United States Diplomatic Negotiations Under the Articles of Confederation

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Abstract:

In dealing with England, North Africa, Spain and sometimes with France, the United States had a very difficult time implementing effective foreign policy while under the Articles of Confederation. The Articles of Confederation provided Congress insufficient power over the country's domestic or foreign commerce and the United States rarely accomplished their necessary diplomatic goals during the 1780s. This thesis looks at how and why the Articles of Confederation was ineffective at foreign policy and the problems that stemmed from it with regard to certain European countries and North Africa. Also it examines how the diplomatic problems were the main reason behind the creation of the United States Constitution.

Introduction

Ratified on March 1, 1781 during the climax of the Revolutionary War, The Articles of Confederation was the first constitution of the United States. This document, designed merely to create a confederation between the thirteen colonies, lacked sufficient mechanisms that a stronger central government would find useful. In dealing with England, North Africa, Spain and sometimes with France, the United States had a very difficult time implementing effective foreign policy while under the Articles. The Articles of Confederation provided Congress with insufficient power over the country's domestic or foreign commerce and the United States rarely accomplished their necessary diplomatic goals during the 1780s. The United States faced many problematic diplomatic issues with European courts and Barbary pirates while under the Articles. Many of the pressing foreign policy concerns were not resolved until after the implementation of the Constitution, especially with the major problems caused by England and Spain. Eventually all of the problems precipitated by the Articles were too much for Congress to bear and they realized it needed to be addressed. The Constitutional Convention was called in May 1787 and different ideas began to be proposed about a new constitution. On June 21, 1788, the Constitution was ratified ending the short stint of the Articles of Confederation; a mere seven years of existence. But it had a profound impact on the United States and its foreign affairs.

Historians often criticize the Articles of Confederation and the majority of them believe that the United States Constitution is a better document. In a journal article titled, "The Legacy of the Articles of Confederation," Jack Rakove, called the Articles, "...a desultory operation."¹ John Fiske stated that, "...the Convention of 1787...destroyed the whole vicious scheme."² Gordon Wood agreed that most of the critiques of the Articles are fair if perhaps overstated and that the period of crisis was also caused by an excess of democracy substantiated by state

governments.³ Pauline Maier aptly stated that the Articles caused the Confederation Congress to stay in, “a state of paralysis.”⁴ These esteemed historians are right to criticize the Articles as many problems did stem from it. However, it was a necessary stepping stone for the forging of the Constitution. There may have never been a push for more federal governmental powers if the Americans failed to witness the numerous problems that were generated by the Articles. The Articles of Confederation was created with good intentions but it had numerous shortcomings. But what was the main driving force behind the Articles that caused it to be replaced in a mere seven years? The problems of foreign policy were the main cause that led to the downfall of the Articles of Confederation and to the creation of the Constitution.

The Articles of Confederation gave little authority or support to the national government and they failed almost every diplomatic mission because of it. Through Article VIII, Congress did not have complete control over taxation and taxes for common defense or general welfare were left up to the states to provide.⁵ Article IX gave Congress complete control over declaring war and entering into treaties but there was no explicit power given over trade regulation besides with Indian tribes. Congress could declare war but Article VII gave the power to raise an army to the states. The main obstruction the Articles provided was found in Article XIII in which any amendment to the Articles had to be confirmed by every state legislature. These failures to provide the federal government control especially over foreign affairs led to the end of the Articles of Confederation as it did not take the Americans long to figure out that a new constitution needed to be formed.

John Jay, Alexander Hamilton and James Madison defended a new constitution that was stronger than the Articles of Confederation in their essays published as *The Federalist Papers*. Alexander Hamilton decried the lack of power Congress was given over commerce by the

Articles in *The Federalist No. 22*, “Is is indeed evident, on the most superficial view, that there is no object, either as it respects the interests of trade or finance, that more strongly demands a federal superintendence. The want of it has already operated as a bar to the formation of beneficial treaties with foreign power, and has given occasions of dissatisfaction between the States.”⁶ Hamilton wrote this because the United States federal government had limited success over diplomacy and brokering of treaties during the 1780s. There were some successes but for the most part it provided far from adequate resolutions. In 1786, there was a gathering of five states with their delegates including Alexander Hamilton called the Annapolis Convention that tried addressed the problems of commerce and trade and called for the Philadelphia constitutional convention to remedy the entirety of the Articles. This was a direct result of what little was accomplished with treaties, commerce or diplomacy under the Articles of Confederation. Foreign policy was the biggest issue under the Articles and it would not be until the Constitution was put into effect when the United States would start to gain respect throughout the world and accomplish its diplomatic goals.

