The Beginnings of National Politics
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CHAPTER XIV

Union Without Power:
The Confederation in Peacetime

It has always been difficult to avoid viewing the political developments of the mid-1780's from any perspective other than the Constitutional Convention of 1787. However one assesses the true character of the four years separating the coming of peace from the assembling of the Convention, the framing and ratification of the Constitution indisputably marked the culminating event in the history of Revolutionary politics and political thinking. In one sense, then, it is of only secondary importance to determine whether the new republic actually lay at the brink of chaos—the admittedly exaggerated image we have inherited from John Fiske—or was a basically prosperous society recovering as rapidly as could be expected from the dislocations of the war, as Merrill Jensen persuasively argued some years ago. As Bernard Bailyn has recently written,

Despite depressions, doubts, and fears for the future, and despite the universal easing of ideological fervor, the general mood remained high through all of these years. There was a freshness and boldness in the tone of the eighties, a continuing belief that the world was still open, that young, energetic, daring, hopeful, imaginative men had taken charge and were drawing their power directly from the soil of the society they ruled and not from a distant, capricious, unmanageable sovereign.

At last "free from the corruption and inflexibility of the tangled old-regime whose toils had so encumbered Americans in the late
colonial period,” the citizens of the newly independent United States discovered a “sense of enterprise and experimentation” whose impulses were expressed “in every sphere of life.”

Such a portrait reminds us, of course, not merely that healthy societies experience political malaise, but also that politics may well have mattered little to an overwhelming majority of the population intent, as anyone would sensibly be, on returning to the private joys and ambitions of ordinary life. If Alexander Hamilton could retire from Congress to practice law and, it seems, ignore politics almost completely until 1786, one can only conclude that masses of his fellow citizens shared his relative unconcern.

Even so, some American leaders were consistently troubled by the visible debilities in the governments of the new republic, and in the end their concerns grew sufficiently strong to enable the Convention to assemble, rethink the basic premises of republicanism, and draft a radically innovative Constitution, which eleven states had ratified by the summer of 1788. Explaining how the Constitution was framed thus remains, as it always has been, one of the most challenging problems in American history. A reconstruction of the various problems that vexed Congress once the war ended provides the logical starting point for such an inquiry. This chapter will briefly survey the major problems of policy and politics that troubled Congress during the mid-1780’s. The next will trace the evolving strategy of reform that led to the Convention of 1787 and attempt to explain the conditions that governed the outcome of its deliberations.

**Capital**

During the final years of the war, Congress had groped for ways to enhance its authority; in the first months of peace, it found itself struggling simply to maintain its dignity. The first insult came in late June 1783, when a small contingent of Pennsylvania soldiers mutinied, marched on Philadelphia, and surrounded the building where both Congress and the state council regularly met. After the council refused its request to call out the militia, Congress resolved to quit Philadelphia. The delegates adjourned to nearby Princeton, a college town that they soon discovered was no better prepared to accommodate Congress in a sudden
flight than Baltimore and York had been in 1776 and 1777. The removal to Princeton added a new element of bathos to the political plight of Congress. "The high and mighty and most gracious Sovereigns the Congress, a Boston newspaper scoffed, "not being stars of the first magnitude, but rather partaking of the nature of inferior luminaries, or wandering comets, again appear in their eccentric orb, assuming various directions and courses, sometimes regular and uniform, at other times, vain and retrograde." A postwar fascination with air balloons suggested another sardonic metaphor for the rootless Congress. This device, one wag wrote, would "exactly accommodate the itinerant Genius of Congress, who being raised in a little Balloon, can float along from one end of the continent to the other, observe that the systems of government are properly supported, and when occasion requires can suddenly pop down into any of the states they please." Congress had been publicly criticized before, most notably in 1779, but never so mockingly.  

Although some Philadelphians—including Charles Thomson, still secretary of Congress—hoped that conciliatory gestures could induce the delegates to return, public opinion in the nation's leading city turned against its former guests when resolutions to that effect narrowly failed to pass Congress. By late October, Benjamin Rush observed, Congress was being "abused, laughed at, pitied & cursed in every Company." Thomas Willing, a former delegate and merchant partner of Robert Morris, took the whole episode lightheartedly. "I have never said any thing to you about the removal of the Congress from this City," he wrote William Bingham; "it was not worth while. [W]e shall laugh at it hereafter over a glass of Wine." In the end, Willing believed, Congress "must finally sitt down here, & here only. The Bank itself, together with the enterprizing spirit of the people of Pennsylvania, will ever support their measures, better than they can be supported elsewhere."  

That, however, was precisely the reason why some delegates hoped Congress would never return to Philadelphia. For those members who were still bitterly opposed to Robert Morris, Princeton was a welcome refuge from a city where the superintendent's measures had always commanded visible popular support. In the view of Arthur Lee, David Howell, the Massachusetts delegation, and several other members, Congress had made a providential escape from what Howell called "the unhealthful &
dangerous atmosphere of Philadelphia." "It is observed by some Gentlemen," the Rhode Islander reported in late July, "that an obvious alteration has taken place in the House on some debates ... wherein the office of Finance is concerned." Samuel Osgood put the case more bluntly in December, when he wrote John Adams that Congress could never "have been a free and independent Body," had it returned to Philadelphia. "Plans for absolute Government, for deceiving the lower Classes of People, for introducing undue Influence, for any Kind of Government, in which Democracy has the least possible share, originate, are cherished and disseminated from thence." In the minds of the New England delegates in particular, Philadelphia had become a symbol of economic corruption and political reaction.4

