

THE BREAKDOWN OF CONGRESSIONAL AUTHORITY:  
A STUDY OF THE RELATIONS BETWEEN THE  
CONTINENTAL CONGRESS AND THE  
STATES, 1780-1783

By

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## PREFACE

This study concerns the collapse of congressional authority during the last four years of the American Revolutionary War, 1780 through 1783. The primary objective is to discover what caused congressional authority to wane, by examining political and economic relations between the states and Congress. Within this context it focuses upon several critical events and problems in order to examine their effects on congressional-state and interstate relations. Among the events studied are the military crises in 1780, the mutiny of the Pennsylvania Line in 1781, the ratification of the Articles of Confederation in 1781, the Yorktown Campaign in 1781, the Philadelphia mutiny in 1783 and the congressional proposals for reforming the nation's finances in all four years. Among the problems examined are the internal financial difficulties of the states, the constitutional relationship between Congress and the states, relations between state and congressional officials, and the conflicts between states over territorial claims. Throughout this study the author assumes that the views of the participants on both the national and local level, regardless of how accurate, were of paramount importance in determining both national and local policy during these critical years.

The author wishes to express his appreciation to his major adviser, Dr. H. James Henderson, for his patience, guidance, encouragement, and gentle prodding throughout this study. Special thanks are also extended to the other members of the committee, Dr. Theodore L. Agnew, Dr. Douglas D. Hale, Dr. Bertil Hanson and Dr. Michael M. Smith. Mere expressions

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## TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION . . . . .	1
II. CONGRESSIONAL PROBLEMS PRIOR TO 1780 . . . . .	24
III. NEW PLANS AND OLD PROBLEMS . . . . .	53
IV. CRISIS AND DESPAIR . . . . .	92
V. ATTEMPTING REFORM, 1781 . . . . .	126
VI. TERRITORIAL TENSIONS . . . . .	163
VII. IMPOST TO IMPOST . . . . .	202
VIII. CONFLICTS AND COLLAPSE . . . . .	238
IX. CONCLUSIONS . . . . .	274
A SELECTED BIBLIOGRAPHY . . . . .	285

## CHAPTER I

### INTRODUCTION

The period 1780 through 1783 encompassed four of the most crucial years of the American Revolution. These were the years of crisis, confusion, and despair. During this time the armies of Great Britain reestablished Royal government in two southern states, captured one American army, completely routed and demoralized another, and threatened imminent defeat and occupation of two other states. The new nation lay almost prostrate before the onslaught. Its financial system was in ruins. It could no longer raise or adequately support an army. Underfed, underclad, and rarely paid, the Army itself grumbled, threatened, and in some cases actually mutinied in order to redress its grievances. The Revolution, despite the expenditure of so much blood and treasure, appeared near collapse.

Historians who have examined these years of the Revolution generally agree that a breakdown of congressional authority created many of the problems of the period, but they cannot agree upon the causes of the breakdown or its duration or even its significance. Much of the debate on the collapse of authority has centered upon Congress' instrument of government, the Articles of Confederation. The classic attack upon the Articles, of course, is that of John Fiske. Writing in the late nineteenth century, he saw little that was good in the Confederation government and sharply criticized the Articles for their weaknesses as a

frame that rendered the nation incompetent to manage the economy and foreign affairs. Indeed he coined the name for the years between 1783 and 1787 by calling it the "critical period" of American History.<sup>1</sup>

Modern historians are unwilling to see the period as quite so critical as Fiske did. Many scholars, however, do see the ratification of the Articles in 1781 as marking a definite breaking point between the revolutionary and post-revolutionary periods. For example, John C. Miller blames the ratification itself for the decline of congressional power. He notes that prior to ratification Congress was a revolutionary body without either legal authority or legal restraint. Once the Articles were ratified Congress gained legitimacy but lost power. Miller also believes that the Confederation government was a retreat from the idea of national union which some radicals had expressed early in the Revolution.<sup>2</sup> On the other hand, John Richard Alden argues, without documentation, that the central government after the ratification of the Articles was more powerful than it had been at the time of the Second Continental Congress.<sup>3</sup>

Edmund Cody Burnett, disagreeing with both Miller and Alden, asserts that the ratification had very little effect on the power of Congress. He notes that while Congress was indeed an extralegal body for the first five years of its existence, in practice it held itself

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<sup>1</sup>John Fiske, The Critical Period of American History (Boston, 1916), pp. 55-57, 98-101.

<sup>2</sup>John C. Miller, The Emergence of the Nation, 1783-1815 (Glenview, 1972), p. 5.

<sup>3</sup>John Richard Alden, The American Revolution, 1775-1783 (New York, 1954), p. 177.



within the bounds of the Articles from the moment when they were first offered to the states for ratification. It should be noted, however, that Burnett does not explain either the growing ill-repute of Congress after 1781 or the increasing inability of that body to muster quorums for congressional business. Instead he is content with merely chronicling events.<sup>4</sup>

Other historians, such as Max Farrand, view the collapse of Congress as a direct result of the end of the war. Farrand argues that once the reason for unity--the war--disappeared the states simply went their own way.<sup>5</sup> Dan Lacy also views the breakdown as a postwar problem except that he focuses his attention on the immediate postwar depression.<sup>6</sup> John C. Miller, besides arguing the effects of the ratification of the Articles, also partly blames the nation's financial difficulties. He believes that the fall of the Continental currency during the period brought down with it the prestige of Congress.<sup>7</sup>

Even Merrill Jensen, one of the champions of the Articles, notes that in 1783 Congress temporarily collapsed and gives yet another cause. He argues that congressional power was seriously weakened in the years 1781 through 1783 because of conflicts which developed between two

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<sup>4</sup>Edmund Cody Burnett, The Continental Congress: A Definitive History of the Continental Congress from Its Inception in 1774 to March 1789 (New York, 1964), p. 502ff.

<sup>5</sup>Max Farrand, The Framing of the Constitution of the United States (New Haven, 1913), p. 1.

<sup>6</sup>Dan Lacy, The Meaning of the American Revolution (New York, 1964), pp. 308-309.

<sup>7</sup>John C. Miller, Triumph of Freedom 1775-1783 (Boston, 1948), pp. 652, 658-659.

groups in Congress. The first he identifies as conservative nationalists, or those who, from the onset of the Revolution, agitated for an all powerful central government; the second he calls democratic radicals, or those who viewed the goal of the Revolution as establishing a highly decentralized national government as the only way to insure liberty. He believes that in the years 1781 through 1783 the nationalists temporarily gained control of Congress and attempted to further centralize power in the Confederation's government. Failing to accomplish their ends the nationalists went home in disgust; leaving Congress temporarily without leadership until the radicals could reorganize themselves and reassert control.<sup>8</sup>

Several historians have accepted Jensen's interpretation of the nationalist-radical conflict during the period and have concentrated their attentions on the financial problems of Congress which intensified the struggle between the two groups. Jackson Turner Main emphasizes the importance of the conflict and concentrates his examination on the impost of 1781. He asserts that the impost "failed because it offended those who feared a consolidation of power in central government." He further argues that the struggle over the impost presaged the arguments which would be used for and against the new Federal Constitution in 1787 and 1788.<sup>9</sup>

Forrest McDonald also argues that the conflict between nationalists and radicals deepened because of financial difficulties. He believes

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<sup>8</sup>Merrill Jensen, The New Nation: A History of the United States During the Confederation (New York, 1967), pp. 4-5, 83.

<sup>9</sup>Jackson Turner Main, The Antifederalists: Critics of the Constitution, 1781-1788 (Chapel Hill, 1961), p. 75.

that the nationalists were able to gain control of Congress in 1781 because of the mutiny of the Pennsylvania line on January first of that year. After that event even some of the radicals realized that the central government would have to be strengthened if the Army was to be paid and supplied. Congress, therefore, reluctantly shifted the control of its finances to one man--Robert Morris. Morris and the nationalists failed, McDonald asserts, only because the war ended shortly, and thus freed the radicals from their commitments to increase national power and permitted them to return to the pursuit of those local aspirations which had been the source of the Revolution in the first place.

Finally, E. James Ferguson, the preeminent financial historian of the American Revolution, notes that the nationalists' drive was caused by the necessity of reinvigorating the war effort. A part of the nationalists' program was to institute such conservative economic reforms as the elimination of paper currency, the establishment of heavy taxation, and the abandonment of price controls. Leading this movement towards laissez-faire economic policies was Robert Morris who was backed by the nation's mercantile community. Unable to override state opposition the nationalists turned to the Army, helping to foment the Newburgh conspiracy. Their efforts, however, were defeated by the loyalty of General George Washington and because Congressmen could not get their constituents in the states to accede to a strengthening of congressional power.<sup>11</sup>

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<sup>10</sup>Forrest McDonald, E pluribus unum: The Formation of the American Republic, 1776-1790 (Boston, 1965), pp. 14-17.

<sup>11</sup>E. James Ferguson, The American Revolution: A General History, 1763-1790 (Homewood, 1974), pp. 174-184.

While the studies noted above generally agree that a collapse of congressional authority occurred and locate that collapse in the years 1780 through 1783, each has a limited angle of vision. Each fails to explain adequately the impact of its particular cause upon the all important relationship between Congress and its constituent parts, the individual states. It is only by investigating the effects of events and policies on that relationship that one can fully explain the loss of congressional authority. Consequently, this study examines congressional-state relations in detail during the period 1780 through 1783.

Within this context it explores the effects of three particular causes mentioned by other historians as possible sources for the loss of congressional authority. The first was the crisis in congressional finances, which began in the latter part of 1779 and continued throughout the remainder of the war. The second was the ratification of the Articles of Confederation in March, 1781, which finally established the union of the states on a legal basis. The third was the impact of the end of the war which resulted from the successful Yorktown campaign in October, 1781, and the consequent ratification of the preliminary articles of peace by Congress in April, 1783.

The thesis of this study is that although these events affected the relationship between Congress and the states, the events themselves did not measurably alter the authority of Congress. Instead, they only revealed and amplified the inherent weakness of the national government created by the revolutionaries. At the heart of this problem lay the power retained by the states either to accept or to reject congressional resolutions. This power, reserved by the states partly from inexperience but mostly from fears of centralized authority, plagued the

efficient conduct of national government from the onset of the war until the ratification of the Federal Constitution in 1787 and 1788. It was often employed because the revolutionaries, in designing their system of government, created a straight line relationship between Congress, state governments, and the people rather than the triangular relationship familiar under the Federal Constitution; that is, the state governments owed their existence to the citizens of their respective states, while Congress was a creature of these state authorities. But there was no direct relationship between Congress and the people. State governments were often trapped between the needs of their constituents and the demands of Congress. When required to choose between the two, they invariably chose the former. The pressures of the events during the years 1780 through 1783 forced state governments to make these decisions more frequently and, in the process, the states increasingly conflicted with one another and with Congress. The confrontations became so intense that it was inevitable that the collective voice of the states, Congress, would lose much of its prestige and consequently much of its authority.

A corollary thesis of this study is that the growing tensions between the states in the years under investigation led to movements both toward and away from creating a stronger national government. As constituted under the Articles of Confederation, without sufficient powers to enforce its resolutions and with no permanent income of its own, Congress became a battleground for competing state interests. On one issue or another, most states believed that Congress was being used by some states to strip others of their rights and property. In order to alleviate these conflicts, some members of Congress such as James Madison

and Joseph Jones of Virginia, and James Duane of New York, advocated increasing the powers of the national government by giving Congress an independent income and coercive powers to carry out its resolutions. They believed that making Congress less dependent upon the states for its authority was the only way to insure that their states would be protected from encroachments by other states. A second group of delegates, however, opposed increasing congressional authority. Such men as David Howell and Jonathan Arnold of Rhode Island argued that to augment congressional power would only enhance the opportunities of the other states to make inroads into their states' sovereignty. Thus many of the opponents and some of the advocates of an altered Congress operated from the same frustrations and the same fears--frustrations with the inability of the national government to solve the problems of interstate conflicts and fears that this inability could damage the sovereignty of their individual states.

This study also contains several subordinate themes which comment upon other factors that aggravated the conflicts between the states. The most important, perhaps, concerns the lack of an integrated national polity. From the earliest settlements, the colonies developed in virtual isolation from one another. In different sections of America, the colonists created social, economic, and political institutions which both suited their particular environments and conformed to the reasons which had impelled them to emigrate from Britain. On the eve of the Revolution the colonies had achieved different states of community development. During the war, the compact organization of the New England town was much more effective in calling forth its resources than was the rambling county system of Virginia and the Carolinas. On the one

hand, people in New England could not understand the difficulties caused by such factors as space in large states like Virginia. On the other, southerners resented the charges leveled at them by New Englanders that they had done less than their fair share of the financing and the fighting, when they believed that they were doing everything possible.

Other subordinate themes concern the problems of communication, of intrastate conflict, and of local administrative ineffectiveness. Throughout the war communications were hampered by both distance and the British, which in turn, prevented a perfectly coordinated war effort and which caused long delays in executing congressional policies. The problem of internal disputes within some states sometimes altered the manner in which a specific state would respond to congressional resolutions, or worse still, would prevent action on a particular policy altogether. Finally, in forming their governments most states incorporated the same administrative methods and units which had been employed by their colonial governments. These practices, however, proved ineffective in organizing the states' resources for prosecuting the more modern warfare of the Revolution. Thus, even though most states had adequate men and material to comply with congressional resolutions, they often could be called forth only by the most brutal use of force. Since state governments owed their existence to their citizens, most were unwilling to use such coercion except in times of immediate danger to their particular states.

The arguments which support this thesis and which will be documented in succeeding chapters are as follows: It is almost axiomatic that in the early part of the war the states feared the creation of a strong national government. The Revolution itself had been prompted by the

abuses of British administration, and the states were determined that their labors would not result in the development of an equally abusive national government. Consequently, the states created a central government which could exercise very little authority unless its actions were consented to by the states. Congress, as it developed during the war and under the Articles of Confederation, was the product of these fears. In many ways it might indeed be compared to an international organization of independent states formed solely for the purpose of prosecuting the war. The states well knew the kind of government they had created. It was no accident that the official designation of the Continental Congress was the United States in Congress Assembled; nor was it a grammatical quirk that Congress was used as a plural noun; e.g., "Congress are," "Congress were," and "Congress have."

Nevertheless, despite its lack of independent powers, Congress as an administrative and legislative body could be effective, but only so long as the states remained basically in harmony with one another. Under the pressure of several crises of the war in the period 1780 through 1783, however, harmony and cooperation among the states virtually disappeared to be replaced by disunity and competition. During these years the states began to argue that both Congress and its administrators were inflexible, insensitive, and unjust. They asserted that national administrators often rigidly adhered to congressional orders when it appeared to the states involved that such orders were not justified because of local circumstances. More importantly, states argued that Congress failed to adjust its demands to accommodate adequately the particular difficulties of individual states.

To the states, this last issue became especially apparent on the



problem of financing the war effort. Early in the war the states had granted Congress the power to print money in order to support its activities. The states were supposed to back this currency through contributions. But by late 1779, partly because of inability to pay, partly because of reluctance, and partly because it seemed sufficient to let Congress print money without supporting it, the states had never fully backed any issue of Continentals. The resulting inflationary spiral threatened to completely wreck the war effort. Thus, Congress stopped the presses. As a substitute for the Continental currency, in early 1780, Congress decided to requisition supplies directly from the states at fixed prices. It also determined to issue new bills of credit to replace the old currency at a recommended fixed ratio of forty old bills for one new. In addition, it also insisted that before the new bills could be issued the old had to be called in and destroyed. The states were asked to pass specific taxes for that purpose. In effect, in early 1780 Congress placed the financing of the war directly into the hands of the states, while it acted only as a requisitioning and dispersing agent.

One result of these new financial proposals was to bring permanently to the surface the resentments of the states toward one another. As Congress began to implement its system each state government discovered reasons why it could not fully comply with the requisitions. Each justified its non-compliance by claiming that because of peculiar circumstances its citizens had contributed more than their fair share to Continental expenses. To support these assertions some state officials argued that the method used by Congress to assign state quotas was inequitable because Congress based its assessments on inaccurate population statistics compiled in the early part of the war. Others asserted that

in the previous four years of warfare their states had been frequently either ravaged or partly occupied by the enemy, thereby reducing these states' sources of revenue. Still others noted that their states were the sites of the maneuvers of the Continental Army and out of necessity they had been required to make up the difference between the Army's needs and the contributions of other states.

The state governments compensated for these injustices to their constituents by either ignoring or defying congressional financial requests. Many states continued to issue their own currency despite congressional wishes to the contrary. In addition, state assemblies were slow to pass legislation necessary to collect specific taxes to support the new bills. When they did so, the exchange rates they set often differed from the forty-for-one ratio requested by Congress. When asked to explain their actions, state officials answered that they had only responded to local economic circumstances and to the necessity of defending their economies from adverse legislation passed by surrounding states. They also argued that their own financial difficulties were at least as serious as those of Congress and insisted on knowing when Congress would make its long awaited adjustments of accounts between the United States and the individual states. The net result of these growing conflicts was that the new financial system never worked effectively.

The resentments towards Congress increased in mid-1780 when the British began military operations in the Southern states. In the months which followed both Georgia and South Carolina fell to the enemy, North Carolina became a battleground and Virginia was invaded. Virginia and Maryland pleaded with Congress for immediate military and financial aid. Congress replied that it would try to help but because of its own

financial problems Virginia and Maryland should not count on aid. Congress did everything it could but in the process only increased the dissatisfaction of the other states. The campaign obviously raised the cost of the war but now three states, Georgia, North Carolina, and South Carolina, were virtually excluded from sharing the additional financial burden. The other ten states over which the increased costs were apportioned complained that Virginia and Maryland could do more, while these last two states argued that the other eight were leaving them in the breach.

As the financial and military woes of the South worsened, Virginians became desperate. Unable to raise an effective army or to finance their own defense and frustrated because of the minimal aid received from their brethren in Congress, some Virginians even began to question the effectiveness of republican government. In June, 1780, after a British raid had disrupted the Virginia assembly, Richard Henry Lee demanded that Congress send General Washington southward immediately and give him dictatorial powers to requisition men and provisions so that he could drive the British from the South.

Towards the end of 1780 other states besides Virginia also were becoming increasingly frustrated by congressional ineffectiveness. Many of them hoped and believed that congressional power could be increased or at least could be made more efficient by the simple expedient of ratifying the Articles of Confederation. They asserted that legally establishing the national government could ease the financial problems of prosecuting the war; first because a legitimate government would enhance the chances of acquiring foreign loans and second, because the Articles contained in Article VIII a specific method for apportioning

taxes upon the states based on the amount of improved land in each state. Other delegates believed that the only way the national government could be strengthened was to make its instrument of government legal so that it could be amended.

Both groups were equally disillusioned. Those who believed that the financial problems would be eased quickly discovered that Article VIII was impossible to implement because of the lack of data on improved lands in each state. Those who looked to strengthening congressional power through the amendment process discovered that the unanimity required was also impossible. Congress desperately sought some other method for financing the war. Proposals ranged from the sale of western lands to a tax upon all lands and finally to an impost on imports and prizes.

Delegates from individual states opposed each of these methods. Among their arguments were expressions of the old fears of central government. For example, some delegates argued that the power given to Congress under the proposed impost to appoint officers in each of the states to collect the taxes was a dangerous infringement upon state sovereignty. But in private letters between delegates and their state governments the real reasons for opposition were expressed in terms which indicated fears that such taxes were designed to take advantage of the wealth of particular states. Thus the states began to view the attempts to establish federal taxes as methods which some states would use to rob other states of their property.

Another problem which arose repeatedly during the period 1780 through 1783 and which reduced the authority of Congress by increasing the states' resentments of one another was that of disputed territories.

Though the problems of overlapping colonial claims had existed prior to the period under discussion, in the years 1780 through 1783 the questions were pursued much more vigorously both inside and outside of Congress. Perhaps the most important of these disputes was that among those states which had claims to territory in the west, principally New York, Connecticut, and Virginia. Maryland refused to ratify the Articles of Confederation until these states had surrendered their western claims to the United States. Reluctantly, these states conceded, in principle, to surrendering the western territories. The actual implementation of the cessions, however, caused considerable turmoil and bitterness in Congress among the states involved. Other territorial disputes which occurred during these years and which were heatedly debated on the floor of Congress included the struggle of the Hampshire Grants (Vermont) to obtain independence from New York and New Hampshire and the dispute between Pennsylvania and Connecticut over the Wyoming Valley in northeastern Pennsylvania.

While the Articles of Confederation provided in Article IX a complicated method through which these disputes could be settled, the conflicts involved the issue of basic state sovereignty, and the states concerned were never convinced that Congress could or would be objective in its judgements. This became evident as each state tried to use the Confederation's method for resolving conflict strictly to its own advantage, maneuvering the questions in Congress by either supporting or opposing consideration until such time as one or the other of the disputants had achieved an advantage in the alignment of the states on that particular question. The states which believed themselves victimized by these maneuvers naturally reacted in anger. Their respect for

Congress as it was constituted under the Articles of Confederation diminished while their fears increased that in the future their sovereignty would be impinged upon further by the other states acting in concert in Congress.

Still other seemingly minor crises arose among the states throughout the period. Sometimes such crises involved conflict between states over congressional orders; at other times they concerned direct confrontations between states themselves. These crises intensified the resentments of states against not only Congress but each other as well, adding further to the reluctance of the states to fully cooperate with one another. For example, Pennsylvania complained bitterly of Delaware's violations of congressional requests for embargoes. New York resented Connecticut's raids upon Long Island. Many states condemned Governor William Livingston of New Jersey when he unilaterally set exchange ratios for Continental dollars in such a manner that surrounding states were flooded with more than their fair share of the old Continental currency. Maryland was angered by the capture of one of its vessels, bearing a flag of truce and carrying supplies for Maryland prisoners in New York, by ships operating out of the ports of Rhode Island. All of these crises, along with many others, served to increase the tensions among the individual governments which made up the Confederation.

In addition to these direct and indirect confrontations among individual states, there were also incidents between congressional administrators and the states which created further irritations. Some of these conflicts involved Congressional Commissaries. In New York, Timothy Pickering, acting as Congress' Commissary, refused to pay for forage he confiscated for use of the Continental Army in a manner acceptable to

New York's State Agent, Udny Hay, and was arrested by New York officials. In Maryland the Continental Agent refused to accept beef cattle on the hoof, insisting that Maryland pay the cost of slaughtering the animals and salting the meat as per congressional orders, even though Maryland argued that it had experienced enormous expenses in obtaining the cattle in the first place. Many other incidents involved the newly created Department of Finance and its head, Robert Morris. As was evidenced by the sharp exchanges between Morris and some state governors, many states felt that he lacked both appreciation for their particular exertions and sympathy for their desperate financial conditions. Again, the net result was a further erosion of respect for Congress and a consequent diminution of congressional authority.

Indicative of the decreasing significance of Congress in the years 1780 through 1783 was the attitude of delegates towards congressional service. Many delegates felt neglected by their constituents. They believed themselves overworked, overlooked and underpaid. Time after time they requested either to be replaced or at least to be adequately supported by their home states. In most cases their requests were virtually ignored. Consequently many delegates, when offered the opportunity, readily accepted positions as judicial officers or as members of assemblies in their home states rather than continue their odious duties in Philadelphia.

Part of the reason for the low prestige of congressional service was the confusion over the role delegates were expected to play. Throughout the existence of the early Congresses delegates served two functions. State governments expected them to protect the interests of their home states and to convey to their constituents the congressional

point of view. In this sense the members acted as ambassadors representing specific sovereignties. Thus both before and after the ratification of the Articles voting in Congress was done by states. At the same time, however, delegates were also expected to coordinate and direct the nation's war effort and in this capacity to make independent judgements and vote as individuals. Thus the members often acted as national legislators attempting to instruct their states rather than as state emissaries.

During the period under discussion the dichotomy between these two roles became starkly apparent. Congressmen with a large view of national distress recognized the need for closer state cooperation and emphasized their role as legislators by pleading with their states to comply with congressional resolutions. But as local distress increased, state governments insisted that their delegates represent their interests exclusively. Consequently, as the conflicts among the states increased, many congressional delegates considered themselves little more than spies sent by their state governments to analyze each decision in terms of how much harm such decisions would do their states.

As the rewards of congressional service declined delegates were often reluctant to attend. Thus Congress frequently was left without sufficient representation to decide significant questions. By late 1783 the lack of congressional prestige and the difficulty of obtaining quorums almost paralyzed the activities of Congress. Many important decisions were either not made or else suffered inordinate and dangerous delays. For example, in November and December, 1783, Congress was unable even to muster enough states to ratify the definitive articles of peace with Great Britain even though the peace commissioners had noted



that the exchange of ratifications had to take place in London on March 1 of the following year.

The growing tensions among the states, the inability of Congress as structured under the Articles of Confederation either to ease the tensions or to bypass them, and the lack of authority in Congress to enforce its decisions, led to agitation both inside and outside Congress to equip that body with more effectual powers. The primary group outside Congress that supported additional powers was the Army. One of the natural by-products of a united revolution was the creation of a national army whose concern for prosecuting the struggle with Britain transcended state boundaries. Obviously this concern had been present since the onset of the Revolution, but in the period 1780 through 1783, because of the lack of unity among the states on questions of finance, the years of effort by the Army threatened to prove unavailing. Consequently much of the impetus for a stronger national government came from the supporters of the Army who feared that if Congress did not reform itself in order to adequately support the Army, America risked losing the war.

Inside Congress the movement towards strengthening congressional authority was also partly motivated by fears of American military defeat. More important, however, was the belief that Congress lacked the authority to prevent conflicts between the states and, in fact, actually encouraged interstate conflict because of the way Congress was structured. Some delegates argued that the Articles permitted the individual states too much power to thwart the will of the majority. As with ratification itself, one state for its own selfish purposes could block the execution of a policy considered vitally important by all other states

until it had wrenched unjust concessions from some of the states in the majority. These delegates also deplored Congress' lack of coercive powers. They argued that even when Congress was able to make decisions, it was impossible to get states to comply if they chose not to. This meant that either the policies had to be abandoned or else those states which complied had to assume the burden of those which did not.

Thus, almost immediately after the ratification of the Articles, some delegates began to agitate for constitutional revision. Among their proposals was that of giving Congress the power to force laggard states to comply with congressional requisitions and orders. They also proposed to alter the number of states required to set policies. Some argued that policy should be set by a simple majority of all states rather than the majority of nine states required by the Articles of Confederation. Others believed, in order to bypass state absenteeism, that decisions should be made binding by a simple majority (but not less than five) of the states present at a particular session.

As noted previously, many historians have argued that these attempts at amending the Articles of Confederation were guided by nationalists whose primary goal was to create a powerful national government to which the states would be much more fully subordinated. These historians have identified the nationalists primarily as economic conservatives whose main concern was to protect the country's economic interest groups. Their opponents have been described as strong states' rightists who feared that strengthening national government would lead to the destruction of state sovereignty and to limitations upon liberty. Some of the delegates, such as Robert Morris, fit these definitions, but others did not.

Among those who did not fit the definition was a group of delegates, led by James Madison, who indeed were nationalists, but who were nationalists of an odd sort. When the vital interests of their states were involved in congressional disputes, they worked strenuously to defend those interests. They also strove to strengthen the central government, but primarily to protect state sovereignty, not to subvert it. They believed that only by giving the national government greater authority could victory over Britain be achieved, thus assuring the independence of their particular states. They also believed that making the national government as independent as possible of state influence was the only way that Congress could become an objective judge of interstate conflicts. To create such an authority would obviously limit state sovereignty to a certain extent, but it would also guarantee that if state sovereignty was sacrificed, it would be sacrificed equally by all.

In essence this group of delegates emphasized their role as national legislators rather than as state emissaries. The crises of the period under discussion caused many of these men to look beyond the needs and desires of their own states for solutions to problems which were essentially national in scope. At the same time, as the peculiar distresses of individual states increased, state governments often demanded that their delegates adhere more stringently to their role as state emissaries. The rapidly diverging perceptions of the role delegates were supposed to perform led to confusion, frustration, and ill-will, and therefore to a further erosion of congressional authority.

Nevertheless, it would be this group of men, pragmatic politicians and solid supporters of the rights and interests of their respective

states, who would be primarily responsible for stumbling onto a method for balancing liberty and authority in the national government at the Constitutional Convention in 1787. Their solution, based upon their experiences in the Continental and Confederation Congresses and reached through painful compromise, would be to initiate a dynamic, creative tension between the interests of the states and the interests of the people by establishing a direct relationship between the central government and the people, thus completing the third side of the familiar Federal triangle. Only then would the states be assured protection from each other and from an arbitrary national government.

But in the years 1780 through 1783 these men failed to create a stronger national government. The nationalist drive itself was the product of disunity in Congress. If Congress had been able to maintain the consensus of the states for its policies, then it also would have maintained its prestige and authority, and a nationalist movement would not have been necessary and may not even have developed. Conversely, since Congress had lost its authority because of interstate strife, there was little hope that the nationalists could regain the necessary consensus among the states without devising a system whereby each state would be guaranteed its sovereignty. During the years 1780 through 1783 the nationalists were unable to create such a system, and the end of the war would assure that for at least a few more years they would not. The termination of the war meant that it was no longer immediately apparent to the states why such enforced cooperation by a strengthened national government was necessary. Thus, stripped of its prestige and authority by the conflicts of the last years of the war, Congress was allowed to drift lethargically through the next four years. So

effectively had the prestige of Congress been destroyed that even when the people of the states finally realized the necessity of establishing a stronger national government they abandoned the discredited Confederation altogether and adopted a new constitution.

In the following chapters each of the arguments outlined above will be explored in detail. It should be noted that in doing so the evidence which will be emphasized will be that of the written communications of the delegates of Congress and of congressional and state officials. Sometimes their view of events differed markedly from the actual events as they unfolded. But, since their perception of events colored the decisions which would be made on the local and national level, their views of the various crises during the period 1780 through 1783 is of paramount importance in investigating their actions. In addition, it should be cautioned that many concurrent forces working towards national integration did exist during the period under investigation. It is not, however, the function of this study to assess those unifying factors but rather to explore those factors which inhibited a more rapid development of national unity. With this understanding the detailed discussion of these years can now commence.

## CHAPTER II

### CONGRESSIONAL PROBLEMS PRIOR TO 1780

The crises in congressional-state relations during 1780 through 1783 originated in the inadequate solutions of two major problems in the previous four years of warfare. The first of these problems was the difficulty Congress faced in creating a national government which would provide not only direction for the war effort but also protection for the states from the kinds of abuses associated with British administration. The second problem, closely related to the first, was finding some equitable and efficient method for financing the war. In both cases, the solutions forced upon Congress mirrored the states' fears of centralized authority and reflected the states' struggle to protect their particular interests. In both cases, the solutions aggravated rather than alleviated the conflicts between the states. Consequently, Congress entered the critical year of 1780 with neither a ratified authority nor a stable financial structure with which to prosecute effectively the war against Britain.

Congress' solution to the problem of union was the Articles of Confederation. The best history of the writing and ratification of that document is Merrill Jensen's Articles of Confederation.<sup>1</sup> Throughout

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<sup>1</sup>Articles of Confederation: An Interpretation of the Social-Constitutional History of the American Revolution, 1774-1781 (Madison, 1959).

his discussion, however, Jensen emphasized the debate between "conservative" nationalists and "radical" states' rightists as the most important element in the shaping of the Articles. While he quite properly argued that the states were primarily concerned with protecting their own sovereignties, his preoccupation with the conflict between nationalists and radicals led him to discount the conflicts between the states themselves. Much of the states' fear of central government stemmed from their beliefs that a strong national government would lead, in one manner or another, to their being oppressed by other states. Thus, the writing of the Articles was often influenced by states either seeking advantages in the national council or in preventing possible encroachments on an advantage they might already enjoy in Congress. The result of their efforts, reflected clearly in the problem of financing the war, was the creation of a central government whose lines of authority were so nebulous that it could neither efficiently prosecute the war nor effectively guarantee the sovereignty of individual states through arbitrating interstate conflict.

As early as July, 1775, Benjamin Franklin proposed a sketch for a confederation which would have established a "League of Friendship" among the states. Under his plan, Congress would have control of war and peace, foreign affairs, general commerce, currency, and Indian relations. The government was to be supported by each colony supplying money in proportion to its number of male polls between sixteen and sixty years of age. Representation would be apportioned at one for every 5,000 polls. It would have an executive council of twelve members, and the Articles themselves could be amended by a simple majority

of the colonies.<sup>2</sup>

Because the delegates were concerned with a possible reconciliation with Great Britain, they defeated Franklin's plan and did not consider a plan of union again until June, 1776. By then, Congress was preparing to declare independence, and, anticipating the event, it resolved on June 11 to appoint a committee to draft articles of confederation. The following day Congress chose the committee, consisting of one member from each colony.<sup>3</sup> A month later, on July 12, the committee reported and laid before Congress the so called "Dickinson draft" of the Articles for the members' consideration.<sup>4</sup>

This draft incorporated many of the provisions of Franklin's plan in determining what powers Congress could exercise and in designing the general form of the national government. But it differed markedly in the detail of the structure and in how Congress could exercise its authority. Under the Dickinson draft, taxes would be based upon the number of all inhabitants of every age and sex within each colony (except Indians) and allowed each colony to have only one vote in Congress. It also provided that major decisions such as war, the assessment of taxes and the apportionment of troops required the agreement of the delegates of nine colonies, while all other decisions necessitated the assent of seven colonies. The Dickinson draft also gave Congress the authority to set the boundaries of those colonies whose charters or purchases

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<sup>2</sup>Continental Congress, Secret Journals of the Congress of the Confederation (Boston, 1820), Vol. I, pp. 267-273. Hereinafter, SJ.

<sup>3</sup>Ibid., pp. 273-274.

<sup>4</sup>Ibid., pp. 275-288.



from Indians gave them claims to lands in the West.<sup>5</sup>

Congress immediately began debating the various provisions of the draft, but their progress was painfully slow. Samuel Chase of Maryland observed that some delegates did not see the necessity of a confederation. Expressing the view of the majority of members, however, Chase argued that without a union between the states: "We shall remain weak, distracted and divided in our councils; our strength will decrease; we shall be open to all the arts of the insidious court of Britain, and no Court will attend to our applications for assistance before we are confederated." Emphasizing the last Chase asked: "What contract will a foreign State make with us when we cannot agree among ourselves?"<sup>6</sup> The concern for national credibility, however, did not measurably divide Congress into nationalists and radicals. According to Abraham Clark of New Jersey the debate centered instead on two articles: "One for fixing the Quota of the States towards the Public expense, and the other whether Each State shall have a Single Vote or in proportion to the Sums they raise or the Numb[er] of Inhabitants they contain."<sup>7</sup>

By early August the debates over these two issues of taxation and representation had become so intense that some members of Congress

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<sup>5</sup>Ibid. In his discussion of the Dickinson draft, Jensen emphasized its nationalist potential, but it can also be seen that Dickinson was acting as a representative of a landless, small state. For an excellent discussion of the constitutional implications of the Dickinson draft see Jensen, Articles of Confederation, pp. 129-138.

<sup>6</sup>Samuel Chase to Richard Henry Lee, July 30, 1776, in Edmund Cody Burnett, ed., Letters of Members of the Continental Congress (Washington, 1921-1936), Vol. II, p. 32. Hereinafter, LMC.

<sup>7</sup>Abraham Clark to James Caldwell, July 31, 1776, LMC, Vol. II, pp. 32-33.

doubted that a confederation ever would be achieved. William Williams, a delegate from Connecticut, writing to Joseph Trumbull, declared: "We make slow Progress in them [the Articles] as every Inch of Ground is disputed and very jarring Claims and Interests are to be adjusted among us, and then all to be agreed to by sev[eral] Legislatures, so that between both I almost Despair of seeing it accomplished."<sup>8</sup> Despite Williams' pessimism, the Committee of the Whole finally produced a draft of the Articles on August 20, which did not alter Dickinson's draft to any great extent, and offered it to Congress for further consideration.<sup>9</sup> But the final arguments on the proposed Articles were delayed by the press of other events, and they do not appear to have been considered again until April, 1777. On the eighth of that month Congress resolved to debate the Articles two days a week until they were completed.<sup>10</sup>

Congress, however, was able to consider the confederation only sporadically until October.<sup>11</sup> Meanwhile, on the days it was discussed, some parts of the Articles were decided. In April Thomas Burke of North Carolina led a debate on the second article because, for him, it was not explicit enough in its guarantee of the rights of the states. Observing that "it expressed only a reservation of the power of regulating the internal police" to the states and that it consequently resigned every

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<sup>8</sup> William Williams to Joseph Trumbull, Aug. 7, 1776, LMC, Vol. II, p. 41.

<sup>9</sup> SJ, Vol. I, pp. 288-299; and Jensen, Articles of Confederation, p. 139.

<sup>10</sup> SJ, Vol. I, p. 239.

<sup>11</sup> The Articles were debated in 1777 on April 8, 21, 25; May 5; and June 23, 25, 26. Ibid., pp. 299-301.

other power to the confederation government, he proposed an alteration. He wanted to insure that a future Congress would be prevented from abusing its authority by rewriting the second article so "that all sovereign power was in the states separately," and that only expressly enumerated powers could be exercised by Congress and then only in conjunction with the states. In all other cases he urged that the states be permitted to "exercise all the rights and power of sovereignty uncontrolled." Opposed only by Virginia, Burke was successful in his effort.<sup>12</sup>

Nevertheless, Congress still continued to quarrel over three major problems--voting, taxation, and western lands--causing further delays in completing the Articles. Each of these issues dominated the debates on the Confederation from the outset because they were so intimately connected with the interests of particular states. The first two involved conflicts between large and small states and between states with large and small slave populations. The last primarily concerned what might be termed "landed" and "landless" states which possessed or lacked claims to the undeveloped West.<sup>13</sup> The solutions to these problems, more than any other aspect of the Articles, determined the shape of national government during the rest of the Revolution and during the confederation period after the war.

Both Dickinson's and the committee's drafts of the Articles incorporated one practice already adhered to by Congress, that of voting

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<sup>12</sup>Thomas Burke to the Governor of North Carolina, Apr. 29, 1777, LMC, Vol. II, pp. 345-346.

<sup>13</sup>Jensen presents, perhaps, the best discussion of these conflicts, though he still tends to overemphasize the nationalist-radical controversy that was obviously inherent within the conflicts. Jensen, Articles of Confederation, pp. 140-160.

in Congress by states. Benjamin Franklin of Pennsylvania asserted: "Let the small Colonies give equal money and men, and then have an equal vote. But if they have an equal vote without bearing equal burthens, a confederation upon such iniquitous Principles will never last long."<sup>14</sup> Benjamin Rush, also representing Pennsylvania, made several points, among them that voting by states would promote factions in Congress and in the States and that it would lead to a reluctance to admit new colonies into the confederation. He also declared: "We have been too free with the word independence; we are dependent on each other, not totally independent states."<sup>15</sup> On the other side, fearful of being swallowed by the large states, men from small states such as Roger Sherman of Connecticut asserted that delegates in Congress represented states not individuals.<sup>16</sup> John Witherspoon from New Jersey supported Sherman by arguing: "Colonies should in fact be considered as individuals; and that as such in all disputes they should have an equal vote."<sup>17</sup> The problem continued to plague Congress in the debates of 1777; so much so that Thomas Burke noted in May: "A difficulty occurs, I fear, will be insuperable: that is how to secure to each State its separate Independence, and give each its proper weight in the public councils." Burke did not believe that a solution would be found and predicted that "after all it is far from impossible that the only Confederation will

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<sup>14</sup> John Adams, Notes of Debates, July 30, 1776, in Worthington Chauncey Ford et al. eds., Journals of the Continental Congress (Washington, 1904-1937), Vol. VI, p. 1079. Hereinafter, JCC.

<sup>15</sup> Ibid., p. 1081.

<sup>16</sup> Ibid.

<sup>17</sup> Thomas Jefferson, Notes of Debates, JCC, Vol. VI, pp. 1102-1106.

be a defensive alliance."<sup>18</sup>

In October, 1777, the large states, led by Virginia, proposed a number of remedies for this problem. On the seventh it was moved that the three least populous states, Rhode Island, Delaware, and Georgia, be given only one vote and all other states allowed one vote per 50,000 inhabitants. This was rejected as was another recommendation to apportion votes at one per 30,000 citizens. Next came the attempt, also defeated, to apportion representation according to the amount of taxes paid. After rejecting the efforts of Virginia and the large states, Congress finally accepted the article as written; that is that each state would have one vote in Congress.<sup>19</sup> Those large states which finally consented to the unit method of voting perhaps agreed with Samuel Adams of Massachusetts that the requirement of Article IX that nine states had to concur on major congressional decisions would balance the threat that the small states might combine against the interests of the larger.<sup>20</sup> Virginia, however, made one last attempt to alter the method of voting on October 30 by supporting an amendment to the clause necessitating the decision of nine states on major questions. After the words "unless nine states shall assent to same" it had been proposed to add: "Provided, that nine states so assenting shall comprehend a majority of the people of the United States excluding negroes and Indians; . . ."<sup>21</sup> This alteration was also defeated and the one vote

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<sup>18</sup> Burke to the Governor of North Carolina, May 23, 1777, LMC, Vol. II, pp. 370-371.

<sup>19</sup> SJ, Vol. I, pp. 301-306.

<sup>20</sup> Samuel Adams to James Warren, June 30, 1777, LMC, Vol. II, p. 392.

<sup>21</sup> SJ, Vol. I, pp. 324-325.

per state provision became a permanent part of the Articles.

The next problem, the method of taxation, was equally difficult to solve. The Dickinson draft had provided that taxes would be apportioned according to population. The difficulty of this method, one which caused much acrimonious debate, was the question how slaves were to be counted. Southern slaveholding states argued that slaves were property and not people, at least for the purpose of taxation. Thus Samuel Chase argued that he would accept taxes based on population but only if Negroes were excluded. Benjamin Harrison of Virginia, attempting to mediate the growing differences between the northern and southern states over the issue, even proposed a compromise, rejected by both sides, in which two slaves would count as one freeman for the purpose of taxation.<sup>22</sup> Towards the end of the debating in July and August, 1776, John Witherspoon proposed the ultimate solution to the problem. Arguing that the measure of a nation's true wealth was in its land and the improvements on the land, he proposed that Congress base its apportionment on the valuation of lands and houses.<sup>23</sup>

Delegates from New England, as their states contained more improved land than other states, naturally objected to this mode of taxation as inequitable, and thus Congress was unwilling to accept this solution until October, 1777. Even then the New England delegates attempted to include southern slaves in the valuation by supporting assessments based on the value of all property except household goods, but failed.

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<sup>22</sup> Adams, Notes of Debates and Jefferson, Notes of Debates, July 30, 1776, JCC, Vol. VI, pp. 1079-1080, 1099-1100.

<sup>23</sup> Jefferson, Notes of Debates, JCC, Vol. VI, p. 1101.

Finally, by the narrowest of margins (the four southern states and New Jersey voting ay, the four New England states, no, while New York and Pennsylvania were divided), Congress accepted and incorporated into the Articles the provision that taxes would be based upon the value of all lands granted or surveyed within each state and the buildings and improvements thereon.<sup>24</sup>

The final problem, that of control over western territories, rapidly became the sole issue which delayed ratification.<sup>25</sup> Throughout the debates over the Articles, the landless states argued that Congress ought to have the power to control western territory and to set boundaries on those states which claimed jurisdiction to either the Mississippi River or to the South Sea. They argued that such claims, if allowed, would make large states like Virginia even more powerful because of the income which they could derive from the sale of those lands.<sup>26</sup> The issue remained undecided in 1776, and the landless states, led by Maryland, continued to agitate the question. In October, 1777, they tried three times, unsuccessfully, to give Congress some measure of control over the western lands. The first plan, presented on the fifteenth, proposed that every state lay before Congress a summary of the grants which gave them claims to western territory. The second attempted to give Congress the sole and exclusive right to fix western boundaries and dispose of all lands beyond for the benefit of the United States. Finally, the landless states tried to empower Congress

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<sup>24</sup>SJ, Vol. I, pp. 307-310.

<sup>25</sup>Jensen, Articles of Confederation, pp. 192-193.

<sup>26</sup>Adams, Notes of Debates, Aug. 1, 1776, JCC, Vol. VI, pp. 1082-1083.

to lay out new states in the western claims.<sup>27</sup> Indicative of the adamant positions maintained by both sides, and of the growing tensions between the two, was that rather than a softening of demands which may have eventually led to compromise, each attempt by the landless states tended to be more aggressive than the last.

With debate temporarily ended on these three major problems, the delegates quickly moved to protect the rights of the states, even in those areas where Congress was supposed to have exclusive jurisdiction. For example, in the article granting Congress the power to enter into treaties and alliances, the delegates insisted "that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of good or commodities whatsoever."<sup>28</sup> To the article which empowered Congress to control Indian affairs the delegates added: "Provided that the legislative right of any state within its own limits be not infringed or violated."<sup>29</sup> They also modified the prohibition against state issuance of letters of marque and reprisal to read that such prohibition would exist "unless in case of pirates and then until such time as the danger was past or Congress declared otherwise."<sup>30</sup> Finally, the delegates significantly altered the method for settling interstate disputes. Article IX

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<sup>27</sup> SJ, Vol. I, pp. 312-314.

<sup>28</sup> Ibid., pp. 316-318.

<sup>29</sup> Ibid., pp. 322-323.

<sup>30</sup> Ibid., p. 316.



originally granted Congress the right of "deciding all disputes and differences now subsisting, or that hereafter may arise between two or more states concerning boundaries, jurisdictions, or any other cause whatsoever. . . ." But the delegates abandoned this general clause and devised a complicated, specific method whereby the states themselves would decide disputes, using Congress only as a mediary.<sup>31</sup>

Finally finishing its work, Congress submitted the Articles to the states for ratification on November 11, 1777.<sup>32</sup> But as the Articles were on their way to the states, they were accompanied by much criticism. Cornelius Harnett, writing to his colleague from North Carolina, Thomas Burke, declared: "The child Congress has been big with, these two years past, is at last brought forth . . . I fear it will by several Legislatures be thought a little deformed, --you will think it a Monster."<sup>33</sup> Indeed, Burke did object strenuously to many of the Articles' provisions because they either made Congress too powerful or violated the sovereignty of the states. On one hand he argued against the powers accorded Congress in Article IX because many of those powers could be exercised in times of peace; on the other, he believed that the requirement included in Article IV, that states extend all the rights and privileges of citizens to their states to the citizens of other states,

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<sup>31</sup>Ibid., pp. 319-322. For a discussion of these and other modifications of the Articles see Jensen, Articles of Confederation, pp. 177-184.

<sup>32</sup>SJ, Vol. I, pp. 348-349.

<sup>33</sup>Cornelius Harnett to Burke, Nov. 13, 1777, LMC, Vol. II, pp. 547-548.

violated the sovereignty of individual states.<sup>34</sup> Nathaniel Folsom, writing to President Meshech Weare of New Hampshire, objected to the Articles' provision for apportioning taxes because southern slaves had been discounted and because some states had more improved land than others.<sup>35</sup>

The objections to the Confederation, as they came in from state legislatures, displayed a mixture of concern over protecting the interests of particular states, fears of congressional power, and even desires to increase congressional authority. Massachusetts, still disturbed because southern slave property had been discounted by the Articles' mode of assessing taxes, wanted Article VIII, which established the system of taxation, amended so that Congress could alter the method from time to time "until experience shall have showed what rule of apportionment will be most equal, and consequently most just."<sup>36</sup> Both the landless states of New Jersey and Rhode Island insisted that Congress be given control of those lands which had been vested in the Crown prior to the war.<sup>37</sup> New Jersey, without significant ports of its own, also insisted that Congress be given exclusive control over commerce.<sup>38</sup>

In addition, states with few slaves, such as New Jersey and

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<sup>34</sup>Thomas Burke, Notes on the Articles of Confederation and Thomas Burke, Remarks Concerning the Confederation, Nov. 15, 1777, LMC, Vol. II, pp. 552-556, 556-558.

<sup>35</sup>Nathaniel Peabody to the President of New Hampshire, Nov. 21, 1777, LMC, Vol. II, p. 564.

<sup>36</sup>SJ, Vol. I, p. 355.

<sup>37</sup>Ibid., pp. 355-356, 361-362.

<sup>38</sup>Ibid., p. 359.

Pennsylvania, objected to the provisions of Article IX which permitted apportioning quotas of troops among the states according to the number of "white" inhabitants and wanted that word stricken.<sup>39</sup> On the other hand, South Carolina, with a large slave population and fearing the influence of free Blacks insisted that the word "white" be used in Article IV which required that states extend rights and privileges to the free citizens of other states. South Carolina also wanted to raise the number of states required to make major decisions from nine to eleven, but at the same time to reduce the number of states required for amendment from thirteen to eleven. It also desired to remove Congress' authority to establish courts for piracy and permit it only to declare what constituted piracy.<sup>40</sup> In the aggregate, most of the proposals were not aimed at either strengthening or weakening the Confederation but at satisfying the peculiar interests of specific states.

Nevertheless, most states considered the Confederation so important that they authorized their delegates to sign the Articles whether their own objections were incorporated into the document or not. The Maryland delegates summed up the feelings of Congress in a letter to their state's governor. "A Confederation at this critical juncture appears to Congress of such momentous consequence, that [we are] satisfied a great majority are resolved to reject the amendments from every State, not so much from an opinion that all amendments are improper, as from the conviction that if any should be adopted, no Confederation will take place, . . ." The delegates further observed that the dangers inherent

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<sup>39</sup> Ibid., pp. 358-364, 364-365.

<sup>40</sup> Ibid., pp. 365-369.

in such a course and from those "which may arise from partial Confederacies" had "determined some States to accept the Confederation, altho' founded on principles not altogether consistent, in their opinion, with justice and sound policy."<sup>41</sup>

Noting the reluctance of his fellow delegate, Henry Laurens, to sign the Articles without specific instructions from the South Carolina legislature, John Mathews urged that such instructions be forwarded immediately. He argued: "This I am clear in, from what I have seen, and know since I have been in Congress, that if we are to have no Confederation until the Legislatures of the Thirteen States agree to one, that we shall never have one, and if we have not one, we shall be literally a rope of sand and I shall tremble for the consequences that will follow at the end of the War."<sup>42</sup>

During July, 1778, ten states ratified the Articles, followed by New Jersey in November and by Delaware in February, 1779.<sup>43</sup> Maryland, however, remained recalcitrant over the issue of western lands. It had sounded the warning in late June, 1778. At that time Maryland presented its objections to the Articles and, not content to wait until all the other states were heard from, insisted that its objections be considered immediately. On June 22-23, Congress defeated all of Maryland's objections including its most important one. Maryland proposed to add to Article IX after the words "no state shall be deprived of territory for the benefit of the United States" that "the United States in Congress

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<sup>41</sup>The Maryland Delegates to the Governor of Maryland, June 22, 1778, LMC, Vol. III, p. 314.

