CHAPTER IV

War and Politics,
1775–1776

As one of its last acts, the First Congress had resolved that another Congress should assemble on May 10, 1775, "unless the redress of grievances, which we have desired, be obtained before that time." Some of the delegates had "supposed," Samuel Ward observed in December, "that if our Grievances were redressed this Winter there would be no Necessity of another Congress." But events were to prove otherwise. In January the British government chose to ignore the royal petition so painstakingly prepared in October. In April came the electrifying and dreaded news of the outbreak of hostilities in Massachusetts. "The unnatural shedding the Blood of our dear Country men," one Connecticut leader noted, "seems to have had a wonderfull Effect to unite all in great Resolution to defend & revenge innocent blood." Three weeks later, most of the delegates to the First Congress reassembled at Philadelphia to face a situation as critical as anything they could have imagined the previous fall.

In 1775 as in 1774 external events and public opinion narrowed the range of options available to Congress while exerting a powerful pressure to maintain some basis for compromise within its chamber. Precisely because an escalation of resistance seemed unavoidable, moderate delegates grew more determined to open some new avenue of accommodation or at least to prevent any hardening of American positions. While failing to
modify the stringent diplomatic posture adopted in 1774, their efforts did create an uneasy compromise that left neither wing of Congress wholly satisfied but allowed both to continue to cooperate on framing more expedient measures. The events and decisions of 1775 thus indicate the restraints that considerations of policy and politics imposed on expressions of partisanship.

A Mandate Renewed

SLIGHTLY more than six months separated the adjournment of the First Continental Congress and the opening of the Second. The delay seemed generous even by eighteenth-century standards: the government had needed less time to frame and deliver its response to the Boston Tea Party. After seven restive weeks in Philadelphia, the delegates to the First Congress had been eager to return to their families. But continuing political obligations and anxieties were inescapable. The delegates could expect that they would have to report to their provincial constituents, play an active role in supervising the enforcement of the Association, and keep abreast of developments in New England and whatever intelligence was received from Britain. Perhaps more important, all but a handful of the delegates recognized that they would have to act to prevent the decisions of the Congress from being thwarted within their own provinces.

Publication of the various proceedings of the Congress abruptly ended the suspension of judgment that had lasted into the fall of 1774. *What Think Ye of the Congress Now?*, the loyalist pamphleteer Thomas Bradbury Chandler asked his readers, defining the great public question of the winter of 1774–75, and other avowed loyalists quickly began publishing pamphlets and essays denouncing both the policies and the authority of Congress. Although this sudden burst of protest from writers who had previously supported the calling of the Congress took various forms—from the relatively dispassionate “Massachusettsensis” essays of Daniel Leonard to the ill-tempered accusations of Joseph Galloway—most loyalists agreed on the charges to be leveled against the Congress. Their polemical campaign had two immediate goals: to obstruct the implementation of the Association; and to induce one or more of the colonial legislatures to disavow the Congress and draft separate petitions that would hopefully
encourage the government to initiate new conciliatory measures of its own.³

The loyalists’ indictment of Congress reflected their gloomy assessments of the consequences its acts would predictably produce in Britain and were already having in America. The delegates had betrayed what loyalists now recalled, naïvely or disingenuously, to have been their original duty. Far from narrowing the breach between Britain and America by “mark[ing] out a line of government, that would sufficiently ascertain and establish the right of jurisdiction in the one, and secure the liberties of the other,” Congress had demanded concessions Britain could never make and offered terms of accommodation too humiliating for the government to accept. Equally alarming, by vesting quasi-coercive powers in local committees of inspection, the Association had condoned the subversion of legal government. Effective power was rapidly slipping away from the provincial governments to extra-legal conventions and committees. The whigs seemed bent on destroying the very colonial constitutions they ostensibly wished to protect, while the petty but ugly forms of intimidation to which critics of the Association were already being exposed suggested that local zealots placed no greater value on the preservation of personal liberties.⁴

Denunciations of the policies of Congress inevitably led to challenges to its legitimacy as well. Given the circumstances of their election, whom did the delegates actually represent? Were they not, Samuel Seabury objected, “at best, but delegates of delegates,” whose acts were scarcely binding on the people at large? No one “could have imagined,” a New York legislator wrote, “had not experience convinced him, that a Congress could have supposed itself vested with a power to enact laws for the government of the whole continent . . . without previously consulting the several colony legislatures.” Even if the delegates could credibly claim some authority, Chandler asked, was it not true “that all that was done or projected by the Congress in the way of hostility against Great-Britain (and little was done or projected by them in any other way) was uncommissioned and unauthorised, and cannot be binding even upon their constituents?”⁵

Loyalist writers thus launched the first serious effort to define the source and nature of congressional authority, in the process drawing, with no little irony, on assumptions about representation and consent that American whigs had long applied against
claims of parliamentary supremacy over the colonies. Their arguments were expedient, plausible, and ultimately irrelevant to the fluid political situation of early 1775. For although enforcement of the Association did encounter indifference or even outright hostility in various localities, evidence of widespread popular approval for the Congress seemed decisive. The apparent enthusiasm with which village and county meetings moved to ratify the Association and appoint committees of inspection provided convincing proof that Congress had renewed its mandate. Loyalist arguments were futile because, quite simply, the decisions of Congress had themselves come to constitute the dominant standards of political legitimacy. Men could still differ widely about the prospects for reconciliation or war, British concessions or colonial unity. But the First Congress had defined both the tactics and goals of resistance, and for individuals everywhere the immediate political choice lay between accepting or repudiating its authority. Allegiance to Congress had become the principal test of the right to participate in the emerging Revolutionary polity.

