For additional information about this book
https://muse.jhu.edu/book/67880

For content related to this chapter
https://muse.jhu.edu/related_content?type=book&id=2392156
CHAPTER XII

A Government Without Money

To many Revolutionary leaders the foreign policy disputes of 1778–79 seemed particularly harmful because they hindered congressional attempts to devise effective measures for halting the depreciation of the currency and properly supplying the army and also because they raised false hopes of peace. “It has been the Misfortune of this Country, that every Year, has afforded some amusement to retard its Exertions against the common Enemy,” Alexander McDougall complained in the spring of 1779. “At one time Reconciliation, another our Assistance from France is to effect our Deliverance—this failing, our Alliance with that People, was to accomplish our Redemption—now Spain’s acceding to our Independency” provided the latest delusion.¹ By early fall, however, Congress knew that the war would continue indefinitely, and once the diplomatic debates had run their course, the delegates rapidly acted to fashion a new system of finance and logistics. As we have already seen, this reformation embodied three principal measures: a halt to the further printing of continental currency; a plan to transfer responsibility for provisioning the army to the states, which were asked to furnish specific supplies of food, clothing, and other essentials; and an attempt to create a stable circulating currency through a program of devaluing the old currency, taxing it out of existence, and issuing a new emission whose total value would
be carefully restricted. One effect of these measures was to make Congress and the army more dependent on the efforts of the states.

How the states responded to this challenge constituted an implicit test of one of the central assumptions underlying the early American theory of federalism, namely, that in certain areas the states were the administrative agencies of Congress, obliged to implement its decisions when they lay within its legitimate sphere of responsibility. Thus when the states proved unable—though not necessarily unwilling—to carry out these new policies successfully, a number of American leaders, both in Congress and out, began to consider other alternatives. Some, like McDougall, had always questioned the wisdom of relying on the states and saw the looming crisis as evidence of defects in American institutions and manners alike. "While we are pleasing and amusing ourselves with Spartan Constitutions on paper, a very contrary Spirit reigns triumphant, in all Ranks," he told Joseph Reed in the letter quoted earlier. "Our political Constitutions and Manners, do not agree, one or the other must fall—give way—otherwise America is a Phenomenon in Civil Society—Spartan Constitutions, and Roman Manners, peculiar to her declining State, never will accord." By the summer of 1780, the disappointing results of the new programs were leading some delegates to propose other measures pointing toward an increase in the authority of Congress and to wonder whether the Articles of Confederation, once ratified, would constitute an adequate frame of national government. The conditions of 1780 thus introduced a new phase of thinking about the problems of federalism, but a phase in which the exigencies of war rather than any grandly nationalistic visions continued to determine the scope of thought.

The Problem of Supplies

Congress had not adopted the system of specific supplies without foreboding. "For my part I dislike the plan altogether," Abraham Clark wrote, "as purchases ought to be made where most Convenient having regard to the places where they are to be consumed and the prices in the several states which must depend upon the seasons." Ezra L'Hommedieu hoped the new
plan would be seriously pursued, but “at the same time I fear more difficulties will be experienced in carrying it into execution than is at present imagined.” Such reservations initially mattered less than the absence of viable alternatives. The new system of procurement, the North Carolina delegates observed, was “such as the Necessity of our affairs, rather than choice, has determin[ed] us to adopt.” State officials who knew the limits of their own resources and perhaps had a better opportunity to witness the system in operation entertained similar doubts. Writing on behalf of the Massachusetts Council in late September, James Bowdoin felt obliged to give Congress what was virtually an elementary lesson in civics:

With respect to supplies for the Army, Experience has taught us that by calling on the several States (whose Assemblies are composed of a great number of Persons who must deliberate upon every Measure & consequently must be very slow in their final Determinations) for the specific Articles that are wanted, the Army has been fed only from day to day & at some times almost intirely destitute of any provision at all. . . .

Officials in other states echoed Bowdoin’s complaints, while even more scathing criticism arose from the army. The inherent inefficiency of the system of supplies also helped to cripple the financial plan of March 18, 1780—the last attempt to salvage something from the voluminous emissions of past years. To keep the army fed and clothed while requisitions were being collected and transported, commissaries and quartermasters were increasingly obliged to impress whatever commodities and goods they needed. Instead of cash, the disgruntled owners received certificates, which were “drafts which federal officers drew upon their respective departments,” and which had no more value than the continental currency they first supplemented and then replaced. “Wherever the armies went they littered the country with certificates,” E. James Ferguson, the historian of Revolutionary finance, has written, and this “massive certificate debt foredoomed Congress’ efforts to restore its currency.” Popular pressure forced the state governments to accept certificates in lieu of currency for the payment of taxes, thereby undercutting the intended plan of removing the old money from circulation and issuing a new emission in its place. As the months passed, the continental treasury remained empty, while Congress was daily exposed to continued demands for cash.
Until alternative policies could be developed, Congress had no choice but to pursue these expedients as best it could. But from the spring of 1780 through the following winter it appointed a series of committees whose cumulative recommendations constituted a thorough repudiation of the reforms just set in motion. The first of these committees was elected in mid-April, when Philip Schuyler, John Mathews, and Nathaniel Peabody were dispatched to army headquarters. The “Committee at Camp,” as it was called, was given broad responsibilities: to confer with Washington and other key officers on the condition of the army; to act to implement the plan of specific supplies; and to undertake a thorough examination of the whole logistical apparatus with an eye to recommending further reforms. One of the committee’s major functions was exhortatory: it issued a steady stream of circular letters urging the states to forward the supplies that had been demanded of them.5

