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DEPARTMENT -- HISTORY

LYCOMING COLLEGE

Honors Research

DEVELOPMENT OF FEDERALISM: 1754 - 1787 .

Submitted by

Nancy Anderman

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Introduction

The term federalism, as it exists in its present definition, has come into relatively recent use as a description of government. Used as early as the time of Greek city-states, the word did not develop its present meaning until the British imperial system began exerting increasing control over its colonies in the New World.

[Federalism can presently be described as] a political system...which (a) provides for or recognizes the existence of a central government for the whole country and certain autonomous regional governments... for the divisions of the entire territory; (b) divides the powers and functions of government between the central and regional governments; (c) gives to the regional constituents a special set of rights and duties; (d) authorizes both levels to legislate for, tax and operate directly on the people; and (e) provides various mechanisms and procedures for resolving conflicts and disputes between the central and regional governments,¹ and also between any two or more of the regional units.

Its present meaning can be best understood in relation to two other types of government--a unitary state and a confederacy. The former consists of a central government in which is vested all authority; local agencies, if they exist at all, are purely administrative. The latter is a loose league of independent states which retain all powers themselves. In contrast, a federal government involves a division of powers between local and central governments.

It must be emphasized, however, that this definition is a recent one. As Martin Diamond explains, the early leaders "had a very different understanding than we do of

what federalism is. For them, there were two possible modes: confederal or federal as opposed to unitary or national."² Gouverneur Morris, during the early period, explained the difference between a federal and a national government. The former was a "mere compact resting on the good faith of the parties"; the latter had "complete and compulsive operation."³

During the colonial period, Americans developed the philosophy that the British imperial system was, in fact, a federal system. Each area had its own government --Parliament for Britain and the colonial legislatures for the colonies--which took care of internal affairs. The unifying link of the empire was the king, although the colonies did recognize the need for regulation of commerce and therefore permitted Parliament to enact legislation on this matter. Britain's refusal to accept this division of powers ultimately created conditions in which the colonies felt they had no alternative but to declare their independence.

A major problem for the new nation, while fighting for its existence at the same time, was to put its philosophy of division of powers into a practical model. It required a central authority strong enough to coordinate the war effort, while at the same time not claiming for itself power which the inhabitants of the continent

had denied to Parliament.

One of the major problems in forming a union was the belief among Americans that vast differences existed among them. As John Adams wrote many years after the nation was firmly established:

The colonies had grown up under constitutions of government so different, there was so great a variety of religions, they were composed of so many different nations, their customs, manners and habits had so little resemblance, and their intercourse had been so rare, and their knowledge of each other so imperfect, that to unite them under the same principles in theory and the same system of action, was certainly a very difficult enterprise.⁴

As Adams pointed out, the colonial institutions varied greatly. Governments were royal, proprietary or self-governing; the South possessed a stricter class structure than the North and its economy rested on different products. But at the same time, there were similar characteristics which could be used as a basis for union. All had a common political tradition and the same language was predominant in all areas. More than anything else, each found itself after 1763 involved in defending its right to govern its own internal affairs and eventually it occurred to all that one united voice could less easily be ignored in Britain.

The purpose of this paper is to examine the development of federalism in the colonial period and the years after independence; to show the extent to which colonial philosophy developed into a theory of federalism while

the colonies remained subordinate to Britain; and to explain some of the problems early leaders faced as they attempted to reconcile those ideals with the need for a working political system for the new nation.

Footnotes

¹Julius Gould and William Kolb, eds., A Dictionary of the Social Sciences (New York: The Macmillan Co., 1964), pp. 263-264.

²Martin Diamond, "What the Framers Meant by Federalism," A Nation of States: Essays on the American Federal System, ed., Robert A. Goldwin (Chicago: Rand McNally & Co., 1963), p.26.

³Documents Illustrative of the Formation of the Union of the American States, ed., C. C. Tansill (Washington: USGPO, 1927), p. 121 found in Diamond, p. 29.

⁴J. Adams to Hezekiah Niles, February 13, 1818, The Works of John Adams (Boston, 1850-1856), vol. X, p. 283 as found in Merrill Jensen, The Founding of a Nation: A History of the American Revolution, 1763-1776 (New York: Oxford University Press, 1968), p. 33.

Albany: The Beginnings

In September of 1753 the British Lords of Trade asked Governor Osborne of New York to call an intercolonial conference to discuss the Indian problem. The instructions to the governor stated that Massachusetts, New York, New Jersey, Pennsylvania, Maryland and Virginia should be invited to New York--those colonies considered to be involved in the Iroquois problem. Acting-governor Delancey, receiving the instructions after Osborne's death, followed the directions but in addition sent invitations to Rhode Island and Connecticut. These additional invitations were a result of the urging of Governor Shirley of Massachusetts "who hoped the meeting would unify the provinces and hence desired as many governments represented as possible."¹ From the beginning of its planning then, the Albany Congress, a meeting originally intended to be concerned with Indian affairs, broadened its program to include discussion of colonial union.

This, however, is not to be thought of as the first discussion of colonial union. As early as 1643 there had been a Confederation of United Colonies of New England, a fairly successful defense league against Dutch, French, and Indians. Each of the colonies--Massachusetts, Plymouth, New Haven and Connecticut--had equal representation but apportionment of expenses according to the adult male population. "Lacking force to execute their orders

[involving issues primarily centering around Indian affairs and disputes among members], the representatives frequently phrased their decisions in the form of advice to the colonies."² Its activity varied with the situation of the colonies: inactive for a period of years; reactivated during King Philip's War; and finally ending with the withdrawal of the Massachusetts charter in 1684. Although it existed extralegally only, the Confederation "showed that some of the provinces recognized the need for a cooperative effort to overcome external dangers." It is to be considered the "only real achievement at voluntary federation in our whole pre-Revolutionary history."³

In 1686 the British formed the Dominion of New England, which by 1688 included all New England, New York, and New Jersey. A compulsory organization, it provided defense against the French and the Indians until its overthrow by the colonies during the English Puritan Revolution.

Desire for a defensive union varied as tensions wavered between British colonies and other inhabitants of North America. William Penn had proposed a plan of union in 1697. Various proposals were suggested by George Clinton, Thomas Penn, and Governor Dinwiddie between the years 1744 and 1752. In 1751 Governor Clinton of New York made an unsuccessful attempt at a conference between colonies and the Six Nations. Benjamin Franklin, in the

Pennsylvania Gazette, supported united colonial action believing that the French acted more confidently because of the disorganization of the British colonies.

As the Albany Congress met, it had then a basis, however small, of previous experience on which to work. It must also be realized that the vast majority of colonists had no concern for colonial union. Of the nine colonies invited, two--New Jersey and Virginia--refused. Their reasons for refusal show the relative importance of union discussion. New Jersey refused on the grounds she had never dealt with the Six Nations or benefited from their trade. Indian affairs were seen as the reason for the congress. Virginia did not accept the invitation because she could not afford the expense. This was primarily because Virginia delegates were sent to a conference with southern Indians in May of 1754 in Winchester--a conference apparently considered more important by the Virginians than the one in Albany. Virginia did ask Delancey to act as Virginia's unofficial representative.

Those delegates who attended the congress came with differing authorization and varied instructions from their colonies. Four colonies provided their delegates with the power to renew and strengthen the alliances with the Indians. Several had instructions to act on matters of defense including involvement with the French as well as

the Indians. Massachusetts and Connecticut delegates, however, were not permitted to make ~~any~~ binding agreements. Yet the Massachusetts commissioners were the only ones instructed "to work for a firm, perpetual and general union."⁴ They were commissioned by Governor Shirley "...for entring [sic] into articles of Union and Confederation with the aforesaid Governments for the General Defence of his Majesty's Subjects and Interests in North America as well in time of Peace as of War."⁵

The newspapers reflected the relatively little attention paid to the congress by the colonial governments. The New York Mercury and the Boston Post Boy during the summer months took little notice of the congress beside reporting on the travels of the various delegates. Nothing was found in the papers concerning the actual discussions at the meeting. In addition it was not until moved by colonial initiative that the Lords of Trade authorized the congress to work toward consolidation. The Lords then wrote Delancey:

It seem's [sic] to be the opinion and is the language of almost every Colony that a general Union of strength and interest is become absolutely necessary nothing more could have facilitated such a measure more than a general Congress of Commissioners from each Colony at Albany. Upon this occasion some plan might possibly have then been struck out by these Commissioners for effecting such a Union which can never be brought about in the separate and divided state of the Colony's [sic] without some general Congress.⁶

It is clear that no great public opinion was pushing

for colonial unification in a central government. After discussion of the Indian problem, the delegates on June 24 unanimously agreed that union for defense was a necessity. Union was not viewed as having great advantages but only as something to which there seemed to be no effective alternative. The congress formed a committee including Thomas Hutchinson, of Massachusetts, Theodore Atkinson of New Hampshire, Stephen Hopkins of Rhode Island, Benjamin Franklin of Pennsylvania, Benjamin Tasker of Maryland and William Smith of New York to draft a plan of union. Three of these men, Hutchinson, Hopkins and Franklin already supported a strong union.

With the acceptance by the congress that a union was necessary, the next problem was determination of the type of union--a determination of the extent of the powers to be granted to such a body. Although Franklin's "Short Hints" probably were discussed in the greatest detail, it would seem that other proposals were advanced. Richard Peters of Pennsylvania proposed "A Plan for a General Union of the British Colonies of North America" which would have provided defense against the French through establishment of a regiment of thirteen companies. He also suggested dividing the colonies into four geographic sections. The plan apparently was quickly dropped if considered at all. It would have placed a body over the colonies but would

have given them few of the advantages of total union. It was also purely a defensive and temporary union, one to be dissolved with the end of the French threat.

By June 28 the committee had considered the various proposals and submitted its report to the full congress. The congress then debated the report until it arrived at the plan it felt was most likely to be acceptable in the separate colonies. The first draft--probably what is known as the Weare Plan of Union (Weare possibly being the man who copied the proposal to be submitted to the congress)--is accepted by most historians as being the outcome of discussion of Franklin's "Short Hints." As such it is advantageous to examine Franklin's remarks on the plan in attempting an interpretation.

One can see, even at this early period, the beginnings of a federal system in the colonies. Participation by both the British government and the individual colonies was clearly intended by the establishment of a President General "appointed & supported by the Crown" and a Grand Council chosen by colonial legislatures. A suggestion that governors of the colonies have influence in the selection of a President General was over-ruled for fear that this would give the crown too great a control since seven of the eleven governors were appointed by the crown. Control of the Grand Council's meetings was placed in the Council itself except in the case of "Special

Command of the Crown." This provision was included to prevent the president general from restricting the Council to the point where it would be forced to follow his desires. In addition to establishing a separation of powers between executive and legislative, this represented a division between the imperial and colonial governments. The Crown was clearly placed as the supreme power, as Franklin wrote:

The assent of the president-general to all acts of the grand council was made necessary, in order to give the crown its due share of influence in this government, and connect it with that of Great Britain.

The Albany Plan has been described as the "beginning of an effort to single out the things that should be turned over to a central government or an agency of central administration."⁸ This attempt at division is clearly evident in Franklin's writings:

The laws which the president-general and grand council are empowered to make are such only as shall be necessary for the government of the settlements; the raising, regulating, and paying of soldiers for the general service; the regulating of Indian trade; and laying and collecting the general duties and taxes. They should also have a power to restrain the exportation of provisions to the enemy from any of the colonies, on particular occasions, in time of war. But it is not intended that they may interfere with the constitution and government of the particular colonies; which are to be left to their own laws,⁹ and to lay, levy and apply their own taxes as before.

The delegates before adjourning composed the "Representation," a "document that would make the colonial governments realize the seriousness of the British position

and dispose them to accept the scheme of union that the delegates were offering them."¹⁰ It consisted of a series of recommendations, the twelfth and final one being: "there be a Union of His Maj^{tys} several Govern^{ts} on the Continent, that so their Coucils, Treasure and strength may be employed in due proportion agst their common enemy."¹¹ To Robert Newbold, it appeared that the other recommendations were intended as a preface to the final proposal. The delegates attempted to show to the colonies that for defense to be effective there must be a strong central government. This, however, was not to be part of the near future of the colonies.