Conflict with Great Britain and France

Over the 1780s, the Articles of Confederation was put to the test regarding foreign policy with treaties, disputes with Spain about the Mississippi River, problems with Great Britain over trade, military forts left on American soil and ships that were raided by Barbary pirates. These were serious problems that plagued the United States throughout the 1780s. Once the Articles of Confederation was ratified on March 1, 1781, the country was still involved in Revolutionary War with Great Britain.⁷ This war would not end until the Treaty of Paris in 1783 when America was recognized as an independent country. The United States first encountered an issue with Great Britain with Article VII of the Treaty of Paris. Article VII states, “...withdraw all his

Armies, Garrisons & Fleets from the said United States, and from every Post, Place and Harbour within the same; leaving in all Fortifications, the American Artillery that may be therein...”⁸

However, Great Britain did not vacate their forts on American soil.

In December 1783, the British army disbanded and left America but numerous garrisons still remained.⁹ According to the Treaty of Paris, these forts had to be surrendered to the United States. These posts were in the northwest territory of the Great Lakes region. The forts had roughly four thousand British soldiers garrisoned within and included Oswego, Niagara, Detroit and Michilimackinac.^{10,11} This also led to problems for America with Native American tribes. In September 1784, French diplomat, François Barbé de Marbois wrote on this:

These circumstances deal a blow to the respect which Congress wanted to inspire in the Savages in order to treat with them in some advantage: They see that the Americans have not been able to procure for themselves the return of the four posts without which it is impossible to conduct Commerce, and they draw from this the inference of the confederation’s extreme weakness...¹²

The United States was seen as weak by Indian tribes and the French because they could not or would not remove the British from these forts. One justification for Great Britain not evacuating the posts was because the Treaty of Paris gave the Northwest Territory to the United States. Some British commanders feared a potential war with the Indians. The English wanted to make sure the United States did not break the Treaty of Paris with the Indian tribes therefore they kept a presence in the forts as a token of good will toward the Indians. The English home secretary, Lord Sydney, decided it would be best not to hand over the posts immediately but instead he promised they would be evacuated with “all convenient speed.”¹³

But England was not the only party that did not adhere to the Treaty of Paris, as the United States did not follow through with their payment of pre-Revolutionary War debt to Great Britain. The United States did not restore loyalists their confiscated rights and properties, which

was a violation of Article V of the Treaty of Paris.¹⁴ This was used as another justification for the British to keep the northwest forts. England wanted to hold onto them until the United States performed the terms stipulated by the Treaty of Paris.¹⁵ English fur trappers also wanted the British to hold onto the forts so they could have time to sell their property and move out their goods.¹⁶ James Madison wrote on this matter to Thomas Jefferson on October 11, 1784, “The perseverance of the British in retaining the posts produces various conjectures. Some suppose it is meant to enforce a fulfillment of the Treaty of peace on our part...Others that it is a salve for the wound given the Savages who are made to believe the posts will not be given up till good terms shall be granted them by Congress.”¹⁷ John Jay, the United States Secretary of Foreign Affairs, understood why the British would not leave the forts and wrote in a report to Congress, “Under such circumstances it is not a matter of surprise to your Secretary that the Posts are detained, nor in his opinion would Britain be to blame in continuing to hold them, until America shall cease to impede her enjoying every essential right secured to her, and her People and Adherents by the treaty.”¹⁸ The United States could not repay her debts to the English thus Great Britain would continue to occupy the forts until the debts were paid. Under the Articles, the federal government could not force the states to pay back the money that was owed to the British. The problems of the North West forts would not be solved until Jay’s Treaty was signed between the United States and Great Britain in November 1794. But the issue of the forts was not the only problem the United States had with England; trade formed a dispute between these nations that had much greater salience.

