

During the midst of the War for Independence the Founding Fathers not only sought to break away from the British Empire, but to also establish a government that would secure liberty and freedom in America. The Articles of Confederation were created to protect the fledgling states from foreign aggression. After gaining independence from Britain, a group of Founding Fathers believed that the Articles of Confederation did not create the centralized national government that they desired. In 1787 a convention was held in Philadelphia and the end result was the endorsement of replacing the Articles of Confederation with the Constitution of the United States. After months of debate between the Anti-Federalists and the Federalists, the states adopted the Constitution. This resulted in a usurpation of state power and set the stage for the United States to become a strong statist government and world super power.

The Articles of Confederation created a confederacy of states that banded together for mutual protection against aggression of any foreign power. John Dickinson was the primary author of the Articles of Confederation which were written between 1776 and 1777 and finally adopted in 1781. The purpose of the Articles was to create a defensive alliance among the states for mutual protection. There was no intent at the time to create a centralized national government, especially when the Founding Fathers were doing their utmost to secede from a centralized national government in the British Empire. The Articles of Confederation contained, fittingly, 13 articles, the second of which states, "Each State, retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation, expressly delegated to the United States, in Congress assembled."¹ The Continental Congress was the only branch in this system. There was no executive branch or judicial branch because each state had its own governor and court system. Each state could send many multiple delegates to the Congress, but each state only had one vote. The Congress was very limited in its power. It could: make war and peace, raise and equip a navy, maintain an army, enter into treaties, send and receive ambassadors, and borrow money. Under the Articles of Confederation Congress could not raise taxes or pass legislation that would directly affect individual Americans. The Treaty of Paris of 1783, Land Ordinance of 1785, and Northwest Ordinance of 1787 were all products of Confederation period.

A convention was held in 1787 in order to replace the Articles of Confederation with a centralized national governmental system. After the War for Independence was over the United States began to operate under the principles laid out in the Declaration of Independence, individual state constitutions, and the Articles of Confederation. Challenges such as inflation, indebtedness to other countries, and economic upheaval continued to plague the states. A rebellion broke out in Massachusetts in 1786-1787 over farm foreclosures. Statists among the Founding Fathers were dissatisfied with the lack of a centralized national government for the United States. Alexander Hamilton believed that the United States should adopt many aspects of the British political model. James Madison believed that disputes among the states and other issues should be decided on a national level. Criticisms of the Articles of Confederation began to circulate among the nationalists. Shays Rebellion, inflation, trade disputes among states, paying off the debts of the states were all issues used by nationalists to promote their agenda in creating a new government that would centralize power on a national level. Even though Massachusetts dealt with the rebellion, some states had paid off their debts, economic problems were running their course, and states were learning how to get along with one another some of the Founding Fathers, without patiently giving the Articles of Confederation a chance, sought to exploit these crises in order to advance their nationalist political agenda.

Calls for a convention to amend the articles ensued. The Annapolis Convention was held in 1786 and due to insufficient attendance another convention was called to be held in 1787 at Philadelphia. Delegates from the states were invited to attend the sealed convention "for the sole and express purpose of revising the Articles" all the while the organizers of the convention fully intended on abolishing the Articles of Confederation altogether.² James Madison wrote and promoted the Virginia Plan which eventually became the structure on which the Constitution was created. The convention that was simply to amend the articles soon became a "runaway" convention and turned its focus on creating a new form of government. A key component of this new government is the notion of federalism: the sharing of powers between the state and federal governments. John Adams criticized the notion of federalism as noted by historian Gordon Wood "'Federal,' he said, was an 'improper Word' to describe it. Sovereignty, 'the Summa imperil,' he had learned from both history and experience," was "indivisible." Sovereignty, he said, could not be divided or shared. He knew from the experience of the imperial debate with Britain in the 1760s and 1770s "that imperium in imperio is a solecism, a contradiction in terms" and that the final supreme lawmaking power in government had to be located in either the national or the state governments, but not in both."³

After much debate the Articles of Confederation were to be abolished and the Constitution of the United States was to become the law of the land. Even though the signers of the Constitution affixed their signatures to that political document, it would not have the force of law until nine of the thirteen states ratified it as outlined in Article 7.

The contest for ratification was a political crossroads that resulted in the creation of a centralized national government and eventually a world super power. Ardent patriots and lovers of liberty were shocked when news reached the states as to what the Constitutional Convention had accomplished. Not only had the Convention abolished the Articles of Confederation, it created a centralized national government. James Madison, Alexander Hamilton, and John Jay published articles in local newspapers, later to be called *The Federalist Papers*, in an attempt to explain the Constitution and convince ratifying committees in each state to adopt it. Factions began to emerge during this ratification period. Anti-federalists sought to retain state sovereignty as afforded by the Articles of Confederation while Federalists sought to abolish the Articles of Confederation and replace it with the Constitution. George Mason, Patrick Henry, and Richard Henry Lee were among the leaders of the Anti-federalists and sought to preserve the Articles of Confederation and opposed the adoption of the Constitution. Many of the arguments made by Anti-Federalists proved to be very prophetic and their points can easily be applied to our current political situation as a witness of their coming to pass.

¹ *Articles of Confederation*, 1781.

² Carson, Clarence B., *A Basic History of the United States Volume Two: The Beginning of the Republic 1775-1825* (Pheonix City, AL: American Textbook Committee, 1984), 91.