Princeton was not itself a promising site for a permanent capital. James Madison and Joseph Jones were forced to share a bed in a tiny room, while Howell and William Ellery were housed in a former store. Even before Congress fled Philadelphia, it had begun discussing proposals for creating a permanent national capital; the move to Princeton gave this matter a new urgency. Since Congress could conceivably relocate almost anywhere between the lower Hudson and the Potomac, and because no fewer than five states were actively competing to have it settle within their borders, this question was not easily resolved. After some tangled maneuvers, in late October 1783 a majority was mustered in support of a plan to construct two capitals along the Delaware and Potomac rivers, with Congress alternately meeting, in the meantime, at Annapolis and Trenton. Late in the fall Congress removed to Annapolis, where it adjourned in the spring of 1784, leaving a Committee of the States to sit, first restlessly and then abortively, in its recess. By prior arrangement, Congress reassembled at Trenton in the fall. There it scrapped the dual capital plan in favor of the erection of a single residence along the Delaware. Two days before Christmas, Congress adjourned to New York, where it sat for the duration of the confederation.5

The ultimate location of the national capital was destined to remain unresolved until the famous Compromise of 1790 led to the planning and construction of Washington. Although hardly the most critical issue confronting the Continental Congress in the mid-1780's, this problem did symbolize several major aspects of the transition to peacetime politics. Its residence in five sep-
rate cities and towns during a period of little more than a year and a half did nothing to enhance the wounded dignity of Congress. The adamant opposition against returning to Philadelphia demonstrated the persistence of the partisan rancor nurtured during the final years of the war, when a small cluster of delegates centered on New England but abetted by Arthur Lee had been aroused against Robert Morris and the two principal interests he seemed to represent—the commercial ambitions of Philadelphia and the diplomatic designs of France. Parochial in their loyalties and almost paranoid in their suspicions, these men saw Morris resurgent in every proposal for augmenting the power of Congress. Finally, the capital issue foreshadowed the role sectionalism would play in the politics of the mid-1780’s. It was hardly surprising that sectional feelings influenced the outcome of this question. But other substantive issues soon arose that exposed the potential conflict among major regional interests in equally obvious but also more dangerous ways, ultimately raising the question of whether or not there was one common national interest the states could mutually support. The establishment of a national capital at least presupposed the survival of the confederation; other issues pertaining to commercial policy toward foreign powers and the settlement of the west seemed to point toward its dissolution.

Revenue

Finance, the great dilemma of the early 1780’s, remained the central test of the authority Congress would be able to exercise after the peace. The revenue plan of April 1783 had embodied three major proposals: a revised impost, a request for supplemental funds to be appropriated by the states for the use of Congress, and a recommendation that population replace land values as the basis for apportioning the common expenses. Having framed a compromise that most members felt answered the reasonable objections of the states, Congress had agreed that none of these resolutions would take effect until all had been unanimously approved. This stringent condition apparently reflected an opinion that further modifications of this program would effectively reduce Congress to precisely the situation it sought to escape: a precarious dependence on the goodwill and efficiency of the
REFORM

states. Congress was anxious to deter individual states from attaching the sorts of restrictive conditions that had been incorporated in several of the acts ratifying the impost of 1781. As a result, the new revenue program remained a dead letter.

The impost nevertheless came close to adoption. It survived critical tests in Virginia, where Washington intervened in its behalf, and Massachusetts, where Robert Morris overcame forceful opposition by transmitting extracts from diplomatic dispatches in which John Adams had emphasized the importance of securing national credit. But Rhode Island remained obstinate and refused to ratify until 1785. In Connecticut feelings against the commutation of military pensions ran particularly high, and the impost was rejected twice before being approved in the spring of 1784. Georgia had never ratified the first impost—an omission largely overlooked during the furor over Rhode Island—and delayed ratifying the amended version until 1786.

By then New York was the only state that had yet to grant the impost in some form. In the early 1780's its acquiescence could have been taken for granted. But resentment over congressional failure to aid its efforts to reclaim Vermont and a conviction that New York had always contributed more than other states to the common cause had soured the feelings of many state officials, most notably Governor George Clinton, toward the union. Abraham Yates, Jr., still bitter that Robert Morris had refused to appoint him receiver of continental taxes, emerged as an effective public critic of the impost, publishing a number of essays attacking the proposal. In 1785 the New York Senate rejected the impost, and when in 1786 the assembly did pass an act of ratification, it contained provisions that Congress deemed unacceptable. During the five years that an impost had been under consideration, all the states had accepted it at one time or another; but although Congress made a last futile effort to set it in operation, the New York rejection constituted the final verdict.

Other provisions of the program of 1783 also came to nothing. Congress did not receive unanimous approval for its amendment proposing the apportionment of expenses according to population. Foreseeing that this recommendation might go unratified, Congress had also asked the states to complete the censuses of land and buildings required under Article 8, but the states never made a serious effort to carry out what would have been, in any case, an extremely difficult task. And although many of the states
did agree to levy the supplemental taxes Congress had requested, unanimous ratification was again unattainable, while many of the state acts contained provisions Congress deemed unacceptable. To meet its current operating expenses, Congress continued to rely on requisitions on the states. The results were hardly satisfying. Remittances proved inadequate to the servicing of the foreign debt, which had remained the indisputable obligation of the confederation, and Congress was forced to postpone payments to major foreign creditors. The one sign of hope in this otherwise gloomy picture was the completion in 1784 of the major western land cessions, which finally enabled Congress to begin to plan for the disposition of the new national domain. Disagreements over the plans for settling and governing these territories prevented the immediate exploitation of this resource, however.

The desultory progress of these measures effectively defeated Robert Morris’s plan to use the creation of a consolidated national debt to justify endowing Congress with independent revenues. Rather than provide the funds Congress wanted or wait until they were unanimously ratified, the states began to make separate provisions for satisfying the public creditors whom Morris had hoped to make dependent on Congress. State notes were issued in exchange for federal securities, making the states, in effect, the creditors of Congress. As the states responded to the demands of their own citizens by absorbing a substantial proportion of the domestic debt, the rationale for granting Congress independent revenues was progressively weakened.  