From the start of their mission, the committee seems to have been convinced that the system of specific supplies was poorly calculated to sustain an active campaign. The news that France had finally decided to send a large force to America confirmed Schuyler’s opinion that “to Depend entirely on the States for effectual Supplies . . . would be hazarding too much.”6 It was Schuyler, the controversial former general from New York, who emerged as the leading critic of the new system. Schuyler had little inclination to defer to the judgment of Congress. Although he had been reelected to Congress in October 1778, immediately after his acquittal by a court-martial convened to determine his responsibility for the loss of Ticonderoga in 1777, Schuyler resisted the pleas of his friends in the New York delegation and allowed another year to elapse before he consented to take his seat. Still bitter over the treatment he had received from Congress in 1776 and 1777, he refused to accept a place on a commission Congress appointed in January 1780 to reform the staff departments, citing his reluctance to “accept of any employment under Congress in a Station either less honorable or less Important than that which I once had the honor to hold.” In April, however, he agreed to serve on the new committee Washington asked Congress to send to his headquarters. John Mathews had a similarly low opinion of Congress, which as early as 1778 he had concluded was no longer “competent to do the great public business intrusted to
them." Given other delegates' awareness of Mathews's and Schuyler's feelings toward Congress, it scarcely proved surprising when the committee's activities came to be viewed suspiciously from the perspective of Philadelphia.  

The issue that worked to alienate Congress from the Committee at Camp stemmed from a proposal the committee made shortly after its arrival at the Middletown headquarters, where it was able to observe the miserable condition of the troops under Washington's immediate command—an embarrassing sight also witnessed only days earlier by the Chevalier de la Luzerne. With Washington's active encouragement and support, the committee asked Congress to give it or another small committee "ample Powers for Drawing forth the Resources of the Country," and permission to request the states "to invest for a limited time in Congress or such persons as Congress may appoint Dictatorial Powers" sufficient to keep the army well supplied.  

Like most of the officers with whom it consulted, the committee believed that Congress was too habitually inefficient to act with the "dispatch" that the military situation of 1780 required. "A degree of inertia pervades all popular bodies, they are unequal to that celerity so requisite to the effectual prosecution of Military operations," Schuyler observed in a private letter to James Duane; "perhaps Congress labours in a greater degree under this misfortune than any popular body that ever existed at the head of an Empire." Although Congress did issue supplemental instructions to the committee, it persistently balked at granting the additional extensive authority that had been requested. Some delegates apparently bridled at the peremptory language the committee had used in addressing Congress, and relations deteriorated further when the committee sided with General Nathanael Greene in a nasty dispute over the reorganization of the quartermaster department. The committee remained at camp, doing its utmost to implement the requisitions Congress had levied on the states, before being finally discharged on August 11.  

Although the central recommendations of the committee went unadopted, its communications, reinforced by additional pleas from Washington, did succeed in conveying to Congress a disturbing picture of the precarious and impotent condition of the army. Neither Schuyler nor Mathews bothered to mince words. Both had concluded that Congress needed to reclaim
rather than disperse its powers. "By invariably holding up to the States that it had only a Recommendatory power, they have been taught to pay little attention to any decision of Congress," Schuyler wrote Duane in mid-May, "but it is for the weal of the Empire that [Congress] should assume, or even take new powers." Two months later Schuyler endorsed Jeremiah Wadsworth's belief that "Congress must have new and extensive Powers. . . . It involves an Absurdity that the propriety of the recommendations of the directing power of the Empire should be complied with or not as It may be thought expedient by the States." And there were delegates at Philadelphia who shared his fears, including Duane and Robert Livingston, Schuyler's Albany intimates, and two new members from Virginia, James Madison and Joseph Jones. Madison had been at Congress less than a week when, in a letter to Jefferson, he outlined the predicament of a body that was "from a defect of adequate Statesmen more likely to fall into wrong measures and of less weight to enforce right ones, recommending plans to the several states for execution and the states separately rejudging the expediency of such plans." Yet, as Jones realized, its recent decisions had only made the recovery of congressional powers all the more difficult, for

by these and several other proceedings Congress have been gradually surrendering or throwing upon the States the exercise of powers they should have retained and to their utmost have exercised themselves, until at length they have scarce a power left but such as concerns foreign transactions, for as to the Army the Congress is at present little more than the medium through which the wants of the Army are conveyed to the States. This Body never had or at least in few instances have exercised powers adequate to the purposes of War and such as they had, have been from embarrassment and difficulties frittered away and it will be found I fear very difficult to recover them.10