³ Wood, Gordon S., *Revolutionary Characters* (New York: Penguin Books, 2006), 191.

Gilbert Livingston in Anti-Federalist No. 65 stated:

“What will be their situation in a federal town? Hallowed ground! Nothing so unclean as state laws to enter there, surrounded, as they will be, by an impenetrable wall of adamant and gold, the wealth of the whole country flowing into it. ... Their attention to their various business will probably require their constant attendance. In this Eden will they reside with their families, distant from the observation of the people. In such a situation, men are apt to forget their dependence, lose their sympathy, and contract selfish habits.”⁴

Robert Yates in Anti-Federalist No. 33 stated:

“This power [taxation], exercised without limitation, will introduce itself into every corner of the city, and country—It will wait upon the ladies at their toilette, and will not leave them in any of their domestic concerns; ...it will take cognizance of the professional man in his office, or his study; it will watch the merchant in the counting-house, or in his store; it will follow the mechanic to his shop, and in his work, and will haunt him in his family, and in his bed; it will be a constant companion of the industrious farmer in all his labour, it will be with him in the house, and in the field, observe the toil of his hands, and the sweat of his brow; it will penetrate into the most obscure cottage; and finally, it will light upon the head of every person in the United States. To all these different classes of people, and in all these circumstances, in which it will attend them, the language in which it will address them, will be GIVE! GIVE!”⁵

An anti-federalist using the pen name The Old Whig stated in Anti-Federalist No. 70:

“In the first place the office of president of the United States appears to me to be clothed with such powers as are dangerous. To be the fountain of all honors in the United States—commander in chief of the army, navy, and militia; with the power of making treaties and of granting pardons; and to be vested with an authority to put a negative upon all laws, unless two thirds of both houses shall persist in enacting it, and put their names down upon calling the yeas and nays for that purpose—is in reality to be a king, as much a king as the king of Great Britain, and a king too of the worst kind: an elective king.”⁶

Despite the efforts of the Anti-Federalist to preserve the Articles of Confederation, the Federalists persuaded the states to adopt the Constitution and it was formally adopted on June 21, 1788 with New Hampshire becoming the required ninth state. The adoption of the Constitution demarcated a major shift of political power from the states to the newly created federal government and state sovereignty had radically been diminished. Although assurances were given by the Federalists that the powers given to the federal government were “few and defined” and were strictly limited to the Constitution, the catalyst for an ever expanding federal government had begun which resulted in the United States becoming not only a super power, but an empire to be feared by the rest of the world.⁷

The War for Independence had been won and the political assurance of preserving liberty and freedom was encapsulated in the Articles of Confederation, the crowning political achievement of the Continental Congress. Shortly thereafter, through the efforts of cunning political nationalists, the Articles of Confederation were replaced by the Constitution which created a powerful centralized government that culminated in a dominant world superpower in the late 20th and early 21st centuries. The efforts to establish a land of limited government where freedom and liberty could flourish was supplanted by a federal government that overpowered the states and over time became an empire. The political nationalists of the Constitutional Convention, distrustful of the individualism and sovereignty of the states, took the hard won liberties of the era of independence and tragically replaced them with a political system that will evolve the United States into one of the most powerful and controlling forces in the history of the world.

The following hypothetical warrants contemplation: how would the history of the United States be different today had the Founding Fathers been patient enough to stick with the Articles of Confederation? Surely there would have been challenges and there may even have been tension between states from time to time, but many national issues that we deal with today would be taken care of on a state level. Consider the following: There would be no Supreme Court decisions imposed on the entire nation, there would be no Imperial President to issue dictates on the American people, *defensive wars* would be fought to protect the states from foreign aggression, rights of individual citizen would not be infringed upon by a growing federal bureaucracy, states would compete amongst themselves with fifty different political laboratories and citizens could easily vote with their feet and move to the one that suits them most. Issues such as welfare, healthcare, environment, energy, economy, etc. would all be taken care of on a state level. Imagine such a place where each state was able to run its own affairs and in the market place of ideas in political experimentation the best policies would rise to the top and people would flock by the thousands to make their home in the state that best suits them. Instead of imposing regulations, policies, and dictates on a national level on 310 million Americans by a busy-body federal government, there would be a greater environment for liberty and freedom to be found among the states.

The political ideology that motivated Americans to separate from the British Empire and to create a civilization based on freedom and liberty was commandeered by statist led by Alexander Hamilton and James Madison who tragically transformed the United States from a land of liberty into an empire that would someday surpass the power and might of the British Empire. The hero thus became the villain. For all the praise heaped on the Constitution for preserving rights, let us not forget the more liberty oriented document that our nation was founded upon: the Articles of Confederation.

⁴ Gilbert Livingston, Anti-Federalist No. 65, "On the Organization and Powers of the Senate (Part IV)," New York Ratifying Convention, June 24, 1788.

⁵ Robert Yates (Brutus), Anti-Federalist Paper No. 33, "Federal Taxation and the Doctrine of Implied Powers (Part II)," New York Journal, December 27, 1787

⁶ An Old Whig, Anti-Federalist No. 70, "The Powers and Dangerous Potentials of His Elected Majesty," New York Journal, December 11, 1787.

⁷ Hamilton, Alexander, Madison, James, and Jay, John, *The Federalist Papers* (New York: Signet Classic, 2003), 289.