There exists no better testimony to the astonishing power Congress had acquired than the hapless comments of the royal officials who were obliged to oppose it. The recommendations of Congress were “received implicitly,” Governor Wentworth of New Hampshire reported. “So great is the present delusion, that most people receive them as matters of obedience, not of considerate examination, whereon they may exercise their own judgment.” On Christmas Eve, 1774, Governor Dunmore of Virginia described the collapse of his government, now “entirely disregarded if not wholly overturned.” Committees of inspection, supported by militia companies, were being appointed in every county, and were already busily monitoring “the conduct of every inhabitant without distinction ... stigmatiz[ing] as they term it such as they find transgressing what they are now hardy enough to call the laws of the Congress,” which, Dunmore added, “they talk of in a style of respect and treat with marks of reverence which they never bestowed on their legal Government or the laws proceeding from it.” Even justices of the peace were helping to carry out their directives.

Although Dunmore predicted that people would eventually come to their senses, loyalist leaders had little reason to be optimistic about their campaign to mobilize broad opposition to Con-
gress. There were, of course, pockets of pro-loyalist sentiment scattered throughout the colonies. Yet drawing these disparate potential opponents of whig policies into a cohesive intercolonial movement proved difficult, not merely because (as historians have generally agreed) loyalists were inherently less well organized than their antagonists, but also because much popular “loyalism” was rooted in preexisting local conflicts whose sources were largely tangential to the major causes of the Anglo-American crisis. In the Carolina backcountry, much of rural New York, polyglot enclaves in the middle colonies, or areas where tenant farming was common, loyalty to crown and empire mattered less than hostility to local whig leaders generated by earlier conflicts, ethnic or religious animosities, or quarrels between landlords and tenants. At the provincial level of politics, the problems of overcoming or at least neutralizing this opposition would grow more difficult as prosecution of first the Association and then the war exacerbated these conflicts. But dangerous as such opposition could become, it failed to threaten the hegemony of Congress at the intercolonial level.8

A more serious threat to American union might come from the colonial assemblies. By December 1774 it seemed obvious, as James Duane noted, that “our different Assemblies will be called upon by Government” to state their own ideas of reconciliation. Still searching for some avenue of compromise, Duane was disposed to see where such initiatives might lead; and when, in early 1775, a majority of the New York assembly first refused to ratify the proceedings of the First Congress or elect delegates to the Second and then dispatched mild petitions to the king and Parliament, he defended their actions.9 Similar attempts elsewhere, however, produced the embarrassing results that Governor Wentworth had foreseen when he predicted that “the respective Assemblies will embrace the first hour of their meeting formally to recognise all the proceedings of the Congress; and if they should superadd, it will not probably be less violent than the example, which will be their foundation.” The Pennsylvania assembly rejected Joseph Galloway’s arguments and voted against petitioning; the New Jersey representatives did approve a petition, but its language and requests were, as Governor William Franklin recognized, scarcely more conciliatory than those of Congress.10 And when, in June 1775, Dunmore asked the Virginia House of Burgesses to consider the brief conciliatory pro-
posal that Parliament had approved in February, the Burgesses adopted a set of resolutions repudiating not only the substance of the proposal but the propriety of its submission to individual assemblies rather than the Continental Congress. “For ourselves,” they declared, “we have exhausted every mode of application which our invention could suggest as proper and promising.”

The net effect of these provincial developments was to confirm the broad policy prerogatives of the Congress. If anything, the apostate tendencies of New York, whose loyal legislators were rumored to be the objects of lucrative ministerial bribes, reiterated the necessity of maintaining a united front of opposition. And the eventual fate of the New York petitions, which the government never seriously considered, demonstrated anew what resistance leaders had believed all along. The real issues at stake in the imperial crisis had nothing to do with the form or tone of American petitions. The debilitated state of resistance in New York and the halting progress of public opinion in the other middle colonies would affect the timing of congressional decisions but not alter the deeper assumptions upon which they rested.

Colonial moderates proved as sensitive to these considerations as anyone. “I am glad to find your Council and Assembly . . . behave so well,” Joseph Reed wrote Charles Pettit, a New Jersey relation and political dependent, “for though I think the Congress proceeded on too high a scale, I know the designs of the Ministry, and the temper of the people of England so well, that I am confident nothing but a union in any scheme would relieve us from the oppressions they were meditating, and which the present measures were only designed to introduce.” Even more revealing was the equivocal path that James Duane followed during the months separating the First and Second Congresses: defending the actions of the New York legislature, proposing amendments to the implementation of the Association in New York that Alexander McDougall suspected were designed to “destroy it,” suggesting that the colonial legislatures consider whatever diplomatic initiatives the government undertook, but finally accepting reelection to the Congress. Fearful of civil war and the aggrandizing ambitions of New England—natural attitudes for an Albany landowner and speculator—Duane could have easily followed his embittered friend Joseph Galloway
into isolation, loyalty, and exile. Instead he eventually accepted the arguments of other moderates and remained active in the leadership of resistance. "You and I, I believe, thought much alike and were equally distressed on particular Points," the moderate Maryland delegate Thomas Johnson, Jr., had written to him in December 1774, "but as Things are now circumstanced if the Proceedings of the Congress come before the Assemblies I am afraid a Disapprobation of any Article might be of infinite Mischief to our Cause."  

