The Beginnings of National Politics
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The Beginnings of National Politics: An Interpretive History of the Continental Congress.

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The deliberations of the First Congress tested the true meaning of the patriotic fervor and rhetoric unleashed over the summer. They determined much of the course and character that American resistance would assume during the next two years, and they also shaped and refined many of the assumptions that would subsequently influence the conduct of continental politics over an even longer period. For these reasons and others, the First Continental Congress came to be celebrated in early Revolutionary mythology as a truly heroic assembly, a fitting symbol of the sunshine patriotism of 1774.

Because its decisions clearly placed the colonies in a posture of confrontation with Britain rather than accommodation, the results of the First Congress have often been portrayed as a victory for the more radical wing of the opposition movement, usually identified with the so-called Adams-Lee junto—the two Adamses of Massachusetts and Richard H. Lee of Virginia. This group is presumed to have somehow manipulated events and debates to foreclose the possibility of reconciliation and enhance the likelihood of independence. The interpretation is highly misleading. It distorts the actual results of the Congress and ignores its striking success in formulating compromises and creating a basic initial consensus that most members could conscientiously support. Instead, it may be argued that their decisions reflected
not only common perceptions of the nature of the current crisis but a sensitivity to the peculiar status of Congress itself, an extra-legal body whose authority would obviously depend on its ability to maintain a broad range of popular support.

The Problem of Massachusetts

On the morning of August 10, 1774, the Massachusetts delegates gathered at the house of Thomas Cushing to take their departure from Boston. Their leisurely nineteen-day journey was designed to allow them to confer with local leaders in Connecticut, New York, and New Jersey before reaching Philadelphia on the 29th, a week before the Congress opened. Other delegations were also anxious to discover more about the state of public opinion in other colonies and the views of their new colleagues. In some cases, suspicion reinforced curiosity. When, upon arriving at New York, the Connecticut delegates were rushed to a dinner being given for their Massachusetts and South Carolina counterparts, Silas Deane took advantage of that moment when “the glass had circulated just long enough to raise the spirits of everyone just to that nice point which is above disguise or suspicion” to mingle with his hosts and explore their “real sentiments.” Not surprisingly, Deane’s doubts remained unconfirmed. Such occasions called for the kind of solemnity and ostentatious patriotism reflected in the toasts that John Adams recorded at an early dinner in Philadelphia: “May the collision of British flint and American steel produce that spark of liberty which shall illumine the latest posterity,” “Unanimity to the Congress,” and the like.

At Philadelphia the delegates quickly plunged into a succession of dinners and visits that facilitated a reasonably candid exchange of opinions and, as Deane discovered, a certain amount of indigestion. Early conviviality was necessary. Some of the delegates knew or had corresponded with each other, and nine had served together at the Stamp Act Congress, but most were strangers—a useful reminder of the essentially provincial character of American politics and politicians before 1774. The familiar sketches of the delegates that John Adams recorded in his diary —R. H. Lee, “very high” after drinking “Burgundy the whole afternoon” with John Dickinson; Edward Rutledge, “young, sprightly, but not deep”; Caesar Rodney, “the oddest looking
man in the world,” with a face “not bigger than a large apple”—testify not only to his flair for description but also to the fact that the emerging leaders of a revolution now almost a decade in the making remained largely unacquainted, and thus intent on forming first impressions of each other. Adams was atypical only because his impressions were more striking and better preserved.

Visits, dinners, toasts, and the development of some sense of camaraderie were a vital part of the early days of the Congress. But its opening sessions were also marked by a mood of foreboding over events in Massachusetts. When the Bay Colony delegates set out for Philadelphia, they left behind them a province that seemed to be verging toward anarchy. In early August the new governor, Thomas Gage, began to implement the provisions of the Massachusetts Government Act. He provoked immediate resistance. The new provincial councillors were mobbed and hounded into resigning their royal commissions, much as the stamp collectors had been nine years ago. Angry crowds prevented courts from sitting, jurors refused to perform their duties, and town meetings continued to be held—all in defiance of the Government Act. Accounts of these proceedings were prominently featured in American newspapers while the delegates were en route to Philadelphia. Moreover, on September 6 (its second day of meeting) Congress learned that a party of royal troops had raided the Massachusetts arsenal at Charlestown five days earlier. Although the rumor that half a dozen colonists had been killed and Boston itself bombarded was eventually discredited, this was an intensely sobering episode—particularly when the response of rural New England became known. By all accounts the roads had been clogged with thousands of men who had quickly formed in their militia companies and marched to Boston’s defense. Civil war suddenly seemed imaginable. “This controversy will at last be decided by arms,” Charles Carroll* predicted; “. . . the oppressions of the Bostonians & Gage’s endeavours to enforce the new plan of government will hurry that distressed & provoked People into some violence, which may end in blood.”