Jones may well have been unfairly pessimistic. From the vantage point of Congress, the states' inefficiency in collecting supplies and raising taxes seemed tantamount to a willful defiance of its authority; but there were other signs that officials in the states were prepared to concentrate additional powers in Congress. Schuyler again played a critical role in launching a new series of maneuvers designed to encourage Congress to take stronger action. Frustrated in his dealings with Congress, Schuyler had returned to New York rather than resume his seat after
the dissolution of the Committee at Camp. It was almost cer-
tainly at his prodding that the New York legislature approved a
resolution urging Congress to “exercise every Power which they
may deem necessary for an effectual Prosecution of the War,”
including vesting Washington with the authority to use the army
to compel “any State [which] is deficient in furnishing the Quota
of Men, Money, Provisions or other Supplies . . . to furnish its
deficiency.” The New York delegates remaining at Congress
thought this latter clause “not perhaps proper for publick Inspec-
tion” and chose to withhold it.¹¹

In November 1780, however, a convention of deputies from
the four New England states and New York met at Hartford and
approved similar resolutions, which were subsequently submit-
ted to Congress. British activity on Lake Champlain prevented
Schuyler from making the journey to Hartford, but he made sure
that Egbert Benson, a fellow commissioner, was “strongly Im-
pressed” with his views. In February 1781 Governor Clinton of
New York also dispatched a strongly worded letter to Congress,
reminding it that it had always exercised “extensive Powers”
over war, finance, and diplomacy. “No Objection has, that we
know of, been made by any State to any of these Measures,”
wrote Clinton, who later became a major opponent of a strong
national government. “Hence we venture to conclude that other
States are in Sentiment with us, that these were Powers that
necessarily existed in Congress, and we cannot suppose that they
should want the Power of compelling the several States to their
Duty and thereby enabling the Confederacy to expel the com-
mon Enemy.”¹² If the governments of the northern states, which
were no longer the scene of major fighting, were prepared to
advance such sentiments, it is at least plausible to suggest that
consent for drastic measures could have been procured from the
imperiled southern states.

Despite these suggestions, Congress was not prepared to as-
sert or solicit coercive powers over the states; even James Duane,
a man of few illusions, seemed to feel that such proposals went
too far. Congressional reluctance to pursue the measures Schu-
ylar had propagated may have reflected a belief that the Articles
of Confederation, then finally nearing ratification, should go into
effect first. In the meantime, acting in its characteristically cum-
bersome fashion, Congress began reconsidering its standing
problems of money, supplies, and administration. On the same
day that the Committee at Camp was discharged, a new committee was appointed to prepare an estimate of expenses for the next two years and “to provide ways and means for [procuring] such further supplies as may be necessary.” This committee produced several reports designed both to carry the earlier reforms into effect and to propose ways for Congress to resume direct control over finance and logistics. Some of its duties were apparently assumed by another committee, appointed in November to prepare “a plan for arranging the finances, paying the debts and economising the revenue of the United States.” Finally, several overlapping committees were asked to draft plans for organizing “civil executive departments.” Their reports at last allowed Congress to divest itself of numerous administrative burdens that had clogged its proceedings for years.¹³

These committees did not directly address the troubling questions Schuyler and Mathews had raised about the relations binding Congress and the states. They were appointed instead to cope with the pressing needs of the army and treasury; their immediate concerns were with beef and flour, old money and new, outstanding debts and ongoing expenses. Nevertheless, the reports they prepared during the autumn of 1780 and the early winter of 1781 inaugurated a new phase in both the theory and politics of American union. Two of their recommendations—both initially moved by Robert Livingston—proved particularly influential in shaping the politics of the early 1780’s. The first, which was approved on February 3, 1781, asked the states to empower Congress to collect an impost duty on foreign goods, thereby suggesting that the national government should at last acquire independent sources of revenue.¹⁴ The second, adopted four days later, saw the creation of three executive departments—Finance, War, and Marine—to supplement the Department of Foreign Affairs established a month earlier.¹⁵ Robert Morris quickly returned to national politics as the superintendent of finance—the preeminent position—and his proposals and policies effectively came to define the major domestic issues confronting Congress until 1783.