Union remained the paramount good. "The great Point, at present, is to keep up the appearance of an unbroken Harmony in public measures," John Dickinson wrote in late January, "for fear of encouraging Great Britain to Hostilities, which, otherwise, she would avoid. When she has made her Choice, and it proves inimical, I hope every Man of Sense & Virtue in America will draw his Sword, without any Regard for the yet respectable Doctrine of Disunion." Three months later, Dickinson reluctantly recognized that the conditions he dreaded had been fulfilled.

**Policies Reconsidered**

While adherence to the Congress remained public orthodoxy, colonial leaders gave their private speculations free rein. As James Duane and Thomas Johnson had discussed the idea of allowing individual assemblies to receive government proposals, Samuel Adams and Thomas Cushing apparently disagreed over what response Congress should make if the government offered limited concessions. Cushing believed Congress could rest content with the "mere repeal of the obnoxious Acts"; Adams thought it should demand "the most solemn ratification of an American Bill of Rights," a view that Arthur Lee also endorsed. Other delegates raised different problems. Silas Deane discussed the utility of framing articles of confederation; Samuel Ward proposed that Congress meet annually, regardless of the outcome of the current crisis; Samuel Chase argued that the colonies should immediately initiate serious military preparations. For the most part, however, the delegates remained more anxiously concerned to learn the government's response to the program of the First Congress. "We are all gaping for intelligence from the
new parliament," Peyton Randolph wrote early in January. Some predicted that "we are to be treated as rebels and Enemies without any ceremony"; others that the acts would be repealed, "on condition that we pay for the tea and acknowledge the Superiority of Parliament." In that case, Randolph noted, "What is meant by superiority must be properly defined, otherwise they may as well persue their old plan."\(^{18}\)

By the early spring of 1775, events in London and Massachusetts were clarifying the choices that would confront Congress when it reconvened at Philadelphia in May. Fresh from its success at the surprise parliamentary election of the fall, the ministry showed little interest in reconciliation. After a deceptive initial expression of interest, the petition of the First Congress was rudely ignored. The House of Lords decisively rejected a conciliatory bill offered by the Earl of Chatham. Although unresponsive to many American demands, Chatham’s bill was far superior to the transparently inadequate alternative Parliament adopted instead, which merely suggested that it would suspend its power of taxation if the colonies made provision for the support of government. Massachusetts was declared to be in a state of rebellion, and additional acts were passed restraining the commerce of all the colonies save New York, North Carolina, and Georgia.\(^{19}\)

More alarming than any of these developments was the long-dreaded outbreak of fighting in Massachusetts. Although pressure to launch offensive operations against the British troops in Boston had been building in the Bay Colony since early fall, its Provincial Congress had managed to keep the conduct of resistance within the guidelines endorsed by the Continental Congress. The affidavits that local officials scrupulously gathered from participants at Lexington and Concord—and that were quickly printed in colonial newspapers—left little doubt that responsibility for the onset of civil war lay squarely with Thomas Gage and, by implication, his superiors. Americans everywhere reacted accordingly. Popular demonstrations of patriotic fervor took on a military air that contrasted sharply with the more sober proceedings of 1774. En route to Philadelphia, the Massachusetts delegation encountered an endless series of enthusiastic receptions, replete with honor guards, militia companies drawn up for inspection in village squares, and cheering bystanders lining the highways. Approaching New York, the carriage of a flustered
John Hancock was met by “Persons appearing with proper Harnesses [who] insisted upon Taking out my Horses and Dragging me into and through the City, a Circumstance I would not have had Taken place upon any Consideration, not being fond of such Parade.” Their arrival at Philadelphia proved equally tumultuous—and indicative of the progress of public opinion.20

Such popular manifestations of militant patriotism naturally reinforced the assembling delegates’ sense of urgency, but they served another purpose as well. In 1775, as in 1774, these demonstrations provided the most forceful expressions of public opinion that were available, and thus revealed that armed resistance to Britain was not merely acceptable but generally expected. Nor did the delegates’ formal credentials and instructions impose any meaningful restraint on their deliberations. Their wording was sufficiently vague to fulfill Samuel Ward’s wish that “being free from all Restraints We may deliberate with Freedom, resolve wisely & execute with Firmness whatever the Necessities of our Country may require.” Moreover, the paralysis that increasingly affected legally constituted governments in most of the colonies could only enhance the prestige and deference that Congress already enjoyed. The reelection of virtually the entire membership of the First Congress was another mark of confidence. Fifty of the sixty-five delegates attending this second session had served in 1774, and their previously acquired sense of collegiality facilitated candid debate. Confident of their authority, the delegates felt no compunctions about preserving the privacy of their deliberations. An injunction to secrecy that Congress adopted on May 11 was observed so scrupulously in their correspondence that only the modern discovery of several key documents has made it possible to reconstruct the critical debates that took place early in the session.21

On May 16, after several days of preliminary formalities, Congress went into a committee of the whole to consider “the state of America.” As in 1774, discussions of the tactics of resistance, prospects for reconciliation, and the precise rights the colonists should claim inevitably overlapped. According to the brief notes kept by Silas Deane, debate began with R. H. Lee introducing “proposals for raising an army.” These were seconded by Thomas Lynch and John Rutledge. Rutledge evidently altered the intended thrust of the debate, however, by “insist[ing] that previously some other points must be settled, such as do We aim at
independancy? or do We only ask for a Restoration of Rights & putting of Us on Our old footing?” Robert R. Livingston endorsed Rutledge’s objections against plunging into questions of means without reevaluating the goals of resistance. He was followed by John Adams, who apparently sought to show that such a review was not necessary by reiterating the essential position adopted in 1774: “independance on Parliament is absolutely to be averrd in the Americans, but a dependance on the Crown is what We own.”