Those delegates who had most deeply resented Morris were not overly alarmed about these difficulties, at least before 1786. The task of first weakening and then eliminating the vestiges of his power seemed more urgent than mere problems of finance, and their already intense suspicions were further inflamed when his artful intervention secured Massachusetts’s approval of the impost. In a lengthy letter to John Adams, which was intended, in part, to question the opinions Morris had quoted, Samuel Osgood pointedly noted that “if you were here, you would find it very difficult to establish Funds, that would not have a Tendency to destroy the Liberties of this Country.” The great danger, Osgood and his collaborators believed, was “That if permanent Funds are given to Congress, the aristocratical Influence, which predominates in more than a major part of the United States, will
fully establish an arbitrary Government.” Far from being troubled by the slow progress of the impost, they candidly rooted for its rejection, hoping, as Samuel Holten put it, that “the states will be daily more & more convinced of the propriety & necessity of . . . establishing revenues within themselves & retaining the absolute control over their own purse strings.” If the claims of legitimate public creditors remained unsatisfied, Arthur Lee wrote John Adams in August 1784, it was not the fault of the Articles of Confederation. The problem was instead “owing to the heavy weight the war had laid upon us,” and, Lee added in his characteristic vein, to “the placing two men in the first offices of trust and power, who have constantly aimed at exalting themselves by depreciating [sic] the public”—namely, Morris and Franklin, his two nemeses. Popular opposition to the impost and commutation thus seemed a healthy sign because it could be equated with opposition to Morris himself. When Congress reorganized the Office of Finance in May 1784, David Howell attributed this decision to a growing realization that a repudiation of Morris had become “the only remaining expedient of regaining the confidence of the states, and obtaining the long expected funds.”

When Morris finally left office in the fall of 1784, his opponents were still cautiously optimistic about the financial prospects of Congress. Lee and Osgood soon comprised a majority of the new Board of Treasury, and while it was true, as Holten complained, that “there is not much pleasure in being a member of Congress, unless a man can bear duning very well,” it now seemed possible that the states would grow less suspicious of Congress and more willing to support it. Osgood had his doubts on this score, but Lee was more optimistic. The prospective opening of the west, Lee believed, could yet do wonders. “With this fund well managed,” he informed John Adams, “the public debt may soon be annihilated.” Howell agreed. “The western world opens an amazing prospect as a national fund,” he wrote in February 1784; “. . . it is equal to our debt.”

By early 1786, however, the experience of administering the treasury was providing Lee and Osgood with evidence not of the inherent dangers of power but rather of the frustration of exercising it under the circumstances prevailing in the mid-1780’s. As E. James Ferguson has observed, they eventually found themselves writing “diatribes against the states almost in the style of
the Financier whom they had displaced.” The conclusion seemed unavoidable that a financial system based on requisitions and the levying of state taxes would never work, as Osgood admitted in January 1786 in a revealing letter to William Gordon, a long-time critic of Morris and the impost. “I am clear in one point,” Osgood observed,

that the united states must be entrusted with Monies other than the scanty Pittance that they obtain from the annual Requisitions—Ten Months will more explicitly show all that we cannot exist as a Nation without more prompt & effectual Supplies—Congress must either be vested with coercive Powers as to the Collection of Money or with the Impost which last for many Years to come will not be equal to the Necessities of the Nation; they must therefore if vested with the last be vested with the former also—or cease to be a Congress of any Consequence to the Union.

For Osgood, once so fearful of the dangers of federal power, Congress was now a “Sovereign Body [which] ought always to have a Power to do Justice” to its creditors. If that meant it might also “do Injustice,” it had to be remembered that “Without the Power Injustice must certainly ensue.” He had formerly shared the reservations Gordon still held, Osgood recalled, “but four or five Years close Attention to the Subject, confronted with Facts as stubborn as ungrateful obliged me to yield.” Now he was convinced that “Americans have no more Virtue than other People,” and that “We must be governed by Laws, or we shall be no Nation at all.” Although Osgood, like Lee, subsequently opposed the Constitution, his disillusionment in 1786 was profound; Gouverneur Morris could hardly have spoken more cynically.

One month after Osgood wrote this letter, the New Jersey assembly approved a resolution declaring it would refuse to honor the requisitions of Congress until New York ratified the impost. New York had previously enacted a state impost to which the citizens of New Jersey, lacking any significant port of their own, necessarily contributed, and the assembly argued that these revenues should be appropriated to the use of Congress rather than the state. Most delegates understandably regarded the New Jersey announcement as a well-meant but short-sighted show of zeal more likely to weaken further the authority of Congress than to strengthen it; “however New Jersey may suffer by her paying taxes to N. York,” Nathaniel Gorham commented, “her
refusal to comply with the requisition is unjustifiable, and unless she recinds, her resolution must work the end of all federal Government." Gorham was one of three delegates dispatched to ask the assembly to reconsider its position. The legislators apparently accepted the committee's argument that their action had been impolitic, and subsequently retracted their resolution. But the assembly took no further steps to comply with the pending requisition of 1785. Several months later, the New York assembly approved its defective ratification of the impost.\textsuperscript{13}

Congress had lived from hand to mouth for six years, and there was nothing new to be said about its financial plight. The delegates had continually appealed to their private political connections, and Congress had repeatedly beseeched the states. The results were the same, and equally disappointing.

\textbf{Dilemmas of Foreign Policy}

More complex and, if possible, even more alarming than these financial problems were the major questions of foreign policy that beset Congress after 1783. Within a year of the conclusion of peace three external threats to the security and welfare of the United States had become evident; yet Congress lacked not only the resources but the authority and political support necessary to counteract them. It could not compel Great Britain to relinquish the military posts it continued to occupy within the new nation's northern boundaries. It could not induce Britain and France to remove the discriminatory restrictions they quickly imposed on American commerce. And it could not force Spain to reopen the Mississippi to American navigation. Because the conduct of foreign affairs had always been considered the prerogative and the preeminent responsibility of Congress, its inability to respond to these challenges raised further questions about the adequacy of the Articles of Confederation. Perhaps even more ominously, these problems affected the interests of different states and regions disproportionately, so both within Congress and without it became increasingly difficult to define a common national interest deserving the unanimous support of the states. Where financial issues encouraged criticism of the Articles, by 1786 problems of foreign policy were evoking fears for the survival of the union.\textsuperscript{14}
The Treaty of Paris ending the war contained two provisions that brought Congress into conflict with the states. Article IV stipulated that "creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted." Article V required Congress to recommend that the states provide for the restitution of property confiscated from British subjects or American loyalists, and that they also allow the claimants of this property to return to America to institute the appropriate legal proceedings. Both articles were predictably unpopular in the states, where animosities against British creditors and the loyalists showed few signs of evaporating. Acting on the recommendation of Congress, the states had earlier enacted a considerable body of confiscatory legislation; and in the wake of a long war and a late upsurge in British naval activity against American commerce, there was little enthusiasm for the payment of prewar debts, particularly when it was rumored that creditors would demand cumulative interest.

