



## ARTICLES OF CONFEDERATION

### ARTICLES OF CONDEDERATION: RATIFICATION AND ATTEMPTS TO AMEND

#### 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 first in the legislature of Maryland, which has no western claims, and Virginia, which claims land clear to the Pacific Ocean. Legislators from Maryland, the only state that had not signed the Articles of Confederation by 1780, will debate: should they insist that Virginia must first cede its western lands, or should they give up that demand, sign the Articles, and complete the union. Virginia legislators will debate whether to relinquish their state's western claims so that Maryland, the last holdout, will complete the confederation.

Students will then convene as state legislators in Rhode Island in 1781. Twelve other states have agreed to allow Congress to levy an impost, a power not granted by the Articles of Confederation, in order to pay off extensive war debts—but all thirteen states must agree for the levy to take effect. Should Rhode Island, which has done well with its own impost, now go along with the other twelve states and allow a federal impost?

As in the previous lesson, each of these groups will 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 explain key features of the Articles of Confederation, as approved by Congress and sent out to the states for ratification in 1777.
- Students will be able to explain the difference between a confederation of sovereign states, as laid out in the Articles of Confederation, and an actual government, empowered to pass laws and levy taxes directly on citizens.
- Students will be able to explain why Maryland, supported by land companies, continued to insist that Congress gain control of all western lands, while Virginia, with vast claims in the West, resisted relinquishing those claims.
- Students will be able to demonstrate how the demand for unanimous ratification and unanimous approval of amendments hindered the implementation and functioning of the Articles of Confederation.

- Students will be able to explain why states found it difficult to meet the requisitions demanded by Congress.
- Students will be able to show how Congress’s inability to raise its own funds, independently of the states, crippled the new nation financially.

## **OVERVIEW OF THE LESSON**

### **Prefatory homework:**

Handout A: **Articles of Confederation: Key Passages.**

### **In class:**

1. Homework review and discussion: 10-15 minutes
2. Issue 1: Western claims—Virginia v. Maryland: 10-15 minutes
3. Issue 2: An impost amendment: 10-15 minutes
4. The Failure of Levies—What Comes Next? 5-10 minutes

Summary Homework / Extended Activities

## **MATERIALS**

### *Background Handouts:*

- A. Final Articles of Confederation—Key Passages.

### *Classroom Handouts*

- B. Ratification by 12 States
- C. Final Ratification
- D. Money Problems
- E. The Failure of Levies—What Comes Next?

## **PREFATORY HOMEWORK**

Handout A: **Final Articles of Confederation—Key Passages.** Go over instructions on that sheet.

## **CLASS ACTIVITIES: 45-50 MINUTES**

### **1. HOMEWORK REVIEW AND DISCUSSION: 10-15 minutes**

Focus discussion first on the difference between a “confederation” and a “government,” Congress’s inability to raise its own funds, and the need for unanimity for any amendments. These constraining factors will eventually lead to the demise of the Articles of Confederation.

Then note the outcome of the three contentious provisions discussed in the previous lesson:

- Each state has one vote in Congress, thereby favoring the small states (Article V).
- Congress will allocate state requisitions according to the assessed value of total property (Article VII). Note that this did not solve the issue of counting slaves. Congress would have to determine how much the labor of a slave added to the value of property. Time permitting, refer to extended activity #3 of the previous lesson, which gives the origin of the “three-fifths compromise.” This is repeated as extended activity #2 for this lesson.
- Congress cannot limit the western claims of any state (Article IX).

## 2. ISSUE 1: WESTERN CLAIMS—VIRGINIA V. MARYLAND. 10-15 minutes

Distribute Handout B: **Ratification by 12 States**. Go over this with students, and then divide the class between members of the Maryland and Virginia state legislatures. Each takes up the issue on its own. Virginia legislators consider whether or not to cede their state’s western claims to Congress. Maryland legislators consider whether to continue holding out or to ratify the Articles of Confederation despite their displeasure over Virginia’s claims.

Allow five or ten minutes for debate, then each legislature takes a vote. To conclude this section, distribute or present Handout C: **Final Ratification**, which gives the historical outcome.

## 3. ISSUE 2: AN IMPOST AMENDMENT: 10-15 minutes

Distribute or present Handout D: **Money Problems**. As members of the Rhode Island legislature, students debate whether or not to ratify the 1781 federal impost amendment. This can be done as a class or in breakout groups.

## 4. THE FAILURE OF LEVIES—WHAT COMES NEXT? 5-10 minutes

Distribute or present Handout E: **The Failure of Levies—What Comes Next?**

### SUMMARY HOMEWORK / EXTENDED ACTIVITIES

1. Examine the [final Articles of Confederation](#) (summarized in Handout A for this lesson.) Then select a state. Write an essay for a newspaper in that state arguing either *in favor of* ratification or *against* ratification. You can appeal either to people’s higher nature or to the special interests of residents in that state—or preferably to both!
2. [This activity is repeated from “Deliberations in Congress”—it can be attached to either lesson.]
  - 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 solution: the infamous three-fifths compromise, a holdover from 1783.

d. Put this all together in an essay or an oral report.

3. Choose any state and research how that state, in the 1780s, struggled with raising money from its citizens to meet its own war debts as well as the requisition demanded by Congress. One excellent source is:

Roger Brown, *Redeeming the Republic: Federalists, Taxation, and the Origins of the Constitution* (1999)

Other books you might wish to consult:

Woody Holton, *Unruly Americans and the Origins of the Constitution* (2007)

Max Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (2003), chapter 10

Ronald Hoffman and Peter J. Albert, eds., *Sovereign States in an Age of Uncertainty* (1981)

Jackson Turner Main, *The Sovereign States* (1973)

4. Research the resistance to taxation in any state during the 1780s. The so-called “Shays’ Rebellion” in Massachusetts was the most famous anti-tax movement, but citizens in several other states also staged protests. [Massachusetts rebels called themselves “regulators” because they hoped to regulate the abuses of government, but their enemies named the movement after one of its many leaders, and that label stuck.]