<sup>42</sup>John Mathews to John Rutledge, July 7, 1778, LMC, Vol. III, p. 322.

<sup>43</sup>SJ, Vol. I, p. 402.

assembled shall have the power to appoint commissioners, who shall be fully authorized and empowered to ascertain and restrict the boundaries of such of the confederated states which claim to extend to the river Mississippi or South Sea." The vote on this proposal clearly showed the alignment of the landed and landless states. New Hampshire, Massachusetts, Connecticut, Virginia, South Carolina and Georgia voted no; Maryland, Delaware, Pennsylvania, New Jersey and Rhode Island voted ay; and New York was divided.<sup>44</sup> While the rest of the landless states finally ratified the Articles in spite of this defeat, Maryland refused to do so. Consequently, the Articles remained unratified until 1781. Maryland's refusal even led Virginia and Connecticut to authorize their delegates to confederate without Maryland.<sup>45</sup> Congress, however, refused.

Thus, Congress was forced to continue operating for some time without a ratified authority. But even if the Articles had been ratified, it is probable that the situation would not have changed. The fears of the states both of central authority and of each other had reduced the potential usefulness of the Confederation government. Both before and after the writing of the Articles, congressional authority depended solely upon the willingness of the states to cooperate with one another. The failure of the states to create a central government with solid lines of authority and their failure to ratify even the one they created was symptomatic of their inability to achieve this cooperation. Equally illustrative of the fluid relation between Congress and the

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<sup>44</sup>Ibid., pp. 352-353.

<sup>45</sup>Ibid., pp. 415-417, 422-423.

states and of the states with one another were the problems encountered in financing the war.

Well before the colonies declared their independence from Great Britain Congress sought some method to finance its activities. As early as June, 1775, Congress appointed a committee to borrow £6,000 "for the use of America" and declared that the lenders would be paid in full with interest at a later time when Congress would make ample and full provision.<sup>46</sup> Later that month, however, Congress authorized the emission of \$2,000,000 in bills of credit, valued in Spanish milled dollars, for the defense of America.<sup>47</sup> In July it issued yet another \$1,000,000.<sup>48</sup> At the end of that month Congress finally decided upon a method to support those emissions. On the twenty-ninth it resolved to set quotas for each colony based upon the number of inhabitants of all ages including Negroes and mullattoes in each. Congress requested the states to submit official returns of population, but in the meantime, it provided for the redemption of the \$3,000,000 already issued on estimates of population in each colony. The funds were to be raised through whatever method each colony found efficacious and were to be paid in quarterly payments on or before the last day of November, 1779, 1780, 1781, and 1782.<sup>49</sup> In December Congress authorized the emission of yet another \$3,000,000 based upon the same formulas as that of July, except that the quarterly payments were due in Novembers of 1783, 1784,

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<sup>46</sup> JCC, Vol. II, p. 79.

<sup>47</sup> Ibid., p. 103.

<sup>48</sup> Ibid., p. 207.

<sup>49</sup> Ibid., p. 221.

1785, and 1786.<sup>50</sup>

Throughout the following year of 1776 military activities forced Congress to continue to emit bills of credit, issuing at least another \$19,000,000.<sup>51</sup> The printing of so much fiat currency along with the pressures of the intensifying warfare led naturally to inflation and to depreciation of the currency; so much so that on January 14, 1777, Congress was impelled to pass a series of resolves. First, it declared that anyone who would not accept the bills of credit issued by Congress or who asked for more of them than for silver and gold "ought to be deemed an enemy of the liberties of these United States." It requested the states to end such "pernicious practices" through legislation and through making the Continental bills a legal tender. In addition, Congress urged the states to begin paying off their portion of the debt consistent with the situation of their inhabitants.<sup>52</sup> In transmitting the resolutions to the states, the President of Congress, John Hancock, declared: "The depreciation of the continental currency having been for some time past a most growing evil, it became absolutely necessary to provide some remedy against it."<sup>53</sup>

The states also attempted to control the depreciation of the currency through a series of regional conventions to fix the prices of labor and goods. The first such meeting occurred in December, 1776,

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<sup>50</sup> JCC, Vol. III, pp. 390, 457-458.

<sup>51</sup> E. James Ferguson, The Power of the Purse (Chapel Hill, 1961), p. 30. See also JCC, Vol. IV, p. 157; Vol. V, p. 599; and Vol. VI, p. 1047.

<sup>52</sup> JCC, Vol. VII, pp. 35-37.

<sup>53</sup> John Hancock to the Maryland Assembly, Jan. 14, 1777, LMC, Vol. II, pp. 217-218.

when committees from the four New England states, New Hampshire, Massachusetts, Connecticut and Rhode Island, met on the twenty-fifth at Providence, Rhode Island, to discuss the defense of that state. The convention ordered a number of troop movements within that state, but it also made a number of recommendations to the legislatures of the participating states. Among them, it suggested that the states issue no more currency and instead support their activities through taxing and borrowing. If, however, they were forced to emit more money because of emergencies, they should set a time limit for its redemption of no more than three years and pay four percent interest. In addition, the committees submitted a table of fixed prices for both labor and consumer goods to their legislatures.<sup>54</sup>

The meeting itself demonstrated the fluid relationship between Congress and the states which, in this case, was caused in part by the temporary isolation of the New England states from both Congress and the rest of the states. When Congress received the convention's report there was a serious constitutional debate on whether or not it should even approve of the meeting. Eventually the resolution which would be debated was one which declared that the peculiar circumstances of the New England states, as they were cut off from communication with Congress, "rendered the Appointment and Meeting of the Committee proper and

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<sup>54</sup> National Archives, Papers of the Continental Congress (Washington, 1957ff), R80, Item 66, Vol. I, pp. 249-284. The National Archives has placed the 196 Items of the Papers of the Continental Congress on 204 reels of microfilm. Hereinafter the Papers will be cited as followed: PCC, Reel Number - designated R, Item number, Volume number - if applicable, and page number.



necessary, and consequently, worthy of the approbation of Congress."<sup>55</sup> Benjamin Rush and John Adams argued that the convention, in ordering troop movements, had assumed congressional prerogatives. Noting that most of the business conducted at the convention was chiefly continental, they compared the actions of the four states to four counties within a single state which had done the same thing.<sup>56</sup> On February 12, 1777, the motion lost by one vote; when it was reconsidered on the following day, the states were equally divided.<sup>57</sup>

The debate on the twelfth was particularly important in helping to define congressional-state relations. Thomas Burke reported: "At length the general opinion was that Congress had necessarily a right to inquire into the cause of any meeting and also to know what was transacted at any such meetings, and also to require an explanation for anything that was alarming to the whole, or any one of the States; . . ." He observed that Congress believed these rights to be necessary if it was to assure that no injury would result to a state from outside its borders, "But that Congress had no right to prohibit meetings, or censure them if the transactions in them were not injurious to others."<sup>58</sup>

Congress, however, was keenly interested in one aspect of the meeting which it believed might prove a deterrent to inflation. This was the convention's recommendation to fix prices. On the fourteenth Congress debated the possibility of regulating prices in each region of

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<sup>55</sup> JCC, Vol. VII, p. 88.

<sup>56</sup> Benjamin Rush, Diary, Feb. 4, 1777, LMC, Vol. II, pp. 234-235.

<sup>57</sup> JCC, Vol. VII, pp. 88, 88n.

<sup>58</sup> Burke, Abstract of Debates, Feb. 12, 1777, LMC, Vol. II, p. 249.

the country.<sup>59</sup> The desire to implement such a practice swayed Congress towards approving the convention.<sup>60</sup> On the following day Congress finally approbated both the meeting of the New England States and its recommendations for the defense of Rhode Island. It also approved the convention's price fixing regulations but disapproved the permission given to strike state currencies in emergencies. At the same time Congress proposed that New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia meet at Yorktown, Pennsylvania, on the third Monday in March, and that North Carolina, South Carolina and Georgia meet at Charleston, South Carolina, on the first Monday in May. Both meetings were to consider price regulations similar to those set by the New England states.<sup>61</sup> The only convention to meet, however, was that of the middle-states at Yorktown which submitted its proceedings to Congress on April 15, 1777.<sup>62</sup>

Despite Congressional hopes that regulating prices through regional conventions would control inflation, the Continental currency continued to depreciate. States discovered that fixing prices irritated their citizens and that they were unenforceable. Congress itself only increased the problem by continuing to issue bills of credit throughout 1777, adding an additional \$12,000,000 to the money supply by November,

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<sup>59</sup>Rush, Diary, Feb. 14, 1777, LMC, Vol. II, pp. 250-253.

<sup>60</sup>Burke, Abstract of Debates, Feb. 15, 1777, LMC, Vol. II, pp. 253-254.

<sup>61</sup>JCC, Vol. VII, pp. 124-125.

<sup>62</sup>Ibid., pp. 267-268.

1777.<sup>63</sup> Finally recognizing that if the currency was to achieve stability and halt depreciation, taxes would have to be levied to support at least part of its emission, Congress reluctantly began a money requisition system which required the states to pay taxes immediately rather than at some distant date in the future.<sup>64</sup> On November 22, 1777, Congress requested the states to raise \$5,000,000 for the use of Congress in 1778 and apportioned that amount among the states. Once again basing its quotas upon estimated population, Congress assured those states which were overcharged that they would eventually be repaid the difference at six percent interest. On the same day, it also recommended that those states which had not done so already open loan offices so that the Continent could borrow from private citizens. Moreover, states were requested to issue no more state currency where sufficient Continentals were available as a circulating medium.<sup>65</sup>

Still believing that if the states would only regulate prices depreciation could be controlled, Congress also called for another series of regional meetings to be held early in 1778 for the purpose of fixing the price of labor. All the states north and east of Maryland were requested to meet in New Haven, Connecticut, on January 15; Maryland, Virginia and North Carolina were to convene at Fredericksburg, Virginia, on the same day; and North Carolina and South Carolina were to meet at Charleston, South Carolina, on February 15. Meanwhile, Congress requested each state to fix prices temporarily until the results of the

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<sup>63</sup>JCC, Vol. VII, pp. 161, 371; Vol. VIII, p. 497; and Vol. IX, p. 873.

<sup>64</sup>Ferguson, Power of the Purse, pp. 33-34.

<sup>65</sup>JCC, Vol. IX, pp. 955-957.

meetings were known.<sup>66</sup>

The only one of these meetings which actually materialized, however, was the one at New Haven. Attempting to assist the meeting, Congress even ordered the Board of War not to set prices unless they were in accord with the resolutions of the New Haven convention.<sup>67</sup> Assembling on January 20 and electing Thomas Cushing of Massachusetts as its President, the convention proposed that all goods and services be rated on the basis of prices in 1774. Wages for laborers, mechanics, and farmers were permitted an advance of 75% over those of 1774. With the exception of a few items, American manufacturers and producers were permitted a 75% advance. Cloth was rated at 100% over 1774. In addition, importers were permitted a 25% increase over 1774, while innkeepers could advance their prices on "foreign potables" by 50% and on forage by 75%. In its report the convention also included a table of suggested prices for several commodities. To allay the suspicions of the respective states as to whether or not their neighbors were conforming to the resolves of both Congress and the convention, the committee at New Haven recommended that each state write circular letters to the other states giving an account of their resolutions and proceedings.<sup>69</sup>

Upon transmitting the minutes of the meeting to Congress, Cushing warned that regulating the prices of labor and goods would not stem

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<sup>66</sup>Ibid.

<sup>67</sup>JCC, Vol. X, p. 55.

<sup>68</sup>Minutes of the New Haven Convention, Jan. 20, 1778, PCC, R40, Item 33, pp. 340-342, 355-362.

<sup>69</sup>Ibid., p. 364.

inflation unless other congressional resolutions were obeyed as well. He believed it essential that the states impose heavy taxation to reduce the amount of money in circulation. He also urged that there be no further emissions of bills of credit and argued that Congress must begin calling in, by loans or taxes, those bills already emitted under its authority.<sup>70</sup> The recommendations, however, were buried in congressional committees and never officially considered on the floor of Congress.<sup>71</sup> In part, this was because optimism over the French Alliance had temporarily reversed the depreciation during mid-summer of 1778, so that the Continental had risen to four to one in specie.<sup>72</sup>

Meanwhile, the money requisition system introduced by the resolution of November 22, 1777, proved ineffective because the states failed to submit their quotas. The state governments experienced their own financial difficulties as they had to raise money to recruit soldiers for both the Continent and their own militias, to pay for their own military operations and defense, and to support their civil establishments. Unwilling to tax their citizens further, the states continued to rely upon Congress' emissions of paper money to support the Continent's war effort.<sup>73</sup>

With inadequate support from the states, Congress had little choice but to continue printing paper money, issuing more than

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<sup>70</sup>Thomas Cushing to the President of Congress, Jan. 30, 1778, PCC, R40, Item 33, pp. 329-330.

<sup>71</sup>JCC, Vol. VII, pp. 172, 322-324; and Vol. VIII, pp. 472, 843.

<sup>72</sup>Ferguson, Power of the Purse, pp. 32, 32n19.

<sup>73</sup>Ibid., p. 35.

\$63,000,000 in 1778.<sup>74</sup> With each issue the currency increasingly inflated and, despite the temporary abatement of depreciation in the summer, the rate of exchange of Continentals for specie rose again in the fall and winter of 1778, reaching almost eight to one by the end of the year.<sup>75</sup> In December Richard Henry Lee despondently reported to Governor Patrick Henry of Virginia: "Division among ourselves, and the precipice on which we stand with our paper money, are, I verily believe, the source of their [the enemy's] hope. . . ." He was certain "that the loss of our liberty seems at present more likely to be derived from the state of our currency than from all other causes."<sup>76</sup>

In early 1779, recognizing that if its finances were to be salvaged it must both recall a part of its previous emissions and support its future issues, Congress made increasing demands upon the states for taxes. On January 2 Congress called upon the states to remit their quotas of \$15,000,000 for the use of the Continent in 1779 and for an additional \$6,000,000 a year over the next eighteen years in order to redeem the emissions and loans made by Congress prior to December 31, 1778. Congress also provided that bills issued before 1779, which were received as part of these quotas, would be used first to pay the interest on bills of credit and then to pay loans. The excess over the amount needed for those two purposes would be destroyed.<sup>77</sup> On May 2,

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<sup>74</sup>JCC, Vol. X, pp. 28, 82-83, 174-175, 223, 309, 337, 365; Vol. XI, pp. 524, 627, 731-732; and Vol. XII, pp. 884, 962, 1100, 1218.

<sup>75</sup>Table of Depreciation, Ferguson, Power of the Purse, p. 32.

<sup>76</sup>R. H. Lee to the Governor of Virginia, Nov. 15, 1778, LMC, Vol. III, p. 495.

<sup>77</sup>JCC, Vol. XIII, p. 21.

1779, Congress called on the states to pay an additional \$45,000,000 into the Continental treasury.<sup>78</sup> Meanwhile, Congress continued to emit bills of credit, hoping that the states would comply with its money requisitions.<sup>79</sup>

The states, however, did not comply, and depreciation of the currency increased dramatically during 1779, the rate of exchange reaching nineteen to one in July and approaching forty to one by December.<sup>80</sup> As the financial situation approached crisis proportions, Congress desperately sought some new financial system which would avert disaster. As early as July the Committee for Regulating Departments suggested that Congress stop its emissions of currency altogether and begin to rely upon the states to supply specific provisions.<sup>81</sup> Consequently, on September 1, 1779, Congress resolved to issue no more than \$200,000,000 in bills of credit.<sup>82</sup> How Congress was to avoid issuing more money became apparent on September 3. On that day Congress noted that so far it had issued \$159,958,800 and under the resolution of September 1 could issue an additional \$40,051,120 to complete the \$200,000,000. But Congress resolved that it would emit only so much of the remainder as would be necessary "before adequate supplies can be otherwise obtained, relying for such supplies on the exertions of the several states."<sup>83</sup>

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<sup>78</sup> JCC, Vol. XIV, p. 626.

<sup>79</sup> JCC, Vol. XIII, pp. 139, 209, 408-409; and Vol. XIV, pp. 548, 657, 848.

<sup>80</sup> Table of Depreciation, Ferguson, Power of the Purse, p. 32.

<sup>81</sup> JCC, Vol. XIV, pp. 872-874.

<sup>82</sup> JCC, Vol. XV, pp. 1013-1014.

<sup>83</sup> Ibid., p. 1019.

Preparing the way to achieve what it hoped would be financial stability, Congress also requisitioned additional money from the states in order to call in all of its emissions and to finance the campaign for 1779. On October 6 it declared that in addition to the sums called for on November 27, 1777, January 2, 1779, and May 21, 1779, the states should provide their portions of an additional \$15,000,000 monthly. The first payment was to be made by February 1, 1780, and by the first days of succeeding months through October, 1780.<sup>84</sup> Meanwhile, still another meeting of northern states was convened in late October, 1779, at Hartford, Connecticut, to attempt once again to fix prices.<sup>85</sup> Congress approved the meeting and recommended that all states fix prices at no more than twenty times their equivalent in 1774.<sup>86</sup>

Since its new plan developed slowly, Congress also decided to issue the rest of the \$200,000,000 before turning to the states with specific requisitions, making the last issue of \$10,000,140 on November 29, 1779.<sup>87</sup> Once that was almost spent Congress finally began to implement its new requisition system. On December 12, 1779, it requested specific supplies of Indian corn, wheat, and flour from several states to be delivered to the Army. Virginia was to supply 20,000 barrels of Indian corn by April 1, 1780. On the same day Maryland was to have delivered 5,000 barrels of flour and 5,000 barrels of Indian corn, and

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<sup>84</sup>Ibid., p. 1147.

<sup>85</sup>Minutes of the Hartford Convention, Oct. 20-28, 1779, PCC, R40, Item 33, pp. 375-382.

<sup>86</sup>JCC, Vol. XV, pp. 1290-1291.

<sup>87</sup>Ibid., pp. 1076, 1171-1172, 1285, 1324-1325.



Pennsylvania 50,000 barrels of flour or its equivalent of wheat. Delaware was asked to deliver its quota of 10,000 barrels of flour and New Jersey a part of its 8,000 barrels of flour as soon as possible. Connecticut was also requested to provide 8,000 barrels of flour at some time in the future.<sup>88</sup> Two days later, on the fourteenth, Congress further defined its new plan of finance by declaring: "That all the states shall be called upon to furnish their quotas of such supplies as may, from time to time, be wanted for carrying on the war; . . ."<sup>89</sup> On the seventeenth Congress also provided that whenever any state procured its quota of supplies, all purchases of such articles by commissaries and quartermasters in these states would cease.<sup>90</sup>

Thus the nation entered the new year of 1780 in the process of abandoning one revenue system and adopting a new one. The reluctance of the states to support congressional finances had almost led to fiscal ruin. Now Congress, in effect, surrendered the financial responsibilities for prosecuting the war to the states. It would no longer continue the disastrous practice of printing fiat currency, but would depend upon the states themselves to purchase and deliver specific supplies directly to the Army. The damage, however, had already been done. The lack of cooperation among the states to insure that the nation's finances were placed on a sound footing during the first four years of the war had led to a burgeoning inflation. Struggling under the burden of inflation and against the military pressures brought to bear by the

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<sup>88</sup>Ibid., pp. 1371-1372.

<sup>89</sup>Ibid., pp. 1377-1378.

<sup>90</sup>Ibid., p. 1391.

British in 1780, the states would be both unwilling and unable to shoulder the new load Congress had placed on them.

Lack of state cooperation not only left the finances of the country in a serious crisis but it also left Congress without legal authority. Congress had written Articles of Confederation, but because the various state delegations struggled to achieve special advantage or special protection, little remained in that document with which to establish an efficient national government. In fact, the Articles did little more than formalize those powers Congress was already employing. But with or without the Articles congressional authority remained almost totally dependent upon the consent of the states. This dependence became clearly evident during the crisis-ridden year of 1780, when the new financial system and the activities of the British would lessen further the cooperation of the states, worsening the nation's financial condition and bringing its military efforts to the brink of disaster.

## CHAPTER III

### NEW PLANS AND OLD PROBLEMS

By the opening of the year 1780 the decision of Congress to stop the money presses had left the nation's economy virtually without central control. The announcement, which indicated Congress' own lack of faith in the currency, accelerated the already rampant inflation. Trapped between the failure of one fiscal system and an as yet unformed new one, the struggling nation appeared on the verge of collapse. Congressional inability either to stem the inflation or to supply adequately its own military establishment during the last months of 1779 seriously weakened the prestige and, thus, the authority of Congress. Though it finally established a new revenue system, the effective employment of that system depended more than ever upon the cooperation of the individual state. The financial difficulties of the states, caused in large part by the inflation of the previous four years, and the emerging belief that some states were using Congress to gain special privileges, however, meant that the state cooperation so necessary to the new plan would not be forthcoming. Thus by the end of June, 1780, Congress' finances appeared once again near collapse.

In the interim between the old system and the new, the immediate sufferer was the Army. Rampant inflation drove prices rapidly upward, and by early January soldiers were paying eight dollars per quart of

meal and fifty cents for an ear of corn.<sup>1</sup> At Morristown oats cost thirty dollars per bushel and hay \$300 per ton. The men were almost naked and bordered on starvation.<sup>2</sup> Writing to General Washington, Commissary General Nathanael Greene noted that the outlook for future supplies was grim. Continental agents were out of money, and without cash, there was no way for them to fulfill their contracts, because the people would not part with provisions without payment.<sup>3</sup>

While Greene was convinced that there was no deficiency in the country's resources, he did not believe that requisitioning specific supplies from the states would bring those resources into public use. He complained that the system fell "far short of the general detail of the business" and warned that "the different agents as well as the different authorities from which they derive their appointments . . . will introduce some jarring interests, many improper disputes as well as dangerous delays."<sup>4</sup>

The citizens from whom necessary supplies for the Army were acquired also complained loudly. One citizen of New Jersey declared: "Nothing can equal the Tyranny we are under. The Property of the People is at the Mercy of Commissaries and other Agents for Congress. They

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<sup>1</sup>Oliver Ellsworth to the Governor of Connecticut, Jan. 14, 1780, LMC, Vol. V, p. 9.

<sup>2</sup>Ebenezer Huntington to Andrew Huntington, Jan. 8, 1780, in Connecticut Historical Society, Collections, Vol. XX, Huntington Papers (Hartford, 1923), p. 437.

<sup>3</sup>Nathanael Greene to George Washington, Jan., 1780, in Jared Sparks, ed., Correspondence of the American Revolution: Letters to George Washington (Boston, 1853), Vol. II, pp. 371-372. Hereinafter, CAR.

<sup>4</sup>Ibid., pp. 373-374.

give us Certificates instead of money for our Goods." Moreover, the certificates could not even be used to pay taxes. So irate was this citizen that he demanded that "a Commission of Bankruptcy must go out against them. The Hour is at Hand--you see their Certificates are no better than Blank Notes--worse than their Paper Money."<sup>5</sup>

For some members of Congress, however, the outlook, though dim, seemed not impossible, and they remained optimistic. Oliver Ellsworth of Connecticut noted that the fall of the press had given Congress "a violent shock," but he hoped that it would ultimately prove beneficial. He observed that the states, at least those states whose legislatures had met, were responding well to the system of requisitioning specific supplies. More importantly, he declared: "Greater unanimity has at no time perhaps prevailed in Congress than at present, or ever been more necessary."<sup>6</sup> William Ellery of Rhode Island also struck a note of optimism in a letter to Governor William Greene of Rhode Island. He asserted that some speculators were even beginning to fear that the currency was appreciating and that if taxation proceeded it was "improbable that the money should further depreciate." Meanwhile, he noted that Congress was advancing in its attempts to finance and procure supplies for the Army.<sup>7</sup>

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<sup>5</sup> Extract of a Letter from New Jersey, Feb. 25, 1780, in New Jersey, New Jersey Archives, 2nd Ser., Vol. IV, p. 208. Hereinafter, NJA.

<sup>6</sup> Ellsworth to Jonathan Trumbull, Jan. 14, 1780, in Massachusetts Historical Society, Collections, 7th Ser., Vol. III, p. 271. Hereinafter, MHS.

<sup>7</sup> William Ellery to Governor Greene, Jan. 4, 1780, in William R. Staples, Rhode Island in the Continental Congress: 1765-1790 (New York, 1971), p. 271. Hereinafter, RICC.

To solve the immediate needs of the Army, President Samuel Huntington urged four states, Connecticut, New York, Pennsylvania, and Delaware, to supply the Army as soon as possible, and promised those states that Congress would compensate them for their efforts.<sup>8</sup> The supplies produced by this plan proved insufficient, forcing Congress to order an additional requisition of such supplies as Indian corn, flour, and wheat from those states in the vicinity of the Army. Congress, meanwhile, continued to work on establishing a new system of finance.<sup>9</sup>

Throughout the first three months of 1780 Congress worked diligently on its financial program. Its goals were to reduce the civil staff of the Army, to fix the prices of provisions so that each state would be credited equally for the supplies it provided, and to establish a new currency based on taxes levied by the states specifically for that purpose so that the country would have a stable medium of exchange.<sup>10</sup> Congress' first act was to form a committee composed of Philip Schuyler, Timothy Pickering, and Thomas Mifflin, any two of which were empowered to investigate the expenses of the staff department. The committee was ordered to proceed to headquarters and, in conjunction with the Commander-in-Chief, discharge supernumerary officers, abolish old or establish new posts as necessary, and reduce the

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<sup>8</sup> Samuel Huntington to the Governor of Connecticut, Jan. 12, 1780, PCC, R23, Item 14, pp. 273-274.

<sup>9</sup> JCC, Vol. XVI, p. 144.

<sup>10</sup> John Armstrong to George Washington, Jan. 12, 1780, and Armstrong to Joseph Reed, Jan. 24, 1780, LMC, Vol. V, pp. 7-9, 13-14.

number of horses and wagons maintained by the Army.<sup>11</sup>

The next step, that of fixing prices, was necessitated by the failure of the states themselves to reach an agreement outside of Congress. As late as October, 1779, five states, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York, sent representatives to Hartford, Connecticut, to establish consistent economic policies. Among the conclusions reached at the convention were that prices in each state ought to be regulated to prevent further inflation and that another convention of all the states southward through Virginia should meet in Philadelphia on the first Wednesday of 1780, for the sole purpose of fixing prices. Meanwhile, the representatives at Hartford recommended that Connecticut and New York immediately draft price legislation similar to that of New Hampshire, Rhode Island, and Massachusetts or else the controls established by the latter group of states would be ineffective. The convention also recommended that Massachusetts, Rhode Island, New Hampshire, and Connecticut repeal their laws against inland trade.<sup>12</sup>

The meeting was held in Philadelphia on January 6, 1780, as planned, but only New Hampshire, Connecticut, New Jersey, and Pennsylvania sent official representatives. The convention noted that both New Jersey and Maryland had passed price fixing legislation and that New York was currently considering it. The other states failed to appear, possibly because they expected Congress to pass resolutions which would make

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<sup>11</sup>JCC, Vol. XVI, pp. 75-76; James Lovell to Horatio Gates, Jan. 22, 1780; and Elbridge Gerry to James Warren, Jan. 25, 1780, LMC, Vol. V. pp. 12-13, 14-16.

<sup>12</sup>Minutes of the Hartford Convention, PCC, R40, Item 33, pp. 375-382.

the new convention unnecessary. Consequently, the meeting adjourned without accomplishing anything.<sup>13</sup>

Congress was indeed in the process of fixing prices even though some delegates were afraid that such regulations would do little good either in supplying the treasury or in stemming inflation. They argued that the scarcity of some of the supplies in many states would drive prices upward despite congressional legislation.<sup>14</sup> Nevertheless, Congress continued its consideration, pressured by the problems encountered by some states which had passed legislation in accordance with the recommendations of the Hartford convention. General Greene found it impossible to purchase provisions for the Army in New Jersey even though the prices he offered were in accordance with those set by the state. He observed: "People will withhold their services in this State, as long as they receive a less compensation than their neighbors. They seem to claim it as a right, that they be allowed their usual prices until the other States adopt measures for enforcing a regulation."<sup>15</sup> Observing the problems of other states, the Connecticut delegates in Congress recommended that their legislature pass a price fixing law, but to suspend its operation until other states had also passed legislation.<sup>16</sup>

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<sup>13</sup> See Roger Sherman to Andrew Adams, Jan. 7, 1780, LMC, Vol. V, p. 4; NJA, 2nd Ser., Vol. IV, p. 173; and George Herbert Ryden, ed., Letters to and from Caesar Rodney (New York, 1970), p. 355n. Hereinafter, LCR.

<sup>14</sup> Ezra L'Hommedieu to the Governor of New York, Feb. 22, 1780, LMC, Vol. V, p. 45.

<sup>15</sup> General Greene to Washington, Feb. 7, 1780, CAR, Vol. II, pp. 393-394.

<sup>16</sup> Connecticut Delegates to the Governor of Connecticut, Feb. 15, 1780, LMC, Vol. V, p. 36.



Responding to the demands of its citizens, the New Jersey legislature likewise chose to suspend its law until the states of New York, Pennsylvania, and Delaware passed similar regulations.<sup>17</sup>

Congress finally completed its own price fixing laws along with its requisitions for the ensuing campaign on February 25, 1780. Each of the states except Georgia was apportioned a specific quota of such items as beef, rum, salt, hay, corn and tobacco. Prices that each state would be credited for were also fixed. For example, clean, well-dried corn would be valued at three-fourths of a dollar per bushel, while grain fed beef would be counted at five and one-half dollars per net hundred weight. To compensate those states which through miscalculation might contribute more than their fair share, Congress guaranteed that they would be paid six percent interest per year when the accounts between Congress and the states were finally settled. Conversely, those states which were laggard in meeting their quotas would be charged six percent interest on their deficits.<sup>18</sup>

In his letter transmitting the resolution to the states, President Huntington pointed out two other inducements for rapid compliance. First, once the states had collected and deposited their respective quotas the legislatures could then suspend the purchase of supplies in their states by Continental commissaries and quartermasters. Second, the states had been excused from paying two-thirds of the money taxes required by the resolution of October 6, 1779.<sup>19</sup> Urging their

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<sup>17</sup> NJA, 2nd Ser., Vol. IV, pp. 236-237.

<sup>18</sup> JCC, Vol. XVI, pp. 196-200.

<sup>19</sup> S. Huntington to the Several States, Feb. 26, 1780, PCC, R24, Item 14, pp. 51-52.

legislature to comply with the requisition, the North Carolina delegates observed that since the presses had caused inflation, the only sources left to Congress were either foreign loans or the contributions of the states. Though the delegates noted that Congress preferred cash, Congress realized that the states' contributions must be in commodities. The delegates also informed the governor that the prices established were based on those of 1774 plus fifty percent to accommodate the circumstances of war.<sup>20</sup>

While the requisition of specific supplies would aid in maintaining the Army, Congress still needed money to pay salaries and the other expenses of government and the war effort. Congress first proposed to assess the states \$63,000,000 in Continental currency for those purposes.<sup>21</sup> But the fluctuations of the currency and its continued depreciation forced Congress to consider some other method of obtaining taxes which would be based on some permanent value other than their own old bills of credit. Thus while Congress was busy apportioning quotas of provisions among the states, it was also attempting to find some way to call in the old Continental bills and to reestablish a new circulating medium based on specie and with interest payable upon redemption. In late February Congress decided to call in the old bills of credit and set quotas for each state to redeem the bills at some ratio in relation to specie.<sup>22</sup>

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<sup>20</sup>The North Carolina Delegates to the Governor of North Carolina, Feb. 29, 1780, LMC, Vol. V, pp. 55-58.

<sup>21</sup>JCC, Vol. XVI, p. 45.

<sup>22</sup>Ibid., pp. 206-207, 216-217.

Congress finally completed its plan on March 18, 1780. It requested the states to continue to pay into the treasury their portions of the \$15,000,000 monthly as assessed by the resolution of October 7, 1779, but provided that the quotas now could be paid at the rate of one Spanish milled dollar for forty dollars of the bills of credit then in circulation. As the bills were paid in they would be destroyed, and once destroyed, new bills of credit would be issued and be redeemable in six years at five percent interest per year. The new bills, however, could be emitted only if the individual states established permanent funds to back them and only in sums "not to exceed, on any account," more than one-twentieth of the nominal sum of the old bills called in and destroyed. Finally, as the new bills were issued by the states, Congress resolved that six-tenths of them could be for the use of the state while the other four-tenths should be reserved for the use of Congress.<sup>23</sup>

Many of the delegates were not enthusiastic about the new program because it obviously would injure many of the country's creditors. Nevertheless, in creating the new program the delegates had acted as national legislators rather than as state ambassadors and, still fulfilling that role, they urged their states to comply with the system. President Huntington observed that it was "the happiest Expedient that could be adopted to extricate these States from the Embarrassments of a fluctuating medium and at the same time in some measure afford the necessary means for supporting the ensuing campaign."<sup>24</sup> Explaining the

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<sup>23</sup>Ibid., pp. 262-267. See also Ferguson, Power of the Purse, pp. 48-51.

<sup>24</sup>S. Huntington to the Several States, Mar. 20, 1780, PCC, R24, Item 14, pp. 318-319.

resolution to their state, the Connecticut delegates asserted that it would introduce a stable medium for trade and increase the country's revenue. They also argued that the six-tenths retained by the state would permit it to purchase the specific supplies requisitioned by Congress, while the four-tenths reserved for Congress would permit the Continent to pay the Army.<sup>25</sup>

The delegates of Rhode Island blamed the states themselves for the situation which required the resolution. They noted that Congress had received so little help from the states in the past several months that its military preparations threatened to come to a standstill. They asserted that Congress had "given frequent and faithful warnings to the several states" and had "exerted every power" on its part "to avert the impending mischief, but to little or no avail."<sup>26</sup> It remained with James Madison, however, to express fully the frustration of many members of Congress who reluctantly had supported the resolution. Madison, as well as other delegates, was suspicious of centralized authority, but he recognized that without a stronger central government and closer state cooperation the war would be lost. Venting his despair and urging Virginia to comply, he wrote to Governor Thomas Jefferson:

Among the various conjunctures of alarm and distress which have arisen in the course of the revolution, it is with pain I affirm to you Sir, that no one can be singled out more truly critical than the present. Our army threatened with an immediate alternative of disbanding or living on free quarter; the public Treasury empty; public credit exhausted, nay the private credit of purchasing Agents employed, I am told, as far as it

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<sup>25</sup>Roger Sherman and Ellsworth to Trumbull, Mar. 20, 1780, MHS, 7th Ser., Vo. III, pp. 26-28.

<sup>26</sup>Ellery and Collins to Governor Greene, May 21, 1780, RICC, p. 288.

will bear, Congress complaining of the extortion of the people, the people of the improvidence of Congress, and the army of both; our affairs requiring the most mature and systematic measure, and the urgency of occasions admitting only of temporizing expedients and those expedients generating new difficulties. Congress from a defect of adequate Statesmen more likely to fall into wrong measures and of less weight to enforce right ones, recommending plans to the several states for execution and the states separately rejudging the expediency of such plans, whereby the same distrust of concurrent exertions that has damped the ardor of patriotic individuals, must produce the same effect among the States themselves. An old system of finance discarded as incompetent to our necessities, an untried and precarious one submitted and a total stagnation in prospect between the end of the former and the operations of the latter; These are the outlines of the true picture of our public situation. I leave it to your own imagination to fill them up. Believe me Sir as things now stand, if the States do not vigorously proceed in collecting the old money and establishing funds for the credit of the new, that we are undone; . . .<sup>27</sup>

Despite congressional efforts to establish both the requisition system and the currency on a firm footing and despite the importunings of the delegates for their states to comply, the new financial program was doomed almost from its inception. Newspaper editors such as John Holt objected to the provision of the resolution of March 18 which equated one Spanish milled dollar with forty dollars of the old emission, since he believed that the circulation of gold and silver in the states should have been entirely suppressed. He also asserted that the resolution was so complicated that people could not understand it and claimed that they were rapidly advancing the prices of their products until the value of the old paper currency was sure to reach only

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<sup>27</sup> James Madison to Thomas Jefferson, Mar. 27, 1780, in Julian P. Boyd, ed., The Papers of Thomas Jefferson, 1760-1791 (Princeton, 1950-1974), Vol. 3, pp. 335-336. Hereinafter, PTJ.

one-fortieth that of specie.<sup>28</sup> Some states also objected to Congress' resolution of March 18. Governor Caesar Rodney of Delaware informed Congress that the assembly had adjourned without considering the resolution because the members believed the money would "gain more credit by being left to itself than by any act of the assembly."<sup>29</sup>

The requisitions of February 25 also irritated some of the delegates. Nathaniel Peabody of New Hampshire, writing to President Meshech Weare, warned that the prices fixed under the resolution were founded neither on justice or equality. He noted that the quota for each state was set before the prices were fixed and in the scramble of delegates to get the best prices for the products of their particular states prices were fixed in such a way that New Hampshire would lose at least \$50,000.<sup>30</sup> Though some states responded quickly and passed appropriate legislation to support the resolutions, President Huntington was unable to assure Pennsylvania that a majority of the states had complied until late August, 1780.<sup>31</sup>

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<sup>28</sup> John Holt to George Clinton, Apr. 15, 1780, in The State of New York, The Public Papers of George Clinton, First Governor of New York (Albany, 1901), Vol. 5, pp. 622-626. Hereinafter, PGC. Holt may have overstated his case. There is some evidence that the resolution actually may have overvalued the continental. The Connecticut delegates reported that by the time the resolution passed the rate of exchange had reached sixty for one in Philadelphia and perhaps forty or fifty to one in the southern states. See Sherman and Ellsworth to Trumbull, Mar. 20, 1780, MHS, 7th Ser., Vol. III, p. 26.

<sup>29</sup> Caesar Rodney to the President of Congress, Apr. 20, 1780, LCR, pp. 339-340.

<sup>30</sup> Nathaniel Peabody to the President of New Hampshire, Mar. 13, 1780, LMC, Vol. V, pp. 67-70.

<sup>31</sup> S. Huntington to the President of the Council of Pennsylvania, Aug. 22, 1780, PCC, R24, Item 15, p. 86.

The delay in responding was due in part to the internal financial difficulties of most of the states. In fact, some states, rather than being able to support the Continent's new financial program, were forced to beg money from Congress. The New Jersey legislature declared that, because of its close proximity to the enemy in New York for the past two years, "almost the whole supplies and Manufactures of the State, beyond a bare Subsistence for the inhabitants, have been necessarily purchased or taken for the United States." While the legislature wanted to collect its quota of taxes, it could not do so until Congress paid the citizens of New Jersey what it owed them.<sup>32</sup>

The General Assembly of Massachusetts, asking its delegates to appeal for money from Congress, pointed out that it had financed a disastrous expedition to Penobscot, Maine, in 1779. It argued that since this expedition had been undertaken not only for the defense of the state but for the common cause as well, Congress should share the expenses.<sup>33</sup> Congress eventually conceded by permitting the state to retain a portion of its quota until the accounts for the expedition were prepared and submitted to Congress. It rejected, however, the state's proposal that the United States assume the expenses of state militia when it was employed against the common enemy.<sup>34</sup> Congress' concession to Massachusetts elicited a similar demand from New Hampshire.

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<sup>32</sup> New Jersey Legislature to the United States in Congress Assembled, PCC, R82, Item 68, pp. 525-526.

<sup>33</sup> General Assembly to the Massachusetts Delegates, Feb. 2, 1780, PCC, R79, Item 65, Vol. I, pp. 448-450.

<sup>34</sup> Report of the Committee on the Motion of the Delegates of Massachusetts Bay, Apr. 5, 1780, passed Apr. 8, 1780, PCC, R29, Item 20, Vol. I, pp. 57-59.

President Weare asserted that his state had provided a \$300,000 ship, which was lost at Penobscot and also \$600,000 for clothing for the Continental Army. He demanded that New Hampshire receive the same consideration as Massachusetts.<sup>35</sup>

Connecticut also demanded money from Congress, in this case for the debts contracted in that state by the Commissary General for the purchase of beef. The state's delegates assured Governor Trumbull that they would press Connecticut's claim, but warned him that "there have been many and urgent calls for money which it has been impossible for Congress, with a nearly exhausted treasury, to comply with." They added that "the same difficulties will remain so long as the several States are dilatory in collecting their quotas of money, or when collected apply it to other purposes than the payment of continental warrants."<sup>36</sup> Despite the warning the state still found it necessary to issue a new emission of paper money to pay public expenses.<sup>37</sup>

William Ellery, a delegate from Rhode Island, informed Governor Greene that Congress was being unjust to his state both in its demands for men and for money. He remarked that he had urged that both be reduced, but had only been successful in reducing Congress' new warrant on the state by \$100,000. He was given the excuse that Congress was so pressed by its creditors that in order "to preserve, or rather recover

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<sup>35</sup> Meshech Weare to Nathaniel Folsom and Nathaniel Peabody, May 27, 1780, PCC, R78, Item 64, p. 110.

<sup>36</sup> Sherman and Ellsworth to Trumbull, Mar. 23, 1780, MHS, 7th Ser., Vol. III, p. 30.

<sup>37</sup> Sherman to Trumbull, and Sherman and Benjamin Huntington to Trumbull, Apr. 7, 1780, MHS, Vol. III, pp. 78-81.



public credit," it found it expedient to issue warrants whenever it appeared they might be paid.<sup>38</sup> Such expedients aroused the anger of those states which had to pay the warrants and contributed to the growing distrust of Congress. Ellery argued that Rhode Island was too often asked to do more than required of other states, and warned: "Our State hath sometimes, by too great an ardor, injured itself."<sup>39</sup>

Governor George Clinton of New York noted that the demands of Congress on his state had been much less than on surrounding states, but that it was still difficult to obtain requisitions not only because of the necessity of defending the state's extended frontiers but also because of raids by the enemy. He observed that New York could not even pay or provision its own militia.<sup>40</sup> The inability to defend its frontier caused the state's legislature to declare that it would raise men for that purpose only if Congress would agree to pay and subsist them.<sup>41</sup> Congress finally consented, authorizing New York to raise a body of 800 men for defense of its frontiers and agreeing to permit these men Continental pay and rations.<sup>42</sup> As for New York's quota of supplies, Clinton informed Congress that because of previous requisitions the state was exhausted. He was "perswaded there is not more Grain & Meat left in the Possession of the Farmer than a bare competency for the support

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<sup>38</sup> Ellery to Governor Greene, Apr. 18, 1780, RICC, p. 280.

<sup>39</sup> Ellery to Governor Greene, Apr. 4, 1780, RICC, p. 277.

<sup>40</sup> Clinton to S. Huntington, Mar. 9, 1780, PCC, R81, Item 67, Vol. II, pp. 238-239.

<sup>41</sup> Clinton to the New York Delegates, Mar. 25, 1780, PGC, Vol. 5, pp. 550-551.

<sup>42</sup> Congressional Resolution, Apr. 4, 1780, PGC, Vol. 5, p. 584.

of its inhabitants until the new Crops come in; . . ." If any more supplies were needed besides those already acquired by public officers before the harvest they could not be acquired in New York.<sup>43</sup>

While the new financial plan faced an uncertain future in the northern states, it also soon became apparent that little aid would be forthcoming from the southern states. In December, 1779, General Henry Clinton sailed southward from New York, finally arriving in South Carolina in February, 1780, and began his assault upon Charleston. The General Assembly of Virginia, certain that the design of the enemy was to capture the entire south, pleaded with Congress for aid. The Assembly asserted that the state was exerting every effort to raise a body of militia but it was certain its efforts would not be enough. It argued that the militia was needed not only to combat the "general Attack by the Indians" on its western frontier but also to defend the state against the threat of British invasion from the coast. The Assembly insisted that Congress immediately send more Continental troops and a supply of arms to North Carolina as "the Government of Virginia hath already furnished all it is able to spare."<sup>44</sup> Congress replied that it would help as much as possible, but, because of its own financial difficulties, it warned Virginia to rely more on its own preparations and arms.<sup>45</sup>

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<sup>43</sup>Clinton to Washington, Apr. 24, 1780, PGC, Vol. 5, pp. 650-651.

<sup>44</sup>The Address of the General Assembly of Virginia to the Delegates of the United States in Congress Assembled; . . . ., May 24, 1780, PCC, R85, Item 71, Vol. I, pp. 351-352.

<sup>45</sup>Report of the Committee on the Address of the General Assembly of Virginia, June 7, 1780, PCC, R29, Item 20, Vol. II, pp. 242-243.

The result of difficulties of the states and of their slowness in complying with the new financial scheme was that the Continental treasury remained empty. Requesting help from Connecticut in transporting supplies to the Army, General Greene noted that no help could be expected from Congress no matter how pressing the necessity. Therefore Connecticut must "interpose its good offices and prevent the fatal misfortune." This state of affairs had been reached, he believed, because "Political bodies are often too tardy in their measures for the emergencies of war. I wish we may not be precipitated into some terrible misfortune on this account."<sup>46</sup> James Madison also noted the confused state of affairs because of the lack of money and because the states had not yet realized the changed conditions. He observed that while Congress "exercised the indefinite power of emitting money on the credit of their constituents they had the whole wealth and resources of the Continent within their Command and could go on with their affairs independently and as they pleased." But since Congress had surrendered the power of emitting money he warned that it was now "as dependent on the States as the King of England is on Parliament." Furthermore he declared: "Unless the legislatures are sufficiently attentive to this change of circumstances and act in conformity to it every thing must necessarily go wrong or rather must come to a total stop."<sup>47</sup>

The financial situation of Congress became even more desperate when

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<sup>46</sup> General Greene to Trumbull, May 7, 1780, MHS, 7th Ser., Vol. III, pp. 36-37.

<sup>47</sup> Madison to Jefferson, May 6, 1780, PTJ, Vol. 3, pp. 369-371. See also Madison to John Page (?), May 8, 1780, in William T. Hutchinson and William E. Rachal, eds., The Papers of James Madison, 1757-1787 (Chicago, 1962-1975), Vol. 2, pp. 21-22. Hereinafter, PJM.

it was learned in May that a French squadron and a French Army of 6,000 men under the command of the Comte de Rochambeau would shortly arrive to participate in joint Franco-American operations. Desiring to insure that these operations would be successful, Congress, on May 19, requested the immediate payment of \$10,000,000 in back taxes owed by the states. In the same resolution Congress also asked that the legislatures of the several states grant their executive authorities the power to draw out the resources of the states during those times when the legislatures were not sitting.<sup>48</sup> In explaining the necessity of the resolution, President Huntington observed: "Every State that reflects upon the Depreciation of the Currency and their own Deficiency in the Payment of their Taxes must necessarily conclude that the Treasury is exhausted. The military Departments are at a stand for the Want of money to put them in motion." Huntington also used this opportunity to inform the states that a committee had been appointed to headquarters to assist the Commander-in-Chief to call out the specific quotas of the states.<sup>49</sup>

Such a committee had been under consideration since early April. On the sixth of that month Congress appointed a committee to write instructions for another committee of three persons who were to proceed to headquarters and aid General Washington in reducing his regiments and arranging the staff departments.<sup>50</sup> On the twelfth the instructions

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<sup>48</sup> JCC, Vol. XVII, pp. 437-438.

<sup>49</sup> S. Huntington to the Several States, May 19, 1780, PCC, R24, Item 15, pp. 1-3. Printed copy in PGC, Vol. 5, p. 723.

<sup>50</sup> JCC, Vol. XVI, pp. 332-333.

were reported and approved by Congress. Among the committee's duties were those of reporting the defects of the Quartermaster's department and of making the supplying of provisions more efficient by relying more heavily on the states. It was also instructed to reduce the number of regiments, discharge unnecessary officers, retrench expenses, and establish rules for managing ordinance and military stores. Congress particularly authorized the committee "to exercise every power which may be required to effect a reformation of abuses and the general arrangement of those departments which are in any wise connected with matters committed to your charge."<sup>51</sup> The following day Philip Schuyler of New York, Nathaniel Peabody of New Hampshire, and John Mathews of South Carolina were elected and designated the Committee at Headquarters.<sup>52</sup>

Meanwhile, some states moved rapidly to try to discharge at least a part of their debts to the Continent. The Assembly of Virginia, instead of relying on the slow process of taxation "recommended to the members of both houses of the General Assembly and to the gentlemen in the country and towns adjacent," for the purpose of complying with the resolution of May 19, "to advance for the public use so much tobacco and sums of money as they can possibly spare."<sup>53</sup> Apparently the request was successful, enabling Governor Jefferson to report that he

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<sup>51</sup>Ibid., pp. 354-355.

<sup>52</sup>Ibid., p. 362.

<sup>53</sup>Resolutions Calling Upon Citizens for Aid in a National Financial Crises, June 1, 1780, in Robert A. Rutland, ed., The Papers of George Mason, 1725-1792 (Chapel Hill, 1970), Vol. II, pp. 627-629, 629n.

hoped to be able to send the full amount to Philadelphia by June 20.<sup>54</sup>

Other states, however, found it not only difficult to respond to the resolution of May 19 but also to fulfill their quotas assigned in the resolution of February 25. The Assembly of Connecticut, hoping to procure its quota of provisions, passed several laws at its May session. Among these was one which placed an embargo not only on all goods leaving the state but also from county to county inside the state.<sup>55</sup> In addition, it empowered commissaries, if they had no money, to impress any provisions they needed either for the United States or for the state's militia.<sup>56</sup> Yet Connecticut still found it difficult to meet its quota and renewed its application that Congress quickly settle its accounts with the citizens of Connecticut, because without this compensation those citizens could no longer contribute.<sup>57</sup> In Rhode Island the citizens demanded payment for the debts owed them, forcing the state to pay those debts before it answered Congress' requisition. Governor Greene informed William Ellery that "the Council of War have been under the disagreeable necessity of preventing some part of the Continental tax now paying from being placed in the Loan Offices, . . . in order to settle sundry demands against them, . . ." <sup>58</sup> Attempting to alleviate

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<sup>54</sup> Jefferson to S. Huntington, June 9, 1780, PTJ, Vol. 3, pp. 425-426.