Although historians have sometimes regarded the passage of the impost as the opening wedge in a campaign to give Congress broad powers of taxation—adopting, in effect, the argument of its opponents—it was initially designed with more modest, though still important, purposes in mind. Livingston’s original proposal
was to have the states, not Congress, levy two sets of duties for specific uses: one on exports to provide a security that would enable America to attract foreign loans, the other on captured prizes to be applied to the expenses of the continental navy. The impost was only one of several financial proposals that Congress considered during the waning months of 1780, and probably not the most important. Proposals for taxing specie and establishing a national bank evidently attracted greater attention, while current negotiations with New York and Virginia over the cession of their western lands raised the possibility that Congress would soon acquire control over that vast and, it was believed, immensely profitable resource.\textsuperscript{16}

But as the plan for an impost took shape, the constitutional precedent it would set gave it a significance greater than the admittedly limited financial relief it would immediately produce. Much of the discussion over its adoption centered not on its utility, which seemed self-evident, but on the mode of its collection. Instead of asking the states to “pass laws, granting [an impost] to Congress,” as had been initially proposed, the final text requested that “they vest a power in Congress to levy” a duty of 5 percent—a revision apparently designed to obviate the possibility that the states could repeal their acts of authorization as they might any piece of legislation. As finally passed, the restrictions that Livingston had proposed on the use of the impost were relaxed: revenues were to be applied against the principal and interest of the national debt.\textsuperscript{17} The impost was thus designed not to raise operating expenses but to enable Congress to attract other sources of revenue—most notably foreign loans—by providing security for the extension of additional credit.

The decision to create executive departments directed by individuals was meant to answer two longstanding complaints made inescapably urgent by recent events. One was the familiar belief that the delegates wasted too much time, both in committees and sessions of the whole house, on minor matters of administration. With its calendar incessantly cluttered with all the lesser questions that were raised and debated almost daily, Congress had repeatedly found it difficult to set ample time aside for the systematic consideration of major issues of policy. In the second place, Congress was also dissatisfied with its earlier administrative reforms, which had created various multimember boards whose own deliberations and mutual relations were fre-
quently marked by petty bickering and inefficiency. As recently as January 12, for example, Congress had had to review charges leveled by two members of the Board of Treasury against the Chamber of Accounts, alleging: “1, neglect of duty; 2, indolence; 3, inattention to the public interest; 4, incapacity; and 5, partiality.” By consolidating these boards and placing them under the supervision of responsible heads of departments, Congress hoped to end both these disputes and the confusion created by the continuous process of appointing and replacing commissioners. But much like the limited role prescribed for the executive branch under the first state constitutions, the responsibilities of the new department heads were meant to be largely administrative in nature. Congress did not intend to surrender its own policymaking prerogatives or even its right to interfere in the basic operations of the departments—although during the next two years it would discover that Robert Morris had a more expansive notion of his own responsibilities.

With these actions of early February, Congress completed a first phase of reconsidering its earlier decisions to transfer major responsibilities to the states. It did so, however, without explicitly repudiating either the system of specific supplies or the finance plan of March 1780. Although several of the expedients discussed did foreshadow more radical proposals that would be advanced in the months to come, on balance there is little evidence to suggest that Congress was seriously contemplating a reapportionment of the balance of authority between the union and the states. The discussions of 1780 and early 1781 arose in direct response to the crisis in supply, recruitment, and finance, each an area of responsibility where it had generally been assumed that Congress would establish basic policy, even if details of execution were to be left to the states. If in reaction to the apparent failings of the states, Congress now sought additional authority to implement as well as frame policy, its intentions reflected not a grasping after power but an attempt to fulfill the purposes for which the union had been created. It was nevertheless inevitable that the mood of 1780–81 would produce a more thoughtful and critical attitude toward the Articles of Confederation than had previously existed. And when Maryland finally ratified the Articles in early February, some members began to propose amendments that were consistent with the questions Philip Schuyler had raised several months earlier.
Confederation Reconsidered

Congressional hopes for the prompt ratification of the Articles of Confederation had withered during the early months of 1779. When the Virginia legislature declared void all the controversial land purchases that the speculators of the Illinois-Wabash and Indiana companies had made before the Revolution, Maryland responded by reasserting its unwillingness to ratify the Articles until all the states were given common rights to the western lands. In 1779 Virginia concluded a detailed investigation of the speculators' claims by rejecting the purchases made by the non-Virginian companies; the assembly then enacted legislation opening a land office for the orderly sale of its western lands. The speculating companies were thus forced to appeal to Congress. There they met with some success, for on October 30, 1779, over the strenuous objections of the Virginia and North Carolina delegations, Congress asked the landed states "to suspend the sale, grant, or settlement of any land unappropriated at the time of the declaration of independence, until the conclusion of the war." This was at best a limited victory, however. Even if land sales were postponed, the revisions Maryland sought in the structure of the confederation still seemed unattainable, for the simple reason that Virginia appeared likely to prove as obstinate as its northern neighbor should its charter rights be endangered without its acquiescence.

