



ARTICLES OF CONFEDERATION

ARTICLES OF CONDEDERATION: DELIBERATIONS IN CONGRESS

TIME AND GRADE LEVEL

One 45 or 50 minute class period in a **Grade 9-12** US history, civics, or government course.

PURPOSE AND CRITICAL ENGAGEMENT QUESTIONS

History is the chronicle of choices made by actors/agents/protagonists in specific contexts. This simulation places students on the floor of the Continental Congress as delegates to specific states in the summer of 1776. Student delegates are asked to represent the interests of their constituents as they debate contentious provisions of John Dickinson's draft for articles of confederation. By doing so, they will experience how interests as well as philosophy drove the debates over our nation's initial constitution. They will also encounter the overarching question faced by all political actors: when to sacrifice particular interests for the good of the whole?

LESSON OBJECTIVES

- Students will be able to cite key differences between the Franklin and Dickinson drafts for articles of confederation.
- Students will be able to show how the debate over representation in Congress, which would trouble framers of the Constitution eleven years later, played out in this opening foray into constitution-making.
- Students will be able to explain how slavery pitted the South against the North—should slaves be counted when computing how much each state must contribute to the national treasury? Students will also surmise the irony. In 1787, when determining representation in Congress, the South would argue that slaves should be counted, but in 1776, when determining how much each state should pay to Congress, southerners had argued that slaves *not* be counted. Northerners would also reverse their position.
- Students will be able to explain the division between states that had claims to the West and those that had no such claims. Should Congress assume exclusive control of the West, forcing states to cede their existing claims?
- Students will be able to explain that because the Articles required unanimous approval, each state would have to give ground on one or more of these divisive issues for the plan to take effect.

OVERVIEW OF THE LESSON

Prefatory homework:

Handout A: Dickinson Draft.

In class:

1. Homework review and discussion: 10-15 minutes
2. Presentation: State interests. 5 minutes
3. Class convenes as Congress to debate Dickinson's draft: 20-25 minutes
4. Presentation of historical outcome: 5-10 minutes

Summary Homework / Extended Activities

MATERIALS

Background Handout:

- A. Dickinson Draft

Classroom Handouts

- B. State Interests: Population, Slavery, and Western Claims
- C. Articles of Confederation: Key Passages. (This is also Handout A for the following lesson.)

PREFATORY HOMEWORK

Handout A: Dickinson Draft. Go over instructions on that sheet.

CLASS ACTIVITIES: 45-50 MINUTES

1. HOMEWORK REVIEW AND DISCUSSION: 10-15 minutes

Discuss the variations between the Franklin and Dickinson drafts. Who might gain or lose by each of the contentious provisions?

2. PRESENTATION: STATE INTERESTS: 5 minutes

Distribute Handout B, **State Interests: Population, Slavery, and Western Claims**. Assign students to be delegates in Congress from each of the six states listed.

3. CLASS CONVENES AS CONGRESS TO DEBATE DICKINSON'S DRAFT: 20-25 minutes

In the previous lesson, student delegates to Congress discussed what was best for the nation as a whole. This time student delegates—like historical delegates—represent the interests of their constituents, mustering rational arguments on behalf of those interests. After debating three

contentious issues—funding Congress, voting in Congress, and Western claims—students confront the requirement of unanimity for ratification and amendments. Can Congress really expect all states to sign on, even those that did not get their way on key issues?

4. PRESENTATION OF HISTORICAL OUTCOME: 5-10 minutes

To conclude this lesson and prepare for the third and final lesson in this unit, distribute Handout C: **Final Articles of Confederation—Key Passages**. Introduce this briefly and go over the instructions on that sheet.

SUMMARY HOMEWORK / EXTENDED ACTIVITIES

1. Compare the powers granted to Congress in [Franklin's proposed Articles of Confederation](#), the [final Articles of Confederation](#), and the [United States Constitution](#). Which powers are unique to the U. S. Constitution? Why do you think they were added?