<sup>55</sup> Connecticut Session Laws, May, 1780, in American Antiquarian Society, Early American Imprints (Worcester, n.d., No. 16735, pp. 547-557. Hereinafter, EAI).

<sup>56</sup> Ibid.

<sup>57</sup> Trumbull to the President of Congress, June 8, 1780, MHS, 7th Ser., Vol. 3, pp. 50-53.

<sup>58</sup> Governor Greene to Ellery, May 30, 1780, RICC, p. 294.

a part of the complaints of the states, Congress passed resolutions on May 26 and 27 permitting the states to collect certificates and notes issued to their citizens by Continental quartermasters and commissaries and to apply them towards their quotas of taxes.<sup>59</sup>

The compliance of some states was made more difficult by the policies of surrounding states. On May 7 the President of Pennsylvania, Joseph Reed, complained that Delaware had lifted its embargo on provisions. He argued that because of the proximity of Delaware, Pennsylvania would be unable to prevent provisions from being shipped from Pennsylvania and thus the state would not be able to meet its quota.<sup>60</sup> Congress responded on the second by urging Delaware to reinstate its embargo until such time as all states could lift their embargoes consistent with public safety.<sup>61</sup> Delaware did not respond, however, until a month later, and then only reinstated its embargo until October 20.<sup>62</sup>

The inability of the states to respond quickly to congressional requests meant that the Army remained inadequately supplied. In a circular letter to the states, the Committee at Headquarters reported on May 25 that pay for the Army was five months in arrears, that it had no meat, that it was deficient in camp equipment, and that it was destitute of forage. It warned that because of the Army's needs many soldiers

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<sup>59</sup>S. Huntington, Circular, May 29, 1780, PCC, R24, Item 15, p. 8.

<sup>60</sup>Reed to S. Huntington, May 6, 1780, PCC, R83, Item 69, pp. 185-186.

<sup>61</sup>Report of a Committee on President Reed's Letter of May 6, passed, May 22, 1780, PCC, R29, Item 20, Vol. II, pp. 83-84.

<sup>62</sup>Rodney to S. Huntington, June 22, 1780, LCR, p. 346.

threatened to become disaffected.<sup>63</sup> Supporting the Committee's observations, Ezekiel Cornell noted that two regiments from Connecticut threatened to leave the field and march home. Blaming the states for these problems, he declared that "when I take a view of the civil policy of the several states in the Union, I almost despair of being able to make any vigorous exertions until there is a power vested in some men or number of men, obligatory and binding on all states in the Union as it will be impossible to convince the several legislatures of the necessity, until the happy moment is passed; . . ."<sup>64</sup>

Cornell's bewilderment and disgust was apparently shared by many members of Congress. Believing their own states had not been laggard in their duty and fulfilling their role as state emissaries, they insisted on knowing what all other states were doing and had done. Consequently, on June 17, Congress requested the United States from New Hampshire to South Carolina to inform Congress "with utmost expedition" what measures they had taken to fulfill certain resolutions. Enclosed with the letter was a list of resolutions passed by Congress since January 1, 1779, that had requested men, money, and provisions from the states.<sup>65</sup>

The response of the states to the congressional request for information revealed much about the stresses of the union in mid-1780. Through these answers many states discussed their own unique problems

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<sup>63</sup> Committee at Headquarters to Washington, May 25, 1780, RICC, pp. 290-292.

<sup>64</sup> Cornell to Governor Greene, May 30, 1780, RICC, p. 293.

<sup>65</sup> JCC, Vol. XVII, p. 525.



and revealed their own particularism. They also demonstrated some states' increasing irritation with congressional insensitivity towards their peculiar circumstances, its lack of appreciation for the efforts of individual state governments, and its inability to coordinate effectively its own efforts. In addition, they sometimes illustrated the problems of communications, dispersed authority, and intrastate political divisions. In fact, the only state which could reply that it had fully complied with all the resolutions was Massachusetts. The General Assembly of that state declared that it had transmitted each of its acts to Congress as they were passed, but if Congress had lost them it would send a complete new set.<sup>66</sup>

Governor William Livingston of New Jersey virtually dismissed Congress' request that a list of acts be sent to Congress. He could not recall the acts since he had not "charged" his "memory" with them, and therefore he could not answer the questions contained in the request.<sup>67</sup> Governor Abner Nash reported that North Carolina had met every money requisition of Congress and had even advanced \$1,250,000 to the Commissary General for the Southern Army. Poor communications between his state and Philadelphia, however, had caused an inordinate delay in responding to Congress' resolution of February 25. Nash noted that he had not even received the request until May 15, more than eleven weeks after it was passed. But since receiving it, he had called for a special session of the legislature to answer the resolution. As for granting the

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<sup>66</sup> Assembly of Massachusetts to S. Huntington, Aug. 30, 1780, PCC, R79, Item 65, pp. 452-453.

<sup>67</sup> William Livingston to S. Huntington, June 28, 1780, PCC, R82, Item 68, pp. 561-562.

executive special powers, he reported that he was already able to call out 8,000 militia and was empowered to print money, if necessary, for its support.<sup>68</sup>

New York reminded Congress that because of the combined campaign of Major-General John Sullivan and Brigadier-General James Clinton against Tories and Indians in the state during 1779, the legislature had been interrupted and unable to reconvene until October. Since that time New York had supplied more than its quota of men. Referring specifically to the urgent resolution of May 19, the state noted that it had tried to collect its share of the \$10,000,000 but, because of the poverty of the state, had been able to collect only \$50,000. The legislature notified Congress that the Continent could draw on the state for \$300,000, but that much of that was state money and could only be spent in New York.<sup>69</sup> The Council of the State of Maryland declared that it responded fully to all troop requisitions. The money requisitions of the latter part of 1779, however, had been delayed because of a dispute in the legislature. The House of Delegates did not believe that Maryland was capable of paying the taxes without selling British estates, but the Senate disagreed. Because no agreement could be reached the legislature finally passed a property tax of £5 per hundred, and directed that provisions be seized in exchange for certificates. The Council also noted that support of the resolution of March 18 had also

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<sup>68</sup> Abner Nash to the President of Congress, July 18, 1780, PCC, R86, Item 72, pp. 87-90.

<sup>69</sup> A Summary of the Proceedings . . . of the State of New York in Relation to . . . the Act of Congress of June 17, 1780, n.d., PCC, R81, Item 67, Vol. II, pp. 290-293.

been delayed because the original bill had contained a provision making the new bills legal tender. Since then the legislation had passed. Finally, the Council declared that even though Congress' requests had been far beyond Maryland's proper proportions, the state was still willing to comply as much as possible.<sup>70</sup>

Governor Jefferson of Virginia reported that his state had tried to fulfill its quotas of troops required by the resolutions of March 9, 1779, and of February 9 and May 20, 1780, by appointing recruiters in every county. Each received twelve and one-half dollars, specie value, for every soldier enlisted and each was authorized to offer sixty-two and one-half dollars, specie value, as soldiers' bounties, but the system had not worked as well as expected. As for the resolution of March 18, the Assembly had approved an act supporting the new bills of credit but had withheld implementation until it received proof that at least five other states had done likewise. Jefferson realized that Virginia had not always complied with Congress' requests for men and money, but he observed: "It will doubtless occur that some of these requisitions were difficult in their nature, that others were new in experiment, and all of them on as large a scale as the people think themselves equal to." In defense of Virginia he argued: "In states more compact experiments, tho' new and difficult, are made with promptitude, their defects soon discovered and readily supplied." In states as large as Virginia, however, "they are carried into execution with less vigor and punctuality, and the time for complying with a requisition expires frequently

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<sup>70</sup>Representation of . . . the State of Maryland . . . Agreeable to the Act of 17 June 1780, Aug. 11, 1780, PCC, R84, Item 70, pp. 419-425.

before it is discovered that the means provided were defective." Finally Jefferson observed: "The time necessary for convening the legislature of such a state adds to the tardiness of the remedy, and the measure itself is so oppressive on the members as to discourage the attempting it but on the last emergencies."<sup>71</sup>

Jefferson's complaints stemmed from social conditions which did not exist in the more settled areas of the New England states. Virginia's difficulties in recruiting soldiers was caused partly because it did not have as large an excess of unemployed young men as had New England, and those already employed were unwilling to surrender their livelihoods for the uncertain rewards of military service.<sup>72</sup> Equally important was the factor of community force. The dispersed organization of the county in Virginia could not permit it to exercise the same kind of community pressure on its citizens as could the New England town.<sup>73</sup> In addition, as Jefferson noted, the space over which government operated in Virginia both diffused and discredited authority. These conditions were probably not unique to Virginia, but characteristics of the whole South and much of the interior North.

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<sup>71</sup> Jefferson to S. Huntington, July 27, 1780, PTJ, Vol. 3, pp. 508-512.

<sup>72</sup> Jackson Turner Main, The Sovereign States, 1775-1783 (New York, 1973), pp. 402, 414.

<sup>73</sup> For an analysis of the factors which influenced the "density of community life" in the Northern and Southern sections and thus the force which these organizations could employ on their citizens, see H. James Henderson, "Local Political Cultures in Post-Revolutionary Massachusetts and Virginia," Unpub. Paper, Read October 26, 1976, at the Ninth Annual Conference of Social-Political History, State University College, Brockport, New York.

The New England states, however, also experienced their own unique problems and frustrations. Governor Trumbull of Connecticut replied that his state had also complied as fully as possible with the requisitions of Congress, but because of the burden created by such taxes, along with those assessed for the state, the Assembly had apportioned the Continental taxes in six parts, collectable at various times throughout the year. Trumbull noted that the first three portions had been collected, but that they had already been expended because of the necessity for immediate defense. Consequently, the state had been obliged to emit its own bills amounting to £190,000 to obtain supplies for the Army. He also complained that on December 11, 1779, Congress had requested 8,000 barrels of flour from Connecticut even though "it is well known that this is not much of a wheat country." Nevertheless, he asserted that Connecticut had attempted to collect the flour but would fall far short of that required by Congress. Finally, he declared that he had never even received the Congressional resolution of May 19.<sup>74</sup>

Governor Greene of Rhode Island declared that his state had fulfilled all the money requests of Congress except for the last one. This last had not been collected for a variety of reasons. First was the problem of raising and paying its quota of troops and of supplying the needs of the Commissary Department. More importantly, much money was being used to provide for the arrival and the support of the French fleet. As for the resolution of March 18, Greene assured Congress that

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<sup>74</sup>Trumbull to S. Huntington, July 10, 1780, MHS, 7th Ser., Vol. III, pp. 58-61.

the legislature had been considering it but that its passage had been delayed while some means was sought to redeem the new bills. Finally, on supplying specific provisions of beef for the Army, he observed that the state had experienced a severe drought which made it difficult to provide the beef as early as wanted.<sup>75</sup>

The most detailed and the most critical response, however, came from President Reed of Pennsylvania. Reed reported that Pennsylvania had always supplied its quota of troops, had kept them well provisioned, and had been complimented often by the Commander-in-Chief for its exertions. As for the recent demands for money by Congress, the state thought it advisable to reevaluate property in order that its assessment on the population would be equitable throughout the state. Naturally the reevaluation had occasioned a delay in the state's compliance. But Reed noted that there were other problems which made payment difficult. The state had been recently raided by the enemy, which meant that much money was needed for the defense of the state. He also noted that it was well known that a large portion of the population was disaffected and refused to pay taxes voluntarily. Therefore, legal compulsion had to be used which caused further delays. He argued that inflation itself had hampered tax collections because the fines for non-acceptance of the office of tax collector and for non-compliance were so small that they were ineffective. He assured Congress, however, that the Assembly had taken steps to remedy all of these problems.<sup>76</sup>

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<sup>75</sup>Governor Greene to the President of Congress, July 8, 1780, RICC, pp. 204-205.

<sup>76</sup>Statement of President Reed to Congress, July 30, 1780 in Pennsylvania, Pennsylvania Archives, 1st Ser., Vol. VIII, pp. 458-461. Hereinafter, PA.

Reed then detailed what the state had done to comply with Congress' requisitions of supplies. He explained that the Assembly had issued money to buy the provisions but that its efforts had been made difficult by two factors. First, the purchasing agents found that farmers were reluctant to take the Assembly's money because of the shock already experienced from the depreciation of paper currency. Second was the problem of politics, particularly in the city of Philadelphia and the county of Lancaster, which had been occasioned by differences over the form and the administration of government in the state. Nevertheless, Reed noted that the supplies were being collected and stored at various points around the state. He argued that there was every prospect that Pennsylvania would have met its quota had it not suddenly received a letter from the Committee at Headquarters which presented a plan that differed from Pennsylvania's in quantity, quality, and times and places of delivery. The Committee's demands were "so far disproportionate, not only to the Ability of this State, but to the Demands upon some of the other States, that nothing less than the purest Zeal for the common Cause & determined Resolution to strain every Nerve prevented our Addressing Congress immediately thereupon."<sup>77</sup>

The combined demands of the Committee and of Congress for provisions in Pennsylvania were so exorbitant that when the cost of each item required was calculated and added to the price of transportation, it was

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<sup>77</sup> Ibid., pp. 462-463. In addition to Congress' requisition of February 25, the Committee at Headquarters demanded that Pennsylvania deliver monthly 5,000 barrels of flour, 166,835 pounds of beef or pork, 9,142 barrels of grain, and 250 hogsheads of rum. It also demanded that Pennsylvania provide 30,000 pounds of bacon divided into three monthly payments, 250 wagons and 1,500 horses. Committee at Headquarters, Circular, June 2, 1780, PCC, R46, Item 39, Vol. I, pp. 66-71.

discovered that the money value totaled \$802,092,800 or \$602,092,800 more than the whole amount of Continental currency ever issued. Reed noted that the state had apportioned these demands on the various counties, but observed that on one item, flour, the county which had been assessed the least amount per month was still supposed to provide "sixty barrels of flour more than the whole of a neighboring state [Delaware] tho' flour is the staple of each." He warned Congress that this combined requisition was not only beyond the ability of the people of Pennsylvania but that it was also greatly resented because the people had not had a voice in its apportionment. "We are persuaded it will not agree with the sentiments of the inhabitants of this state, who have been taught to reason on the doctrine of Representation as essential to Taxation, and fully understand it as the constitutional Ground of this Contest."<sup>78</sup>

Reed then further detailed the problems his state encountered in procuring the supplies required by the Committee and by Congress. He argued that bacon could not be had in the state at all, as the citizens themselves depended on that item being imported from surrounding states. The same problem also existed with the items of salt and rum; both required importation. As for wagons, Reed believed Pennsylvania would be greatly deficient in providing them, since the state had borne the brunt of that requisition throughout the war and observed that those now with the Army had been drawn chiefly from Pennsylvania. To bolster his assertion he noted that the county of Lancaster had registered 1700 wagons

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<sup>78</sup>Statement of Reed, July 30, 1780, PA, 1st Ser., Vol. VIII, pp. 464-465.



in 1777, but now could produce no more than 500. Horses at the beginning of the war could be bought for £25 but now sold from £50 to £60 specie.<sup>79</sup>

Reed closed his observations on the requisitions by making two suggestions. First, he believed that it was not equitable to hold states responsible for their requisitions unless all purchases were made by one individual. While he recognized the terrible difficulties under which Continental officers operated, he observed that "the Number of Purchases, the Variety of Money, & the occasional Intermixture of a little Specie occasions Competitions & Jealousies, of which the Seller does not fail to make his advantage at the publick Expense." Second, Reed criticized the lack of coordination between military officers and the state governments as destructive of system and equality. While he granted the right of military officers to impress provisions in the state in certain emergencies, he believed that when the officers acted Congress should expect that the state would no longer be responsible for that portion of supplies. As a case in point Reed declared that the Committee at Headquarters had demanded a large number of wagons from the state and that Pennsylvania, in response, had worked out an equitable assessment on each county. But a Continental officer since then had impressed two-thirds of the state's entire quota of wagons in only three counties.<sup>80</sup>

In these responses to Congress' request for information, it was apparent that the majority of the states believed that their own

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<sup>79</sup> Ibid., p. 466.

<sup>80</sup> Ibid., pp. 466-467.

special problems had left them not only hard pressed to fulfill the requisitions of Congress but also that each had contributed more than its fair share to the common effort. Consequently, the sometimes brusque demands of Congress' Committee at Headquarters only increased the irritation of the state towards both the members of the Committee and Congress itself. Though many states such as Pennsylvania resented the Committee's requisitions, they still tried to meet its demands, sometimes at tremendous cost to themselves. By 1778 the war had become in essence a poor man's war, and a state's ability to recruit men depended greatly on paying increasing bounties to the dwindling supply of available young men. These costs, added to the spiraling prices of provisions, caused inevitable distress. New Hampshire, for example, responded to the Committee's requisitions but was only able to do so with the greatest difficulty. Meshech Weare declared that the bounties required to get recruits for the Army and that the price of every item were so extravagant that it seemed "as if all the money in the State would not be sufficient."<sup>81</sup>

Other states simply said "no" to the Committee. Governor Greene of Rhode Island refused the Committee's request for supplies and carefully detailed his reasons. He pointed out that the French fleet was in the harbor and could not get out because of a British naval blockade. In addition, because of the French presence, the state was threatened with an imminent invasion by the British. For this reason Governor Greene had called out the militia for six months to protect the state.

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<sup>81</sup>Weare to the Committee at Headquarters, August 8, 1780, PCC, R78, Item 64, p. 136.

Consequently, the supplies which would otherwise have been used for the Continental Army of necessity would be expended to support the state's militia. He further informed the Committee that if any supplies were left after provisioning the militia they could still not leave Rhode Island as the French Army and Navy had to procure most of their supplies in the state.<sup>82</sup>

Throughout its early existence, however, the Committee at Headquarters quite naturally received the strong support of Congress. Congress hoped the Committee would be able to do that which Congress could not--spur the states to greater exertions on behalf of the Army. In a circular letter, President Huntington pressed the states to cooperate with the Committee's requisitions. Convinced that the resources of the country could easily remedy the Army's difficulties if speedily applied, he urged the states not to sacrifice the happiness of millions for the sake of present ease and comfort. Justifying the appointment of the Committee, Huntington argued that a common council involved the "Power of Direction" and that Congress' measures should not be checked or controlled by "partial views & Interests of separate Communities, while they profess to be of one Body."<sup>83</sup>

Unfortunately for Congress the Committee itself helped to generate these "partial views" by its unremitting demands on the states and by its constant conflicts with the executive authorities of the states. One source of these conflicts was the attitude of the members of the

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<sup>82</sup>Governor Greene to the Committee of Cooperation of Congress, August 22, 1780, RICC, pp. 308-309.

<sup>83</sup>S. Huntington, Circular, June 15, 1780, PCC, R24, Item 15, pp. 34-36.

Committee, especially that of John Mathews. Writing to another member of the Committee, Mathews commented upon a charge that the Committee wanted to be made "Lords and Protectors," declaring: "If I thought I could have influence enough, to make any honest set of men the real Protectors of this grievously injured people, I would harangue the multitude, night and day!"<sup>84</sup> Such attitudes inevitably offended many officials who were forced to deal with the Committee.

The most serious conflict which the Committee initiated with state authorities involved Joseph Reed and the Council of Pennsylvania. Disturbed by the lack of written response to the requisitions made on Pennsylvania, the Committee made the mistake of upbraiding the Pennsylvania Council, declaring: "We should stand fully justified by our Constituents & to the world, if we declined any further communications to the State of Pennsylvania, on the subject of our mission; as it has not even acknowledged the receipt of any of the letters we have addressed, . . ."<sup>85</sup>

Responding immediately to what he considered an affront to his state, Reed reminded Congress that both it and the Commander-in-Chief had praised the state for its tremendous exertions. "But, Sir, the enclosed Letter from your Committee at Camp, shows that no Services, no Exertions, no Sacrifices of private Ease, Interest, or even Health itself, can exempt us from unmerited Reproach." He acknowledged that he had not yet answered the Committee's letters but argued that this was because the state desired to render an accurate representation of its

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<sup>84</sup> Mathews to Peabody, Oct. 3, 1780, LMC, Vol. V, pp. 400-401.

<sup>85</sup> Committee at Headquarters to Reed, July 13, 1780, PCC, R83, Item 69, Vol. II, pp. 254-255.

ability and had therefore requested the information from the various counties. He then reminded Congress that the state was so large that the three weeks which had elapsed since the receipt of the Committee's requisition simply was not enough time to have received accurate answers. He asserted that Pennsylvania had struggled to overcome the obstacles of party strife and the difficulties of supplying its frontiers and that the Council had devoted itself incessantly to public business. Consequently, "it is very hard & not a little discouraging to be held out to the Army as we have Reason to think we have been, & as we hereafter may be to the World, as the Author or at least the Causes of Misfortunes which it is impossible for us to prevent."<sup>86</sup>

In a second letter Reed reported that prior to the Committee's letter the members had been in town and had conversed with one of the state's delegates and with Reed himself. Since they did not request further information at that time, the Council automatically assumed that either the Committee had decided to await more accurate information or were satisfied with that which they had already received. Shortly thereafter, however, the Council had received the offensive letter. But even after this, one of the Committee's members had been in town without seeking any further information. The Council could put no other construction on this turn of events than "that the Committee was satisfied, or that they sought an Opp[ortunity] to represent the State unfavorably to Congress & the Army."<sup>87</sup>

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<sup>86</sup> Reed to S. Huntington, July 17, 1780, PCC, R83, Item 69, Vol. II, pp. 189-198. Printed copy in PA, 1st Ser., Vol. VIII, pp. 419-422.

<sup>87</sup> Statement of President Reed to Congress, July 30, 1780, PA, 1st Ser., Vol. VIII, pp. 467-468.

Congress referred Reed's first letter to a committee, and upon examination the committee declared that during the present critical juncture of affairs Pennsylvania had "manifested her usual zeal and activity, and that the letter from the Committee at Camp of the 13th day of July contains sentiments improper to be addressed to the supreme executive authority of any of the United States."<sup>88</sup> For this and other injudicious offenses toward state executives, and even toward Congress itself, the Committee at Headquarters was dismissed on August 11, and ordered to report its proceedings to Congress.<sup>89</sup>

During its existence the Committee's job had been to obtain compliance for congressional requisitions of supplies. The problem of procuring money from the states, however, remained with Congress, and it continued to press the states for payment of their back taxes. The magnitude of the failure of the states to pay their quotas of money became apparent when the Board of Treasury revealed in late June that from January 1, 1778 to February 1, 1780, the states were in arrears by over \$45,000,000, ranging from Delaware's \$120,000 to Virginia's \$8,343,589.19.<sup>90</sup> Moreover, the states still had not complied with the urgent request of May 19 for \$10,000,000. Thus Congress wrote yet another circular letter requesting immediate compliance. It also noted that it was sending special messengers to each of the states and informed the states that Congress had already been forced to draw warrants

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<sup>88</sup> JCC, Vol. XVII, p. 669.

<sup>89</sup> Ibid., p. 720.

<sup>90</sup> Ibid., pp. 563-564.

against the states' treasuries for those funds.<sup>91</sup>

Delegates also continued to press their states for compliance with both the resolution of February 25 and the resolution of March 18. Ezekiel Cornell pointed out that New Hampshire, Massachusetts, Connecticut, New York, New Jersey and Maryland had adopted legislation for issuing the new bills of credit and he hoped that Rhode Island would soon comply. He also noted that both New York and New Jersey had furnished supplies beyond those required by the resolution of February 25 but that they could do so no longer and thus urged his state to comply as soon as possible.<sup>92</sup>

At the same time Cornell held little hope that such measures would be effective. He complained that there seemed to be little planning in Congress about the forthcoming campaign and asserted: "There doth not appear the most distant wish for more powers, but rather on the contrary, a wish to see their States without control (as the term is) free sovereign, and independent." If Congress encountered the least difficulty in regard to supply, its automatic response was to declare that the states must exert themselves or suffer the consequences. For his part he was "exceedingly disappointed" in his expectations of Congress and was still unable to discover its motives and views. He observed: "There appears to be a langour that attends all our conduct, want of decision and spirited measures. The greatest part of our time is taken

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<sup>91</sup>Ibid., pp. 576-577.

<sup>92</sup>Cornell to Governor Greene, June 30, 1780, RICC, pp. 300-301.

up in disputes about diction, commas, colons, consonants, vowels, etc. . . ."<sup>93</sup>

Other members of Congress were more charitable than Cornell but also recognized congressional ineffectiveness. Writing to General Washington Joseph Jones expressed views similar to those of James Madison, his colleague from Virginia. While noting that the new bills were finally coming into use, he observed that Congress had been "gradually surrendering or throwing upon the several States the exercise of powers they should have retained . . . until at length they have scarce a power left. . . ." As for the Army, Jones believed that Congress was "little more than the medium through which the wants of the Army are conveyed to the States." Furthermore, he asserted that Congress "never had or at least in few instances have exercised powers adequate to the purposes of war and such as they had have been from embarrassment and difficulty frittered away to the states and it will be found, I fear, difficult to recover them."<sup>94</sup>

Thus by early summer, 1780, Congress had still not been able either to establish the nation's finances on a firm footing or to do more than barely subsist the Army. The difficulties of its constituents multiplied, leaving the states unable and unwilling to meet fully congressional requisitions. Without resources of its own and with little forthcoming from the states, the ability of Congress to guide effectively the war effort rapidly diminished. During the next few months,

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<sup>93</sup>Cornell to Governor Greene, July 21, 1780, LMC, Vol. V, pp. 280-281.

<sup>94</sup>Joseph Jones to Washington, June 19, 1780, CAR, Vol. II, pp. 476-478.



as British military pressures mounted in the south, the states would experience increasing tensions between one another, reducing further the cooperation so necessary to congressional authority and power.

## CHAPTER IV

### CRISIS AND DESPAIR

During the last six months of 1780 the nation experienced several major demoralizing shocks which threatened to destroy its ability to prosecute the war. In early summer news reached Philadelphia that Charleston, South Carolina, had fallen to the British on May 12 with the surrender of Major-General Benjamin Lincoln and the entire Southern Army. Struggling to oppose the marauding British Army, Congress succeeded in recruiting a new Southern Army under the command of Major-General Horatio Gates, only to see it badly routed at Camden, South Carolina, in August. In September the nation learned of the treachery of Major-General Benedict Arnold. This disastrous series of events culminated on January 1, 1781, when the Pennsylvania Line mutinied because of a lack of pay and provisions to be followed soon by a similar mutiny in parts of the New Jersey Line.

These crises augmented and complicated the stresses in the Union. As the military situation deteriorated, Congress became even more insistent that its resolutions be carried out. The states tried to respond but discovered that their inhabitants were increasingly reluctant to do so. In defense of their citizens the states complained further of their poverty and of congressional injustice, thus creating more tension, not only between Congress and the states but among the states as well. By the end of 1780, Congress' new financial system, begun so

hopefully in February and March and so dependent upon the cooperation of the states, had all but collapsed. Its near failure and the inability of Congress to solve the military crisis led many persons to question the effectiveness of Republican government, and to a growing movement to increase the powers of Congress.

Summing up the situation at mid-year 1780, Thomas Paine gloomily reported that the Continent was all but exhausted. One of the main enemies he believed had been depreciation which had so impoverished the country that "the whole currency in circulation is scarcely equal to a year's expenses of the war, and could all the Taxes be instantly collected they would not at the present prices purchase the supplies" needed for the Army. He asserted that inflation had seriously "weakened the hands not only of Congress but of every government in America." Noting that Charleston had undoubtedly fallen, he urged the merchants of Philadelphia to lead the way to a new "spirit of ardor" by offering bounties to raise 400 or 500 men to aid the country's faltering defense.<sup>1</sup>

Charleston had indeed fallen, even as Paine was writing. But before the official news reached Philadelphia, the delegates had already agreed that there was little hope either for Charleston or for the Southern Army. Some of the delegates expressed their frustration and despair in recriminations towards the southern states. Ezekiel Cornell, who held a commission in the Army and who was normally a staunch advocate of increased national authority, informed Governor Greene of the

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<sup>1</sup>Thomas Paine to Blair McCenaghan(?), May, 1780(?), in Philip S. Foner, ed., The Complete Writings of Thomas Paine (New York, 1945), Vol. II, pp. 1184-1185.

probable fall of the whole of South Carolina and declared: "In a word, we have but little to expect south of Maryland. The once patriotic state of Virginia weighs but little at present, in the scale of defense or the furnishing of men and supplies. Her whole attention is engrossed in making sale of her lands. . . ." Angry and bitter, he declared that Rhode Island had "loaned more money to the Continent than every state south" of Pennsylvania, and as a friend to and a citizen of Rhode Island he urged the state to pay "no more money on Continental account than is absolutely necessary for the salvation of the country."<sup>2</sup>

James Warren of Massachusetts accused South Carolina of being "a Country, which had not public Spirit enough in the midst of plenty to supply provisions for those that would fight or Courage to fight themselves." His personal reaction to the calamity, however, differed markedly from that of Cornell. While he observed that the news had created some dejection in Congress, he believed that "it had done more good than hurt." He declared that the fall of Charleston had "roused every Man to Action" and asserted that "we shall now have a fine Army, and they will be supplied. . . ."<sup>3</sup>

Warren's optimism proved ill founded. The worsening problems of individual states continued to thwart congressional efforts to supply men and provisions for the Army, and Congress' requisitions for specific supplies and money remained unfulfilled. Responding to the resolution of May 19, for example, Governor Thomas Sim Lee noted that he had sent

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<sup>2</sup>Cornell to Governor Greene, June 18, 1780, RICC, p. 295.

<sup>3</sup>James Warren to John Adams, July 11, 1780, in Massachusetts Historical Society, The Warren-Adams Letters (New York, 1972), Vol. II, pp. 134-136. Hereinafter, WAL.

\$200,000 to Philadelphia on July 8, but warned: "It is with the utmost regret we inform Congress of our Inability to comply with their earnest and pressing Application; . . ." He realized that without the support of the states the next campaign might come to nothing but argued that Maryland's failure would not be due to lack of effort. Instead, he asserted that it would be because of "the want of Time to execute the Laws and in some Measure to the Scarcity of Money to answer the various Demands incessantly made on the People to support Government and to provide Men, Money and Provisions for the Army of the States."<sup>4</sup>

Farther north, Meshech Weare of New Hampshire informed Congress that his state had passed a law to comply with its portion of the \$10,000,000 and to fulfill its requisitions of men and supplies but that they were very difficult to collect. He cited as reasons that there had been a sudden scarcity of specie in the state and that one whole county had attached itself to Vermont and refused to pay any taxes at all. The state, therefore, had to set its own priorities on what it had collected. Its decision to supply men and provisions had emptied the treasury of the money intended for the use of Congress.<sup>5</sup>

Governor Greene wrote to Congress insisting that the demands for money from Rhode Island cease. He argued that the state had made every exertion to fulfill the requests of the staff department and of the Quartermasters, but: "The necessity for large expenditures are daily more urgent from the variety of circumstances attendant upon the fleet

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<sup>4</sup>Thomas Sim Lee to S. Huntington, July 24, 1780, PCC, R84, Item 70, pp. 399-401.

<sup>5</sup>Weare to S. Huntington, July 25, 1780, PCC, R78, Item 64, pp. 118-119.

and army of his most Christian Majesty. This State being the place of their present residence, is in some measure considered as possessing the treasury of America." Greene then warned: "In a short time, if the demands for money shall be continued we shall be totally unable to answer them."<sup>6</sup>

The New York Legislature, writing to the state's delegates in Congress, noted that by the resolution of February 25 Congress had relinquished its right to purchase and had begun to pass requisitions on the several states which were then to procure supplies upon their individual credits. But, the legislature declared, New York had no credit. Its treasury was destitute; its militia was unpaid; and its civil list and the contingencies of government had been unpaid for a year. Consequently, the legislature believed that it had no choice but to return the burden of purchasing supplies to Congress by procuring provisions on the credit of Congress rather than on the non-existent credit of the state.<sup>7</sup>

Despite their difficulties, the states did attempt to implement Congress' financial program. Many of them, however, discovered that their citizens, weary of the war, distressed by the spiraling inflation, and now leery of seemingly empty congressional and state promises, were reluctant to surrender any more of their possessions. Consequently, they had to resort to confiscating the provisions. But in doing so they tried to walk a fine line between the feelings of their citizens

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<sup>6</sup>Governor Greene to Cornell, July 22, 1780, PCC, R78, Item 64, p. 478.

<sup>7</sup>Letter from the New York Legislature to the Delegates of that State, July 4, 1780, PCC, R81, Item 67, Vol. II, pp. 278-280.

and congressional resolutions.

In Delaware, Governor Rodney ordered William Millen of New Castle County to procure horses for the Army and, if people would not sell, to seize them. The authorization which he issued, however, was limited, with hopes, perhaps, that it would be more acceptable to Delaware's inhabitants. Millen was specifically ordered to enlist "any sufficient Numbers of Persons" to aid him in impressing "all Horses, Mares, and Geldings within your County that may be in Keeping for Racing, or at a Race-Ground for the purpose of Running. . . ." <sup>8</sup> The Council of Pennsylvania, likewise, instructed the wagon masters in the counties to enlist the aid of militia, if necessary, to procure teams for the Army. But to partly protect its loyal citizens, it cautioned the wagon masters to distinguish first "between such as have taken the oath or affirmation of Allegiance, and those who have not, and saving always to every plantation at least two working Horses." <sup>9</sup>

New York also faced considerable citizen resistance which greatly inhibited its ability to comply with congressional requisitions. In Westchester County, just upriver from New York City, the citizens refused to accept anything but gold and silver for their cattle, forcing Samuel Townsend, the purchasing agent for the county, to impress cattle for the Army without authorization from the state. <sup>10</sup> Westchester County, however, was not the only problem area. Udney Hay, the Deputy

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<sup>8</sup> Rodney to Millen, June 23, 1780, LCR, pp. 348-349.

<sup>9</sup> Extract from the Minutes of the Council of Pennsylvania, June 21, 1780, PCC, R83, Item 69, Vol. II, pp. 227-228.

<sup>10</sup> Samuel Townsend to Clinton, Aug. 29, 1780, PGC, Vol. 6, pp. 148-149.

Commissary General for the state, reported that the people were extremely reluctant to part with their goods, their minds having been "sour" against the state because they believed they were being offered lower prices than those in surrounding states for their cattle and flour. In addition, many persons had certificates given them by the state, some of them issued months, others years earlier, and these people had become convinced that they would never be redeemed. Consequently, New York's citizens were more than willing to accept higher prices, much of it in specie, from persons calling themselves "purchasing agents" who were taking substantial numbers of cattle into the New Hampshire Grants and into the Eastern states and even into the hands of engrossers.<sup>11</sup>

With these difficulties becoming more important, the legislature of New York was finally forced to notify Congress that it could not meet the quota of beef required by the resolution of February 25 and requested that New York be permitted to substitute flour for beef.<sup>12</sup> Congress granted the request, but even then New York experienced a disaster which precluded their delivering the flour. In November, the enemy raided Tyron County, destroying 150,000 to 200,000 bushels of wheat and a similar amount of forage. As the state depended heavily upon the produce of that county to meet its Continental quota, Governor Clinton warned: "I conceive it therefore my Duty to inform Congress of this: lest by too great a Reliance on this State, they may be

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<sup>11</sup>Udny Hay to Clinton, Sept. 18, 1780, PGC, Vol. 6, pp. 240-241.

<sup>12</sup>The New York Legislature to the Delegates of New York, Sept. 21, 1780, PCC, R81, Item 67, Vol. 2, pp. 310-311.



disappointed and the Army suffer from want of due supplies."<sup>13</sup> Congress, then, had no choice but to request the already hard pressed states of Pennsylvania, Delaware, and Maryland to send their quotas of provisions as quickly as possible.<sup>14</sup>

The states also tried to comply with the resolution of March 18 by passing legislation in support of the new bills and by imploring their citizens to pay the taxes necessary to back the new money. But many of their inhabitants refused. The Maryland General Assembly sent an open letter to its constituents urging that people promptly pay their taxes since promptness was the only way to insure both the establishment of the new bills and the restoration of public credit.<sup>15</sup> The people of Maryland, however, often rejected the new bills, even when the Assembly was able to issue them. Thomas Richardson of Georgetown reported to Governor Lee that he would be able to buy provisions quickly if he had proper cash, "but the people hold back from an apprehension that they are to be paid off in the new money at 40 for one, which they seem generally adverse apprehending they will not be able to pay off their former contracts with it at the same rate."<sup>16</sup> Richard Smith of Moncay asserted that good beef for the Army could be acquired, "but not at the

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<sup>13</sup>Clinton to S. Huntington, Nov. 6, 1780, PCC, R81, Item 67, Vol. 2, pp. 328-329.

<sup>14</sup>S. Huntington to the First Executive Officers in Pennsylvania, Delaware & Maryland, Nov. 16, 1780, PCC, R24, Item 15, pp. 158-159.

<sup>15</sup>Address of the General Assembly to the People of Maryland, July 7, 1780, in H. Niles, ed., Revolution in America (Baltimore, 1822), pp. 208-209.

<sup>16</sup>Thomas Richardson to T. S. Lee, Aug. 30, 1780, in Maryland, Maryland Archives, Vol. XLV, p. 65. Hereinafter, MA.

price you desired me to Engage it for, nor neither will the people take the New money that is now coming out at the Exchange of forty for one without I will Oblige myself to make the one as Good as Forty, . . ."17

As late as January, 1781, William McBride of Somerset reported: "I cannot Purchase any Provisions at all, without I have money of the Old Emission, People hear will not Have the new on any Terms, . . ."18

In New Jersey the people were also strongly urged to support the state legislature's Act of June 9 which had been passed in compliance with Congress' resolution of March 18.<sup>19</sup> But primarily because of continued inflation, the people of New Jersey were unwilling to accept the new bills as were the people of Maryland, perhaps with good reason. Despite congressional efforts the old currency continued to depreciate. In Philadelphia the rate had officially climbed only to 75 to one because the merchants of the city had met and agreed to fix prices. But even there, no advantage had been gained because the specie price on all goods immediately advanced.<sup>20</sup> Ezekiel Cornell noted that a gentlemen had arrived recently from Massachusetts bearing new bills issued by his state and could not exchange them at any rate.<sup>21</sup> Thomas McKean reported that depreciation advanced so rapidly that all the old money requested

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<sup>17</sup> Richard Smith to Thomas Richardson, Sept. 7, 1780, MA, Vol. XLV, p. 86.

<sup>18</sup> William McBride to T. S. Lee, Jan. 15, 1781, MA, Vol. XLVII, p. 17.

<sup>19</sup> To the Worthy Citizens of New Jersey, Aug. 23, 1780, NJA, 2nd Ser., Vol. IV, pp. 595-596.

<sup>20</sup> Wolcott to Trumbull, Dec. 18, 1780, MHS, 7th Ser., Vol. III, pp. 167-169.

<sup>21</sup> Cornell to the Governor of Rhode Island, Sept. 2, 1780, LMC, Vol. V, pp. 353-355.

from the states had already been used up, inflation making it worth only one-third of the original requisition. He noted that the new money was the only resource left and, if it devalued Congress would be at wit's end.<sup>22</sup> The New Jersey legislature, responding to economic reality and to the demands of its constituents, was compelled to repeal the forty to one provision of its June 9 act and ordered the Governor and the Privy Council to ascertain the true value of the old money and to periodically publish their findings.<sup>23</sup>

The British campaign in the south after the fall of Charleston only increased the distress of the states. As the war intensified in the region, North Carolina, Virginia, and Maryland were hard pressed not only to supply a new Southern Army but also to provide for their own defense. Thus little help was forthcoming from these states to aid Washington and the Northern Army. North Carolina almost immediately became a battleground. By October Governor Nash reported to Congress that the state could no longer provide either men or supplies, because most of them had been expended in the previous campaign. He also observed that the danger of enemy movements within the state precluded any attempt at gathering further provisions from fear that they would fall into enemy hands.<sup>24</sup>

Farther north, the state of Virginia also experienced enormous financial difficulties because of the extra burdens created by the British

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<sup>22</sup> Thomas McKean to Reed, Aug. 29, 1780, LMC, Vol. V, p. 346.

<sup>23</sup> Acts 5th General Assembly of New Jersey, EAI, No. 17259, pp. 4-5.

<sup>24</sup> Nash to S. Huntington, Oct. 6, 1780, PCC, R86, Item 72, pp. 101-102.

invasion. David Jameson, a member of Virginia's Council of State, noted that the legislature had been forced to issue \$2,000,000 in state currency to cover the emergency, but that most of it had been paid out. He did not believe that what was left would carry the state through August. Asserting that most of the money spent had gone for Continental purposes, he despaired: "What we are to do when this is gone I really do not know. I think we shall be in a miserable situation for I believe most of the tax to be collected in the next month, will be paid off by Certificates given for Wagons, Horses, prov. Rum, Salt & C & C & C impressed and seized."<sup>25</sup> The state emission itself was not well received by Virginians. Jameson reported that "the people do not like the New Money (the 2 Millions). many have already refused to take it, principally because it will pay no tax but that laid for its redemption."<sup>26</sup>

The cost of enlisting troops in Virginia was enormous. By September Edmund Pendleton declared that militia cost an average of £5,000 besides the bounty of a hogshead of tobacco.<sup>27</sup> By December recruiting had become so difficult that the legislature was considering a bill to offer a bounty of a Negro not younger than ten nor older than forty years to men who would enlist in the Continental Army for the war. These Negroes were to be received from anyone in the state who owned more than twenty.<sup>28</sup>

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<sup>25</sup> David Jameson to Madison, Aug. 6, 1780, PJM, Vol. 2, p. 59.

<sup>26</sup> Jameson to Madison, Sept. 20, 1780, PJM, Vol. 2, p. 94.

<sup>27</sup> Edmund Pendleton to Madison, Sept. 25, 1780, PJM, Vol. 2, pp. 99-101.

<sup>28</sup> J. Jones to Madison, Nov. 18, 1780, PJM, Vol. 2, pp. 182-183.

In Maryland the situation was also desperate. Destitute of money to support either its requisitions or its own defense, the state repeatedly appealed to Congress for aid only to be told that Congress' own financial problems and its plans for joint Franco-American operations precluded any aid from that quarter. In July Deputy Commissary General Henry Hollingsworth informed Governor Lee that the men employed at his post at the Head of Elk were three to six months arrears for pay. He had appealed to the Board of War for aid, but as he had received none from the Continent, he was now appealing to the Maryland Council. He asserted that he had been using his own private credit, but that was now exhausted and the state owed him £12,000 and the United States nearly £50,000. In addition, Congress owed the post itself more than £50,000. Unless money was soon sent the operations of his post would cease and his men would quit.<sup>29</sup> In Cambridge John C. Harrison noted that the credit of the state was very low and the people had refused to sell him wheat unless he could provide prompt payment. He particularly blamed his inability "to the failure of payments by Continental Purchasers."<sup>30</sup>

The demands of Congress made Maryland's distress even greater. Responding to Congress' request that the French be permitted to purchase flour from the state to support their activities in the West Indies, Governor Lee stated that the French could do so but warned that such purchases would make it more difficult for Maryland to procure that

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<sup>29</sup>Henry Hollingsworth to T. S. Lee, July 5, 1780, MA, Vol. XLV, pp. 6-7.

<sup>30</sup>Jno. C. Harrison to T. S. Lee, Sept. 11, 1780, MA, Vol. XLV, p. 93.

item for the Army.<sup>31</sup> Yet when Maryland requested assistance from Congress little was forthcoming. Pleading for aid to help protect the state's commerce in the Chesapeake on July 28, Governor Lee learned that only four Continental vessels had been outfitted for the season, and they were committed to the Commander-in-Chief and the French.<sup>32</sup> Thus it was not in the power of Congress to comply with the Governor's request "by sending any Ships of Force in to the Chesapeake for the Protection of the Navigation there at this critical Juncture."<sup>33</sup> Similarly, when Governor Lee requested clothes for the Maryland troops, Richard Peters at the Board of War informed him that the Continent had none and that there was little probability that it would have any in the future. Therefore, Peters urged Maryland to find some way to procure clothing.<sup>34</sup>

Experiencing increasing pressures from the British invasion, many southerners were becoming irritated with Congress' inability to ease the crisis and with the lack of aid from the northern states. Joseph Jones, attending Virginia's Assembly, demanded to know what the northern and middle states were doing. He believed: "The States never were blessed with greater plenty or had it more in their power to lay up ample Stores of provisions for the Army than at present. . . ." He urged that "if the people will not lend them to the public and wait for

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<sup>31</sup>T. S. Lee to S. Huntington, July 7, 1780, PCC, R84, Item 70, pp. 403-404.

<sup>32</sup>JCC, Vol. XVII, p. 702.

<sup>33</sup>S. Huntington to T. S. Lee, Aug. 10, 1780, MA, Vol. XLV, p. 45.

<sup>34</sup>Richard Peters to T. S. Lee, Sept. 26, 1780, MA, Vol. XLV, pp. 120-121.

future payment they must be taken, . . ." He did argue, however, that if the supplies were impressed they should be taken in such a way "as to occasion as little disgust as possible," which he believed could be most easily accomplished by a "regular apportionment of specific articles."<sup>35</sup>

Meanwhile, the situation of the states north of Maryland were also deteriorating. As the British developed their campaign in the southern states they were also maneuvering threateningly in the Jerseys.<sup>36</sup> Consequently, the northern states had to continue to supply Washington's command. But the resources of the states were rapidly becoming exhausted. In Pennsylvania the scarcity of money hampered the state's efforts. James Bayly, writing from Lancaster County, noted that he was proceeding as directed to impress wagons and teams for the Army. But his job was difficult because he had no money to pay either the militia which had helped in the impressment or the teamsters to deliver the wagons. Money was essential because both classes of men depended wholly upon each day's pay.<sup>37</sup> The lack of money also caused President Reed to request aid from Congress. He asserted that the legislature had passed several laws enabling the Council to supply its Line of the Army with pay and clothes and to furnish the state's quota of supplies. He noted that recent requests for additional provisions for the Continent would cost the state another \$2,000,000, and the treasury was now empty.

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<sup>35</sup>J. Jones to Madison, Nov. 5, 1780, PJM, Vol. 2, pp. 161-162.

<sup>36</sup>Cyrus Griffin to Jefferson, June 9, 1780, LMC, Vol. V, pp. 201-202.

<sup>37</sup>James Bayly to Reed, July 5, 1780, PA, 1st Ser., Vol. VIII, pp. 390-391.

Since all the money had been expended for Continental purposes, he requested that Congress loan Pennsylvania £1,000 sterling so that the state could fulfill its obligation to its own soldiers.<sup>38</sup>

Reed also argued that Congress and the Army relied much too heavily upon Pennsylvania for supplies. He believed that many of their requests were unreasonable and was becoming irritated by congressional ignorance of Pennsylvania's resources.<sup>39</sup> One example Reed cited was the demands made on Pennsylvania for animal flesh. As he had on previous occasions, he detailed the reasons why the state could not comply. He argued that what beef there was in the state had to be used to supply the various posts guarding the state's extensive frontiers and that bacon could not be had in the state since it had to be imported from Maryland and New Jersey even in peacetime. He concluded by declaring: "You would be wrong therefore in depending on this State for the supply demanded, and that for the best Reasons in the World because it is not to be had."<sup>40</sup>

Farther to the east, Delaware also experienced increasing difficulties, in part because of a scarcity of money and, perhaps also in part, because of a reluctance within the commercial community to sacrifice their goods to the cause. The state's treasury was so empty that Governor Rodney suggested to Colonel John Jones, who had requested the flints and lead necessary to defend the state against enemy raids, that

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<sup>38</sup>Reed to Delegates in Congress, July 6, 1780, PA, 1st Ser., Vol. VIII, pp. 392-393.

<sup>39</sup>Reed to General Greene, July 19, 1780, PA, 1st Ser., Vol. VIII, pp. 426-427.

<sup>40</sup>Reed to Colonel Emphraim Blaine, Aug. (?), 1780, PA, 1st Ser., Vol. VIII, pp. 494-495.



he apply to some "wealthy gentlemen in the neighborhood."<sup>41</sup> Possessing no money, the state had to issue certificates for supplies. The people, however, generally disliked the certificates, and thus the state was slow in meeting the requisitions of Congress.<sup>42</sup> William Millen informed Rodney that little could be done to procure the flour required by the Army. There was very little in the mills, and if he attempted to confiscate it, the millers threatened to quit milling. Wheat was also difficult to acquire, Millen observed, because the last crop had been bad and farmers had only enough left for their own seed and bread. He was particularly angry with the assembly, who were all property owners themselves, for not taking into account the condition of their constituents.<sup>43</sup>

There were others, however, who argued that the reason there was no flour was the embargo. One effect of the embargo, Thomas Rodney declared, was that millers refused to grind wheat. With the scarcity of money in the state and outside markets cut off by the embargo, Rodney asserted that millers had no money and recently had to turn down over 8,000 bushels of wheat. He also declared that many millers, to avoid receiving certificates for their product, were smuggling great quantities of flour down the river.<sup>44</sup> Whether Millen or Rodney was correct about the cause for the shortage of flour really made little difference for, whatever the reason, the state found it difficult to acquire that

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<sup>41</sup>Rodney to John Jones, July 15, 1780, LCR, p. 356.

<sup>42</sup>Peter White to Rodney, Aug. 12, 1780, LCR, p. 366.

<sup>43</sup>Millen to Rodney, Aug. 29, 1780, LCR, pp. 370-371.

<sup>44</sup>T. Rodney to C. Rodney, Sept. 13, 1780, LCR, pp. 379-380.

item. Both men agreed that there was a dearth of money in the state, and the lack of money may explain why the legislature permitted the state's act enforcing the embargo to expire in October without reinstating it.

The failure of Delaware to reenact the embargo, as it had done earlier in the year, created immediate friction with Pennsylvania. President Reed once again angrily informed Congress that Delaware had lifted its embargo and asserted that as a consequence supplies already paid for by his state and designated for the Army had been diverted for foreign sales through Delaware's ports. Warning that under these conditions Pennsylvania could not raise one barrel of flour, Reed threatened that unless Delaware reenacted its embargo Pennsylvania would repeal its own.<sup>45</sup> The expiration of the embargo also injured Delaware's ability to meet its requisitions. In a letter to Governor Rodney, Commissary General of Purchases Ephraim Blaine pointed out the obvious: little of Delaware's supplies for the last year had been received. As a primary cause he noted that the legislature had adjourned until January, 1781, without reenacting the embargo. Consequently, the citizens of Delaware had been given full liberty to export flour which prevented the state meeting its quotas.<sup>46</sup>

Delaware's actions not only angered Congress but also placed that body in a constitutional quandary. Even under the proposed Articles of Confederation Congress had not been given coercive powers with which to


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<sup>45</sup> Reed to S. Huntington, Nov. 17, 1780, PCC, R83, Item 69, Vol. 2, pp. 302-303.

