

## Defects of the Articles of Confederation, Part 1

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**Synopsis:** This is the first in an occasional series of essays describing the defects of the Articles of Confederation under which the American states organized themselves during the Revolutionary War until the adoption of the Constitution in 1788. Before addressing the defects of the Confederation that led to the need for a more direct union, this first essay will provide the historical background for the development of the Articles.

It must be recalled that the Revolution of the American colonies against the British was not the result of some grand conspiracy. The main source of irritation between the colonies and the mother country was a series of Acts of Parliament that constituted undue interference in the colonies' traditional rights of self-government. Among the offenses were alteration of the colonial charters, in which land grants were withdrawn and sold again; the imposition of taxes without consulting the colonies; the gradual usurpation of the rights of the colonists to elect their own government; and the intensification of economic burdens designed to benefit England at the expense of the colonies. All of these were more or less the consequence of King George III's desire to rule both England and the colonies as a personal autocracy. But even in the early 1770's, many people in the colonies preferred to remain Englishmen, hoping that they could somehow reach a compromise with Great Britain. Only when the British crown sought to make Massachusetts an example by imposing severe constraints on her in 1775 did the colonies awake to the fact that Parliament would not retract any of their excesses.

The colonies were not closely aligned politically during the immediate pre-war period. There had never been any desire on the part of any of the colonies to form associations or leagues; all were content to operate as independently of each other as possible as direct subordinates to the crown. But when the British Parliament began to impose repressive measures, some of the colonists saw a need to act together to seek remedies. They appointed a Congress of delegates from the several colonies to meet in May 1774; its purpose was to defend the rights of the colonies. It was not entirely clear how to get Parliament's attention; and Congress as such had no real authority to do much anyway. The main result of this first Congress was a debate on the legitimate powers held by Parliament, in view of the colonial charters and the traditional rights as Englishmen. A break with England was not seriously considered yet. It published a petition calling on Parliament to repeal all the offensive laws passed since 1763. Suffice to say, it was summarily ignored by Parliament.

By the fall of 1774, the abuses by Parliament against Massachusetts led to the people beginning to reject the powers of the crown outright; this tension promoted by some in America who saw that the Americans were ripe for independence, and by the British, who desired to bring each of the colonies under direct rule by the king. Eventually the British attempted to end the dispute by arresting leaders of the independence movement; this led to the battles at Lexington and Concord in April 1775. There was now no going back; the issue of Parliament's powers, and if they were to have any over the colonies, would be decided by force.

The Second Continental Congress convened in May 1775. Its charter was to do what was necessary and proper to convince Parliament to undo its abuses. But with the battle of Bunker and Breed's Hill in June, the assembly of a large number of militiamen around Boston to threaten the British army there, the establishment of new governments in Massachusetts and New Hampshire, and the expansion of fighting throughout the northeast, Congress became a de facto revolutionary government. Having gained the confidence of the people, it simply assumed command of the shooting war, appointing Washington as commander, issuing currency on its own credit, and generally organizing the war effort. The Americans launched an invasion of Canada in August 1775, and the British responded militarily in earnest in October of 1775. A formal break with Great Britain was now inevitable, and was announced by the Declaration of Independence on July 4th, 1776.

Congress assumed the powers of a government without any particular authorization outside of the military emergency. Because the delegates could not agree on the relative weighting by population or wealth, or any other method of apportioning votes, it adopted by default a purely federal system in which each former colony, referring to themselves now as states, had one vote. Congress appointed a committee on 10 Jun 1776 to devise a permanent government for the thirteen states; it reported out a draft of the Articles of Confederation on 12 Jul 1776. The Articles were debated from 12 Jul 1776 to 20 Aug 1776 and again from 8 Apr 1777 until their form was agreed to on 15 Nov 1777, which is to say, it was suitable to send to the states for ratification. On 9 Jul 1778, delegates from eight states ratified the Articles (Connecticut, New Hampshire, Rhode Island, Massachusetts, New York, Pennsylvania, Virginia, and South Carolina). North Carolina followed suit on 21 Jul 1778, Georgia on 24 Jul 1778; New Jersey on 26 Nov 1778, Delaware on 5 May 1779, and Maryland on 1 Mar 1781. The Articles required that all thirteen states ratify it before it could go into effect; hence Congress did not convene under the powers granted by the Articles until 2 Mar 1781.

The main features of the Articles, which we will examine more closely, were:

- a. Congress was the only instrument of the federation. It was to convene on the first Monday in November and continue for a period not longer than six months. When it adjourned, the government was maintained by an executive committee consisting of one delegate from each state. Congress elected a President, who was only the nominal leader of Congress, and had the same powers as any other delegate. Congress published a monthly journal of its proceedings.
- b. Each state was allowed to send between two and seven delegates, but since it was a confederation of states, each state had a single vote. The delegates were paid by their respective states, not out of a federal treasury. Instead of administrative departments, the various functions were allocated to committees. This proved to be inefficient, and later on some functions were allocated to individuals in the interest of expediency.
- c. Congress was granted the following powers: a) to borrow money; b) to appropriate requisitions of money, men, and equipment from each of the states, but could not raise revenue on its own; c) to resolve issues between the states; d) to enact treaties with foreign powers; e) to establish an army and navy; and f) to issue a currency as an obligation to repay loans. Congress had the power to establish requisitions from the states based on the proportional value of real estate in each state. The states were then free to raise the requisition by taxing their own citizens.
- d. Concurrence of two-thirds of the states was required for any of the following actions: a) to engage in war; b) to make treaties; c) to coin money; d) to borrow or appropriate money; e) to assign quotas of revenue to the states; and f) to appoint commanders of the army.
- e. The states were required to grant every freeman the same rights and privileges. Every state was compelled to recognize the records and acts of every other state, and obligated to extradite persons found in their state who were wanted on criminal charges in another state. Otherwise, all the other powers were left to the states with the following prohibitions: a) a state could not maintain an army or a navy, except for the militia; b) a state could not enter into treaties with foreign nations; c) a state could not form alliances with any of the other states without the consent of Congress; and d) each state was prohibited from entering into any other wars except against the Indians.
- f. The Articles could be amended only by concurrence of all member states.

The succeeding essays will review how these provisions worked in practice at the return of peace.