In July 1783, Great Britain started implementing their Navigation Acts, which stated that trade between the United States, and the British West Indies had to be conducted on British built ships, greatly restricting American shipping in the process.¹⁹ Great Britain was the United States’

chief market as they were also heavily involved with the West India sugar trade.²⁰ John Adams was sent to negotiate a commercial treaty with the British, threatening the British that the United States could enforce their own navigation acts that would hurt England. This threat was empty, though, because of the weakness of the American federal government to implement navigation acts. The Articles of Confederation did not bestow Congress enough power to pass a bill, as Article IX required nine states approval to pass anything and it was difficult for the thirteen states to reach a consensus with so much division amongst themselves.²¹ John Adams realized how important it was for Congress to be able to rise above the states and wrote to John Jay that the, "...means of preserving ourselves...can never be secured until Congress shall be made supreme in foreign commerce."²² This would not happen under the Articles of Confederation though, and England continued to cause numerous problems for the Americans throughout the 1780s.

This issue with England turned from a foreign problem to a domestic one as states started implementing their own tariffs on Britain. This was able to transpire because the Articles gave Congress no ability to regulate interstate trade. In 1785, New York put a tariff on all goods brought in by British ships.²³ Pennsylvania passed numerous tariff acts that taxed the whole community. Massachusetts supported their desire for a new non-importation agreement because as their legislature said, "the present powers of the Congress of the United States, as contained in the Articles of Confederation, are not fully adequate to the great purpose they were originally designed to effect."²⁴ The Massachusetts delegates in Congress declared that the powers invested in Congress were not fully adequate and were instructed to recommend a general convention of the states to revise and amend the Articles of Confederation.²⁵ However, this never came to be and Massachusetts and New Hampshire passed acts that prohibited British ships from carrying

goods out of their harbors.²⁶ States then began to place tariffs on each other and commercial war developed between the thirteen states. When some of the New England states closed their ports to British shipping vessels, Connecticut opened up her ports and reaped the benefits. New York required that New Jersey market boats had to pay an entrance fee and receive clearances to enter the state.²⁷ Connecticut ended all trade with New York. The weaknesses of Articles of Confederation are displayed here; the states were at arms with each other. The individual policies and laws that each state was able to implement prevented what would have been better and broader laws regarding trade and commerce throughout the country. This caused more confusion for other countries in dealing with the United States. The events taking place between these states were troubling to foreign officials. The French Consul General explained the divide amongst the states, "Each state forms a distinct and separate nation, having its interests apart from and jealous of its neighbors."²⁸ Later he states, "...one can say that peace has dissolved the tie of union, and Congress, which during the war derived its strength from the common danger, has almost none today."²⁹ There was little federal control over these matters as states tried to hash out these issues by their own accord.

Members of Congress began to see the limitations in their foreign policy. In 1783, Congress asked the states for the power to pass a series of navigation acts.³⁰ Specifically, they wanted to forbid the import and export of goods on ships from countries that did not have a treaty with the United States. States were split on the power Congress should have. Some, like Virginia, wanted them to have broad control and others like South Carolina just wanted to give them authority over the issue of Great Britain and the West Indies. Under Congressman James Monroe, Congress proposed an amendment to the Articles of Confederation. This amendment would have given the federal government power to regulate trade with foreign nations and

between the states, and the power to levy taxes on imports and exports.³¹ It stated, “The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war...and of laying such imposts and duties upon imports and exports...”³²

However, this amendment was never sent to the states for approval because it was defeated in Congress due to the fear of the national government obtaining too much central control.³³ In May 1786, Charles Pinckney proposed to Congress, additions to the Articles of Confederation, which would have given Congress exclusive power over trade both foreign and domestic.³⁴ Other issues buried this proposal as well. These problems regarding trade that the United States had with Great Britain would not be resolved until the implementation of the Jay Treaty in 1796. As well, during the 1780s, Great Britain easily dominated the commerce policies with American trade. The United States was too weak to create any major restrictions that would have a considerable effect on England. The states never unanimously agreed to give Congress more power over trade either.