At this point John Dickinson intervened. His prestige made him the natural leader of those members whose preference for conciliatory measures had been intensified by the outbreak of war. Elected to the First Congress too late to influence its major decisions, Dickinson returned determined to convince Congress to couple preparations for defense with forthright steps toward negotiations. His lengthy speech of the 16th began by admitting that “a Vigorous preparation for Warr” and “a Vigorous prosecution of it” were necessary. But then he returned to his old concern “to strike out still a further plan for a reconciliation if it is possible.” He was “very timid,” Deane noted, and “is for giving up intirely the Regulating of Trade, argues smoothly but Sophistically on the Subject and gives rather disgust.”

Deane’s last comment suggests that many members were reluctant to initiate a potentially wide-ranging debate on diplomacy before undertaking urgent military preparations. During the next week Congress apparently concentrated on the latter, considering reports of the capture of Ticonderoga by New England militia and requests from the New York delegates for advice on the defensive measures their colony should take in case British troops occupied New York City. But when Deane’s notes of debates resumed on May 23, “the Question shall We Treat”—that is, negotiate with Britain—lay before Congress. In a second lengthy speech, Dickinson argued strongly for a comprehensive strategy embodying three major elements: “prepare[ing] with the utmost Diligence for War,” submitting a second petition to the crown, and “sending Agents to England, to treat of an Accommodation.” Dickinson clearly intended to create an environment and conditions that would enable candid negotiations to take place between the government and emissaries from Congress. Rather than submit a petition “That dwelt on our Rights”—already so forcefully asserted that “Repetition is needless”—Dick-
inson argued that the new text should instead stress the colonists' desire for "Relief from our Fears & Jealousies" and their continued attachment to king and empire. Similarly, the embassy Congress would send to England was to have substantive powers of negotiation: their instructions would specify "what Concessions and what Demands they are to make in every Event favourable or unfavourable that shall occur." The most important concession Dickinson advocated was an unequivocal acknowledgment of Parliament's right to regulate imperial trade, but during the debate of the 23rd the possibility of making restitution for the tea destroyed at Boston was also broached.  

Opposition to Dickinson's proposals did not center on the question of a second petition, though some delegates, like John Adams, thought it redundant and embarrassing. Nor did the idea of proposing negotiations seem objectionable, for late on the 23rd a motion to include such an invitation in the royal petition "pass'd agreeable to all." But on the questions of modifying the positions of 1774 and dispatching envoys to England, Dickinson and his supporters met heavy criticism. On the 23rd, Patrick Henry had declared that "the Bill of rights must never be receded from," and when the next day Samuel Chase again raised "the old affair of the right of regulating Trade," an acrimonious debate followed. The Maryland delegates and Dickinson repeated their case for further concessions, and their impatient opponents, finding further debate on this subject pointless, were "severe" in reply. Dickinson was roundly attacked by Thomas Mifflin, Lee, and perhaps most revealingly by John Rutledge, who had cooperated with Duane and Galloway in 1774 but now delivered a stinging rebuke to Dickinson. Rutledge said he was "against any Concession whatever, that Lord North has given Us his Ultimatum with which We cannot agree—Treats Dickinsons plan with the utmost Contempt—and is so severe that Chase rises to explain himself." A further rejoinder by Thomas Stone of Maryland proved so "disagreeable that one half of the Congress withdraw."  

Two days later (May 26) Congress approved five resolutions comprising the best statement of general policy the committee of the whole could produce. One was an additional instruction to the New York Provincial Congress, urging them "to persevere the more vigorously in preparing for their defence, as it is very uncertain whether the earnest endeavours of the Congress to
accomodate the unhappy difference between G. Britain and the colonies by conciliatory Measures will be successful.” The remaining set of four resolutions marked the results of the debate begun by Lee’s motion and Rutledge’s questions of May 16. The first two resolutions invoked the various acts and events that had brought America “to a dangerous and critical situation,” and concluded by recommending that “these colonies be immediately put into a state of defence.” The third resolution repeated, however, that Congress wished for nothing more than “a restoration of the harmony formerly subsisting” between Britain and America, and authorized the preparation of a second petition to the king. The final resolution—the only one not to pass unanimously—proposed “that measures be entered into for opening a Negotiation” with the government, “and that this be made a part of the petition to the King.”

In their ambivalence, these resolutions embodied a tacit compromise that enabled both the militant and conciliatory wings of Congress to pursue the measures each believed necessary. The organization of military resistance—the task to which Congress now turned—was not itself at issue. The real problem was to fashion a diplomatic strategy appropriate to the changing conditions of 1775. In the face of British obstinacy and the outbreak of war, should Congress modify its positions of 1774 as a gesture toward accommodation, or reaffirm them to demonstrate its unshaken commitment to a full redress of American grievances? Militant delegates, though unable to prevent the preparation of a second petition, apparently succeeded in blocking any reduction of the demands of 1774. Conciliatory delegates would be allowed to draft the petition—Dickinson, Jay, and Thomas Johnson were a majority of the committee appointed for that task—but not to retreat from the positions Congress had already adopted. The committee was probably given some leeway to devise new ways of approaching the government, which would explain why Benjamin Franklin, recently returned from London but so far mysteriously silent within Congress, was named to it. Its ultimate failure to offer any innovative proposal “for opening a Negotiation” may well have reflected the pessimistic conclusions Franklin had drawn from the failure of his own diplomatic efforts in London during the preceding months.