In spite of the efforts of the Congress, the Albany Plan was unable to gain the required approval for its enactment. Newspapers such as the New York Mercury and the New York Gazette came out in support of colonial union during the early fall. Unfortunately this support was not widespread nor strong enough to override the general fear of loss of colonial rights. Legislative records in six states completely ignored the Albany proceedings. Even in New York, the host of the congress, there was no action. Internal policies involving the governor's supporters and the state's Indian commissioners were probably the cause. Regulation of Indian trade by a superior authority was not desirable. In most states the greatest objection was the threat to charter privileges and the suspicion

of the taxing power. Connecticut and Virginia also feared loss of their claims to western lands. New Jersey, although not represented in the congress, announced: "[we are] Sorry to Say we find things in it, which if carried into Practice would affect our Constitution in its very vitals and for that reason we hope and believe, they will never be countenanced by a British legislature."¹²

The Maryland legislature, after a series of delays, declared in late February of 1755: "...on Mature Deliberation of the Plan of Union therein mention [in the minutes, it] Unanimously disapproved thereof, as manifestly tending to the Destruction of the Rights and Liberties of his Majesty's subjects within the province."¹³ Massachusetts attempted to dispose of the Albany Plan by substituting a weaker proposal in its place. The central government uniting New York and New England was to provide defense, but such matters as Indian affairs were to remain the business of the individual colonies. This suggestion was killed when the Boston town meeting "instructed their legislative representatives to 'Use their utmost Endeavours to prevent the Plan now under Consideration of the General Court for an Union of the several Governments on the Continent taking Effect-- And that they also oppose any other Plan for an Union that may come under the Consideration of said General Court, whereby they shall apprehend the Liberties and Privileges

of the People are Endangered.'"¹⁴

Since no colony backed the Albany Plan, its acceptance in Britain seemed unlikely. Whatever the basic cause, no action was ever taken by Parliament. When the colonies refused to cooperate, there was, for a time, hope that parliamentary action would bring the colonies together.

Franklin wrote:

I hope the Plan of Union which you express your Approbation of, or something like it, will take Place and be established by the King and Parliament. 'Till it is done never expect to see an American War carried on as it, ought to be, nor Indian Affairs properly managed.

Denial of support by the colonies and the inaction of the imperial government resulted in the continuation of problems as the colonies refused to work together against their adversaries. Virginia was to fight a war in 1756 with little help from her neighbors--either north or south. In 1758 Washington was to oppose the shortest route to Fort Duquesne because it involved travel through Pennsylvania territory. Andrew Burnaby, a traveler from Britain, in 1759 decried the colonies:

Fire and water are not more heterogeneous than the different colonies in North America. Nothing can exceed the jealousy and emulation which they possess in regard to each other....In short, such is the difference of character, of manners, of religion, of interest, of the different colonies, that I think... were they left to themselves, there would soon be a civil war from one end of the continent to the other; while the Indians and Negroes would, with better reason, impatiently watch the opportunity of exterminating them all together.¹⁶

It seemed the colonies were destined to remain apart until a greater, more immediate danger was to force them together. Protection of their liberties was justification for maintaining separation; in later years protection of liberties was to become the cause for union.

Footnotes

¹Delancey to Shirley, March 5, 1754, Archives of Massachusetts IV Colonial, 1721-1773, p. 443 found in Robert C. Newbold, The Albany Congress and Plan of Union of 1754 (New York: Vantage Press, Inc., 1955), p. 24.

²Newbold, p. 25.

³Ibid., p. 26.

⁴Archives of Massachusetts IV Colonial, 1721-1773, p. 468 as found in Newbold, p. 47.

⁵Shirley, Correspondence II, p. 6 found in Newbold, p. 47.

⁶Lords of Trade to Lieutenant Governor Delancey, July 5, 1754, Edmund O'Callaghan, Documents Relative to the Colonial History of the State of New York, VI, p. 846 found in Newbold, p. 36.

⁷"Papers relating to a Plan of Union," Benjamin Franklin, The Writings of Benjamin Franklin Albert Henry Smyth, ed. (New York: The Macmillan Co., 1905), vol. III, p. 216.

⁸Andrew C. McLaughlin, A Constitutional History of the United States (New York: D. Appleton-Century Co., Inc., 1935), p. 20.

⁹Franklin, p. 222.

¹⁰Newbold, p. 80.

¹¹O'Callaghan, VI, p. 888 found in Newbold, p. 86.

¹²Documents Relating to the Colonial History of the State of New Jersey, XVI, p. 492 found in Newbold, p. 140.

¹³Votes and Proceedings of the Lower House of Assembly of the Province of Maryland, p. 7 found in Newbold, p. 155.

¹⁴A Report of the Record Commissioner of Boston Containing the Boston Town Records, 1742-1757, p. 266 found in Newbold, p. 154.

¹⁵"To Peter Collinson," June 26, 1755, Franklin, p. 267.

¹⁶Andrew Burnaby, Travels Through North America (New York, 1904), pp. 152-153 found in Merrill Jensen, The Founding of a Nation; A History of the American Revolution, 1763-1776 (New York: Oxford University Press, 1968), p. 33.

The Colonies:
Individual British Dependents

Like Burnaby, other visitors in the early 1760's saw individual, separate societies, each existing to a very great extent independently of the others and, in some cases, displaying hostile feelings toward its neighbors.

Examination of the colonial societies clearly reveals this heterogeneity. New England had as its economic basis shipyards, fishing and whaling. Small compact farms covered those areas which could support agriculture. If one looked at the people, a predominance of English and Puritan traits were found. A majority of the Southerners were also English but, in contrast to New England, the foundations of a colonial Episcopal church had come into existence. Society was vastly different for life was centered around the plantation apparently resulting in a greater class distinction. A traveler would also have found four-fifths of the colonial Negro population residing in the South even at this early date.

The middle colonies--New York, Pennsylvania, New Jersey, and Delaware--contrasted with both North and South as a result of their mixed populations and inevitably greater religious toleration. They produced a variety of food products used for feeding their own people and for exportation.

Even within these areas of apparently similar interests there seemed to be a great many matters dividing the people.

Boundary disputes--usually requiring intervention by Britain for settlement--were fairly common. In spite of tensions created by the French and Indians, each colony was slow to go to the help of its neighbors if it was not directly involved. Colonies often hurt others economically by levying duties on their goods. Economic ties were hindered because of the absence of a common currency. North Carolina's economy, based on naval products, found itself isolated from the remainder of the South whose plantations produced tobacco. New England and Pennsylvania were split internally between the interests of the frontier and of the east. In short, it is no wonder that in 1755 Governor Shirley of Massachusetts exclaimed of the colonies: "'...how much the Interests of some of them clash, & how opposite their Tempers are.'"¹

The governmental affairs of each of the colonies gradually came under greater internal control. Each colony controlled its own local trade; local taxes were levied. Although independent, each colony managed its own defense successfully through the use of colonial militias. This is not to say that the imperial government in Britain lost all authority. The mother country retained control over trade outside colonial boundaries, control of the post office and ownership of crown lands. Foreign affairs were the concern of the British government, and by the middle

of the century, Indian affairs outside colonies or affecting several colonies increasingly drew the attention of the crown.

The king had further control over the colonies through his power to appoint most of their governors. Only Connecticut and Rhode Island chose their own executive. In Pennsylvania, Delaware, and Maryland, the proprietor's choice for governor and executive council required the king's consent. In all other colonies the appointment was the king's decision. Royal instructions were issued to the governors for their direction. The governors could also veto legislative acts in opposition to royal policy. Yet, colonial legislatures were not entirely dependent on the governor because of their control of the purse and thereby of the governor's salary.

Colonial government in the 1750's has been summarized as follows:

In large degree, the colonies managed their own internal affairs, occasionally hampered by royal instructions and disallowance of colonial acts. Their external affairs were in the hands of the Crown. Acts of Parliament, especially sundry measures directing the course of external commerce, had been passed and were more or less obeyed.²

As Merrill Jensen wrote recently:

Bit by bit the elected assemblies acquired more power until by mid-eighteenth century most of them had gained almost complete control over the internal affairs of the colonies....Government of the colonies was not two systems--colonial and British--but one interlocking system with final legal authority located

in London....The government of the empire was in fact a vast "federal" structure.³

If one accepts as federalism a political system in which power and functions are divided between a central authority and various regional authorities, it is a relatively simple step to recognize the existence of an early form of federalism in the British imperial system.

In spite of the apparent move by each of the colonies toward greater autonomy, it seems that no one expected any of the colonies to be able to exist as an entirely independent body. The greatest question seemed to be whether union would eventually occur among the colonies themselves or between Britain and the colonies individually.

As described previously, there had been attempts at colonial union--none of which were to prove successful for any length of time. Joseph Galloway of Pennsylvania, author of the Galloway Plan of Union, later characterized this period by remarking:

The colonies...had amply demonstrated to the home government that no form of united action, political, economic, or military was at that time possible... and that any unity which might be brought about to enable them to maintain their new western frontiers by their own efforts must be formed from without.⁴

Britain apparently felt no inclination to force union upon the colonies--particularly colonies which considered themselves very different from one another. One can wonder also if perhaps Britain did not fear the potential strength

of any unified body which might arise. Was it not such a fear Franklin was trying to still in 1760 when he wrote:

[The continental colonies] are not only under different governors, but have different forms of government, different laws, different interests, and some of them different religious persuasions, and different manners.

Their jealousy of each other is so great, that however necessary an union of the colonies has long been, for their common defence and security against their enemies, and how sensible soever each colony has been of that necessity, yet they have never been able to effect such an union among themselves, nor even to agree in requesting the mother country to establish it for them....If they could not agree to unite for their defence against the French and Indians, who were perpetually harassing their settlements, burning their villages, and murdering their people; can it reasonably be supposed there is any danger of their uniting against their own nation, which protects and encourages them, with which they have so many connections and ties of blood, interest and affection, and which 'tis well known they all love much more than they love one another?

In short, there are so many causes that must operate to prevent it, that I will venture to say, an union amongst them for such a purpose is not merely improbable, it is impossible; and if the union of the whole is impossible, the attempt of a part must be madness: as those colonies, that did not join the rebellion, would join the mother country in suppressing it.

Union of the colonies seemed to be discounted as improbable because of the diversity of interests. Inhabitants of North America, Schlesinger believes, rather than looking to each other continued to feel a closeness to the mother country and he concludes:

This fidelity gained strength from the fact that rivalries among the colonies hindered the development of a common American loyalty that might otherwise have lessened the filial attachment. Founded for different reasons and at different times--more than a century

separated the beginnings of Virginia and Georgia-- each colony pursued its own course with scant regard for the well-being of others. In many cases the relationship to London was more direct and continuing than that to colonial neighbors.

This attachment to Britain led some to look for increasing political attachment. However it was not a general view or one which had support on either side of the ocean for any long period of time. One can see in Franklin's writings the realization that opinion and attitudes in America were changing constantly concerning relations with Britain.

[The proposal] of an union with the colonies, is a wise one; but I doubt it will hardly be thought so here, till it is too late to attempt it. The time has been, when the colonies would have esteemed it a great advantage, as well as honour to be permitted to send members to Parliament; and would have asked for that privilege, if they could have had the least hopes of obtaining it. The time is now come when they are indifferent about it, and will probably not ask it, though they might accept it if offered them; and the time will come, when they will certainly refuse it. But if such a union were now established...it would probably subsist as long as Britain shall continue a nation.

Colonial views, then, of their relations with Britain varied with the time and place and with those who were discussing the possibilities. Views changed and even the same expressions bore various meanings to people in different parts of the empire. As Britain began to reorganize the empire after the Seven Years' War, it attempted greater control within the colonies. These attempts were to change

colonial views in regard to one another and to sharpen dramatically the distinction between imperial and colonial powers in American minds.

Footnotes

¹ Arthur M. Schlesinger, The Birth of the Nation; A Protest of the American People on the Eve of Independence (New York: Alfred A. Knopf, Inc., 1968), p.227.

² Andrew C. McLaughlin, A Constitutional History of the United States (New York: D. Appleton-Century Co., Inc., 1935), p. 7.

³ Merrill Jensen, The Making of the American Constitution (Princeton: Van Nostrand Co., Inc., 1964), p. 14.

⁴ [Galloway], Historical and Political Reflections (London, 1780), pp. 7-11 found in Julian Boyd, Anglo-American Union: Joseph Galloway's Plans to Preserve the British Empire, 1774-1788 (Philadelphia: University of Pennsylvania Press, 1941), p. 19.

⁵ Benjamin Franklin, "The Interest of Great Britain Considered with regard to her colonies and the acquisitions of Canada and Guadaloupe to which are added Observations Concerning the Increase of Mankind, Peopling of Countries & c.", The Writings of Benjamin Franklin, ed., Albert Henry Smyth (New York: The Macmillan Co., 1905), vol. IV, p. 71.

⁶ Schlesinger, pp. 226-227.

⁷ Franklin, "Letter concerning the Gratitude of America, and the probability and effects of a union with Great Britain; and concerning the repeal or suspension of the Stamp Act," June 6, 1766, vol. IV, p. 400.

Colonial Reorganization:
Threat to Internal Self-government

Acquisition of large portions of territory at the close of the Seven Years' War caused Britain to feel a need for reorganization of her empire. More colonial possessions required greater expense which resulted in the British expecting a greater contribution from the colonies. In the change in colonial policy, Americans saw a threat to their control of internal affairs. "If on practical grounds they accepted Parliament as the logical body to supervise all ocean traffic except for the purpose of raising revenue, they did not for a minute concede that Britain's altered global standing after the Peace of 1763 in any way affected their own position in the empire."¹ Apparently Parliament had other ideas concerning the role of the colonies.