These events undermined the assumptions that had previ-

*The Charles Carroll referred to throughout this book is Charles Carroll of Carrollton, not Charles Carroll the barrister.
ously sustained colonial moderates in their hopes that a stable truce could be maintained in Massachusetts until the Congress had had time to devise a suitable plan for reconciliation. Had the problem simply been to enable Boston to endure the economic consequences of the Port Act, the situation would have seemed less dangerous: the town’s residents could be supported by the contributions that communities throughout the colonies were already making. But the delegates now had to consider how far Massachusetts could be authorized to go in resisting Gage’s activities—recognizing, with memories of the Boston Massacre doubtless in mind, that incidents of armed conflict were easily foreseeable. On the other hand, a passive acceptance of the new regime not only seemed unjustified, given the illegality of the Government Act, but could also create constitutional precedents damaging to the general colonial position.

Thomas Gage thus unwittingly gave the Massachusetts delegates a new opportunity to influence the drift of opinion in the other colonies and Congress alike. After the failure of their earlier abortive initiatives, the Massachusetts leaders had reevaluated their alarmist tactics. At the prodding of Joseph Hawley, the leading whig of western Massachusetts, the delegates consciously adopted a posture of restraint, with apparent success. The New England delegates, Charles Carroll noted, “are as moderate as any—nay the most so.” Next to the Virginians, Joseph Reed observed, “the Bostonians are mere Milksops.” The pose was deliberate, John Adams confessed; he and his colleagues were “obliged to act with great delicacy and caution, to keep ourselves out of sight, and to feel pulses, and to sound the depths; to insinuate our sentiments, designs, and desires, by means of other persons, sometimes of one province, and sometimes of another.”

The Massachusetts delegates hoped to secure congressional support for resistance to the Government Act, and perhaps for the removal of British troops from Boston as well. Their plan for influencing Congress was worked out in an exchange of letters between Samuel Adams and his Boston collaborator Joseph Warren while the delegates were on their way to Philadelphia. Warren proposed that the delegates secure the adoption of resolutions denouncing the new provincial councillors. In reply, Adams evidently suggested that the desired resolutions should first be prepared by one of the Massachusetts county conventions
that were soon to meet, then transmitted to the Congress for approval. Gage’s activities provided a perfect foil for this ploy. Thus when Paul Revere rode into Philadelphia on September 16, carrying with him a copy of the militant Suffolk County Resolves, the stage was set for the first serious test of congressional sentiment.

Although the original draft of the Suffolk Resolves was surprisingly restrained, the revised text that Revere carried and the Massachusetts delegates laid before Congress on the 17th was designed to express a forthright commitment to a program of resistance. The Resolves were prefaced by a stirring and, some thought, inflammatory preamble, replete with references to the dangers Massachusetts faced from “the arbitrary will of a licentious minister,” “the parricide which points the dagger to our bosoms,” and the “military executioners” who “thronged” Boston’s streets. Such language was harsher, though only by degree, than other resolutions of 1774, and it shocked many who read it. Yet the substantive proposals following these rhetorical flourishes were quite carefully drawn, and it is their character that helps to explain why Congress unanimously endorsed the Suffolk Resolves and urged the people of Massachusetts to “persevere[er] in the same firm and temperate conduct” the Resolves recommended.

For neither as framed in Massachusetts nor ratified in Philadelphia were the Suffolk Resolves as belligerent or provocative as they have often been portrayed. Their central intent was to devise a plan of opposition that would enable the colony to defy the Government Act without alienating the support of the other colonies. To that end, the Resolves detailed a series of measures that would effectively circumvent and nullify the authority of the new administration but avoid any direct confrontation with Gage or his troops. Several provisions sought to obstruct the administration of justice by courts whose authority was now tainted. The people were asked to disregard the actions of judges holding commissions under the new act; jurors, sheriffs, and other judicial officers were promised support for refusing to execute their orders; and the prompt settlement of debts and the arbitration of other disputes were recommended as ways of avoiding recourse to legal remedies. Local tax collectors were advised to withhold their receipts from the provincial treasury, and the provincial councillors were urged to resign their com-
missions. The resolves thus fashioned a strategy of civil disobedience, but not passive resistance. Balancing a promise of restraint against a threat of force, the critical twelfth resolve stated

That during the present hostile appearances on the part of Great-Britain, notwithstanding the many insults and oppressions which we most sensibly resent, yet, nevertheless, from our affection to his majesty, which we have at all times evidenced, we are determined to act merely upon the defensive, so long as such conduct may be vindicated by reason and the principles of self-preservation, but no longer.8

Other provisions endorsed commercial resistance and military training.

