

THE CONFEDERATION PERIOD AND THE CONSTITUTION OF 1789

The confederation government had almost no power over the original 13 states. In order to attempt to increase its influence the government moved its attention to the lands west of the Appalachian Mountains.

EARLY PROVISIONS FOR GOVERNMENT IN THE WEST

The cession of the lands and the surrender of authority by the states in the Northwest was neither complete nor final in 1781 when they supposedly acceded to the demands of Maryland. Confusion was caused by the attempts at self-government by the settlers of the west. Virginia continued to try to exert control over Kentucky and North Carolina considered Tennessee one of her counties.

In 1784, Congress made important decisions regarding the Western territory. It was decided the territory would be split into ten districts, which would eventually become states equal to any of the original 13.

LAND ORDINANCE OF 1785

The Ordinance of 1785 provided for: 1) the survey of the public domain into townships six square miles, which, in turn, would be subdivided into sections one mile square (640 acres). 2) The sections were to be sold at auction at the minimum price of \$1.00 an acre. The minimum sale of 640 acres favored land speculators since only they had such a large sum of cash—the Act did not provide for the sales on credit. The Act set the pattern for subsequent surveying of public lands.

THE ORDINANCE OF 1787

Finding the 1784 decision of ten new states unacceptable, Congress passed this Act, which provided for: 1) that the area north of and west of the Ohio River would be divided into at least three, but not more than five, territories. 2) Territories would go through three successive stages of government as the population increased. In the first stage the unorganized territory, completely subject to Congress, would be governed by appointed officials. In the second stage the inhabitants could, after reaching 5,000 persons, organize the territory, elect a two-house territorial legislature, and send a delegate to Congress. In the third stage, after attaining a population of 60,000, the territory could draft a constitution and apply for statehood as a state. This ordinance set a precedent for the organization of territorial government and the admission of states throughout the entire West as new territories were acquired.

THE NORTHWEST POSTS

The Treaty of Paris required the British to surrender their posts in the Northwest territory to the Americans, something they refused to do. Formally, the British were holding the posts until the United States executed other provisions of the treaty (Canada claims); actually, they wished to retain control of the fur trade and the Native Americans in the area. The British were using the Indians to attack American settlers in the West hoping to pin the United States to the Eastern coast.

COMMERCIAL PROBLEMS

Interruption of American foreign trade by independence brought depression, but the Confederation, without control over custom duties, lacked the bargaining power to win trading privileges. England was dumping large amounts of product into the new country and not allowing the United States to trade in many areas of the British Empire. The goal was to bankrupt the United States and force them back into the British Empire.

The Confederation had no power to stop this because the states were unwilling to abide by the trade treaties the Congress was able to negotiate.

FINANCIAL PROBLEMS

Having no power of taxation, Congress requisitioned contributions from the states, but they often failed to meet their payments. The national government could not pay interest on the heavy war debt nor could it meet current expenses. Insufficient funds were provided by the sale of the western lands. States refused to amend the constitution to permit Congress to levy tariffs for revenue.

Many leaders in the country began to see the need for a stronger central government. A series of meetings in 1785-6, ending with the Annapolis convention, gave many of the leaders a chance to voice concerns they were having with the Articles. The Annapolis meeting sent a resolution to Congress urging a general convention to amend the Articles of Confederation and make them stronger.

During the winter of 1786-1787, the leaders calling for a stronger government got plenty of justification for their cause. Daniel Shays, a Massachusetts veteran, led a popular effort to prevent the courts from collecting the debt of farmers. The farmers were upset because they were unable to vote in the area because of the high poll tax. Unable to change the system they thought was unfair, they decided rebellion was their only solution.

While the rebellion was only short lived, reports of the incident were greatly exaggerated especially to Washington and Franklin. Many were afraid anarchy was about to overcome the United States. These fears were able to help persuade Congress to approve, in February 1787, the call for a Philadelphia convention to amend the Articles.

THE CONSTITUTION CONVENTION

The confederation Congress approved the call for a convention, fixing the May 14, 1787 in Philadelphia for the meeting. When the delegates met, they decide to deliberate in secret and draw up a completely new frame of union, not just propose amendments. (Madison's plan of government.)

LEADERSHIP

Although Alexander Hamilton of New York had originally been very involved in organizing the meeting, he played only a minor role in it. James Madison of Virginia presented a plan that gave the larger states the predominant share of power. All of the debate then centered on this plan and although very little of it remained, it gave the convention the structure on which to debate.