<sup>46</sup> Blaine to Rodney, Nov. 20, 1780, LCR, pp. 388-389.

force states to comply with its resolutions. Its embargoes, as with all its other resolutions, were little more than recommendations made with expectations that the states would pass and enforce laws complying with the wishes of the common council. But in this case something more had to be done. Besides the remonstrances from Reed and Blaine, Congress had also received complaints from General Washington and from Maryland. The latter had agreed to maintain its embargo only so long as Delaware Bay remained closed. If Congress did not act, it faced the real possibility that the provisions so desperately needed to support the Army would disappear into foreign markets.

Congress referred the remonstrances to a committee which reported on November 21. Falling back on European precedents, the committee argued that embargoes were an essential adjunct to the powers of war. It reasoned that, given the nature of the American Confederation, especially the factors of distance and communications, the power to impose those embargoes ought to belong exclusively to Congress. It also noted that most members of the confederacy had agreed to the efficacy of this assumption of power because they had permitted Congress to place an embargo on specifically enumerated provisions as early as June 8, 1778, and had at various times since then renewed it. Therefore, the committee recommended that Congress earnestly request Delaware immediately to enforce its embargo. Meanwhile, the committee urged Congress to use force against the citizens of a state by directing the Board of Admiralty to seize all vessels in the Delaware River which were loaded with the proscribed provisions and to bring these vessels into Philadelphia



to be proceeded against according to law<sup>47</sup>

As mentioned above, many of the states had either emitted money on their own credit or issued certificates for the provisions they impressed. The emissions naturally added to the problem of inflation and further weakened the possibility that Congress' financial program would be effective. Congress recognized the necessity of occasional state issues, but tried to salvage its own program by implementing the provisions of Article IX of the proposed Confederation which granted Congress the power to regulate the value of money. It requested the states not to issue any more currency than such as would equal their respective quotas of the new bills provided by the resolution of March 18. Congress also asked the states not to issue currency unless it could be redeemed at par value with specie. If the states complied with these conditions then they could consider their issues as the part of the six-tenths of the new bills reserved to them by the resolution.<sup>48</sup>

By November, however, James Madison noted that he could not learn that any state had taken actions against the evils of certificates and emissions. He asserted that when he had suggested that the states discontinue the practice, his suggestion had been greeted coolly in Congress.<sup>49</sup> Moreover, Madison himself was chagrined to discover that his own state, because of an empty treasury and because it needed cash immediately to recruit men and oppose the invasion of the enemy, had

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<sup>47</sup>JCC, Vol. XVIII, pp. 1075-1078. The action of Congress on this report, however, is unclear.

<sup>48</sup>JCC, Vol. XVII, p. 784.

<sup>49</sup>Madison to J. Jones, Nov. 14, 1780, PJM, Vol. 2, p. 173.

determined on "the making a further emission."<sup>50</sup> Nevertheless, as inflation became worse and the difficulties caused by inflation mounted, Congress was finally forced to agree with Madison. In December it went beyond its power to regulate the value of state money by requesting the legislatures to call out of circulation all state emissions as soon as possible and not to issue any more at all "but by advise and consent of Congress."<sup>51</sup>

The results of the inability of the states to fulfill their quotas inevitably led to distress for the Army, and throughout the year the Army remained hard pressed to maintain itself, let alone carry on an active campaign. Commissary Ephraim Blaine reported in early August that the Continental supplies were completely exhausted and the existence of the Army depended totally upon the states' rapidly complying with the requisitions of Congress. He observed that the Army was now being fed from hand to mouth, depending solely on one day's receipt of supplies for the next day's rations. He asserted that the Army was issuing 25,000 rations daily and most of those to men not "enured to the hardships of the field." He feared that a failure of two days' supplies would lead to consequences which the Commander-in-Chief might not be able to prevent. Thus Blaine implored the states to comply with their requisitions punctually.<sup>52</sup>

Less than two weeks later General Washington shocked not only

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<sup>50</sup> J. Jones to Madison, Nov. 10, 1780, PJM, Vol. 2, p. 168.

<sup>51</sup> JCC, Vol. XVIII, p. 1159.

<sup>52</sup> Blaine to Governor Greene, Aug. 14, 1780, in Rhode Island, The Records of Rhode Island, Vol. IX, p. 303.

Congress but the states as well when he announced that the Army had been without meat from August 21 through 26 and had but one day's supply of flour left. Having nowhere else to turn, he informed Congress that he had stripped the country-side of all available provisions. But he also asserted: "Military coercion is no longer of any avail, as nothing can possibly be collected from the Country in which we are obliged to take a position, without depriving the inhabitants of the last morsel."

Even if such methods would work, he warned "that during the few days which we have been obliged to send out small parties to procure provisions for themselves, the most enormous excesses have been committed."

He advised: "It has been no inconsiderable support of our cause to have had in our power to contrast the conduct of our Army with that of the enemy, and to convince the inhabitants that while their rights were wantonly violated by the British troops by ours they were respected."

He warned, however: "This distinction must unhappily now cease and we must assume the odious character of the plunderers instead of the protectors of the people, . . ." <sup>53</sup>

Upon receipt of this message Congress was filled with despair. Ezekiel Cornell, writing to Governor Greene, declared that Congress no longer talked of offensive operations but only of how to keep the Army together. Reporting the sense of the delegates, he declared: "The Army now lives principally by plunder, both for meat and forage, and will, if they keep together I fear, soon become free-booters. And I

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<sup>53</sup> Circular Letter to the States, Aug. 27, 1780, PCC, R170, Item 152, Vol. IX, pp. 143-145. Printed copy in John C. Fitzpatrick, ed., The Writings of George Washington (Washington, 1931-1934), Vol. 19, pp. 449-451. Hereinafter, WW

think every man must feel for the inhabitants where the army marches."<sup>54</sup> Finally reacting to the distress of the Army, Congress, on September 15 requisitioned a total of 1,000 head of cattle per week from three New England states. New Hampshire was required to deliver 76 head, Massachusetts 386, and Connecticut 539. In addition, three states were requested to deliver 2056 head immediately, New Jersey 275, Pennsylvania 1,251, and Delaware 530.<sup>55</sup> In his letter transmitting the resolves to the states concerned, President Huntington noted that it had been necessitated because the Army had gone entirely without meat at different times for several days at a time. If the states failed, he declared, "it is more than probable the Army must disband, or supply themselves at the point of the Bayonet and the most fatal consequences must ensue. We have no other resource left. . . ."<sup>56</sup>

As with the other requisitions of Congress, however, the quotas of beef would not be fully supplied, mainly because the states themselves found it impossible to do so. Rather angrily, Governor Trumbull of Connecticut complained that Congress had passed its requisition so late that the state could not meet its quota, though it would try. He instructed Congress that most of the pork and beef had already gone to market. Therefore they could not be acquired unless the state bought them from engrossers. Pointing out that no salted provisions could be purchased because the season for them had passed as well, Trumbull

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<sup>54</sup>Cornell to Governor Greene, Sept. 10, 1780, RICC, p. 312.

<sup>55</sup>JCC, Vol. XVIII, pp. 828-829.

<sup>56</sup>S. Huntington to Trumbull, Sept. 15, 1780, PCC, R24, Item 15, pp. 103-104.

heatedly asked, "is it impossible for Congress to make their Estimate of Requisitions on this Head in the proper season?--if it is not--I think the Neglect is almost unpardonable."<sup>57</sup>

By October, 1780, the condition of the Army and of the several states was perhaps more desperate than it had been at the beginning of the year. Summing up the situation in a letter to President Huntington, Commissary Blaine declared:

Your Magazines are now destitute of Flour, Bread, Beef, Pork, Fish, Salt, Rum and none upon the continent to my knowledge can furnish one days Supply. The States of New Hampshire and Massachusetts bay are our principal dependence for Beef, the French being stationed at Rhode Island has deprived the Agent of that State from giving any Assistance; indeed he is hard put to it, to find the continental troops on that station & the State officers of Connecticut told his Excellency Genl. Washington at Hartford that lit[tle] could be expected from that State. I have no relief from the State of New York for the main [army] they have not been able to furnish their frontier [posts] with beef. I have had frequent applications for supplies and they have actually had two or three hundred head of Cattle from the Com[ittee] of Massachusetts bay. Jersey can furnish but little Beef and not a large quantity of flour. their quota of supplies must be furnished between this and the first of J[anuary?] I believe there is not above one quarter of the[ir supply] of meat due. Pennsylvania as yet have delivered very little flour, no salt nor do I know of their having any Cattle. . . . All the Garrisons and posts in the middle department are destitute of provisions, and no means in my power of relieving them.<sup>58</sup>

By late summer many of the states themselves recognized that better interstate cooperation outside Congress had to be established if the Revolution was not to fail. Their solution was that which they had employed in 1779--a convention of states to discuss specific mutual


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<sup>57</sup> Trumbull to S. Huntington, Nov. 27, 1780, PCC, R80, Item 66, Vol. II, pp. 119-120.

<sup>58</sup> Blaine to S. Huntington, Oct. 17, 1780, MA, Vol. XLV, pp. 150-151.



problems. The first of these meetings, held at Boston in early August, was attended by delegates from New Hampshire, Massachusetts, and Connecticut. The specific purpose of the convention was to discuss how the states could comply more fully with the requisitions of Congress. Among the proposals the members of the convention presented to their respective legislatures were that purchasers of supplies in each state should coordinate their efforts at least once a month; that Congress and the states should give military officers the power to prevent profiteering; that the states discontinue the embargoes between states; that states immediately support the new bills of credit; and that the states refrain from printing any more paper currency. The convention also voted to send copies of its proceedings to New York and Rhode Island and to call for another meeting to be held in Hartford, Connecticut, in November.<sup>59</sup>



As previously discussed, however, by the time this second convention met the country appeared more than ever on the brink of ruin, having suffered a triple blow: the defeat of Gates at Camden, the near collapse of the requisition system and Arnold's defection. Thus the suggestions of the Hartford convention were much more pointed. Attended by the states of New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York, the convention first tried to stir the states to raise the quota of troops required by Congress and the Commander-in-Chief as soon as possible. It urged the states to comply punctually with the requisitions of Congress for money and provisions and

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<sup>59</sup> Proceedings of Convention of Committees . . . At Boston, Aug. 3, 1780, PCC, R80, Item 66, Vol. 2, pp. 79-89.

requested that Massachusetts, New York, and Connecticut impress enough teams and wagons to deliver a supply of clothing to the Army which had been stored at Springfield. It also demanded that all the states present comply immediately with the resolution of March 18. The convention then suggested two things which would make congressional administration effective. First, the states should authorize Congress to tax imports <sup>#1</sup> for the sole purpose of paying the public debt. Second, all states should be required to make returns to Congress of their populations whether white or black so that Congress could apportion taxes among the states more equitably.<sup>60</sup> But the recommendation of the convention which attracted the most immediate attention was one which declared: <sup>#2 \*</sup>

"That the Commander-in-Chief of the Army of the United States be Authorized and Impowered to take such measures as he may deem proper and the public service may render necessary to induce the several States to a punctual Compliance with the Requisitions which have been or may be made by Congress for Supplies for the years 1780 and 1781."<sup>61</sup>

This suggestion, though offensive to Republican principles, had long been considered under the surface of public affairs. In some quarters a belief persisted throughout the Revolution that Republican government was not energetic enough to prosecute effectively a large scale war of long duration. In theory such a government could only survive if it raised a Republican dictator who would coordinate the war effort and then retire after the crisis had passed. Under the pressure of the

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<sup>60</sup> Proceedings of the Convention of Committees at Hartford, Nov. 11, 1780, Read Dec. 12, 1780, PCC, R40, Item 33, pp. 391-408. Printed copy in PTJ, Vol. 4, pp. 138-141.

<sup>61</sup> Ibid., p. 405.

events of 1780 these beliefs reemerged to be debated openly in the public councils.

As early as June, 1780, Ezekiel Cornell had noted: "The different policy of the several states, and too many of them turning all their views to their own advantage without consulting the common good, cause some able politicians to think that our political salvation depends in good measure, on a controlling power over the whole being lodged in some person or persons." He believed that Congress would consider the idea soon "as the Union is too much dissolved in some of our sister states."<sup>62</sup> By August 1 Cornell wrote: "The necessity of appointing Gen. Washington sole dictator of America is again talked of, as the only means, under God by which we can be saved from destruction." The reasoning advanced by those who made such suggestions, he asserted, had been the "people will not work for the Continent without money, nor trust her for any articles wanted for the army. Therefore they must be supported by the force of military law, or disband until the new bills are put into circulation, . . ."<sup>63</sup>

One of those who supported such a position was Josiah Quincy, a wealthy Boston merchant. He believed that Congress had erred from the onset of the war by printing paper money and by separating the civil and military branches. Writing to General Washington, he declared that the only way to salvage the country was to reverse almost every public policy initiated since the onset of the war. "Instead of a C-----s became despicable, for want of power sufficient to do right, or odious

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<sup>62</sup>Cornell to Governor Greene, June 18, 1780, RICC, p. 295.

<sup>63</sup>Cornell to Governor Greene, Aug. 1, 1780, RICC, p. 303.

by exercising an assumed power beyond right, had both the civil and military department been united in one and the same person during the war," it was more than probable that the war would already have ended.<sup>64</sup>

The suggestion of the Hartford convention that Washington be given dictatorial powers therefore came as no surprise to the delegates of Congress. Nevertheless, many delegates refused to believe that Republican government was so fragile, and their reaction to the proposal was immediate and generally adverse. Referring to the movement, James Lovell reported: "We must have money at all adventures. Nothing else is wanting to raise us again into Reputation and prevent stupid plans of creating absolute Dictators to get supplies without paying for them."<sup>65</sup> James Warren, discussing the Hartford convention in a letter to Samuel Adams, argued that the recommendation to give the military power to furnish money and supplies for the Army "at the point of a Bayonet" must have been done without observing history. "General Washington is a good and a Great Man. I love and Reverence him. But he is only a Man and therefore should not be vested with such powers" primarily because "we do not know that his successors will be either Great or Good. much less can we tell what Influence this precedent may have half a Century hence."<sup>66</sup> John Witherspoon reported the resolution to Governor Livingston of New Jersey underlining the word "induce." While he had a high opinion of General Washington, he refused to grant him

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<sup>64</sup> Josiah Quincy to Washington, Nov. 27, 1780, CAR, Vol. III, pp. 156-158.

<sup>65</sup> James Lovell to Samuel Holten, Sept. 15, 1780, LMC, Vol. V, pp. 362-363.

<sup>66</sup> Warren to Samuel Adams, Dec. 4, 1780, WAL, Vol. II, pp. 151-152.

such power unless specifically authorized by New Jersey to do so but warned, "perhaps not even then."<sup>67</sup>

Other delegates, though perhaps disapproving of dictatorship, saw the need for increasing the powers of Congress. John Sullivan, writing to President Weare of New Hampshire, observed that the Confederation was not in force and argued that even if it were completed it "would be found weak and perhaps far from answering the Designs." Among the nation's problems he noted the empty treasury, the Continent's low credit, the deranged financial situation, and the reluctance of the people to accept any of Congress' money. Pinpointing the cause, he declared that "particular States and even among those who have acceded to the Confederation will comply with or Reject the Requisitions of Congress as their own opinion or Interest seem to Direct. Congress of Course become a Body without power and the States the Several Component parts of a Monster with Thirteen heads." He saw only one way to solve the problems and that was to call a convention of all the states and have them "Declare what powers Congress is to possess and to vest them with authority to use Coercive measures with those States which Refuse to Comply with reasonable requisitions."<sup>68</sup>

Unlike Sullivan, several other delegates believed that strengthening congressional authority had to be preceded by ratification of the Articles of Confederation. As early as May, James Duane of New York was making another attempt to achieve ratification, since he believed

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<sup>67</sup> John Witherspoon to Governor of New Jersey, Dec. 16, 1780, LMC, Vol. V, pp. 487-488.

<sup>68</sup> John Sullivan to the President of New Hampshire, Oct. 2, 1780, LMC, Vol. V, pp. 397-398.

that the completion of the Union would compensate for "the temporary Loss of any City on the Continent."<sup>69</sup> Maryland, however, remained unconvinced thus leading the members of the convention at Boston to recommend in August that the Confederation should be formed now "with the states who want to join in order to set the government on a firm footing."<sup>70</sup> By September, anticipating his state's resolution, Duane was pleased to inform General Washington "that the Legislature of New York have fallen in with the view of the eastern Convention, and particularly to strengthen the hands of Congress, and enable them to enforce their decisions."<sup>71</sup> The resolution of the state legislature soon followed. It voted unanimously, that the New York delegates should declare in Congress "that it is the earnest wish of this State that Congress should during the war, or until a perpetual Confederation shall be completed, exercise every power which they may deem necessary for an effectual prosecution of the war."<sup>72</sup>

Other states and individuals also began to make suggestions to strengthen congressional authority. Many of their ideas presaged not only the controversies that would become prominent during the war but throughout the Confederation period as well. James Bowdoin, President of the Massachusetts Council, made three recommendations. First, the Confederation should be completed and the powers of Congress increased.

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<sup>69</sup> James Duane to Washington, May 5, 1780, LMC, Vol. V, p. 125.

<sup>70</sup> Proceedings of Convention of Committees . . . At Boston, Aug. 3, 1780, PCC, R80, Item 66, Vol. II, pp. 79-89.

<sup>71</sup> Duane to Washington, Sept. 19, 1780, CAR, Vol. III, pp. 92-93.

<sup>72</sup> New York Legislature to Delegates of New York, Oct. 10, 1780, PCC, R81, Item 67, Vol. II, p. 326.

Second, Congress should urge the states to enlist men for the war or for three years. Finally, as experience had shown "that by calling on the several States whose Assemblies are composed of a great number of Persons who must deliberate upon every measure & consequently must be very slow in their final Determination for the Specific Articles that are wanted," Bowdoin argued that the states should greatly simplify matters by permitting Congress to require the states to give money and men rather than provisions.<sup>73</sup>

Colonel Tench Tilghman, an aide-de-camp to General Washington, writing to Robert Morris argued for the establishment of a permanent well paid Army. He believed that the people had grown tired of the war because it had lasted longer than they were led to expect. The length of the war, he believed, had been extended because when money was readily available, it had been lavished upon temporary enlistees whose entire terms of service had been spent "in marching to and from the army, and in their way devouring like locusts all before them." He argued that the enemy had taken advantage of this fact and in the last year had left "a puny Garrison in New York," made themselves "master of two Southern States" and returned before the levies were in the field. He declared that only two things would save the country: "A sufficient permanent army and a foreign loan in aid of our revenues."<sup>74</sup>

James Duane believed that the situation could be salvaged, but he was not sure whether the population had "spirit to apply it." He

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<sup>73</sup>James Bowdoin to S. Huntington, Sept. 30, 1780, PCC, R79, Item 65, Vol. I, pp. 456-457.

<sup>74</sup>Col. Tench Tilghman to Robert Morris, Dec. 22, 1780, in New York Historical Society, Collections, 1878, Vol. 11, pp. 456-457.

asserted that the "opulent" should surrender a part of their plate and the farmer should "break in upon his capital." He argued that these "resources are in the power of every Legislature: and I shall think them inexcusable, if seeing the necessity to be so urgent they shrink from the burden." He also noted that Congress would ask for a duty on imports and prizes and, if the states would only comply, such a tax would produce a considerable revenue.<sup>75</sup>

Jesse Root of Connecticut asserted that Congress must have coercive power if the states were to be saved. He observed: "The system of government over these States as at present exercised is extremely deficient. The sovereign power of war & peace, having no permanent funds in its possession, nor the means for establishing any, must feel itself very weak. . . ." Frustrated because any single state could defeat the most important measure, he lectured that the union of the thirteen states "constitutes a republic of States or political persons, of which great republic each State constitutes one member or subject over which Congress is appointed to preside, and it is necessary that Congress should exercise the power of coercion over the particular States for the general purpose of the Confederacy, . . ." But he also asserted that "this power is so far from infringing upon the rights or sovereignty of the particular States that it is as necessary for the preservation of these as the Union itself."<sup>76</sup>

Despite the rhetoric and the suggestions, Congress in the last

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<sup>75</sup>Duane to Washington, Dec. 9, 1780, CAR, Vol. III, pp. 169-173.

<sup>76</sup>Root to Trumbull, Dec. 27, 1780, MHS, 7th Ser., Vol. III, pp. 172-175.



months of 1780 still faced an almost insoluble financial problem. Finding a solution was complicated by an apparently growing belief that the country could be salvaged through foreign loans. Congress tried to disabuse its constituents of this unreasonable and dangerous dependence. Writing to Governor Trumbull, the Connecticut delegates argued that the current expenses of the war did not exceed by much the nation's annual exports in time of peace. Consequently the resources of the country, if managed properly, could "be so applied as to prevent an inormous national debt to foreigners, who may hereafter claim the honor and merit of our whole salvation as due to them and surprize us with unexpected demands."<sup>77</sup> In November, President Huntington was more direct: "An opinion seems to prevail, that foreign loans can be obtained; and we perceive with regret that some are disposed to place too great a reliance on this resource." He noted that every effort was being made to obtain a loan "but without sufficient success to justify a relaxation of our own most vigorous exertions."<sup>78</sup>

Meanwhile, having abandoned the plans for a campaign in 1780, Congress sought some way to support one for the following year. Its decision was finally reached on November 11. Under the resolution of that date, Congress apportioned quotas amongst the states amounting to \$6,000,000, which could be paid in silver and gold or in the bills of credit issued under the resolution of March 18, and in the specific

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<sup>77</sup>The Connecticut Delegates to the Governor of Connecticut, Aug. 22, 1780, LMC, Vol. V, p. 341.

<sup>78</sup>Circular Letter to the States, Nov. 19, 1780, JCC, Vol. XVIII, pp. 1038-1040.

articles enumerated by the resolution.<sup>79</sup> James Madison, commenting upon the plan, declared that it would work if the states lived up to their obligations and also if they would discontinue issuing their own currency. From past experience, however, he did not believe it would be effective because: "The collection & transportation of specific supp[lies] must necessarily be tedious & subject to casualties; & the proceedings of 13 separate popular bodies, must add greatly to the uncertainty & delay." Complaining of Congress' lack of money he declared: "What other States affect by Money, we are Obliged to pursue by dilatory & undigested expedients, which benumb all our operations and expose our troops to numberless distresses."<sup>80</sup>

The solutions for supplying the Army did not work, and the condition of the soldiery became worse. This became alarmingly apparent as the year 1780 closed, and the new year of 1781 opened. On January 5, 1781, General Washington wrote to several states of an event of which Congress had been aware for three days. To the states of Connecticut, Rhode Island, Massachusetts, and New Hampshire the General announced: "It is with extreme anxiety and pain of mind, I find myself constrained to inform your Excellency, that the event, I have long apprehended would be the consequences of the complicated distress of the Army has at length taken place. On the night of the 1st instant a mutiny was excited by the non Comm[issioned] officers and privates of the Pennsylvania line which soon became so universal as to defy all opposition in attempting to quell this tumult." He then described its causes as the

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<sup>79</sup> JCC, Vol. XVIII, pp. 1011-1018.

<sup>80</sup> Madison to Pendleton, Nov. 7, 1780, PJM, Vol. 2, p. 166.

results of the soldiers suffering from want of provisions and from lack of pay for nearly twelve months and declared that he needed immediately enough money to give the rest of the soldiers at least three months back pay and adequate clothing for each line.<sup>81</sup>

Thus the year 1780 closed much more inauspiciously than it had begun. Congress' second attempt to establish the country's finances had all but failed. Increasing inflation and British military operations multiplied the difficulties of each state, which were reflected by the inability of the states to comply with congressional requisitions and by a growing irritation among the states not only with Congress but with each other as well. Militarily the year was a disastrous tale of defeat, defection, desertion, rout, and finally, mutiny. Washington and his troops hung on, under-supplied, under-clothed, and under-paid. Unable to organize a campaign for 1780, Congress also hung on. But by the end of the year its authority and consequent ability to direct the nation's war effort had been thoroughly tested and found wanting. Thus a movement was slowly generating, both inside and outside of Congress, to strengthen congressional authority by removing it in some measure from its dependence upon the consent of state governments. Much of the story of the remaining war years would involve these attempts and their ultimate failure.

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<sup>81</sup> Circular to the Governors of Connecticut, Rhode Island, Massachusetts and New Hampshire, Jan. 5, 1781, PCC, R170, Item 152, Vol. IX, pp. 135-137. Printed copy in WW, Vol. 21, pp. 61-63.

## CHAPTER V

### ATTEMPTING REFORM, 1781

The news which reached Congress concerning the revolt of the Pennsylvania Line in January, 1781, merely punctuated the failure of Congress' financial program of the previous year. Believing that the near collapse of the war effort in late 1780 had been caused in part by the weakening lines of authority between Congress and the states, the delegates of Congress worked furiously in the first few months of 1781, attempting to reestablish both central control and financial stability. Slowly plans matured to complete the Confederation and to design a new financial program. The new fiscal structure included several important innovations. First, Congress tried to gain an independent income by asking the states to permit it to collect an impost on imports and prize goods. Second, Congress established the office of Superintendent of Finance in order to centralize and coordinate the states' financial efforts and appointed Robert Morris to the post. Third, Congress attempted to continue to implement its resolution of March 18, 1780, and to call in the old Continental bills of credit. Finally, Congress tried once again to end all state emissions of currency.

As in 1780, the congressional efforts of 1781 would fail. The states were reluctant to grant Congress additional powers for a variety of reasons. Most of these reasons hinged upon fears within the states of a national power which would impinge upon their own sovereignties.

Commercial states also objected to the impost because they believed that they would bear the burden of taxes for the entire nation. In addition, two events in 1781 insured that the other facts of Congress' program would also fail. The first was the final collapse of the old Continental bills of credit in May, 1781. The second was the invasion of Virginia by the British forces under the command of Lieutenant General Earl Charles Cornwallis.

As 1781 opened, however, the immediate goal of Congress was to solve the problems that had led the Pennsylvania Line to mutiny. Upon being informed of the revolt, President Reed of Pennsylvania immediately dispatched a committee to negotiate with the mutineers, to investigate their complaints, and to suggest remedies.<sup>1</sup> The revolt particularly frightened Congress because the mutineers marched to Princeton, New Jersey, and Congress was not sure if the line intended to march en masse inside British lines. Consequently, Congress also sent its own committee to Princeton. In its final report the congressional committee summarized the negotiations which had occurred between President Reed and the mutineers. In defense of the soldiers the committee noted that both President Reed and the inhabitants of Princeton had been treated with respect. It also observed that the mutineers had declared that if the British attempted to take advantage of the situation the Line would join with the New Jersey militia in repulsing them and that the mutineers had even surrendered two British emissaries, who had come among them, to President Reed. The committee argued that the soldiers had

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<sup>1</sup>For the details of Pennsylvania's negotiations with the mutineers see "Diary of the Mutiny," PA, 2nd Ser., Vol. XI, pp. 631-674.

mutinied because of a lack of pay and provisions and because of unclear terms of enlistment. It urged "that Every State in the Union should be requested to pay the strictest attention to supplying the wants of the Army."<sup>2</sup>

Meanwhile, even before the committee's final report, Congress moved to satisfy the complaints of the soldiers. On January 15 President Huntington sent a circular letter to seven northern states requesting \$879,342 to pay those states' lines of the Army. It requested that half this amount, in specie value, be sent immediately and the other half paid by April 1.<sup>3</sup> In addition, disseminating letters it had received from Ephraim Blaine, the Commissary General of Purchases, Congress urged the states to ease the distress of the Army by immediately complying with the previous requisitions of Congress for provisions.<sup>4</sup>

There were some who believed that the mutiny might prove beneficial to the nation. Writing to General Washington, Philip Schuyler of New York declared: "It was an awful lesson to the States." But he observed that "the event would be happy to America" if the states were aroused to greater exertions and if the states would surrender so much of their sovereignty "as would enable the governing power to draw forth the strength and resources of the country, . . ." He warned, however, that if the means were not found to subsist the Army adequately in the

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<sup>2</sup>JCC, Vol. XIX, pp. 79-83.

<sup>3</sup>S. Huntington, Circular, Jan. 15, 1781, PCC, R24, Item 15, pp. 214-217; and JCC, Vol. XIX, pp. 58-61.

<sup>4</sup>Ephraim Blaine to S. Huntington, Jan. 19, 1781, enclosed in S. Huntington to Clinton, PCC, Vol. 6, pp. 599-600.

future, the cause would be lost.<sup>5</sup> James Duane, also writing to General Washington, observed: "The day has at last arrived when dangers and distress have opened the Eyes of the People and they perceive the Want of a common head to draw forth in some Just proportions the Resources of the several Branches of the federal Union." Noting that the past penchant of the states to put their needs before those of Congress "must terminate in the common Ruin," he asserted that "the Legislatures, however reluctantly, must resign a portion of their Authority to the national Representatives, or cease to be Legislatures."<sup>6</sup>

While the mutiny itself generated no new plans in Congress, it did give its measures a greater urgency. The two most important actions performed by Congress in February and March, 1781, had origins in the frustrating year of 1780. These efforts included both the completion of the Confederation and attempts to institute still another system of finance based on amending that document. As noted previously, the reason the Confederation had remained incomplete was that Maryland objected to Virginia's maintaining its claims to the western territories. On January 2, however, the Virginia Assembly removed this block by relinquishing its claims to the territory northwest of the Ohio River if Congress would meet certain conditions.<sup>7</sup> Responding to Virginia's cession and to pressures by Count Luzerne, the French minister, Maryland,

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<sup>5</sup> Schuyler to Washington, Jan. 21, 1781, CAR, Vol. III, pp. 212-213.

<sup>6</sup> Duane to Washington, Jan. 29, 1781, LMC, Vol. V, pp. 551-553.

<sup>7</sup> Resolution of the General Assembly of the Commonwealth of Virginia for a Cession of Western Territory, Jan. 2, 1781, PCC, R88, Item 75, pp. 355-358.

on February 12, agreed to ratify the Articles of Confederation.<sup>8</sup>

The final ratification of the Articles on March 1, 1781, engendered immediate hopes that the war effort would be revitalized. Theodorick Bland of Virginia commented: "Congress seems at this time more Unanimous, and less torn by factions than (from the best Information I can obtain from the Oldest Members) it has ever been since its first meeting."<sup>9</sup> John Mathews noted that the ratification had suspended for a time the functioning of Congress while it adjusted itself to its "new gears," but that now it was again entered on business. He hoped that the new constitution would introduce "a more clear and perfect understanding between Congress and the States," and observed: "The want hitherto of a proper line to be drawn between Congress and the states has been the cause of numberless embarrassments, . . . My expectations are highly flattered . . . and anticipate, in my own mind, the most happy consequences resulting from it." Thomas Rodney likewise noted that in the past the system of government as it operated under Congress had led to delay and to the adoption of one expedient after another. He believed, however, that "now that the respective powers of Congress and the States are prescribed and worked out," improvements would soon begin.<sup>11</sup>

Although some delegates recognized that the powers of Congress

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<sup>8</sup>SJ, Vol. I, pp. 428-431.

<sup>9</sup>Theodorick Bland to Richard Henry Lee, Mar. 5, 1781, LMC, Vol. VI, p. 7.

<sup>10</sup>Mathews to the Governor of New Jersey, Mar. 6 (?), 1781, LMC, Vol. VI, p. 15.

<sup>11</sup>Thomas Rodney, Diary, Mar. 10, 1781, LMC, Vol. VI, p. 21.



under the Confederation were limited, they believed that once ratified the powers of government either could be expanded within the framework of the Articles, or better still, under the temporary unity which ratification produced, the Articles could be strengthened through amendments. John Mathews declared: "Though the powers of the Confederation are very inadequate to vigorous prosecution of the present war, yet we must endeavor to make the most of them we can; and it is better to have some authority to regulate us, then (as for some time past has been the case) have none."<sup>12</sup> James Duane vowed: "We shall not fail of taking advantage of the favorable Temper of the States and recommending for ratification such additional Articles as will give vigour and authority to Government."<sup>13</sup>

The high hopes of the optimists, however, were almost immediately dashed as Congress struggled to adjust itself to the new mode of conducting business and as those who recognized the inadequacies of the Articles moved, perhaps too soon, to strengthen them. Prior to ratification Congress had overlooked some of the requirements for conducting congressional business. With the Articles now binding, Congress was forced to implement these provisions which made the conduct of congressional business more difficult. For example, anticipating the ratification, James Varnum of Rhode Island and John Sullivan of New Hampshire had written their respective states in January requesting that additional representatives be sent to Congress, because under the Confederation each state was required to have at least two members present in

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<sup>12</sup> Mathews to Washington, Jan. 30, 1781, CAR, Vol. III, p. 219.

<sup>13</sup> Duane to Washington, Jan. 29, 1781, LMC, Vol. V, pp. 551-553.

order for the state to be represented.<sup>14</sup> Their states did not respond, and thus the two men petitioned Congress to appoint a Committee of the States to conduct business until such time as their states were fully represented. Congress denied their request but voted to permit the members from the two states to sit in Congress, serve on committees, and participate in debate, but not to vote.<sup>15</sup> The difficulty of maintaining a two-man delegation from each state would lead to increasing delays in congressional business in the future. The Articles also declared that delegates could serve only three years of every six. As some of the members had served in Congress since the onset of the Revolution, there was some debate as to whether they could continue to do so. On this issue Congress decided that the terms of service for its members began upon ratification and not before.<sup>16</sup>

A much more serious conflict arose over the questions of how many states now constituted a quorum for doing business and how many states were necessary to make decisions. Oliver Wolcott, James Madison, James Lovell, Jesse Root, John Witherspoon, and Thomas McKean argued that since it took nine states to set certain policies, then nine states must constitute a quorum. Therefore only the votes of five states were necessary to make other decisions. Their assertions were strenuously opposed by Thomas Rodney and Thomas Burke. Rodney observed that "much fine reasoning and Sophistry" were used by the proponents of the motion

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<sup>14</sup> Sullivan to the Governor of New Hampshire, Jan. 29, 1781; and James M. Varnum to the Governor of Rhode Island, Jan. 29, 1781, LMC, Vol. V, p. 549.

<sup>15</sup> Thomas Rodney, Diary, Mar. 2-3, 1781, LMC, Vol. VI, pp. 3-4.

<sup>16</sup> Ibid.

and he "was sorry to see such a Keen Struggle to increase the power of Congress beyond what the States Intended so early as but the third day after Completing the Confederation." Burke agreed with Rodney and argued that if Congress attempted "so early to Claim powers that were not expressly given by that Charter or began to pervert it to increas[e] their power they would give a dreadful alarm to the Constituents who are jealous of their liberty." Rodney and Burke, in essence, won the debate since on March 6 Congress decided that nine states constituted a quorum but that no measure could be passed unless agreed to by seven states.<sup>17</sup>

Some members also believed congressional business could be conducted more efficiently and effectively if Congress could discipline its members by compelling the attendance of delegates and by enforcing rules of secrecy. Consequently, James Varnum of Rhode Island urged Congress to appoint a committee "to Draw up a Code of Laws giving Congress full power to punish all their own officers." While this motion was opposed at first, Congress finally agreed to appoint such a committee and to reserve debate until it reported.<sup>18</sup>

The specious arguments used by those who wanted to increase congressional authority, especially the arguments over quorums and votes, naturally alerted the suspicions of those, like Rodney and Burke, who were more jealous of their states' sovereignties. Perhaps this was one reason why more reasonable requests for expanding congressional authority were denied. One such rejected suggestion, made by both Governor George Clinton of New York and the Virginia delegates, was to give

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<sup>17</sup> Thomas Rodney, Diary, Mar. 5-6, 1781, LMC, Vol. VI, pp. 8-9.

<sup>18</sup> Ibid.

Congress some method to coerce the states into complying with congressional resolutions. Their attempts appear clumsy in the light of more modern, sophisticated standards of governmental coercion, but with no direct relationship between Congress and the people, the only way to use force consistent with the relationships established by the Articles was to apply it directly to the recalcitrant states.

Within this context, Governor Clinton wrote to Congress in February and enclosed a long history of New York's problems throughout the war. Believing that his state had done much more than any other, he demanded that Congress exercise a supreme coercive power to force other states to comply with congressional resolutions.<sup>19</sup> Likewise, James Madison was operating within this relationship when he argued that the Articles carried an implied power to enforce congressional decisions upon the states, but that no specific provision had been made to enforce the Articles. Therefore, he offered an amendment, which he believed would "cement & invigorate the federal Union." This amendment, to be added to Article Thirteen, declared that if any of the states refused to comply with acts of Congress it would be "fully authorized to employ the force of the United States as well as by sea as by land to compel such State or States to fulfill their engagements. . . ." The manner in which the force was to be implemented was to employ both a land and sea blockade upon recalcitrant states until "full compensation or compliance be obtained with respect to all Requisitions made by the United

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<sup>19</sup> Clinton to S. Huntington, Feb. 5, 1781, PCC, R81, Item 67, Vol. II, pp. 344-361.

States in Congress assembled. . . ."<sup>20</sup>

Justifying the amendment to Governor Jefferson, Madison asserted that he was motivated by "the shameful deficiency of some of the States which are most capable of yielding their apportioned supplies, and the military exactions to which others already exhausted by the enemy and our own troops are in consequence exposed. Without such powers too in the general government, the whole confederacy may be insulted and the most salutary measures frustrated by the most inconsiderable States in the Union." Using Delaware as the example, he asserted: "At a time when all the other States were submitting to the loss and inconveniency of an embargo on their exports, Delaware absolutely declined coming into the measure, and not only defeated the general object of it, but enriched herself at the expense of those who did their duty."<sup>21</sup> Madison's colleague, Joseph Jones, added that the amendment should be passed "while the Temper of the States from recent experience of the want of competent Powers of Congress for the purposes of War disposes them to do so."<sup>22</sup>

The only amendment on which Congress would agree, however, related to finances and was passed by Congress and submitted to the states even before the Articles themselves were ratified. In 1780 Congress had relied solely upon the states' implementing taxes to support its resolution of March 18 and to supply requisitions. The money and provisions

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<sup>20</sup> Proposed Amendment of Articles of Confederation, Mar. 12, 1781, PJM, Vol. 3, pp. 17-19.

<sup>21</sup> Madison to Jefferson, Apr. 16, 1781, PJM, Vol. 3, pp. 71-72.

<sup>22</sup> Jones to Jefferson, Apr. 16, 1781, PTJ, Vol. 5, pp. 469-471.

derived from that dependence had obviously been inadequate as the mutiny in January, 1781, had proved. One of the reasons for the failure had been that states were slow in passing necessary legislation; Delaware did not even comply with the resolution of March 18 until February, 1781.<sup>23</sup> Among those states which did adopt the resolution, many had set rates of exchange which differed markedly from state to state, creating further confusion. For example, Oliver Wolcott notified Governor Trumbull that Pennsylvania had recently set its ratio at 75 to one while Maryland, which had originally set its ratio at 33 1/3 to one, had only adjusted its ratio to forty to one.<sup>24</sup> Wolcott and his colleague, Jesse Root, argued that the only way order could be restored would be to give Congress a superintending power over the nation's finances. Failing that, Congress at least should be given a permanent source of income to supplement the taxes of the states.<sup>25</sup>

Methods for supplying Congress with a permanent fund, as previously mentioned, had been discussed throughout the latter months of 1780. The one which finally gained ascendancy had been that of an impost. On February 3, 1780, Congress reached its decision requesting the states to permit Congress to collect a duty of five percent on all imports and a tax of five percent on all prize goods brought into American ports for sale.<sup>26</sup> As this was considered an amendment rather than a revenue

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<sup>23</sup> C. Rodney to S. Huntington, Feb. 15, 1781, LCR, p. 397.

<sup>24</sup> Wolcott to Trumbull, Jan. 9, 1781, MHS, 7th Ser., Vol. III, pp. 184-185.

<sup>25</sup> Wolcott to Root to Trumbull, Jan. 16, 1781, MHS, 7th Ser., Vol. III, pp. 187-188.

<sup>26</sup> JCC, Vol. XIX, pp. 112-113.

measure and thus required ratification by all thirteen states, Congress was placed in a new constitutional quandary. Because of Britain's invasion of the Southern states many of the legislatures could not meet and therefore could not ratify the impost. But desperately needing the revenues, Congress ignored the amendment provisions of the Articles and on the seventh voted that the impost would go into effect when all the state legislatures which could meet had agreed to the resolution. For those states whose legislatures could not meet, Congress guaranteed that all revenue derived from the impost would be used to discharge the public debts in their states as well.<sup>27</sup>

Proceeding further with its program, on March 16, 1781, Congress acted upon another recommendation of late 1780 by passing a new tax on the states, but for money only. The amount of this tax was \$6,000,000 to be paid in at the rate of \$1,500,000 quarterly. The first payment was to be made by June 1. In addition, hoping to salvage a part of its financial program of 1780, Congress provided that this new tax could be paid in the bills of credit issued pursuant to the resolution of March 18, 1780.<sup>28</sup> A week later Congress apportioned the tax among the states and assured those states who believed they were being assessed more than their fair shares that they would be paid six percent interest per year on the excess at the final adjustment of accounts or credited with that amount on a future tax.<sup>29</sup>

A third important element of Congress' new financial program was

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<sup>27</sup> Ibid., pp. 124-125.

<sup>28</sup> Ibid., p. 267.

<sup>29</sup> Ibid., p. 299.

to centralize the nation's finances. Many delegates believed that whatever plan was decided upon, it stood little chance of success unless the number of boards and agencies authorized to disburse money were made responsible to one agency, preferably with a single head. In addition, such an agency could also better coordinate the efforts of the states. Consequently on February 7 Congress established the office of Superintendent of Finances.<sup>30</sup>

To forestall the possible reliance of some states upon foreign loans and thus pave the way for the acceptance of Congress' plan, the Secretary of Foreign Affairs, Robert R. Livingston, wrote a circular letter to the states commenting upon the possibilities of foreign aid. He noted that while Britain had not triumphed over its European foes during the last campaign, neither had it been materially weakened. Thus the states should expect Britain to continue its efforts as strongly as it had in the last campaign. He observed that the only enemy of Britain that was actually allied with the United States, and from whom the states might expect aid, was France. But, he asserted: "France assures us, that it is not in her Power to make us further grants of Money, Her Ministers repeat this to us in every Letter, in a tone that persuades us of their determination on that point; . . ." The only solution then, according to Livingston, was to rely solely upon the resources of the several states. Therefore, he declared: "Every motive, then, national Honor, national interest, public Oeconomy, private ease, and that love of freedom which pervades every Legislature on the Continent, call loudly, not only for a compliance with the requisitions of

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<sup>30</sup> Ibid., p. 126.



Congress, but for so early a compliance as to render it effectual."<sup>31</sup>

This new plan of finances, however, was greeted as unenthusiastically as had been the plan of 1780. Writing to General Washington, John Mathews observed that Congress had asked for \$6,000,000 from the states and for a large foreign loan from France, but he asserted that little could be expected from either quarter especially since the states were already \$6,400,000 in specie in arrears to the Continent. He also argued that little reliance could be placed on the new money, for the three southern states could not emit any of their quota, New York could do very little, and Pennsylvania was emitting state money instead of the new bills. Consequently, Congress could depend on no more than \$2,000,000 from that source "and that comes in so slowly that it is of little use."<sup>32</sup> He also gloomily predicted to Governor William Livingston of New Jersey that even if the states accepted the duty on imports and prizes, it would only bring in from \$600,000 to \$700,000 specie per year, while the interest on the nation's debts alone amounted to more than \$2,000,000 annually.<sup>33</sup>

Mathews mentioned that Pennsylvania was issuing its own currency, but so too were other states, despite the resolution of Congress of the previous November which had requested them not to do so. New York informed Congress in late March that it had no choice but to issue new

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<sup>31</sup>Robert R. Livingston, Circular, Feb. 28, 1781, PGC, Vol. 6, pp. 661-667.

<sup>32</sup>Mathews to Washington, Apr. 16, 1781, LMC, Vol. VI, pp. 55-57.

<sup>33</sup>Mathews to the Governor of New Jersey, Jan. 29, 1781, LMC, Vol. V, pp. 550-551.

state bills.<sup>34</sup> New Jersey also continued to print paper money causing some of its citizens to complain in the New Jersey Gazette of "the mischiefs produced by having two kinds of bills of credit [the state's issue and the old Continentals], of the same nominal but different current values circulating among us at the same time. In the nature of things they must prejudice each other."<sup>35</sup> Consequently, Congress was once again forced to resolve that all states repeal their legal tender laws for paper money of all kinds and to issue no more bills of credit upon their separate accounts. In addition, Congress urged the states to call out of circulation all the paper which they had issued as soon as possible.<sup>36</sup>

Congress' financial program also faced serious difficulties in the states. The attempts in 1780 by some state governments to meet congressional requisitions through coercion left some of their citizens in a rebellious mood. Early in 1781 the New York legislature warned that little more could be expected from that state because "for three years past almost the whole of the spare produce and labour of the State has been applied to the general Purposes of the Confederacy, and for which the Inhabitants have received inconsiderable Compensation except Certificates intended originally to operate only as vouchers, . . ." Nevertheless the legislature had continued its exertions on behalf of the Continent, but "By our exertion, by a series of compulsory Laws and by

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<sup>34</sup> Clinton to S. Huntington, Mar. 28, 1781, PCC, R81, Item 67, Vol. II, pp. 372-376.

<sup>35</sup> NJA, 2nd Ser., Vol. V, pp. 211-212.

<sup>36</sup> JCC, Vol. XX, p. 501.

the use of the most rigorous Means to execute them, our Inhabitants feel themselves so aggrieved, that Prudence forbids any farther attempts on their Patience, . . ."37 Likewise, President Reed reported in May that his state could not even supply the requisitions of the previous November. The Assembly, reacting to the demands of its citizens, had left the Council with only two methods for obtaining provisions, neither of them very effective. He noted also that the laws through which the Council could requisition provisions by force had expired and that the Assembly refused to renew them.<sup>38</sup>

Most states also experienced difficulty in meeting their quotas because of their own inefficient administrative organization. For example, President Reed reported in July, 1781, that, if Pennsylvania was to contribute further, it would probably take much internal reorganization of the state to do so. He argued that Pennsylvania's backwardness in cash payments stemmed from two sources. First, the counties were too large for efficient administration. Second, the office of tax collector was elective rather than appointive. That this last was a problem, he declared, was apparent from the latest public accounts which demonstrated that "the Firmness & Vigour is wanting which the Nature of the Service demands." He charged that this was so because the people

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<sup>37</sup>New York Legislature to the New York Delegates, Jan. 17, 1781, PGC, Vol. VI, pp. 580-583.

<sup>38</sup>The first of the methods left to the Council was to require the shippers of wheat to deliver at least a third of their flour to the state at the current market price. But the shippers could get specie instead of paper by exporting their flour through the ports of Delaware. The second was to issue paper money, but by May, 1781 people were generally refusing paper money. Reed to S. Huntington, May 22, 1781, PCC, R83, Item 69, Vol. II, pp. 385-386.

elected "Commissioners, Assessors, & c. whose principle Recommendation has been an Easiness, perhaps an Indolence of Disposition . . . which gratifies itself at the Expense of the publick."<sup>39</sup>

Such growing internal resistance also made other states reluctant to comply with the impost. These states wanted to reserve such taxes for their own use, but more importantly, they believed the impost would weigh more heavily upon the commercial states than on those not so involved in trade. Jeremiah Powell, President of the Massachusetts Senate, wrote President Huntington that the legislature would not meet until April, but he did not believe that the people would approve passing the resolution even then. He argued that the citizens of Massachusetts already believed that they were required to give out of proportion to what they actually owed to the Continent and that they were convinced the impost would cost them more as a commercial state than other states in the union. Consequently, he predicted that when the legislature met it would not approve the resolution unless Congress consented to credit the duties to the Continental accounts of the states from which they were collected.<sup>40</sup>

Some non-commercial states apparently agreed with Powell's analysis. In early April, 1781, Meshech Weare of New Hampshire transmitted to Congress an act complying with the request for the impost. At the same time he warned that New Hampshire probably would not be able to

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<sup>39</sup> Reed to Morris, July 27, 1781, PA, 1st Ser., Vol. IX, pp. 310-313.

<sup>40</sup> Jeremiah Powell to S. Huntington, Mar. 10, 1781, PCC, R79, Item 65, Vol. I, pp. 521-522.

pay its line of the Army.<sup>41</sup> A week later he noted that he had received Congress' money request of March but observed that even if the legislature had been in session it could not have provided the money. He declared that "People say it is not in their power to do it, if they were to sell their Lands, there would not be purchasers for them." He hoped that "the Several States will Authorize Congress to lay the duty Recommended" as it would provide funds on which money might be borrowed. Otherwise, he declared, "it appears impracticable to carry on the war much Longer by the present mode of taxing."<sup>42</sup> Obviously if the people of New Hampshire could not pay state taxes they could not pay a five percent tax on imports either. Thus, Weare, in essence, was attempting to shift New Hampshire's tax burden to the commercial states.

Nevertheless, Congress referred Powell's letter to a committee of three consisting of James Duane, Oliver Wolcott, and Samuel Adams. His objections were serious enough that Congress published the committee's report in the Journals, perhaps to forestall similar objections from other commercial states. The report began by explaining to Massachusetts that the impost had been passed out of necessity. It noted that previously taxes were to be apportioned according to the number of inhabitants in each state, but despite congressional requests the states had failed to submit returns of population to Congress. The Articles of Confederation had also provided a means by which the states could be taxed according to the amount of improved lands in each, but that method was impractical as long as the war continued. Therefore Congress had

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<sup>41</sup>Weare to S. Huntington, Apr. 10, 1781, PCC, R78, Item 64, p. 184.