These were sensitive issues, and most state legislatures found it politically inexpedient to defend these provisions against the wishes of their constituents. Some question existed as to whether Britain actually expected the restitution of confiscated property. Congress had only been asked to recommend appropriate measures to the states, and it was commonly suspected that Britain had insisted upon this provision only to appease loyalist refugees in England. The sincerity of British interest in the repayment of debts was not in doubt, however. In either event, the states' failure to honor these articles gave the British government a convenient pretext for refusing to abandon its strategically situated posts according to the terms set by the treaty. In the immediate aftermath of finishing one war, and with its treasury impoverished, Congress was in no position to attempt to seize the forts by force; nor could it persuade the states that the national interest took precedence over local political considerations.

That legislation hostile to the claims of loyalists and British creditors was proving popular was hardly difficult to understand: it was no more surprising than the legislatures' reluctance to fulfill congressional requisitions by levying additional taxes on their constituents. Yet whatever the circumstances, in both cases many delegates believed the states were willfully defying the
explicit provisions of the Articles of Confederation and the legitimate authority of Congress. Even George Mason, on other issues an increasingly bitter critic of Congress, thought state legislation restricting debt collections by British creditors indefensible. For, as he reminded Patrick Henry, “the power of War & Peace, and of making Treatys, being in Congress, and not in the separate States, any such act wou’d be considered as an unwarrantable Assumption of Power in the State adopting it.”¹⁹ With foreign treaties as with requisitions, however, the central problem was to bridge the gap between the responsibilities formally delegated to Congress and the failure of the Articles to anticipate, much less devise remedies for situations where the states might obstruct or contravene its actions.

Charles Thomson attempted to grapple with the awkward questions this issue raised in a private memorandum he prepared sometime in 1784 or 1785, which was specifically addressed to the problem of enforcing treaties. Thomson began by examining the second and ninth Articles of Confederation, which stated that Congress would exercise delegated powers, but also that some of these powers, including that of making treaties, were to be under its “sole and exclusive” control. Once a treaty had been properly concluded, Thomson argued,

every state in the confederacy & every individual in every state is bound to observe it. It is a law paramount in the state so long as the state continues a member of the confederacy. The legislature have no right to interfere with it. . . . On the contrary it is their duty to remove every obstacle (if any there be) within their state to the faithful performance & observance of the treaty.

The secretary admitted that the precise legal status of foreign treaties was still uncertain. Nevertheless, Thomson was clear in his opinion that in these matters the determinations of Congress must ultimately prevail. Even where preexisting state legislation militated against the terms of a treaty, local judges were obliged to recognize “that the promulgation of the treaty is a virtual repeal of the law. To decide otherwise would be to declare their state in rebellion against the Confederacy, which is not to be presumed.” Thomson’s argument followed the logic Madison had earlier adduced to demonstrate that congressional requisitions were binding on the states, and, it may be argued, his interpretation was consistent with the intended meaning of the
Articles themselves. That did not, however, give his position the political impact necessary to overcome the practical difficulty of securing its acceptance in the states.  

Although British retention of the frontier posts had little effect on the lives of most Americans, British restrictions on American commerce posed a more palpable threat to the general welfare. As early as the summer of 1783 Britain began to pursue a series of measures limiting the access of American products to imperial markets, notably in the West Indies, and preventing the American merchant marine from regaining its previously substantial share of Atlantic commerce. French commercial policy was somewhat less discriminatory, but the concessions offered by the nation’s sole ally disappointed American expectations. By the fall of 1783 it was apparent that Britain was committed to following an illiberal and, it was thought, vindictive commercial policy toward the United States—one that could be most effectively countered if Congress could impose retaliatory restrictions on the glut of British imports that began flooding American markets immediately after the peace. Strongly influenced by a series of blunt dispatches from John Adams, whose diplomatic frustrations in Europe were already turning him into an advocate of greater powers for Congress, the delegates began considering asking the states to allow Congress to regulate foreign trade. Committee reports and appropriate recommendations were under preparation by late September 1783, but action was delayed until the following spring, in large measure because of the low level of attendance that barely carried Congress through the winter of 1784 at its new residence in Annapolis.  

Discussions of commercial retaliation seem to have escaped the controversial aura surrounding other issues that concerned Congress in the final months before its adjournment in early June 1784. There were different opinions as to how stringent and comprehensive such measures should be, but the animosities and ideological sparks that matters of finance still evoked did not affect this issue—at least as it was discussed in 1784. On the last day of April, Congress approved two recommendations which, the New Hampshire delegates noted, “we think to be so guarded that no ill consequences are to be apprehended from adopting that measure.” The first would empower Congress to prohibit the importation or exportation of goods shipped in vessels owned or navigated by citizens of nations that had not concluded com-
commercial treaties with the United States. The second would authorize Congress to bar foreign subjects trading in America from importing goods produced in any country but their own. Both recommendations were intended to bolster the American bargaining positions in the anticipated negotiation of commercial treaties with European states.22