Three considerations determined the outcome of the debates of late May. The first was the effect that a reduction of American
demands, arriving hard upon news of the first hostilities, would presumably have on the British government. If the ministry had already refused even to recognize a Congress representing a surprisingly united America, would it now offer concessions to a body that seemed to flinch at the prospect of war? That seemed unlikely. Conversely, John Adams noted, some delegates still hoped “that Ministry and Parliament, will immediately receed as soon as they hear of the Battle of Lexington, the Spirit of New York and Phyladelphia, the Permanency of the Union of the Colonies etc.” In either event, a logical position for Congress to adopt involved reaffirming its own interest in negotiations without undercutting its bargaining position by premature concessions.27

The state of public opinion exerted a second influence on this debate. The mandate expressed in the wave of public meetings held to ratify and implement the proceedings of the First Congress was, if anything, more decisive than the one formed during the summer of 1774. Lexington and Concord had done nothing to shake this foundation of popular support; by all accounts, they had strengthened it. Moderate delegates could assert, correctly, that radical measures that seemed to tend toward independence remained generally unacceptable. But they could point to no groundswell of popular opinion favoring the adoption of more conciliatory gestures. More militant delegates could argue, on the other hand, that any signs of a congressional retreat would only play into the hands of loyalist writers, who could then suggest that Congress was either internally divided or uncertain of its own positions. By submitting a second petition, Congress could placate moderate elements of public opinion; by adhering to its earlier stands, it could continue to command the allegiance of those who already doubted the prospects for reconciliation.

Considerations of diplomacy and domestic politics thus cautioned the delegates against modifying the policies of 1774. But, in the third place, internal pressures also encouraged the two polar groups of delegates to strike some modus vivendi that would enable Congress to proceed with the pressing tasks of organizing an army. Conciliatory delegates continued to wonder whether even modest American concessions might not crack British intransigence. But unable to command majority support for their recommendations, they had no choice other than to accept policies whose consequences they foresaw but did not
desire—particularly when they agreed, as Dickinson had admitted, that the colonies had to prove themselves willing to oppose force with force. Militant delegates operated under similar constraints. John Adams privately grumbled about the obstructionist tactics of Dickinson, the "certain great Fortune and piddling Genius" whose insistence on pursuing reconciliation, he complained in his famous intercepted letter, "has given a silly Cast to our whole Doings." Yet it was undeniably more important to pacify moderate members than cavalierly disregard their hopes. The dispatch of a second petition containing what Adams called "a delicate Proposal of Negociation" might be redundant at best, but the need to keep Dickinson and his allies actively engaged justified allowing them to pursue their favored scheme. "Discord and total Disunion," Adams realized, "would be the certain Effect of a resolute Refusal to petition and negociate." No useful purpose would be served if the conciliatory faction left Congress: what was at stake was not a problem of wresting political control from one's opponents, but of fashioning policies that all factions could support. Correctly anticipating that events would progressively strengthen their position, the militant delegates could also expect a gradual narrowing of differences of opinion within Congress.

Two incidents involving the Massachusetts and New York delegations illustrate how these constraints worked. Early in June Congress received a letter from the Massachusetts Provincial Congress requesting its advice on the resumption of legal government, a step that the creation of a provincial army now made unavoidable, because "the sword should in all free states be subservient to the civil powers." Since the fall of 1774 the Massachusetts delegates had been kept well informed of their constituents' desire to restore legal government, either under the original charter of 1629 or (perhaps even more hopefully) through the framing of a new constitution. With this desire they privately sympathized. For Samuel Adams, however, the preeminent problem remained, as ever, to preserve "union" both within Congress and at home in his native province. Convinced that other delegates were still unwilling to authorize the writing of new constitutions—a step that clearly implied the repudiation of all forms of British authority, royal as well as parliamentary—Adams held to the formula he had outlined to Joseph Warren the previous September. Then he had argued that Governor Gage's
conduct could be used to justify a declaration vacating his commission, and that the second charter of 1691 could thereupon be resumed, with the provincial council acting as both the upper house of the legislature and the executive branch of government. Although this proposal effectively nullified the Massachusetts Government Act, it could fairly be considered the least offensive way of coping with the problem of providing the Bay Colony leaders with the legal trappings of authority they needed. For Adams it had the additional virtue of precluding, at least temporarily, the bitter internal disputes that would predictably arise whenever Massachusetts undertook the reformation of its government. Within a week of its receipt of the Massachusetts letter, Congress adopted Adams’s formula.29

Several weeks later the New York delegation also chose to ignore the wishes of its constituents in the interest of preserving congressional harmony. In late June the Provincial Congress drafted its own plan of reconciliation, which was forwarded to the delegation at Philadelphia in the hope that Congress might be persuaded to adopt one or more of its provisions. Had this plan arrived some weeks earlier, when Congress was actively debating reconciliation, the New York delegates, who were themselves committed to accommodation, might well have used it to advantage. But to attempt to reopen that debate in July, after Congress had effectively tabled those issues in order to concentrate on more pressing matters, was pointless. Forced to balance the wishes of the Provincial Congress against the state of congressional politics, the New York delegates quickly decided not to introduce their constituents’ plan.30