Contrary to England, France was more amicable with the United States. In 1778, both countries had signed the Treaty of Alliance, which included a mutual agreement to help each other in time of war, and recognized the independence of the United States.³⁵ France was very friendly toward America regarding commerce. They opened up a myriad of ports for trade including seven ports in the French West Indies by an arret on August 30, 1784.³⁶ France imported much more from the United States than they exported.³⁷ This did not help France but they wanted to keep a cordial relationship with America. The French finance minister, Charles Alexandre de Calonne, remarked, “...the United States will be as much favoured in France in matters of commerce as any other nation.”³⁸ However, there were some complicated issues with France and America that involved state sovereignty.

An issue that arose between France and the United States was what is called the “Longchamps Affair.” On May 17, 1784, Charles Julien de Longchamps, a former French soldier, visited the French Minister to the United States in Philadelphia to secure documents that verified his commission in the French army.³⁹ The French minister, Chevalier de Luzerne, did not grant him his request so Longchamps angrily pushed into the French Consul General to the United States, François Barbé de Marbois. Two days later, Longchamps happened upon Marbois at a coffee shop and physically confronted him.⁴⁰ They fought each other until spectators separated the two men. Luzerne asked the United States Congress to extradite Longchamps to France for trial for assault.⁴¹ This initiated a problem with the Articles of Confederation, specifically in Article II which declares that each state is sovereign.⁴² Congress had no jurisdiction on this issue under the Articles of Confederation. Even though this matter involved foreign citizens, because Pennsylvania had sovereignty over what occurred in their state it was up solely to Pennsylvania to deal with. The minister of Holland, Van Berkel, even threatened to pull out of Pennsylvania if they did not follow France’s demands to let them bring Longchamps to trial.⁴³ But the Pennsylvania Supreme Court ruled the state did not have the power to turn Longchamps over to the French.⁴⁴ There was no current French-American consular treaty that stated what the procedure was therefore the low courts of Pennsylvania had jurisdiction over the matter. Despite pleas by the French to let them try Longchamps, a Pennsylvania court sentenced him to two years in prison and a fine of \$200. John Jay submitted a report to Congress stating that they lacked the authority under the Articles of Confederation to override the decision by the Pennsylvania court. He wrote, “...the sovereign power of the state has undoubted right to punish him in the manner and degree prescribed by the laws of the state.”⁴⁵ This was a problematic issue for the fledging government of the United States. The Longchamps Affair presented the dilemma

and consequences of providing states complete control over problems that should instead be dealt with by the federal government.

At the same time the United States was having disputes with Great Britain, Benjamin Franklin was having some success. He was able to sign a neutral commercial treaty with Sweden on April 3, 1783. This was actually the first country with whom the United States entered into formal commercial relations after the Revolutionary War.⁴⁶ If Great Britain was not enough to deal with another foreign policy issue that plagued the United States during this period was the one of the Barbary pirates from northern Africa. Most of the pirates came from Morocco, Algiers, Tunis and Tripoli. They sailed into the Mediterranean and took over American ships, killed their crews and took sailors hostage. American citizens were kidnapped and thrown into slavery in markets of Algiers and Tripoli.⁴⁷

After the United States broke off from Great Britain, their ships were no longer protected by Great Britain in the Mediterranean Sea.⁴⁸ Great Britain thoroughly enjoyed this as demonstrated by Lord Sheffield, a Member of Parliament, who proclaimed that the Barbary pirates were useful to England because they kept the weaker nations out of trade.⁴⁹ In July, 1783, there was an attempt by the United States to include articles in the final Definitive Treaty of Peace that would have included certain commercial agreements including one on Morocco that said, “His Britannic Majesty shall employ his good Offices and interpositions with the King or Emperor of Morocco...and also with every other Prince, State or Power of the Coast of Barbary in Africa...in order to provide as fully and efficaciously as possible for the benefit, conveniency and safety of the said United States...”⁵⁰ This proposition never came to pass. But not every country held this sentiment. In 1782, John Adams was able to negotiate a treaty with the Netherlands that contained a provision that said if the United States was able to gain commercial

treaties with Barbary governments regarding Mediterranean commerce then the Netherlands would support it wholeheartedly.⁵¹ European powers let the piracy continue because they bet on the pirates ruining rival countries' navies and ships. The United States tried to combat the problem of the Barbary pirates by proposing treaties.