In early 1764, the colonists heard rumors of a proposed stamp act being discussed before Parliament--an act which under no pretense could be justified as regulation of trade. From May onward, the Boston town meeting was to play a leading role in the assertion of colonial rights. The town's instructions to its representatives, written at its meeting for election of legislators, provided a statement of principles opposing parliamentary taxation of America. Realizing that united colonial action would have greater effect than any action by individual colonies, the Massachusetts House of Representatives, at the urging of Boston leaders, sent a circular letter to other colonies. Their

objective was to have agents in Britain work in unison against the proposed stamp act. In reference to this call for united action, Governor Bernard of Massachusetts wrote:

I have reason to believe that the purposes it is to serve are deeper than they now appear. I apprehend that it is intended to take this opportunity...to lay a foundation for connecting the demagogues of the several Governments in America to join together in opposition to all orders from Great Britain which don't square with their notions of the rights of the people.²

It seems unlikely that the colonies at this early date believed the conflict between Britain and America would reach the dimensions it did and therefore it is questionable that they were consciously laying the groundwork for future unification. In spite of this, it was to increase the probability of future action once the colonist saw their improved chances of success.

By December of the same year the Virginia House of Burgesses had joined Massachusetts in attacking parliamentary action. This they did by writing three memorials--one each to the king, the House of Lords and the House of Commons. They appealed to the king to protect their right to tax themselves. To the Lords they claimed it was one of the fundamental constitutional principles that people were to be taxed only with their consent. The House of Burgesses had always had the right to tax and it should not be claimed by Parliament. The House of Commons was told it was "'essential to British liberty that laws imposing taxes'

should be enacted only by representatives chosen by the people."³ From the economic viewpoint it was argued that, even if a tax was the proper business of Parliament, it would ruin Virginia because of the colony's war debt, its Indian warfare, and the effect of the low price of tobacco on the colony's economy.

Rhode Island's legislature reacted to the threat of a stamp act by appointing a committee of correspondence to work with other colonial legislatures to gain a repeal of the Revenue Act of 1764 and to prevent the passage of a stamp act. The committee was instructed "to oppose any taxes 'which may be inconsistent with their rights and privileges as British subjects....'"⁴ By October, the Pennsylvania assembly had received a letter from this committee which forced it to temporarily disregard internal differences--something which the calmer Massachusetts letter had failed to do. Rhode Island had written:

Parliament's claim to the right to tax the colonies, if carried into effect, "will leave us nothing to call our own." The colonies should unite in protest to try "to preserve everything they have worth preserving." Some method should be hit upon to collect the sentiments of all the colonies and to form "the substance of them all into one common defense of the whole."⁵

Pennsylvania responded by sending revised instructions to its colonial agent, Richard Jackson: the colony would continue to do what it could for defense. The belief was expressed that only the separate assemblies could know which

taxes would do the least harm to their colonies/economy. "Taxes levied in any other way 'where the people are not represented' and by those unacquainted with the colonies, would be 'unequal, oppressive and unjust, and what we trust a British Parliament will never think to be right.'"⁶

The colonies were not without sympathizers among the members of Parliament. Their strongest supporter at this time was Colonel Isaac Barré. If a tax was required he hoped "'that the Provinces might be indulged with the liberty as heretofore of furnishing their quotas of any sums required and collecting [sic] it in their own modes.'"⁷ This suggestion had been proposed earlier, and probably could have gained support in the colonies for it allowed the colonies to contribute to the empire but retain their control over taxation. Unfortunately no system of establishing quotas for each colony had been devised and no total had been set to be collected. Grenville apparently felt the colonies should supply the government with the necessary information--information the colonies had no means of obtaining. "The colonies had no connection with one another except through the British government. They could not have settled the proper proportions except by an inter-colonial congress, but such a congress could not properly have been called without authorization from Great Britain."⁸ Thus the one system which might have been acceptable to both mother country and colonies was dropped because of lack of

coordination.

Barré continued to work for the colonies--unsuccessfully--but gained the gratitude of the Americans. To Townshend, who claimed the colonies owed their existence to Britain, he retorted:

They planted by your Care? No! your Oppressions planted em in America. They fled from your Tyranny to a then uncultivated and unhospitable Country-- where they exposed themselves to almost all the hardships to which human nature is liable....And yet, actuated by Principles of true english Liberty, they met all those hardships with pleasure, compared with those they suffered in their own Country, from the hands of those who should have been their Friends.

They nourished by your indulgence? They grew by your neglect of Em: as soon as you began to care about Em, that Care was Exercised in sending persons to rule over Em, in one Department and another,... --sent to Spy out their Liberty, to misrepresent their Actions and to prey upon Em....

They protected by your Arms? they nobly have taken up Arms in your defence, have Exerted a Valour amidst their constant and Laborious industry for the defence of a Country, whose frontier, while drench'd in blood, its interior Parts have yielded all its little Savings to your Emoluments....

Barré's defense of the colonies was not enough to change the predominant view of Parliament for on March 22, 1765, the Stamp Act became law. By mid-April, the news of passage reached America and a wave of reaction spread through the provinces.

Virginia was the first to summarize the views of the colonial opposition when the House of Burgesses acted late in May. Discussion occurred at the end of the legislative

session, after many of the members had returned to their homes for the summer. When Patrick Henry, a new member of the legislature, presented his resolutions to the assembly on the twenty-ninth, only 39 of the 116 members were present. The next day the house passed his five resolutions--all however by very close votes. Opponents were able to gain a second vote but were incapable of defeating any but the last of the resolves. With this the governor dissolved the legislature, claiming that passage would not have been possible in a full house.

The first four resolves proclaimed: the first settlers carried to America the rights and privileges of British citizens; taxation by the people was "'the distinguishing characteristic of British freedom, without which the ancient constitution/cannot exist;" Virginia had been given the rights to be governed by its own assembly and had never surrendered or been required to forfeit this right. The fifth resolve, the one which did not pass on the second vote, claimed for the Virginia legislature "'the only exclusive right and power to lay taxes and impositions upon the inhabitants of this colony.'" The granting of this power to another body was "'illegal, unconstitutional, and unjust, and has a manifest tendency to destroy British as well as American liberty.'"¹⁰ The more conservative members of the assembly were, at this time, able to prevent the

passage of a resolution which labeled supporters of parliamentary authority as enemies to liberty--British and American.

News of Virginia's action quickly spread throughout the continent. "Other colonial assemblies followed with a speed that showed how wide and how spontaneous was the agreement on this subject [that Parliament did not have the power it attempted to assume in its taxation of the colonies]." ¹¹ Newspapers were to become increasingly important in formation of public opinion by providing a means of comparing local views with those in other colonies. They also led to more radical views since anonymous articles could proclaim far more radical ideas than any man dared express in a public speech. It was in the later days of protest that an article in the Maryland Gazette was to claim the only relation between the peoples was "that we are all the common subjects of the same King; and by any Thing that hath been said in the present controversy, I cannot find that the Inhabitants of the Colonies are dependent on the People of Britain, or the People of Britain on them, any more than Kent on Sussex, or Sussex on Kent." ¹²

By mid-June, only weeks after Virginia action, the resolves could be found in the Philadelphia papers. A discrepancy exists in the number of resolves reported with various papers printing more than the four or five known to have existed from the Virginia records and Henry's papers.

One explanation offered is that Henry had hoped for even more radical opposition but that the close votes on those passing prevented presentation of more extreme resolves.

Rhode Island, after receiving news of Virginia action, passed similar resolves of its own. In addition to those attributed to Virginia, Rhode Island passed a resolution:

That all the officers in this colony, appointed by the authority thereof, be, and they are hereby, directed to proceed in the execution of their respective offices in the same manner as usual; and that this Assembly will indemnify and save harmless [protect] all the said officers, on account of their conduct, agreeably to this resolution.

Thus, Rhode Island freed its officers to a great extent from the dilemma of being required to support British law at the risk of losing property to the mob and supporting colonial opinion with the chance of losing their positions and therefore their incomes.

After having read the resolves passed by Virginia, leaders in Massachusetts felt they had taken a weak stand. Their earlier action had been a moderate address to Britain sent only upon persuasion from Lieutenant-Governor Hutchinson. When this had no effect in Parliament, Massachusetts was ready to assume a more radical stand. Strong support for Virginian action and repudiation of the Massachusetts petition was asserted in the Boston Gazette:

The People of Virginia have spoken very sensibly and the frozen Politicians of a more northern Government say they have spoke Treason: Their supported

Resolves do indeed serve as a perfect contrast for a certain tame, pusillanimous, daub'd insipid Thing.... which was lately sent from this Side of the Water, to please the Taste of Tools of Corruption on the other--Pray Gentlemen, is it Treason for the Deputies of the People to assert their Liberties, or to give them away?...We have been told that the word RIGHTS must not be once named among us! ¹⁴

By October, the house of representatives had strengthened its stand on colonial authority in response to Governor Bernard's call for acceptance of Parliamentary action. The Massachusetts statement, probably the work of Samuel Adams, was a reply to the governor:

You are pleased to say, that the stamp act is an act of Parliament, and as such ought to be observed. This House, sir, has too great a reverence for the supreme legislature of the nation to question its just authority; It by no means appertains to us to presume to adjust the boundaries of the power of Parliament; but boundaries there undoubtedly are....Furthermore, your Excellency tells us that the right of the Parliament to make laws for the American colonies remains indisputable in Westminster. Without contending this point, we beg leave just to observe that the charter of the province invests the General Assembly with the power of making laws for its internal government and taxation; and that this charter has never yet been forfeited. ¹⁵

Massachusetts thus desired an acknowledgement of boundaries to parliamentary authority and admission of colonial power in particular areas--a recognition of the division of power between colonial and imperial government.

In the remaining colonies the tendency was to follow the lead set by Massachusetts and Virginia. By early 1766, the New York Sons of Liberty had appointed a committee of correspondence to work for the formation of organizations

similar to their own in other colonies which could coordinate the intercolonial activities.

One problem in working for united efforts was the tendency of colonial groups to work for purely local goals. Pennsylvania could not act without complications from its internal political problems. Franklin's early support of the stamp act was used by the proprietary party as propaganda against the Quaker party--those advocating establishment of a royal government in Pennsylvania.¹⁶

For the colonies south of Virginia it was the first time the internal affairs failed to take priority over general matters. Once British policy gained attention, protest was strong in all cases except Georgia. Those who endeavored to ignore the law in that colony were unsuccessful. A strong governor, Sir James Wright, with troops he was willing to use, was the cause for this break in common opposition. Later reports indicated that "the number of the Sons of Liberty [were] too few to make any head against the other party, which is supported by the rangers of this province...."¹⁷ In January, when stamps were made available, approximately sixty ships cleared from the Savannah harbor in two weeks. The Georgian merchants "earned the hatred and contempt of the other colonists for this betrayal of American unity."¹⁸ Georgia was finally forced in line when more than six hundred citizens threatened a march on the

port and thereby forced officials to move the stamps to Fort George. This achieved the intended purpose without destruction since, even without the use of stamps, ships continued to sail.

In North Carolina, Governor Tryon had tried a different strategy in an attempt to gain support from the citizens. While promising to work for repeal, he "recommended that they accept the stamps during the brief period before Parliament repealed the Act or exempted them from it. By doing so they would enjoy unusual opportunities for trade, while the merchants of other colonies twiddled their thumbs."¹⁹ Even with the offer to pay the tax on certain documents the governor was unable to persuade the leaders to break with the general consensus of the colonies. Thus only in Georgia --and there only for a short time--was there a break in the colonial front.

To promote further the goal of unity, Massachusetts issued a call for an intercolonial congress in New York. Ultimately twenty-seven delegates from nine colonies attended in October, though this did not occur without some discussion in the colonies involved. Even in Massachusetts opposition was strong enough to cause the election of conservative delegates. When the New York governor refused to convene the legislature, the colony's legislative committee of correspondence nominated itself as the delegation to the congress. New Jersey and Delaware representatives

were appointed by informal meetings of the respective legislatures. New Hampshire did not send delegates claiming internal affairs were of greater concern, but Pennsylvania was able to take time out from internal conflicts to elect its delegates.

The basic opinion emerging from the meeting stressed that the colonies were not represented in Parliament; that only representatives could establish taxes for a people; and that therefore only provincial assemblies had the power to tax the provinces. The resulting address to the King and petitions sent to each of the houses of Parliament expressed more moderate views than those prevalent in the individual colonies. The first resolve proclaimed:

That his Majesty's Subjects in these colonies owe the same allegiance to the Crown of Great Britain that is owing from his subjects born within the realm, and all due subordination to²⁰ that august body the Parliament of Great Britain.

To reconcile this statement with views expressed by colonial leaders, two phrases must be considered. The term "all due subordination" was in the process of being defined--the colonies setting limitations to the subordination they would render different from those Parliament expected. One must also realize that Parliament was the Parliament of Great Britain--not of the British Empire.