<sup>42</sup>Weare to S. Huntington, Apr. 17, 1781, PCC, R78, Item 64, p. 188.

resorted to the only method it could, and that had been apportionments based on estimated populations. If the people of Massachusetts believed that their state had paid more than their fair share of taxes, they should be made aware that in its money and provision requisitions Congress had promised to make adjustments when the accounts were finally settled between Massachusetts and the United States.

As for the commercial states bearing the burden of the proposed impost, the report noted: "When this duty was debated, it was taken for granted, on the general maxim, that it would ultimately be borne by the consumer." While it might appear at first that the tax rested most heavily upon the merchants, the report argued that the tax would be added to the price of the merchandise and thus would be actually paid by those who bought the products no matter where they resided. The final objection, that of crediting the states with the duties collected, the report declared to be patently unjust. The committee argued: "Several States, and in every part of the continent, import for their neighbors. It is reasonable that the duties on goods which the latter consume, should be applied to the exclusive benefit of the State which has had the advantage of the importation?"<sup>43</sup> Congress' arguments, however, were apparently not effective for Massachusetts delayed passage of the impost until 1782.

Other states were also reluctant to surrender this source of revenue to Congress. Consequently many delegates again assumed the role of national legislators by attempting to persuade their states to comply

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<sup>43</sup> Report of the Committee on the Representation of Massachusetts . . . , Apr. 19, 1781, PCC, R29, Item 20, Vol. I, pp. 65-74; and JCC, Vol. XIX, pp. 421-427.

with a program which the delegates believed would benefit the nation as a whole. For example, writing to Governor Trumbull, Jesse Root upbraided his state for limiting its compliance with the impost to three years. He argued that the debt of the Continent was very large, and were the states to follow Connecticut's example, the combined revenue derived from the impost and the other aids the states were able to give would not be nearly sufficient to discharge that debt in so short a time. Asserting that "Congress have no resources for supplies or funds on which to obtain a credit but from the States," he asked, "can the States furnish us with either in so easy and equitable a way as by duties and imposts?"<sup>44</sup> Congress also joined the appeal, requesting on March 22 that Connecticut redraft its legislation and make it conformable to the resolution of February 3. Not to do so, Congress argued, would endanger public credit because creditors could not count on eventually being paid.<sup>45</sup> The Connecticut legislature responded to the pleas of its delegates and to those of Congress by redrafting its act on June 18 so that it conformed to the congressional resolution.<sup>46</sup>

Farther south, in Virginia, Edmund Pendleton presented two constitutional objections to the proposed impost. First, he argued that the law was perpetual and was therefore a dangerous policy especially "in the Infancy of States, and upon an Opening trade, when no just estimate can be made of what it probably may amount to when it reaches maturity."

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<sup>44</sup>Root to Trumbull, Mar. 16, 1781, LMC, Vol. VI, p. 29.

<sup>45</sup>JCC, Vol. XIX, pp. 295, 297.

<sup>46</sup>Sherman and Ellsworth to Trumbull, July 12, 1781, MHS, 7th Ser., Vol. III, pp. 240-241.

Second, the law stated that the tax should be levied and collected as directed by Congress. Pendleton asked, "how can Congress direct and inforce the Collection of this money, without Judiciary & Executive Powers, which may Interfere with the internal Government reserved to each State by the confederation[?]"<sup>47</sup>

James Madison responded to Pendleton's objections by first arguing that if more money was collected than anticipated it would only mean that the debts would be paid sooner. In addition, he observed that the states had been asked to grant Congress more power than "many may think consistent with republican jealousies," but he argued that those powers were necessary if the country was to be able to borrow from either Europe or its own people. Madison also reviewed a portion of the congressional debates on the resolution. One side argued that the states should be asked for no more than that they appoint officers to collect the duty, who would then surrender the funds to national agents. The other side, however, asserted that since "Congress would be held responsible for the public debts it was necessary & would be expected; that the fund granted fo[r] discharging them should be exclusively & independe[nt]ly in their hands, that if the Collectors were under the controul of the States, the urgency of their wants would be constantly diverting the revenue from its proper destination, . . ."<sup>48</sup>

The delegates from Rhode Island also urged their state to comply with the impost. Writing to Governor Greene, they declared: "It must

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<sup>47</sup>Edmund Pendleton to Madison, May 2, 1781, PJM, Vol. 3, pp. 127-128.

<sup>48</sup>Madison to Pendleton, May 29, 1781, PJM, Vol. 3, pp. 140-141.



be obvious that, unless we can call forth the resources of the respective states equally, it will be impossible to execute any great object while the states who do most will be the greatest sufferers."<sup>49</sup> A month later the delegates again requested to know what the legislature had done to comply. They asserted: "Had the states readily adopted that measure, we should before this Time, have derived more than a hundred thousand dollars Specie. . . ." As evidence they pointed to the recent arrival of one cargo in Philadelphia "which would have paid upwards of seven Thousand Pounds this Currency." Finally, arguing for the necessity of a permanent fund for Congress, they declared that "not a Farthing of money has been paid into the General Treasury from any of the states, excepting Pennsylvania, for more than a Year Since, . . ."<sup>50</sup> Despite the importunings of Congress, however, several states, including Rhode Island, remained reluctant to grant Congress the impost and would remain so throughout the rest of the year.

The states were not only slow to grant the impost but also objected to the creation of the office of Superintendent of Finance and the appointment of Robert Morris to that office. A rich Philadelphia merchant and a past member of Congress, Morris had often aided Congress with both his talents and his money.<sup>51</sup> One such example occurred during the financial crisis of 1780. In June of that year Elbridge Gerry of Massachusetts, urged Morris to create an association of merchants who

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<sup>49</sup> Varnum and Mowry to Governor Greene, Aug. 14, 1781, RICC, p. 349.

<sup>50</sup> The Rhode Island Delegates to the Governor of Rhode Island, Sept. 4, 1781, LMC, Vol. VI, pp. 207-208.

<sup>51</sup> For Morris' early career see Clarence L. Ver Steeg, Robert Morris: Revolutionary Financier (Philadelphia, 1954), pp. 1-41.

would then use their influence to get the citizens to exchange their old currency for the new bills and to obtain aid for the Army.<sup>52</sup> Shortly thereafter the Board of War notified Congress that a number of citizens desired to form a bank in Pennsylvania and were requesting not only the approval of Congress but its aid as well.<sup>53</sup> The following day Congress approved establishing the bank in order to supply and transport rations and rum for the Army. In addition, the Board of Treasury was ordered to deposit bills of exchange not exceeding £150,000 on American ministers to support the credit of the bank and to compensate the bankers for their losses and expenses.<sup>54</sup>

Thus when Congress finally decided to establish the office of Superintendent of Finance, Morris seemed the logical choice, and on February 20, 1781, he was unanimously elected by Congress to hold that office.<sup>55</sup> Morris, however, hesitated to accept, insisting that Congress meet a number of demands, the most important of which was to grant him the authority not only to hire all officials concerned with finances but to dismiss them as well. Congress eventually agreed, and Morris officially assumed the office in July.<sup>56</sup> Meanwhile his demands and actions

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<sup>52</sup> Elbridge Gerry to Robert Morris, June 11, 1780, LMC, Vol. V, pp. 205-206.

<sup>53</sup> JCC, Vol. XVII, p. 542.

<sup>54</sup> Ibid., pp. 548-550.

<sup>55</sup> JCC, Vol. XIX, p. 180.

<sup>56</sup> Robert Morris to S. Huntington, Mar. 13, 1781; Morris to Committee of Congress, Mar. 26, 1781; and Oath of Office, June 27, 1781, in E. James Ferguson, ed., The Papers of Robert Morris, 1781-1784 (Pittsburg, 1973), Vol. I, pp. 17-19, 21-25, 184; Ver Steeg, pp. 58-64; and Jennings B. Sanders, Evolution of the Executive Departments of the Continental Congress, 1774-1789 (Chapel Hill, 1935), pp. 128-132.

elicited much controversy concerning both Morris and the congressional plan to centralize the nation's finances under one head.

In a real sense Morris' appointment was a testament to the erosion of congressional authority. Unable to extend Congress' credit any farther, many members hoped that the nation's financial credibility could be reestablished by resting it partly on Morris' financial ability and on his extensive private credit. The New Jersey delegate, William Churchill Houston, defended the congressional plan: "This Economy never will indeed never can be introduced by a Body constituted as Congress is; . . . They seem to know Nothing about either Money or saving it. These things must if they are ever done well, be the Work of one Mind."<sup>57</sup> Edmund Pendleton believed that Congress had taken "the most promising method" to effect a reform of the nation's finances "by appointing this important subject to the sole consideration of one man, whose mind shall be kept free from the distraction of Various Objects; and from the general Character of Mr. Morris the choice of him Appears Judicious."<sup>58</sup> James Varnum writing to Governor Greene of Rhode Island on Morris' appointment declared: "His personal credit here, as well as in Europe, is very extensive, and no other man could effect as much as Mr. Morris."<sup>59</sup>

On the opposite side Varnum noted that one of the obstacles to the "energy and vigor" necessary to the United States was that an "extreme,

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<sup>57</sup> William Churchill Houston to McKean, Mar. 31, 1781, LMC, Vol. VI, pp. 41-42.

<sup>58</sup> Pendleton to Madison, May 28, 1781, PJM, Vol. 2, p. 136.

<sup>59</sup> Varnum to Governor Greene, July 2, 1781, RICC, pp. 346-347.

though perhaps well-meant jealousy in many members of Congress, especially those of long standing, seems to frustrate every attempt to introduce a more efficacious system." He used as his example the delay caused by the debates in Congress over Morris' insistence that he be permitted to remove all persons who handled the public's money.<sup>60</sup> One such delegate was Thomas McKean, who observed: "There are some amongst us, who are so fond of having a great and powerful Man to look up to, that tho' they may not like the name of king, seem anxious to confer kingly powers, under the titles of Dictator, Superintendent of Finance, or some such. . . ."<sup>61</sup>

Morris did not ease the apprehensions of those who feared centralization as he immediately began to bombard the states with letters urging them to comply with congressional requisitions, sometimes in so insistent a manner as to cause friction with those with whom he dealt. On July 6 he informed the states that he had been empowered by Congress on June 28 to press the states for compliance with Congress' resolutions. He informed the governors of the states that he had written to the Treasury Board, the Commissary General, and Quartermaster General to determine the various balances due from the states. Once these returns were in he would write again.<sup>62</sup> He also requested information from the states themselves on what they had done to comply with the requisitions of Congress since the resolution of March 18, 1780. He asserted that there was a prevalent belief that the accounts between

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<sup>60</sup>Varnum to Governor Greene, Apr. 2, 1781, RICC, pp. 335-336.

<sup>61</sup>McKean to S. Adams, July 8, 1781, LMC, Vol. VI, p. 139.

<sup>62</sup>Morris to Clinton, July 6, 1781, PGC, Vol. 8, pp. 63-64.

the separate states and the United States were not to be adjusted, to which he declared: "Those who inculcate Maxims which tend to relax their efforts most certainly injure the common cause, whatever the motives which inspire their conduct."<sup>63</sup>

Morris was also explicit in informing the states what they owed to the Continent. On July 10 he notified President Reed that Pennsylvania owed \$38,565,995 30/90 old emission and \$1,789,289 60/90 of the new, exclusive of the four-tenths due the Continent under the resolution of March 18, 1780.<sup>64</sup> Dismayed and rather irked, Reed replied on the twenty-seventh: "We scarcely know what to say to those large Ballances due from this & other states to Congress." He argued that "it seems reasonable that when a State by its Exertions in Time of Necessity & Danger has advnaced Cloathing, Provisions, Ammunition, Militia, & other Necessaries, at the Instance of Congress & more especially of those Articles which do not come under the Description of specifick Supplies, that it should have a credit, so as to lessen the Ballance, . . ."<sup>65</sup>

Other states also answered Morris' demands with claims that their states had been so overburdened by the exactions of Congress that Congress should be paying them money rather than asking for more. Governor Greene of Rhode Island detailed the exertions of his state to show that Rhode Island had complied fully with every requisition of Congress. In fact, he argued that Rhode Island stood at least £60,000 in advance. Noting that the state's accounts were being forwarded, he declared:

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<sup>63</sup> Morris to Clinton, July 25, 1781, PGC, Vol. 8, pp. 121-125.

<sup>64</sup> Morris to Reed, July 10, 1781, PA, 1st Ser., Vol. IX, p. 286.

<sup>65</sup> Reed to Morris, July 27, 1781, PA, 1st Ser., Vol. IX, pp. 310-313.

"By those accounts, you will at one view see that we have not only fully complied with the requisitions of Congress, but are greatly in advance; and I doubt not but we shall be relieved from our perplexed and distressed situation, by making us such grants towards discharging the balance due unto us, as will make us at all times in future exert ourselves upon pressing occasions more than our real abilities will admit."<sup>66</sup>

The Maryland Council did not respond to Morris' inquiries until December, explaining that its delay had been because the state had been unable to collect the necessary accounts. The Council was sure that Morris would find that Maryland had exerted much, and observed: "it may not be amiss to remind you, that besides every Effort to furnish the whole specific Supplies demanded of us, we have been exposed to very heavy Expenses in a great Measure unknown to the other States, particularly in Articles of all kinds of Transportation of Troops and Provisions and Maintenance of Prisoners." The Council also asserted: "We have also paid very considerable Draughts of the commanding Generals of the Southern Army, made upon us under Recommendation of Congress."<sup>67</sup>

Because of the belief among the several states that they had exerted themselves beyond their capacity and that their people could now do little more, Morris' efforts to implement Congress' financial system of 1781 proved ineffective. In fact, both his insistence and the nature of his office may even have increased the reluctance of the

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<sup>66</sup> Governor Greene to Morris, Oct., 1781, Rhode Island, Records of Rhode Island, Vol. IX, pp. 485-487.

<sup>67</sup> Council of Maryland to Morris, Dec. 13, 1781, MA, Vol. SLVIII, pp. 20-21.

states to comply. Nevertheless, another portion of the congressional plan was doomed to fail because of the pressures of other events in mid-1781. The first of these was the almost complete collapse of the old Continental bills of credit. This affected Congress' finances because a part of the new fiscal plan rested on the plans of 1780. Particularly, Congress continued to insist that the states comply with its resolution of March 18, 1780. The key to that resolution had been the maintenance of the old Continental bills of credit at a ratio of forty to one in specie.

Signs of the impending crisis came as early as February when the editor of the New Jersey Gazette warned his readers to exchange as quickly as possible any Maryland bills of credit they held. He announced that in November, 1780, the Maryland legislature had passed a law stipulating that after April 1, 1781, no bills of credit issued either by Congress or by acts of the Maryland Assembly would be received by agencies of the Maryland government or be redeemed in the future.<sup>68</sup> By late March the Connecticut delegates informed Governor Trumbull that the rate of exchange had reached 130 to one in Philadelphia. "This occasions vast quantities to be sent on to the eastward; and indeed the people from thence are here buying the old money, as the exchange is so much lower here than there."<sup>69</sup>

Many states naturally moved to protect their economies. As previously mentioned, in November, 1780, the New Jersey Legislature

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<sup>68</sup> NJA, 2nd Ser., Vol. V, p. 192.

<sup>69</sup> Wolcott to Trumbull, Mar. 24, 1781, MHS, 7th Ser., Vol. III, pp. 211-214.

authorized the Governor and Privy Council to alter the rate of exchange in the state. Implementing this act on April 8, Governor William Livingston declared the rate of exchange in New Jersey to be 150 to one.<sup>70</sup> New Jersey was quickly followed by other states. In its May session the legislature of Rhode Island set its ratio at 160 to one to go into effect on May 30.<sup>71</sup> In early May the Pennsylvania Council set the rate in that state at 175 to one.<sup>72</sup> The immediate result was a precipitate fall in the value of Continental currency. The Virginia delegates reported on May 5 that during the first few days of May the rate of exchange had gone "from 200 to 7 8 and even 900 for one."<sup>73</sup> The rapid depreciation naturally injured some people terribly. John Witherspoon reported that when his son-in-law left Virginia he had sold all his furniture on credit and had been paid in paper currency. His brother had brought several thousand pounds of that money in Continental bills of credit to Philadelphia only to have it perish in his hands in less than a week so that he could not even travel fifty miles.<sup>74</sup>

In Philadelphia the collapse of the Continental currency led to major civil disorders. James Lovell noted: "Sailors with Clubs parade the Streets instead of working for Paper." Referring to the money of

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<sup>70</sup> NJA, 2nd Ser., Vol. V, p. 242. On June 6, 1781, Governor Livingston raised the rate to 175 to one. Ibid., pp. 244-255.

<sup>71</sup> Rhode Island, Rhode Island Session Laws, pp. 48-51, in EAI, No. 17331.

<sup>72</sup> Lovell to Samuel Holten, May 8, 1781, LMC, Vol. VI, p. 83.

<sup>73</sup> Virginia Delegates to the Governor of Virginia, May 8, 1781, LMC, Vol. VI, p. 80.

<sup>74</sup> Witherspoon to R. H. Lee, May 19, 1781, LMC, Vol. VI, p. 92.



Massachusetts he asserted: "That of our State is not counted money here. The old continental is dying by Yards not Inches. . . ."75

Samuel Johnston of Maryland noted that all the states east of Maryland and New Jersey were without a vote in Congress.<sup>76</sup> Commenting upon the scene, Edmund Pendleton believed that the turmoil in Philadelphia had been caused because "people in those parts have more to heart the making of fortunes, than promoting the glorious Cause we are concern'd in; . . ." While he recognized that the nation's finances lacked both stability and system, he blamed the problem on the states, observing that "different States will adopt various modes of complying with the requisitions of Congress, and Individuals in each will pertinaciously pursue their Openings, so as to carry at one Session what they have been over ruled at a former, & hence arises that mutability, so destructive of every Political measure. I fear this mischief hath its Origins in human Nature, & that a change will be difficult; . . ."77

At the height of the crises, discovering itself without money, Congress had to inform the states that they would now be required not only to provide immediately the supplies requested in the act of November 4, 1780, but to pay for their transportation as well. President Huntington pointedly declared that if the states had complied with the resolution of March 18, 1780, and with the money requisition of August 26, 1780, Congress would have had the money to transport the supplies.<sup>78</sup>

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<sup>75</sup> Lovell to Holten, May 8, 1781, LMC, Vol. VI, p. 83.

<sup>76</sup> Samuel Johnston to Allen Jones, May 8, 1781, LMC, Vol. VI, p. 82.

<sup>77</sup> Pendleton to Madison, May 28, 1781, PJM, Vol. 3, p. 136.

<sup>78</sup> S. Huntington, Circular, May 14, 1781, PCC, R24, Item 15, p. 288.

Huntington also warned the states that Congress had been forced to draw warrants against them for the quotas assigned on August 26 and would continue to do so. Therefore the states should quickly take measures to insure that their treasurers would be able to pay the warrants.<sup>79</sup> By July, 1781, Robert Morris had begun implementing his reforms, and the new President of Congress, Thomas McKean, optimistically reporting that some order had been restored, declared: "Public and private credit and confidence are returning fast, and the trade and commerce of [Philadelphia] really flourish. In short, affairs wear a promising aspect."<sup>80</sup> Perhaps this was true for Pennsylvania but certainly not for the southern states.

By mid-summer, 1781, the British campaign in the south, which involved mainly an invasion of Virginia, was in full swing. The states of Maryland and Virginia, being closest to the scene, naturally bore much of the burden not only for supplying the Southern Army and the troops of the Marquis de Lafayette, who had been sent south in early spring, but also for providing for their own internal defenses. North Carolina could provide little aid, as Governor Jefferson noted in a letter to Governor Lee, because: "A State in the midst of which are several different Armies of Foes and Friends as destructive from necessity as Foes, which has been consumed by their ravages near a twelvemonth, is not in a Condition to give but to expect assistance."<sup>81</sup>

The British, under the command of General Cornwallis, began their

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<sup>79</sup> S. Huntington to Jefferson, May 24, 1781, PTJ, Vol. 6, p. 14.

<sup>80</sup> McKean to Washington, July 14, 1781, LMC, Vol. 5, p. 146.

<sup>81</sup> Jefferson to T. S. Lee, Mar. 6, 1781, PTJ, Vol. 5, p. 77.

invasion of Virginia in late May. Their march was swift and devastating. Lafayette, greatly undermanned, could do little more than keep himself and what few forces he commanded from being captured. The Virginia Assembly hurriedly convened at Charlottesville only to have its meeting disrupted, some of its members captured and the rest scattered by a surprise raid of the British. The state was also without an executive because Thomas Jefferson had resigned a few days before and the assembly had not yet chosen his replacement.<sup>82</sup>

As noted previously, community ties, and thus community force, were not very concentrated in Virginia. In the past these conditions had made organizing the state's war effort very difficult. Without an executive authority, it proved nearly impossible. Richard Henry Lee reflected this condition as he desperately sought aid from Congress. He despondently reported that the state was "without either executive or Legislative authority, every thing in the greatest possible confusion, the enemy far superior in force to that with the Marquis, and practising everything that force and fraud can contrive." While he noted that the number of men in Virginia far outnumbered the enemy, he argued that "their dispersed, unarmed, and unadvised condition; without government, and without system of any kind, renders them an easy prey to the combined force and concerted system of our enemies." He insisted that General Washington be sent immediately southward and be granted dictatorial powers to seize provisions and to impress men until the Assembly

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<sup>82</sup>For the activities of both Lafayette and Cornwallis in the early part of the Virginia campaign see Henry P. Johnston, The Yorktown Campaign and the Surrender of Cornwallis, 1781 (New York, 1971), pp. 29-51.

could meet again.<sup>83</sup>

In the ensuing days and weeks both Maryland and Virginia pleaded for aid. The Maryland Council asserted: "The extraordinary Exertions by this State on every occasion in complying with the Demands of Congress, the Marquis' Detachment the southern Army, our Militia and other Expenditures have altogether exhausted our Treasury and Stores of arms and Cloathing. . . ." The Council argued that it could not even supply its own militia and therefore requested its delegates in Congress to "make known our wants to Congress in the most Earnest Manner. . . ."<sup>84</sup> David Jameson, now Lieutenant-Governor of Virginia, warned that "unless we have aid from Congress" the state must stop all contributions for the war south of it "or our own Army disband." He asserted: "We have borne the burthen of four States for almost two years and can struggle no longer under it."<sup>85</sup>

Congress, however, did not respond as fully as the southern states expected, and by mid-August many citizens of Virginia were becoming very angry. Expressing his fellow citizens' frustrations with the northern states, David Jameson declared: "Repeated representations have been made of our condition for the past eighteen Months. . . ." He understood why Georgia, South Carolina, and North Carolina had not been able to help much but he also asserted that "very little [aid] has been sent by the middle and none by the Eastern States--on Virginia therefore has

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<sup>83</sup>R. H. Lee to the Virginia Delegates, June 12, 1781, PJM, Vol. 3, pp. 156-158.

<sup>84</sup>Council of Maryland to Delegates of Congress, May 30, 1781, MA, Vol. XLV, p. 450.

<sup>85</sup>Jameson to Madison, Aug. 10, 1781, PJM, Vol. 3, pp. 215-216.

the burthen laid. no less than thirty five Millions of pounds has been Emitted from her Treasury since the first of October last, four fifths of which enourmous sum has been appropriated to Continental purposes." In addition, Virginia had also contributed large supplies of provisions and transportation, most of which had been taken through impressment. This last was particularly "hateful" to the people, Jameson declared: "And when they reflect that their bretheren to the North & East of them have a free & open trade, free from invasion and living in ease, & affluence--and will afford them no assistance their sufferings become more greivous." Arguing that earlier in the war Virginia had contributed freely to the northern states during their times of crisis, Jameson asked: "Why is she left not only to struggle for her self under many difficulties, but required to bear the burthen of the whole Southern War?"<sup>86</sup>

Jameson's charges were obviously distorted, as the northern states experienced their own stresses and were in little better financial shape than Virginia. But his rhetoric reflected the attitudes of many officials of the states throughout the Revolution. Like Jameson, they were more concerned with the problems of their own states than with those of others. They could see the distresses of their "countries" and of their citizens. But, partly because of poor communications and partly because of tunnel vision they could not fully comprehend the particular distresses of surrounding states. Such charges also reflected a part of the role state officials were expected to play: to protect their own state's interests. Thus, Jameson's assertions were in part to justify

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<sup>86</sup> Jameson to Madison, Aug. 15, 1781, PJM, Vol. 3, pp. 227-228.

the unwillingness of Virginia's citizens to do more.

Though the campaign ended victoriously for America when a combined force of French and Continentals under the command of General Washington captured Cornwallis and his entire Army at Yorktown, the victory really belonged more to Robert Morris than to Congress. Using his own private credit and French loans, Morris almost single-handedly financed the successful Franco-American operation.<sup>87</sup> But the victory came too late to salvage Virginia's finances. The invasion had left the state exhausted, so much so that in December the Assembly passed a law calling in all its paper emissions at a ratio of 1,000 to one. In addition, the state suspended its compliance with the impost because other states had not acceded to it. The Assembly did, however, give the Governor the right to implement it once he received proof that a majority of the states had agreed.<sup>88</sup> Thus the British campaign in the south further assured that Congress' financial plan would not succeed, as it had left the southern states incapable of complying.

By the end of the year the new congressional plan had failed as badly as had the plan of 1780. The states remained reluctant to grant Congress the power to lay an impost, and the manner in which Morris importuned the states to comply could not help but to increase that reluctance. At the beginning of 1782, writing to the governors of three states which had not granted the impost, Massachusetts, Rhode Island, and Maryland, Morris asserted that both he and Congress had done their duty and declared: "It only remains for me to bear Testimony against

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<sup>87</sup>Ver Steeg, pp. 72-77.

<sup>88</sup>Pendleton to Madison, Dec. 31, 1781, PJM, Vol. 3, pp. 347-348.

those who oppose that Compliance and to declare that they and they only must be responsible for the Consequences, They are answerable to the other States, to their fellow citizens to the public Creditors and to the whole world." Speaking even more plainly he insisted: "He . . . who opposes the Grant of such revenue not only opposes himself to the Dictates of Justice, but he labours to continue the war and of Consequence to shed more Blood, to produce more Devastation, and to extend and prolong the miseries of mankind."<sup>89</sup>

The collapse of the Continental assured that the new bills would not come into use in an effective way. The British campaign guaranteed that the southern states would not be able either to meet their cash contributions or to suspend the printing of paper money. Hoping at least to finance the campaign for the next year, Congress passed a new requisition for money on October 30, 1781, and apportioned quotas among the several states on November 2.<sup>90</sup> But in the euphoria which followed Yorktown many states turned inward, attempting to bring order to their own financial chaos. Thus in 1781, Congress had not been able to reestablish its lines of financial authority and ended the year much as it had begun by pleading with the states to comply with congressional requisitions and by asking: "To whom . . . rather than Yourselves who are called to the guardianship & sovereignty of your country can these considerations be addressed? . . . We possess no funds which do not originate with you, we can command no levies, which are not raised under

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<sup>89</sup> Morris to Massachusetts, Rhode Island, and Maryland, Jan. 2, 1782, PA, 1st Ser., Vol. IX, pp. 474-475.

<sup>90</sup> JCC, Vol. XXI, pp. 1087, 1090.

your own Acts."<sup>91</sup>

The inability of Congress to establish its authority in finances had been due in part to the fear of the states of centralized authority, but it was also due in part to the increasing irritations of the states toward one another. Most believed that they were doing more than their share to prosecute the war and were angered because each did not believe that the other states were exerting themselves as strenuously. The ratification of the Articles of Confederation did not help ease these tensions at all since the delegates conflicted further over futile attempts to strengthen congressional authority through amending that document.

These were not, however, the only sources of friction. Throughout the war, and especially in the years 1780 through 1783, the states participated in several disputes over territorial claims. These conflicts, the subject of the next chapter, not only increased the suspicions of the states towards Congress and towards one another, but illustrated the inability of Congress to judge interstate disputes. Combined with the financial and military pressures of those years, these disputes would assure that Congress would never recover the states' cooperation so necessary to its prestige and authority.

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<sup>91</sup>The United States in Congress Assembled to the Legislatures of New Hampshire, et al., Dec. 17, 1781, MA, Vol. XLVII, pp. 575-576.



## CHAPTER VI

### TERRITORIAL TENSIONS

The financial difficulties of 1780 and 1781 were not the only problems that caused friction among the states both inside and outside Congress. Another important irritation came from conflicts over boundaries and the claims of some states to vast sections of western territory. The most prominent border dispute involved New York, New Hampshire, and Massachusetts--all of whom had claims to the so-called New Hampshire Grants (roughly present-day Vermont). This conflict raised serious questions regarding the power of Congress under the Confederation. Could Congress deal directly with the people in territories claimed by states? And, could Congress create an independent state out of that disputed territory and then admit it into the union? The problem of the trans-Appalachian West was even more complex because of the overlapping claims of several states and of private land companies as well. This conflict, as it developed, raised fundamental questions about the relationships which the Articles of Confederation established among Congress, the states, and the people.

The struggle over these constitutional questions as well as the search for pragmatic solutions to the disputes themselves carried serious implications for congressional authority. As the conflicts deepened and lengthened over time, the irritations of those states grew, until the disputes over the New Hampshire Grants and western claims

intertwined not only with one another but with other congressional questions as well. The inability of Congress to find either quick or decisive solutions to these problems naturally increased the irritation of the states. Just as important, the conflicts also revealed that some men, such as James Madison, Joseph Jones, and James Duane, traditionally viewed as nationalists, could be equally as ardent in opposing the extension of congressional power when the interests of their particular states were involved. Conversely, many of the supposed states' rightists argued for an extension of congressional authority when such extensions would benefit their own states. Once again, as with the conflicts over finances, the various disputes over territorial claims measurably diminished the cooperation between the states so necessary for effective congressional power.

The conflict among New York, New Hampshire and Massachusetts over the New Hampshire Grants involved the territory which lay roughly between the Connecticut River and a line running approximately north and south from Lake Champlain, parallel to and twenty miles east of the Hudson River. The area is divided by the Green Mountains into two natural geographic regions, and the whole is bounded on the south by the northern border of Massachusetts. The disputes had their origins in overlapping colonial charters and grants. Both New York and New Hampshire claimed the entire region, while Massachusetts was content to claim only the southernmost portion of the region. While Massachusetts had granted some lands in the area, it had never prosecuted its claim very vigorously. Consequently the dispute developed mainly between New York and New Hampshire.

The conflict began shortly after Benning Wentworth became Governor

of New Hampshire in 1741, and began to make land grants in the area. By 1750 the grants had created a legal dispute over territorial rights between New York and New Hampshire and had been referred to London for settlement. Meanwhile, Wentworth continued to issue many new grants on both sides of the mountains but principally in the Connecticut River Valley. On July 20, 1764, however, the King in Council determined that all the land west of the River properly belonged to the colony of New York.

Over the next several years, New York began to grant its own charters in the region and tried without success to eject those persons who had occupied the lands granted by New Hampshire. Embittered by the actions of New York, the settlers of the region seized upon the growing conflict between Britain and its American colonies and appealed to Congress for protection from New York's authority.<sup>1</sup> Congress responded by requesting the inhabitants of the Grants to submit to the jurisdiction of New York for the duration of the war and guaranteed them that "when the present Troubles are at an End the final Determination of their Right may be mutually referr'd to proper judges."<sup>2</sup> The citizens of the Grants rejected the congressional request, and on January 15, 1777, representatives from several towns met at Westminster. After listing their grievances against New York, the delegates asked that their district "be ranked" by Congress "among the Free and Independent States, and

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<sup>1</sup> Allen Nevins, The American States During and After the Revolution, 1775-1789 (New York, 1969), pp. 579-580.

<sup>2</sup> JCC, Vol. IV, pp. 334-335, 405.

delegates then admitted to seats in the Grand Continental Congress."<sup>3</sup>

In June, 1777, Congress considered the petition along with sundry other papers received from New York concerning the Grants, but was unable to come to a determination.<sup>4</sup>

Meanwhile, the controversy temporarily subsided as the attention of all the parties was absorbed by the British invasion led by Major-General John Burgoyne from Canada. Now calling their district the State of Vermont, the citizens of the Grants were directly in the path of the invading army and appealed for aid from New Hampshire for the common defense. The combined force led to the American victory at Bennington, Vermont, in August, 1777.<sup>5</sup> In turn, this battle seriously weakened Burgoyne's forces and was a major factor in Burgoyne's ultimate surrender at Saratoga in October.<sup>6</sup> Perhaps because of the patriotic efforts of Vermont and New Hampshire during the crisis, New York softened its attitude. In early 1778, while not surrendering its claim of jurisdiction over the Grants, the New York Legislature at least offered to permit those persons who had occupied lands granted by New Hampshire and Massachusetts to retain their lands.<sup>7</sup>

The temporary peace was shattered in early summer, 1778, when the

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<sup>3</sup> Declaration and Petition of the Inhabitants of the New Hampshire Grants to Congress, Jan. 15, 1777, New Hampshire, Provincial and State Papers of New Hampshire, Vol. X, pp. 242-246. Hereinafter, NHPS.

<sup>4</sup> JCC, Vol. VIII, pp. 491, 497, 507.

<sup>5</sup> Ira Allen to Committee of Safety of New Hampshire, July 15, 1777, and Weare to Allen, July 19, 1777, NHPS, Vol. X, pp. 253-254, 255.

<sup>6</sup> Alden, The American Revolution, pp. 141-142.

<sup>7</sup> Proclamation of Governor George Clinton of New York, Feb. 23, 1778, NHPS, Vol. X, pp. 256-259.

Vermont legislature granted the petition of sixteen towns in the valley but east of the Connecticut River, which were clearly a part of New Hampshire, to annex themselves to the State of Vermont.<sup>8</sup> The request of these towns was natural in that the Valley formed a distinct geographical and economic region, and the inhabitants on both sides of the River identified more closely with the interests of the Valley than with either New York or New Hampshire. Meshech Weare, the President of New Hampshire, was understandably disturbed by this defection and demanded that the state's delegates in Congress "Endeavor to obtain the aid of Congress, if you think they can with propriety take up the matter." Weare warned: "Indeed unless Congress interfere (whose admonitions only will be obeyed) I know not what consequences will follow; very possibly the sword will decide it, . . ."<sup>9</sup> Three days later, Weare also wrote a similar letter of protest to Governor Thomas Chittenden of Vermont.<sup>10</sup> After receiving Weare's letter, Chittenden dispatched Ethan Allen to Philadelphia to test the temper of Congress. Allen reported that Congress was not unfavorable to the State of Vermont itself but that unless "this State recede from such union [annexation], immediately, the whole power of the Confederacy of the United States of America, will join to annihilate the State of Vermont, and to vindicate the

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<sup>8</sup>Resolution of the General Assembly of Vermont, June 11, 1778, NHPS, Vol. X, pp. 276-277.

<sup>9</sup>Weare to New Hampshire Delegates, Aug. 18, 1778, NHPS, Vol. X, pp. 278-279.

<sup>10</sup>Weare to Thomas Chittenden, Aug. 22, 1778, NHPS, Vol. X, pp. 279-281.

rights of New Hampshire. . . ."<sup>11</sup> Acting upon Allen's information, on October 21, 1778, the Vermont Assembly withdrew its offer of union to the sixteen towns, but did so in such a way as to leave open the question of whether or not the attempt would be made again at some future date.<sup>12</sup> Consequently the inhabitants of the Grants east of the river, who loathed to see the Valley split by two different authorities, continued to work for annexation to Vermont and, under those conditions, for congressional recognition of Vermont's independence.<sup>13</sup>

The agitation of the inhabitants of the Grants forced Congress to consider the problem once again, and on May 22, 1779, Congress debated several resolves. These resolves included one which declared that none of the thirteen states should be deprived of property unless consistent with the method described in Article IX of the Confederation. It was also proposed that no district be permitted to separate itself from a state without the state's consent and recommendation that the inhabitants of Vermont return to their former jurisdictions in New York and New Hampshire. A decision, however, was not reached at this time.<sup>14</sup> On June 1 Congress finally determined to appoint a committee of five persons to repair to the Grants and to inquire why the inhabitants were not willing to remain with their respective states. The resolution

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<sup>11</sup> Ethan Allen to Chittenden, Oct. 10, 1778, NHPS, Vol. X, pp. 282-284.

<sup>12</sup> Resolved of the General Assembly of Vermont, Oct. 21, 1778; Chittenden to Weare, Oct. 23, 1778; and Weare to Chittenden, Nov. 5, 1778, NHPS, Vol. X, pp. 284, 287, 294-295.

<sup>13</sup> Joseph Marsh to Henry Laurens, Oct. 23, 1778, NHPS, Vol. X, pp. 289-290.

<sup>14</sup> JCC, Vol. XIV, pp. 631-633.

asserted that "Congress are in duty bound on the one hand to preserve inviolate the rights of the Several States, so on the other, they will always be careful to provide that the Justice due to the States does not interfere with the Justice which may be due Individuals."<sup>15</sup> In this declaration, however, Congress had accidentally violated the straight line relationships of the Confederation by offering to deal directly with the citizens of particular states and by implying that it would even interpose itself between the governments of New York and New Hampshire and their citizens in the Grants. Consequently, on the sixteenth Congress clarified its resolutions of the first by unanimously resolving "That it was not the intention of Congress . . . to hold up principles subversive of, or unfavorable to the internal polity of any or either of the United States."<sup>16</sup>

Although a majority of the committee failed to assemble in the Grants, by September, 1779, the situation there was becoming critical, so Congress had to proceed without the direct evidence from its committee. On September 24 Congress came to several resolutions, hoping to solve the problem of the Grants once and for all. Resorting to the method called for by Article IX of the Confederation, Congress requested the states of New Hampshire, New York, and Massachusetts to pass laws expressly granting Congress the authority to hear and determine their boundary disputes and assigned February 1, 1780 as the day for settlement. On that day Congress would judge the disputes, disallowing any of the three states concerned to "vote on any question relative to the

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<sup>15</sup>Ibid., pp. 674-675.

<sup>16</sup>Ibid., p. 741.

decision thereof." It requested that, in the meantime, none of the states attempt to exercise authority in the disputed region and warned that no more towns could join with those in the disputed district. Congress also authorized the Commander-in-Chief to keep the peace in the Grants until Congress reached a decision.<sup>17</sup>

One passage in the resolution, however, had to be modified. The original resolution had provided that the states should "authorize Congress to proceed to hear and determine all disputes subsisting between the grantees of the several states aforesaid, with one another or with either of the said states . . . to be heard and determined in the mode prescribed for such cases by the Articles of Confederation. . . ." It was pointed out that the Articles contained no provision whereby Congress could hear and determine "disputes between any State and the grantees of any other State" but only between states. Therefore, on October 2, Congress modified its resolution to read that the disputes would be "determined by 'commissioners or judges,' to be appointed in the mode prescribed by the ninth article of the confederation. . . ."<sup>18</sup>

During 1780 the disputes remained unsolved. Congress was unable to hold hearings on February 2 for a number of reasons. The New York delegates reported that Congress simply had not had enough time to consider the conflict because it was almost totally involved in the problem of finances.<sup>19</sup> In addition, nine disinterested states were seldom

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<sup>17</sup>JCC, Vol. XV, pp. 1095-1099.

<sup>18</sup>Ibid., p. 1135.

<sup>19</sup>Ezra L'Hommidieu to the Governor of New York, Mar. 15, 1780, LMC, Vol. V, p. 75.



present, so that a decision could not be reached.<sup>20</sup> Meanwhile, the citizens of the Grants would not let the controversy rest. Writing to Governor Clinton in April, 1780, Samuel Minott, the chairman of a committee of loyal New Yorkers in the Grants, asserted that the Vermont Legislature had determined that the New Yorkers would submit to its jurisdiction and had "come to a Resolution to inforce their cruel Laws upon us." Minott warned that in the past the New Yorkers in the Grants had been willing to risk their all to remain loyal: "But as we begin to believe that Congress (with whom the matter now solely rests) will not do any thing effectual for our Relief, we do not think it our Duty any longer to put our all at Stake." While the New Yorkers wanted to live under New York's jurisdiction, they would soon attach themselves to Vermont as they could no "longer risque so much for a Government which is either unable, or unwilling, to protect us; . . ." Minott threatened that "unless Congress shall have settled this Controversy by the first of June next, the Subjects of New York in this County, must, for their own Safety, connect themselves with some Power able to afford them Security."<sup>21</sup>

In early May Minott again wrote Governor Clinton asserting that Vermont had begun enforcing its laws on the New Yorkers, which included drafting them into the Vermont militia and making grants of land in areas already granted by New York. Those who opposed were subject to public whippings. He asserted: "From this Dilemma, Congress and

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<sup>20</sup>JCC, Vol. XVI, p. 273; and The New York Delegates to the Governor of New York, May 21, 1780, LMC, Vol. V, pp. 159-160.

<sup>21</sup>Samuel Minott to Clinton, Apr. 11, 1780, PGC, Vol. 5, pp. 605-608.

Congress alone, can relieve us: . . . if they have not wholly lost that glorious Spirit which has, heretofore, in so eminent a manner distinguished them: . . . we are persuaded they must put an End to our Miseries by speedily determining of which of the 13 States we belong." He urged Congress to act swiftly because Vermont was gaining friends daily by confiscating estates and appropriating land "And at the same time, they are instilling into the minds of their Subjects and Friends, the Doctrine that Congress have no right to adjudge whether the Grants shall be a State, because they have not submitted it to their arbitration."<sup>22</sup>

Acting upon this information, John Morin Scott, one of the New York delegates, proposed in late May that when Congress finally determined the question of the Grants it should declare null and void any grants of land in the district made since the congressional resolution of September 24, 1779. In addition, he also demanded that when a sufficient number of disinterested states were present in Congress the question of the Grants be made the order of the day and that Congress "proceed without delay to hear, examine and finally decide the same. . . ." The discussion of the Grants, however, was once again postponed.<sup>23</sup> The problem was discussed again on May 30 and June 1 without decision.<sup>24</sup>

On June 2, Congress once again resolved to consider the problem of the Grants as soon as nine disinterested states were present. It also warned those citizens who claimed allegiance to Vermont not to exercise either civil or military authority over those citizens who

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<sup>22</sup>Minott to Clinton, May 2, 1780, PGC, Vol. 5, pp. 671-675.

<sup>23</sup>JCC, Vol. XVII, pp. 448-451.

<sup>24</sup>Ibid., pp. 47., 481.

claimed allegiance to one of the states in the dispute.<sup>25</sup> Enough states were present on June 9, but the proceedings were once again postponed until September because the agents for New Hampshire were not present.<sup>26</sup>

After further delays because of a lack of congressional representation, Congress finally began its hearings on September 19, more than seven months after it was supposed to have settled the controversy. On this and the following day, the New delegates, acting as that state's agents, presented evidence that the Grants had been under the jurisdiction of New York since 1764 and that New Hampshire had agreed to that jurisdiction. In addition, the agents argued that the inhabitants of the Grants west of the Connecticut River had been "duly represented in and submitted to the authority, jurisdiction and government of Congress and the convention of the said State [New York] till late in the year 1777. . . ." <sup>27</sup> On the twenty-seventh New Hampshire presented its claim, while "The gentlemen appearing in behalf of sundry inhabitants of the said Grants having nothing to add, and pressing Congress to come to a determination, withdrew."<sup>28</sup> These agents, Peter Olcott and Bezaleel Woodward, had already informed Congress that if the Grants were not permitted to become the independent state of Vermont they would prefer being under the jurisdiction of New Hampshire. Their only request was that Congress at least "evidence a tender concern" by asking the

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<sup>25</sup> Ibid., pp. 282-284.

<sup>26</sup> Ibid., p. 489.

<sup>27</sup> JCC, Vol. XVIII, pp. 819, 840-841, 843.

<sup>28</sup> Ibid., p. 868.

inhabitants of the Grants which state they preferred to be aligned with.<sup>29</sup>

The view of the inhabitants of the Grants apparently led Congress to favor the claim of New Hampshire. To follow up this advantage, John Sullivan informed President Weare that he and his fellow delegate, Nathaniel Folsom, had decided upon two courses of action. First they would argue against the constitutionality of New York's plan, which was to have Congress declare against the Grants being an independent state, and then have commissioners appointed to determine whether the Grants belonged to New York or New Hampshire. Instead, the New Hampshire delegates would declare that Congress did not have the power to determine independence in the first place and must appoint commissioners according to the Articles of Confederation to determine that question. Their second ploy would be to contrast New Hampshire's willingness to abide by the decision of Congress with the attitude of New York's agents, who had been "breathing out nothing but Death & Slaughter." Their tactics apparently were effective, because Sullivan reported: "The members [of Congress] begin to see, that if the lands are adjudged to New York, the Continent must be involved in a war to enforce the Determination of Congress, which can only be avoided by adjudging in favor of New Hampshire."<sup>30</sup> The delegates from New York also recognized the direction in which Congress was leaning. In late October, Ezekiel Cornell of Rhode Island noted: "The affairs of Vermont have slept for sometime and

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<sup>29</sup> Bezaleel Woodward to the President of Congress, Aug. 31, 1780, NHPS, Vol. X, pp. 374-375.

<sup>30</sup> John Sullivan to Weare, Sept. 16, 1780, NHPS, Vol. X, pp. 375-377.

nothing is determined. I believe when it was last debated the gentlemen from New York did not like very well the sentiments of a majority of the members on the subject and will let the affair rest until a change in members should take place, that will better suit their purposes."

The controversy began to disturb other large states, especially Virginia. With large landholdings and many of their citizens far removed from their capital, the Virginians feared that if Congress acquiesced to Vermont's demands for independence and statehood, Virginia would lose much of its territory through a similar process. The warning had already been sounded as early as August, 1780, when Congress received two petitions from the region of Kentucky requesting independence from Virginia. The delegates from Virginia had moved unsuccessfully to have those petitions turned over to the governor of Virginia. Consequently, when Congress began considering the problem of the New Hampshire Grants, both Joseph Jones and James Madison, who desired to increase congressional power in the economy, opposed granting Congress the power to decide the issue in favor of Vermont.<sup>32</sup>

On September 30, 1780, Madison proposed a series of resolves which were designed to keep the problem confined within the powers expressly granted to Congress under the Articles of Confederation. He urged Congress to declare that the Grants lay within one or more of the United States, and "That every attempt by force to set up a separate and independent jurisdiction within the limits of any one of the United States,

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<sup>31</sup>Cornell to Governor Greene, Oct. 24, 1780, RICC, p. 317.

<sup>32</sup>JCC, Vol. XVII, pp. 760, 763-764.

is a direct violation of the rights of such State, and subversive of the union of the whole, under the superintending authority of Congress." He also demanded that Vermont desist in its efforts to organize the Grants and that Congress immediately appoint commissioners to settle the dispute. Finally, to ease the conflict, he urged that all the states in the controversy confirm the titles of individuals to the lands they occupied.<sup>33</sup>

Writing to Madison after he had left Congress to attend the Assembly of Virginia, Joseph Jones argued that Congress could not delay its decision on Vermont and observed: "Had the Territorial claims of N. Y. & N. Hampshire been settled in the first instance the State of Vermont would not at this Day have been known--delay has given them a name and made them formidable. such excrescencies should be taken off on their first appearance as then the work is easy and less Dangerous than when they have grown to a head." Possibly thinking of Virginia's own problems with Kentucky, Jones declared: "We know not what may be the consequences if Congress shall countenance by precedent the dismembering of States because the people blown up into discontents by designing ambitious Men shall ask or demand it." He closed with an injunction: "fix the boundaries of these States and let the people who live within their respective limits know they are Citizens and must submit to their Governments."<sup>34</sup> A week later, writing in a similar vein, Jones asserted: This affair ought to be a warning to Congress how to act in similar situations in future--to be remiss and indecisive upon such pretensions

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<sup>33</sup> JCC, Vol. XVIII, pp. 832-833.

<sup>34</sup> J. Jones to Madison, Oct. 2, 1780, PJM, Vol. 2, pp. 105-106.

as these serves not only to support and not discourage the claimants. it does more[, ] it shews the weakness or wickedness of Government and must ultimately produce dishonor and contempt."<sup>35</sup>

The hardening attitudes of New York and Virginia delayed rather than expedited a congressional decision, but that decision was also delayed because during the next several months congressional representation was seldom full enough to muster the necessary nine disinterested states.<sup>36</sup> Meanwhile, the activities of Vermont and of many towns east of the Connecticut River caused increasing confusion and hardship in both New York and New Hampshire. On June 20, 1781, President Weare wrote to New Hampshire's delegates pleading for Congress to act. Weare pointed out that he believed the controversy over the Grants should have been settled long ago and was disturbed by "the amazing unexpected delay" of Congress, as that delay had been "attended with great mischief" to both the United States and New Hampshire. He asserted that many of the disaffected persons in the Grants were even negotiating with the enemy and declared: "In short, New Hampshire is brought into such a dilemma and the Government thrown into such confusion by the delay in Congress, that it is impossible for her to comply with the requisitions of Congress, to any great degree, while the dispute remains unsettled; and it is in vain for them to expect it of her, as no supplies of men, money or provisions can be collected at present from more than 2/3rds even of the State which lies east of the Connecticut River, . . . ." He warned the delegates that "unless Congress brings matters to

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<sup>35</sup>J. Jones to Madison, Oct. 9, 1780, PJM, Vol. 2, pp. 119-120.

<sup>36</sup>Sullivan to Weare, July 10, 1781, NHPS, Vol. X, pp. 402-403.

an immediate issue, we cannot tell how far the contagion may run, but very much fear that the State will be very soon ruined in a great measure, and not able to contribute further towards the war."<sup>37</sup>

Answering Weare's letter, John Sullivan noted that Weare's communication had been referred to a committee, but that he and his colleague Samuel Livermore were uncertain how to proceed. Sullivan believed that if independence were denied to the Grants the only state that would benefit would be New York, but he had still decided to oppose. He charged that "the present members would make desperate struggles for independence" because Vermont had made "enormous Grants to men of Influence in several States, & even to members of Congress." He argued that the only "plausible argument in favor of determining the Question of Independence" would be that the dispute was not between New York and New Hampshire but between them and the people claiming to be independent of both. He and Livermore would argue, however, that the two states had always been contiguous and therefore no independent state could exist between them. He would also argue that if Vermont was declared independent it would be outside the jurisdiction of Congress as Congress had nothing to do with more than thirteen states. Finally, he declared: "The safest ground therefore for New Hampshire, is to insist that there is no intermediate spot between New York and New Hampshire; & that as Congress have Included Vermont within the limits of the Thirteen United States it must belong to some of them and therefore Congress ought to Determine to which, --agreeable to the rules Laid Down in the

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<sup>37</sup>Weare to the New Hampshire Delegates, June 20, 1781, NHPS. Vol. X, pp. 401-402.