Yet if both conciliatory and militant delegates alike were obliged to defer to the realities of what might be called coalition politics, their hopes and perhaps even their expectations continued to differ, and events could ultimately favor the arguments of only one of these groups. During the opening weeks of the Second Congress moderates had been able to extract some concessions from their opponents. Although their most important proposals had been rejected, the committee drafting the royal petition had been authorized to devise some plan for opening negotiations; and in a revealing decision of early June, Congress had prohibited any American expeditions against Canada, which suggested a continuing intention of acting “on the defensive.”31
But the carnage at Bunker Hill on June 17—a battle, like Lexington and Concord, clearly initiated by the British—seriously weakened the moderate position within Congress in two ways: by allowing militant delegates to argue that a forceful American response was justified, and by requiring conciliatory members to reaffirm their own commitment to resistance. Within days the resolution regarding operations against Canada had been reversed. When John Dickinson was called upon to revise the Declaration on Taking Arms that George Washington was to read when he took command of the continental army, he produced a text that was more severe than Thomas Jefferson’s original version. It was Dickinson’s way of proving that he was no less patriotic than his colleagues. And perhaps most important, when the second royal petition was finally approved on July 8, it failed to propose any new or specific format for initiating negotiations. The petition merely dropped the whole problem into the lap of George III, who was asked “to direct some mode, by which the united applications of your faithful colonists to the throne . . . may be improved into a happy and permanent reconciliation.” The narrowly framed conciliatory proposal that Parliament had approved in February received even less polite treatment. Referred to the committee of the whole on May 26, it languished unconsidered until July 22, when four members were appointed to prepare a reply. Not until July 31, two days before it adjourned, did Congress approve Jefferson’s biting rejection of this “unreasonable and insidious” proposition.

The rapidity with which Congress set about reorganizing the conduct of American resistance provides further evidence of the limits that considerations of policy imposed on expressions of partisanship. It took only a week to approve the Massachusetts request for permission to resume legal government. On June 10 Congress passed a series of recommendations concerning the manufacture and collection of munitions. Four days later it approved the first resolutions creating a continental army. The next day Washington was appointed commanding general. A plan for staff appointments was adopted on June 16. Six days later Congress approved its first emission of bills of credit, and on the last day of the month it approved a comprehensive set of military regulations. Each of these actions was destined to have momentous consequences. Despite its carefully delineated character, the Massachusetts resolution of June 9 created an important
precedent for the establishment of new governments throughout the colonies. The various military resolutions not only committed the colonies to matching Britain’s escalation of the conflict, they also reinforced the government’s conviction that American opposition was essentially treasonous and could only be overcome by a policy of repression. And the decision to resort to currency finance helped to create a cluster of economic problems that would shape many of the critical political issues and alignments of the first decade and a half of American independence. Yet with the possible exception of the maneuvers surrounding the appointment of Washington, there is little evidence that any of these issues generated serious divisions within Congress.

The Prospect of Independence

PHILADELPHIA has never been a pleasant place to spend a summer, and by July most delegates were anxious to return home. On August 2, after a session lasting exactly twelve weeks, Congress adjourned. At first glance it seems almost astonishing that men responsible for directing a civil war should vote a recess of five weeks. Only recently the delegates had contemplated moving to Hartford or Albany, where Congress would be able to supervise its army more closely. Yet the delegates did feel burdened by the novel demands on their time and energy that service at Congress was already imposing. Perhaps more important, they were aware of the difficulties the provincial conventions were encountering in carrying out the new responsibilities thrust upon them with the outbreak of war. Local patriot leaders and other observers were beginning to express doubts about the abilities and sometimes the motives of provincial officials and representatives, foreshadowing the complaints that would be directed against the state legislatures after independence. For the delegates, then, a late summer recess offered a useful opportunity to monitor local developments and to assist in the implementation of the broad policy directives Congress had issued.36

When Congress reconvened—a week late—on September 13, it avoided the type of general debate about principles and goals that John Rutledge and John Dickinson had initiated in May.
Congressional moderates made no new suggestions for accommodation. In mid-August Thomas Johnson had predicted that the second petition would be "rejected with contempt," and none of the news from England so much as hinted at a reversal in British policy. As yet, any discussion of a declaration of independence remained recognizably premature. But the more militant members of Congress now anticipated that that subject would soon become debatable. In the early fall they began to propose measures clearly conceived as prerequisites to a decision on independence: the creation of legal governments in all the colonies, the framing of a confederation, and the opening of negotiations with potential European allies. Their attempts to place this agenda under consideration prompted much of the political skirmishing of the ensuing months. For despite their own deepening pessimism, moderates continued to nurse their hope that some sudden development—American success in Canada, shifts in British public opinion, a weakening of the government's resolve—would produce negotiations. They therefore opposed the adoption of policies and pregnant statements implying that Congress was abandoning its original goal of securing a redress of grievances that would leave the British empire intact. The tension that resulted from these conflicting views led to a continuation of the uneasy compromise that allowed Congress to proceed with measures of resistance while leaving more fundamental questions of policy unresolved.