In spite of the attitudes of the congress and the moderation of its report, British leaders ignored the

resulting petitions and declaration. Parliament claimed it had the right to tax and seemed intent on entertaining no other opinions. "When the Stamp Act Congress was held, after the passage of the Stamp Act, Parliament refused to receive its communications, because, among other reason, the Congress 'partook too much of a federal Union assembled without any Requisition on the Part of the Supreme Power.'"²¹ The greatest effect of the congress was felt on this side of the Atlantic, for the meeting was "the first official meeting of delegates from colonial legislatures and as such it was a precedent for future action."²² Also, while it was the first step in united action, its ineffectiveness may be said to have led to more radical action at the next time of conflict.

Action by the congress is not to be considered the only expression of colonial views. Daniel Dulany, a Maryland lawyer and later a loyalist, wrote a pamphlet which quickly gained popularity in the colonies. Considerations on the Propriety of imposing Taxes in the British Colonies, for the Purpose of raising a Revenue, by Act of Parliament attacked the theory of virtual representation. Dulany knew that refutation of this idea would break down the defense of those supporting parliamentary power of taxation in the colonies. George Grenville's argument was one of the most prominent expressed by parliamentary supporters. As he explained:

...The Fact is, that the Inhabitants of the Colonies are represented in Parliament: they do not indeed chuse [sic] the Members of that Assembly; neither are nine-tenths of the People of Britain Electors;...The Colonies are in exactly the same Situation: All British Subjects are really in the same; none are actually, all are virtually represented in Parliament; for every Member of Parliament sits in the House not as Representatives of his own Constituents, but as one of that august assembly by which all the Commons of Great Britain are represented. Their Rights and their Interests, however his own Borough may be affected by general Dispositions, ought to be the great Objects²³ of his Attention, and the only Rules for his Conduct.

Dulany's response as paraphrased by Edmund Morgan declared virtual representation as far as the colonies were concerned as absurd:

When this supposition [virtual representation] was applied merely to England, it could be defended with some pretense of reason; it could be argued, for example, that voteless Leeds and Birmingham were adequately represented in a Parliament containing members from other industrial boroughs with similar interests. To extend the concept to the whole empire, however, was to reduce it to absurdity; to say that the voters of England had similar interests to the colonists' was so far from true that²⁴ in the matter of taxation the very reverse was true.

Not only were the interests of British voters and colonists dissimilar but at times there could be actual conflict. Oppressive acts forced on the colonies could lessen the load of Britain and therefore be quite popular among voters.

The importance of Dulany's protest increases even more in view of its effect on colonial opinion. As Morgan remarks:

Dulany's pamphlet was bought by his countrymen as they had scarcely bought any pamphlet before. Its articulation and justification of their own

instinctive view of colonial rights delighted them. Already before its publication they had begun in their assemblies to do what Dulany did, to draw a line between Parliamentary authority and American rights. When they had done with argument and debate, it appeared that the united determination of Americans from Georgia to New Hampshire agreed with the private opinion of Daniel Dulany.²⁵

American action was not to be based solely on theoretical discussion. As the act was to go into effect, New York merchants signed a non-importation agreement and this move was soon followed by men in Philadelphia, Boston, Salem, Plymouth and other ports. English merchants hit hard by the resulting loss of trade expressed sympathy with the Americans and placed blame for conditions on Grenville's administration. It was primarily the pressure from these merchants combined with conflict within Parliament which finally brought about repeal of the Stamp Act.²⁶

Repeal of the Stamp Act was signed by George III on March 18, but Parliament was not as willing to relinquish its claim to the power to tax the colonies. Colonial subordination to Parliament was reaffirmed in the Declaratory Act made law at the same time:

...the King's majesty, by and with the advice and consent of the lords spiritual and temporal, and commons of Great Britain, in parliament assembled, had, hath, and of right ought to have, full power and authority to make laws and statutes of sufficient force and validity to bind the colonies and people of America...in all cases whatsoever.²⁷

If the Declaratory Act were made effective, the colonies had lost in their quest to win authority over local

matters. By this act, Merrill Jensen notes, Parliament "proclaimed itself an absolute central government. In theory the Declaratory Act wiped out the federal structure which had long existed in practice and asserted that the empire was a unitary state."²⁸

The colonies, quite naturally, refused to accept this theory; their view of the imperial system was entirely different. "Parliament was the legislature of Great Britain, and the House of Burgesses the legislature of Virginia," he continues, "and neither had any authority over the other. The common bond of the empire was the monarch, who should act as an umpire when interests clashed."²⁹ For a time, conflict was in the opposing theories expressed by the two sides; it was not until Parliament again attempted to assert its authority that the colonies took action.

At quick glance, the Stamp Act might appear to have had little significance. It was a law enacted by Parliament but never enforced and repealed after only five months. However, when one looks more closely, a great change did occur, as Joseph Warren of Massachusetts observed at the time:

The Stamp Act had accomplished "what the most zealous Colonist never could have expected! The Colonies until now were ever at variance and foolishly jealous of each other, they are now...united...nor will they soon forget the weight which this close union gives them."³⁰

The colonies were united not only in action but also in philosophy. Not only did each of them oppose the

Stamp Act, but they opposed it for basically the same reason. "By the fall of 1765 the colonists had clearly laid down the line where they believed that Parliament should stop.... The line was far short of independence, and there is no suggestion in any of the resolutions of the congress or of the assemblies that the colonists wished to cease being Englishmen."³¹ Independence was not considered, but men did begin to think in broader terms. When threats to their rights appeared again, they were alert and willing to work together once again.

Footnotes

¹ Arthur M. Schlesinger, The Birth of the Nation: A Protest of the American People on the Eve of Independence (New York: Alfred A. Knopf, Inc., 1968), p. 233.

² June 29, 1764, Bernard Papers, vol. III, p. 157 as found in Edmund S. and Helen M. Morgan, The Stamp Act Crisis: Prologue to Revolution (New York: Macmillan Co., 1953), pp. 138-139.

³ December 18, 1764, Journals of the House of Burgesses of Virginia, pp. 302-304 found in Merrill Jensen, The Founding of a Nation: A History of the American Revolution 1763-1776 (New York: Oxford University Press, 1968), p. 97.

⁴ Records of the Colony of Rhode Island, vol. VI, pp. 403-404; Newport Mercury, August 6, 1764 found in Jensen, p. 87.

⁵ Pennsylvania Archives, 8 ser. VII, October 8, 1764, found in Jensen, p. 89.

⁶ Pennsylvania Archives, 8 ser. vol. VII, pp. 5678-82, found in Jensen, p. 89.

⁷ John Nelson to John Temple n.d. Massachusetts Historical Society, 6 ser., 9(1897), p. 46 found in Morgan, p. 92.

⁸ Morgan, p. 91.

⁹ Connecticut Historical Society, Collection, 18(1920), pp. 322-323 found in Morgan, p. 93.

¹⁰ Journals of the House of Burgesses (1761-65), pp. 359-60 found in Jensen, p. 104.

¹¹ Edmund S. Morgan, The Birth of the Republic 1763-89, series The Chicago History of American Civilization, ed., Daniel J. Boorstin (Chicago: The University of Chicago Press, 1956), pp. 22-23.

¹² Maryland Gazette, February 20, 1766 found in Morgan, Stamp Act, p. 113.

- ¹³Records of the Colony of Rhode Island VI, pp. 451-452 found in Morgan, Stamp Act, p. 133.
- ¹⁴Boston Gazette, July 8, 1765 found in Morgan, Stamp Act, p. 135.
- ¹⁵Andrew C. McLaughlin, A Constitutional History of the United States (New York: D. Appleton-Century Co., Inc., 1935), pp. 43-44.
- ¹⁶Jensen, pp. 114-115.
- ¹⁷Pennsylvania Gazette, January 2; February 3, 1766 found in Jensen, p. 117.
- ¹⁸Morgan, Stamp Act, p. 213.
- ¹⁹Ibid., p. 211.
- ²⁰Samuel E. Morison, ed., Sources and Documents illustrating the American Revolution, 1764-1788 and the formation of the Federal Constitution (New York: Oxford University Press, 1965), pp. 32-33.
- ²¹Charles Garth to Ringgold, Murdoch, and Tilghman, February 26, 1766, Maryland Historical Magazine, VI, pp. 282-287 found in Morgan, Stamp Act, p. 91.
- ²²Jensen, p. 124.
- ²³George Grenville, Regulations Lately Made, pp. 104-109 found in Morgan, Stamp Act, pp. 105-106.
- ²⁴Morgan, Stamp Act, p. 110.
- ²⁵Ibid., p. 119.
- ²⁶Ibid., pp. 331-337.
- ²⁷McLaughlin, p. 40.
- ²⁸Merrill Jensen, The Making of the American Constitution (Princeton: Van Nostrand Co., Inc., 1964), p. 17.

²⁹Ibid., p. 18.

³⁰Miscellaneous Manuscripts, 1765-1767, Massachusetts Historical Society found in Morgan, Birth, p. 102.

³¹Morgan, Stamp Act, p. 152.

Continuing Attempts for Parliamentary Power

In June of 1767, Parliament attempted to assert the authority it had claimed in the Declaratory Act by passing the Townshend Acts. These acts together suspended the New York assembly until it accepted the quartering act; established a board of commissioners of customs for the colonies; and passed a revenue act which was to be partially used for salaries of colonial judges and governors.

Immediately the colonies rose in protest against this renewed attempt to subordinate them to Parliament. Arguments employed in opposition to the Stamp Act were once again proclaimed. Colonists were willing to accept incidental parliamentary taxation as a result of regulation of trade but measures for the sake of revenue found no support. The act itself made clear that its purpose was the raising of revenue, stating:

[The revenue collected, after expenses] shall be applied...in making a more certain and adequate provision for the charge of the administration of justice, and the support of the civil government in such of the said colonies and plantations where it shall be found necessary;... [the remainder is] to be from time to time disposed of by parliament towards defraying the necessary expense of defending, protecting, and securing, the British colonies and plantations in America.

It seems unlikely that revenue of a purely regulatory nature would provide an income of the expected amount.

Parliament again had clearly gone beyond bounds which the colonies would accept. These colonial limits were

described by Governor Hutchinson of Massachusetts, who wrote:

The authority of Parliament to pass any acts whatever affecting the interior polity of the colonies is...challenged, as destroying the effect of the charters, to which great sacredness is attached.... But as Colonies cannot make laws to extend further than their respective limits, Parliament must step in in all cases to which the legislative power of the Colonies does not extend. Parliament ought to go no further than this: all beyond is infringing upon the domain of the colonial legislatures. From Virginia to Massachusetts this has now come to be the accepted doctrine.²

By far the most popular expression of this principle of divided powers is found in John Dickinson's Letters of a Farmer in Pennsylvania. First published in the Pennsylvania Chronicle between November of 1767 and January of the following year, it was soon reprinted both in pamphlet form and in other newspapers. Colonial acceptance of parliamentary regulation of trade was reaffirmed, but with it went a denial of the right of taxation. To Dickinson, the Townshend Revenue Act appeared unconstitutional, as its apparent objective was "providing that the DEPENDENCE and OBEDIENCE of the colonies be asserted and maintained."³ Parliament, it seemed, wanted primarily a precedent on which to base future actions.

It must be remembered, however, that Dickinson did not deny all parliamentary authority. He wrote, for example:

The parliament unquestionably possesses a legal authority to regulate the trade of Great-Britain and all her colonies. Such authority is essential to the

relation between a mother country and her colonies; and necessary for the common good of all....We are but parts of a whole; and therefore there must exist a power somewhere to preside, and preserve the connection in due order. This power is lodged in the parliament; and we are as much dependent on Great-Britain, as a perfectly free people can be on another.⁵

To him, "the happiness of these provinces" consisted "in their connection with Great-Britain."⁶ To break with Britain would be among the last of his wishes, as he remarked: "...if once we [the colonies] are separated from our mother country what new form of government shall we adopt, or where shall we find another Britain, to supply our loss? Turn from the body to which we are united by religion, liberty, laws, affections, relations, language, and commerce, we must bleed at every vein."⁷

In spite of his open expression of affection for Britain, Dickinson's principles were viewed in Britain as a threat to parliamentary exertion of authority. The wide acceptance of them in the colonies only increased their effectiveness as opposition. As Jensen found, this belief was expressed by Governor Bernard of Massachusetts, who warned that unless Dickinson was refuted his letters would become a "Bill of Rights" for Americans, and then Parliament might "enact declaratory acts, as many as they please, but they must not expect any real obedience."⁸

As with earlier attempts at taxation by Parliament, the colonies did not content themselves with mere philosophical discussion. In February of 1768, the Massachusetts

House of Representatives sent a circular letter to the other continental colonies explaining why they had written Britain that while Parliament was the supreme legislature over the whole empire,

...That in all free States the Constitution is fixed; & as the supreme Legislature it derives its Power and Authority from the Constitution, it cannot overleap the Bounds of it, without destroying its own foundation;...That it is an essential unalterable Right...that what a man has honestly acquired is absolutely his own, which he may freely give, but cannot be taken from him, without his consent.