Why did Congress unanimously ratify the Resolves? That question cannot be answered simply by invoking the loyalist delegate Joseph Galloway's later tribute to the "superior application" of Samuel Adams.9 Given that Congress also voted to make this endorsement its first public act, it seems more plausible to conclude that the delegates were consciously issuing an early signal of their intentions and concern. They hoped both to fore­stall further disruptive acts in New England and to provide the American public and the British government with some indication of their sentiments. Gage was clearly warned that a con­tinuation of his recent activities would only elicit further inter­colonial support for Massachusetts—a warning he was now prepared to take to heart. In a more general vein, the govern­ment was warned that its attempt to isolate and punish Massa­chusetts was already doomed to failure.10

Even more important, by this act of ratification most dele­gates probably hoped to restrain the conduct of resistance in Massachusetts within the lines drawn by the Suffolk Resolves themselves. Only if Gage used force to carry out his policies would the people be justified in taking stronger measures; even then they remained bound to act "merely upon the defensive." Other measures that were already under discussion in Massachu­setts—a unilateral resumption of legal government under the first or second royal charters, or offensive measures to drive the British from Boston—would not be tolerated. The intentions of Congress were finely drawn but unambiguous, as Samuel Adams was careful to inform Joseph Warren in late September. The Congress, Adams noted,
have not yet come to final resolutions. It becomes them to be deliberate. I have been assured, in private conversation, with individuals, that, if you should be driven to the necessity of acting in the defence of your lives and liberty, you would be justified by their constituents, and openly supported by all the means in their power; but whether they will ever be prevailed upon to think it necessary for you to set up another form of government, I very much question. . . .

Invoking as always the vital necessity of union, Adams argued for patience and restraint. John Adams found it more difficult to overcome his exasperation with the cautious attitude of other delegations, but he too recognized the need to appease their anxieties. The delegates “Start at one Thought of taking up the old Charter,” Adams wrote William Tudor. “They Shudder at the Prospect of Blood. Yet they are unanimously and unalterably against your Submission, to any of the Acts for a Single Moment.” But, he complained, although “We hear, perpetually, the most figurative Panegyrics upon our Wisdom Fortitude and Temperance: The most fervent Exhortations to perseverance . . . nothing more is done.”

That Congress considered its endorsement of the Suffolk Resolves a moderate alternative to other imaginable measures became apparent when the situation of Massachusetts was reviewed in early October. On October 6 Paul Revere again rode into Philadelphia, this time to report that the British were erecting fortifications around Boston. Hoping to exploit Gage’s miscues again, the Adamses and R. H. Lee introduced a new series of recommendations authorizing Massachusetts to go beyond the plan of resistance outlined in the Suffolk Resolves. This time, however, their proposals were not adopted. Congress rejected a motion offered by Lee advising the inhabitants of Boston to abandon their garrisoned town. It substituted a comparatively restrained letter of protest to Gage in place of a shrill composition of Samuel Adams’s. And it refused to recommend measures designed to bring colonial militias to a heightened state of readiness or to permit Massachusetts to resume legal government under its own authority. Instead, Congress approved a set of resolutions reflecting the members’ belief that they had done all they could to condone resistance in Massachusetts. The people of the Bay Colony were advised “to conduct themselves peaceably” toward Gage and his troops, “avoiding & discountenancing every viola-
tion of his Majesty's property, or any insult to his troops, and ... peaceably and firmly persever[ing] in the line they are now conducting themselves, on the defensive.”

The delegates' willingness to supervise the course of resistance in Massachusetts created an important precedent for the role Congress would play in the emerging Revolutionary polity. By asking Congress to judge the legality of their provincial government, the Massachusetts leaders endowed that body with authority they could never have conceded to Parliament. Its responsibilities would not be confined simply to formulating a common strategy of opposition to Britain; Congress would also regulate the basic political changes that would take place in every colony as the crisis deepened. Its reluctance to allow Massachusetts to resume the first charter thus mattered less than its simple willingness to take that question under consideration—a decision that Congress affirmed by rejecting a motion to leave Massachusetts "to her own discretion with respect to government and justice, as well as defence.”

