

The articles of confederation and how it led to our current constitution essay ex...

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The current federal system that exists in the United States was not the original design of government when the United States broke free from England. The Article of Confederation, and not the current constitution was the original document designed to govern the country. This essay explains its shortcomings and how it led to the development and formation of the government, as it exists today.

The Articles of Confederation were in place between March 1, 1781 and March 4, 1789. A confederation is defined by the Oxford dictionary as “ an organization that consists of a number of parties or groups united in an alliance or league.” The second definition is two or more countries connected by political power being placed in a central authority (Oxford Dictionary, 567)

The United States immediately after the war for independence was not a republic, but a confederation with each state maintaining its sovereignty. The differences in political structure between the United States now and during the time the Articles of Confederation were in place is significant. Under the articles of confederation, states were sovereign entities. This would be as if state governments, instead of being a local form of government were actually their own countries connected with other states, but maintaining their own individual sovereignty. Under the US constitution, it is the people of the country who are called sovereign, and this sovereignty is, through the separation of powers, divided into roles of authority that exist at both a state level and a central government whose laws supersede any conflicting laws within a state (USU, 1).

There did not exist under the articles of confederation and independent executive (president) as there is under the constitution where an

independent executive is decided by a count of the Electoral College, which is based on a state's population. (USU, 1).

The U. S. Constitution is quite explicit when it comes to the powers of government. In the document, the powers of the federal government are enumerated, or listed, and the document then states that those powers not enumerated are reserved to the states and local governments. This provision was put in place to limit the Federal Government's involvement in day-to-day issues. (Chemerinsky, 66

The Federal government, despite the intent of the framers of the constitution to separate state and federal powers, has been encroaching steadily on those powers since the constitution was ratified. One way in which the courts have allowed such encroachment is through liberal application of the Commerce Clause (Chemerinsky, 67). This clause states that Congress has the power to regulate interstate commerce. (Chemerinsky, 67)

This has been interpreted in ways that make the Federal regulation of virtually all businesses that conduct their work across state lines constitutionally legitimate. Even businesses who operate only in one state but either ship items over stateliness, or import from across state lines, have been interpreted to be governed by the federal government from this clause. It is for this reason that Federal regulatory agencies have such broad-based power under the constitution. Even if the business does not conduct interactions across State lines the Supreme Court has states that the Federal Government can act upon that business if its actions affect interstate commerce. This provision and its loose interpretation have allowed federal government agencies relatively free reign to regulate as they see fit.

(Chemerinsky, 68).

One of the biggest issues that led to the switch from the Articles of Confederation to our current constitution was that the government was not collecting enough taxes to operation since Congress did not have the power to tax. There were also no federal courts, so all laws needed to be enforced at a local level. (USU, 1).

Congress under the Articles of Confederation did not exist as it does today with two houses, but instead was one body in which each state was allotted a single vote. Amendments could only be made by unanimous consensus, which slowed down the gears of government. (USU, 1). Powers that congress did not have that it now does under our federal government is that they can regulate commerce with other nations and also between individual states. Congress then only had specific powers as opposed to today when congress has both specific and implied powers. (Vincent, 6).

The United States under both the articles of confederation and the current constitution, have a much different form of governance as the rest of the world, which is by and large governed by a unitary system. Under a unitary system, it is the central government, which is one entity that delegates power. Great Britain is an example of this. They have a central government which delegate's power to other states within its kingdom such as Scotland, Wales and Northern Ireland. (Lupai, 1). South Sudan News, which reports on Sudanese issues (a country governed by a unitary system) writes that the " Unitary system of government is old fashion." He mentions that a federal government has it's problems due to tribal and regional tendencies, but that he currently believes this system would do a much better job in governance

than the current unitary system.

The Articles of Confederation were created as a response to British rule where people felt that a central authority in England was violating the rights of individuals. The limited powers given to a central government create a weak state. The central government was only responsible for defense and general welfare. (American History, 1). Without the power to tax, regulate commerce, having no executive office, no national court system it created instead of a government free from the tyranny experienced under British rule, a government that was not powerful enough to address the needs of the nation.

The constitutional convention that led to the current drafting of the founding document of our government can be broken down into four parts: Alternative plans, The Connecticut Compromise, Committee of Detail at Work and Report, and the signing of the constitution. The first stage was when the members of the convention discussed the various alternative forms of government that were to be considered for the country.

During the first stage Virginia plan was introduced, which laid down rules for the governance of the assembly, and swore the members to secrecy. Roger Sherman made the now famous assertion that “ The people are more happy in small than large states.” He developed an argument for creating a government that was traditional of republicanism. James Madison, was of a different opinion and put forth an argument that there was a need to “ enlarge the sphere.” (Lloyd, 1).

One of the first compromises was regarding how the states should be represented, whether if population should matter or if each state should

have equal weight in its voice. Representatives from smaller states did not want to be dominated by larger ones and larger states felt that they had a right to more say than smaller ones. The compromise that was reached led to the creation of the House and the Senate. The house would be based on population, while the Senate would give every state equal representation. This is known as the Connecticut Compromise. (Lloyd, 1)

The second compromise had to do with presidential power and whether or not he could be given the power to make treaties with other countries. The compromise was that he could, but that two-thirds of the Senate's vote was needed to approve the treaty.

Nine states were needed to ratify the Constitution, and New Hampshire was the 9th state to get on board making which brought the constitution, as we know it today into existence. Since the creation of the constitution it has since been amended, to add changes to it. The process of amendment today requires three-fourths of the states to ratify it, which given the current 50 means 38 states must get on board.

While the Articles of Confederation no longer apply to the US, it is still an important document, since it's creation preceded to the US government's current constitution. The openness to change led to the US having a constitution that many countries have since based theirs on.

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