The House, in addition, had questioned the amount of power the people would retain if they lost control over the salaries of their judges and governors. While advocating retention of certain powers in the colonial assemblies, the Massachusetts House denied the charge of "having a disposition to make themselves independent of the Mother Country."⁹

Unity in the colonies followed not only from this letter, but also from imperial reaction to it as well. Typical was a statement from the Secretary of State for the Colonies, the Earl of Hillsborough, who viewed the Massachusetts letter as a "Measure...of a most dangerous and facetious Tendency, calculated to influence the Minds of his good Subjects in the Colonies, to promote an unwarrantable Combination and to excite and encourage an open Opposition to, and Denial of the Authority of, Parliament." The assemblies were instructed "to take no Notice of it," which would be treating it "with the Contempt it deserves." If

colonial assemblies chose not to follow these instructions, the governor was "to prevent any Proceeding upon it, by an immediate Prorogation or Dissolution."¹⁰

Hillsborough at the same time, sent an additional letter to the Massachusetts legislature demanding that they rescind the circular letter. When the legislature voted by 92 to 17 to allow the letter to stand, Governor Bernard dissolved the legislature. The "dissolved" assembly then petitioned the king to remove Bernard. Elections in the colony a short time later returned only ten of the seventeen refusing support of the letter.

Hillsborough's circular letter did not cause the type of response he desired. New Jersey and Connecticut had already received and approved of Massachusetts' letter before news of imperial action reached them. The Pennsylvania legislature receiving the letter before adjournment for the summer took no action until September when public pressure forced them to uphold it and proclaim the right of colonial legislators to correspond with one another.

Virginia, meantime, had answered Massachusetts by writing a circular letter of her own. While this document expressed awareness "of the Happiness and Security they [the House of Burgesses and Virginia] derive from their Connexions [sic] with, and Dependence on, Great-Britain," it went on to deny that Parliament had the right to levy taxes on the colonies.

It regarded the suspension of New York's legislative power "as still more alarming," asking what advantage the People of the colonies could derive from their right of choosing their own Representatives "if those Representatives when chosen...were under a Necessity...of enforcing the Mandates of a British Parliament."¹¹

Delaware, while not receiving the Massachusetts letter, supported Virginia's and claimed the revenue act unconstitutional. The Maryland legislature, in the midst of considering the Massachusetts letter when it learned of Hillsborough's orders, proclaimed legislative actions to be its concern. When it refused to ignore the Massachusetts letter on the ground that Massachusetts had remained loyal to the king, the governor immediately dissolved the legislature.

In North Carolina, the assembly avoided dissolution by giving verbal orders to the speaker to answer the letters of Virginia and Massachusetts. In a similar manner, South Carolina action was to have Speaker Manigault instruct the colonial agent to work along with those of other colonies.

The New York assembly--in spite of its suspension by Parliament--passed several resolutions in late December of 1768. In these it claimed for itself the sole right of taxation; expressed its belief that only the governor acting in the name of the king could suspend the legislature; and asserted its right to consult with other legislatures.

A committee of correspondence was appointed to maintain contacts with others and the speaker was instructed to answer the Massachusetts letter. By January first, Governor Moore had a report of the proceedings and the next day he dissolved the legislature.

Thus by the beginning of 1769, united opposition to imperial policy had caused the dissolution of several legislatures with most of the others having supported colonial action in a way which enabled them to retain their power. As one would expect, opposition to imperial taxation continued through 1769, tempered by fear of a recurrence of such mob action as had arisen during the Stamp Act crisis.

Opposition to the Townshend Act once again led to a nonimportation agreement which started in Boston and gradually spread to other colonies. Originally insisting on receiving support from other ports, Boston, during the summer, acted unconditionally and by the end of 1769, other ports had joined her. The agreement included a refusal to import or buy any British goods until the duties were repealed. Virginia legislative leaders, on adopting their agreement, after having been dissolved by the governor in May of 1769, described their feelings in a preamble declaring:

We his Majesty's most dutiful Subjects, the late Representatives of all the Freeholders of the Colony of Virginia, [avow] our inviolable and unshaken Fidelity and Loyalty to our most gracious Sovereign, our Affection for all our Fellow Subjects of Great-Britain;...but at

the same time, [are] deeply affected with the Grievances and Distresses, with which his Majesty's American Subjects are oppressed, and dreading the Evils which threaten the Ruin of ourselves and our Posterity, by reducing us from a free and happy² People to a wretched and miserable State of Slavery;...

Attempts in England to divide the colonies seemed to have the opposite effect. Benjamin Franklin saw great advantage in this new unity and conviction when he wrote to Samuel Cooper in the spring of 1769:

I hope my Country folks will remain as fix'd in their Resolutions of Industry and Frugality till these Acts are repeal'd....They believe you have not Virtue enough to persist in such Agreements,--they imagine the Colonies will differ among themselves, deceive and desert one another, and quietly one after the other submit to the Yoke, and return to the Use of British Fineries.¹³

Fortunately, although Hillsborough asked for even more extreme measures--such as forfeiture of the Massachusetts charter--both Parliament and the King opposed such action as likely to inflame the colonies even further. Consequently the Secretary for Colonial Affairs lost the support he needed to continue his punitive policy. The King, in fact, recorded that the idea of forfeiture of the Massachusetts charter was of "so strong a nature" that it seemed calculated "to increase the unhappy feuds" rather than "to assuage them."¹⁴ The North ministry, coming to power in early 1770, wanted to end the controversy and so repealed all the duties but that on tea, which was retained as a matter of principle. Word of the repeal caused most non-importation agreements to end, although most colonists still refused British tea. On the

surface affairs seemed to be improving. Yet no permanent solution had been found, only a means of temporarily suspending the problem.

The lull in hostilities ended abruptly with passage of a Tea Act in April, 1773. By giving the East India Company a monopoly on the sale of tea, and eliminating a British tax, the measure would reduce the price of British tea below the price of Dutch tea, which the colonists had been smuggling. But the monopoly and the determination to force colonial purchase aroused a storm of opposition. Colonies, which had been gradually involving themselves more extensively in purely regional affairs, once again turned to the support of American rights. The trend toward disunion was thus halted by British action, as a Massachusetts correspondent wrote to Franklin:

Thrown by this Idea [parliamentary power to grant a monopoly of trade to a company] into a State of Desperation, the United Voice of the People, not only in this Province, but in New York and Pennsylvania [sic], and as far as we can learn in all the Colonies, was, that they would never suffer the Tea to be landed, but would prefer any species of hazard and danger to a tame submission to measures which, if pursued, must reduce them to a state of abject Slavery. Administration could not have invented a method so effectual for raising the Spirit of the Colonies,¹⁵ or promoting among them an entire union of Sentiment.

Before passage of the Tea Act, Virginia had established a Committee of Correspondence and had suggested that other colonies form similar groups. In this manner, a system providing more effective communication had begun even before

new tensions arose. This network enabled the colonists to unite and be assured of wide support in response to Britain. By this time, unity among the provinces against Britain seemed to be a generally accepted principle and Franklin wrote enthusiastically from London in July:

I am glad to see the Resolves of the Virginia House of Burgesses. There are brave Spirits among that People. I hope their Proposal will be readily comply'd with by all the Colonies. It is natural to suppose as you do, that, if the Oppressions continue, a Congress may grow out of that Correspondence. Nothing could more alarm our Ministers, but if the Colonies agree to hold a Congress, I do not see how it can be prevented.

The colonial agent must have been pleased to hear from Samuel Cooper a bit later:

[Letters to Massachusetts from other colonies show] an inclination to unite for the common safety. Virginia had led the way, by proposing a communication and correspondence between all the Assemblies thro' [sic] the continent. The letter from their committee for this purpose was received here [Boston] with no little joy, and the proposal agreed to in the most ready and respectful manner. Rhode Island, Connecticut and New Hampshire have already chosen committees so that all New England is now united with Virginia in this salutary plan, and the accession of most, if not all, the other colonies is not doubted.

Inevitably it seems, any act of Parliament affecting America eventually raised the question of division of power between the British legislative body and the colonial assemblies. It also appears that each time the question was discussed, the opposing sides took more extreme stands. By late 1773, Franklin had reached an opinion which was gaining support among the colonists, writing to his son that:

From a long and thorough consideration of the subject, I am indeed of opinion, that the parliament has no right to make any law whatever, binding on the colonies; that the king, and not the king, lords, and commons collectively, is their sovereign; and that the king, with their respective parliaments, is their only legislature.

Polarization of opposing views was also exemplified in a debate between Thomas Hutchinson, by this time governor, and the Massachusetts council. Hutchinson stated his opinion that:

I know of no line that can be drawn between the supreme authority of Parliament and the total independence of the colonies; it is impossible there should be two independent Legislative bodies in one and the same state; for although there may be but one head, the King, yet the two Legislative bodies will make two governments as distinct as the kingdoms of England and Scotland before the union.

Council members, and in particular Samuel Adams, used some of Hutchinson's arguments to support their own view that Parliament had no power over them. Adams, for example, used colonial charters and documents--in some instances the same documents that Hutchinson had used--to show that the colonies needed to obey only the Crown; because they had never been annexed into the Realm, they were outside the jurisdiction of Parliament.²⁰

While all the British colonies were aware of the impending arrival of the East India tea, it was the Philadelphia merchants who took the lead at this stage of the conflict. After having believed that the tea tax would be repealed, it was especially disheartening for the colonists to consider

the possibility of Parliament having so much control over their trade that it could permit one company to exercise a monopoly. A mass meeting in Philadelphia passed resolutions taking a stand which other ports were to copy. The act, it was resolved, was taxation without consent; the proposed use of the collected revenues for civil affairs had "a direct tendency to render assemblies useless and to introduce arbitrary government and slavery"; and a demand was made that all authorized tea agents resign.²¹ When the ship bearing the tea sailed up the Delaware, threats to the pilots and the captain of the ship forced the return to England with the cargo unloaded. Although originally the leader in acting, Philadelphia was to find its move appearing moderate in comparison to that of the Bostonians. Charleston permitted the landing of the despised tea, but not its distribution; New York among other ports forced the return of ships to Britain with their cargo; but in Boston the combination of a determined governor and a determined colonial opposition exploded in a tea party which dumped 342 chests of tea into Boston harbor.

Not intending to let Boston's act of destruction go unpunished, Parliament in the spring of 1774 passed a series of laws which became known by colonists as the "Intolerable Acts." As McLaughlin writes, although many hesitated and no complete unity existed in any one colony, these acts

"created sympathy, fellow feeling, and the sense of a common interest" among the colonies. As never before, there was the basis of a stronger feeling for colonial union.²²

Ultimately to be five measures, the first of the Intolerable Acts was passed for the purpose of punishing Boston for her defiance of Parliamentary authority. The harbor of Boston was closed to all ships by the Boston Port Act (March 31, 1774) until the damages to property of the East India Company were paid. Two months later the Massachusetts Government Act and the Administration of Justice Act were passed. The former, in effect, nullified the colonial charter by greatly reducing the elective powers of citizens;²³ the latter, increased protection of crown officials by permitting their trials to be moved to Britain. In addition to the three intended specifically for Massachusetts, two other acts--the Quebec Act and the Quartering Act--had their effect on all the colonies.²⁴

As had occurred previously, Parliament's assertion of its power merely led to a firmer statement of colonial rights. If Britain had hoped that by singling Boston out from the rest of America she could create a division among the colonies, she was greatly mistaken. In almost one voice, the colonies expressed their protest and declared the need for a congress to stress their unity. A mass meeting in Philadelphia, for example, resolved:

That the act of parliament for shutting up the port of Boston, is unconstitutional, oppressive to the inhabitants of that town, dangerous to the liberties of the British colonies, and that therefore, considering our brethren, at Boston, as suffering the common cause of America.

That a congress of deputies from the several colonies, in North America, is the most probable and proper mode of procuring relief for our suffering brethren, obtaining redress of American grievances, securing our rights and liberties, and re-establishing peace and harmony between Great Britain and these colonies, on a constitutional foundation.²⁵

For expressing sympathy to Boston, the Virginia house was again dissolved by the governor. As before, the dissolved body then met informally and in the Raleigh tavern proclaimed:

...[An] attack, made on one of our sister colonies, to compel submission to arbitrary taxes, is an attack made on all British America, and threatens ruin to the rights of all, unless the united wisdom of the whole be applied. And for this purpose it is recommended to the committee of correspondence, that they communicate, with their several corresponding committees, on the expediency of appointing deputies from the several colonies of British America, to meet in general congress, at such place annually as shall be thought most convenient; there to deliberate on those general measures which the united interests of America may from time to time require.²⁶

Such calls for a congress were soon heard in other colonies, leaving only the time and place to be set by Massachusetts, which issued a call for a gathering in Philadelphia in September. During the summer, each of the colonies, except Georgia, elected delegates to this new body. It was clear that attacks on colonies--individually or collectively--would be met by united action.