Confederation."<sup>38</sup>

Urged on by New Hampshire, Congress began to act upon Weare's letter of June 20, and a month later the committee to which Weare's letter was referred finally reported. But once again Congress postponed debate.<sup>39</sup> The report was considered again on August 2, but was delayed, in part because Congress was involved in the early stages of the Yorktown campaign.<sup>40</sup> Meanwhile, James Duane and Ezra L'Hommedieu, the delegates from New York, also demanded that Congress come to some sort of determination. They argued that congressional delay had led Vermont to extend its boundaries even farther west and "that these high handed incroachments have greatly interrupted the raising of levies and supplies within the State of New York for the support of the war and must be productive of further weakness and disorder and render the said state already greatly exhausted and desolated altogether unable to contribute to the common cuase."<sup>41</sup>

Four days later, on August 7, 1781, Congress finally acted. It resolved that since Congress had already heard the claims of New Hampshire and New York to the disputed region it now wished to appoint a committee of five to confer with persons appointed by the district in conflict respecting their claims and "on what terms it may be proper to admit them into the federal union of these states in case the United

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<sup>38</sup> Sullivan to Weare, July 10, 1781, NHPS, Vol. X, pp. 402-403.

<sup>39</sup> JCC, Vol. XX, pp. 770-772.

<sup>40</sup> JCC, Vol. XXI, pp. 824-825.

<sup>41</sup> New York Delegates Memorial on Vermont, Aug. 3, 1781, PGC, Vol. 7, pp. 164-167.

States in Congress assembled shall determine to recognize their independence, . . ."<sup>42</sup> On the following day it appointed Elias Boudinot of New Jersey, Nicholas Van Dyke of Delaware, Daniel Carroll of Maryland, Joseph Montgomery of Pennsylvania, and Edmund Randolph of Virginia as the committee.<sup>43</sup> After conferring with a committee from Vermont already in Philadelphia consisting of Jonas Fry, Ira Allen, and Bezaleel Woodward, the committee reported its findings to Congress on the twentieth.<sup>44</sup> Whereupon, Congress declared that as "an indispensable preliminary to the recognition of the independence of the people inhabiting the territory called Vermont that they explicitly relinquish all demands of land or jurisdictions the east side of the west bank of Connecticut river." The boundaries on the north, south, and west insisted on by Congress also closely corresponded to the modern boundaries of the state of Vermont.<sup>45</sup> While no grant of independence was offered by the resolution, clearly if Vermont accepted the boundaries required by Congress, it would have taken the first important step in that direction.

Though the large states, except New York, consented to this proposition, most did so from expedience rather than from any conviction that it was wise. Edmund Pendleton, writing from Virginia, noted: "The separation & Independence of the people of Vermont is a very serious and unlucky affair, which I wish there have not been Occasion for Congress to decide on." While he recognized that the inhabitants of the Grants

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<sup>42</sup>JCC, Vol. XXI, pp. 836-839.

<sup>43</sup>Ibid., pp. 841-842.

<sup>44</sup>Ibid., pp. 875-876.

<sup>45</sup>Ibid., pp. 886-888.

had no other prospect for relief "yet to divide a state at the request of some members of it, against the will of the Majority or indeed admitting a Power in Congress to divide at all, will establish a precedent that may prove the Source of much Mischief at some further period." He observed: "This business . . . will probably be pleasing to the small States and disgusting to the large, & so produce dissensions amongst Us . . . A case like this may never happen again, yet Precedents, of Power especially, are of such a ductile nature as to be extended to any purpose a majority shall wish."<sup>46</sup>

The New York Legislature also vigorously protested the congressional decision. On November 24, 1781, after reciting a history of the affair, the legislature declared that it was greatly alarmed that Congress had acted from political expediency by passing the acts of August 7 and 20 which had authorized the creation of an independent state out of territory "belonging most unquestionably to this State" especially since these resolves of Congress violated the Articles of Confederation. Resolving that Congress had no power either to create an independent state or to add any other colony to the union except Canada, the Legislature also resolved: "That in case of any attempt by Congress, to carry into Execution their said Acts . . . this Legislature, with all due Deference to Congress, are bound . . . to declare the same an Assumption of Power in the Face of the said Act of Submission of this State [which permitted Congress to judge the dispute], and against the clear Letter and Spirit of the 2d, 3d, 9th and 11th Articles of the

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<sup>46</sup>Pendleton to Madison, Aug. 27, 1781, PJM, Vol. 3, pp. 234-235.

Confederation and a Manifest Infraction of the same: . . ."47

Meanwhile, the Legislature of Vermont rejected the congressional offer on October 17 and 18, 1781. It assigned as its reasons that as Vermont was not yet recognized as one of the states by Congress, it was not bound to submit to its judgement. Only if Congress first allowed Vermont its independence would that state allow its boundary disputes with New Hampshire and New York to be resolved by Congress according to the Articles.<sup>48</sup> The refusal of Vermont had been accompanied by a further encroachment on the lands of both New York and New Hampshire, keeping the question of what to do with the Grants very much alive in Congress. Madison noted that "there is at this moment every symptom approaching hostility" between Vermont and the states of New York and New Hampshire. While the necessity of congressional interposition was obvious, Madison observed that Congress was unsure as to how to proceed because of the varying views of the members of Congress. Some did not believe that Congress could decide either upon Vermont's independence or on admitting them into the confederacy. Others argued the danger of setting precedent. For Madison the problem was the preponderancy its admission would give to the New England states.<sup>49</sup> Amplifying his fears in April, 1782, Madison charged: "The true secret [for admitting Vermont] is that the vote of Vermont is wished for as an auxiliary agst. the western claims of Virga."<sup>50</sup>

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<sup>47</sup> Clinton to the New York Delegates, Nov. 24, 1781, PGC, Vol. 7, pp. 515-519.

<sup>48</sup> JCC, Vol. XXII, pp. 164-173.

<sup>49</sup> Madison to Pendleton, Jan. 22, 1782, PJM, Vol. 4, pp. 38-39.

<sup>50</sup> Madison to Pendleton, Apr. 23, 1782, PJM, Vol. 4, p. 178.

Fellow Virginian Arthur Lee's fears encompassed more than Virginia's western claims. Noting that some in Massachusetts and Connecticut wanted Vermont entered as an independent state he argued that it could not be done within the powers of the Confederation. If such a power were admitted, small states would dismember large states, and since each state added would have an equal vote with the larger, they would proportion quotas in such a manner that the large states would bear the whole burden. Therefore, Lee argued that a compromise might be to grant Vermont independence but not permit it a vote in Congress.<sup>51</sup> William Ellery and Ezekiel Cornell asserted: "Some states will oppose their [Vermont] being admitted into the Federal Union because it might affect the balance of power by throwing an additional weight into the Eastern scale; and because it might be a precedent for augmenting the number of the Confederate states, already too large."<sup>52</sup>

The situation was further complicated because the Vermont Legislature finally decided to accept the boundaries for their states as contained in the congressional offer of August 7 and 20. On January 1, 1782, General Washington had written to Governor Chittenden pleading with him to comply with the resolution. The core of the argument was that the "point now in dispute is of the utmost political importance to the future union and peace of this great country." Noting that Vermont would be the first new state admitted to the union, he argued that if it was "suffered to encroach upon the ancient established boundaries of the

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<sup>51</sup> Arthur Lee to James Warren, Mar. 8, 1782, WAL, Vol. II, pp. 171-172.

<sup>52</sup> Ellery and Cornell to Governor Greene, Apr. 16, 1782, RICC, pp. 366-367.

adjacent ones, [it] will serve as a precedent for others. . . ." He also observed that Vermont's continued pressing of its boundaries was making enemies of its friends in Congress.<sup>53</sup> Thus the Vermont Legislature, in a series of resolves and acts passed on February 20, 22, and 23, complied with the congressional resolution.<sup>54</sup>

By the time Vermont's reversal reached Congress, however, the situation had changed measurably. The resolves of August 7 and 20, 1781, had been passed in the crisis before Yorktown. The military pressure had now been relieved, and it seemed no longer expedient to offer independence to Vermont. Many members of Congress, especially from the landed states, now generally opposed independence and insisted that Vermont's original rejection of the congressional conditions must stand until Congress made the offer again; this Congress would not do, despite Vermont's new willingness to cooperate.<sup>55</sup> Vitally concerned in the issue, New York instructed its delegates to work against the independence of Vermont and even passed two acts in May, 1782, offering to confirm all grants of land in the region west of the Connecticut River regardless of who granted them.<sup>56</sup>

Also vitally concerned with the outcome, but failing to achieve meaningful consideration of its case in Congress, Vermont continued to consolidate its position within the Grants. The methods it employed

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<sup>53</sup> Washington to Chittenden, Jan. 1, 1782, NHPS, Vol. X, pp. 462-464.

<sup>54</sup> Note by the Editor, NHPS, Vol. X, pp. 484-485.

<sup>55</sup> JCC, Vol. XXII, pp. 106-108; and Ed. Note on Motion Concerning Documents on Vermont, PJM, Vol. 4, pp. 132-135.

<sup>56</sup> JCC, Vol. XXII, pp. 282-286.

raised sharp objections in Congress, which issued another warning to Vermont on December 5, 1782. Noting that in disregard of previous congressional resolutions, the government of Vermont continued to oppress the citizens in the Grants who owed their allegiance to New York "by means whereof divers of them have been condemned to banishment, not to return on pain of death and confiscation of estates." Congress resolved that the actions were "highly derogatory to the authority of the United States and dangerous to the Confederacy. . . ." Insisting that Vermont desist from these activities, Congress warned: "That the United States will take effectual measures to enforce a compliance with the aforesaid resolutions, in case the same shall be disobeyed by the people of the said district. . . ." <sup>57</sup> This assertion of congressional authority was opposed by David Howell of Rhode Island who wanted the clause stricken. He was supported in his opposition by the assembly of Rhode Island which in February, 1783, instructed its delegates to procure the repeal of the resolve against Vermont. In addition, the Assembly ordered its delegates not to join in compulsory measures against Vermont so long as it continued loyal to the interests of the United States and to try to get Congress to grant Vermont its independence. <sup>58</sup>

On the other hand, the delegates from Virginia strongly supported both the opposition of New York to the independence of Vermont and the congressional resolution of December 5. Writing to General Washington as late as February, 1783, Joseph Jones observed that Virginia had

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<sup>57</sup> JCC, Vol. XXIII, pp. 765-769.

<sup>58</sup> Instructions to Delegates from the General Assembly, Feb., 1783, RICC, p. 431.

generally been among Vermont's opponents, "not so much, perhaps, upon the question of independence, as the impolicy of her admission into the union while several very important questions of local concern remain undetermined; and, until these great points are settled, the consent of Virginia, I expect, will be withheld, and if before obtained, it will be a sacrifice of her opinion to the peace and common weal of the United States."<sup>59</sup>

The "very important questions of local concern" Jones referred to, of course, were the problems of western lands and congressional indecision on whether or not to accept the conditions of the Virginia cession. These problems plagued the conduct of Congress throughout much of its existence and in the years 1780 through 1783 drove an additional wedge between the states by increasing the friction among those which were landed and those which were landless. The conflicts eventually spilled over into other areas, weakening both congressional authority and the attempts to strengthen that authority as well. The controversy over western lands, as previously noted, had affected the writing of the Articles of Confederation, and the failure of the Articles to make western lands a common holding of the nation had led Maryland to refuse to ratify that document.

The debates also reflected clearly the nature of the government created by the Confederation. The delegates, when they wrote the Articles, were aware that the basic relationship in political systems was between government and people, as mirrored in the relationship between


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<sup>59</sup>J. Jones to Washington, Feb. 27, 1783, CAR, Vol. III, pp. 554-560.



the state governments and their own citizens. But for the purposes of unified action and policy the revolutionaries had been forced to create a national government. Since it was theoretically impossible to have two powers exercising authority over the same polity, they had created a central government whose only constituents were thirteen artificial persons. Such delegates as James Madison clearly understood this relationship. The debates over the trans-Appalachian West, however, not only involved adjustments between the jarring interests of the thirteen artificial persons but also attempts by individuals to create a direct relationship between Congress and citizens which did not exist under the Confederation.

Maryland's declaration on western lands, read in Congress on January 6, 1779, succinctly summed up the views and fears of the landless states. It asserted that Maryland was "justly entitled to a right in common with other members of the union to that extensive tract of country which lies to the westward of the frontiers of the United States, the property of which was not vested in, or granted to Individuals at the commencement of the present war; . . ." Maryland argued that it would willingly accede to the Articles of Confederation if they guaranteed equal shares of the western lands, but since they did not, Maryland esteemed "it fundamentally wrong and repugnant to every principle of Equity and good policy, on which a Confederation between Free, Sovereign and Independent States ought to be founded; that this or any other State entering into such Confederations, should be burthened with heavy expenses for the subduing and guaranteeing immense tracts of country, if they are not to share any part of the monies arising from the sales



of the Lands within those tracts. . . ."60 More specifically, Maryland argued: "Virginia, by selling, on the most moderate terms, a small proportion of the lands in question, would draw vast sums of money" and would be able to reduce taxes. Cheap land and low taxes, compared to neighboring states, "would quickly drain the States thus disadvantageously circumstanced, of its most useful inhabitants; its wealth and its consequence in the scale of the confederated States would sink of course."<sup>61</sup>

None of the landed states, however, would either permit the Articles to be modified or surrender their claims to the western territories. Virginia especially was adamant and even sponsored several expeditions into the West under the leadership of George Rogers Clark to expel the British and pacify the Indians. Its problems were immensely complicated by claims made by such speculator groups as the Vandalia and Indiana companies, which asserted that they had purchased large tracts of land from the Indians in the region between the Ohio and Mississippi Rivers prior to the war; these claims overlapped those of Virginia. Many members of those companies were also delegates to Congress. Consequently, Virginia was understandably reluctant to surrender the dispute over those territories to Congress.<sup>62</sup>

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<sup>60</sup> Declaration of the State of Maryland, passed Dec. 15, 1778, read Jan. 6, 1779, PGC, Vol. 6, pp. 190-195.

<sup>61</sup> Instructions of the General Assembly of Maryland . . . Respecting the Articles of Confederation, Dec. 15, 1778(?), PGC, Vol. 6, pp. 165-199.

<sup>62</sup> For Clark's activities in the West see Thomas Perkins Abernethy, Western Lands in the American Revolution (New York, 1937), pp. 199-242, *passim*; for the activities of the land companies in relation to members of Congress see *Ibid.*, *passim*.

In December, 1779, protesting against Congress' accepting petitions from the Vandalia and Indiana Companies, the General Assembly of Virginia argued that Congress had no right to accept such petitions because, "when Virginia acceded to the Articles of Confederation, her rights of sovereignty and Jurisdiction within her own territory were reserved & secured to her and cannot now be infringed or altered, without her consent." Willing to make great sacrifices for the common cause, as it had already done "on the subject of Representation," the Assembly declared that it would consider any reasonable suggestion to hasten the completion of the Confederation. But the Assembly also asserted that "the commonwealth of Virginia expressly protests against any Jurisdiction, or right of adjudication in Congress upon the petitions of the Vandalia or Indiana Companies, or any other matter or thing subversive of the internal policy, civil government, or sovereignty of this or any other of the United American States or unwarranted by the Articles of Confederation."<sup>63</sup>

Meanwhile, in June, 1779, for various reasons, Virginia had opened a land office.<sup>64</sup> The anger aroused in Congress by that action virtually assured that Congress would not concede Virginia's demands on the petitions. James Mercer, one of Virginia's delegates, reported: "I am sure the prejudice of Congress against Virginia on account of the land office is now so great that I cou'd not expect Justice at their Hands, and if I mistake not, the Nature of Virginia's Demand, is such as to

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<sup>63</sup> Remonstrance of the General Assembly of the State of Virginia to Congress, Dec. 14, 1779, PGC, Vol. 6, pp. 200-203.

<sup>64</sup> Abernethy, Western Lands in the Revolution, pp. 218-219.

require Chancellors, not prejudiced Judges at Common Law to settle them."<sup>65</sup>

The pressures of the war during 1780, and the necessity of completing the Confederation, however, caused both New York and Virginia to reconsider their western claims. Governor Clinton of New York noted in early January, 1780, that he would be willing to surrender a part of New York's claim if Congress would guarantee the rest.<sup>66</sup> The New York delegate, Philip Schuyler, disagreed, arguing that a cession would be injurious to New York because it would take property rightfully belonging to the state and because Congress had no appreciation of Indian problems.<sup>67</sup> The state legislature, however, agreed with Clinton and, on February 18, surrendered its jurisdiction over its western territory, citing as its reason, "to accelerate the Federal Alliance, by removing as far as it depends upon them, the before mentioned impediment to its final accomplishment."<sup>68</sup>

The Virginia delegates, Joseph Jones, James Madison and John Walker, also separately urged their government to cede a portion of its western lands since it was obvious that unless it did Maryland would not confederate. But none of them was willing to surrender the Virginia claims without some conditions.<sup>69</sup> Writing to Washington, Joseph Jones

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<sup>65</sup> James Mercer to Jefferson, Jan. 8, 1780, PTJ, Vol. V, pp. 261-262.

<sup>66</sup> Clinton to Chancellor Livingston, Jan. 7, 1780, PGC, Vol. 5, p. 445.

<sup>67</sup> Schuyler to the Lt. Governor and the Speaker of the Assembly of New York, Jan. 29, 1780, LMC, Vol. V, pp. 20-22.

<sup>68</sup> New York Surrenders Jurisdiction Over Her Western Territory to the National Confederation, Feb. 18, 1780, PGC, Vol. 5, pp. 499-502.

<sup>69</sup> Abernethy, Western Lands in the Revolution, pp. 243-245.

noted that he would be attending the Virginia Assembly in order to participate in its decision on the western lands. He observed: "We are already too large for the energy of republican government; and I fear, shall still be so, if the Assembly shall relinquish their claims to the north-west of the Ohio to the Continent."<sup>70</sup> Meanwhile, George Morgan, a member of the Indiana Company, made the mistake of appealing to the Virginia delegates to support a special judicial body in Congress to judge the claims of the company. He noted that a number of prominent men were involved and that the company had lost its appeal in the Virginia Assembly by only the deciding vote of the speaker.<sup>71</sup> Morgan was sharply rebuked by Madison, who declared that his state had already made its decision, and in accordance with the relationship established between Congress and the states, Morgan's request "could not reconcile with the respect due from every State to its own Sovereignty and honor, an appeal from its own decisions, to a foreign tribunal, in a case which involves the Pretensions of Individuals only. . . ."<sup>72</sup> Moreover, the appeal moved Madison to remind Joseph Jones to call the Virginia Assembly's attention to "the conditions which prudence requires should be annexed to any territorial cession that may be agreed on. I do not believe there is any serious design in Congress to gratify the avidity of land mongers, but the best security for their virtue in this respect

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<sup>70</sup>J. Jones to Washington, Nov. 12, 1780, CAR, Vol. III, pp. 103-104.

<sup>71</sup>George Morgan to Virginia Delegates in Congress, Nov. 15, 1780, PJM, Vol. 2, pp. 176-177.

<sup>72</sup>Virginia Delegates to Morgan, Jan. 20, 1780, PJM, Vol. 2, p. 188.

will be to keep it out of their power."<sup>73</sup>

The cession, as passed by the Assembly on January 2, 1781, contained eight conditions which Congress was required to fulfill before the Assembly would transfer its claim to the territory north of the Ohio River. The first six, though causing some debate, were generally considered just by Congress. The last two conditions, however, caused much difficulty. The seventh insisted that Congress honor the relationship established between itself and the states by declaring null and void the claims of any private persons to portions of the region if those claims had been made inconsistent with the law of Virginia. This last would rule out all the claims of the companies. Finally, the Assembly insisted that Congress guarantee to Virginia all the land south of the Ohio River and bounded by Pennsylvania, Maryland, and North Carolina.<sup>74</sup>

While Congress would not accept all the conditions of the cession, Virginia's action was at least enough to persuade Maryland to ratify the Articles of Confederation. Some states, however, continued to object to the opening of a land office in Virginia, and feelings against that state remained high. In January, 1781, New Jersey set the keynote of what would become the major objection to the Virginia cession. It declared that Virginia was selling and claiming lands "which before and at the commencement of the present war were confessedly vested in the Crown of Great Britain, when on the plainest principles of the law of

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<sup>73</sup>Madison to J. Jones, Nov. 21, 1780, PJM, Vol. 2, pp. 190-191.

<sup>74</sup>Resolution of the General Assembly of the Commonwealth of Virginia for a Cession of Western Territory, Jan. 2, 1781, PCC, R88, Item 75, pp. 355-358.

nations, of reason, truth and justice, they are become by the revolution vested in Congress for the use of the foederal Republic They represent."<sup>75</sup> Throughout most of 1781, however, the question of the cession remained submerged while Congress was involved in finances and the southern campaign of the British. But in October, the issue was once again heatedly debated on the floor of Congress.

The committee to whom the various cessions of New York, Virginia, and Connecticut, and all claims of several companies were referred, consisted entirely of members from landless states--New Hampshire, Rhode Island, New Jersey, Pennsylvania, and Maryland. Madison noted: "The ingredients of this composition prepared us for the complextion of their proceedings."<sup>76</sup> He also asserted: "An agrarian law is much covete[d] by the little members of the Union, as ever it was by the indigent Citizens of Rome."<sup>77</sup> Madison's equating states with people was perfectly consistent with the view that the Confederation constituted little more than a common council of thirteen artificial persons; so too was the attempt of Virginia's delegates to get the powers of the committee strictly defined. On October 16, the delegates argued that the committee could not accept the petitions of the land companies "because if the lands . . . lie within the limits of such State, by its authority alone can the merits of their claims be enforced, [and] because the jurisdiction of Congress in territorial questions, being

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<sup>75</sup> Representation of the State of New Jersey, Jan. 3, 1781, PCC, R82, Item 68, pp. 567-571.

<sup>76</sup> Madison to Jefferson, Jan. 15, 1782, PJM, Vol. 4, pp. 32-33.

<sup>77</sup> Madison to Pendleton, Oct. 30, 1781, PJM, Vol. 3, pp. 296-298.

confined to an adjustment of the confronting claims of different states, if the lands claimed by those companies lie within the limits of Virginia, or any of the other states, Congress are interdicted by the Confederation from the cognizance of such claims. . . ."78

Nevertheless, the committee continued to hear evidence over Virginia's objections. Edmund Randolph noted that the delegates had attended the hearings of the committee and listened to the voluminous evidence of New York and Connecticut. But the Virginia delegates declined to present any arguments, holding that they "were not free to submit to the inspection and decision even of congress itself the charters and other territorial documents of Virginia." The delegates grounded their refusal on two principles: First, the resolutions of Congress which had moved Virginia to make its cession, as they explicitly intended to eliminate all inquiries into territorial rights, "were an actual fraud upon Virginia;" second, the assumption of jurisdiction being made by the committee and by Congress was "contrary to the confederation. . . ."79

Madison, writing to Jefferson in November, 1781, discussed the actions of the committee and of Congress towards Virginia and stated: "They clearly speak the hostile machinations of some of the States against our territorial claims, & afford suspicions that the predominant temper of Congress may coincide with them." He cautioned, however, that the committee's report had not yet been debated on the floor of Congress and "that the report itself is not founded on the obnoxious

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<sup>78</sup>JCC, Vol. XXI, pp. 1057-1058.

<sup>79</sup>Ibid., pp. 1076-1077; and Randolph to the Governor of Virginia, Nov. 7, 1781, LMC, Vol. VI, pp. 259-261.



doctrine of an inherent right in the U. States to the territory in question, but on the expediency of cloathing them with the title of New York. . . ." He also observed that the committee was largely made up of states which were "systematically & notoriously adverse to the claims of western territory and particularly those of Virginia" and therefore that its opinion was "no just index of the opinion of Congress. . . ."80

But the attempts of the landless states to violate the constitutional relationships of the Confederation angered Madison. While he requested Jefferson to forestall any rash decisions on the subject by Virginia's Assembly, he still firmly believed that the Assembly had every reason to revoke or suspend its Act of Cession and to remonstrate against the invasion of its jurisdiction. Indeed, Madison was so disturbed he urged that the Assembly "ought in all their provisions for their future security, importance & interest to presume that the present Union will but little survive the present war." He was "equally sensible nevertheless of the necessity of great temper & moderation with respect to the first point, and in the last that they ought to be as fully impressed with the necessity of Union during the war as of its probable dissolution after it."81

The committee report accepted the cession of New York, since it was unconditional and because it encompassed much of the territory claimed by Virginia; and as expected, the committee rejected the cession of Virginia. On the claims of the companies, it endorsed that of the

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<sup>80</sup> Madison to Jefferson, Nov. 18, 1781, PJM, Vol. 3, pp. 307-308.

<sup>81</sup> Ibid.

Indiana Company, rejected those of the Illinois and Wabash Companies, and dismissed that of the Vandalia Company except for guaranteeing compensation to those who had already purchased land from that company. The rest of the report, in essence, fulfilled Virginia's first six conditions, perhaps with hopes of gaining that state's support.<sup>82</sup> But as was obvious from the Virginia delegates' previous stance, they would not accept the report.

The consideration of the committee's report was delayed for several months by the press of other business. But beginning in April, 1782, the Virginia delegates began pushing hard for some kind of decision so that the Virginia Assembly could know how to react. On April 18, they proposed consideration of the report and moved to have each member of Congress "declare upon his honor, whether he is, or is not personally interested directly or indirectly in the claims" of the companies, but through parliamentary maneuvers consideration was postponed.<sup>83</sup> On April 23 the delegates reported to Governor Benjamin Harrison that they "again endeavoured to obtain from Congress some explicit division on the territorial cession of Virginia that the Assembly may not again be left in uncertainty on that subject." The reason they failed at this time, they noted, was the illness of the President of Congress, John Hanson, and the delegates considered it prudent to yield to postponement.<sup>84</sup>

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<sup>82</sup>JCC, Vol. XXII, pp. 223-232.

<sup>83</sup>Ibid., pp. 191-194.

<sup>84</sup>Virginia Delegates to Benjamin Harrison, Apr. 23, 1782, PJM, Vol. 4, p. 174.

The tensions building in Congress over the issue even led to questionable activities by prominent officials in Congress, and because of this, to Madison's urging that the requests of Congress be ignored. Writing to Jefferson in March, 1782, Madison noted that Congress had received a bundle of papers relative to the relations of Virginia with the Cherokees from Jefferson and that apparently these papers had been requested by former President Thomas McKean "without any written or verbal sanction . . . of Congress; and not improbably with a view of fishing for discoveries which may be subservient to the aggressions mediated on the territorial rights of Virginia." Madison noted that other papers had apparently been promised and requested from Jefferson that if he discovered "the papers contain anything which the adversaries of Virginia may make ill use of, you will not suffer any respect for the acts of Congress to induce you to forward hither."<sup>85</sup>

On May 6 the consideration of the cession was postponed again.<sup>86</sup> The delegates from Rhode Island justified the postponements on the grounds that they wanted specific instructions from their state's assembly on how to proceed and also that "the United States might have an opportunity of recommending to the state of Virginia and other states . . . to make unrestricted and unconditional cessions . . . and to check that rage for securing extensive possessions by sale and settlement which hath seized Virginia. . . ."<sup>87</sup> In the following months Virginia

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<sup>85</sup> Madison to Jefferson, Mar. 26, 1782, PJM, Vol. 4, p. 125.

<sup>86</sup> JCC, Vol. XXII, p. 240.

<sup>87</sup> Ellery and Cornell to Governor Greene, May 7, 1782, RICC, pp. 368-369.

continued to press for some decision on its cession but failed in July and again in September.<sup>88</sup> Congress finally abandoned the committee's report in so far as to consider the New York cession by itself and on October 29, 1782, finally accepted it.<sup>89</sup> The question of the Virginia cession, however, had reached an impasse.

Consequently, the consideration of the Virginia cession did not come up again until June, 1783. On the tenth, Madison wrote Edmund Randolph that the committee report, which had raised so many problems in 1782, had finally been recommitted and that a new report had been made which he believed might serve as a basis for compromise, primarily because "it tacitly excludes the pretensions of the Companies." He did foresee some difficulties, however, both from New Jersey and from "the thinness of Congress."<sup>90</sup> As Madison predicted, the consideration of the cession was interrupted on June 30 by a remonstrance from the Legislative Council and General Assembly of New Jersey. In this protest New Jersey once again argued that the western lands belonged in common to all the United States, as all states had spent both treasure and blood to guarantee that those backlands would be reserved for the United States as a whole.<sup>91</sup>

Despite the objections, Congress finally reached a settlement in September. After listing the eight conditions of the Virginia cession, Congress agreed to the first six. On the seventh, which would have

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<sup>88</sup>JCC, Vol. XXII, pp. 423-426; Vol. XXIII, pp. 550-553, 604-606.

<sup>89</sup>JCC, Vol. XXIII, p. 694.

<sup>90</sup>Madison to Randolph, June 10, 1783, PJM, Vol. 7, pp. 134-135.

<sup>91</sup>JCC, Vol. XXIV, pp. 406-409.

discounted the claims of the companies, Congress decided that it could not "declare the purchases and grants therein mentioned, absolutely void and of no effect" but that the sixth condition, already acceded to, which outlined how the lands beyond the Ohio should be disposed of, "is sufficient on this point." The final condition, that of a congressional guarantee to Virginia of the land south of the Ohio, Congress asserted it could not grant without entering into a discussion of the right of Virginia to that land. This Congress refused to do, as it was its original intent to avoid all discussions of right "and only to recommend and accept a cession of their claims, whatsoever they might be to vacant territory." Only New Jersey and Maryland opposed the report.<sup>92</sup>

Though Congress had not acceded to all of the conditions of the Virginia cession, it had denied any congressional authority to interfere between individuals and states and had refused to assume the power to judge the question of right, thus finally conforming to the constitutional relationships established by the Confederation. Consequently, in December, 1783, the Virginia Assembly acquiesced to Congress' conditional acceptance of the cession.<sup>93</sup>

Throughout the debates on the trans-Appalachian West and the New Hampshire Grants, the states aligned themselves on the questions strictly according to their particular interests. On May 1, 1782, Madison described the impact of these debates on congressional politics. Discussing first the question of Vermont, he declared that its independence

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<sup>92</sup>JCC, Vol. XXV, pp. 554-565.

<sup>93</sup>J. Jones to Jefferson, Dec. 21, 1783; and Dec. 29, 1783, PTJ, Vol. 6, pp. 414-415, 428.

was supported principally by the "Eastern States" (Massachusetts, Connecticut, Rhode Island, and New Hampshire) because of three reasons; old prejudices against New York; interests which many citizens of those states had in lands granted by Vermont; and most importantly, because of the extra vote their region would achieve in Congress. Pennsylvania and Maryland also supported independence for Vermont, hoping to reinforce the opposition to claim of western territory. New Jersey and Delaware joined the pro-Vermont forces, not only for the above reasons, but also "with the additional view of strengthening the interests of the little states."<sup>94</sup>

The independence of Vermont was opposed by New York for obvious reasons, but it was also opposed by Virginia, North Carolina, South Carolina, and Georgia, principally for four reasons; first was a "habitual jealousy" of "Eastern Interests;" second was the opposition expected from Vermont to western claims; third was "the inexpediency of permitting so unimportant a State, to an equal vote," in deciding peace and other current interests of the union; finally was the fear of setting precedents for dismembering other states in the Confederation.<sup>95</sup>

On the problem of western lands, Madison noted that the claims were most strongly opposed by Rhode Island, New Jersey, Pennsylvania, Delaware, and Maryland. He asserted that Rhode Island's opposition was inspired by a desire "to share in the vacant territory as a fund of revenue" and "by the envy & jealousy naturally excited by superior resources

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<sup>94</sup> Observations Relating to the Influence of Vermont and the Territorial Claims on the Politics of Congress, May 1, 1782, PJM, Vol. 4, pp. 200-202.

<sup>95</sup> Ibid.

& importance." He believed that the other four states were also partly influenced by these two factors, but charged that their opposition was caused "principally by the intrigues of their Citizens who are interested in the claims of land companies." He also observed that the settlement of the claims was hampered by the delaying tactics of other states. Aware that if the western claims were settled, Maryland and Pennsylvania would quickly abandon Vermont, Massachusetts and Connecticut were active "in keeping the territorial Controversy pending." Those which supported western claims were naturally the states which had interests in the region--Virginia, North Carolina, South Carolina, Georgia and New York.<sup>96</sup>

Obviously the pushing and hauling over the territorial problems of the Confederation generated as much friction among the competing interests of the states as had the financial problems during 1780 and 1781. These claims, as they were fought openly in the corridors of Congress, created much bitterness, and illustrated to both the members of Congress and the legislatures of the states that body's ineffectiveness as a judge of interstate conflicts. Equally as important, the conflicts over the territories illustrate the difficulties in classifying any of the delegates as either nationalists or states' rightists. When the interests of their particular states were involved, the delegates assumed whatever constitutional posture which was expedient to promote or protect those interests. The ultimate victim of the competing interests, of course, was congressional authority.

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<sup>96</sup>Ibid.

## CHAPTER VII

### IMPOST TO IMPOST

The problem of conflicting territorial claims continued to plague interstate cooperation throughout 1782 and 1783, but so too did congressional finances. At the close of 1781, the impost proposed earlier in the year had not been ratified by the states, and Congress once again resorted to apportioning quotas among the states based on estimated populations in order to support its finances. Throughout 1782, both Congress and the Superintendent of Finance urged the states to comply with the requisitions and the impost resolution. In both cases they failed. The conflicts which had been developing among the states throughout the war became even more apparent after the capture of Cornwallis in October, 1781. After that event, the states began to turn their attention inward in order to solve their own pressing economic problems. In part this was due to the belief prevalent in many states that victory at Yorktown signaled Britain's ultimate defeat. In addition, many states, especially in the South, were fiscally, physically and psychologically exhausted by the strenuous efforts exerted in opposing Britain's invasion of the South for more than two years. It can also be argued, however, that the lack of a serious British military threat after October, 1781, simply unmasked the conflicts which had been building throughout the war.

The conflicts became most apparent, once again, the realm of



finances. During 1782, without the passage of the impost, Congress had to continue to rely upon requisitions from the states. The returns from this method never amounted to much and dwindled even further in the months following Yorktown, as several states began to question the fairness of the quota system. The contributions of the states also lessened because the citizens of many states urged their own governments to pay the debts owed them by the Continent, and the states responded by using the taxes raised for Congress to pay those obligations. Realizing that little aid was forthcoming from the states and spurred on by Robert Morris, in late 1782 and early 1783 Congress again tried to reorder its finances by establishing a source of income which would be independent of direct state control.

Throughout his reign as Superintendent of Finances, Morris attempted to strengthen congressional finances and congressional power. As part of his program he insisted upon hard money taxes and strict federal control over all money raised. Viewing the public debt as a potential bond of union, he opposed states paying any portion of the national debt and argued that such debts could be paid only by federal taxes levied and collected by Congress.<sup>1</sup> The so-called "Nationalist Congress" which existed almost coterminously with his period in office was obviously sympathetic with part of his program but perhaps was not so nationalistically oriented as historians such as E. James Ferguson and Merrill Jensen have indicated.<sup>2</sup>

Morris, after all, was the officer whom Congress had selected to

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<sup>1</sup>Ferguson, Power of the Purse, pp. 140-145.

<sup>2</sup>Ibid., and Jensen, The New Nation, pp. 4-5.

bring order to the nation's chaotic finances, and members were inclined to support him as such. Each of them had experienced the frustrations and dangers inherent in relying upon the states to finance the war and many of them recognized the possible injustices which would result to individuals if the states were permitted to pay Congress' debts. At the same time, they were also representatives of their states, each of which was fearful that if any of Morris' proposed methods for acquiring federal taxes were imposed, the burden of financing the war and the post-war national government would fall unequally upon the states. The delegates responded to the fears of their states and rejected most of Morris' proposals. Those they accepted were considerably weaker than what Morris had intended.

As discussed previously, even before Morris' appointment Congress had resolved on February 3, 1781, to ask the states to permit it to collect a five percent impost on imports and prize goods. Reluctant to comply with this request for various reasons, the states were slow to grant the permission. Thoroughly approving of the impost, Robert Morris, acting in his capacity as Superintendent of Finance, had written a harsh letter to the states of Massachusetts, Rhode Island, and Maryland in early January, 1782, demanding that those three states pass the impost.<sup>3</sup> A month later he wrote another circular letter, which was as strongly worded but less critical, outlining the financial and military predicament of the country. Attempting to dispel the belief that any further aid could be expected from abroad, he declared that he had received "the reiterated determination of France to grant us no further

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<sup>3</sup>Supra, chp. v, pp. 160-161.

pecuniary aid." This situation had developed, he asserted, because America's domestic credit had ceased to exist and "until domestic credit is established foreign credit cannot exist, for it is absurd to expect that foreigners will confide in a government that has not the confidence of its own citizens." Noting that "many people flatter themselves with hopes of peace" because of the victory at Yorktown, he declared: "The successes of last campaign will undoubtedly derange the plans of the enemy, but whether or not those successes will prove decisive must depend upon ourselves." He then pleaded with the states to fulfill their federal obligations and comply with the resolutions of Congress.<sup>4</sup>

Perhaps, in part, because of Morris' importunings, Madison was able to report in early July, 1782, that every state had granted the impost except for Rhode Island and Georgia.<sup>5</sup> Rhode Island, however, would remain adamantly opposed to the impost and sent delegates to Congress which reflected that opinion. In the judgement of the foremost historian of congressional finance, one of these delegates, David Howell, "almost singlehandedly wrecked the impost of 1781."<sup>6</sup> Indeed, on the question of the impost, Howell defended the interests of his state as ardently as the delegates from Virginia had defended their state's interests in the western lands.

Beginning his campaign as early as July, 1783, Howell discussed his actions in a letter to Governor Greene. He noted that eleven states

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<sup>4</sup>Robert Morris, Circular, Feb. 13, 1782, PA, 1st Ser., Vol. IX, pp. 488-493; and MHS, 7th Ser., Vol. 3, pp. 324-332.

<sup>5</sup>Madison to Randolph, July 2, 1782, PJM, Vol. 4, pp. 386-387.

<sup>6</sup>Ferguson, Power of the Purse, p. 152.

had complied with the resolution but that various states had attached conditions to their consent. Some states insisted that it be replaced in a few years, other stipulated that the money derived from the duties could not be used to discharge the half-pay pensions for military officers, and still others demanded that the states retain the right to appoint the officers who would collect the tax. On behalf of Rhode Island, Howell argued that, because of his state's exposure to attack and because its commerce had been destroyed, "if any substantial revenue could be derived from a duty of trade, this benefit ought in all right and justice, to belong solely and exclusively to the State, in compensation for losses already sustained, and as a security against still more fatal evils apprehended in all future wars."<sup>7</sup>

Attempting to measure the impact of the impost on his state, Howell noted that Rhode Island imported more goods than any of the surrounding states, and therefore would pay more than its fair share of the duties. He asserted that the impost would lead to a rise in the prices of home products and, since Rhode Island acquired most of these products from surrounding states, it would in effect be paying five percent on those goods as well. He also feared that neighboring states would raise their duties and thus leave Rhode Island at their mercy. He argued that only if trade remained free from duties could his state "be enabled to treat with our neighbors, however extensive their territory, or however overbearing their temporary insolence, upon terms of equality."<sup>8</sup>

Pressing yet another point, Howell observed that passage of the

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<sup>7</sup>David Howell to Governor Greene, July 30, 1782, RICC, pp. 381-382.

<sup>8</sup>Ibid., p. 383.

impost would lessen Rhode Island's sovereignty because money would be drawn out of it by officials appointed by the United States. He argued "that all moneys raised in a sovereign state ought to pass to the credit of that sovereignty exclusively, and all civil officers acting in a Sovereign State ought to be authorized by and accountable to the sovereignty." He also noted that Congress was not accountable for the monies collected under the proposed impost, and therefore there was no guarantee that a change in time or of Congress might not bring abuses. Howell finally observed that he had been specifically instructed by the assembly to gain a portion of the backlands for Rhode Island and declared: "As some states pertinaciously persist in claiming exclusive rights to said lands, it was not to be expected that our State would part with all the benefits of its maritime situation until some assurance could be obtained of a participation in common with other States in the back lands. . . ." <sup>9</sup>

Both Howell and fellow delegate Jonathan Arnold continued to oppose the impost in Congress and in letters to individuals. Writing in August, 1782, to Welcome Arnold, a member of the state legislature, Howell observed: "At the moment of my writing this letter you are I suppose at So. Kingston deliberating the 5 per Cent. I hope you will not adopt it. You will thereby raise money for some States who will not raise any for you nor even for themselves." <sup>10</sup> Meanwhile, over the objections of Arnold and Howell, Congress resolved on October 10, 1782, that Rhode Island and Georgia answer immediately whether or not they would comply

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<sup>9</sup> Ibid., pp. 383-385.

<sup>10</sup> Howell to Welcome Arnold, Aug. 23, 1782, LMC, Vol. VI, p. 454.

with the impost.<sup>11</sup> Communicating the resolution to Governor Greene on October 13, the Rhode Island delegates once again reminded their state that Congress had not yet solved the problem of western claims and wondered, under these conditions, "whether it will be expedient for our State to pass the impost. . . ."<sup>12</sup> Two days later the delegates wrote still another letter to Governor Greene pleading that the state not comply with the impost.<sup>13</sup>

Following its own inclinations and importunings of its delegates, on November 1, 1782, the Rhode Island Assembly unanimously rejected the impost.<sup>14</sup> The Speaker of the House, William Bradford, then wrote Congress on November 30 to explain the three reasons why the Assembly would not comply. First, he declared that the impost was unequal in operation because it would weigh most heavily upon the commercial states. Second, he observed that compliance would introduce officers into the states which were not accountable to the government of Rhode Island; to comply therefore would have violated the state's constitution. Finally, he noted that the assembly feared that with a separate source of income, Congress would become independent of its constituent members, the states.<sup>15</sup>

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<sup>11</sup>JCC, Vol. XXIII, pp. 643-645.

<sup>12</sup>Jonathan Arnold and Howell to Governor Greene, Oct. 13, 1782, RICC, pp. 393-394.

<sup>13</sup>J. Arnold and Howell to Governor Greene, Oct. 15, 1782, RICC, pp. 394-399.

<sup>14</sup>Ed. Note, RICC, pp. 399-400.

<sup>15</sup>William Bradford to the President of Congress, Nov. 30, 1782, PCC, R78, Item 64, pp. 526-528.

Before receiving this letter Congress had appointed a committee to go to Rhode Island and urge the assembly to grant the impost.<sup>16</sup> But upon receipt of Bradford's message, Congress delayed the departure of the committee and referred the letter to the committee originally assigned the task of writing instructions for the delegation so that it could answer the objections.<sup>17</sup> Meanwhile, Congress had become very angry at Rhode Island's delegates and at David Howell in particular. In designing the impost and in working diligently to obtain the consent of their states, most delegates had surrendered their role as state ambassadors on this issue and had acted for what they considered the national good. Thus for most congressmen, the Rhode Island delegates' adherence to their role as state emissaries violated a national legislative trust. Consequently Congress attempted to censure Howell for his obstreperous conduct, charging that he had violated the secrecy of Congress by sending extracts from America's ministers abroad to newspapers in Rhode Island which tended to prove that the country could obtain foreign loans if it so chose.<sup>18</sup> Congress' efforts, however, proved unavailing as the legislature of Rhode Island approved the conduct of its delegates.<sup>19</sup> In addition, the deputation sent to Rhode Island never arrived. While on the road, it received news that the Virginia assembly had repealed the impost. Consequently, with the usefulness of its

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<sup>16</sup>JCC, Vol. XXIII, pp. 771-772.

<sup>17</sup>Report of the Committee on the Letter From the State of Rhode Island, Dec. 16, 1782, PCC, R29, Item 20, Vol. I, pp. 213-230.

<sup>18</sup>RICC, pp. 411-424.

<sup>19</sup>Ferguson, Power of the Purse, pp. 153-154.

mission lost, the committee returned despondently to Philadelphia.<sup>20</sup>

The action of the Virginia assembly not only caused the deputation to Rhode Island to return, but it had other effects as well. First, it highly embarrassed Madison because he had been so active in opposing the stance of Rhode Island and in condemning the actions of Rhode Island's delegates.<sup>21</sup> It also aroused the anger of several members of Congress, who were already irritated by that state's claims to western territory. For example, Samuel Wharton of Delaware, writing to his state's Council in early 1783, called the repeal "extraordinary," especially as Virginia had "paid little, or no part of the Requisition of 1782, had not one Soldier in the great Army last Campaign, and only a few hundred in the separate, southern Army," and as the state continued its "futile claim to the immense Western Region."<sup>22</sup> Finally, and most importantly, the repeal ended congressional efforts to impose the impost under the resolution of February 3, 1781.

The rest of Congress' financial schemes during 1782 failed as well. After the victory at Yorktown, many states, believing that peace was at hand, were reluctant to assist Congress further until their own local financial problems were solved. There was no assurance, however, that Britain had indeed given up its efforts. Frightened by the lethargy of the states, Elias Boudinot of New Jersey, writing to his brother in February, 1782, noted that there was little prospect of peace and that

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<sup>20</sup>JCC, Vol. XXIII, p. 831.

<sup>21</sup>Madison to Randolph, Jan. 22, 1782[3], and Madison to Randolph, Jan. 28, 1783, PJM, Vol. 6, pp. 55-56, 156-157.

<sup>22</sup>Samuel Wharton to the Delaware Council, Jan. 6, 1783, LMC, Vol. VII, pp. 2-3.



there was even a rumor that Britain was sending yet another Army to America. He reported that General Washington believed the campaign of 1782 would be the most important of the war, but declared: "Alas! we are distressed with the langour & Inactivity of the States--All that can be done by Congress, has been, to rouse them from their Lethargy--but all is treated as a matter of course. We have no official Information of any spirited measure taken by any State in the Union equal to the necessity of the Times--"<sup>23</sup>

Boudinot's complaints had much foundation, as the states began to complain even more loudly about the apportionment of congressional quotas and about their inability to pay. As noted previously, Congress had passed another requisition on the states on October 30, 1781, and set quotas on November 2 for the \$8,000,000 needed to finance the campaign of 1782. Furthermore, answering the demand of Morris, these quotas were to be paid in specie.<sup>24</sup> Samuel Livermore, writing to President Meshech Weare of New Hampshire, noted that state's share of the \$8,000,000 was \$373,598 and complained that it was too high. Observing that Congress based its quotas on population estimates of 1775, he asserted that New Hampshire had been assessed on the basis of a population of 100,000 when a recent census had shown that New Hampshire contained only 76,000 inhabitants. Congress, however, had continued to tax New Hampshire at the higher figure. He also noted that Congress had declared in its resolution that the apportionment on these erroneous

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<sup>23</sup> Elias Boudinot to Elisha Boudinot, Feb. 20, 1782, in J. J. Boudinot, ed., The Life, Public Services, Addresses and Letters of Elias Boudinot (New York, 1972), Vol. I, p. 244.

<sup>24</sup> *Supra*, chp. v, p. 161.

figures would not "be drawn into example in future." But, Livermore declared that all previous requisitions had contained the same clause. Obviously frustrated, he acidly declared: "It is further held forth that if any state is now over burthened they shall be recompensed hereafter. I fear this word hereafter is to be taken in a theological sense."<sup>25</sup>

President Weare responded in writing on February 23, 1782. He insisted that New Hampshire's quota be reduced according to the new enumeration of population. Listing the state's financial difficulties, he cited as one cause the lack of specie in New Hampshire, which had resulted both from a lack of trade and because the state had mistakenly set a higher rate of exchange for the old continental bills of credit than surrounding states, and consequently much hard money had been drained from the state. He also reminded Congress again of the "embarrassments we are under on account of the disputes subsisting in the Western Parts of this State." He argued that if Congress considered these two factors alone "our Inability to pay (even the just proportion of the State) will be easily perceived."<sup>26</sup> Congress referred Weare's letter to a committee, which advised on March 25, 1782, that Congress not accede to his request. The committee observed that the quotas had been assigned according to estimates of population instead of on the valuation of land because it was more practical. The committee also argued that to reduce New Hampshire's quota without official population

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<sup>25</sup> Livermore to the President of New Hampshire, Nov. 6, 1781, LMC, Vol. VI, pp. 256-258.

<sup>26</sup> Weare to Livermore, Feb. 23, 1782, PCC, R78, Item 64, pp. 218-220.

returns from the other states would prove unjust, and to adjust its quota without distributing the excess to other states would leave the quota deficient.<sup>27</sup> Virginia also notified Congress that it was going to enumerate its white inhabitants in order to "secure us against a repetition of the extravagant quota assigned to us in November last."<sup>28</sup>

Virginia, more than any other state, complained of fiscal exhaustion throughout 1782 and of its inability to pay taxes in specie. The assembly and most of the officials in the state were convinced that Virginia had carried the burden of the British campaign in the South throughout 1781 not only by supplying the Southern Army but also because it had been the battlefield. Early in 1782, David Jameson wrote to James Madison noting that the state could not even pay its own officials. He asserted that "for the quarters Salary due to the Council the first day of April, they recd. as much paper Money as wld purchase only £72 Specie. Since that time, no officer of Government has been paid a shilling."<sup>29</sup>

The British had not yet abandoned Charleston, and consequently General Greene and his Southern Army had to be maintained. But Governor Benjamin Harrison reported in January, 1782, that Virginia could no longer supply the Southern Army. He asserted that the state had suffered intolerable inflation due to its issuance of paper money and that the

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<sup>27</sup> Report of Committee on the Letter from President Weare of 23d of Feby, 1782, Mar. 25, 1782, Agreed to May 22, 1782, PCC, R79, Item 20, Vol. I, pp. 19-21. Printed Copies in PJM, Vol. 4, pp. 121-123; and JCC, Vol. XXII, pp. 158-160.

<sup>28</sup> Randolph to Madison, June 20, 1782, PJM, Vol. 4, p. 356.