But the landless states did have two increasingly useful advantages working in their favor. One was that a number of Virginia leaders were prepared to cede much of the state's western claims if the right conditions could be obtained. Perhaps more important, as the financial crisis deepened in 1779, many delegates began to hope, more longingly than ever, that congressional acquisition of a national domain would provide a secure and lasting foundation for the reestablishment of public credit. The lure of land, always one of the central themes in American history, acquired in this context the special attraction of a panacea. When the speculating companies appealed to Congress, therefore, delegates from the landless states were preparing to launch a new campaign to encourage the major landed states to cede their claims to the union. The overwhelming support they mus-
tered for the resolution of October 30 provided an early demonstration of the growing appeal of their position.

Although this action predictably elicited a further protest from Virginia, its immediate target was New York, which also had significant western claims but now seemed susceptible to judicious pressure from Congress. The validity of the New York claim was problematic because it conflicted with Virginia's. But the status of Vermont offered another, more pressing consideration. New York leaders still hoped to procure congressional support for the return of the "revolted" territory to their state's possession. A sacrifice of New York's questionable western claims might produce dividends along its eastern borders. By late November 1779, Robert Livingston and Philip Schuyler were convinced that national and state interest both required New York to cede its claims to land north of the Ohio River.

I find a violent inclination in most of the states to appropriate all the western Lands to the use of the United States [Livingston wrote], and in proportion as they feel the weight of taxes, that inclination will increase, till I fear it will at last overpower us, unless we contrive to make a sacrifice of part to secure the remainder. This I think we may do to advantage now, while they treat our title with some respect. . . . It will put our claim out of dispute, [and] enable Congress and us to apply our Lands to counter secure our money.

Two months later, Schuyler gave the New York assembly a detailed account of the threats and inducements to which their delegates had been exposed. In the letter that effectively set the New York cession in motion, he reported that within Congress "an idea prevailed that this and some other States ought to be divested of part of their Territory for the Benefit of the United States." Support for this proposal no longer came, he warned, from the landless states alone, but "was strenuously insisted upon, in private Conversation, and even supported by Gentlemen who represented States in Circumstances seemingly similar to our's." If the states with extravagant claims "would consent to a reasonable Western Limitation," he continued, it would "prevent Controversy and remove the Obstacle which prevented the completion of the Confederation." Schuyler then went on to outline the general details of a territorial settlement, a subject that had also been privately discussed at Philadelphia. The as-
Schuyler carried a copy of this act with him upon returning to Congress in March 1780. Despite the subsequent reading of the new Virginia remonstrance, by early May James Duane was able to inform Washington that he was "much engaged in another attempt to get the Confederation accomplished," and perhaps more important, "that the Delegates from Virginia are warmly disposed to give it all the Aid in their Power."21 For the recent arrival of James Madison and Joseph Jones meant that the delegation now included two influential politicians who agreed, with Governor Thomas Jefferson, that Virginia should yield its claims on principles acceptable to the state and, moreover, that ratification of the Articles was absolutely necessary. In late June Congress appointed a five-member committee, drawn from the four states possessing major western claims plus Maryland, to consider the various state actions that had been taken during the past year. Their report, delivered four days later, called upon "those states which can remove the embarrassment respecting the western country" to make "a liberal surrender of a portion of their territorial claims," which, it noted, "cannot be preserved entire without endangering the stability of the general confederacy." The report then reminded the landed states of the importance of completing the confederation "on a fixed and permanent basis, and on principles acceptable to all its respective members." Although the report was not finally approved until early September, its eventual adoption demonstrated, after the contention of previous years, the extent to which the delegates continually had to balance their responsibility to their states against considerations of national interest. No roll call was taken on this resolution.22

Once the report was adopted, Joseph Jones immediately returned to Virginia to lobby for the passage of an act of cession similar to New York's. By the winter of 1781 its approval seemed imminent (though subsequent negotiations and controversy over the terms of the cession would delay its acceptance by Congress until 1784).23 In the meantime, after British naval activity in the Chesapeake Bay had led Maryland to ask the Chevalier de la Luzerne for naval assistance, the French minister diplomatically reminded state officials of the importance of completing the confederation. Maryland voted to ratify the Articles on February
2, 1781; ten days later, Congress fixed March 1 as the day the confederation would finally take effect.24

Serious doubts about the adequacy of the Articles were beginning to grow even while these final maneuvers unfolded. As drafted, the Articles granted Congress no powers it had not previously exercised, nor did they confer the additional authority some members thought the situation of 1780–81 demanded: the right to raise an independent revenue and to compel state compliance with its requisitions. Indeed, by substituting a written charter for the less precise mandate of the public good, the Articles threatened to impose rather than remove obstacles to the assertion of any inherent power to act as the national interest demanded. Dissatisfaction with the substantive content of the Articles, a topic few members had previously pondered, thus increased as ratification became imminent. By early 1781 some delegates were arguing that the Articles were “defective” or “inadequate,” and confidently predicting that Congress would immediately ask the states to approve “such additional Articles as will give vigour and authority to Government.”25