## Handout A. 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. 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 OF CONFEDERATION: 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: Article IX: “No State shall be deprived of territory for the benefit of the United States.” Congress has no power to limit western claims of states, although Article IX does establish 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: Articles 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.”

## Handout B: Ratification by 12 States

Virginia: December 16, 1777  
South Carolina: February 5, 1778  
New York: February 6, 1778  
Rhode Island: February 9, 1778  
Connecticut: February 12, 1778  
Georgia: February 26, 1778  
New Hampshire: March 4, 1778  
Pennsylvania: March 5, 1778  
Massachusetts: March 10, 1778  
North Carolina: April 5, 1778  
New Jersey: November 19, 1778  
Delaware: February 1, 1779

That left Maryland, which continued to complain that it would be dwarfed by Virginia and her vast claims in the West. Private land companies, which were unable to obtain grants through the Virginia legislature, joined in Maryland's complaint. Maryland and the land companies argued that if the United States prevailed in the war and Britain withdrew from the West, *all* states would have contributed to that effort, so all should enjoy access to the spoils. Virginians countered by pointing to a clause in the Articles of Confederation: "No State shall be deprived of territory for the benefit of the United States." Virginia should not be *forced* to give up land that was legally granted by its colonial charter. Besides, as the population of the West increased, Virginia would probably find it unwieldy to govern and cede land on its own volition—but it had the right to decide that on its own.

If you were a member of the Maryland legislature, would you give up on the matter and ratify the Articles of Confederation, particularly at a time when all states were needed to defeat the British? Or would you hold firm until Virginia ceded its claims in the West to the United States?

If you were a member of the Virginia legislature, would you agree to cede land, while getting nothing in return? Or would you hold firm, reasoning that that Maryland would agree in the end to join the Confederation?

## **Handout C: Final Ratification**

In 1779 Virginia opened a sales office to sell off some of its land, but it also agreed to cede some (not all) of its western claims to Congress on its own terms. This was not enough to satisfy Maryland and land companies from outside Virginia. But early in 1781, with British forces overrunning Virginia and approaching Maryland, Maryland appealed to the French minister, La Luzerne, for military help. Luzerne reasoned that a unified United States would be better able to defeat Britain, France's perennial rival, and he used the occasion to force Maryland's hand. Yes, the French would help, but only if Maryland ratified the Articles of Confederation. Maryland complied. Ironically, it took interference by a foreign power to complete the Confederation.

## Handout D. Money Problems

According to the Articles of Confederation, Congress was not empowered to tax citizens, levy imposts, or raise money on its own. It could borrow money or print notes—which, in essence, is a means of borrowing money. But to pay back its debts, Congress had to requisition money from the states, which *were* empowered to tax citizens and levy imposts. (“Requisition” means “demand,” but with no enforcement mechanism, all it could really do is “ask.”)

For states to pay Congress, however, ordinary citizens would have to pay their state taxes—and taxpayers were already under great stress. State governments raised money primarily through poll taxes, in which every person, whether rich or poor, paid a set amount, and property taxes, which fell heavily on farmers. Citizens had been paying taxes to support the war effort for years, and with time, they became less willing and able to do so.

In 1781, with states not meeting their requisitions, Congress proposed a 5% federal impost on imported goods. Twelve states approved, but Rhode Island, which levied its own impost to pay off its debts, at first refused. Unless it changed course, this would kill the impost. Since the Articles of Confederation had not granted Congress the authority to levy taxes or imposts, this proposal amounted to an amendment—and all amendments required all 13 states to sign on.

Place yourself in the Rhode Island legislature at that time. Would you vote to ratify the amendment?

Those opposed made two arguments. First, they admitted that Rhode Island was blessed with an excellent port, Newport, so it was able to tax goods sent from across the seas, even goods that would wind up in other states. But why should their state give up *its* favored status, when states with claims in the West had been unwilling to give up *their* favored status? Second, once Congress gained the authority to levy this impost, it would likely want to levy taxes again and again. Americans had been fighting a war in large measure to oppose taxation by a central government, and they didn’t want to repeat that experience. If Congress could raise money on its own, one delegate said, “We will add the Yoke of Tyranny fixed on all the states, and the Chains Rivotted.”<sup>1</sup>

Proponents of the federal levy countered by noting that Congress’s inability to raise money on its own was crippling the nation. Congress was broke, and nobody would loan it any more money if it did not have some way to raise money without begging the states. National security was a stake. A nation without money could not defend itself.

As a Rhode Island legislator, which course would you favor?

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<sup>1</sup> E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (Durham: University of North Carolina Press, 1961), 153.

## Handout E. The Failure of Levies—What Comes Next?

The Rhode Island legislature rejected the levy, thereby killing it. Two years later, in 1783, Congress proposed a different and more limited levy. Rhode Island approved this time, as did eleven other states—but New York, which was also blessed with an excellent port and also levied its own impost, would only approve if Congress agreed to accept New York's paper money, a condition that Congress could not accept.

Through the mid-1780s, states came through with less and less of their requisitions. For the six months from October 1786 through March 1787, the states turned over a grand total of \$663 to the federal treasury—hardly enough to keep the nation afloat. So when delegates from twelve states (all except Rhode Island) met in Philadelphia in May 1787 hoping to reconfigure the struggling nation, two things seemed paramount: Congress would need the authority to raise its own money, and ratification and amendments would *not* require unanimity.