<sup>29</sup> Jameson to Madison, ca. Jan. 12, 1782, PJM, Vol. 4, p. 27.

state's credit was no longer any good. In addition, he noted that "the Legislature have followed the example of some States near you and not left it in the power of the Executive to send the Militia out of the State, nor can our Quota of troops be shortly filled up for want of specie" and therefore "the present wants of Gen. Greene must mostly be supported by Congress."<sup>30</sup>

The following month, Harrison wrote to the Virginia delegates and declared that Virginia could no longer support the Continental establishment in the state because it did not have "the Command of a Shilling for the present, nor the least prospect of obtaining money for several Months to come. . . ." He requested that the delegates "call on Congress and to insist that they deal by us as they have done by other States, that is to feed their Troops and to support their Posts by Contracts and to furnish their Quartermasters and Commissioners with money to support their several Departments. . . ." He also demanded that Virginia be credited with the supplies it had furnished or would furnish for the troops. He asserted: "We wish not to exonerate the State from a single Farthing of its due Proportion of the American Burdens but we have a Right to share Benefits in common with other States and can not support the Southern Army alone any longer."<sup>31</sup> In March, 1782, Harrison informed the delegates that the Assembly had already taken some actions to assure that Virginia was properly credited for supplies furnished

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<sup>30</sup> Benjamin Harrison to the President of Congress, Jan. 21, 1782, PCC, R85, Item 71, Vol. II, pp. 345-347. Printed copy in H. R. McIlwaine, ed., Official Letters of the Governors of Virginia (Richmond, 1926-1929), Vol. III, p. 131.

<sup>31</sup> Harrison to Virginia Delegates, Feb. 9, 1782, PJM, Vol. 4, pp. 58-59.

the Continent. He observed that it had forbidden him to forward any specific supplies to General Greene "unless by special order of Congress, or the Financier; the meaning of which is, that the State may get credit for their amount on the money demand made on us; . . ."32

Finally, in August, 1782, Harrison summed up his state's frustrations not only with Congress but with the other states as well. He asserted: "No Country in the Union has been more prodigal of its blood and Money than Virginia nor has any one had more men in the field till the fall of Charles Town or endeavour'd more both before and since to keep their Battalions full. . . ." He noted that the Assembly had passed laws recently to recruit more men and that a great number had been raised by paying the "most extravagant Bounties" but that they had been "marched and counter march'd thro' this country till most of them have been lost either by Death or Dessertion. . . ." The last he attributed to the lack of clothing and supplies which the other states could have supplied, and he angrily declared: "Had the other states done by us as we did by them when in similar circumstances, I trust no complaints would have been heard."33

George Clinton, the Governor of New York, also complained of his state's share of the quota and of the fact that Congress was now demanding money payments instead of payments in specific supplies. Writing to Robert Morris in August, 1782, he noted that the state was trying to collect money but that the people complained loudly. The complaints

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<sup>32</sup>Harrison to Virginia Delegates, Mar. 1, 1782, PJM, Vol. 4, pp. 77-78.

<sup>33</sup>Harrison to General Greene, Aug. 30, 1782, Official Letters of Governors of Virginia, Vol. III, pp. 309-310.

he asserted were largely the fault of Congress, as that body had first introduced the idea "by substituting Supplies for the Army in Specific Articles to be furnished by the different States instead of so much cash." Noting that Congress had advanced this program by declaring that it would be easier for people to pay, he asserted that "they were led to conclude it be so from the Opinion they entertained of the Wisdom of that respectable Body. . . ." Thus, "When specific Supplies was abolished & Cash demanded in Lieu of them the People murmured & complained of their Want of Money." Consequently the legislature found it expedient to receive wheat in payment of taxes until the people of New York could be convinced of the efficacy of cash payments.<sup>34</sup>

As for the quota, Governor Clinton recognized that every state claimed that it had exerted more than others and that Congress was the proper judge of such claims. But he declared that "if there be any who have exhausted their Resources from extraordinary Zeal, Sense of immediate Danger or whatever else may have been the motive, the public Burthens ought now to be apportioned accordingly, for it is idle to ask more of any State than it is able to contribute. . . ." He believed that this had been the case when Congress assigned its last quota to New York and asserted that such a high quota "instead of promoting, it is most likely to discourage & prevent all kind of Exertion."<sup>35</sup>

New Hampshire, Virginia and New York, however, were not the only states which were either reluctant or incapable of paying specie quotas to Congress. By mid-spring, Congress observed that some states had

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<sup>34</sup>Clinton to Morris, Aug. 2, 1782, PGC, Vol. 8, p. 21.

<sup>35</sup>Ibid., p. 22.

not passed laws for collecting any part of their quotas. Others had provided only for the collecting of a portion of their obligations, and still others had passed laws for raising the whole, but at some distant point in the future. Consequently, it resolved to send two delegations of two men each to the northern and the southern states to persuade them to comply.<sup>36</sup> Madison urged Virginia to comply with the requests of these men because: "The Secretary of War has just given notice to Congress, that the Department of Finance is unable to supply the essential means of opening the campaign."<sup>37</sup> When the delegation returned from the northern states, however, they complained to Congress that several of the states they visited were appropriating taxes which had been intended for the use of the Continent for internal uses.<sup>38</sup>

Indeed, many states had resorted to paying the Continent's creditors within their states and to paying at least a part of the arrears of their lines of the Army. In two petitions to Congress, Pennsylvania declared that since Congress had as yet made no provision for paying the interest on Loan Office certificates, the state planned to do so itself. This decision had been reached, the petition declared, because many citizens of Pennsylvania had given all they had to the Continent and depended on at least the interest being paid for their own survival.<sup>39</sup>

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<sup>36</sup> JCC, Vol. XXII, pp. 289-290; and The Virginia Delegates to the Governor of Virginia, May 28, 1782, PJM, Vol. 4, pp. 283-285.

<sup>37</sup> Madison to Randolph, May 28, 1782, PJM, Vol. 4, pp. 294-295.

<sup>38</sup> Madison to Randolph, July 16, 1782, PJM, Vol. 4, pp. 417-419.

<sup>39</sup> The Memorial of the Representatives of the Freemen of the Commonwealth of Pennsylvania, Aug. 30, 1782, and Nov. 12, 1782, PCC, R83, Item 69, Vol. II, pp. 413-415, 417-418.

Congress, however, did not respond until December, 1782. It then stated that its delay had been caused by the belief that Rhode Island would soon consent to the impost and thus provide Congress with the means for discharging the debt.

Pennsylvania's threatened action also raised a serious constitutional question, and thus Congress appointed a committee to confer with representatives from the Pennsylvania Assembly. The committee argued that Pennsylvania's proposal was against the spirit if not the letter of the Confederation. Article VIII provided that the nation's debts would be paid out of a common treasury, which meant to the committee that Congress and Congress alone could discharge the debts which it had contracted. It warned that if the state persisted in its plan to pay Continental creditors, its example would be followed by other states. This in turn would partly dissolve the bonds of union, because one of the basic ties of the Confederation was the power granted to Congress to borrow and repay money for common purposes. Without this power, the credit of Congress would cease to exist. It would be unable to obtain foreign loans, and without those loans the country might well go down to defeat. The representatives from Pennsylvania accepted these arguments, and the Legislature abandoned its plans.<sup>40</sup>

Similar arguments were used to answer those states which made partial payments to their lines of the Army. Many state legislatures felt compelled to make partial payments since by mid-summer, 1782, the Army was once again without pay. Jedediah Huntington reported that the Army

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<sup>40</sup>Madison's Notes of Debates, Nov. 20, 1782, and Dec. 12, 1782, JCC, Vol. XXIII, pp. 850, 860-861.



had little prospect of receiving more money unless the states paid their taxes. He observed: "Mr Morris can but just keep the Army in Bread & Meat. it is not in his Power to make any Payment to the Soldiers, who are, for Want of it, daily deserting." He asserted: "if our Army ceases to be formidable to the Enemy, we must make a dishonorable Peace."<sup>41</sup> As the discontent of the soldiery grew, Madison reported: "The arrears to the Army in January next will be upwards of six million dollars. Taxes cannot be relied on. Without money there is some reason to surmise that it may be difficult to disband the Army as it has been to raise an Army."<sup>42</sup> At least two states succumbed to the distress of their soldiers and made partial payments in 1782. In June, Robert Morris wrote Governor Greene of Rhode Island that he had just learned that Rhode Island had made advances to its troops. Morris asserted "that Congress included in their estimates, amounting to eight million, the sums necessary for paying the Army." He declared that Rhode Island should desist, as partial payments led to a variety of accounts and added: "The more our operations are simplified the better they will be understood, and the more satisfactory will they be conducted."<sup>43</sup> In October, 1782, New Jersey also proposed to satisfy the complaints of its soldiers by making partial payments. Congress, still hoping for an income of its own from the impost and attempting to support the plans of its Superintendent of Finance, warned New Jersey that

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<sup>41</sup> Jedediah Huntington to Andrew Huntington, July 31, 1782, Connecticut Historical Society, Collections, Vol. XX, p. 454.

<sup>42</sup> Madison to Randolph, Sept. 24, 1782, PJM, Vol. 5, pp. 158-159.

<sup>43</sup> Morris to Governor Greene, June 26, 1782, Rhode Island, Records of Rhode Island, Vol. IX, p. 577.

no money paid by the states to the Army would be considered as an advance on behalf of the United States and that no state would be credited with such payments.<sup>44</sup>

Hoping to head off further state appropriations of tax money meant for the Continent and in order to support Morris' program, Congress resolved on October 18 that "it be impressed on the several states as absolutely necessary to lay taxes for raising their quotas of money for the United States separate from those laid for their own particular use. . . ." To implement this resolution it even advocated a direct violation of the constitutional relationship established by the Confederation by requesting the states to permit persons appointed by the Superintendent of Finance to receive taxes levied for Congress within each state and to allow "such receivers to recover the monies of the collectors for the use of the United States, in the same manner, and under the same penalties as state taxes are recovered by the treasurers of the respective state; . . ."<sup>45</sup>

Implementing the key element of the Financier's program, federal taxes, however, proved almost impossible because of the division of the states in Congress. This division was well illustrated in early September, 1782, when Congress tried to get the states to pay \$1,200,000 immediately in order to defray the interest on the public debt.<sup>46</sup> Reluctantly adhering to the old quota system, Congress apportioned the amount among the several states on September 10, 1782. On this assessment, the

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<sup>44</sup>JCC, Vol. XXIII, pp. 629, 631.

<sup>45</sup>Ibid., p. 669.

<sup>46</sup>Ibid., p. 545.

delegates from at least eight states demanded adjustments. New Hampshire, Connecticut, New York and Georgia simply wanted their quotas reduced; Pennsylvania and Massachusetts not only wanted theirs reduced but requested that the excess be placed on Virginia's quota as well; Maryland's delegates desired Connecticut to pay additional money; and Rhode Island insisted that part of its quota be assigned to New Jersey. Obviously there could be no agreement on these adjustments, and consequently the requisition was apportioned as originally assigned.<sup>47</sup>

The lack of cooperation among the states in Congress was also apparent in the last months of 1782 during discussions of the means for finding some other method for financing congressional activities. Since the states had paid little of their quotas and because Rhode Island had not yet accepted the impost, Congress desperately sought some other source of revenue.<sup>48</sup> On September 14, 1782, acting upon the suggestions of Robert Morris, a committee of thirteen proposed four possible sources of additional federal taxes. The first presented was the sale of public lands, which could be accomplished if those states which had claims in the western region would cede them. The committee also recommended that every state impose a land tax of one dollar for every 100 acres of land. Yet another method proposed was a poll tax of a half dollar on all male slaves between sixteen and sixty years of age and on all freemen from twenty-one to sixty. Finally, the committee recommended an excise tax upon all distilled liquors of one-eighth dollar per gallon. The delegates from North Carolina were especially upset by the

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<sup>47</sup> Ibid., pp. 564-570.

<sup>48</sup> Ibid., p. 545.

land tax and argued that with their state's extensive territory and small population it would be required to pay taxes far beyond its ability.<sup>49</sup> The delegates had little to fear, however, because they were able to report on October 27 that "when the report was taken up by Congress, every part of it which respected the subject of Taxation was rejected."<sup>50</sup> The New York delegates despaired of Congress ever agreeing on another source of revenue as the hopes of most members were still focused on Rhode Island's accepting the impost and most were willing to wait for that state's acceptance or rejection.<sup>51</sup>

The inability of the delegates to agree on any other revenues, Rhode Island's rejection of the impost, and Virginia's repeal left Congress totally without a source of income except for foreign loans and for those quotas already assessed the states. Since little money was produced by either of these methods, Congress was forced to spend most of the first three months of 1783 seeking some way to establish a permanent, independent income. During the first half of January the discussion revolved around the method contained in Article VIII of the Confederation which required taxes to be assessed according to the valuation of lands and improvements thereon in each state. The debates illustrated not only the concern of the delegates with the interests of their own states but also raised doubts as to the efficacy of the method.

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<sup>49</sup>Hugh Williamson to the Governor of North Carolina, Sept. 2, 1782, LMC, Vol. VI, pp. 462-463.

<sup>50</sup>North Carolina Delegates to the Governor of North Carolina, Oct. 22, 1782, LMC, Vol. VI, pp. 516-519.

<sup>51</sup>L'Hommedieu to Clinton, Sept. 11, 1782, PGC, Vol. 8, pp. 37-38.

The delegates from Connecticut argued on January 8 and 10 that the implementation of Article VIII ought to be postponed because it was impossible to implement that method fairly while parts of New York were still occupied by the British. They also asserted that Connecticut at that time was flourishing more than other states, and consequently it would pay more than its fair share of the debts. Alexander Hamilton of New York and James Madison of Virginia, on the other hand, opposed implementation of Article VIII because it permitted individual states to value the land within their own boundaries, and there was a great probability that the evaluations would be made in accordance with the interests of the particular state. Even if the valuations were done justly, there was no way for other states to check, and thus the suspicion would always remain that the valuations had not been made fairly. Hamilton and Madison also argued that the method could not be implemented without large expense and long delay.<sup>52</sup> Amplifying these arguments in a letter to Edmund Randolph, Madison declared: "The difficulties which attend that rule of apportionment seem on near inspection to be in a manner insuperable. The work is too vast to be executed without intervention of the several States, and if their intervention be employed, all confidence in an impartial execution is at an end. . . ."<sup>53</sup>

Nevertheless, on February 17, 1783, Congress resolved, over the objections of New York and Virginia, to implement Article VIII and requested the states to take measures to evaluate their lands so that

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<sup>52</sup>Madison's Notes of Debates, Jan. 8-10, 1783, JCC, Vol. XXV, pp. 847-848.

<sup>53</sup>Madison to Randolph, Jan. 14, 1783, PJM, Vol. 6, pp. 40-41.

taxes could be levied in accordance with the Confederation.<sup>54</sup> William Floyd of New York, informed Governor Clinton that he had argued against the resolution because of its unfairness to New York. He believed that it would "not Operate Justly for our State which has been so long, so much in the power of the Enemy, but they were carried against us by a Great Majority."<sup>55</sup> Even Hamilton, undeniably a nationalist, moved to protect the interest of his state by proposing on March 4, 1783, that since "the resolution of the 17 of February, would operate greatly to the prejudice of such states, and to the calamities of war, add an undue proportion of the public burthen" to those states, that Congress should "make such abatements in favor of the said states as from a full consideration of circumstances shall appear to them just and equitable." This resolve, however, lost overwhelmingly.<sup>56</sup> The state itself made one last attempt in March by repassing the impost in conformity with the congressional resolution of February 3, 1781, abolishing all conditions and making the tax collectable until all interest and principal of the national debt was paid.<sup>57</sup>

Meanwhile, recognizing that implementation of Article VIII would still leave Congress totally dependent upon the willingness and ability of the states to pay, Congress sought methods which would not only be more just but which would also establish permanent funds independent of

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<sup>54</sup> JCC, Vol. XXIV, pp. 135-137.

<sup>55</sup> William Floyd to Clinton, Feb. 18, 1783, PGC, Vol. 8, pp. 74-75.

<sup>56</sup> JCC, Vol. XXIV, pp. 162-163; and Madison's Notes of Debates, JCC, Vol. XXV, pp. 912-915.

<sup>57</sup> New York Session Laws, Feb. 14-Mar. 27, 1783, EAL, No. 18060, pp. 279-280.

state legislatures. One of the most intense debates, occurring at the end of January, centered on whether Congress even needed a permanent revenue at all. Some delegates believed that, as peace appeared to be approaching, Congress need do no more than rely upon the states, since in time of peace the states would be able to pay their taxes. Others like James Madison, however, were deeply concerned with preserving the union as created by the Articles. He was disturbed by the splintering tendencies at work in the union as exemplified by the threats of the states to pay congressional debts. If this were permitted to happen, he asked, "what then w[ould] become of the confederation?" After two days of lengthy discussion, Congress resolved that a permanent fund, based on either taxes or duties, was necessary if it was to pay its creditors, restore public credit, and provide the funds for the war. It then began to discuss various modes of taxation, including poll taxes, imposts, taxes on salt and western lands, as well as taxes on other items.<sup>58</sup>



As the discussion developed, Congress still had to find some way to pay immediate expenses. To do so, it again resorted to hoped-for foreign loans. Some delegates objected to borrowing more money, because it would augment the national debt and because without permanent funds there was no assurance that the loans could be repaid. Madison, on the other hand, favored asking for more money, because even if foreigners refused, the country would not be any worse off.<sup>59</sup> Meanwhile, Congress

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<sup>58</sup> Madison's Notes of Debates, Jan. 28-29, 1783, JCC, Vol. XXV, pp. 870-884.

<sup>59</sup> Madison's Notes of Debates, Jan. 13, 1783, JCC, Vol. XXV, pp. 850-851.

authorized Robert Morris to draw bills of exchange on America's foreign ministers even though it was not sure that the applications for loans had been honored. Congress did instruct Morris to draw no more bills than what the ministers had been asked to borrow.<sup>60</sup>

Meanwhile, Robert Morris applied enormous pressure on Congress in order to gain compliance with his plans for a full schedule of federal taxes. His methods included organizing public creditors to make demands for immediate payment from Congress and capitalizing upon the discontent in the Army. In addition, he even threatened to resign his position as Superintendent of Finance unless Congress acted.<sup>61</sup> The pressures were so intense that old revolutionaries such as Arthur Lee, still fearful of centralized authority, angrily observed: "Every Engine is at work here to obtain permanent taxes." While noting the necessity of paying the Army, he declared that "to remedy temporary evils by permanent Ones is neither wise nor safe. I am persuaded that real inability to pay taxes is the reason that the states do not furnish their quotas, . . ."<sup>62</sup>

Congress, however, refused to succumb to the pressures. Knowing the interests, fears, and desires of their states and not nearly so attuned to Morris' brand of centralism, the most that Congress would do was summed up in a resolution on April 18, 1783, which included a four-point financial program.<sup>63</sup> The only portion of that resolution which

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<sup>60</sup> JCC, Vol. XXIV, p. 44.

<sup>61</sup> Ferguson, Power of the Purse, pp. 149-152, 157-164.

<sup>62</sup> Arthur Lee to Samuel Adams, Jan. 29, 1782, LMC, Vol. VII, p. 28.

<sup>63</sup> Madison's Notes of Debates, Feb. 21, 27, Mar. 7, 27, 1783, JCC, Vol. XXV, pp. 906-911, 916-917, 920-922, 946-948.



included permanent taxes was another attempt at imposing an impost. Reasoning that the states had almost granted such a tax in 1781 and 1782, Congress resolved to assess duties of various amounts on imported liquors and wines, different kinds of tea, pepper, various forms of sugar, and on cocoa and coffee. On all other imported items, Congress requested that it be permitted to collect a duty of five percent ad valorem "at the time and place of importation." Unlike the resolution of 1781, however, Congress attempted to forestall the objections of the states by incorporating certain limitations on the act. First, it provided that the duties could be applied to no other purpose than to discharge the interest and principal of the public debt "contracted on the faith of the United States, for supporting the war. . . ." Congress also provided that the law would be in effect for only twenty-five years. The resolve permitted the states to appoint the collectors of the duty, but they had to "be amenable to, and removable by the United States in Congress assembled, . . ." Finally, Congress provided that the impost would not go into effect until ratified by all thirteen states.<sup>64</sup>

Congress also attempted to make some reforms in its method for apportioning quotas on the states. On April 7, having received authenticated returns of the inhabitants of New Hampshire, Rhode Island, Connecticut and Maryland, Congress assigned the percentages states would have to pay on future appropriations. The percentages of the other states were based upon such information as Congress was able to obtain. In addition, Congress also estimated the amount of money which

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<sup>64</sup>JCC, Vol. XXIV, pp. 257-259.

would be necessary to sustain public credit at \$2,500,000 and, on the basis of the new percentages, suggested apportioning \$1,500,000 of that amount among the states. The other \$1,000,000 would be provided by the expected returns from the impost.<sup>65</sup> In the resolution of April 18 these suggestions were incorporated with only minor alterations.<sup>66</sup>

In the same resolution, Congress also requested the states to make future assessments of taxes easier by amending Article VIII of the Confederation. Instead of assessments based on the valuation of lands and improvements, Congress asked that the article be made to read that the expenses for war and for the general welfare "be defrayed out of a common treasury, which shall be supplied by these several states in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound in servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians, not paying taxes in each State; . . ." The entire resolution was agreed to by nine states with Rhode Island voting no, New York divided, New Hampshire underrepresented, and Georgia not represented.<sup>67</sup>

The objections to the proposals contained in the resolution began even before they were passed. The request of Congress for an independent income in the form of the new impost was actually much more limited than had been the one in 1781, which had nearly passed. But the

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<sup>65</sup> Ibid., pp. 230-231; and Madison's Notes of Debates, Apr. 3-7, 1783, JCC, Vol. XXV, pp. 953-954.

<sup>66</sup> JCC, Vol. XXIV, p. 259.

<sup>67</sup> Ibid., pp. 260-261.

pressure tactics employed by the Financier reawakened the old pre-war fears of centralization in some members of Congress. Arthur Lee complained in February, "The Confederation is a stumbling block to those who wish to introduce new, and I think arbitrary systems."<sup>68</sup> Jonathan Arnold of Rhode Island expressed similar views and hoped that when the preliminary articles of peace had arrived, Congress would abandon its plans for an impost as "it could not be doubted that the states, when eased of the immediate expense of prosecuting the war, and enjoying unmolested the advantages to be derived from agriculture and commerce, would be able to draw out their resources timely and sufficient to answer the necessary and constitutional requisitions of Congress. . . ." He noted, however, that some delegates still persisted in efforts to strengthen the powers of Congress, and this goal "seems in the minds of some to prevail over every other consideration, and it appears that nothing will give satisfaction but to send out the impost, differently modified, for another trial among the states."<sup>69</sup>

[When the resolution finally passed, however,] Arnold softened his attack on Congress and turned his wrath upon the landed states. He noted that Congress had tried to make the act palatable, but he believed it would still violate the constitution of Rhode Island and suggested that the New England states work to alter who would control those appointed to collect the duties. He also charged that while the measure was under consideration, a land tax had been proposed, but "it met with such warm opposition from the western and largely landed states, as

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<sup>68</sup> Arthur Lee to James Warren, Feb. 19, 1783, WAL, Vol. II, p. 190.

<sup>69</sup> Arnold to Governor Greene, Mar. 3, 1783, RICC, P. 433.

prevented its being inserted, and the delegates from some of them explicitly declared that they never would consent to a land tax of any kind, but what should be to their own separate advantage."<sup>70</sup>

James Madison, who had helped to hammer out the resolution, was not optimistic himself that his own state would comply. The rough draft of the resolution had originally contained a clause which provided that Congress would compensate the states for "all reasonable expenses which shall have been incurred by the States without sanction of Con[gress], in their defense ag[ainst] or attacks upon British or savage enemies."<sup>71</sup> But this clause had been stricken, and Madison had been unable to reinstate it. Consequently, the remainder of the resolution could not attract Virginians because they were "not particularly interested either in the object or mode of the revenues recommended, . . ." Madison believed: "A respect for justice, good faith & national honor is the only consideration which can obtain her [Virginia's] compliance."<sup>72</sup>

Virginians, however, were not concerned with the last considerations. That state's financial woes continued. Governor Harrison reported in January, 1783, that the state was "so drained of money that tho' Tobacco is very scarce no Quantity of it can be sold at any Price for Cash. the Merchants have it not nor can they procure it and the Planters are so totally without it that the Sheriffs from many Counties

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<sup>70</sup> Collins and Arnold to Governor Greene, Apr. 23, 1783, RICC, p. 435.

<sup>71</sup> Madison's Notes of Debates, Mar. 7, 1783, JCC, Vol. XXV, pp. 921-922.

<sup>72</sup> Madison to Jefferson, Apr. 22, 1783, PJM, Vol. 6, p. 481.

have declared it impossible to make collections."<sup>73</sup> Three months later Edmund Randolph noted that many of the sheriffs had been called to account: "But the excuses they have made argue the poverty of the country. They have distrained, they say, but cannot sell for  $\frac{1}{4}$  of the value of the thing taken, even in produce."<sup>74</sup> The lack of specie in the state was blamed in part on the expenditures made by Virginia for the Southern Army. Consequently, the Assembly was in no mood to accept any congressional resolution concerning finances which did not guarantee compensation for the sums it had spent for the Continent. In addition, many members of the Assembly feared the strengthening of congressional power.<sup>75</sup>

Madison continued to press the Assembly to comply with the resolution asserting: "The example of Virga. will have great and perhaps decisive influence on the event of it."<sup>76</sup> Nevertheless, the Assembly ignored Madison's pleas. It was forced not only to delay the collection of taxes until April, 1783, leaving nothing even to support Virginia's own government, but it also adjourned without passing any part of Congress' resolution.<sup>77</sup>

[Portions of the resolution of April 18] had some advocates in the

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<sup>73</sup>Harrison to the Virginia Delegates, Jan. 31, 1783, PJM, Vol. 6, p. 176.

<sup>74</sup>Randolph to Madison, Apr. 26, 1783, PJM, Vol. 6, p. 500.

<sup>75</sup>Pendleton to Madison, May 4, 1783; Randolph to Madison, May 4, 1783; Madison to Jefferson, May 20, 1783; and John Beckley to Randolph, June 20, 1783, PJM, Vol. 7, pp. 12-13, 32-33, 56-57, 170-171.

<sup>76</sup>Madison to Randolph, May 27, 1783, PJM, Vol. 7, p. 89.

<sup>77</sup>Jacquelin Ambler to Madison, June 1, 1783; and J. Jones to Madison, June 28, 1783, PJM, Vol. 7, pp. 102, 196-197.

northern states. Benjamin Lincoln supported the proposed amendment to the Articles. While he objected to southern slaves counting as three-fifths their actual number because it was unfair to the northern states, he urged Massachusetts to comply, since there was no unbiased judge in the controversy and because the method as originally written in Article VIII was so difficult to apply and so much more unfair to New England.<sup>78</sup> The northern states, however, objected to the resolution not because of fears of centralized authority but because the duties collected could be used to pay pensions for officers or commutations thereof.

During the critical year of 1780, in order to maintain an Army in the field, Congress had promised its officers that they would receive pensions upon retirement equivalent to half their regular pay. All the New England states voted against this resolution because they believed that such pensions would lead to the creation of a military caste.<sup>79</sup> The New England states continued to agitate the question and in July, 1782, even argued that the measure had been passed by only eight states, while under the Confederation nine states were required to agree to such measures. In effect, they argued vainly that the Confederation Congress was not bound by acts passed by Congress prior to ratification.<sup>80</sup> The officers themselves brought the question forward again in

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<sup>78</sup> Benjamin Lincoln to James Warren, Apr. 5, 1783, WAL, Vol. II, pp. 200-204.

<sup>79</sup> Ferguson, Power of the Purse, p. 156.

<sup>80</sup> Charles Thomson's Notes of Debates, New York Historical Society, Collections, 1878, Vol. 11, pp. 70-79.

early in 1783, demanding that the pensions be commuted to cash sums. Their dissatisfactions and demands led in part to the so called Newburgh conspiracy which was defused by General Washington. Congress, however, frightened by the prospect of the Army's refusing to disband, passed a resolution commuting the pensions to a cash equivalent of five years salary at full pay. Once again this resolution passed over the objections of the New England states.<sup>81</sup>

Consequently, the New England states used the new impost as a weapon, hoping that non-compliance with the resolution of April 18 would force Congress to repeal both the half-pay and commutation resolutions. Informed by Rhode Island's delegates that they had strongly opposed the half-pay resolution and the commutation to no avail, Governor Greene instructed them to continue to exert their efforts for a repeal and declared: "The General Assembly of this State cannot comply with a requisition of this kind because the measure tends to a military establishment in time of peace; is unjust in its operation, as the states that have raised the greatest proportionate number of soldiers, with the smallest number of officers will be the greatest sufferers."<sup>82</sup> In July, the Assembly of Massachusetts reported that there had been riots in its state because of the pension resolutions. The Assembly warned Congress "that the extraordinary grants and allowances which Congress have thought proper to make to these Civil & Military officers have produced such Effects in this Commonwealth as are of a threatening

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<sup>81</sup>Ferguson, Power of the Purse, p. 164.

<sup>82</sup>Collins and Arnold to Governor Greene, Feb. 4, 1783; Arnold to Greene, Mar. 28, 1783; and Greene to the Rhode Island Delegates, May 10, 1783, RICC, pp. 424-426, 432, 440..

Aspect--From these sources, & particularly from the Grant of halfpay to the Officers of the Army, & the proposed Commutation thereof, it has arisen, the General Court has not been able hitherto to agree in granting the United States an Impost. . . ."83 This did not, however, deter Massachusetts from passing an impost on July 10 for its own use.84

By mid-August, only three states, Delaware, New Jersey, and Maryland, had granted the impost, and only Delaware had accepted the entire congressional plan. James Madison noted that the major objection in the north was the use of part of the revenue to pay the commutations while the southern states objected to an increase in congressional power. Consequently, he predicted: "The Budget of Congs. is likely to have the fate of many of their other propositions to the States."85 In part, he blamed his own state. He observed: "Rhode Island did not even bestow a consideration on them. Mr. H--l from the latter State after being informed on the course taken by Va. said that her backwardness very much emboldened the States that were disinclined to a Genl' Revenue."86

With no agreement among the states to the resolution of April 18 many states moved to protect the interest of their own citizens. In July Congress was informed that Maryland had given its line of the Army five months' pay and had even repealed a tax laid specifically for the

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<sup>83</sup> Assembly of Massachusetts to Elias Boudinot, July 11, 1783, PCC, R79, Item 65, Vol. II, pp. 185-188.

<sup>84</sup> Acts and Laws of the Commonwealth of Massachusetts, July 10, 1783, EAI, No. 18021, pp. 16-30.

<sup>85</sup> Madison to Jefferson, Aug. 11, 1783, PJM, Vol. 7, pp. 268-269.

<sup>86</sup> Madison to Randolph, Aug. 12, 1783, PJM, Vol. 7, p. 273.



use of Congress to do so.<sup>87</sup> The Connecticut delegates complained that both Rhode Island and Massachusetts had passed imposts for their own benefits and warned their state: "The burden of this being sustained by the consumer must be eventually borne by the industrious inhabitants of our State, in proportion to the goods we purchase from them whilst we have our whole quota to pay without an equal advantage of a tax on commerce." The delegates argued that this suggested "the necessity of promoting trade in our own State, and withdrawing it from those States whose policy is as much as possible to lay their burthens on us." They also noted that this was proof "of the injustice that will take place in consequence of the local and illiberal measures that will be adopted by the several States in their separate proceedings, tending to disaffection, animosity, and disunion."<sup>88</sup>

The failure to comply with the resolution of April 18 forced Congress to rely upon such methods as issuing Loan Office certificates and led to some bitterness on the part of Congress' administrators. Robert Morris condemned the further use of the certificates, because they would contribute to a future source of confusion. But he found them a necessary evil "because the States in the Confidence of their own separate Sovereignty and regardless of the general Government will as long as they please continue to make nominal instead of actual payments."<sup>89</sup>

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<sup>87</sup> JCC, Vol. XXIV, pp. 454-455.

<sup>88</sup> S. Huntington and B. Huntington to Trumbull, Sept. 2, 1783, MHS, 7th Series, Vol. III, pp. 440-441.

<sup>89</sup> JCC, Vol. XXIV, pp. 489-491.

Thus Congress entered the years of peace once again with little prospect of financial stability or independence. In the months following Yorktown, the states turned almost totally inward, attempting to solve their own financial difficulties. Focused in this way, there was little concern in any state over the financial plight either of Congress or of the other states. Equally as important, without the pressing necessities of war, which in the past had led to some measure of reluctant cooperation, the underlying resentments towards the claims of some states and towards unpalatable congressional resolutions now became even more apparent. With little or no threat of further British invasion the states could now use their acceptance or rejection of congressional finances as a lever either to force changes in national policy or to pry concessions from other states with claims in the western lands.

The states themselves were trapped between the demands of their own citizens and the requirements of Congress. With little cooperation on the national level, Congress was without funds to pay either the Army or the demands of its private creditors. Both groups, therefore, turned to their state governments. As mentioned previously, Pennsylvania's citizens depended upon payment of the Continental debts for their survival. The lines of the Army in Rhode Island, New Jersey, and Maryland demanded at least a partial payment of their arrears in pay. The citizens of Massachusetts rioted against the appropriation of their tax monies for purposes of which they did not approve. The sheriffs in Virginia could not collect taxes from citizens who were unable to pay, and in fact, the courthouse at Tunensburgh, Virginia, was burned in early 1783 "partly to prevent the obtaining of those documents which are

necessary to execute" taxes.<sup>90</sup> Owing their existence not to Congress but to their own citizens, state governments naturally responded first to the demands of their constituents rather than to those of Congress. Consequently, Congress remained fiscally weak, having been unable to establish an independent income in 1782 and 1783, and almost totally dependent upon the distracted states for its own fiscal survival.

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<sup>90</sup>Randolph to Madison, Apr. 26, 1783, PJM, Vol. 6, p. 500.

## CHAPTER VIII

### CONFLICTS AND COLLAPSE

Throughout the years 1780 through 1783 the relations among the states and between the states and Congress suffered from other conflicts besides those over finances and western claims. In many instances these other disputes raised questions over the locus of authority in areas that had been ill-defined by the Articles of Confederation. For example, what exactly were the powers granted to congressional administrators and how rigidly should they adhere to their instructions? Could Congress grant passports for the movements of persons and property in the face of state laws to the contrary? And how rigidly must the states themselves adhere to congressional resolutions? Other incidents illustrated the limitation of the method contained in Article IX for solving interstate disputes. These conflicts, combined with those previously discussed, further weakened state cooperation and, consequently, congressional prestige and authority.

While incidents of this sort occurred throughout the war, those which developed during 1780 through 1783 helped to exacerbate the tensions building over finances and western claims. One such conflict, involving congressional administrators and state officials--between Congress' Committee at Headquarters and various state officials--has been previously discussed. Another such incident occurred in New York during the summer of 1781 between Colonel Udny Hay, the newly appointed

State Agent in charge of procuring supplies for the Army, and Colonel Timothy Pickering, the Quartermaster General for the Northern Army.

The controversy originated in early spring when General Washington began operations in Westchester County, north of New York City. Needing forage for the army's animals and finding the country unfenced and virtually deserted, Pickering simply assumed that "the forage growing on the desolate lands would be freely used by the army, without any claim for payment from the owners of the soil."<sup>1</sup> The state of New York disagreed. The legislature had appointed Hay as State Agent and had made him responsible for the produce of the sequestered and confiscated estates in Westchester County. It specifically ordered him to insure "that the said forage and other supplies shall be disposed of by the said Agent, as other supplies furnished by the State for the use of the Army."<sup>2</sup> To Colonel Hay this meant that the Army should at least give certificates for the forage it had used.

Having had private conversations in early July with Pickering, and having reached no decision, Hay determined to wait upon General Washington to get his opinion. Washington, however, declined to interfere. Consequently, Hay wrote Pickering on July 25 requesting that he grant certificates for the forage used and suggested two methods by which a value could be placed on the amount already consumed. If Pickering still refused to comply with the request then Hay demanded that he answer in writing by what authority Pickering was acting and exactly

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<sup>1</sup> Timothy Pickering to Thomas McKean, July 27, 1781, PCC, R100, Item 78, Vol. XVIII, pp. 423-425.

<sup>2</sup> Extract from an Act Relative to the Office of State Agent, July 1, 1781, PGC, Vol. 7, p. 213.

how the property of the state of New York had been alienated so that the Army could use its resources without payment.<sup>3</sup>

Pickering replied the following day. Noting first that Hay had threatened to have him arrested, he attacked the injustice of such a move by declaring "that notwithstanding the sufferings, for many years past, of thousands of public Creditors, not two instances I believe can be adduced where the person or property of the public officers have been touched." Moving then to Hay's demand, Pickering asserted that he could not comply as he could not determine how many cattle had been fed on the lands of individuals and how many on the lands of the sequestered estates. He also argued that the Continent could not possibly pay the full price for the forage because much of the land now occupied was within enemy lines and at such a distance from markets that the produce of the estates could not have been sold at the prices Hay was asking for it. In addition, he asserted that it was only because the Army had marched into the country and rescued "the forage from the jaws of the enemy" that it had achieved "any value at all." He also argued: "The pasturage in this Country is also lessened in value because the lands lay desolate & waste, without enclosures, which obliges us to employ great numbers of herdsmen to watch the Cattle to prevent their going astray." Finally, Pickering observed that the pasturage was of less value than an equivalent amount of hay needed to support the cattle. He was willing, however, to issue certificates indicating how much forage had been used, the value of which would be determined at a later

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<sup>3</sup>Udny Hay to Pickering, July 25, 1781, enclosed in Hay to Clinton, July 26, 1781, PGC, Vol. 7, pp. 129-132.

date, if Colonel Hay would accept them with all the foregoing conditions listed on them.<sup>4</sup>

Hay transmitted a copy of this letter to Governor Clinton and also informed him that Pickering had sent an express to Congress to determine that body's sentiments on the dispute. He further notified Clinton: "I shall write our Delegates very fully but have told the Colonel [Pickering] should the opinion of Congress be different from that of the State I shall not pay the least respect to it, should they however desire him to pay upon the terms I propose it will tend to an immediate settlement of the whole dispute." He also noted that he had requested the refugees from Westchester County to meet with him to discuss the situation.<sup>5</sup>

The refugees assembled on July 30 at White Plains and unanimously agreed to send a letter of protest to Pickering. They considered Pickering's attitude tantamount to thievery and declared that he was attempting "to trample on the Laws of that State to which we are subject, . . ." They asserted "That we are determined to have full and speedy satisfaction for the insults offered us, by taking such Steps as the Laws of our Country will warrant for compelling you to do us Justice; . . ." They added a few gratuitous insults, declaring that they "would make no observation, Sir, on the absurdity & childishness of your reasoning but impute that to the weakness of your head, did not the wickedness of your heart appear too glaring for us to pass over unnoticed."<sup>6</sup>

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<sup>4</sup>Pickering to Hay, July 26, 1781, PGC, Vol. 7, pp. 213-216.

<sup>5</sup>Hay to Clinton, July 26, 1781, PGC, Vol. 7, p. 133.

<sup>6</sup>Robert Graham to Pickering, July 30, 1781, PGC, Vol. 7, pp. 216-217.

Pickering answered this caustic letter rather coolly, observing that it was not his intent to treat the laws of New York with contempt. But he asked, "whether a particular state may pass a Law which an officer of the United States might justly hesitate to obey?" Answering his own question, he declared that he could do no more than issue a certificate of facts "untill the United States in Congress (whose servant I am) should determine" the question. He also asserted: "Be pleased to bear in mind that I am an officer of the United States, under Oath 'to discharge the trust reposed in me with Justice & integrity to the best of my skill & understanding.'" <sup>7</sup> The debate continued into August with the refugees agreeing to postpone their suit against Pickering until August 20 if he would agree to post a bond that he would be accountable for the losses sustained by the refugees prior to that date, but Pickering refused. <sup>8</sup> The most that he was willing to do, while awaiting the decision of Congress, was to appoint agents and direct them to cooperate with those named by the refugees to value the forage taken and to issue a certificate declaring only that he agreed with that valuation. <sup>9</sup> Colonel Hay, recognizing that an impasse had been reached, ordered the refugees to cooperate until Congress responded. <sup>10</sup>

The decision of Congress, when finally made on September 7, went against its own officer and in favor of Colonel Hay. On that day,

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<sup>7</sup> Pickering to Hay, Aug. 8, 1781, PGC, Vol. 7, pp. 217-218.

<sup>8</sup> Enclosure in Pickering to McKean, Aug. 12, 1781, PCC, R199, Item 192, pp. 79-82.

<sup>9</sup> Pickering to Abraham Leggett, Aug. 9, 1781, PGC, Vol. 7, p. 221.

<sup>10</sup> Hay to Pickering, Aug. 16, 1781, PGC, Vol. 7, pp. 223-224.



Congress ordered the commander of the Eastern Department to ascertain the quantity of forage used by the Army in Westchester County and to give certificates for the same according to the instructions of the State Agent of New York.<sup>11</sup> In deciding this issue, however, Congress side-stepped the question of the relations between federal officers and the states, and, consequently, Pickering's problems in New York had not ended.

Writing to Congress in February, 1782, Pickering declared: "I am sorry to inform you that suits, with which for a year past public officers have been threatened, are now commenced." He noted that his assistant in Albany, New York, Nicholas Quackenbush, had been arrested by holders of certificates in the area. He warned: "If they succeed, multitudes of public creditors stand ready to follow the example. The evils that would result from hence are obvious."<sup>12</sup> Congress responded on March 19, requesting that the states pass laws preventing confederation officers from being sued for performing their official duty and that such officers not be held accountable for the debts of the United States.<sup>13</sup> New York, however, failed to comply with the resolution and Pickering reported to General Washington in January, 1783, that he himself had been arrested by a deputy sheriff from Ulster County, New York, for the failure of the Continent to make good those certificates under his signature. He advised Washington that "on the same ground,

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<sup>11</sup>JCC, Vol. XXI, pp. 943-944.

<sup>12</sup>Pickering to John Hanson, Feb. 25, 1782, PCC, R199, Item 192, p. 89.

<sup>13</sup>JCC, Vol. XXII, pp. 138-139.

some thousands of suits may be brought against me in this State alone."<sup>14</sup> The state of New York finally acted, however, by passing a law in March, 1783, to suspend suits against all persons who contracted for supplies under the direct orders of Congress or the Commander-in-Chief or other public authorities.<sup>15</sup>

Another controversy between congressional officials and state officials occurred in Maryland over the manner in which the state's quotas of cattle were to be delivered to the Army. In November, 1780, the Maryland Council notified its delegates that in accordance with the resolution of February 25 the state had purchased as many of the cattle required of the state as possible and had delivered them to the Head of Elk as instructed by the Commander-in-Chief. But when the cattle were delivered, the state's agent, Colonel Henry Hollingsworth, reported that Continental officers refused to receive and deliver them to the Army. They had declared that it was not a part of their business to do so. Consequently, Hollingsworth had been forced to sell some of the cattle in order to buy provisions for the rest. The Council pointedly declared: "We could not expect, after Cattle were procured for the immediate Subsistence of the Army, and driven to the Verge of the State to be delivered to the Officers of Congress, that we should have had any further Difficulties to encounter." It asserted that the sufferings of the Army had moved the state to exert itself to ease those sufferings, but "it excites no small uneasiness to find our Designs frustrated and the Army thereby deprived of the Subsistance provided for them, by the

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<sup>14</sup>Pickering to Washington, Jan. 18, 1783, CAR, Vol. 3, pp. 544-545.

<sup>15</sup>New York Session Laws, EAI, No. 18060, pp. 287-288.

Neglect of those whose peculiar Province it is to convey supplies to the Camp."<sup>16</sup>

The controversy between Maryland and congressional officers over cattle continued into 1781. Maryland exerted every effort to meet its quotas but encountered enormous difficulties because of the financial difficulties of the state. Hollingsworth reported in March, 1781, that he had tried to comply with the Council's orders for beef but "after riding almost two days have been able to purchase one Bullock only, and one hundred weight of dried Beef. . . ." He had encountered others, "but the people will not sell one pound without the Cash being paid them on delivery. . . ." Consequently, he had resorted to giving up a part of his own household supplies, hoping that his neighbors would do likewise.<sup>17</sup>

Under these circumstances the Council was naturally disturbed when it was informed in September, 1781, by Hollingsworth that he had attempted to deliver 200 head of cattle on hand to the Deputy Quartermaster General for the state, Donaldson Yeates, but that Yeates "declines receiving them, and gives me for answer that his orders are to receive Beef Slaughtered and Barreled up, and not Cattle as this may throw both him and my self into fresh difficulties."<sup>18</sup> Ephraim Blaine, the Quartermaster for the Army, defended the actions of his deputy, observing

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<sup>16</sup>Maryland Council to Maryland Delegates, Nov. 22, 1780, PCC, R84, Item 70, p. 447.

<sup>17</sup>Henry Hollingsworth to the Governor and Council, Mar. 3, 1781, MA, Vol. XLVII, pp. 100-101.

<sup>18</sup>Hollingsworth to T. S. Lee, Sept. 28, 1781, MA, Vol. XLVII, p. 509.

that "the requisition of Congress in beef from the respective States is neat beef. . . ." He interpreted that to mean that the state ought to pay the expenses of slaughtering and argued that the cost would be less than the Continent would have to pay for drovers and pasturage. He did agree, however, "That if Mr. Morris with a Committee of Congress say the expense of Slaughtering the Cattle shall be a charge against the United States, I will pledge my honour to you to see it paid."<sup>19</sup>

The two incidents involving state and congressional administrators illustrated further the weakness of the Confederation. Pickering's problems in New York demonstrated that Congress was not able even to protect its own officers unless the states interceded directly on their behalf. The conflict in Maryland portrayed the problems that poor communications between Congress and its officers could create. These disputes also displayed, to a certain extent, the insensitivity both of the states and of Congress toward the peculiar problems of one another.

During the years 1780 through 1783 congressional powers also occasionally encountered state laws which resulted in the diminution of the former and the enhancement of the latter. One of the best illustrations of this point consisted of the grant of a passport by Congress in July, 1780, to George Howell, a citizen living on British-held Long Island. The passport permitted him to remove himself and his possessions from under British control and to take up resident in whatever state he chose.<sup>20</sup> In the process of moving, his vessel was stopped by citizens

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<sup>19</sup>Blaine to Mathew Tilgham, Oct. 16, 1781, MA, Vol. XLVII, p. 525.

<sup>20</sup>S. Huntington, Proclamation, July 7, 1780, PCC, R80, Item 66, Vol. II, p. 109.

of Connecticut who, upon inspecting his papers and property, complained to Governor Trumbull that Howell was using his congressional passport to bring British goods into the state for sale. In a letter to President Huntington, Trumbull complained that if his information was correct, then Howell was violating Connecticut's law against trading with the enemy. More importantly, Trumbull was disturbed by the way the passport had been addressed: "To all Governors, Generals, Admirals, & Officers civil and military of the United States, and to all others to whom these shall come or may concern." The Governor argued that the document which Howell presented must be false because he "could not conceive that Congress, under the proposed Articles of Confederation have a right to, or much less in the present unconnected, unfederated state of the union, would assume such diction as the permission conveys. . . ." <sup>21</sup> Congress was somewhat taken aback by Trumbull's strong letter and replied that it had acted on what it considered good evidence to grant the passport, but that it in no way intended the passport to interfere with the laws of any state. Congress did defend this type of passport in general and noted that it had been the policy of Congress since the onset of the revolution to allow persons favorably disposed to America's cause to remove themselves and their possessions from under the control of the enemy. <sup>22</sup> Nevertheless, Congress resolved on August 30, 1780, "that Congress in granting said passport . . . did not claim

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<sup>21</sup>Trumbull to S. Huntington, Aug. 21, 1780, and Enclosures, PCC, R80, Item 66, Vol. II, pp. 91-109.

<sup>22</sup>President of Congress to Governor of Connecticut and Connecticut Delegates to Governor of Connecticut, Sept. 1, 1780, LMC, Vol. V, pp. 350-351, 351-353.

a right . . . to contravene the laws, or interfere with the civil police of any State."<sup>23</sup>

Even after the ratification of the Articles, however, state laws continued to conflict with Congress' power to issue passports. In November, 1782, General Washington authorized a flag of truce for the ship Amazon to transport supplies for British prisoners of war from New York to Wilmington, Delaware.<sup>24</sup> In January, 1783, the ship and its cargo were seized by several persons in Chester County, Pennsylvania. Under a law of that state, they had judged the goods not necessary for the support of the prisoners and consequently the property of those who had seized them. The courts of Pennsylvania had then been asked to judge the controversy. Upon learning of the confiscation, Congress unanimously declared that such action encroached upon its constitutional and essential rights and appointed a committee to confer with the executive of Pennsylvania to obtain the release of the goods. President Dickinson, upon consultation with the committee, asserted that he was bound by the law of the state but would lay the matter before the legislature.<sup>25</sup>

The legislature appointed its own committee to meet with the one from Congress. The Pennsylvania committee argued that although Congress had been given the general power of war "the mode of exercising that power might be regulated by the States in any manner which [would] not

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<sup>23</sup> JCC, Vol. XVII, p. 795.

<sup>24</sup> Washington to Secretary of War, Nov. 27, 1782, WW, Vol. 25, pp. 376-377.

<sup>25</sup> Madison's Notes of Debates, Jan. 24, 1783, JCC, Vol. XXV, pp. 859-860.

frustrate the power, & which their policy might require." In addition, the committee argued that even if the legislature repealed its act, it would not provide a remedy for this specific case without an ex post facto law which would violate the constitution of Pennsylvania. The committee of Congress, on the other hand, argued that if Congress had the power of war, at all, "it could not either by the Articles of Confederation or the reason of things admit of such a controuling power in each of the States, and that to admit such a construction [would] be a virtual surrender to the States of their whole federal power relative to war. . . ."26

After reaching an impasse, the committees finally arrived at a compromise in which the most prominent of the persons who had confiscated the goods would be urged to transfer their request for judgement from the courts of Pennsylvania to Congress. Some of those who had seized the goods took the hint and applied to Congress for relief. Madison warned, however, that the conflict had not actually been settled: "As few of the Seizors only were parties to the Memorial to Congress, it is still uncertain whether others may not adhere to their claims under the law in [which] case all the embarrassment will be revived."27

Still another area in which congressional authority was damaged was in its power to issue commissions to privateers. These commissions were authorized by Congress but given to state governors for distribution. The problem here was that states sometimes used these commissions in ways not intended by Congress and in ways which resulted in conflicts

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<sup>26</sup> Ibid., p. 860.