The Association

The ominous developments in Massachusetts were not the most important problem confronting Congress, but they were the most urgent and they deeply influenced its subsequent actions. After the astounding spontaneous mobilization of the New England militia, the notion that commercial resistance was too radical a measure to command popular support no longer seemed credible. During the second fortnight of September, Congress quickly moved to approve the rough outlines of a boycott. On September 22 it issued its second public resolution, requesting merchants to suspend further importations from Britain "until the sense of the Congress" was made known. On the 26th and 27th the delegates debated the details of a boycott and unanimously resolved to halt the importation of British and Irish goods after December 1. Several days later Congress approved another resolution banning exports to Britain, Ireland, and the West Indies after September 10, 1775.

The need to resume commercial resistance had ceased to be an issue, either in Congress or "without doors." Even in the city
of New York, the absent delegate Philip Livingston reported, non-importation “will give no uneasiness . . . and a non-exportation to commence the middle of September next will be cheerfully acquiesced in.” With the apparent exception of Joseph Galloway, no delegate raised any serious objections against a boycott. Debate centered instead on predictable but intricate details concerning the timing and extent of the respective embargoes and the particular interests of individual colonies. The Virginia delegates had been instructed that non-exportation could not begin before August 1775, while the South Carolinians insisted on exempting their colony’s staples, rice and indigo, from an embargo. After a further debate on October 6 devoted to reviewing the commercial interests of each colony, the task of framing a comprehensive agreement was referred to a committee. Their report, the proposed Association, was delivered October 12, debated and amended, and finally signed on the 20th.\[16\]

The central assumption underlying the Association was that the reputed value of colonial commerce left both the government and vital elements of the British economy vulnerable to American coercion. Non-importation would presumably produce unemployment and mercantile failures; non-exportation of southern commodities would reduce government revenues and so aggravate the finances of a nation burdened with a massive public debt. Delegates like Samuel Chase could thus assert that a total boycott of British and West Indian commerce “must produce a national bankruptcy, in a very short space of time.” Yet while most delegates still believed that economic coercion was the most promising mode of resistance, their confident attachment to this strategy was less valid than it had been in the 1760’s. The ministry of Lord North had overcome the domestic political uncertainties that had weakened the resolve of its predecessors. Committed to its colonial policy and having anticipated the possibility of another colonial boycott, the ministry had also been strengthened by the results of the parliamentary elections it suddenly called for November 1774, which left it firmly in control of the House of Commons and comfortably insulated from the feeble protests of the “friends of America.”\[18\]

The belief that economic coercion would give the colonists political leverage against the government was thus ill-founded. But regardless of its effect on Britain, the Association was des-
tined to have a substantial impact on the character of colonial resistance. Its fourteen carefully drafted articles defined in elaborate detail the regulations and procedures under which the boycott would be enforced. Article 11 was crucial. It called for the election of committees of inspection “in every county, city, and town, by those who are qualified to vote for representatives in the legislature, whose business it shall be attentively to observe the conduct of all persons touching this association.” With one stroke, Congress thus formally sanctioned the extra-legal committees that had moved into the political vacuum of the summer, specified their duties, and reached out to impose its own control over these local forces.

Because its provisions were specific and authoritative, the Association absolved local leaders of the major policymaking responsibilities they had generally been reluctant to assume over the summer. At the same time, by empowering them “to establish such farther regulations as they think proper,” it encouraged a certain measure of local initiative, designed not only to meet unforeseen contingencies but also to enhance the committees’ sense of participation and patriotic morale. Nevertheless, Congress intended the committees to steer a narrow course. As in earlier boycotts, they were instructed to rely on the tactics of ostracism rather than coercion to secure uniform compliance—though their victims could properly complain that in practice this distinction was meaningless. The committees “should certainly take care not to exceed the powers which by the nature of their Institution were intended to be given them,” Peyton Randolph, the president of the First Congress, wrote in February 1775. Even when dealing with “miscreants” who deliberately violated the Association, Randolph continued, “I have advised the gentlest methods in bringing them to a sense of their misconduct. Rigorous methods should be avoided till obstinate opposition calls on us to take care that the public shall not suffer.”

More important than the substantive powers that the Association actually delegated to the local committees was the relation it established among the various levels of resistance. The delegates were deeply concerned with the problem of bestowing legitimacy on the entire apparatus of resistance, from town committees and provincial conventions to the Congress itself. By the very act of promulgating the Association, Congress imparted its
own prestige and authority to local leaders whose own status was still uncertain. Local committees that had originally been instrumental in calling the Congress were now to be transformed, in a sense, into its administrative agencies, existing to implement its policies. At the same time, by calling for the election of new committees to replace those appointed under the irregular and hectic conditions of the summer, Congress arranged not only to give them a new mandate but to hold a referendum on its own policies as well. By extension, Congress too would be able to argue that its authority flowed from the express will of the people.