Footnotes

¹Townshend Revenue Act, June 29, 1767, Documents of American History Henry Steele Commager, ed. (New York: Appleton-Century-Crofts, Inc., 1968), p. 64.

²J. K. Hosmer, The Life of Thomas Hutchinson, p. 122; based on Hutchinson, History of Massachusetts Bay, vol. III, p. 172 as found in Andrew C. McLaughlin, A Constitutional History of the United States (New York: Appleton-Century Co., 1935), p. 55.

³Paul L. Ford, ed., Life & Writings of John Dickinson, vol. XIV: Memoirs of the Historical Society of Pennsylvania (Philadelphia: The Historical Society of Pennsylvania, 1895), p. 359.

⁴"Nothing is wanted at home but a PRECEDENT, the force of which shall be established, by the tacit submission of the colonies....If the parliament succeeds in this attempt, other statutes will impose other duties." Ibid., pp. 382-383.

⁵Clinton L. Rossiter, The Political Thought of the American Revolution (New York: Harcourt, Brace & World, Inc., 1963), p. 26; Ford, p. 312.

⁶Ford, p. 386-387.

⁷Max Savelle, "Nationalism and Other Loyalties in the American Revolution," The American Historical Review, LXVII, no. 4(July, 1962), p. 905.

⁸"To Richard Jackson," February 20, 1768, Bernard Papers, vol. VI, pp. 90-94, Harvard University Library found in Merrill Jensen, The Founding of a Nation: A History of the American Revolution, 1763-1776 (New York: Oxford University Press, 1968), p. 248.

⁹Massachusetts Circular Letter, February 11, 1768, found in Commager, p. 66.

¹⁰Pennsylvania Archives, 8 ser., vol. VII, p. 6188.

¹¹Ibid., pp. 6189-6191.

¹²Virginia Nonimportation Resolutions, 1769 found in Thomas Jefferson, The Papers of Thomas Jefferson Julian P. Boyd, ed. (Princeton: Princeton University Press, 1950), vol. I, p. 28.

¹³"To Samuel Cooper," London, April 27, 1769, Benjamin Franklin, The Writings of Benjamin Franklin Albert H. Smyth, ed. (New York: The Macmillan Co., 1905), vol. V, p. 203.

¹⁴"Memorandum by the King," Geo. III Corres. II, pp. 84-85 found in Jensen, p. 323.

¹⁵"From Thomas Cushing and others, Committee, etc.," Boston, December 21, 1773 in Franklin, vol. VI, p. 177.

¹⁶"To Thomas Cushing," London, July 7, 1773, in Ibid., pp. 82-83.

¹⁷"From Samuel Cooper to B. Franklin," Boston, June 14, 1773 in Ibid., p. 58.

¹⁸"To William Franklin," London, October 6, 1773 in Ibid., p. 144.

¹⁹Bradford, Speeches, pp. 336-342 found in McLaughlin, pp. 71-72.

²⁰Jensen, pp. 417-419.

²¹English Historical Documents, vol. IX, pp. 773-774 found in Ibid., p. 441.

²²McLaughlin, p. 80.

²³The Massachusetts Government Act called for the appointment of the Council by the King; selection of attorney general, inferior judges and other officers by the governor; and close observation over the town meeting by the governor.

²⁴The Quebec Act set up Canada's civil government, but also established boundaries so as to include western areas claimed by Virginia, Connecticut and Massachusetts.

The Quartering Act, an extension of an earlier bill permitted the housing of British troops not only in taverns and deserted buildings as formerly but also in occupied quarters.

²⁵"Pennsylvania Resolutions on the Boston Port Act,"
June 20, 1774 found in Commager, p. 76.

²⁶"Association of the Late House of Burgesses," May
27, 1774 in Jefferson, vol. I, p. 108.

Move Toward Independence

On September 5, 1774, another step toward greater colonial union was taken when the First Continental Congress met to discuss possible responses to Britain's most recent actions. Delegates, all leaders in their own colonies, arrived from all parts of the continent. In spite of the fact that each came conscious of his colony's individual interests, a division unrelated to home life was soon visible among the members of the congress. The more conservative element viewed the congress as a means of settling differences between mother country and colonies; and a radical faction regarded the objective of the congress as organizing opposition against the acts of Parliament. This division is particularly apparent when one examines the proposals discussed in the congress--both those ultimately defeated and those which were supported by the majority.

The major defeat for the conservatives was their inability to secure a majority for Joseph Galloway's plan for union of the colonies and Great Britain. Because he tried to combine the British theory of imperial organization and the colonies' philosophy of their rights within the empire, Galloway was unable to obtain strong support from either side for his plan. Galloway's proposal, the first to be seriously considered since the Albany Plan of 1754, would have established an American legislature with power over the general affairs of America while each colony

retained its existing government and regulation of its own internal police. The general legislature included a president general appointed by the king and a grand council of representatives chosen by colonial assemblies for a term of three years. The power given to the grand council was compared to that then found in the House of Commons. Bills could have originated either in Parliament or the American legislature but the approval of both would have been necessary for enactment into law. However, as Galloway was to explain in later years, the American legislature was to be "an inferior and distinct branch of the British legislature."¹

Although he submitted his proposal to the Congress, Galloway believed that enactment would require approval from Parliament. He feared anything resembling negotiations between colonies and mother country might increase the impression among the colonists that their "inferior members of the state" (the colonial assemblies) were equals to the supreme power.² Diversity among the colonies regarding the best type of government furthered the belief in the need for Parliamentary action. It is also likely that Galloway saw a threat in the calling of a congress to form a union, since such a congress could be used by other men to foment ideas of liberty. More than anything^{else} the conservative Galloway wanted to avoid any possibilities of chaos.

Support for the plan did exist in congress. James Duane of New York made a seconding speech with backing from John Jay. Edward Rutledge called it "almost a perfect plan."³ Instructions to the Pennsylvania delegates, following Galloway's wishes, directed use of their "utmost endeavors to form and adopt a plan" which would establish the "union and harmony...essential to the...happiness of both countries."⁴ However, a majority were opposed to the measure, as most were unwilling to accept the supremacy of Parliament. Several avoided involvement by stating that their instructions did not empower them to act on a plan of union. Franklin, early the next year, wrote from London expressing approval of the stand the majority had taken. To him the British government was an "old rotten State" and therefore closer connections would only result in "more Mischief than Benefit" for the colonies. While the colonies would gain little from a union, their growth and development would be stunted by demands made on them by Britain.⁵ Although the vote against the proposal was close, its opponents managed to have all mention of it omitted from the official journals published in November.

With Galloway's attempt at reconciliation out of the way, the more extreme leaders had their opportunity to influence the outcome of the meeting. The tendency toward resistance already had been revealed, for the day before Galloway's defeat the Congress had voted to support the

Suffolk Resolves, submitted by Suffolk County, Massachusetts, an area including Boston. These resolves attacked the most recent acts of Parliament, the Intolerable Acts; denied that obedience was due to any of the acts; proposed a break in economic relations with Britain; and suggested a congress of the colonies determine the manner in which this was to be done and the means of execution. Clearly this was not intended as a move for reconciliation but was a stand taken in opposition to British policy.

This aggressive trend continued as the Congress in mid-October adopted a "Declaration of Rights" which noted the most objectionable of the parliamentary laws and stated the rights which the colonies claimed as their own--rights, originating in "the immutable laws of nature, the principles of the English constitution, and the several charters or compacts."⁶ Although control was in the hands of the more extreme faction, the Declaration was fairly restrained in tone. The colonists, it stated, were entitled to life, liberty and property; they were entitled to "participate in their [own] legislative council." Since the colonies could not be represented in Parliament, they were "entitled to a free and exclusive power of legislation in their several provincial legislatures...subject only to the negative of their sovereign." The colonies were willing to comply with "bona fide" acts for regulation of commerce as long as those

acts excluded "every idea of taxation, internal or external, for raising a revenue on the subjects in America, without their consent."⁷

Following this statement of their position, the delegates went on to discuss action which might bring Britain to their way of reasoning. They eventually agreed on a plan called the Association, a policy of non-importation, non-consumption, and non-exportation, which was agreed on only after several compromises between the various colonies. Exporting of rice was permitted, for example, to prevent a collapse of South Carolina's economy. Acceptance of the plan did not imply complete approval by the delegates; for example, although Galloway signed the agreement, he did it hoping to avoid more violent measures.

The Association, while avowing its allegiance to the king, set up a system of strict non-intercourse with Britain by recommending establishment of committees in all towns and counties to enforce the agreement.⁸ In addition, the citizens were encouraged to improve and increase the number of livestock; to improve domestic industry; and to simplify the needs of life by avoiding extravagances. Any one violating this agreement would be considered as "unworthy of the rights of freemen, and as inimical to the liberties of their country."⁹

The Association was quickly put into effect in the various communities. Its application provided a new develop-

ment in colonial action. Previously action had been by colonies or individual cities; now with the action of the Continental Congress, there began the practice of looking to a central group to establish a common policy. Colonies had acted hoping that others would follow; the Association was an acceptance by all of a common action before it was put into effect.

After providing for another congress in May of 1775 if Parliament had not acted favorably, the delegates returned to their homes to explain policies outlined by the congress. Colonial views had developed to the point of denying all parliamentary authority while continuing to accept regulation of trade. The sole unifying influence over the empire was the king. Even such a conservative as Galloway wrote in 1775 that the king was the supreme authority in the empire representing the entire state. "But," he added, "the British imperial society was clearly a nation composed of two countries, Britain and America--'my country.' Americans had a right to a parliament of their own."¹⁰ Others regarded acceptance of parliamentary authority as rendering their assemblies utterly useless and desired nothing more "than a restoration to [their] ancient condition."¹¹

Increasingly within the colonies, extralegal bodies and congresses were formed to conduct affairs in opposition to British policy. Some met to appoint delegates to the

forthcoming Second Continental Congress; others wanted to wait until imperial policy was revealed. The king chose to ignore the petition addressed to him and proclaimed the New England governments to be "in a state of rebellion."¹² Even friends of the colonies such as Chatham and Barré felt that the colonies must accept the supremacy of Parliament.

General Gage, sitting on a powder keg in Boston, attempted in April to improve his position by seizing the radical leaders, Samuel Adams and John Hancock, and moving to confiscate the military supplies thought to be hidden in nearby Concord. Thus occurred the event which had been feared for months by colonists and Britons. John Adams had written during the first congress that any open hostilities "would make a wound which would never be healed"; such an act "would render all hopes of a reconciliation with Great Britain desperate."¹³ While unsuccessful in achieving its objectives, the military action produced the result which Adams had predicted. News of the conflict spread through the colonies in a few weeks and eventually reached Britain, serving only to increase the determination on each side of the Atlantic to stand firm, thereby reducing the chances of compromise and reconciliation.

It was at this time of increased tensions that the delegates returned to Philadelphia for the Second Continental Congress. Clearly there was less division among members for

now at least the overwhelming goal of the colonies was to stand firm against Britain's demands. New Hampshire, for example, had authorized her delegates "to consent and Agree to all Measures, which said Congress shall deem necessary to Obtain redress of American Grievance." Connecticut instructions were even more general, for its representatives were to support "proper Measures for advancing the best Good of the Colonies."¹⁴

During the next few months, the Congress formalized its position, and began acting more like a central government. Parliament was determined to subdue the colonies and revealed its intent by asking the king to declare Massachusetts to be in a state of rebellion, proposing that reinforcements be sent to the colonies, and expressing the desire to have the colonies acknowledge "the Power claim'd by Parliament of makg [sic] Laws to bind the Colonies in all Cases whatsoever."¹⁵ Perhaps it was this stand by Parliament which led to the disposition of the colonies to grant greater powers to the Continental Congress in speaking for all. In any case, on the sixth of July a Declaration of the Causes and Necessity of Taking Up Arms was passed by Congress and by the end of the month a decision had been reached on Lord North's conciliation plan.

The Declaration of the Necessity of Taking Up Arms was drawn up by Congress and intended for publication on the

day Washington arrived in Boston to take charge of the Continental troops. The final document, a combination of the work of Thomas Jefferson and John Dickinson, explained the origin of government in America;¹⁶ attributed the existing conflict to a change in imperial policy after the conclusion of war with France; denied parliamentary authority to tax without consent and to make laws in general for the colonies; and emphasized the fact that all attempts to petition for changes had been ignored by Britain. America had continued to pursue "every temperate, every respectful measure,"¹⁷ while putting up with all types of frustrations--the harsh treatment of the citizens of Boston, the murdering of inhabitants in Lexington and Concord. Because of these actions, the colonists felt only two alternatives were left to them--"the alternative of chusing [sic] an unconditional submission to the tyranny of irritated ministers, or resistance by force."¹⁸ They chose the latter seeing the former as only a type of voluntary slavery. To fight and possibly die for liberty was preferred to living as a slave.