2.
 - a. Find on the Internet some maps of colonial North America that indicate the extent of western claims for each colony.
 - b. Research which Native people actually lived in those lands at the time and what other European nation(s) staked out interests to those lands.
 - c. Research any of the land companies that received land grants or were seeking land grants from the British colonies.
 - d. Present a summation of this soupy mix of claims. How real or imagined was “ownership” of western lands?

3.
 - a. Research the arguments for and against counting slaves when computing how much each state should contribute to the federal treasury during debates over the Articles of Confederation in 1776. These can be found in [John Adams's notes on the debates in Congress for July 30](#).
 - b. Research the resurgence of this debate seven years later, which is documented in the [Journals of the Continental Congress for April 1, 1783](#). Again, the North wanted to count slaves while the South did not. Note the settlement of this dispute: Each enslaved person would count as three-fifths of a free person when computing payments owed to Congress.
 - c. Research the debate at the Constitutional Convention in 1787 over whether slaves should count when computing representatives in Congress, which is documented in [Madison's Notes of Debates for July 11](#). Note that this time, each side reversed its position—the South argued for counting slaves while the North argued against counting them. The only constant was the resolution: the infamous three-fifths compromise, a holdover from 1783.
 - d. Put this all together in an essay or an oral report.

Handout A. Dickinson Draft

Congress's committee "to prepare and digest the form of a confederation" asked John Dickinson to prepare a draft. With few alterations, the committee presented Dickinson's proposal to Congress on July 12, 1776. (The complete draft is viewable in the [Journals of the Continental Congress](#) for that date.) Dickinson adopted much of Franklin's work, but he added several lengthy provisions, including a much more extensive list of powers granted to Congress. He also made significant changes:

FUNDING CONGRESS: States would pay Congress in proportion to their total population, including slaves. (Franklin had counted only "polls," residents eligible to vote.) Northern delegates wanted to count slaves, since all workers, even if enslaved, contribute to the wealth of a state, while Southern delegates argued that if slaves were counted, why not horses and work animals, which also contribute to wealth? Eleven years later, when determining representation in Congress at the Constitutional Convention, each side would reverse its position—the South would argue to count slaves, while the North would say don't count them.

Dickinson's provision: "*Art. XI. All Charges of Wars and all other Expences that shall be incurred for the common Defence, or general Welfare, and allowed by the United States in General Congress assembled, shall be defrayed out of a common Treasury, which shall be supplied by the several Colonies in Proportion to the Number of Inhabitants of every Age, Sex and Quality, except Indians not paying Taxes, in each Colony. ['Quality' meant free or enslaved.] ... The Taxes for paying that Proportion shall be laid and levied by the Authority and Direction of the Legislatures of the several Colonies, within the Time agreed upon by United States assembled [Congress].*"

VOTING IN CONGRESS: Each state, whether large or small, would have one vote in Congress. (Franklin called for proportional representation, giving larger states more of a say.) Dickinson's provision: "*Art. XVII. In determining Questions in Congress each Colony shall have one Vote.*" [Dickinson penned this before the vote for independence on July 2, when each "colony" would become a "state."]

POWER OF CONGRESS OVER WESTWARD CLAIMS: Congress could control westward expansion by limiting the existing claims of states. The boundaries of Maryland, Pennsylvania, Delaware, New Jersey, and Rhode Island had been set by their charters; the others laid sweeping claims to the west, either to the Mississippi River or to the Pacific Ocean. Dickinson's provision, under powers of Congress: "*Limiting the Bounds of those Colonies, which by Charter or Proclamation, or under any Pretense, are said to extend to the South Sea [Pacific Ocean], and ascertaining those Bounds of any other Colony that appear to be indeterminate.*"

RATIFICATION AND AMENDMENTS: The Articles of Confederation would require ratification from all state legislatures, as would any amendments. (Franklin required only a bare majority.) Dickinson's provision: "*These Articles shall be proposed to the Legislatures of all the United Colonies, to be by them considered, and if approved by them, they are advised to authorize their Delegates to ratify the same in the Assembly of the United States, which being done, the Articles of this Confederation shall inviolably be observed by every Colony, and the Union is to be perpetual: Nor shall any Alteration be at any Time hereafter made in these Articles or any of them, unless such Alteration be agreed to in an Assembly of the United States, and be afterwards confirmed by the Legislatures of every Colony.*"

On July 22 Congress took up the committee's draft, and debates continued for the better part of a month. In class, you will be assigned to a specific state and asked to engage in those debates, keeping the interests of your constituents in mind. In preparation, jot down brief pro and con arguments that each of Dickinson's changes might engender.