With its emphasis on marshaling popular support, the Association thus marked an important early step toward the eventual creation of avowedly republican governments. But in the context of 1774, that step was still only tentative. For one thing, Congress remained determined to limit the activities of popular committees to the tasks of resistance alone, not to make them vehicles for overthrowing legal government. More important, the persistently deferential attitude that the committees continued to hold toward Congress suggests that local leaders were not yet prepared to assert that popular support alone constituted a sufficient foundation for their authority. They remained grateful for congressional guidance. In the nebulous conditions of 1774 and 1775, power and legitimacy would continue to flow reciprocally between each of the levels of the emerging Revolutionary polity: down from the Congress as well as up from the people and their conventions.21

Rights and Grievances

The comparative ease with which Congress framed its policies concerning Massachusetts and the Association suggests that these aspects of resistance proved less divisive than had earlier been anticipated. The most difficult questions confronting the delegates were those involving the rights and grievances the colonies should claim and the diplomatic posture Congress should adopt toward Great Britain. From the beginning, the delegates devoted most of their attention to these issues. On September 7, Congress appointed two large committees to draft the relevant reports: one of twenty-two members “to State the rights of the
Colonies in general . . . and the means most proper to be pursued for obtaining a restoration of them”; and another, made up of one delegate from each colony, to examine acts of Parliament relating to American trade and manufactures.22

By the fourth week of September, after the committees had delivered their reports, questions of the ends and means of resistance grew closely intertwined, complicating the task of hammering out positions that could receive common support. Anxious to balance the commitments to Massachusetts and commercial resistance with more conciliatory measures, moderates offered a series of proposals that enabled Congress to consider what sorts of compromises it was prepared to make to secure an accommodation. During the three weeks from September 24 to October 15, Congress shifted back and forth between discussions of resistance and accommodation, considering, in order, non-importation, the Galloway plan of union, non-exportation, the major provisions of a petition to the king, the changing situation around Boston, a declaration of rights, and finally the Association. As this rhythm of debate itself suggests, the advocates for one course could not proceed far without exciting the worst fears of their opponents. Yet the result of the ensuing divisions and maneuvers was a set of compromises on principles and tactics that virtually all of the members could support.

Of the various delegates composing the conciliatory wing of Congress, the most prominent was Joseph Galloway, speaker of the Pennsylvania assembly, sometime ally of Benjamin Franklin, and an eventual loyalist whose later apologias have occasionally misled historians. During the summer Galloway had maneuvered to retain control of his colony’s delegation and succeeded in preventing John Dickinson, long his rival, from being elected to Congress—a myopic achievement, since Dickinson’s presence would have greatly augmented the strength of those favoring accommodation over resistance. Casting himself in an iconoclastic role, Galloway drafted a plan for a new imperial constitution which, he believed, would offer a genuine basis for reconciliation and allow its author to cut through the delusive cant of opposition rhetoric. In Congress, however, Galloway proved an ineffective leader.23 More important advocates of accommodation were James Duane and John Jay of New York, who supported Galloway but also offered conciliatory initiatives of their own. Prominent lawyers and thoroughlygoing patricians, vaguely connected
through their marriages into the Livingston clan (their wives were first cousins), Duane and Jay quickly emerged as the most articulate advocates of moderation. Supporting them were other members of the New York, Pennsylvania, and Maryland delegations—the nucleus of conciliatory strength during the next two years—as well as Edmund Pendleton of Virginia and John Rutledge of South Carolina.24

The first debate in the committee on rights revealed something of the problems congressional moderates would encounter in pressing the case for accommodation. The immediate issue was whether the colonies should invoke natural law as one of the foundations for their claims, as R. H. Lee argued, or rely instead on firmer legal and constitutional precedents, an approach Galloway, Duane, and John Rutledge favored because it might seem less provocative to the British government. The issue itself and the committee’s endorsement of Lee’s position are less significant than the concessions the moderates made while stating their case. For on the actual substance of American rights, Galloway and Duane espoused positions no less advanced than those taken by Lee or Roger Sherman. Indeed, Galloway went so far as to declare that “all the Acts of Parliament made since [the emigration of our Ancestors], are Violations of our Rights,” and to admit that his “arguments tend to an independency of the Colonies.”25

From the outset, then, moderates were forced to concede several critical points while striving to open some avenue of accommodation that a perceptive British government might recognize and respond to. This strategy was doubly difficult. It required convincing their colleagues not to insist on an absolute denial of parliamentary authority over the colonies, a position that the Coercive Acts had rendered not only less credible but almost illogical. And it presupposed that the government would in fact be able to ignore the more bellicose signals Congress would emit and concentrate instead on whatever finer hints of accommodation it might eventually incorporate in its statements and petitions.