Those who held this opinion nevertheless thought ratification imperative. In 1780 a few American leaders had flirted with the idea of calling a national convention to revise the pending confederation before it took effect. Thomas Paine briefly mentioned such a proposal in his pamphlet *Public Good*, a commissioned tract calling for the creation of a national domain; Schuyler discussed it in a private letter to Jeremiah Wadsworth and doubtless in conversation with Alexander Hamilton, soon to become his son-in-law; and Hamilton considered the idea more thoughtfully when he prepared a lengthy and devastating critique of the Articles at the request of James Duane.26 But unless, as Hamilton suggested, a convention “vested with plenipotentiary authority” could be assembled—which was not likely—such a tactic could scarcely have seemed practical in 1780 or 1781. For several reasons it probably appeared more advisable to amend rather than supplant the draft of 1777. Time was certainly one critical factor. The crisis of the American war effort was immediate and urgent, but, assuming that the states would insist on their right to ratify a new draft, months or even years might elapse before another document could be approved. Moreover, the success of any scheme for the restoration of public credit virtually presupposed the prompt completion of the Articles; without it,
pledges of public faith would remain meaningless. Finally, many delegates recognized that recent events, beginning with the acrimonious disputes of 1779, had so damaged the reputation of Congress that it could no longer rely solely on the implicit goodwill of the people and the states. These considerations outweighed the anticipated flaws in the Articles. "Tho' the powers of the confederation are very inadequate to a vigorous prosecution of the present war," John Mathews observed, "yet we must endeavour to make the most of them we can, and it is better to have some authority to regulate us, than, (as for some time past has been the case,) to have none."

Some delegates, then, saw ratification of the Articles as drafted as a prerequisite to the approval of additional amendments whose significance, though not anticipated in 1777, had been confirmed by recent developments. Certainly the completion of confederation would facilitate both the creation of a national domain and state approval of the continental impost, two measures that commanded the support of virtually the entire membership. But no similar consensus emerged when other measures for strengthening the authority of Congress were discussed during the months surrounding the inauguration of the confederation. Congress "have been disputing for a long time past, what powers were necessary to enable them to prosecute the business intrusted to them," Mathews noted in late January, "and were at this moment, as far from agreeing about it, as when we began." During the spring and summer of 1781, three separate committees prepared reports suggesting various amendments to the Articles. Although none of their proposals was adopted by the whole Congress, these documents nevertheless deserve examination because they expressed the first substantive criticisms leveled against the perceived shortcomings of the confederation.

The first of these reports was drafted in early March by a committee composed of Madison, Duane, and James Varnum, a former continental general from Rhode Island who shared his collaborators' doubts about the adequacy of the Articles. Their report began with a lengthy preamble asserting that Congress possessed "a general and implied power . . . to carry into effect all the Articles of the said Confederation against any of the States which shall refuse or neglect to abide by such their determinations," but which also admitted that "no determinate and partic-
ular provision” had been drawn to show how that power could be implemented. To remedy this oversight, the committee proposed an additional Article authorizing Congress to use military or naval force “to compel . . . [delinquent] States to fulfill their federal engagements.” This report was not taken into consideration until early May, when it was referred to a grand committee of thirteen members, which in turn did not report until late July. By then the idea of coercing the states had been rejected. The grand committee merely proposed that Congress ask the states, first, to allow it to impose temporary embargoes in time of war; and second, to appropriate for the specific use of Congress whatever funds they collected in compliance with its requisitions. This report was in turn referred to a third committee, “appointed to prepare an Exposition of the Confederation, a plan for its complete execution and supplemental articles.” Varnum was the leading member of this committee. 28

Their report, which was read on August 22 but never acted upon, constituted the most detailed commentary on the Articles that 1781 produced. Even so, the committee declined to give an “exposition of the Confederation”—a complex and presumptuous task—revealingly arguing that any current “omission to enumerate any Congressional powers [would later] become an argument against their existence, and it will be early enough to insist upon them, when they shall be exercised and disputed.” The report then went on to detail fully twenty-one areas in which Congress needed to devise plans for carrying specific provisions of the confederation into execution, including, last but not least, “providing means of animadverting on delinquent States.” Finally, the committee proposed seven additional Articles. These would enable Congress to impose embargoes in wartime, establish rules governing the impressment of private property for military use during the current war, appoint collectors of taxes “imposed according to the requisitions of Congress,” and seize property belonging to states that had proved delinquent in furnishing their quotas of men and money. Other provisions related to the admission of new states into the union, the negotiation of consular agreements with foreign nations, and the clarification of the number of states needed to compose a quorum and a majority in Congress (a subject on which the Articles were found to be ambiguous). 29