The two recommendations of April 1784 said nothing about imposing restraints on American commerce, though some delegates already believed that the country had to be protected from its own lust for British goods. “If we have been prevented from making any Commercial stipulations with Great Britain,” the North Carolina delegates observed as early as September 1783, “it is because the Merchants without System or caution rushed into the British Ports and courted an intercourse with that Country.”23 When Congress slowly reassembled at Trenton late in 1784, a widening trade depression affecting American merchants and tradesmen suggested that further commercial reforms might be pursued, particularly since this depression was commonly attributed to the competitive advantages British manufacturers and merchants were believed to enjoy over their American counterparts. The absence of an effective quorum provided those delegates who were in attendance with ample leisure to discuss the general problems of the union. After the idea of a constitutional convention had been briefly considered and dismissed,24 a committee was appointed to consider whether Congress should solicit a general power to regulate commerce. Its report, delivered at New York in mid-February 1785, proposed that Congress seek an amendment to the Articles authorizing it to regulate both foreign and interstate commerce and to levy duties on imports and exports. To divorce this amendment from the revenue plan of April 1783, the report stipulated that these duties were to be collected by and appropriated to the states where they were payable.25

This report was intermittently though thoroughly debated well into the summer of 1785, but never approved. Its principal supporters, led by the young Virginian James Monroe, quickly realized that its prospects for adoption, either by Congress or the states, were few. Two objections were critical. First, a number of southern delegates thought this measure was designed to further the interests of northern merchants at the expense of southern planters. As James McHenry of Maryland summarized their ar-
guments, they feared it would lead to a northern monopoly of the
carrying trade, which would in turn produce lower prices for
their commodities and higher charges for their voluminous im-
ports. Not all southern delegates shared this fear that the eight
states from Delaware to the north would exploit their five sisters
to the south, but these objections could be expected to be du-
plicated by their constituents.26 Second, the committee’s report
revived the same fears of unchecked power that had informed
the earlier opposition to Robert Morris and proposals for an in-
dependent congressional revenue. Richard Henry Lee (now presi-
dent of Congress), Elbridge Gerry, Rufus King, David Jackson,
and others criticized these proposals on traditional whiggish
grounds, arguing (as Monroe summarized their position) that “it
was dangerous to concentrate power, since it might be turned to
mischievous purposes,” and that “all attacks upon the confedera-
tion were dangerous and calculated even if they did not succeed
to weaken it.”27 Writing from Albany, Abraham Yates, Jr., in-
formed David Howell that he was “rather Suspicious that the
advocates for augmenting the powers of Congress will try to
Effect their Scheme under the Cloak of investing Congress with
power to make Commercial Regulations.”28

The claim that Congress needed stronger authority over for-
eign affairs also aggravated those New England delegates who
still resented the success Gérard and Luzerne had achieved in
inducing Congress to defer to French interests when peace in-
structions had been drafted in 1779 and 1781. In their minds it was
still an open question whether the United States should be much
congermed with foreign affairs at all. Even Francis Dana, the
first American minister to Russia, could argue in January 1785
that

there is nothing clearer in my opinion than that our Interests will be
more injured by the residence of foreign Ministers among us, than they
can be promoted by our Ministers abroad. The best way to get rid of the
former, is not to send out the latter. And therefore let those already
appointed die off, or resign as fast as they may, I never wish to hear of
another being sent to any Country or Court in Europe, after we shall
have settled our commercial Treaties with them. . . . We have a World
to ourselves; and if we do not know how at present, we shall learn to
govern it as well at least as any other part of the Globe is governed, and
sooner and better without foreign interference than with it.29
John Adams, the recipient of this outburst, thought otherwise, but his personal experience in Europe provided him with a perspective radically different from that of many of his New England correspondents.

The extent to which these lingering fears clashed with and overrode the sectional interests of the New England delegates was demonstrated in a revealing episode that occurred during the summer of 1785. Few states were more seriously affected by the depression than Massachusetts. Yet when the General Court instructed its delegates to propose the calling of a constitutional convention, the state’s delegation (Gerry, King, and Holten) decided not to present their constituents’ resolutions for the consideration of Congress. Their private tabling of these instructions provided a remarkable example not only of the independence that delegates sometimes exercised but also of the residual force the conflict of the early 1780’s still exerted.

They had suppressed their instructions, the delegates informed Governor James Bowdoin, in part because they saw little prospect for any substantial revision of the Articles actually taking place—an opinion most members of Congress shared. But the Massachusetts delegates also believed that it was too soon to be certain what amendments were necessary or whether they should be adopted on a permanent or merely temporary basis. Underlying these expedient reservations was a more disturbing concern: any movement to amend the Articles would provide a tempting and dangerous opportunity for those who wished to convert “our republican Governments, into baleful Aristocracies.” As Congress needed time to determine whether American commerce might not revive naturally, so too the state legislatures and the people were obliged to reflect on the risks of precipitate action, and to recall that

the powers, once delegated to the Confederation, cannot be revoked without the *unanimous Consent* of the States—that *this* may be earnestly sought for, but never obtained—that the federal and State Constitutions, are the great Bulwarks of Liberty—that if they are subject, on trivial and even important Occasions, to be revised, and re-revised, altered and re-altered, they must cease to be considered as effectual and sacred Barriers; and like land Marks frequently changed, will afford no certain Rule for ascertaining the Boundaries, no criterion for distinguishing between the Rights of Government and those of the people, and therefore, that every Alteration of the Articles, should be so
thoroughly understood and digested, as scarcely to admit the possibility of a Disposition for a Reconsideration.

Although somewhat less shrill than the prophecies and warnings of 1783, this letter revealed that the principles that had fueled the campaign against the impost were hardly forgotten. For different reasons, the advocates of these amendments were also prepared to confess that further delays in strengthening Congress were not only unavoidable but necessary. Monroe, the leading proponent of commercial reform, had realized this by April 1785, when he informed Jefferson that it would probably be best for Congress not to approve the report but simply refer it to the states for their consideration. Fearing that its further agitation in Congress would create “prejudices” among dissenting delegates, who would then organize opposition in their states, Monroe concluded that “If it is [to be] carried it can only be by thorough investigation and a conviction carried to the minds of every citizen that it is right; the slower it moves on therefore in my opinion the better.” Four months later he reaffirmed his opinion. Conceding the sincerity of the objections raised by the report’s critics—“for I have the most confidential communications with them and am satisfied they act ingenuously”—Monroe remained confident that “the longer it is delay’d the more certain is its passage thro the several states ultimately. Their minds will be better informed by evidence within their views of the necessity of committing the power to Congress, for the commerce of the union is daily declining.”