In spite of this strong stand, once again there was expression of a desire to remain part of the empire, for the closing paragraphs included:

we assure [our friends and fellow subjects] that we mean not to dissolve that union which has so long and so happily subsisted between us, and which we sincerely wish to see restored.--Necessity has not yet driven us into that desperate measure, or induced us to excite any other nation to war against them.¹⁹

Although declaring that they had not yet reached the point where independence was their goal, the Congress in the same month refused one of the few conciliation plans proposed by Britain. Lord North's conciliation plan, passed as a resolution in the House of Commons in February of 1775, provided that when the colonies found means of contributing their proportion to the common defense (funds to be raised by the legislature of each colony and disposed of by Parliament), and guaranteeing support of the government, Parliament would restrict itself to imposing only those duties which were needed for regulation of commerce.²⁰

Presented to Congress in May, the plan had been put aside as the Congress dealt with more pressing matters. With its chances for approval greatly diminished by the passage of the Declaration of the Necessity of Taking Up Arms, it was brought up for consideration in the last weeks of July. The opinion of one colony had already been expressed in June when the Virginia House of Burgesses declared it could not accept the proposal. Although they had tried to view it in all possible ways, they finally proclaimed that "it only changes the form of oppression, without lightening its burden."²¹ This response was drafted by Jefferson just before he left to become a member of the Continental Congress. Consequently, when the Congress organized a committee to compose a response to North's Motion, Jefferson was among the members and

eventually was chosen to write the committee's final report.

As finally approved, the report claimed for the colonies the right to give and grant their own money, a right which included the ability to place conditions on the grant or to withhold it. They criticized the fact that if they accepted the plan they still had no idea how much would be taken from them. Various assessments on different colonies could be used by Parliament as a way of dividing the colonies. The response¹ noted that Parliament accepted a suspension of its right to tax, not a denial of the right. The requirement of making provision for civil government was viewed as Parliament's further attempt to meddle in the internal government of the colonies. Because of all these reasons, they came to the conclusion that nothing but their own exertions could "defeat the ministerial sentence of death or abject submission."²²

Having taken its stand in relation to Britain, the Congress increasingly assumed the functions of an American legislature as it made treaties with the Indians; established a postal system; proposed suggestions for colonial militias; and established disciplinary guidelines for "the grand American army." Congress had opened with the belief that after making a few recommendations to the colonies, they would dissolve. Problem after problem requiring discussion and a solution, however, kept them in session. Political

tensions and summer heat necessitated adjournment for the month of August, but all during the fall and winter Congress continued in session.

The colonial position did not outwardly change during this time, but in January of 1776 a pamphlet appeared which aroused discussion and finally removed the last major obstacle in the way of total independence. Thomas Paine's Common Sense brought the debate over independence into the open and thereby revealed the number who had come to believe that independence was the only course open to the colonies. Burnett indicates its "tremendous influence in crystalizing sentiment in favor of independence" by citing statements by contemporary leaders. General Charles Lee wrote to Washington, for example, of the effect of Common Sense: "...I own myself convinced, the arguments, of the necessity of separation."²³ While Washington stated that he had seen no other alternative to separation since Bunker Hill, Burnett feels it is quite probable that Paine's work produced "a deepening of his convictions, with possibly a clarification of his reasoning."²⁴

Paine's writing produced this change in thinking by attacking the crown and thus diminishing colonial respect for it. The importance of this can be seen when one remembers that although colonies had come to deny all parliamentary authority, they remained loyal to the king and saw in him the link between the areas of the empire. If this last link

could be broken, there was nothing to prevent a declaration of independence--and it was Common Sense and the discussion of its philosophy which revealed how weak this link was.

Paine, in his writing, refused to make any distinction between the king and Parliament. To him, the king was a "hardened, sullen-tempered Pharaoh," an "enemy to liberty," and more savage than the "naked and untutored Indian."²⁵ After describing the present king, he went on to attack the idea of monarchy--there seemed to be no reason why one race of men should be permanently put above all others, particularly when the only apparent qualification was that its ancestors had been strong enough to demand allegiance. Monarchy could not exist in a republic, for it destroyed the equality necessary for proper functioning of the government. "Why is the constitution of England sickly but because monarchy has poisoned the republic; the Crown has engrossed the Commons."²⁶ So long as the Crown was respected, Americans could not gain the equality they desired.

Reports indicate that within three months 120,000 copies of Common Sense were sold, and reprints continued for some time. It is probable that all but the most remote woodsman read the article. At this time the inhabitants of America were especially receptive to such a theory. They had written petitions and applied for redress grievances; they had refined and explained their thoughts to no apparent result.

Simultaneously the British government became more and more determined to view the colonies as existing purely for the advantage of the mother country. Only a common impulse was needed to snap all ties asunder. Paine's pamphlet Common Sense supplied that impulse.²⁷

In the Congressional action of spring of 1776, one can find little which could be termed attempts at reconciliation. In mid-March Congress resolved: "That the inhabitants of these colonies be permitted to fit out armed vessels to cruise on the enemies of these United Colonies." Increasingly debate involved not what action to take but the best means for carrying out that action or the order in which a series of moves should be made. For example, Franklin felt that the previously mentioned measure should not have been passed until war had been declared and Jay "contended for discriminating Foes from Friends."²⁸

In May the Virginia delegates received instructions to prepare a declaration that the colonies were free; to approve any measures improving the chances for foreign alliances; and to support a confederation of the colonies providing, however, that "the power of framing Government for and the regulations of the internal concerns of each Colony, be left to the respective Colonial legislatures."²⁹ This resolution was presented in Congress on June seventh by Richard Henry Lee and the final declaration adopted on

July fourth.

Several phrases of the document should be noted as expounding portions of colonial political philosophy. First it was the "united States of America in General Congress Assembled" which made the declaration, not the colonies acting individually. Secondly, it specifically renounced allegiance to the British crown. True to the stand taken previously, they felt no need to deny parliamentary authority-- authority they had never accepted.

Although passage occurred without open dissent, there were several who hesitated taking the final step. This was especially important since all realized that complete unity was absolutely necessary for Americans to have any chance of success. Several felt that a permanent union should have been formed before so drastic a move was attempted. Leaders such as Wilson, Dickinson, Edward Rutledge were among those who wanted to delay independence until such time as the colonies were no longer perfectly independent of each other. They had been fighting so long for complete control of internal affairs by the colonies, there was a need for assurance that individual states would not endanger independence by being concerned with local matters.

Needless to say, the hesitancy of a few was overridden by the rest of the delegates. They chose to emphasize the factors uniting the continent--their common political

philosophy; their realization that unity was essential for victory over Britain. John Adams wrote: "All the colonies ...differed in Religion, Laws, Customs, and Manners, yet in the great Essential of Society and Government, they are all alike."³⁰

Independence had been declared. The next great need was to establish a government which could make it a reality without violating principles Americans had been proclaiming over the previous decade.

Footnotes

¹Galloway to Thomas McKean, March 7, 1793; McKean Papers, Hist. Soc. of Pa., vol. II, p. 108 found in Julian P. Boyd, Anglo-American Union: Joseph Galloway's Plans to Preserve the British Empire, 1774 - 1788 (Philadelphia: University of Pennsylvania, 1941), p. 36.

Apparently the President General and Grand Council were both considered part of the American legislature, for the two together were to be a branch of the British legislature.

²Galloway, p. 63.

³Ibid., p. 37.

⁴Pennsylvania Packet, September 5, 1774 found in Galloway, p. 33.

⁵"To Joseph Galloway," London, February 25, 1775 found in Benjamin Franklin, The Writings of Benjamin Franklin ed., Albert H. Smyth (New York: The Macmillan Co., 1905), vol. VI, pp. 311-312.

⁶Edmund C. Burnett, The Continental Congress (New York: The Macmillan Co., 1941), p. 53.

⁷Ibid., p. 54.

⁸Thomas Jefferson, The Papers of Thomas Jefferson, ed., Julian P. Boyd (Princeton: Princeton University Press, 1950), vol. I, p. 152.

⁹Burnett, p. 57.

¹⁰Joseph Galloway, Candid Examination, p. 11 found in Max Savelle, "Nationalism and other Loyalties in the American Revolution," The American Historical Review, LXVII (July, 1962), p. 910.

¹¹New York Journal, 1775 found in Clinton Rossiter, The Political Thought of the American Revolution (New York: Harcourt, Brace & World, Inc., 1963), p. 43.

¹²To Lord North, September 11, Geo. III, Corres., III, pp. 130-131, 153-154 found in Burnett, p. 61.

¹³To William Tudor, October 7 found in Merrill Jensen, The Founding of a Nation: A History of the American Revolution, 1763-1776 (New York: Oxford University Press, 1968), p. 502.

¹⁴Burnett, p. 65.

¹⁵To Samuel Tucker, and Others, London, February 14, 1775 found in Franklin, vol. VI, p. 308.

¹⁶Colonial forefathers left Britain to seek a place outside the realm where they could live and exercise religious freedom. They settled at their own expense founding governments under charters granted by the crown. Found in Declaration of the Causes and Necessity of Taking Up Arms, William MacDonald, ed., Documentary Source Book of American History, 1606-1926 (New York: The Macmillan Co., 1926), pp. 177-178.

¹⁷Ibid., p. 179.

¹⁸Ibid., p. 182.

¹⁹Ibid., p. 183.

²⁰Lord North's Conciliatory Resolution, MacDonald, pp. 171-172.

²¹Burnett, p. 95.

²²Ibid., pp. 94-97; Report on Lord North's Conciliatory Resolution, MacDonald, pp. 184-188.

²³Burnett, p. 132.

²⁴Ibid., p. 133.

²⁵Thomas Paine, Common Sense and other Political Writings (New York: Boobs-Merrill Co., Inc., 1953), pp. 27, 45.

²⁶Ibid., p. 18.

²⁷Burnett, p. 134.

²⁸Ibid., p. 139.

²⁹Andrew C. McLaughlin, A Constitutional History of the United States (New York: D. Appleton-Century Co., Inc., 1935), p. 99.

³⁰Adams to Abigail Adams, July 10, 1776, Butterfield, ed., Family Correspondence, vol. II, P. 43 found in Gordon S. Wood, The Creation of the American Republic, 1776-1787 (Chapel Hill: University of North Carolina Press, 1969), p. 75.

Establishing a New Form of Government

Once independence was declared, Americans had to determine the extent to which they were willing to concede rights to the general congress--rights for which they had already been fighting for over a year. Most saw the war as coming from conflict between those supporting rights of local government and those wanting authority to rest in the central government. Independence might merely have changed the central body over the states. One might ask as Andrew McLaughlin does: "Could Americans, who had scolded England so roundly and broken away from her control, find imperial organization themselves without giving up all they had contended for? Could they reconcile local liberty with central authority and real unity?"¹

The simple fact that the new nation was at war with one of the greatest world powers required that they at least attempt some form of union. Certainly the Americans knew they stood little chance of success if they acted separately. In fact, during the last year before declaring independence, the Continental Congress had gradually exercised more governmental functions, becoming much more than a mere advisory board: They had organized an army, taken over control of Indian affairs, set up a postal system, established currency, authorized privateering and opened trade to the world in defiance of Parliament's ban. While retaining local authority all colonies seemed to realize that at least

temporarily circumstances would require them to act as one in major matters. Having seen how greatly common action had increased their strength all during the colonial period, there was a feeling of unity throughout the continent. As Edmund Morgan writes:

By 1776 the consciousness that they belonged together had grown so strong that the phrase "United Colonies" had a singular as well as a plural meaning. When the Declaration of Independence substituted "States" for "Colonies," the singular meaning was still present, and it did not even occur to the colonists that they might establish thirteen separate governments and go their different ways. They must win independence together or not at all, and they must have some sort of central government to give expression to their existence as a nation.²

Consequently, at the same time and perhaps because, they were fighting to break off political ties with Britain, the Americans had to revise what local governments they had and to begin building a permanent central authority.

Local governments, plainly considered the more important authority, had been contemplating revision even before independence had been declared. As early as May of 1775, Massachusetts appealed to the Continental Congress for advice, for its congress "was reluctant 'to assume the reins of civil government' on its own authority and perhaps thereby disrupt the unity of the Colonies."³ Yet at the same time, it felt a greater need to establish a government independent of the charters and compacts granted it by Britain. It was difficult to accept decisions of royally

dictated colonial governments while fighting the mother country. They felt some action was necessary and were willing to "submit to such~~a~~ general plan as [the Congress might] direct for the colonies," or frame their government themselves in a manner which would not only promote their "advantage but the union and interest of all America."⁴

While believing that it was necessary to act, Massachusetts had reached the stage where she wanted the suggestions of a higher body to guide her. One reason for this appeal may have been the need for support of an action clearly in defiance of imperial authority, the need for assurance that after such a move they would not be left alone. Their request for advice was answered in June when the Congress recommended that Massachusetts return to her charter of 1691, thus establishing a "Precedent of Advice to the separate States to institute Governments."⁵

After Congress had responded to the Massachusetts request, New Hampshire and South Carolina also asked approval from Congress to form governments and this was granted before the end of the year. Recommendations were made to Virginia, in addition, although this had not been specifically requested. Each was told to "call a full and free representation of the people to form whatever government it thought necessary, during the Continuance of the present dispute between Great Britain and the Colonies!"⁶

By May of 1776 it was clear that "the present dispute" would continue so Congress passed resolutions calling for suppression of any exercise of authority under the crown; government exercised under the authority of the people; and where no sufficient government existed, that a government be formed which would promote the happiness and safety of the inhabitants. The more conservative tried to convince themselves that this was merely a temporary move, one which would be rescinded once the dispute was settled; in reality the colonies by this step had established themselves as independent states.

