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# Articles of Confederation

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**ARSON IN CHINESE LAW.** See Damage to Property in Chinese Law.

**ARTHAŚĀSTRA.** Arthaśāstra is both a branch of learning (*śāstra*) dealing with statecraft and the acquisition of power and wealth (*artha*) in classical India and the name of a specific text attributed to Kauṭilya, a legendary minister of the Mauryan king Candragupta, dated, most likely, to the early centuries C.E. Manuscripts of the *Arthaśāstra*, discovered only in 1905, forced a thorough revision of the highly spiritualized earlier academic views of political power in classical India because of the Machiavellian quality of the text. The strong image of secular statecraft in the text depends, first of all, on the "circle of kings" strategy in which immediately neighboring states are viewed as natural enemies, while the states bordering one's enemies are held to be natural allies in an expanding ring of aggression and alliance designed to increase the central king's power, wealth, and glory. Within this broad image, the text describes in detail the bureaucracy, the internal checks and balances to prevent dissension, the public and private strategies of political negotiation and exploitation, and the occasional prosecutions of war necessary to maintain such a dynamic state.

The *Arthaśāstra* is one of few surviving works from this branch of learning, others including Kāmandaka's *Nīṭasāra* (eighth century C.E.) and the Jain author Somadevasuri's *Nīṭivākyāmrīta* (tenth century C.E.). Other authors and texts in this tradition are known almost exclusively from citations and references found in medieval scholastic commentaries of the *dharmaśāstra* literature. In fact, over time the latter tradition seems to have usurped much of the intellectual role of the *Arthaśāstra* by incorporating many of its ideas and provisions under the rubric of the "king's duties" (*rājadharmā*).

The third and fourth chapters of the *Arthaśāstra* contain one of the earliest systematic expositions of law, legal procedure, and crime in India. In particular, the third chapter's division of legal procedure (*vyavahāra*) into eighteen different adjudicable titles of law or forms of action appears to be an innovation of this branch of learning, one that subsequently became foundational for the more prominent and voluminous literature on *dharmaśāstra*. These titles of law are organized into three indistinct thematic categories:

- 1) issues of family or community property, including marriage, inheritance, adoption, and the joint immovable property of corporate groups;
- 2) issues of debt and contract; and
- 3) criminal actions such as theft, robbery, injury, and slander.

The ordering of the titles differs from other works dealing with Hindu law in that family property questions are

placed first rather than debt, indicating that laws of joint property formed a jurisprudentially paradigmatic legal situation from which other laws are in some measure derived. The fourth chapter expands and deals specifically with the means and methods to suppress criminal activity. Crime is viewed as a threat to the stability of the state and is therefore assiduously checked by means of various agents, both public and undercover. The text also deals with grounds for suspicion, rules of arrest and interrogation, and both the procedures and prescriptions for punishment of various offenses.

[See also *Rājadharmā* and *Vyavahāra*.]

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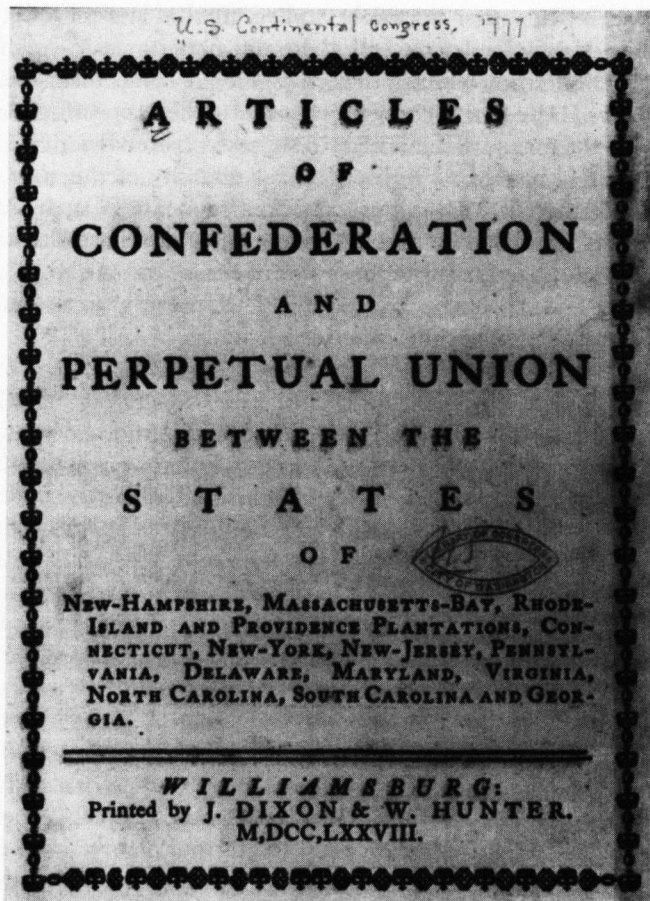
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DONALD R. DAVIS JR.

**ARTICLES OF CONFEDERATION.** The Articles of Confederation were the formal charter of the government of the United States until they were superseded by the Constitution. As tensions with Great Britain grew during the third quarter of the eighteenth century, so did American interest in the creation of a confederation of the colonies. Such a confederation was viewed as a step toward independence. When on June 7, 1776, Richard Henry Lee proposed that the Second Continental Congress declare independence, he also moved "that a plan of confederation be prepared and transmitted to the respective Colonies for their consideration and approbation."