The Galloway plan of union constituted the one attempt to escape these constraints, and its rejection confirmed the difficulty of transcending most delegates’ conception of the basic issues separating Britain and America. Introduced on September 28 in a clear attempt to avert a decision on non-exportation, the Galloway plan envisioned the creation of an intercolonial legisla-
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ture, elected by the provincial assemblies and empowered to enact legislation “for regulating and administering all the general police and affairs of the colonies” and, in wartime, to pass “bills for granting aid to the crown.” Under the supervision of a royal legate, this “Grand Council” would become “an inferior and distinct branch of the British legislature.” Parliament could still enact “general regulations” for the colonies, but the consent of both bodies would be necessary to validate all measures originating in either, with the exception of American grants of aid. After a candid debate on the 28th, Congress voted six colonies to five, with one divided, to defer its further consideration. The debate was probably never resumed. On October 22, Congress voted to expunge all references to the Galloway plan from its minutes.

Galloway later equated the narrowness of the procedural vote of September 28 with the real division of opinion on the merits of the plan itself. Its rejection, he implied, was another perverse tribute to the guile of his opponents, a faction of “congregational and presbyterian republicans, or men of bankrupt fortunes,” led by Samuel Adams, who were already committed to independence.

Even without its jaundiced and self-serving qualities, this explanation is unconvincing. An unconcerted procedural vote on a novel topic is scarcely a reliable test of sentiments. The agenda of Congress itself warranted delay, since Galloway had interrupted the debate on commercial resistance. Perhaps more important, the fact that his plan was not reexamined during the following three weeks, when Congress was debating proposals for accommodation, suggests that it did not command wide support, and that the vote of the 28th did not reflect an even division of opinion on the proposal’s substantive merits. A more satisfactory explanation of the reasons why Congress rejected Galloway’s plan emerges when the results of the debates of the first fortnight of October are examined.

On October 1, having approved non-exportation the day before, Congress unanimously resolved to prepare a petition to the king. The authors of this resolution remain unknown, but the valuable evidence in a recently discovered fragment of a diary kept by Silas Deane points toward James Duane and John Jay, since both men came prepared to propose specific instructions for the five-man committee appointed to draft the petition. Al-
though Duane and Jay had spoken in support of Galloway’s plan on the 28th, the conciliatory measures they now introduced differed substantially from his—suggesting, again, that Congress had not been overly receptive to the Pennsylvanian’s proposal.

Deane’s notes for October 1 begin with Jay’s motion “that the proposal for paying for the Tea be added to the Instruction.” Four delegates spoke in favor of this motion; nine opposed it, including Edward Rutledge, who three days earlier had called the Galloway plan “almost a perfect plan.” The objections must have proved telling, for Jay’s motion was unanimously rejected. Since it was well known that repeal of the Port Act required restitution being made for the tea destroyed in Boston Harbor, Congress had thus spurned the most obvious of conciliatory gestures.29

Duane promptly “made a Long speech & then a Motion” for another instruction to the committee. The resolution he introduced was designed to obviate the rationale used by the government to justify American taxation. After first reminding the king that the colonies “have always cheerfully complied with the royal Requisitions for raising Supplies of Men and Money,” the resolution would then have had Congress express its confidence that the provincial assemblies would “readily concur in any plan consistent with constitutional liberty for drawing forth the united Councils aid and Strength of these Branches of his Majesty’s Dominions whenever it shall be found necessary.” Where the Galloway plan had presumed that the assemblies were too parochial to act responsibly, Duane’s resolution stipulated that they could be trusted to recognize the legitimate needs of the empire.30

Duane met immediate opposition when R. H. Lee proposed to offer an amendment “to extend [the motion], To raising also, a Militia, & Arming them, for Our defense.” The subversive intent of Lee’s remarks was obvious, for as Silas Deane recorded, “Mr Duane resents it.” His resentment doubtless increased on Monday the 3rd, when Lee formally introduced his amendment. Its text did not differ radically from Duane’s until it came to consider the defense of America. Here, however, what Duane had intended as a conciliatory offer was converted into a thinly veiled warning of American defiance. Lee asserted that it was not only “quite unreasonable” for Britain to bear the expense of maintaining an army in America, but also “unnecessary and im-
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proper, as North America is able, willing, and under Providence, determined to defend, protect, and secure itself." Moreover, to demonstrate the truth of this assertion, Lee proposed that Congress advise the colonies to take appropriate measures to strengthen, discipline, and arm their militias.31

The ensuing debate evoked a frank discussion of military resistance. One of the Rutledges thought that the amendment amounted to "a Declaration of Warr, which if intended, no other Measure ought to be taken up," while Benjamin Harrison argued "that it will tend, only to irritate, whereas Our Business is to reconcile—that We are unable to defend Ourselves." Lee and Patrick Henry replied that the business of Congress included preparing America for defense and the failure of commercial resistance: "in that Case Arms are Necessary, & if then, it is Necessary Now," Henry noted. "Arms are a Resource to which We shall be forced, a Resource afforded Us by God & Nature, & why in the Name of both are We to hesitate providing them Now whilst in Our power?"