Thomas Barclay wrote to Robert Livingston about this matter on November 14, 1783, "I mean a Treaty of Amity with the several States on the Coast of Barbary, where, I believe, with some attention and the usual presents which must accompany an Embassy thither, the American Trade to the Mediterranean might be put on a safe and respectable footing, in place of the very precarious one in which it now exists."⁵² During 1783, there were significant strides in an attempt to reach a treaty with the emperor of Morocco as the ruler offered a friendly hand to the United States. However negotiations stalled and in response to this Morocco attacked and captured an American ship, *Betsy*, during October 1784. The Emperor of Morocco proclaimed he was holding the ship and the crew as hostages until a treaty be concluded between the two countries.⁵³ Thomas Barclay was sent to Morocco to ratify a treaty. On June 26, 1786 he wrote to John Adams and Thomas Jefferson saying, "...the last draught of the Treaty is made and will probably be signed in a few days..."⁵⁴ The treaty was then concluded and it was a very favorable and liberal treaty for the United States. Included in the treaty was an article that prohibited either country from joining an enemy force that the United States or Morocco was embroiled in war with.⁵⁵ There was also an important statement in Article 14 that stated, "The Commerce with the United States shall be on the same footing as is the Commerce with Spain or as that with the most favored Nation for the time being and their Citizens shall be respected and esteemed and have full Liberty to pass and repass our Country and Sea Ports whenever they please without interruption."⁵⁶ The United States was finally able to sail in the Mediterranean Sea to Morocco

unmolested. This treaty was also highly praised by many Americans such as John Adams and the United States Congress. John Adams wrote, “We beg leave to recommend Mr. Barclay...to the favourable consideration of Congress.”⁵⁷ This was one of the few shining diplomatic successes during this period for the United States. The treaty with Morocco is the longest unbroken treaty in United States history and remains intact to this day.

However, not everything else on the diplomatic front with the Barbary pirates and North Africa was as successful. On July 14, 1785, Algiers declared war on the United States and began to capture American vessels. Many of the men captured were forced to become slaves.⁵⁸ In July 1785, Algerians captured two American ships and held the crew for ransom. The Algerians wanted \$6,000 for the captains, \$4,000 for each passenger and \$1,400 for each sailor.⁵⁹ In a letter to Congress, John Jay stated, “This war does not strike me as a great evil- the more we are treated ill abroad, the more we shall unite and consolidate at home...”⁶⁰ He went on to say it would be wise to unite with Portugal against Algiers. In October 1785, John Jay then said that because, “...this Declaration of War (Algiers declaring war on the United States) being unprovoked, and made solely with design to acquire plunder; it would not in the opinion of your Secretary, become the United States to answer it by overtures for peace or offers of tribute.”⁶¹ He wanted the American merchant ships better armed and protected. He advocated that the United States go to war with Algiers. However, the United States was so weak that they could not properly defend their interests abroad. With authority granted by the Continental Congress, John Adams and Thomas Jefferson sent John Lamb to compose a treaty with Algiers and free the captured men. John Lamb was only allowed to counter offer with \$200 a person. The United States government was too poor to offer anything more. In John Jay’s report on January 31, 1786, he asked for, “supplying any deficiency in the sum appropriated for the negotiations with

the Barbary powers.”⁶² He was not able to gather more funds. Also, in this report Jay called for, “That general and full powers to regulate the trade of the United States both foreign and domestic should be vested in Congress.”⁶³ John Jay recognized that the Articles of Confederation did not give Congress the necessary power for regulating commerce.

On March 25, 1786, John Lamb arrived at Algeria and proposed the offer of \$200 a person to free the hostages. The Algerians rejected this offer and asked instead for sum of \$59,496 for the 21 hostages.⁶⁴ Congress could not substantiate such a claim and decided that they would not be able to spend that much money for the prisoners. Several of the captives wrote to Thomas Jefferson saying they, “...are much surprised that Mr. Lamb should bring so trifling a sum as five or six thousand dollars to redeem 21.”⁶⁵ John Lamb was unable to compel the Algerians to lower the price so he departed to Europe.⁶⁶ The United States was unable to raise the sums demanded by the Algerians therefore they could not free the 21 American captives. The hostages remained in captivity until the United States was able to establish a treaty with Algiers. The United States was not able to create a peace treaty with Algiers nor free the American captives while under the Articles of Confederation. It would not be until 1792, that Congress was able to appropriate the funds for the release of the captives.⁶⁷ In March 1796, the United States was finally able to ratify a treaty with Algiers and free the American prisoners.⁶⁸ On the issue of the Mediterranean Sea and the Barbary Pirates, the United States was also unable to ratify a treaty with Tripoli until 1797.⁶⁹ The United States during this time was so militarily and diplomatically weak that they could not gain the upper hand in their treaties with North African countries besides Morocco. The situation with the Barbary pirates exhibited just how powerless Congress was under the Articles; they could not even raise enough money to free American