But none of the delegates could ignore the discouraging signals Congress received during the fall of 1775 and winter of 1776, which provided the catalyst making a serious consideration of independence conceivable. Texts of the royal proclamation of August 23, which declared America to be in a state of rebellion, reached Philadelphia in late October. Little more than a week later came news that the king would take no official notice of the second petition. Despite these events, in early January 1776 James Duane could still explain his presence at Congress by noting, "If Parliament should offer reasonable Terms of Conciliation I should never forgive myself for being absent on so great and Interesting an Occasion. I am not without some hopes of a Just and honourable Peace." Two days later, copies of the bellicose royal speech opening the October session of Parliament were printed in Philadelphia. Here the king had described American leaders as "the authors and promoters of this desper-
ate conspiracy." The petitions of Congress, he charged, had been "meant only to amuse" the government and to mislead an "unhappy and deluded multitude" of their fellow colonists, while the delegates meanwhile "were preparing for a general revolt . . . manifestly carried on for the purpose of establishing an independent empire."\(^{38}\)

When texts of the Prohibitory Act, which subjected all American oceanic commerce to confiscation by the Royal Navy, were laid before Congress on February 27, the theoretical case against George III was essentially complete. Once the king had definitively removed the colonists from his protection—by waging war against them, outlawing them as rebels, and confiscating their property—he had forfeited all claims to their allegiance. By early 1776 it took little ingenuity to demonstrate that the colonies could now rightfully renounce their subjection to the mother country.\(^{39}\) Precisely because this conclusion seemed self-evident, Congress spent little time pondering the principles and charges that Thomas Jefferson eventually enumerated in the Declaration of Independence. What did trouble the delegates were more pragmatic questions about the necessity, utility, and timing of a formal declaration. It was their concern with the hard political consequences of a decision for independence that governed the maneuvers leading up to the resolution of July 2, 1776.

One issue best revealed the conflicting factors that Congress had to resolve before a decision on independence could be reached: the question of whether the colonies should be authorized to create new legal governments to supplant the provincial congresses that held power in most of the colonies. The imperatives of war had drastically enlarged the duties of these bodies, which now constituted the effective government in every colony but Rhode Island and Connecticut (where the governors were popularly elected), Pennsylvania, and Massachusetts. Instead of merely supervising the Association, local leaders now had to organize and arm military units, gather munitions, raise taxes, and quash pockets of political dissent. Given the expanded scope of their activities, they were eager to acquire the trappings of legal authority; and because no royal governor could possibly sanction any of these measures, the establishment of new constitutions emerged as the obvious alternative to a continuation of the ambiguous interregnum of 1774-75. In early November 1775 Congress had authorized New Hampshire and South Carolina to
establish governments; and it could be expected that other colonies would make similar requests within a matter of months. At the same time, mounting popular enthusiasm for a thorough reformation of the corrupt old regime suggested that the fictions devised for Massachusetts might not provide a useful precedent elsewhere. A simple resumption of the existing legal governments, now purged of loyal executive officials, would not go far enough. By widening popular participation in politics through its apparatus of committees, mass meetings, and militia companies, the resistance movement had helped to foster a sudden zeal for republican government. Indeed, by early 1776 the attractions of republicanism, though still fearful to some, were themselves becoming an important stimulus to the growth of revolutionary sentiment.

From the perspective of Congress, this pressure for the creation of new republican governments posed opportunities and problems alike. Although the provincial congresses were nominally superior to the Continental Congress in the sense that they formally elected and instructed their delegations, in practice and function they served as the subordinate administrative agencies of Congress itself. Insofar as their conversion into legal governments would enhance their authority, most delegates recognized that the efficiency of American resistance would be improved. Yet two further considerations led toward a different conclusion. One was the likelihood that a reconstruction of government, undertaken with avowedly republican intentions, would both distract attention from more urgent matters and disrupt the existing rough consensus on issues of resistance by bringing different individuals and social groups into active competition for control of the new regimes. Samuel Adams had quickly perceived that this process was at work in his native province, and his legalistic solution to the problem of government in Massachusetts marked an attempt to use the prestige of Congress to restrain the unruly tendencies of his countrymen.

Delegates from the middle colonies not only shared Adams’s fear but, if anything, felt it more acutely. For the ethnic and religious diversity of these colonies, complicated in northern New York and Maryland by class antagonisms between landowners and tenants and in Pennsylvania by animosities between Philadelphia and the frontier, threatened to generate political conflicts that appeals to the common cause could well fail to
Thorough élitists that many of the middle colonies’ delegates were—and more realistic than their opponents within Congress when it came to assessing the difficulties America would have to overcome to secure its independence—they felt little personal enthusiasm for the wisdom of creating popular democracies in the midst of a revolutionary civil war.

So, too, congressional moderates found a second argument against any sweeping reconstruction of government in the effect it would have on the diplomacy of the Anglo-American conflict, muted and indirect as that had so far been. As both signal and symbol, a decision to replace the existing colonial charters with new constitutions unilaterally framed by the Americans would be tantamount to a declaration of independence. At the very least, it would contradict the position Congress had publicly adopted of desiring merely a return to the status quo ante, and thus greatly enlarge the scope of colonial demands. Beyond that, however, a unilateral reformation of government would implicitly renounce the role the crown had always played in the colonial constitutions, and with it the theory of imperial federalism Congress had previously accepted. The colonial charters could no longer be described as contracts between the king and his subjects settled in America. For moderate delegates, still intent on preventing a door to reconciliation from being finally sealed, this was no idle point of political theory.