Despite this plea, the revised instruction approved later that day was far closer to Duane's original motion than Lee's amendment. For while it offered to defray the expenses of administering government and justice, Lee's bristling references to the militia were reduced to a milder statement asserting that the militia was adequate for colonial defense, "if put upon a proper footing"—which should be done immediately—"and that in case of war," the colonies would be ready to provide "any further forces that may be necessary." This revised motion "was carried Unanimously," Deane noted, although that may have meant only with the consent of each delegation, not of all the members.32

The next phase of debate, which took place between October 3 and 5, is the most difficult to reconstruct. It began with Thomas Lynch asking whether the "Regulations of Trade or Acts of Charles the Second should be considered as obligatory." But subsequent debate broadened the question, leaving Congress to discuss whether it should confine its protests to actions taken by Parliament since 1763—as the delegates had in fact temporarily resolved to do on September 24—or include earlier infringements of colonial liberties as well. A proliferation of motions and amendments and the terseness of Deane's notes complicate the analysis of this debate. Eventually the four New England colonies, Virginia, and North Carolina carried a resolution instructing...
the committee to propose a restoration of the situation that the colonies “were in at the close of the late war”—a position that left the status of the Navigation Acts still unresolved. The more conciliatory delegates seem to have opposed this resolution, perhaps because they believed it should go further and explicitly confirm the validity of legislation enacted before 1763. Or it is possible that they thought the colonies ultimately would have to challenge the earlier enactments, in which case a failure to present an explicit, comprehensive list of grievances now might only enhance British suspicions and hostility later.\(^{33}\)

By restricting its list of grievances to the years since 1763, however, Congress left open the question that Thomas Lynch had initially posed: were the Navigation Acts to be regarded as legitimate, and if so, on what grounds? When Congress finally took up the declaration on rights a week later, this issue emerged as the only serious cause of division. Again it was James Duane who pushed most persistently for American concessions. “Mr. Duane has had his Heart sett upon asserting in our Bill of Rights, the Authority of Parliament to regulate the Trade of the Colonies,” John Adams noted. “He is for grounding it on Compact, Acquiescence, Necessity, Protection, not merely on our Consent.” And again, as a week earlier, Congress found itself almost evenly divided. An October 13 vote on the question of allowing Parliament to regulate trade produced a stalemate: five colonies on either side, Massachusetts and Rhode Island divided.\(^{34}\)

When debate resumed the next day, the Declaration of Rights was formally approved. Eight of its ten key resolutions passed without a dissenting vote, but the critical fourth resolution did not. Its first provision, reserving to the provincial assemblies “a free and exclusive power of legislation . . . in all cases of taxation and internal polity, subject only to the negative of their sovereign,” though far-reaching, generated little debate. The real problem and its compromised solution followed.

But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the com-
mercial benefits of its respective members; excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America, without their consent.

Although this text adopted significant phrases from resolutions Duane had earlier drafted, it fell short of providing the expansive justification for this concession that he desired. The apparent compromise followed the logic of the Fairfax Resolves. The colonies would grant Parliament authority to regulate trade, but do so only on the narrowest grounds of mutual interest and consent—"out of their mere grace & Favor," as Galloway later put it—avoiding any admission of parliamentary right. Whenever these interests ceased to be mutual, consent could presumably be revoked.  

The Declaration of Rights offered no further concessions. It confirmed the central constitutional claims American theorists had been elaborating for a decade, and thus left little room for compromise. Consistent with its resolution of October 5, Congress did eliminate from its list of grievances those measures that merely amended statutes enacted prior to 1763. This was merely a gesture, however. Only "an ardent desire, that harmony and mutual intercourse of affection may be restored" led the delegates to "pass over for the present" the numerous other "infringements and violations" of colonial liberties their researches had uncovered.  

With the Declaration of Rights approved, an increasingly restless Congress devoted its final days of meeting to completing action on the Association and to composing separate addresses to the king and to the peoples of America, Great Britain, and Quebec. The royal petition required considerable revision, and emerged finally as the work of John Dickinson, who had been belatedly elected to Congress on October 15. But the changes Dickinson made in the petition were rhetorical rather than substantive. The essential policies of the First Congress had been determined or confirmed during the first fortnight of October.  