The presence of George Washington and Benjamin Franklin, with the popular favor they carried with them, helped to legitimize the meeting; Washington as president of the meeting was especially significant. Patrick Henry and a number of other state leaders (Sam Adams) stayed away because they distrusted strong government. John Adams and Thomas Jefferson were both abroad (London and Paris respectively), representing the United States as diplomats.

COMPROMISES OF THE CONVENTION

REPRESENTATION IN CONGRESS

When the small states compelled Madison to abandon his plan for strictly proportional voting in Congress based on state population, the "Great Compromise" was effected where the states would be represented proportionally in the House of Representatives, which would also initiate any tax bills. The Senate would consist of two persons from each state elected by the state legislatures and would have significant powers in appointments and foreign affairs.

Since the North and South disagreed on how slaves would be counted to determine representation and taxes, it was resolved that every five slaves would count for three persons in determining both. In exchange, for this the smaller states in the North reserved the right to determine voting privileges.

COMMERCE AND OTHER POWERS

The North and the South disagreed also over the power of Congress over commerce. The southern states agreed to federal control over foreign and interstate commerce. The question of slave importation was compromised by allowing it to continue for 20 years more (until 1808). The debate over tariffs was settled by permitting the federal government to collect import duties but not export duties.

It was decided early that then national government would be one of “enumerated powers,” that is, all powers not granted the central government were reserved to the states or to the people. among the powers listed were those of borrowing money, declaring war, maintaining military forces, establishing postal services, and making laws necessary to carry out these delegated powers (elastic clause). The supremacy clause states that the laws of the federal government override any state law over this issue.

THE EXECUTIVE

It was decided there would be a single executive called the president who would chosen for a term of four years but might be reelected. Distrust influenced the decision that the president should not be elected by the people or by Congress. The result was an electoral college to be made up of electors from each state, equal in number to a state’s senators and representatives.

The Confederation government had shown the need for a strong executive; the president was granted large powers (Washington’s influence). He 1) was to execute laws passed by Congress; 2) could call Congress into session and veto acts of Congress subject to having such veto overridden by a two-thirds vote of both houses; 3) could make treaties with the “advice and consent” of two-thirds of the Senators present; 4) was made commander-in-chief of the army and navy; 5) and was given extensive power of appointing officials.

THE JUDICIARY

There was little debate on the judiciary. Congress was to establish a Supreme Court and lower courts as it saw fit. The president would appoint judges with the consent of the senate for a life term. No real power was given to the courts in the Constitution except it was to make sure Congress and the President did not overstep the power given to them.

AMENDING THE CONSTITUTION

Provisions were made for amending the Constitution. Amendments may be proposed by a two-thirds vote of both houses of Congress or by a vote of two-thirds of the state legislatures. Ratification of amendments is done by three-fourths of the states in either their legislatures or by special convention.

RATIFICATION OF THE CONSTITUTION

It was provided within the constitution that it would go into effect as soon as nine state conventions approved it. There was a good bit of opposition to the Constitution and those favoring it had to work vigorously to get it approved.

THE ANTI-FEDERALISTS

Arguments against ratification were that the 1) Constitution had been secretly written by representatives of the well-to-do; 2) the delegates had exceeded their powers in writing an entire new instrument; 3) there was no “bill of rights” to protect the citizens against a too strong central government; 4) the powers of the states had been too sharply curtailed.

The Anti-Federalists included back country farmers, debtors, sectionalists, and those like Sam Adams and Patrick Henry who feared any strong government. Many of the poor feared the powers of taxation of the central government and disliked the prohibition of paper money issues by the states.

THE FEDERALISTS

Some, who were convinced that the United States needed a stronger frame of union to survive both the differences of the states as well as the challenges of foreign governments not basically friendly to the new republic. Merchants, trading abroad, farmers interested in the export market, and those with an interest in foreign trade were the major economic interests to vote yes. Federalist spokesmen put the Constitution forward as a reasonable and safe answer to the problems of the Confederation, an answer that could be amended to correct defects that soon became apparent, such as a bill of rights.

By July 1788, nine states had ratified the Constitution, but the two largest states, New York and Virginia, had yet approved. For these two critical states Hamilton, Madison and John Jay wrote articles in support of adoption. Later these articles were published as *The Federalist*, the greatest classic in the literature of American political theory. When Virginia ratified, New York soon followed her. North Carolina ratified after the adoption of the Bill of Rights. Last of all (1790), Rhode Island ratified after being threatened with an economic boycott by the United States Congress.