captives who were slaves for almost ten years before their release. To make matters worse, European countries did not treat the United States seriously or as equals.

In April 1784, Thomas Jefferson, as a delegate from Virginia to Congress, proposed a resolution that dealt with foreign policy with Europe. He realized that Europe would not send ministers to America to negotiate treaties because they did not think of America on equal footing. He wanted Americans to be able to go to Europe to form treaties because if they did not then the occlusion of America from West Indian markets would continue, a promising treaty with Morocco would end, and America could possibly be shut out of Mediterranean ports.⁷⁰ Also going to Europe would put America in a more favorable position with the European powers. The Articles of Confederation did not require treaties before their conclusion to be communicated with the thirteen legislatures. If they had to wait for approval, Jefferson states in a proposed resolution, "...such a delay in the present instance would be unseasonable and injurious to them (European countries); would protract the negotiations to a length indefinite both in time and expence; would leave our citizens in the mean time exposed to all the evils before states;..."⁷¹ Thomas Jefferson realized how much of Europe viewed the United States as a weak nation that could be trampled on. And this did not get better as problems continued to get worse with Spain and their issues with the Mississippi River and the United States' western frontier.

Conflict with Spain

On the home front arguably the most serious and pressing diplomatic matter for the United States was Spain. Spain demanded that the United States give up the claim of the right to use the Mississippi River and the claims to the land west of the Allegheny Mountains.⁷² Spain had received Florida from Great Britain at the end of the Revolutionary War. In a letter from the

Conde de Floridablanca, José Moñino y Redondoto, to the Spanish minister to the United States, Don Diego de Gardoqui, stressed the importance of maintaining the western lands, “As the Mississippi is and must be the dividing line between His Majesty’s States and the Americans for the great part of its course, it is appropriate that we secure the exclusive right of its navigation...”⁷³ The main reason why the Spanish wanted the exclusive right to the Mississippi River was obvious, “The question of boundaries is linked to that of the commerce which may take place between the inhabitants of both dominions,” the Conde de Floridablanca went on to say.⁷⁴

Interestingly enough in the Treaty of Paris, Great Britain and the United States had stated in Article VIII, “The Navigation of the River Mississippi, from its source to the Ocean shall for ever remain free and open to the Subjects of Great Britain and the Citizens of the United States.”⁷⁵ Great Britain and the United States had also agreed that the northern boundary of Florida was to be defined by the thirty-first parallel of latitude. This was disputed by Spain who asserted that the border of Florida was a hundred miles north of the thirty-first parallel. In 1784, Diego Maria de Gardoqui was sent from Spain to talk with John Jay who was the secretary of foreign affairs at the time. Gardoqui and John Jay actually had a good friendship and Jay allowed Gardoqui to stay in his home.⁷⁶ Gardoqui said that Spain would enter into a commerce treaty with the United States but only if they renounced all claim to the Mississippi River. Gardoqui tried to convince Jay of the lucrative proposition Spain was providing them because as he said, “I made him see with the utmost clarity that commerce with Spain was more important to the States than that of all other Nations, because she was a consumer in Europe and America who makes payments in cash which is what they most need, while the other nations extract from them whatever they can...”⁷⁷ The United States knew they were in a precarious situation. The United

States wanted to trade with Spanish colonies but Spain would not allow this.⁷⁸ In 1785, Gardoqui and Spain adamantly stayed firm in their prevention of the Americans using the Mississippi River.