During the following year, Congress worked sporadically on the matter. The advance of the British army during the fall of 1777 and the consequent flight of Congress from Philadelphia greatly increased its urgency. In November 1777, Congress put the Articles into their final form and sent them to the states with a strong appeal for speedy ratification. By January 1779, twelve of the states had ratified. Maryland, concerned about the treatment of western land claims, held out until 1781. The Articles came into formal effect on March 1, 1781, although they were in de facto operation from the time that Congress approved them.

**The "Critical Period" of American History.** The view that there was a "critical period" between the Declaration of Independence and the Constitution prevailed until recent decades. This interpretation stressed the deep ideological splits over how much power should be vested in the national



**Articles of Confederation.** Printed by J. Dixon & W. Hunter, 1778. PRINTS AND PHOTOGRAPHS DIVISION, LIBRARY OF CONGRESS

government that accompanied the drafting of the Articles of Confederation. Those favoring weak government prevailed, but their creation simply did not work when put into practice. Lacking coercive power over individuals and a reliable revenue source, the government chartered by the Articles depended on the voluntary co-operation of the states in fulfilling their financial quotas; this cooperation was obtained only sporadically. The government's inability to function was made painfully clear as an alarming domestic insurgency, known as Shays's Rebellion, shocked the country. Furthermore, the government was unable to negotiate effectively with other countries, and the domestic economy spiraled downward as internecine trade wars intensified. Eventually, the baleful effects of this near-anarchy enabled those favoring a stronger national government to triumph over their opponents and supplant the Articles with a radically different document. Replacing a league of sovereign states with a government drawing its mandate directly from "We the People," the Constitution represented a rejection of the Articles.

**Beyond the "Critical Period."** Many historians, political scientists, and legal scholars consider this account seriously

incomplete at best and, at worst, misleading. They question its accuracy with respect to particular historical events and, more generally, offer a new, positive view of the legacy that the Articles left for American constitutionalism.

**The historical record.** Modern research, aided by statistical analyses of roll-call voting, disputes the view that the Articles emerged from an ideological conflict over the strength of the national government. Rather, the new interpretation argues that the Articles' drafters took initial positions based on their states' interests, economic, sectional, or political. Then, constrained by the need to reach consensus in order to achieve ratification by state legislatures, they reached pragmatic compromises on the controversial issues: how to allocate votes in Congress, how to apportion common expenses, and how to deal with states' claims to large areas of unsettled lands in the west.

The text of the Articles granted significant powers to the national government, implementing them through a judicially enforceable Supremacy Clause. The text also created a common national citizenship through the Privileges and Immunities and Full Faith and Credit clauses, which—like numerous other important provisions—passed virtually unchanged into the Constitution. Moreover, state courts enforced these clauses, sometimes overriding state law to do so.

Although the Articles reserved to the states every power "which is not by this confederation expressly delegated to the United States" (Article II), the Confederation government in practice construed its charter broadly, so as to enable it to perform many functions for which there was no explicit textual authority. For example, as the states with western land claims ceded them to the national government in the interests of interstate harmony, Congress asserted broad authority to govern the region. Despite the lack of any textual warrant, it passed three major plans of territorial governance between 1784 and 1787, including the celebrated Northwest Ordinance.

As a result of such developments, the national government that existed under the Articles anticipated many features of the one that would replace it. By the time the Constitution came into force, a Congress (often acting by broad delegations of authority to its president) was actively engaged in the creation of national laws, treaties, and policies. A national court of appeals for admiralty matters, the institutional predecessor of the Supreme Court, rendered 114 judgments, resulting in roughly forty-nine outright reversals of state-court decisions, and federal administrative departments executed the national will. The Post Office and the Department of War, in particular, continued to function largely unchanged under the new government.

Although a series of interstate problems emerged during the period 1786–1787, there was broad agreement that they needed to be resolved; this was not a subject of partisan dispute. Indeed, on two occasions, twelve of the

thirteen states agreed to proposed amendments to the Articles that would have provided a dependable and independent source of revenue to Congress. When the Constitution was proposed, the Anti-Federalists did not argue that the Articles should be left alone but rather that the particular reforms under consideration were undesirable.

In this context, the adoption of the Constitution was particularly significant in that it eliminated the requirement of unanimous consent to pass amendments and in its creation of a much stronger connection between people and government. The Constitution represented an evolution from, not a simple repudiation of, political and legal developments under the Articles.

**The legacy of the Articles.** In drafting the Articles, their framers reached a series of pragmatic compromises. In applying the Articles, Congress and the courts interpreted them flexibly to serve the underlying purpose of creating a government that was both responsive to the will of its constituents and strong enough to deal with emerging national problems. In both aspects, the experience gained under the Articles served as a model for the behavior of those who framed and interpreted the Constitution.

[See also Constitution of the United States, *subentry on* The Constitution; Federalism; and United States Law, *subentry on* The American Revolution.]

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#### ASIA MINOR AND THE OTTOMAN EMPIRE.

See Ottoman Empire, Islamic Law in Asia Minor (Turkey) and Turkey.

**AŚOKA.** The Indian emperor Aśoka of the Maurya dynasty reigned over northeastern India (Magadha) as well as over parts of the northwest (Gandhāra and present-day Afghanistan) and the southeast (Āndhra and present-day Orissa) believed to be from 268 to 233 B.C.E., thereby establishing the first transregional state in South Asia. The ideology and administrative structure of his state are



**Indian Edict.** Pillar Edict of the Indian emperor Aśoka, 238 B.C.E. © BRITISH MUSEUM/ART RESOURCE