Monroe’s assessment reflected both a candid concession to political reality and the curious optimism that, prior to 1786, colored many private discussions of the weaknesses of Congress. It was naïve in minimizing the potentially disruptive pressures Congress faced as issues that had strong sectional overtones acquired increasing importance. Each passing year saw this problem raised in more ominous terms. The debate over commercial powers for Congress had exposed the divergent interests of the major regions in a way that earlier maneuvers over the location of a capital had not anticipated. The third major issue of postwar diplomacy—American policy toward Spain—not only carried this process one step further but encouraged speculation about the dissolution of the union.

In 1784 Spain had closed the Mississippi River to American
navigation. When negotiations for a Spanish-American treaty of commerce began at New York in the summer of 1785, John Jay, now secretary for foreign affairs, was instructed to procure the repeal of this prohibition. The Spanish negotiator, Don Diego de Gardoqui, was under equally firm instructions not to open the Mississippi. Jay, who had spent two frustrating years as the American minister in Madrid, initially agreed with his instructions. But by late May 1786, months of laborious negotiations had convinced him to ask Congress to agree to a revision under which the United States would abjure the navigation of the Mississippi for a limited term of years. In exchange for this concession, it seemed possible that a liberal commercial agreement could be reached with Spain. Jay’s request was widely interpreted by southern delegates to require their region to sacrifice its expansionist interests for the benefit of northern commerce. The bitter debates that ensued during the summer of 1786 were further complicated by the parliamentary tactics of the northern delegates. The seven states from Pennsylvania to New Hampshire approved the revised instructions Jay wanted, even though they knew that the five southern states would be able to block the ratification of any treaty Jay negotiated, since nine votes were necessary for that purpose. This issue produced the starkest sectional division Congress had ever known, and southern members began to suspect what some northern delegates were in fact considering: that the impasse over this question portended the creation of two or three separate confederacies.32

The foreign policy problems of the mid-1780’s thus raised two major questions about the future of the confederation. First, would Congress enjoy sufficient authority and support to enable it to protect American interests in the world of nations? Second, and perhaps more disturbing, was there a general, coherent national interest that Congress could defend, or had the very success of the struggle for independence undermined the strongest foundation of American unity? Because the conduct of foreign policy was clearly the principal responsibility that Congress would exercise in time of peace, these posed the most alarming questions the delegates encountered between the Treaty of Paris and the calling of the Philadelphia Convention. Even the states’ failure to supply the continental treasury could be subsumed under their larger inability to recognize the existence of a legitimate sphere of national interest. An impoverished Congress
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could neither satisfy foreign creditors nor keep up military forces capable of defending American claims and interests along its extensive frontiers, nor even maintain a diplomatic corps that European nations could take seriously. When the Committee of the States abruptly adjourned in August 1784, Charles Thomson was forced to reflect on how much Americans had yet to learn about the character of their mutual interests. “Whatever little politicians may think,” he wrote Jacob Read,

time will evince that it is of no small consequence to save appearances with foreign nations, and not to suffer the federal government to become invisible. A government without a visible head must appear a strange phenomenon to European politicians and will I fear lead them to form no very favourable opinion of our stability, wisdom or Union.

When critics of the Articles talked of amendments and reforms, what they had in mind were primarily these responsibilities of foreign relations, the great affairs of state as they were traditionally conceived. These were concerns, however, that for the most part only experienced politicians could find deeply troubling, and that the majority of Americans deemed largely irrelevant to their own immediate interests. Even those issues that did impinge upon particular communities or classes of individuals lacked the potential to create a national consensus in support of specific reforms. The depression of 1784–85 had a disproportionate impact on urban merchants and tradesmen. British retention of frontier posts affected speculators and migrants looking toward the settlement of the northwestern territories, but not southern planters and small farmers vehemently opposed to the payment of pre-war debts or the return of loyalist refugees to areas where British troops and their American sympathizers had committed acts of personal violence and property damage. The occlusion of the Mississippi troubled southern leaders anticipating regional expansion into the southwest, but not New Englanders fearful that their own sectional influence and interests would suffer as western migrations gathered momentum. The conversion from the wartime politics of patriotism to the candid pursuit of local and private interests foredoomed any attempt to secure the unanimous approval that amendments to the Articles required. The comparatively modest amendments Congress had proposed in April 1784 were never adopted, and there was little reason to
believe that the broader commercial powers under considera-
tion in 1785 and 1786 would soon enjoy a different reception.

Land

When, in 1785, James Monroe argued that a strategy of delaying
agitation for major amendments was the wisest course Congress
could take, he may well have been drawing lessons from the
history of another issue that interested him intensely: the organi-
zation and development of the new national domain. The dispo-
sition of western lands had been among the most difficult ques-
tions Congress had confronted during the war, precisely because,
like the issues of the mid-1780’s, it had forced the states to balance
considerations of self-interest against the pressing demands of
national welfare. This was the issue that had led Maryland to
obstruct the ratification of the Articles and inspired Connecticut
and Virginia to propose that the remaining states confederate
without Maryland. Even after Virginia had agreed to yield its
extensive claims, continuing disputes over the terms of its cession
delayed its final acceptance until March 1, 1784. By then, how-
ever, Congress had already been considering for some months
further plans for governing, surveying, and settling these new
territories. On April 23, it adopted its first ordinance on the
subject of territorial government—the forerunner of the cele-
brated Northwest Ordinance of 1787. Plans for settling the land
proved more controversial, and another year elapsed before fur-
ther provisions were adopted. Nevertheless, after years of
acrimony and calculated maneuvers, the gradual emergence of
a generally acceptable policy must have been tremendously
heartening to many members of Congress. If this issue, seem-
ingly so intractable in 1776 and so intimately connected with the
particular interests of the states, had finally been resolved in
favor of the confederation, might it not provide a model for
compromise and common sense on other matters as well?