Handout B. State Interests: Western Claims, Population, and Slavery

	Western claims	Population (1775)	% enslaved (1790)
Rhode Island	no	58,000	1%
Pennsylvania	no	300,000	1%
Delaware	no	30,000	15%
Maryland	no	250,000	32%
Virginia	yes	400,000	39%
South Carolina	yes	200,000	43%

Population estimates for 1775, based on provincial records, are from Evarts B. Greene and Virginia D. Harrington, *American Population before the Federal Census of 1790* (New York: Columbia University Press, 1932), 7, cited in Merrill Jensen, *The Articles of Confederation* (Madison, University of Wisconsin Press, 1940), 140.

Slave statistics are from the First Federal Census, 1790. Reliable figures are not available for the 1770s. In 1776, when the Articles were debated in Congress, the enslaved population of Pennsylvania and Rhode Island was undoubtedly greater than 1%, but it was still small compared with that of southern states. (Pennsylvania in 1780 and Rhode Island in 1784 passed legislation for gradual emancipation.)

Handout C. Final Articles of Confederation: Key Passages

On August 20, 1776, unable to agree of several contentious measures, delegates suspended debates on the proposed Articles of Confederation. Through the next fall and winter, Congress was preoccupied with staging a war that was not going well. Not until the following spring did debates resume. Congress finally passed the Articles of Confederation and sent them to the states for ratification on November 17, 1777.

Listed below are key passages from the final version. To prepare for the third and concluding lesson on the Articles of Confederation, respond briefly to these two questions:

- a. Are there any provisions you think might cause a particular state *not* to ratify?
- b. Can you think of amendments that would make the Articles of Confederation more workable?

NAME: Article I: *“The Stile of this Confederacy shall be ‘The United States of America’.”*

SOVEREIGNTY OF THE STATES: Article II: *“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.”* [This will be a confederation of sovereign states, each with its own government. The United States will not have a “government” in the usual sense, empowered to pass laws and raise money directly from its citizens. Only the states can act directly on their citizens—this is spelled out in Articles VIII and IX.]

PURPOSE: Article III: *“The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.”* [Note key words that would reappear in the preamble to the Constitution.]

VOTING IN CONGRESS: Article V: *“In determining questions in the United States in Congress assembled, each State shall have one vote.”*

FUNDING CONGRESS: Article VIII: *“All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several States within the time agreed upon by the United States in Congress assembled.”* [Each state pays according to its total value of property. Taxes to make those payments are levied and collected by the states. Note that Congress is dependent exclusively on the states. Also note that there is no enforcement mechanism if a state fails to pay its share.]

KEY POWERS OF CONGRESS: Article IX: *“The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war ... — of sending and receiving ambassadors — entering into treaties and alliances — ... regulating the alloy and value of coin ... — regulating the trade and*

managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated ... — making rules for the government and regulation of the said land and naval forces, and directing their operations.”

WESTERN CLAIMS: Congress has no power to limit western claims of states, although Article IX establishes an elaborate procedure for settling claims between two states. States *without* western claims worried that they would soon be dwarfed by the expansion of states *with* western claims.

IMPOSTS: Article IX: Congress cannot levy imposts [taxes on imports], nor can it prohibit a state from levying its own imposts. Note that this favors states with ports that can handle international trade. If New York levies an impost on a certain item, people from nearby New Jersey or Connecticut who purchase that item will be paying a tax to New York, not to their own state or to Congress.

AMENDMENTS: Article XIII: *“The Articles of this Confederation shall be inviolably observed by every State, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.”*