The problem that the United States had was that they had nothing of value to offer Spain. There was no reason for Spain to concede to America's demands. However Spain did have some concerns. Spain feared the United States rising population in the west, which could lead to insurrections against them. The United States also had many more people, forts and settlements than Spain on the western frontier.⁷⁹ The value of the Mississippi River was known by John Jay and in his address to Congress in August, 1786, he said, "...a proper commercial Treaty with Spain, would be of more importance to the United States, than any they have formed, or can form, with any other Nation."⁸⁰ It was imperative to America's interest that they opened up the Mississippi River to trade.

Congress told John Jay that he was to not to yield the boundary that Britain and America agreed upon about Florida and not to give Spain exclusive navigation in the negotiations with Gardoqui. Any other decision had to be approved by Congress. For a year Spain would not budge on their stance. John Jay asked Congress for a compromise that would give Spain control of the Mississippi River for twenty-five or thirty years.⁸¹ They agreed on this because they believed that as the population in the west continued to grow Spain would have to give it up eventually. The tentative treaty included commercial reciprocity between the United States and Spain. It also would guarantee that if one country were attacked then the other would help protect it. Another interesting addition was that Spain would be the mediator between the United States and Great Britain regarding the problem of the British northern forts on American land. However, this treaty would not come to pass. Two-thirds of the states would have to ratify the

compromise as stipulated by Article IX in the Articles of Confederation.⁸² The northern states agreed on it but the southern states did not because it would have hurt their commercial interests restricting trade on the Mississippi River for a further twenty-five to thirty years. Because of Article IX the Articles prevented what would have been a substantial treaty at the time. Gardoqui and Jay were forced to suspend the negotiations because of this.⁸³

Because of the western frontier problem some people proposed an extreme solution: breaking away from the United States to make a separate treaty with Spain. This was spearheaded by several western frontiersmen. The weak federal government of the United States and the failed negotiations were seen by some like General James Wilkinson, as a good time to secede from America. He felt the power in the United States was situated in the eastern states and that they were discriminating against the west and south.⁸⁴ But the admission of Kentucky and Tennessee to the union would effectively stop the separatist movement because they were not able to gain political traction in these states.

On August 3, 1786, John Jay told Congress that it seemed the only way the United States was going to be able to navigate the Mississippi River was obtaining it through war, "...she (Spain) will not yield it peaceably, and therefore we can only acquire it by war, now as we are not prepared for a war with any power, as many of the states would be little inclined to a war with Spain for that object..."⁸⁵ Jay knew just how weak the confederation was and realized how detrimental a war would be for the United States. But at this point it seemed the only way for Spain to relinquish the Mississippi River. Thomas Jefferson even suspected a war could break out between Spain and the inhabitants of Louisiana. He was completely against this and had no desire for America to expand westward at this point.⁸⁶ Added onto the fears of a war, an American vessel was seized by the Spanish while traveling down the Mississippi. The Spanish

then proceeded in selling the ship.⁸⁷ Though, France was against a war between the two countries they would not interfere. James Madison even called the problem with Spain, "...a very ticklish situation."⁸⁸ Spain also would not allow Great Britain to traverse the Mississippi River either.⁸⁹

The Spanish did open the Mississippi River somewhat by way of royal decree on December 1, 1788. They allowed the Americans to sail down the river but they had to pay an import tax of 15% and an export tax of 6% if they wanted to ship it to ports that were legal to send to from New Orleans. These included the French and Spanish West Indies and France and Spain themselves. Spain and the United States realized it was unrealistic that they would secure a proper treaty until the formation of a new government. Negotiations were suspended until the new United States government under the Constitution could be formed.⁹⁰ It would not be until October 1795 with the signing of the Pinckney Treaty that the Spanish problem would finally be solved. The Pinckney Treaty set forth the southern boundary of the United States, opened up navigation on the Mississippi River and established New Orleans as a free port for the Americans.⁹¹ The weakness of the American government was prominent in their problems garnering a treaty with Spain during the 1780's. Western frontiersmen were so disgruntled with the federal government's inability to secure the west from Spain that they made a serious attempt to secede. The main proposed treaty of 1786 between the United States and Spain failed because not enough states would ratify it. This was a common problem under the Articles.