So Monroe might have reasoned. The framing of a policy for
the opening of the west was the one undisputed postwar
achievement of Congress and, as several historians have recently
argued, an achievement that represented not merely the vision-
ary imprint of Thomas Jefferson (who played a leading role in the
deliberations of 1784) but also the shared concerns of most dele-
gates. Indeed, one of the most recent students of the evolution of the 1787 Ordinance has concluded that "its history is apparently nothing more or less than that of a rather ordinary piece of noncontroversial legislation," and that throughout the mid-1780's the "continuity and consensus of thought" about key provisions of territorial government "are obvious."35 Had other problems not intervened, the creation of the national domain might conceivably have fulfilled some of the expectations it had evoked within Congress all along, enhancing its influence, replenishing its treasury, and demonstrating that substantial power could be safely entrusted to the federal government, thereby weakening objections against the further revision of the Articles.

Yet the success of any western policy was itself contingent on the extent to which Congress could exercise authority in other matters, and by 1786 its debilities were threatening to undermine the anticipated results of the long struggle to acquire a national domain. The mere enactment of provisions for territorial government and settlement could not guarantee that Congress would be able to discharge its mandate effectively or retain the loyalty of western settlers. Would migrants to the west maintain their allegiance to the confederation if it proved incapable of defending the frontiers or forcing Spain to open the Mississippi? If the process of settlement proceeded as slowly as many members now believed it would, and if it were as carefully regulated as Congress intended, difficulties could presumably be avoided. Still, it was hard enough to imagine how the geographical barriers inhibiting the integration of the seaboard and the interior would be overcome even if political disputes between these disparate regions did not arise.

By the summer of 1786, the collapse of the revenue plan of 1783 and the bitter rift within Congress over the Mississippi converged to point toward more ominous conclusions. Even Rufus King, who was hardly an enthusiast for rapid western development, was alarmed when the Board of Treasury was forced to "explicitly declare their utter inability to make [a] pitiful advance" of $1,000 to transport ammunition to American posts along the Ohio River. Monroe and other southern delegates believed that the northern willingness to acquiesce in the occlusion of the Mississippi was designed "to break up... the settlements on the western waters, prevent any in future, and thereby keep the States southward as they now are"—that is, a numerical mi-
or if settlements will take place, that they shall be on such principles as to make it the interest of the people to separate from the Confederacy, so as effectually to exclude any new State from it.” And in fact King, his Massachusetts colleague Theodore Sedgwick, and other New England leaders were toying with the idea of a separate confederation and wondering whether any “paper engagements, or stipulations, can be formed which will insure a desirable connection between the Atlantic States” and those on the other side of the mountains should the Mississippi be opened. “[T]he pursuits and interests of the people on the two sides, will be so different,” King argued, “and probably so opposite, that an entire separation must eventually ensue.”

As the furor over the Mississippi subsided somewhat in early 1787, such fears receded as well, and Congress went ahead to complete the Northwest Ordinance. Nevertheless, far from being the notable exception to the otherwise pathetic history of Congress in the 1780’s, the still problematic fate of its western policy indicated just how dangerous the unresolved difficulties of the confederation could become. If the confederation could not surmount its postwar lassitude and internal divisions, it was entirely conceivable that Britain and Spain would emerge as the dominant political forces in the interior of the continent, leaving the thirteen original states clinging to the ocean, deprived of the resources of the west, and still bickering over explosive issues of foreign affairs.

Reputation

Until the final months before the Philadelphia Convention, serious concern about the future of the confederation was in all probability confined to a small and elite circle of American politicians and their connections. Discussions of the peacetime plight of Congress appeared only infrequently in American newspapers and never developed into a full-fledged, much less incisive debate over the state of the union. Popular interest in the affairs of Congress occasionally mounted, as in the widespread protest against commutation that roiled Connecticut politics in 1783–84, or the calls for vesting commercial powers in Congress that were frequently printed in leading urban newspapers in 1785. But in
general the proceedings of Congress commanded little attention. Americans probably knew as much if not more about Parliament, whose debates were often reprinted in their newspapers, as they did about Congress, which still sat behind closed doors even after the coming of peace effectively undercut the claim that its deliberations were best conducted in secret. "We know little more of Congress here than you do in France," Francis Hopkinson informed Jefferson in the spring of 1785, "perhaps not so much. They are seldom or ever mentioned in the Papers and are less talked of than if they were in the West Indies Islands." 38

One reason why Congress received so little attention was that it was often incapable of reaching decisions. Caught between various sources of sectional rivalry and the conflicting interests that periodically set Congress at loggerheads with the states, the delegates were hard pressed to frame policies they could realistically expect to be endorsed or executed by the states. But its constitutional handicaps hampered congressional efficiency in another way. Its lack of power could not make service at Congress attractive to veteran politicians whose own prestige might serve to enhance its precarious influence. When Jefferson expressed a belief that "the best effects [would be] produced by sending our young statesmen" to Congress, he hoped their exposure to national issues would eventually lead them to "befriend federal measures" whenever they returned to their states. 39 But his statement also implied a certain doubt as to whether Congress would be able to do anything of real importance in the near future. In its weakened state, Congress could command neither the regular attendance nor the personal loyalties of many of its members, and both its reputation and the progress of business suffered accordingly.

From the time of its retreat to Princeton until the very demise of the confederation, Congress struggled almost constantly to maintain the quorum of seven states required by the Articles. The transaction of even minor business required the approval of all seven, and major decisions could be taken only with the affirmative vote of nine states. A state that was represented by two members—the minimum fixed by the Articles—always risked losing its vote if both disagreed, or whenever one member was ill, or decided he had more pressing business of his own to attend to, or left unexpectedly for home when his overdue relief failed to appear. Congress suffered as well, since the indisposition of a
single delegate could prevent a quorum, while a divided delegation lessened any possibility of creating a majority. To have anything passed in Congress in the mid-1780's required a fair amount of luck and a substantial level of consensus. Neither came readily to hand.