The results of those debates demonstrated the inability of delegates such as Duane and Jay to commit Congress to an avowedly conciliatory policy. Restitution would not be made for the tea brewed in Boston Harbor. The inherent right of Parliament to regulate imperial affairs had not been recognized. And
even the acknowledgment of the colonies’ responsibility to help
defray the costs of empire was couched in terms that would
scarcely have encouraged a renewed British confidence in
American loyalty. The address to the king merely offered to
make “such provision” for meeting the expenses of government
“as has been and shall be judged, by the legislatures. . . . just and
reasonable to their respective circumstances.”

The essential positions that the First Congress adopted were
thus stringent. They affirmed the autonomy of the colonial legis­
latures and offered little in the way of compromise, but presup­
posed instead that the first concessions and conciliatory gestures
had to come from Britain. And yet these decisions were not
produced by the manipulative talents, chicanery, or coercion of
any faction. The notes of debate kept by Deane and John Adams
clearly demonstrate that congressional discussions were open,
candid, and relatively free of rancor, and that pressures to com­
promise were strong. If anything, the deliberate pace of debate
and the numerous dinners and visits held after hours provided
ample opportunities for exploring alternatives and finding com­
mon ground—a concern that most members consciously shared.
Worried that their constituents might grow impatient, some of
the delegates wrote home to explain the delay in reaching deci­
sions. “Unanimity being in our view of the last importance,” the
Connecticut delegates wrote to Governor Trumbull, “every one
must be heard, even on those points or subjects, which are in
themselves not of the last importance.”

What is perhaps even more striking about the First Congress
is that the issues at dispute were surprisingly narrow and fre­
cently concerned troublesome details rather than large ques­
tions. Only Galloway was recorded arguing against non-exporta­
tion; no one, not even Galloway, defended the claims of
parliamentary supremacy that lay at the heart of the imperial
crisis. The delegates thus managed to confine serious controversy
to the overlapping problems of the validity of legislation enacted
before 1763 and the basis on which Parliament might be allowed
to continue regulating colonial trade. The limited scope of this
debate is better appreciated when it is viewed from the perspec­
tive of London: even had Congress offered fuller concessions on
these points, it would not have answered British objections that
American ideas were outright constitutional heresy.

It is, then, the general substance of the positions Congress
finally hammered out that also explains why the Galloway plan was unacceptable. By giving Parliament a veto over American legislation and creating a royal legate whose powers would dwarf those already possessed by the colonial governors, Galloway conceded too much. His plan violated the delegates’ general conviction that responsibility for the current crisis lay not in the deficiencies of the colonial legislatures but rather in the excessive claims and ambitions of the ministry and Parliament.

The decisions of the First Congress were thus to shape the future course of events, not because the delegates were consciously aiming toward independence, but because they required the government to make the initial concessions necessary to launch serious negotiations. Nor did these decisions constitute victory for “radicals” and defeat for “conservatives.” Neither John Adams nor Joseph Galloway, R. H. Lee nor James Duane, could be entirely pleased with the results: their favorite ideas, which marked the extremes of congressional thinking, had been strongly modified or rejected by their colleagues. By spurning proposals clearly pointing toward military preparations, by requiring Massachusetts to act “on the defensive,” and by narrowing their list of grievances and toning down the language of their declarations, a majority of the delegates may well have believed that they were adopting a reasonably moderate policy of opposition. It was true that they had taken strong positions on questions of constitutional rights—positions they hoped would finally force the government to recognize the validity of American claims. They had fashioned a boycott that promised to be even more cohesive and effective than the campaigns of the 1760’s. Above all, they had demonstrated that unified American resistance was possible. But Congress also declined to adopt more militant tactics that delegates such as John Adams and Patrick Henry thought were justifiable even in 1774.40

Nor were the decisions of 1774 merely a patchwork compromise covering irreconcilable positions. They defined a strategy of resistance and diplomacy with a logic and integrity of its own. The colonists would demonstrate their willingness to resist whatever actions Britain took, but seek to avoid actions that they deemed provocative. They would affirm essential constitutional arguments, but not insist that every facet of the imperial system be immediately adjusted to suit colonial convictions. Congression-
al moderates, while nursing their doubts, could thus believe that the program of the First Congress could constitute a feasible basis for reconciliation, *if* the government were indeed prepared to compromise and *if* a further deterioration of the situation in Massachusetts could be prevented. Whether the government would understand the signals Congress was emitting, or the rather fine distinctions it was making, posed more difficult questions.