During the Virginia Ratifying Convention in 1788, James Madison recalled the problems the Articles caused with the Spanish and the treaty that John Jay had proposed with Spain regarding giving up the right to travel on the Mississippi River for twenty five years:

We could not, without national dishonor, assert our right to the Mississippi, and suffer any other nation to deprive us of it. This consideration, with others before mentioned, influenced them. I admit it was wrong. But it is sufficient to prove that they acted on principles of integrity. Will they not be bound by honor and conscience, when we are able to enjoy and retain our right, not to give it up, or suffer it to be interrupted? A weak system produced this project. A strong system will remove the inducement. For may we not suppose it will be reversed by a change of system?⁹²

Madison thought that under the Constitution the United States would be able to gain their right to travel on the Mississippi River. Throughout the state ratifying conventions, criticisms were raised about the Articles inadequacies. During the same debate, George Nicolas concurred with Madison:

They want a Government which will force from Spain the navigation of that river.—I trust, Sir, that let the situation, Government and politics, of America be what they may, I shall live to see the time when the inhabitants of that country will wrest from that nation, that right which she is so justly entitled to. If we have that Government which we ought to have, they will have ability to enforce their right.⁹³

Madison and Nicolas believed that with the new Constitution, the United States would be able to take the Mississippi River from the Spanish. They were right as seven years later the Pinckney Treaty gave the United States open access on Mississippi River. A new Constitution was necessary because treaties very hard to ratify under the Articles of Confederation. Even worse, it was near impossible to amend it.

The Articles of Confederation required all thirteen states to approve an amendment. In Article XIII it states, “And 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.”⁹⁴ This was a serious flaw in the Articles of Confederation. It made it almost impossible to ever amend the Articles. It was highly unlikely that every state would completely agree on a proposed amendment. Also, according to

Article nine, the United States Congress could not enter any war or treaty of alliance without approval of nine of the thirteen states.⁹⁵

The problems of the Articles of Confederation were discussed as early as July 1783 when Alexander Hamilton wrote to John Jay:

Every day proves the inefficacy of the present confederation, yet the common danger being removed we are receding instead of advancing in a disposition to amend its defects. The road to popularity in each state is to inspire jealousies of the power of Congress, though nothing can be more apparent than that they have no power; and that for the want of it, the resources of the country during the war could not be drawn out, and we at this moment experience all the mischiefs of a bankrupt and ruined credit.⁹⁶

At this time John Jay was serving as an American representative in negotiating the Treaty of Paris with the British. The Federalists gained traction throughout the 1780s as more Americans saw the defects of enduring a weak central authority. Many in Congress asked for the Articles of Confederation to allow the federal government to gain more power. This culminated in the Annapolis Convention in September 1786 which was a delegation of five states that met to remedy Congress weaknesses over commerce and trade. The main goal of this convention was stated in their proceedings, "...as should be agreed upon by the said Commissioners to take into consideration the trade and Commerce of the United States, to consider how far an uniform system in their commercial intercourse and regulations might be necessary to their common interest and permanent harmony..."⁹⁷ Also the Philadelphia constitutional convention was the direct result of the Annapolis Convention as at the end of the proceedings that asked that, "...to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union."⁹⁸ This finally came to fruition with the ratification of the United States Constitution on June 21, 1788, a mere seven years after the implementation of the Articles of Confederation.

Conclusion

The 1780's were a tumultuous time for the young country of the United States of America. This period has been called the Critical Period by historian John Fiske, by John Quincy Adams in his commencement address to Harvard College in July 1787 and by numerous Americans during the 1780s and this name suits the turbulent timeframe well.⁹⁹ The United States was never taken seriously during this time period by most of the great European powers and was even harassed by the pirates of the Mediterranean Sea. The national government was inept at dealing with such major powers as Spain and Great Britain while also handling the problems caused by North Africa. Even though the United States had just won a war for independence against a great power, they were nonetheless incapable of gaining the upper hand in diplomatic negotiations with these countries and this was mainly caused by the Articles of Confederation.¹⁰⁰ The Articles of Confederation provided the federal government with no real taxing powers, weak central authority, a small military and a non-realistic way to amend the Articles. All of these factors severely weakened Congress' ability to carry out effective foreign policy. These problems were the main reason why the United States Constitution was created. With regard to diplomacy the Articles of Confederation offered little to no support to the national government to effectively deal with the numerous foreign policy problems of the time after the Revolutionary War.

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