In 1783 and 1784, the problem of locating a comfortable residence did little to encourage attendance. Princeton was charming in its tranquility but hardly comfortable. Annapolis offered much more in the way of diversions. Elbridge Gerry, for one, was struck by the variety of entertainments available. “The object of the Inhabitants here is altogether pleasure,” he wrote Stephen Higginson; “Business is no part of their System, and of Consequence, Congress are altogether free from external Influence”—a pointed comparison with the pressure the public creditors of Philadelphia had exerted in behalf of Robert Morris. This glimpse of the leisurely pursuits of the southern gentry seems to have offended the sensibilities of several New England members, although Jonathan Blanchard of New Hampshire relished the opportunity to dine “in the Company of a number of very fine Ladies, who seemed not averse, to a small Squeeze from a Member of Congress.” Such diversions did not compensate, however, for the prospect of spending an entire summer in the heat of Annapolis, and in August Blanchard joined Francis Dana and Samuel Dick in taking an abrupt departure, leaving the Committee of the States to dissolve in a fit of recriminations. Nor, to judge by the slowness with which Congress reassembled in November, did the pleasures of wintering at Trenton prove any more enticing.40

The decision to relocate temporarily in New York while a permanent residence was constructed along the Delaware helped make attendance at Congress somewhat more comfortable. New York had two advantages: it was not Philadelphia, still an object of resentment in some members’ eyes; and with its mercantile fortunes and wealthy heiresses it offered a promising field for the bachelors who comprised a significant portion of the membership. Whether the delegates were equally eligible is open to question. Catherine Livingston has left this portrait of William Hindman of Maryland:

he looks more shocking than I can describe, I congratulated myself that he was destined for the Kitty he was instead of another [i.e., herself]; her
coming to Town had a wonderful effect on his spirits, which animated his poor emaciated frame so that he rolled out of bed, quit his chamber and in a few minutes with the assistance of a hack, was conveyed to his beloved, but good Heavens what a subject for a matrimony! she told me she was waiting for me, alluding to a promise we mutually made last spring, I looked very arch at her; at the same time giving a glance to the spectre between us, I thought she had a better reason for suspending the nuptials.

A flurry of congressional marriages in 1786 provided the only occasions for celebration in an otherwise discouraging year. Since the delegates had little to do while they were waiting for the states to comply with their requisitions, Abigail Adams was informed by a correspondent, “the interim of business they improve in getting married.” “Every now and then we hear of an Honble. Gentleman getting a wife,” Eliza House Trist wrote Jefferson, “or else we shou’d not know there existed such a Body as Congress.”

To suggest that marital ambitions encouraged some men to go to Congress does not mean that they took politics any less seriously for that reason: King, Monroe, Gerry, and Osgood were among the newlyweds, and their private correspondence evinces a deep concern about the issues confronting the confederation. Nevertheless, comments like those just quoted suggest how peripheral such concerns had become to the daily interests of most Americans. Charles Thomson had recognized this when he contrasted the “unfavourable impressions” the dissolution of the Committee of the States would make in Europe with the “little effect [it would have] on our affairs here, or on the minds of the citizens,” who would simply “view it in no other light than the rising or dissolution of their several legislatures.” After Congress reconvened, however, other members began to share the secretary’s alarm about the embarrassing inferences that “this invisibility of a federal head” would produce. Despite the difficulty of maintaining a congressional quorum, the Committee of the States never met again, perhaps because the status of the union seemed so precarious that some members feared it actually might dissolve if Congress adjourned. Yet ironically one of the most obvious ways to improve the image of a body that met continually but accomplished little would have been to have Congress assemble for a limited period each year.

George Washington made a compelling argument for this
reform in a letter he wrote to Jefferson in March 1784. Complain­
ing that “the inertitude [sic] which prevails in Congress, and the non-attendance of its Members” were both “discouraging” to the supporters of the union and “disgraceful” to the nation, Washing­
ton predicted “the case will never be otherwise” until Congress substituted “annual” for “constant” sessions. In peacetime there was no legitimate reason for Congress to meet in continual ses­

Annual sessions would always produce a full representation and alertness in business. The Delegats [sic] after a recess of 8 or 10 months would meet each other with glad Countenances. They would be com­plaisant. They would yield to each other as much as the duty they owed their constituents would permit, and they would have opportunities of becoming better acquainted with the Sentiments of them, and removing their prejudices, during the recess.

Drawing on his own experience in the army, Washington re­called that “Men who are always thrown together get tired of each others Company,” losing the “proper restraint,” doing things that are “personally disgusting,” and thus fostering an­tagonisms that eventually left public business “at a stand.” If, on the other hand, Congress appointed executive boards or commit­tees to prepare their business, “an Annual Session of two Months would dispatch more business than is now done in twelve; and this by a full representation of the Union.” Pragmatic and sensi­ble, this proposal was revealing in another way: it suggests that even as ardent a “nationalist” as Washington foresaw little need in peacetime for a vigorous, powerful federal government. 43

But in the end, these injuries to the dignity and efficiency of Congress only reflected the adjustment of national politics to the reality of peace. The transition was pervasive. It affected the political indifference of much of the public, the clashing interests of different states and regions, and the ambitions of the delegates themselves. In its internal proceedings and its relations with the states, Congress was a victim of the clash of interests that shaped the course of politics in the mid-1780’s. The major issues of these years—revenue, commerce, expansion—forced each state to cal­cule the benefits and costs that would flow from particular decisions. Freed from the patriotic constraints that had always operated, although unevenly, during the war, the states were no longer obliged to defer to the wisdom of Congress and the over-
riding demands of the common cause. The delegates, too, enjoyed greater liberty and, in a sense, a greater obligation to serve as the actual representatives of their constituents. They felt less impelled to subordinate the particular desires of their states to the larger good of the union. Most members agreed that Congress deserved greater support from the states than it was receiving—particularly after the influence of Robert Morris was, for better or worse, curtailed—but they themselves were often uncertain how far their personal loyalties to its interest extended. Few shared the sort of disinterested commitment that can be attributed to Madison. Until they grew more convinced that the problems of the union demanded a clear priority over the demands of the states, the task of strengthening Congress could only proceed on a piecemeal, gradual basis.