<sup>27</sup> Ibid., pp. 860-861.

between states with Congress trapped in the middle. One such incident occurred in the summer months of 1781. In March, 1781, Congress had resolved to authorize reprisals against the citizens of Great Britain. Specifically, it permitted states to "seize all ships, vessels, and goods belonging to the King or Crown of Great Britain or to his subjects or others inhabiting" any of the territories belonging to Great Britain.<sup>28</sup> While Congress probably intended these commissions to be used only against enemy shipping, Connecticut chose to use the permission granted to raid the British on Long Island. In July Congress received two letters from Governor Clinton of New York complaining that citizens of Connecticut were not only raiding British citizens on Long Island but were confiscating the goods of loyal citizens of New York as well.<sup>29</sup> A month later Congress resolved that the Governor of Connecticut immediately revoke the commissions he had issued "so far as they authorized the seizure of goods on Long Island, or elsewhere, on land not within the State of Connecticut."<sup>30</sup>

Following the resolution, Governor Clinton also wrote to Governor Trumbull and attempted to define the conditions by which states could issue commissions. He argued: "By the Confederation no state shall grant a Commission except only under such Regulations as Congress shall establish, so that a previous Regulation by Congress is essential to a Commission, and the states separately have only a Power to determine

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<sup>28</sup> JCC, Vol. XIX, pp. 314-316.

<sup>29</sup> Clinton to S. Huntington, July 1 and 5, 1781, PCC, R81, Item 67, Vol. II, pp. 390-411, 412-419.

<sup>30</sup> Report of Committee on Governor Clinton's Letter of 1 & 5 July, passed Aug. 7, 1781, PCC, R29, Item 20, Vol. I, pp. 381-382.



the Persons to whom they will grant Commissions, . . ."<sup>31</sup> Recognizing that Congress had no power to force Trumbull to withdraw the commissions, Ezra L'Hommedieu reported in late August: "I must Question whether any resolution will be so much regarded in Connecticut as to prevent their plundering. Retaliation from the State of New York will be the only thing that will prevent it."<sup>32</sup> Trumbull, however, apparently bowed to the wishes of Congress and the complaints of New York, as the controversy disappeared.

Other powers of Congress under the Confederation were tested and found equally as unenforceable. One of these was the method contained in Article IX of the Confederation which was designed to settle interstate disputes. The only time this Articles was applied was in the dispute between Connecticut and Pennsylvania over the Wyoming Valley in the northeastern part of the latter state. The dispute over this region illustrated, once again, that even when provisions in the Articles were closely adhered to, their effectiveness depended entirely upon the cooperation of the states.

The controversy over the Wyoming Valley began in the 1750s. The government of Connecticut had insisted that under its charter the land of northern Pennsylvania actually belonged to Connecticut. In order to exploit a portion of this claim a group of Connecticut citizens formed the Susquehannah Company in 1754 and purchased the lands in the Wyoming Valley from the Indians. The proprietors of Pennsylvania strongly

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<sup>31</sup>Clinton to Trumbull, Aug. 20, 1781, PCC, R81, Item 67, Vol. II, pp. 434-435.

<sup>32</sup>L'Hommedieu to Floyd, Aug. 28, 1781, LMC, Vol. VI, pp. 201-202.

objected to this encroachment on what it considered its territory and the dispute between the two colonies was referred to British courts for settlement. Meanwhile, the Susquehannah Company began to move citizens into the valley in 1762. The proprietors of Pennsylvania reacted by persuading the Indians to renounce their sale of the lands and by placing people of their own in the valley. More Connecticut settlers came in 1769 and, by 1771, after some blood-letting between the two groups of settlers, the Pennsylvanians were driven out of Wyoming. At the outbreak of the Revolution, Pennsylvania once again tried to dislodge the Connecticut settlers, this time with an army. But the settlers defeated this attempt and drove the army off. The conflicts might have become even bloodier had the two states not partly obeyed the request of Congress to let the conflict rest during the war with Britain.<sup>33</sup>

The dispute remained quiet until November, 1779. At that time, noting that both states had agreed to the Articles of Confederation, the Pennsylvania Assembly proposed to Connecticut that the dispute be referred to Congress and settled in accordance with Article IX.<sup>34</sup> The General Assembly of Connecticut refused. It observed that Connecticut had expected the dispute to be settled in London and consequently had sent the appropriate documents to prove its claim to England where they now remained. The Assembly also argued that the decision should be delayed because the Confederation had not yet been completed and because the contest between Britain and the United States had not yet been

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<sup>33</sup> Nevins, The American States During the Revolution, pp. 584-585.

<sup>34</sup> Resolution of the Pennsylvania General Assembly, November 18, 1779, in Julian P. Boyd and Robert J. Taylor, eds., The Susquehannah Company Papers (Ithaca, 1962-1971), Vol. V, p. 54. Hereinafter, SCP.

settled.<sup>35</sup> Connecticut's refusal led Pennsylvania to put pressure both upon the settlers of the Valley and upon Congress in 1780. Attempting to force a congressional decision, the Pennsylvania Council ordered that supplies from Pennsylvania which had been used to provision the Continental post in the Valley be cut off. President Reed asserted that the Council had taken this action for several reasons. First, the primary purpose of the fort was to protect the state from Indian attacks, but this was the responsibility of the state which owned the territory, not that of Congress. The implication was that if the Valley belonged to Connecticut, it was up to that state and not Pennsylvania to provision the post. He also charged that the Continental Officers who were stationed at the post were all claimants to the land under Connecticut's title and used their position to extend their holdings in the Valley.<sup>36</sup> Congress responded to Pennsylvania's complaints in December, 1780, by asserting that the post was indeed necessary in order to guard the frontiers. But it did direct the Commander-in-Chief to replace the troops in the Valley with others which were from neither of the two states in the controversy and that the post be supported on the credit of the Continent.<sup>37</sup>

The conflict came before Congress again in mid-summer, 1781. Shortly after the final ratification of the Articles in March, the Pennsylvania General Assembly ordered the Council "to take all necessary and expeditious measures for the consideration and determination of said

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<sup>35</sup> Connecticut, The Public Records of Connecticut, Vol. II, p. 463.

<sup>36</sup> Reed to Board of War, Nov. 20, 1780, SCP, Vol. V, pp. 67-69.

<sup>37</sup> JCC, Vol. XVIII, pp. 1147-1148.

dispute agreeable to the ninth Article of the Confederation of the United States."<sup>38</sup> Following its instructions, on July 7, 1781, the Supreme Executive Council of Pennsylvania petitioned Congress for a hearing under the method proposed in the Articles.<sup>39</sup> On November 11, acting upon the petition, Congress resolved to notify Connecticut and Pennsylvania that a hearing would be held and the dispute settled in June, 1782.<sup>40</sup> Meanwhile, the Pennsylvania Council, with some note of alarm, warned the Assembly in March, 1782, that Connecticut had passed a law to raise a regiment of militia to protect its western frontiers. The Council observed that it knew "of no western frontiers of Connecticut which should seem to stand in need of special defense," and therefore it warned that "the regiment mentioned may too probably, hereafter be stationed at Wioming and under the pretense of defending their western frontier, may be designed to strengthen the post against the just Claim of this state."<sup>41</sup>

Thus in an atmosphere of increasing tension, both the agents of Pennsylvania and some of the agents of Connecticut presented their credentials to Congress on June 24, 1782.<sup>42</sup> Connecticut, however, requested a further delay until Jesse Root, one of the agents for Connecticut

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<sup>38</sup>Resolution of the General Assembly, Mar. 12, 1781, PA, 1st Ser., Vol. IX, p. 4.

<sup>39</sup>Petition of the Pennsylvania Council to the Continental Congress, July 20, 1781, SCP, Vol. V, pp. 87-88.

<sup>40</sup>JCC, Vol. XXI, pp. 1115-1116.

<sup>41</sup>Council to Assembly, Mar. 7, 1782, PA, 1st Ser., Vol. IX, pp. 510-511.

<sup>42</sup>JCC, Vol. XXII, pp. 345-347.

who was away on congressional business, returned.<sup>43</sup> But this request met stiff opposition from the agents of Pennsylvania, who "urged with the greatest vehemence for an entry of the non-appearance of the State of Connecticut, & that Congress immediately proceed according to the direction of the Articles of Confederation. . . ." The problem was that Article IX declared that in a controversy between states, if the agents for a particular state did not appear on the day assigned by Congress, the Secretary of Congress had to represent the missing agents and, in cooperation with the agents of the other state in the dispute, to select judges who would try the controversy. In this case the Secretary, Charles Thomson, was himself a Pennsylvanian and the Connecticut delegates warned that if Congress proceeded to implement the Article's method "it may very easily be seen what a set of judges we should be left with to decide this most important controversy; . . ." The delegates noted that the debate over this question had lasted three or four days but believed that Congress was content to let the matter lie without decision.<sup>44</sup>

Root finally returned from his mission, and on August 28, 1782, Congress wrote commissions for those who were to try the case and ordered them to meet at Trenton, New Jersey, on November 12, 1782.<sup>45</sup> The commissioners met on the assigned day and during the rest of November and December heard the arguments and evidence from both states. On

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<sup>43</sup> Ibid., pp. 351-352.

<sup>44</sup> Dyer and B. Huntington to Trumbull, July 1, 1782, MHS, 7th Ser., Vol. III, pp. 362-365.

<sup>45</sup> JCC, Vol. XXIII, pp. 533-536.

December 30 the commissioners announced their decision: "We are unanimously of Opinion that the State of Connecticut has no right to the lands in controversy."<sup>46</sup> The decision stunned and angered the agents for Connecticut, as they fully expected to win the case. When the proceedings of the court were delivered to Congress on January 3, 1783, James Madison noted: "It was remarked that the Delegates from Con[necticut] particularly Mr. Dyer were more captious on the occas[i]on than was consistent with a perfect acquiescence in the decree."<sup>47</sup>

Discussing the case in a letter to William Williams, Dyer asserted that he had made every effort to get the proceedings delayed, but as he could not, he had aided in selecting the judges, because he did not trust Congress to do so properly if he refused. Believing that Connecticut had been unfairly outmaneuvered, he urged the Assembly, as he had done in a letter prior to the opening of the trial, to revoke its cession of that claim as compensation for the court's decision.<sup>48</sup> In response to the decision, the Assembly of Connecticut, at its session in January, 1783, resolved "that the Delegates of this State in Congress, be instructed & Directed . . . not to proceed any farther towards carrying into Execution the Powers Authorities & Directions to them given . . . touching the Cession & Relinquishment of this States Right

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<sup>46</sup> Proceedings of the dispute between Connecticut and Pennsylvania, Jan. 3, 1783, JCC, Vol. XXIV, pp. 6-32. For various papers relating to the dispute and presented to the Commission, see SCP, Vol. V, pp. 144-246; PA, 1st Ser., Vol. IX, pp. 446-447, 679-733, 754-755; and PCC, R89, Item 77.

<sup>47</sup> Madison's Notes of Debates, Jan. 3, 1783, JCC, Vol. XXV, p. 845.

<sup>48</sup> Dyer to Trumbull, Oct. 19, 1782, and Dyer to Williams, Jan., 1783, SCP, Vol. V, pp. 126-129, 258-260.

in western lands, for the Benefit of the United States. . . ."49

The Assembly also sought to reopen the case. Seizing upon information it received from some of those involved in the dispute, which accused the agents from Pennsylvania of suppressing evidence favorable to Connecticut during the trial, the Assembly, in its session of May 3, 1783, resolved to form a committee to investigate "whether some redress cannot be obtained against the Judgement given by the Commissioners in the Case between this State & the State of Pennsylvania and make Report to this Assembly at their next Session."<sup>50</sup> The Assembly of Pennsylvania, meanwhile, worsened the problem by repealing an act which had temporarily forbade removing the Connecticut settlers from their lands in the Valley.<sup>51</sup> In reaction to the complaints of its citizens, the Connecticut Assembly at its session in October, urged the settlers to appeal to Congress for the creation of a court to try their right of soil and assured them that the Delegates would aid them in that effort in whatever way they could. The Assembly also instructed its delegates to work for a new trial of the controversy between Pennsylvania and Connecticut because of new evidence uncovered by the committee assigned to look for such evidence between the sessions of the Assembly. In addition, perhaps in part to bring pressure on Congress, the Assembly

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<sup>49</sup> Resolution of the Connecticut General Assembly Concerning the Western Cession, Jan., 1783, SCP, Vol. V, p. 260.

<sup>50</sup> Resolution of the Connecticut General Assembly, May, 1783, Zebulon Butler to Elizur Talcott, May 16, 1783; and William Judd to Butler, Sept. 15, 1783, SCP, Vol. V, pp. 292-293, 296-297, 305-306.

<sup>51</sup> Act of Pennsylvania to Stay Suits of Ejectment Against Wyoming Settlers, Mar. 13, 1783, and Repeal of Act Staying Suits of Ejectment against Connecticut Settlers, Sept. 9, 1783, SCP, Vol. V, pp. 270-271, 304-305.

repealed its cession of western territories and ordered Governor Trumbull to issue a proclamation asserting the rights of the state to the lands west of the Western Pennsylvania boundary and strictly forbidding anyone to settle there without special license from the General Assembly of Connecticut.<sup>52</sup> Thus, the method written into Article IX of the Confederation was not very effective in solving this interstate dispute. Connecticut refused to accept the decision as final and by the end of 1783 was demanding that Congress reconsider the matter. Equally as important, the method and the ultimate decision of the court was in part responsible for Connecticut's rescinding its cession of western lands.

During the years 1780 through 1783 disputes also occurred between states which were not referred to Congress for settlement. Such disputes helped further to define the relations of states with one another during the Revolution. On July 12, 1781, the delegates from Virginia notified President Reed of Pennsylvania that fifteen bales of clothing, arriving on the ship Franklin from France and intended for the troops of Virginia, had been attached by a citizen of Pennsylvania, Simon Nathan, and that representatives of Virginia had been ordered to appear before a Justice of the Peace in Philadelphia to show cause why the goods should not be attached. The delegates argued that "the property of the State of Virginia cannot be arrested or detained by process issuing from any of the Courts or Magistrates of Pennsylvania or any other State in the Union." They observed that Virginia must either "suffer the Inconveniences of an *exparte* adjudication ever dangerous to the

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<sup>52</sup>Resolution of the General Assembly of Connecticut, Oct. 9, 1783, enclosed in Trumbull to Dickinson, Nov. 15, 1783, PA, 1st Ser., Vol. IX, pp. 116-117, 146-148.



Rights of Property, or abandon its Sovereignty by descending to answer before the Tribunal of another Power." The delegates therefore declared the proceedings not only unwarranted but also "derogatory to the Rights of Sovereignty of the State of Virginia and requiring the immediate Interference of the authority of the State of Pennsylvania to put a stop thereto. . . ."<sup>53</sup>

President Reed immediately requested an opinion from Pennsylvania's Attorney General, William Bradford, who responded: "We are of the Opinion That the Commonwealth of Virginia being an independent & Sovereign power, cannot be compelled to appear or answer in any Court of Justice within this State. That all process directed against the person of a Sovereign or against his Goods is absolutely void; . . . and that all concerned in issuing or serving such process are guilty of a violation of the laws of nations."<sup>54</sup> Reed then informed the Virginia delegates that measures would be taken immediately to restore the property which had been attached.<sup>55</sup> The delegates were pleased with Reed's response and especially with his readiness to "punish the attempts made on the rights and dignity of the State they represent in the presumptuous seizure of its property." They noted that they would inform their constituents and would "embrace with pleasure every occasion of manifesting a correspondent attention & respect to the State over which your

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<sup>53</sup> Delegates of Virginia to President Reed, July 12, 1781, PA, 1st Ser., Vol. IX, pp. 260-261.

<sup>54</sup> William Bradford to Reed, July 12, 1781, PA, 1st Ser., Vol. IX, p. 272.

<sup>55</sup> Reed to Virginia Delegates, July 12, 1781, PA, 1st Ser., Vol. IX, p. 271.

Excellency presides."<sup>56</sup>

A similar assertion of sovereignty occurred in a dispute between Maryland and Rhode Island in 1783. On being informed that a Maryland vessel, sent out under a flag of truce to supply Maryland's prisoners of war in New York City, had been captured by ships operating out of Newport, Rhode Island, William Paca, the governor of Maryland, complained that the captain of the Rhode Island vessel "must appear to have paid as little regard to the Rights of Humanity, as to the National Rights appertaining to the Sovereignty and Independence of the State of Maryland." Paca assured the Governor of Rhode Island that in similar circumstances "we beg you to be assured every Step shall be taken that our Law and Constitution authorizes, to vindicate your National Rights."<sup>57</sup>

These last expressions of state sovereignty and independence indicated the problem which plagued congressional-state relations throughout the Revolution. Almost every conflict, including those mentioned above, and those over western lands and finances, resulted in increased irritations between the states and Congress, in decreased state cooperation, and in the loss of congressional prestige. The loss of prestige was especially apparent during 1783 and was symbolized by the Philadelphia mutiny in June of that year.

As mentioned previously, the grumbling of the soldiery in early 1783 had forced Congress to commute the officers' pension to cash

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<sup>56</sup>Virginia Delegates to Reed, July 13, 1781, PA, 1st Ser., Vol. IX, pp. 274-275.

<sup>57</sup>William Paca to the Governor of Rhode Island, MA, Vol. XLVIII, pp. 385-386.

payments, but the dissatisfactions in the Army continued. John Armstrong noted in May: "The intelligence from the army verifies all our predictions. The soldiers are loud and insolent, the officers broken, dissatisfied and desponding. The States obdurate and forgetful and Congress weak as water and impotent as old age."<sup>58</sup> Some few of the soldiers went beyond complaining, and on June 19 Congress received information from the Supreme Executive Council of Pennsylvania that eighty soldiers from Lancaster, who would probably be followed by others, were on their way to Philadelphia to demand justice from Congress. Congress immediately appointed a committee to confer with the executive of Pennsylvania. But after the conference, the committee informed Congress that the Militia of Philadelphia probably would not help and "that it would hazard the authority of Gov[ernment] to make the attempt, & it would be necessary to let the soldiers come into the city, if the officers who had gone out to meet them could not stop them." Many members of Congress were angered and declared "that if the City would not support Congress, it was high time to remove to some other place." The soldiers came into the city the following day.<sup>59</sup>

On June 21 the mutineers presented themselves before the State House where Congress and the Executive Council of Pennsylvania had assembled. Badly shaken, Congress called upon the President of Pennsylvania demanding again that he interpose the forces of the Philadelphia militia. Once again President Dickinson asserted that the militia

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<sup>58</sup> John Armstrong, Jr. to Gates, May 9, 1783, LMC, Vol. VII, p. 160n.

<sup>59</sup> Madison's Notes of Debates, June 19-20, 1783, JCC, Vol. XXV, pp. 971, 973.

would not respond to such a call unless the mutineers committed acts of violence against persons or property. Unsure what to do, Congress fretted away the hours until its time of usual adjournment, and the soldiers, who had remained essentially orderly throughout the day, permitted the delegates to depart and pass through their ranks. Congress reconvened that evening and passed a series of three resolves. First, Congress would inform the Executive Council of Pennsylvania that it had been insulted and would demand that the Council take effective measures to prevent a repeat of the insult. Second, if no action was forthcoming, the President of Congress was authorized to reconvene Congress at either Trenton or Princeton, New Jersey. Finally, Congress sent a message to General Washington requesting his aid in suppressing the mutiny.<sup>60</sup>

As the response of the Executive Council was negative, President Elias Boudinot determined that Congress should adjourn and reconvene at Princeton. Explaining the situation to his brother, Boudinot declared: "The President and Council [of Pennsylvania] have not firmness enough to call out the Militia and alledge the reason that they would not obey them. . . . This handful of Mutineers continue still with Arms in their hands and are privately supported, and it is well if we are not all Prisoners in a short time." He noted that he had changed Congress' place of Residence hoping that "the Inhabitants of Jersey will protect us."<sup>61</sup>

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<sup>60</sup> Ibid., pp. 973-974; and JCC, Vol. XXIV, p. 410.

<sup>61</sup> Elias Boudinot to Elisha Boudinot, June 23, 1783, Life of Boudinot, Vol. I, pp. 336-337.

For many, the mutiny and the removal of Congress from Philadelphia to Princeton symbolized the impotence of that body. Many, both before and after the mutiny, asserted that this impotency had been reached because of the lack of cooperation of the states. Writing to General Washington in February, 1783, Alexander Hamilton declared that Congress was "a body not governed by reason or foresight, but by Circumstances. It is probable we shall [not] take the proper measures; and if we do not a few M[onths] may open an embarrassing scene."<sup>62</sup> In March he repeated these sentiments, and borrowing figures from mechanics and biology, pessimistically reported that "the centrifugal is much stronger than the Centripetal force in these states; the seeds of disunion much more numerous than those of union."<sup>63</sup> Ralph Izard of South Carolina, observing that Britain was violating a promise made in the preliminary treaty of peace, to return slave property, declared that Congress could do nothing to force the British to comply. He argued: "The conduct of the States respecting Revenue, has so totally annihilated all Continental Strength, and Credit, that no Enemy need be afraid of insulting us."<sup>64</sup>

In mid-July, 1783, Oliver Ellsworth conveyed the news of the mutiny to his government and asserted that Congress would not return to Philadelphia. But he warned that "it will soon be of very little consequence where Congress go, if they are not made respectable as well as

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<sup>62</sup>Hamilton to Washington, Feb. 7, 1783, LMC, Vol. VII, p. 33.

<sup>63</sup>Hamilton to Washington, Mar. 24, 1783, LMC, Vol. VII, pp. 94-95.

<sup>64</sup>Ralph Izard to Arthur Middleton, May 30, 1783, LMC, Vol. VII, p. 175.

responsible which can never be done without giving them a power to perform engagements as well as make them." He argued that the Confederation had intended to give Congress that power, but that "in practice it amounts to nothing." Most states complied with congressional requisitions "so far only as suits their particular opinion & convenience: & they are the more disposed at present to go on in this way from the inequalities it has already produced, & a mistaken idea that the danger is over; . . ."<sup>65</sup> Richard Peters reported: "Each State thinks it has done the most. Each endeavours by Refusals of General Plans to obtain what they think is particular Justice in its own Case."<sup>66</sup> Hamilton argued in late July: "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; . . ."<sup>67</sup>

The lack of power and prestige of Congress after the Philadelphia mutiny was no better illustrated than by its inability to muster quorums during the last months of 1783 to conduct important Continental business. In part, non-attendance in Congress during these months was the result of increasing state conflicts, overwhelming financial problems on both the national and local levels, and the lack of a common enemy; but it was also partly the result of the heavy burden and dwindling rewards of congressional service.

Throughout the years 1780 through 1783, the delegates of Congress

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<sup>65</sup> Ellsworth to Trumbull, July 10, 1783, MHS, 7th Ser., Vol. III, pp. 432-434.

<sup>66</sup> Richard Peters to Oliver Wolcott, July 15, 1783, LMC, Vol. VII, pp. 224-225.

<sup>67</sup> Hamilton to John Jay, July 25, 1783, LMC, Vol. VII, p. 233.

suffered severely for the want of money. Inflation during 1780 quickly ate up whatever resources the delegates brought with them to Philadelphia and throughout that year they constantly requested money from their states for their support.<sup>68</sup> In the first part of 1780, however, the delegates had been able to draw money from the Continental treasury. But after Congress stopped emitting paper money and the treasury became emptier, the resistance to drawing money on the Continent began to build. In October President Huntington notified the states that on September 29 Congress had resolved not to permit the delegates to receive money from the treasury any longer.<sup>69</sup> In the early months of 1781 the states apparently complied since few delegate complaints were heard, but in the disastrous months of May and June the Continental collapsed entirely. Trapped in Philadelphia, the delegates suffered greatly for the want of cash and appealed urgently to their states for relief.<sup>70</sup> From that point, on into 1782 and 1783, many delegates

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<sup>68</sup>For examples of these requests for money, see S. Huntington to the Treasurer of Connecticut, Jan. 18, 1780, LMC, Vol. V, pp. 10-11; New York Delegates to the Governor of New York, May 21, 1780, LMC, Vol. V, p. 161; Virginia Delegates to the Governor of Virginia, Nov. 5, 1780, LMC, Vol. V, p. 437; Duane and Scott to Clinton, June 2, 1780, PGC, Vol. 5, pp. 777-778; Ellery to Governor Greene, May 16, 1780 and May 23, 1780, RICC, pp. 287, 289; and Cornell to Governor Greene, Aug. 22, 1780, RICC, p. 307.

<sup>69</sup>The Secretary of Congress to Meriwether Smith, Sept. 15, 1781, LMC, Vol. VI, p. 218; and S. Huntington, Circular, Oct. 3, 1780, PCC, R24, Item 15, p. 120.

<sup>70</sup>For the financial problems of the delegates in 1781 see LMC, Vol. VI, pp. 84-97, passim; Nicholas Van Dyke to Thomas Rodney, Oct. 15, 1781, LMC, Vol. VI, pp. 241-242; Livermore to the President of New Hampshire, Nov. 27, 1781, LMC, Vol. VI, p. 269; Scott to Clinton, May 10, 1781, PGC, Vol. 6, pp. 852-854; Scott to Clinton, Dec. 1, 1781, PGC, Vol. 7, pp. 532-533; Bland to Jefferson, June 3, 1781, PTJ, pp. 72-73; Boudinot to John Stevens, Nov. 5, 1781, Life of Boudinot, Vol. I, pp. 228-229; and Daniel of St. Thomas Jenifer and Daniel Carroll to T. S. Lee, May 15, 1781, MA, Vol. XLVII, p. 244.

continued to complain of being unpaid.<sup>71</sup>

Some states did try to help, but their own financial problems made it exceedingly difficult. For example, the Maryland Council, having no cash, sent its delegates super-fine flour which could be readily sold in Philadelphia for cash.<sup>72</sup> Other delegates were not so fortunate. The treasurer of Virginia informed James Madison that he could not pay him from the treasury. He asserted: "We have not ten pounds Specie in it [the treasury] since my coming into Office, and it is much to be feared there will not any come in for a long time."<sup>73</sup>

The enormous labor and personal costs involved in congressional service were also high. Thomas McKean of Delaware declared in July, 1780: "The public duty I am required to perform is too much for me and as our State affords me no relief in Congress I shall be obliged to decline the Delegation." He observed that if his health held out his finances would not and noted: "I have not received a farthing since the first of January, 1779, and I am not a single day out of Congress unless when attending some court of Justice so that I cannot in the least attend to my private affairs nor the wants of my family; . . ."<sup>74</sup>

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<sup>71</sup>For the pleas of delegates in 1782 and 1783, see Scott to the Governor of New York, Apr. 23, 1782; and May 28, 1782, LMC, Vol. VI, pp. 333, 356; Samuel Osgood to the Secretary of the Commonwealth of Massachusetts, June 12, 1782, LMC, Vol. VI, p. 371; Duane to the Governor of New York, July 1, 1782, LMC, Vol. VI, p. 377; and Dyer to Trumbull, Oct., 1782, Nov. 8, 1782, and May 21, 1783, MHS, 7th Ser., Vol. III, pp. 394-395, 397, 413.

<sup>72</sup>Maryland Council to Maryland Delegates, June 4, 1781, and June 22, 1781, MA, Vol. XLV, pp. 461, 483.

<sup>73</sup>Ambler to Madison, May 11, 1782, PJM, Vol. 4, p. 231.

<sup>74</sup>McKean to C. Rodney, July 24, 1780, LCR, p. 359; and McKean to John Dickinson, Dec. 25, 1780, LMC, Vol. V, p. 498.



John Sullivan of New Hampshire requested that the assembly make provisions for his copyist, explaining that: "I have so much writing to do as the Commander in Chief the principle officers of the Army and others keep up a Constant Correspondence with me and in addition to this I have so many Reports to frame, Copy and prepare for Congress That I am Compelled to keep Mr. Smith [his copyist] almost wholly Employed with Penn."<sup>75</sup> Turbutt Wright of Maryland upbraided his state for not sending delegates to relieve him and complained: "Upon the whole I find the Duty extremely heavy and the Rewards light. I can't think of remaining long in this Situation. . . ."<sup>76</sup>

The uncertain pay and personal costs might have been endured by most, but during the years 1780 through 1783, Congress lost prestige and along with it one more attraction of congressional service. Daniel of St. Thomas Jenifer, writing to the Governor of Maryland in October, 1780, declared that "Congress have it not in their power to do much service at present having neither Credit or Money. in such distressing situation, who could wish to be of that Body?"<sup>77</sup> James Duane, ordered to service again in June, 1782, wrote sarcastically to Philip Schuyler: "I can have no Objection! Young and rich and Vigorous, and of little Consequence to my Family, why should I fear summers Heat in an unhealthy Climate? Is not the Honour of serving as a member of Congress--tho' so many others have shaken it off--quite a sufficient Consideration for me;

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<sup>75</sup>Sullivan to the President of New Hampshire, Nov. 25, 1780; LMC, Vol. V, pp. 499-500.

<sup>76</sup>Turbutt Wright to John Hall, June 4, 1782, LMC, Vol. VI, p. 366.

<sup>77</sup>Daniel of St. Thomas Jenifer to the Governor of Maryland, Oct. 2, 1780, LMC, Vol. V, p. 398.

and abundantly productive of Peace and Comfort to my Family, of Improvement and Instruction to my Children! and will it not lay a sure foundation for plenty and Affluence in old Age?"<sup>78</sup>

Underlying the complaints of these delegates and of many others was the belief that their efforts were unappreciated. During the crisis of the years 1780 through 1783 they had repeatedly tried to assume the role of national legislators only to be rebuffed by their own states. During this period almost every congressional program, on which the delegates had spent many hours and much labor, was rejected by the states. The unwillingness of the states to accept these programs naturally led to frustration and probably to an attitude among the delegates that the job they were doing was not worthwhile.

The results of these factors meant that as the war drew to a close it became increasingly difficult to make quorums in Congress in order to conduct congressional business. Delegates often attended only when issues before that body vitally concerned the interests of their states. Ezra L'Hommedieu reported to Governor Clinton in September, 1781, after a crucial portion of the debate over Vermont: "Since the departure of Ira Allen and his associates, we have had a very thin Congress, when before there was twelve States represented and one member from the thirteenth, which shows what pains were taken to carry a favorite point to the New England States."<sup>79</sup> Samuel Livermore of New Hampshire asserted in October, 1781: "My wish is to get home, from this intolerable

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<sup>78</sup>Duane to Schuyler, June 4, 1781, LMC, Vol. VI, p. 365.

<sup>79</sup>L'Hommedieu to the Governor of New York, Sept. 8, 1781, LMC, Vol. VI, pp. 211-213.

expensive place, if once Vermont business was done."<sup>80</sup> Richard Peters declared in October, 1783, that Congress "want influence & power to do themselves & the public justice, & while gentlemen come to execute instead of control the prejudices of their States, a seat will neither be an object of ambition or pleasure."<sup>81</sup>

The states themselves were at fault, insisting that their delegates represent them explicitly in all their dealings in Congress. For example, Thomas Rodney writing to Caesar Rodney urged that strong state loyalists be placed in Congress, "for you may be assured that State interest prevails so much in that Council at present that you want members whose particular and strong attachment to this State will not let them be carried away by Junto's or parties."<sup>82</sup> If the delegates failed to pursue their state's interest, they paid the price by being called home in disgrace. For example, the delegates from Massachusetts were dismissed and others appointed in their place in 1783, because the old members had voted for the commutation of the Army's pensions.<sup>83</sup>

In addition, states further added to friction in Congress by often times appointing as delegates or as agents persons who were vitally concerned with the outcome of territorial disputes. James Duane, who represented New York in the controversy over the New Hampshire Grants, had invested heavily in the region west of the Connecticut River.

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<sup>80</sup> Livermore to the President of New Hampshire, Oct. 30, 1781, LMC, Vol. VI, p. 251.

<sup>81</sup> Peters to Thomson, Oct. 20, 1783, New York Historical Society, Collections, 1878, Vol. 11, pp. 177-179.

<sup>82</sup> T. Rodney to C. Rodney, Oct. 18, 1781, LCR, p. 429.

<sup>83</sup> Madison to Jefferson, Aug. 11, 1783, PJM, Vol. 7, p. 269.

Likewise, Samuel Livermore, who represented New Hampshire in the controversy, was interested in the lands on the east side of the River. In the dispute over the Wyoming Valley, Eliphalet Dyer, who represented Connecticut, was a member of the Susquehannah Company and had even pressed that company's case in London prior to the war.<sup>84</sup>

The heavy burdens of congressional service were reflected in congressional attendance, which decreased almost in direct proportion to the increasing financial problems and interstate conflicts of the period. Consequently, Congress often had to call upon the states to send members so that business could be conducted.<sup>85</sup> After the fall of Yorktown, the problem of non-attendance worsened, and in May, 1782, Congress had to call upon six of the thirteen states--New Hampshire, Connecticut, New Jersey, Delaware, North Carolina, and New York--to send delegates to Congress.<sup>86</sup> After the Philadelphia mutiny and the transfer of Congress from there to Princeton, non-attendance became chronic, and Congress was unable to conduct business throughout much of the remainder of 1783. In part, this was perhaps because the mutiny proved not only that Congress was unable to protect its members from assaults and insults, but also, as evidenced by the citizens of Philadelphia, the people would not do so either. The complete loss of congressional

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<sup>84</sup> Allen Johnson and Dumas Malone, eds., Dictionary of American Biography (New York, 1946), Vol. V, pp. 466, 581-582; and Vol. XI, p. 307.

<sup>85</sup> Even in the crucial months before Yorktown Congress was forced to request attendance from New Hampshire, Connecticut, North Carolina, Delaware, and New Jersey; see The President of Congress to Certain States, Aug. 25, 1781, LMC, Vol. VI, p. 198.

<sup>86</sup> JCC, Vol. XXII, p. 301, and The President of Congress to the Several States, May 28, 1782, LMC, Vol. VI, pp. 355-356.

prestige caused by the mutiny removed entirely that reward for congressional service, and consequently the Journals of the last half of 1783 were full of congressional pleas for the attendance of its members.<sup>87</sup>

Attendance had become so spotty that in October Congress appointed a committee consisting of Carroll, Huntington, and Duane to investigate congressional absenteeism. It reported on November 1, perhaps a bit dishonestly, because each of the members of the committee had themselves complained at various times of the hardships of congressional service, that it was at a loss to explain why Congress had never had a full representation and why on many occasions nine necessary states could not be found to conduct congressional business. Nevertheless, the committee did point out that the Articles were silent on the question, since when they were written it was expected that every state would do its duty. It argued that without full representation, Congress would be forced to conduct business year round instead of appointing a Committee of the States for a part of each year as provided by the Articles of Confederation. The only remedy that the committee could suggest, however, was that Congress take attendance of the members each day and report that attendance once a month to the governors of the states.<sup>88</sup>

The lack of quorums hampered congressional operations prior to the mutiny, but the problem became exceptionally serious after that event. Samuel Huntington reported that it had been impossible to ratify a commercial treaty with the King of Sweden until July 29, 1783, even though

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<sup>87</sup>As of July the Journals reflect numerous pleas to specific states to send delegates. See JCC, Vol. XXIV, p. 422; and Vol. XXV, passim.

<sup>88</sup>Report of Mr. Carroll, Mr. Huntington, Mr. Duane, On Keeping Up a Full Representation in Cong., passed Nov. 1, 1783, PCC, R31, Item 23, pp. 145-146.

Congress had received the treaty several weeks before, because of the lack of enough members present to ratify.<sup>89</sup> More importantly, congressional absenteeism threatened the very peace itself. Congress had received the definitive treaty of peace in November, 1783. One of the conditions of that treaty was that it be ratified and returned to Britain prior to March, 1784. Thomas Jefferson, writing to Governor Harrison on December 17 noted that seven states had finally met on the thirteenth, "but nine states being requisite to ratify the treaty, we have been unable to get this done; . . ." Jefferson found this laxity on the part of the states inexcusable and declared: "I am sorry to say that I see no immediate prospect of making up nine states, so careless are either the states or their delegates to their particular interests as well as the general good. . . ."<sup>90</sup> A week later he was even more anxious, reporting: "The departure of a member two days hence leaves us with only six states and of course stops all business. We have no certain prospect of nine states within any given time; . . . In the meantime only a little over two months remain for their assembling, ratifying and getting the ratification across the Atlantic to Paris."<sup>91</sup>

Thus at year's end, congressional power, authority, and prestige had reached a nadir. The state cooperation so necessary for each of these attributes had all but disappeared. Throughout the critical years of 1780 through 1783, constant conflicts had occurred between the states

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<sup>89</sup> S. Huntington and B. Huntington to Trumbull, July 30, 1783, MHS, 7th Ser., Vol. III, p. 437; and Boudinot to Franklin, Aug. 15, 1783, Life of Boudinot, Vol. I, pp. 352-353.

<sup>90</sup> Jefferson to Harrison, Dec. 17, 1783, PTJ, Vol. 6, p. 388.

<sup>91</sup> Jefferson to Harrison, Dec. 24, 1783, PTJ, Vol. 6, p. 419.

and Congress over finances, western lands, and the sphere of other congressional actions. In each case, limited by the Articles of Confederation, governed by necessity and expediency, and with few independent powers of its own, Congress had to yield to the desires of the states. Throughout these critical years, the evidence was clear; rather than exercising a controlling power, Congress itself was controlled. By the end of 1783, Congress could neither command the respect of its own membership nor could it even put a period to the great cause which had called it into being eight long and bloody years before.

## CHAPTER IX

### CONCLUSIONS

Throughout the American Revolution, the United States was little more than thirteen independent polities loosely bound by a similarity of culture, an accident of geography, and a struggle against a common enemy. The idea of a united nation on the North American Continent was the dream of many revolutionaries, but transforming that dream into reality proved almost impossible. Though united in sentiment at the outbreak of the Revolution, political union among the colonies was greatly hampered by a lack of a national polity. The colonies had developed in the pre-revolutionary period virtually isolated from one another and had been connected only tenuously by the activities of merchants who plied the coastal trade, and by the strands of Imperial government operating from London.

Irritated by the abuses of British administration, the thirteen separate polities had called the Second Continental Congress into being during 1775 in order to present a united front against those abuses. Once the decision was made for independence, the new state governments recognized the necessity of maintaining some form of central direction if the struggle was to be successful. They were content to continue to allow Congress to perform that function. They were willing to do so in part because from its inception, Congress had been structured to conform to the revolutionaries' erroneous assumptions about the governmental



relationships which existed in pre-revolutionary America.

In the colonial period the governmental relationship which had been normally practiced had been essentially a straight line system which operated from colonists to colonial governments to British administration. While British government could act directly upon the colonists, it rarely did so prior to the French and Indian War. In the years immediately preceding the Revolution, however, Britain began to exercise its prerogative by by-passing colonial governments and acting directly upon the colonists themselves, while at the same time not permitting the colonists a voice in shaping the policies which were imposed. Thus, one of the major abuses perceived by Americans, which had impelled them toward revolution, had been Britain's decision to step outside what the colonists viewed as the proper constitutional relationships established in the Empire. Consequently, when the colonies declared their independence and established their own central government they attempted to restore the non-existent straight line constitutional relationship. In this case the line ran between the citizens of the states, state governments and Congress. To insure that Congress could not abuse the system as had the British, the state governments also shifted the locus of real power from Congress to themselves, leaving Congress without the ability to coerce either citizens or states.

The Articles of Confederation did little more than legitimize this relationship. Both before and after the writing and ratification of that document Congress was left without coercive authority. Thus its powers were either extremely limited or virtually meaningless, as the effective, sustained exercise of those powers depended totally upon the consent and cooperation of the states. The best example of the

ineffectiveness of those powers was that granted Congress to issue bills of credit. Implementing its authority to do so, Congress printed millions of dollars during the early years of the Revolution. But since the states failed to cooperate in supporting those bills, Congress was forced to abandon that power altogether, not only because it was useless but also because it was even becoming dangerous.

Poor cooperation among the states was caused by several factors. First was the lack of a national identity. In their separate development, the colonies, and later the states, were naturally more concerned with the events occurring in and affecting their own environs. These local communities, in the less mobile civilization of the eighteenth century world, were the major sources of an individual's identity, wealth, prestige, and social standing. Such identification sometimes extended regionally but not nationally. For example, a Virginia tobacco planter could more easily identify with the problems of a rice grower in South Carolina than he could with those of a New England merchant. Thus the colonial experience produced men with fierce local and sometimes regional pride but with little feeling for the nation as a whole. Merrill Jensen put it best when he declared: "It was loyalty to one's country that moved men, whether radical or conservative, and one's country was the state in which one lived, not the thirteen more or less united states along the Atlantic Coast."<sup>1</sup> The consequences of such attitudes for congressional authority are readily discernible. If a particular state government believed that a congressional policy would be disadvantageous to its citizens, regardless of the good it might do the

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<sup>1</sup>Jensen, Articles of Confederation, p. 163.

nation as a whole, that government felt little obligation to obey such policies.

Another factor which led to conflict among the states was the disparity of wealth in each caused by different economic evolutions. The New England states were more commercial than the southern states, and consequently their property and goods were more readily converted to the uses of war than was the tobacco and slave capital of the south. Thus even though the southern states often tried to meet congressional demands for money they constantly complained that little was available. Northern states, on the other hand, observing the large landholdings and numerous slaves in the South, could not understand why those states could not carry their share of the burden.

Still another factor was the problem of community force. In their colonial developments, different regions had created community organizations which fit their particular environments and the inclinations of those who settled there. The compact, highly organized communities of New England were much more effective in drawing out their resources than were the more privatistically oriented, scattered organizations of the plantation communities of the South. While governmental coercion was sometimes necessary in both regions, because of the community organization of the New England states those governments could accomplish much more with much less force. The governments of New England also operated over a much smaller geographic region and thus were able to focus their authorities much better than could large states like Virginia and Pennsylvania. The results of these differences in governmental energy naturally led to charges and countercharges over whether some states were doing all that they could for the war effort.

Some states also experienced difficulties within their own polities. The force of independence turned loose by the states' declaration against Britain was adopted by some frontier communities against their own state governments. Such was the case of Kentuckians in Virginia and also with many of the citizens of New York and New Hampshire in the Connecticut River Valley. These conflicts added to the distress of those states involved, reducing further their ability and sometimes, because of adverse reactions in Congress, their willingness to respond to congressional requests. Closely related to these problems were the jealousies aroused in landless states by those which had large claims in the trans-Appalachian west.

Perhaps if these conditions had not existed, if the national polity had been more integrated, the form of government established by the revolutionaries might have worked. But of course these conditions did obtain and because they existed, they defeated the possibility that such a national government could be effective. The weakness of the national frame became starkly apparent during the crises of the years 1780 through 1783. The problems of this period, rather than integrating the divergent polities in the union, amplified the differences.

Prior to 1780 the states had experienced considerable distress in attempting to answer both the needs of their citizens and the exigencies of war. Many of them entered the crucial years of 1780 through 1783 exhausted by their previous four years of effort. The military and financial crises of these years brought many of them to the verge of collapse. Without an integrated national polity there was little understanding in any state of any other state's peculiar hardships. Without this understanding, at one time or another every state

government suspected and charged that all other states were not doing their share. Such charges naturally created friction among the states and made them less willing to cooperate with one another either inside or outside Congress. The victim of these increasing tensions was congressional authority.

As the military and financial difficulties multiplied, the weakness of congressional government became clearly evident. Under the building pressures and tensions during 1780 state governments found more and more reasons not to respond to congressional requisitions. The lack of cooperation and contributions left Congress virtually powerless. By the end of the year the situation had become critical. Consequently, there were movements both inside and outside of Congress to increase congressional authority. These movements were not generally motivated by any desire to create a stronger national authority but from genuine fears that if something were not done the Revolution would fail. The result of these movements in the early months of 1781 was an attempt to establish an independent income for Congress and an effort to give Congress the authority to coerce the states. Neither of these movements were successful, since both of them violated revolutionary ideology and since both raised fears that the programs were aimed at specific states.

The attempt to grant Congress an independent income was the congressional passage of the impost, which would have done little more than provide that body with an income on which it could borrow more money. But the acceptance of the impost would have violated the constitutional relationships created by the Confederation. Granting Congress the impost would have created the same kind of system practiced by the British in pre-revolutionary years. That is, Congress would be permitted to

bypass state governments by exercising direct authority over the citizens of the states. That, of course, had been the crux of the dispute with Britain. In addition, many commercial states were convinced that if the impost were ratified, the burden of financing the war would rest mainly on them.

The movement to grant Congress coercive power over the states was consistent with the constitutional relationships created by the Confederation, but it was repugnant to most states because to make that grant would be to shift the locus of authority back to a central government. If this occurred the states would surrender a portion of their sovereignty. Equally as important were the motives of those who argued for coercion. The government of New York obviously wanted such a power in Congress in order to shift part of its burden to other states. Likewise, James Madison pointedly argued for coercive authority in order to force such states as Delaware to do their duty. Other states, recognizing that such power could be and probably would be used by some states to force others to do more than their fair share, refused to permit Congress that authority.

Consequently, the most that Congress could accomplish in 1781 was to reduce its expenses and to give the direction of its finances to one man, Robert Morris. Morris indeed was able to introduce economy and through his private credit and French loans was also able to successfully finance the war's last campaign at Yorktown. But Morris' personal style, caustic letters and insistent demands disturbed many state executives and aroused old visions of British administrators. The growing irritation with Morris, because he was Congress' officer, was transferred to his employer, Congress.

After the victory at Yorktown most state governments were convinced that the war had been won, and thus the urgency of congressional demands now seemed hollow. The southern states, already irritated by what they viewed as a failure of both Congress and the northern states to aid them during the British invasion, turned their attentions inward trying to salvage their own shattered economies and virtually ignored congressional pleas for cooperation. On the other hand, the northern states were angered by what they perceived as a lack of energy displayed by the southern states in their own defense.

Complicating interstate relations and further reducing congressional authority during the years 1780 through 1783 were the problems of conflicting territorial claims. These potential disputes had their roots in the pre-revolutionary period and had arisen occasionally in the years prior to 1780. After that year, however, these conflicting claims were hotly debated in Congress. Though the Articles of Confederation provided a method for solving these disputes, the inability of Congress to enforce its decisions and the personal interests of several states in the outcome of these conflicts made the Confederation's method for settling the claims ineffective. In fact, congressional interference, as in Virginia's cession and the dispute over the Wyoming Valley, actually increased the tensions already existing in the disputes.

Congress, however, made one more effort to recover its authority in the early months of 1783. This move was made in part because of the maneuverings of the Superintendent of Finance who envisioned a national government for America as strong as that of the British Parliament in England. But it was also due in part to congressional inertia. Congress had been trying to gain an independent income since February,

1781. Having almost succeeded in 1782, they naturally reacted with another attempt. By early 1783 there were also compelling reasons for such an income. With little contributions coming from the states, with no assurance that further foreign loans would be available, with the Army unpaid, and with public creditors clamoring for payment, Congress desperately needed a source of dependable revenue.

Attempting to exploit Congress' fears and inclinations, Morris applied enormous pressures to that body in order to achieve a full schedule of federal taxes. The remarkable aspect of the situation was that Congress did not succumb to the pressures. Many Congressmen, like James Madison, were perhaps nationalists, but they were also pragmatic politicians. They knew the desires and conditions of their states and were also keenly aware of the constitutional relationship established by the Confederation. Consequently, Congress rejected both Morris' brand of centralism and his specific proposals for taxes.

Struggling to achieve an independent source of income which would be both compatible with the Confederation and acceptable to the thirteen separate polities, Congress' efforts resulted in a new impost proposal in April, 1783, which was even more limited than the one offered in 1781. Congress not only limited the number of years the act would be in force but this time also tried to permit the states a voice by giving them the power to appoint the officials in their states who would collect the duty. Even then, realists like Madison recognized that there was little probability that the proposition would pass in their home states.

Their analysis was correct. The tensions and pressures of the years 1780 through 1783 had reduced state cooperation to a minimum.



Since Yorktown, Congress had been little more than an agency through which the states had pursued the interests of their particular polities. The new impost was doomed to failure because it failed to incorporate the interests of some of the states. Both the Articles of Confederation and Congress had failed to achieve national integration and in fact had aggravated and amplified the differences in the union. Congressional authority and prestige, so vitally dependent upon state cooperation, had ceased to exist, at least temporarily, as was evidenced by the Philadelphia mutiny in June, 1783, and by the inability of Congress even to achieve quorums for conducting business.

During the years of crisis and distress little was accomplished immediately in integrating the thirteen polities into a national polity because of the increasing tensions among the states. Nevertheless, the years of conflict revealed the difficulties, if not the impossibility of achieving a permanent union based upon the straight-line constitutional relations established by the Articles of Confederation, at least insofar as they permitted the locus of real authority to remain centered in state governments. The stresses of these years also revealed to many men, perhaps for the first time, the basic differences in the polities which made up the union, and they recognized that any future national government, if it were to be effective, would have to accommodate those differences. Thus perhaps the most significant portion of the financial proposals offered to the states in April, 1783, was not the impost at all, but rather was that of amending the Confederation's method of assessing taxes. In writing the amendment Congress tried to accommodate the differences between northern and southern polities by incorporating a three-fifths provision to compromise the conflicting

views over how slaves were to be counted for the purpose of taxation. It would be this willingness to compromise which would result in the writing and ratification of the Federal Constitution in 1787-1788.

The years of distress also provided another source for future national integration. This was the common fund established by the cessions of western territory. While conflicts over western claims had greatly disturbed the relations among the states, a major beginning had been made in surrendering those claims to the nation as a whole. In the postwar years the necessity of deciding how those lands should be apportioned provided a further bond of union. The revolutionary experience itself provided a psychological basis for future national unity. The common struggle against Britain had been successful, and after time had lessened the memory of interstate conflicts during the war what remained was the pride in the common effort. In the years 1780 through 1783, however, the willingness to compromise, the common bond of the western lands, and the pride in the common effort were absent. Concerned with the problems of their own politics, state governments had little opportunity or inclination to consider the problems of the nation. Thus it would not be until after the war ended and after the states had largely recovered their separate economies that state governments could begin to turn their attentions outwards towards the problems of union and national political integration.

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