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Author(s): John A. Altman
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THE ARTICLES AND THE CONSTITUTION:
Similar in Nature, Different in Design

By John A. Altman

The Articles of Confederation and the Constitution of the United States of America are “social contracts,” documents that outline the relationship between the governments they establish and the people that establish them. Both are based on the classical liberal principles of government used by the American founders to justify the American Revolution and expressed in the Declaration of Independence. Though most students of history view the Articles of Confederation as a failure, they were a logical product of the Revolution and necessary step on the path to developing a durable solution to the problem of governing in America.

The social contract governing the American colonists for a century and a half prior to the American Revolution named the king of Great Britain and the British Parliament as the primary rulers. By the end of the French and Indian War (1763), the American colonists, influenced by the ideas of John Locke, Thomas Hobbes, and other 17th-century moral philosophers, began to resent the way the British government treated them. Limits on westward expansion, the Sugar Act (1764), the Stamp Act (1765), the Quartering Act (1763), the Townshend Acts (1767), the Tea Act (1773), and the Coercive Acts (1774), all went beyond what the colonists believed were the legitimate powers of government. By 1776 the colonists believed they had no choice but to break away from that government.

The Second Continental Congress, thus, established a committee, chaired by Thomas Jefferson, to draft a Declaration of Independence. The Declaration of Independence is not a social contract, for it did not create any form of government or civil society. Rather, it is an ideological statement justifying the American Revolution. Jefferson took Locke’s propositions that individuals are born in a state of nature, possess certain “natural rights,” and create governments to protect those rights, and used them in a well-crafted argument for a revolution against Great Britain.

The Second Continental Congress created a new social contract when it agreed to the Articles of Confederation on November 15, 1777. Ratified on May 1, 1781, the Articles of Confederation established a system of government that the American founders believed would avoid the problems faced by the colonies under British rule. Because colonial rule left the founders with a disdain for centralized government, they designed a system in which the individual states retained their sovereignty and that gave minimal power to the national government. The national government would hold the states together in a “league of friendship,” operating mainly to provide for national defense and to conduct foreign policy.

The Articles of Confederation created a system of government that had no chief executive, no court system, and left the national...
government with no real power to enforce taxation or regulate the economy. The Articles created a single legislative chamber in which each state delegation, whose members were chosen by the state legislature for one-year terms, had one vote on matters of national policy. In most cases, national policy measures required nine votes to pass, and ratification by the legislatures in every state was necessary to amend the Articles.

In trying to correct the problems suffered under colonial rule, the American founders created a weak and impotent national government that was incapable of managing economic and social conditions in postrevolutionary America. That weakness was perhaps most clearly demonstrated by Shay's Rebellion. A faltering economy in the 1780s led many Americans to default on their debts. Farmers began to lose their homes and farms to foreclosure, and, to make matters worse, in Massachusetts, the state legislature required that all taxes be paid in hard currency. In 1786 a group of angry farmers, many of whom were veterans, descended on the state court in Springfield, Massachusetts, to forestall foreclosures on their property. To quell Shay's Rebellion, the governor of Massachusetts asked Congress to call up the national army. But Congress was unable to collect revenue for an army because it could not force the states to contribute money for national appropriations. Congress was powerless. Shay's Rebellion sent a message to the country that the new national government was incapable of preventing the conditions that led to and the consequences of such discontent.

By 1787, the Continental Congress, realizing the failure of this first social contract, called upon each state to send a delegation to a convention in Philadelphia that summer in order to revise the Articles of Confederation. Each state, except Rhode Island, sent a delegation in May 1787 to what became known as the Constitutional Convention. During the first days of the convention the delegates decided to do away with the Articles and create a new social contract. They chose to embark on a journey that would lead to one of the greatest feats of social and political engineering in history. The convention lasted four months, and in September 1787 the convention produced the document that would serve as the guiding social contract for the young nation. During the next nine months, contentious debate ensued. To establish the Constitution as the new governing social contract, 9 of the 13 states had to ratify the new document. Detractors of the Constitution argued that the new system would return them to tyranny and oppression. They were wary of the centralized power that the new national government would possess. Nonetheless, proponents of the Constitution convinced the nation to go forward with the great experiment, and by June 1788 nine states had ratified the constitution (the four remaining states did so by 1791). By March 1789 the country had selected and sworn in its new leaders and, today, 214 years later, the Constitution serves as America's social contract.

The framers maintained the principle of representative democracy found in the Articles; they employed the same system for selecting members of the Senate and increased the democratic nature of government by allowing citizens to elect members of the House of Representatives directly. Moreover, they created a federal system that directed power away from the states, while still recognizing their necessity, and centralized power in the hands of the national government, giving it increased legislative powers as well as new executive and judicial powers. At the same time, they designed the system in such a way as to keep power from concentrating in the hands of any single decision maker, thus reducing the likelihood of tyranny and oppression. The framers separated the powers of government into different branches, placing the legislative power in the hands of Congress, the executive power in the hands of the president, and the judicial power in the hands of the Supreme Court. Through the principles of limited government, representative democracy, federalism, separation of powers, and checks and balances, the framers of the Constitution achieved a balance between weakness and tyranny, and created a new government strong enough to get the job done without oppressing the people.

Both the Articles and the Constitution established governments that avoided the tyranny experienced under British rule. But because of their fear of centralized government, the American founders were destined to overshoot the mark in their first efforts to avoid oppression. The Articles performed a necessary function by demonstrating that a government with very little power might not be any better than one with too much. Thus, the Articles and their failure set the stage for the creation of a new system that was consistent with the principles of self-government and the protection of “natural rights.” That such a system of government remains to this day is a testimony to the framers' success.

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