As the arguments on this one issue suggest, Congress had to weigh the legitimate, pressing needs of resistance against the political impact that the adoption of certain measures would have either on policymakers in London or on public opinion in both America and Britain. Other problems evoked similar conflicts. Should Congress invite foreign merchants to enter American ports, bringing vital supplies in exchange for colonial commodities? Should it dissolve the non-exportation agreement and allow American merchants to export to the rest of the world, earning the hard currency that would be needed to support continental credit? At some point the economic hardships imposed by the Association and the material needs of the army would finally force America to defy the traditional restrictions of the British navigation system, which Congress still nominally accepted. Other proposals suggested that Congress would have to concede the futility of maintaining its increasingly tenuous distinction between “offensive” and “defensive” modes of resist-
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ance. When R. H. Lee moved to halt the operations of the royal post office—a seemingly innocuous measure—Thomas Willing objected that this appeared to be "one of the offensive measures which are improper at this time," when the delegates still did not know "but there may be a negotiation." Samuel Adams had to reply weakly that this was "a defensive measure," since America's enemies were taking advantage of the royal post to disseminate information harmful to the common cause. And when Congress debated a resolution authorizing privateering voyages against British shipping, John Jay argued that he "was for a War against such only of the British Nation as are our Enemies." What is striking about the debates on these and other issues, however, is that moderate delegates pursued a strategy of delay rather than outright opposition toward the militant proposals that were regularly advanced after each new jolt from the government. Their position was bolstered in the fall of 1775 when several provincial conventions and legislatures issued new instructions binding their delegations to oppose independence. Although none of these instructions materially enhanced the prospects for reconciliation or even suggested new concessions Congress could offer, they did allow delegates such as Dickinson, Duane, Jay, and Johnson to raise objections against any measure that seemed to be a harbinger of independence. Indeed, it seems likely that the passage of these new instructions was actively solicited and arranged by conciliatory delegates who foresaw the obstructive value they would have in future debates. This was clearly what happened in Pennsylvania, where John Dickinson was the probable author of the set of instructions that eventually constituted one of the final obstacles to a declaration of independence. "I think them ill timed, timorous and weak," wrote Samuel Chase, who had supported Dickinson's conciliatory proposals of late May; "they were not drawn by Men fit to conquer the World and rule her when she's wildest. . . . They suit the Palates of the persons instructed and were probably drawn by themselves." This strategy of delay remained tenable through the late winter of 1776, partly because even militant delegates recognized that a large body of public opinion was still unprepared for measures that smacked too strongly of independence. Yet the moderates knew that they were conducting a holding action at best. As events made the prospect of independence more likely, they
found themselves clinging to the stringent positions Congress had previously adopted; they had no conciliatory initiatives left to propose. The considerations that had militated against a reduction of the colonies’ demands in May grew more powerful with every passing month. By the late summer of 1775 moderates such as Jay and Thomas Johnson justified their advocacy of delay on grounds of expediency rather than by falsely magnifying the prospects for accommodation. Writing in mid-August to defend the submission of the second petition, Johnson argued that

we ought, in my opinion, to conduct ourselves so as to unite America and divide Britain; this, as it appears to me, may most likely be effected by doing rather more than less in the peaceable line, than would be required if our petition is rejected with contempt, which I think most likely. Will not our friends in England be still more exasperated against the Court? And will not our very moderate men on this side of the water be compelled to own the necessity of opposing force by force? The rejection of the New York petition was very serviceable to America.

Seven weeks later Johnson again defended the wisdom of a gradual escalation of resistance. In sixteen months, he reminded Congress on October 6, thirteen colonies “have been brought to an Armed Opposition to the Claims of Great Britain. The line We have pursued has been the Line We ought to have pursued: If what we have done had been proposed two Years ago, 4 Colonies would not have been for it.”

Despite their substantial doubts about the chances for American victory, most moderates felt few reservations about the policies Congress had adopted or the deeper justice of the common cause. “For my part,” the ambitious Philadelphia merchant and newly elected delegate Robert Morris informed his trading partner Samuel Inglis,

I considered this Subject early & fixed on principle the part I should take in the unhappy Contest. I sided with this Country because their claims are founded in Justice and I wish every Friend to the American Cause may act on the same principle [and] that every Tory would consider it well before they act against it, but I doubt your Friends have only thought the Power of Great Britain insurmountable & founded their Conduct on that belief. This I believe to be the case with most of the Tories in America.

Writing to James Duane in mid-February, Robert R. Livingston could grumble that “upon what ground we stand I have been too
long absent from Congress to say, or how far our views may be enlarged.” But only ten days later he admitted:

Whatever may be our object I am persuaded that it is time the people should be weaned from too warm an attachment to a nation who have lost the virtues on which it was originally grounded. It will be easy to return to their old prejudices (if necessary) when Britain offers such terms as we can safely close with. This I once expected from their justice, then hoped from their fears, & am now growing more indifferent about.49

The moderates’ sense of priorities was revealed in an often repeated saying that became something of a congressional motto: “That the Colonies may continue connected . . . with Britain, is our second Wish: Our first is, THAT AMERICA MAY BE FREE.”50

When Congress created two secret committees to conduct its foreign correspondence and make arrangements for the importation of vital supplies, moderates dominated the membership of both committees. And when, in December 1775, the New Jersey assembly again debated the propriety of submitting its own petition for reconciliation, it was Dickinson and Jay who led the congressional delegation sent to dissuade the legislators from weakening the American position. None of their critics in Congress could have objected to any of their remarks.51