Samuel Huntington & the Articles of Confederation

By Jamie Eves • March 22, 2020

I am “distance teaching” during the Coronavirus / COVID-19 Crisis, and so am corresponding with students in writing. That means that I am writing essays on topics that I would normally cover verbally in class. In one class, we were cut off before we able to have a class discussion of the Article of Confederation, the United States’ first constitution. So I wrote this instead.

March 1 marks the anniversary of the formal ratification of the Articles of Confederation, the first constitution of the United States. The Articles are on my mind: I am teaching three sections of United States History I (1607-1877) this term (two at Eastern Connecticut State University and one at the University of Connecticut), and we have been discussing the American Revolution, including the Articles. The Articles were adopted by the Continental Congress on 15 November 1777, but they technically did not become official until 1 March 1781, when they had been ratified by all thirteen states. Nevertheless, the Continental Congress *acted* as if they were in effect immediately following adoption, making the Articles the *de facto* constitution from 1777 until 4 March 1789, when they were replaced by the present Constitution, a period of more than eleven years. The Articles were a radical republican document, providing for an extremely decentralized government in which most power was placed in the states. Still, the Confederation (central) government did have some powers, including the sole authority to conduct diplomacy, enter into treaties, declare war, and maintain an army and navy. The Confederation government had only one branch – a unicameral Congress in which each state had one vote – with no independent executive or judiciary. Although the Articles proclaimed the new United States a “league,” it also made it clear that it was creating a country, not a mere alliance: it created the name “United States of America,” and declared it to be a “perpetual union” – meaning that the individual states could not chose to withdraw, as they could if it were simply an alliance.

The Confederation did have a President, but one that acted only as the presiding officer (chair) of Congress. The President of Congress on the day the Articles were ratified was Samuel Huntington of Connecticut, hence the claim by Conneticutters that Huntington was actually the first President of the United States. Huntington, however, was not the first President of the Continental Congress (which became simply Congress – or the Congress of the Confederation – upon the Articles' ratification). Three Presidents served even before the November 1, 1777, passage of the Articles by the Continental Congress: Peyton Randolph of Virginia (twice, in 1774 and 1775), Henry Middleton of South Carolina (1774), and John Hancock of Massachusetts (1775-1777). Hancock was President when the Continental Congress passed the Declaration of Independence in 1776, which is why his signature on that document is so large. Henry Laurens of South Carolina became President on November 1, 1777, the same day that Congress passed the Articles, so South Carolinians sometimes claim Laurens as the first President of the United States. (It was the Articles, after all, that established "United States of America" as the name of the new country.) Laurens served through 1778, when he was succeeded first by John Jay of New York (1778-1779), and then by Huntington (1779-1781). Huntington was followed by Thomas McKean of Delaware (1781), John Hanson of Maryland (1781-82), Elias Boudinot of New Jersey (1782-83), Thomas Miflin of Pennsylvania (1783-84), Richard Henry Lee of Virginia (1784-85), John Hancock again (1785-86), Nathaniel Gorham of Massachusetts (1786-87), Arthur St. Clair of Pennsylvania (1787), and Cyrus Griffin of Virginia (1788). Marylanders sometimes argue that Hanson was the first President of the United States, as he was the first President to serve a complete one-year term under the Articles.

Should any of these Presidents truly be considered the “first President of the United States”? Yes and no. They did have the title, but none of them held any formal executive authority — although some (like Huntington) did, along with committee chairs, exercise some de facto executive powers during the Revolutionary War, when quick decisions had to be made. But neither should they be forgotten, and Connecticutters are right in remembering Huntington, as Connecticut State Historian Walter Woodward did in his daily blog, https://todayinthistory.com/…/march-1-samuel-huntington-b…/.

Here is the language in the Articles of Confederation that established the office of President: “The United States, in Congress assembled, shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated, ‘A Committee of the States,’ and to consist of one delegate from each State; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction – to appoint one of their number to preside; provided that no person be allowed to serve in the office of president more than one year in any term of three years.”

The Articles is rightly viewed today as a radically republican document, a pronounced contrast to the largely unwritten constitution of British Empire as it existed in the 18th century. While the imperial government was fairly centralized, concentrating much of the political authority into the Cabinet (appointed jointly by the King and the majority in the House of Commons), the Articles created an extremely decentralized government, with political power largely dispersed to the states. While the King and Lords served for life, and Members of Commons served many years between unscheduled elections, under the Articles the President and Delegates to Congress served only one-year terms. Moreover, there was also a strict rotation in office: Presidents, for example, could only serve for one year in a three-year period. Although the Articles gave Congress the authority to levy a head tax (i.e., a tax based on the number of free adult white males living in each state), it was not given any effective means to enforce such a tax, meaning that taxes were in fact voluntary on the states. And without the power to effectively collect taxes, Congress did not really have the power to maintain a standing army in peacetime. Congress also lacked the authority to establish tariffs or regulate commerce, powers also delegated to the states. With the relatively minor exception of admiralty law, the central government lacked any kind of independent judiciary. Military power was also dispersed. The President was not given the powers of commander-in-chief of the Continental Army; instead Congress appointed a separate Commander-in-Chief (understood to be someone with military experience), meaning the President could not command the army to do his bidding. And the states maintained their militias, which could act as state armies, if needed.

It is sometimes tempting today to consider the Articles of Confederation to have established a libertarian form of government. However, many libertarians today root their beliefs in the Positivism of Ayn Rand, a 1950s philosopher. And central to Rand's philosophy was the idea of the great leader, an especially talented and capable person who rises through his or her merit and abilities and naturally assumes authority. The Articles, however, were constructed in such a way as to prevent such authoritarian great men from coming to power, regardless of their abilities. The Articles may have been libertarian (a word not yet invented in the 1700s) in some senses, but was not a Randian or Positivist libertarianism.

Finally, since the Articles left most political power to the states, it is important to look at the kinds of governments the states had. With the exception of Connecticut, which continued under its old colonial charter, each of the states drafted constitutions of their own. Although each state government was republican, some were moderate and others radical. While some states, like New Hampshire, Pennsylvania, and Rhode Island, extended voting rights to all adult white males, other – Massachusetts, New York, and Virginia among them – only permitted men with property to vote. None of the new states was a democracy, but some were less oligarchical – in other words, more radical – than others.

Therefore, the Articles of Confederation created a government that, on the whole, was more radically republican than either the unwritten constitution of the 18th-century British Empire, or the current American Constitution that replaced it.