The temptation to think of enabling Congress either to coerce
the states or to circumvent their authority was a natural response to the sense of despair that afflicted American leaders in 1780 and 1781. They knew that their own repeated efforts to mobilize men and supplies had proved inadequate, and they were well aware that masses of the people were simply exhausted with the war and its demands. The officer corps of the army and former soldiers now holding political office were increasingly attracted to radical measures, and by the early summer of 1781 even R. H. Lee was arguing that Congress should follow the precedent of 1776-77 and vest some form of dictatorial powers in Washington.30

Nevertheless, the indifferent reception that Congress gave to these proposed amendments suggests that they constituted less an agenda for reform than a basis for private discussion and speculation. Few references to them are to be found in the delegates' correspondence, nor did they elicit any roll calls in Congress. It is therefore difficult to determine why they were never acted upon or even whether delegates who were sympathetic or opposed to such amendments constituted a majority of Congress. The support Robert Morris enjoyed in 1781 suggests that whatever factional alignments did exist did not by themselves preclude their approval. Yet the presence of even a small nucleus of hostile delegates would have raised serious problems. State ratification of these amendments would depend on the existence within Congress of a solid consensus of opinion, capable of binding all the delegates to their support. But in fact, as Varnum complained, many members, "especially those of a long standing," displayed "an extreme, tho perhaps well-meant Jealousy" of these measures.31

Other pragmatic considerations probably militated against their adoption. By late August 1781, when the third committee's report lay before Congress, two developments were working to defuse the pressure for constitutional change. Washington had begun moving a major part of the northern army, long investing the British forces at New York, south toward Virginia, where the position of the enemy army commanded by Cornwallis and the anticipated arrival of a French fleet had suddenly raised the possibility of a decisive allied victory. At the same time, the early efforts of Robert Morris, the new superintendent of finance, had helped to alleviate the distressed condition of the continental army, which, though still undermanned and precariously sup-
plied, at least seemed capable of waging an active fall campaign. Political experience suggested other doubts about the prospects for the ratification of additional amendments. Congress was already encountering minor problems in securing approval for the impost, which led some delegates to conclude that further requests should be postponed until this first trial proved successful. Even those who favored vesting coercive powers in Congress believed that the impetus for change had to come from the states. Varnum thought that the dissenting delegates would never alter their position without pressure from their constituents, while Joseph Jones argued that it would be better for the states to make "a voluntary declaration . . . of their Sentiment upon the Right of Congress to exercise such a power . . . for I suspect such a Recommendation coming from Congress wo'd excite fears in the States, that there was a disposition in Congress to grasp dangerous Powers."32

Whenever frustration gave way to reflection, it was difficult to avoid concluding that no expedient, however drastic, could achieve a miraculous reformation. By the early 1780's, political leaders had come to understand that the problems besetting the war effort were inherent in the character of American society and its new governments. "General Washington complains of us all," Joseph Reed, his former aide, noted in June 1781. "Engrossed with military affairs, he has not the time or opportunity to know the real state of the country, or the difficulties which environ men in civil life." Five months later Robert Morris offered a more reflective view of the American situation. It was true, he reminded Franklin, that American finances were in a very unpromising state.

But what else could be expected from us? A Revolution, a War, the Dissolution of Government, the creating of it anew, Cruelty, Rapine and Devastation in the midst of our very Bowels, these Sir are Circumstances by no means favorable to Finance. The wonder then is that we have done so much, that we have borne so much, and the candid World will add that we have dared so much.

In fact, Morris concluded, "the Exertions of our Country have really been very great," and "as soon as more Consistency shall have been put in the Administration" they would be so again; "but this is the Period of weakness between the convulsive La-
Constitutional scruples and thoughtful assessments of American failings did not always satisfy those who were attracted to the idea of coercive powers. Varnum still wondered how "political and civil liberty can be enjoyed amidst the Din of Arms, in their utmost platonic Extent." If reforms were to be adopted, they would have to be devised by "a Convention, not composed of Members of Congress, especially those whose political Sentiments have become interwoven with their Habits, from a long Train of thinking in the same way." Yet Varnum was not proposing a permanent alteration of the confederation: whatever measures this convention enacted "should expire at a given or limited Time." Proponents of coercive powers thus recognized the legitimacy of the objections they encountered. The right to use coercive force against a state, Jones admitted, "is certainly a transcendant power, never to be used but in cases of absolute necessity and extremity"; he hoped that the simple vesting "of such a power in Congress might possibly supercede [sic] the use of it." For his part, Madison naively believed that the imposition of simple naval blockades against recalcitrant states would render any actual exertion of force relatively painless.34

