the Treaty of Paris, because the states would not pay the requested taxes. The Spanish similarly encroached unfettered on the southern borders of the United States.

The United States also had no power to regulate commerce between and among the states, leading to bitter tariff wars between them. This type of infighting did not help alleviate the economic depression that set in after the war ended.

In January 1786, Virginia called for a meeting of the states at Annapolis to discuss the modification of the Articles. Only five states sent delegates. Disappointed, those who did assemble called for another meeting the following May. In the meantime, a popular uprising in Massachusetts, led by bankrupt farmer Daniel Shays, had started, and the United States found it had little power to put down the uprising. For six months, Shays and his rebels terrorized the Massachusetts countryside. His forces were finally broken up when they marched on a federal weapons depot. The slow reaction of U.S. forces led to Congress's endorsement of the May convention suggested earlier. The result of that convention was the U.S. Constitution.

The following is a list of those men who were elected President of Congress while the United States operated under the Articles:

- Samuel Huntington (Mar 2 1781 - Jul 6 1781)
- Thomas McKean (Jul 7 1781 - Nov 4 1781)
- John Hanson (Nov 5 1781 - Nov 3 1782)
- Elias Boudinot (Nov 4 1782 - Nov 2 1783)
- Thomas Mifflin (Nov 3 1783 - Nov 29 1784)
- Richard Henry Lee (Nov 30 1784 - Nov 22 1785)
- John Hancock (Nov 23 1785 - Jun 5 1786)
- Nathaniel Gorham (Jun 6 1786 - Feb 1 1787)
- Arthur St. Clair (Feb 2 1787 - Jan 21 1788)
- Cyrus Griffin (Jan 22 1788 - Apr 30 1789)

Note: Huntington was the President of the Continental Congress when it recognized the ratification of the Articles and converted to the Confederation Congress. Huntington resigned due to ill health, and McKean was selected to replace him. Hanson was the first person specifically elected to the position after ratification.