Such qualifications could not obscure the impact that the addition of coercive powers would have had on the structure of the confederation. To the extent that such a shift would have enhanced the authority of Congress at the expense of the states, it may fairly be seen as a harbinger of the deeper feelings of nationalism that ultimately led to the Philadelphia Convention. And there were, in fact, a few American leaders whose thinking was not inhibited by the political obstacles constraining Congress. Of these the most important was clearly Alexander Hamilton. In the critique of the Articles that he submitted to Duane in September 1780, and again in the "Continentalist" essays he published a year later, Hamilton expressed ideas that directly anticipated the overt Federalism of 1787–88 and the distinctive policies he would pursue as secretary of the treasury under Washington. Even in 1780 Hamilton was prepared to advance a broad interpretation of the inherent powers Congress enjoyed in the absence of a formal confederation. "Undefined powers are discretionary powers," he reminded Duane, "limited only by the
object for which they are given—in the present case, the inde­
pendence and freedom of America.” If each state retained “an
uncontrolable sovereignty . . . over its internal police,” the
American union would remain “feeble and precarious.” Con­
gress needed to recognize “the advantages of securing the at­
tachment of the army,” if it were to acquire “a solid basis [for its]
authority and consequence,” he wrote; “for to me it is an axiom
that in our constitution an army is essential to the American
union.” Hamilton proposed that Congress should assume control
of the public debt rather than allow it to devolve on the states;
it should also acquire independent sources of revenue and sup­
port the establishment of a national bank. The creation of execu­
tive departments administered by single individuals “would give
new life and energy to the operations of government.” Drawing
(as would Madison several years later) on the experience of the
ancient Greek and modern Swiss and Dutch confederacies,
Hamilton concluded that the greatest danger confronting the
American polity was not that “the [common] sove[re]ign will
have too much power to oppress the parts of which it is com­
posed,” but rather that it “will not have power sufficient to unite
the different members together, and direct the common forces
to the interest and happiness of the whole.”

These were powerful ideas, more strikingly innovative in 1780
than they would be seven years later, and they testify to the
brash iconoclasm that always characterized Hamilton’s thought.
No comparable commentary on the confederation was com­
posed until Madison prepared his memorandum on the “Vices of
the Political System of the United States” in April 1787. Yet in the
context of 1780—and his intimate connections with key members
of the New York delegation notwithstanding—Hamilton’s analy­
sis must be seen as the work of a political outsider. It was aca­
demic in the sense that his perspective, so reflective of the frus­
turations endured by the continental army, did not correspond
with the views that members of Congress, increasingly sensitive
to the range of political difficulties confronting them, necessarily
had to adopt.

Equally important, Hamilton’s animus against the Articles
greatly exceeded the reservations its congressional critics shared.
For while Madison, Duane, and Varnum clearly understood the
novelty of their own proposals for vesting coercive powers in
Congress, they viewed them as a vehicle for fulfilling rather than
subverting the Articles. Their criticisms were not conceived, in
other words, as a blueprint for what later came to be known as consolidation: the concentration of the responsibilities of government at the national level and a corresponding reduction in the sphere of authority reserved to the states. The proposed amendments were essentially a response to the problems of a nation at war, a drastic but hopefully expedient solution to the immediate crisis that had left the continental army at the brink of ineffectiveness. Several of the amendments designed to compel state compliance with federal requisitions were meant to operate during the present conflict only. None of the amendments envisioned transferring any of the substantial responsibilities of government from the states to Congress; in that sense, the underlying division of authority outlined in the Articles would remain intact. And while Washington, Schuyler, Madison, and others were beginning to wonder whether a confederation that could barely function in war would survive in peace, the future problems the union might face were at most of peripheral concern.

The 1781 proposals for amending the Articles were consistent with what their advocates believed to be the legitimate ends of the confederation. It was neither disingenuous nor accidental that Madison, Duane, and Varnum prefaced their report with a reminder that Article 13 “stipulated and declared . . . ‘that every State shall abide by the determination of the United States in Congress assembled on all questions which by this Confederation are submitted to them.’ ” They believed that the confederation had been framed to give Congress virtually exclusive responsibility for the conduct of war and foreign policy. Where discretionary functions had been left to the states, the framers had sensibly recognized that administrative efficiency required deferring to the local circumstances that distinguished the individual regions and states.

But this deference was not an acknowledgment of a state’s right to obey or disregard the legitimate requisitions and recommendations of Congress as it saw fit. For the Articles had also expressly stipulated that the determinations of Congress on such questions as the payment of funds to the continental treasury or the recruitment and provisioning of troops—the critical problems of 1780–81—were binding on the states, and not conditionally but “inviolably.” Indeed, the proponents of coercive powers
were prepared to argue that, in a strict sense, amendments should have been unnecessary. "I hope our new constitution will prove the means of introducing a more clear and perfect understanding between Congress and the states," John Mathews wrote immediately after final ratification, "and while the first continues to confine themselves within the strict limits of their authority, the latter will conceive themselves bound by the most sacred ties, implicitly to support them."