With independence declared, principle and reality coincided more closely. Once independence became a fact, the need to transform colonial governments into state governments no longer dependent on a mother country was even more apparent. Revision of the local governments quickly became the prime concern of the great majority of leaders. As Godon Wood writes: "Even the business of the Continental Congress was stifled because so many delegates...left for home to take part in the paramount activity of erecting the new state governments."⁷ It would seem a paradox existed in the thinking of the Americans: colonies had asked permission of the Continental Congress to revise their governments and leaders viewed this revision as important enough to pull them away from the business of Congress itself. Even

Jefferson proposed before the declaration that if Virginia established a new government, she should "recall for a short time her delegates," for it was work "of the most interesting nature and such as every individual would wish to have his voice in." In truth it was "the whole object of the present controversy."⁸ He noted that other colonies had already recalled most of their delegates leaving only one or two to represent the colony.

Since men assumed that the state governments would be the primary agents for governing the continent, Americans wanted to establish governments which would protect the rights which they had been claiming as theirs while still dependent on Britain. At the same time most set up a system whereby a more stable upper house provided a check on the republican inclined lower house. This was accomplished by longer terms and stricter qualification which would "supply the defect of knowledge and experience incident to the other branch."⁹ Most state constitutions included a bill of rights--and several of those contained statements of the theory of state sovereignty claiming the state retained all power not specifically delegated to the Congress.

Having had enough of centralized government while within the British empire, the framers wanted to be sure that their fight had not merely changed the supreme body over them. It was apparent that any patriotism existing among

the Americans would be displayed toward their state rather than toward any centralized authority. "No one then thought 'of consolidating this vast Continent under one national Government'; the central union was actually not to be a government at all, but after the Example of the Greeks, the Dutch and the Swiss,...a Confederacy of States, each of which must have a separate Government."¹⁰

Of course, states did not isolate themselves while settling the matter of the type of new government they were to have. The constitutions written early in the formation period were used in whole or in part as models for states which formed their governments later. Pennsylvania, for example, set up a Council of Censors which would review the government every seven years and suggest possible amendments or declare laws unconstitutional. Vermont copied this system and Massachusetts and New Hampshire also included a distinct representative body to revise the constitution.

Examination of the new constitutions reveals the political philosophy of the period. The Virginia constitution of 1776 contained an article involving naturalization-- a matter later to be of much national concern. Several documents including the New York constitution attempted to find the middle road between two extremes, fearing too much power in the hands of an individual such as the governor but at the same time revealing fear of popular disorder.

They felt they had found a solution by providing for an executive veto by the governor chancellor and Supreme Court judges together and by giving appointive power exclusively to neither executive nor legislature.

Fears which had arisen during the colonial period clearly influenced the formation of governments after independence. Men were unwilling to give power to a body which was in any way similar to another which had threatened their freedom. Thus there was fear of any type of central authority which might eventually assume powers granted to the states. Thomas Paine, in his Crisis articles, attempted to overcome this fear by emphasizing the importance of establishing a central government. He wrote:

[Our great national character depends on the Union of the States.] It is through this only that we are, or can be, nationally known in the world; it is the flag of the United States which renders our ships and commerce safe on the seas, or in a foreign port.... The division of the empire into states is for our own convenience, but abroad this distinction ceases.... In short, we have no other national sovereignty than as United States....

Our citizenship in the United States is our national character. Our citizenship in any particular state is only our local distinction....Our great title¹¹ is Americans--our inferior one varies with the place.

There were some, like Paine, who believed that a strong union was a necessity for the war to be won. There was a great need to avoid extremes of localism or centralization as the delegates began drafting the Articles of Confederation.

Most Americans realized the need for some body more

permanent than the Continental Congress, although there were several as described by Samuel Chase who did not "see the importance, nay the necessity of a Confederacy," and others who "saw the Confederation as only a temporary combination of the states, for the sole purpose of waging war, that with peace should be allowed to lapse."¹³ In any case, support for some type of union was strong enough to cause the establishment on June twelfth of a committee to draft a plan for a more permanent institution of government. The report of this committee presented to Congress a month later proposed a formalization of the existing conditions. It provided for a central government--a congress of delegates appointed annually by the states--who would have complete authority over some issues and concurrent authority with the states on others. The committee's draft, primarily the work of John Dickinson, provided the basis of a strong central government. Only one guarantee was given to the states--control of internal police; in addition, they were limited only to those matters which did not interfere with Congressional powers. The most outstanding proposed limitation on Congress was that it could levy no taxes or duties except for a postoffice. It was this distribution of powers which was to create the major disputes during debates.

Although presented to Congress on July 12, 1776, the Articles of Confederation were not approved until November

15, 1777. This delay resulted from several circumstances. Congress during this time found it increasingly difficult to obtain the quorum necessary to conduct business; and when such a quorum existed, there were often more important matters to be decided. In addition the movements of the British army made it necessary to move the seat of Congress several times during this period.

When time was found for discussion of the Articles, the delegates were not quick to approve the document. Several feared the power granted to Congress and therefore wanted it reduced and greater power retained in the states. Large and small states were to argue over the means of representation--the large wanting it according to population, the small wanting equal representation for all states. The North wanted apportionment of expenses by population; the South wanted it according to the value of land. Dickinson's draft had given control of the western lands to the central government; this was opposed by those states having charters granting them land to the sea and supported by those with definite western boundaries. Opposition, then could be found in several varied groups--the Southern states which feared control by New England; small states which feared being overpowered by the large; landed states which would lose their western territory; and "'federalists' who wanted no power superior to the power of the individual states governments."¹⁴

The Dickinson draft gave broad powers to Congress; but the final draft, through the efforts of Thomas Burke of North Carolina, contained the statement that:

Each state retains its sovereignty, freedom, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.¹⁵

Members of Congress wanted a body strong enough only to carry out the necessary functions of war. Nationalistic tendencies clearly varied with the closeness of British troops to any area. New York city was very nationally-minded during the occupation and the Carolinas favored states' rights until invasion by the British in the winter of 1779-1780. Concern with purely internal affairs led all to believe that after the end of the war there would be little need for a central authority. None wanted to create a power which could control them as Britain had attempted. In this manner the central agency was reduced to "a league of friendship."

In the debate over voting in Congress, the delegates decided on one vote for each state thus retaining each as "a distinct Person." Stephen Hopkins of Rhode Island wrote: "The Safety of the whole...depends upon the distinction of Colonies."¹⁶ Otis felt, as Jefferson did, that "we are one large state. We lay aside our individuality whenever we come here." To the argument that Congress was a representation of states, not individuals, he answered that the object of Congressional concern was all the individuals of

the states.¹⁷ Also favoring proportional representation, but stating his beliefs on individuality slightly differently, John Adams wrote:

It has been said we are independent individuals making a bargain together. The question is not what we are now, but what we ought to be when our bargain shall be made. The confederacy is to make us one individual only; it is to form us, like separate parcels of metal, into one common mass. We shall no longer retain our separate individuality, but become a single individual, as to all questions submitted to the Confederacy.¹⁸

Apparently the majority of delegates did not wish to become a single individual for when the final vote came, it was decided that: "In determining questions in the United States, in Congress assembled, each State shall have one vote."

Discussion involving control over western territory quickly revealed the power of this matter to strengthen or destroy the union. If land remained the property of individual states, landless states were afraid that the greater wealth of the landed states would enable them to overpower the poorer states. If the land became the concern of the central authority, Congress would find itself with the problem of determining a policy of imperial expansion. Various attempts were made to vest this power in Congress, each time, however, it was defeated. Once again concern for local matters and lack of any desire to strengthen the central authority were the overriding factors. While defeated at this time, the question was to come up again during ratification and find

quite a different answer at that time.

As finally approved by Congress, the Articles of Confederation represented an attempt to divide powers between local and central authorities. Such division did not occur by random selection, as Andrew McLaughlin explains:

Taught by experience in the old empire, by the necessity of carrying on the war, and by earlier plans or discussions of union, the delegates in Congress were enabled to work out the distribution of powers between the central authority and the states with some approach to precision. The powers granted to Congress bore a general resemblance to those exercised by the Crown and Parliament in the old colonial system in which the colonies had grown to maturity.

Two major powers--the power to levy taxes and to regulate commerce--were not granted to Congress and would result in the most serious problems for the new government.

With those exceptions, Congress was granted authority in most matters normally considered the concern of a nation, including authority over foreign relations, admiralty cases, disputes between states, coinage of money, establishment of weights and measures, and Indian trade outside state boundaries. Congress had power to borrow money but could obtain funds only through requisitions from states. Actually the powers given to Congress were those it had exercised on a de facto basis ever since independence.

States, while retaining control over the purse and internal police, were restricted in their relations with foreign nations: they could neither send nor receive an embassy

from a foreign state; without Congressional approval, they could not make an international agreement, form a treaty among themselves, or maintain ships of war or troops in time of peace.

States were definitely considered separate entities for there would otherwise have been no need to explain the relation between states and between a state and a citizen of another state. Article IV provided that "the free inhabitants of each of these States, ... shall be entitled to all privileges and immunities of free citizens in the several States"; citizens could travel freely across state lines. Provisions were also made for extradition and for giving "full faith and credit" to the records and judicial proceedings of the court of any state in any other state.

This view of the relationship of the states is also justified if one looks at statements made by the leaders of the period. Men such as John Adams considered the delegates to Congress as an embassy from his country, Massachusetts. The Articles were seen as a treaty, not the formation of a government. It was a "federal arrangement, a league not a government."²⁰ As Gordon Wood explains the Confederation, it was not to be "a body in which resides authoritative sovereignty; for there is...no surrender or transfer of sovereignty to the national council, as each state in the confederacy is an independent sovereignty."²¹

Whatever the Congressional leaders' views on the Confederation, once they approved it, the next step, if it was to be put into effect, was for all the states to ratify the Articles. Opposition existed for various reasons. Nationalists were afraid that once ratified, the Confederation would be thought to have enough power and therefore there would be little support for strengthening it. On the other side were those who feared they were giving up to a new central body all they had been fighting for. One of the more concrete questions was the problem of the western lands. Although discussed during the debate in Congress, the issue was reopened when landless states--in particular Maryland--refused to ratify until western claims were ceded to the central government. The deadlock was finally broken when New York, in February of 1780, passed an act permitting its delegates to limit western boundaries. Although its claims were not as strong as other states, it gave incentive to other states to follow and early in 1781 Virginia ceded all its territory northwest of the Ohio River to the central government. With Virginia's cession, Maryland felt its goal had been achieved and therefore authorized its delegates to sign the Articles. Done on March 1, 1781, it completed the Confederation. By this time a Congressional resolution had passed proclaiming that land ceded to the United States would be disposed of for common benefit of the United States;

"and be settled and formed into distinct republican states, which shall become members of the federal union, and have the same rights of sovereignty, freedom and independence, as the other states."²² In this manner began what was to be a major factor in the growth of the nation. Leaders had learned from their own history that it would be dangerous to keep any area permanently inferior to another. Consequently, their plans for growth, from the beginning, ultimately led to the establishment of distinct states, each equal to any other.

By early 1781, formation of the new government in principle was complete. The individual states had each revised their colonial governments to satisfy their needs as states free from Britain's rule. A central authority, formerly existing as an extralegal body, was given formal existence through the drafting of the Articles of Confederation. This document established the rights of the states, the limitations beyond which Congress could not go. It also placed certain restrictions on the states, defining their relationship to one another and to the central authority. Certainly the anti-colonial philosophy men had developed out of the conflict with Britain resulted in the placement of the greater number of restrictions on the central government. Whether or not enough power had been given to the government to enable it to function was a question to be decided in the following years.

Footnotes

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⁵Harry A. Cushing, History of the Transition from Province to Commonwealth Government in Massachusetts (Columbia University Studies in History, Economics, and Public Law, VII) pp. 168-169 found in Wood, p. 130.

⁶Butterfield, ed., Diary of Adams, III, pp. 351-357 found in Wood, p. 130.

⁷Wood, p. 128.

⁸Thomas Jefferson, The Papers of Thomas Jefferson, ed., Julian P. Boyd (Princeton: Princeton University Press, 1950), vol. I, p. 292.

⁹Madison's Observation, Boyd, ed., Jefferson Papers vol. VI, p. 308 found in Wood, p. 436.

¹⁰Butterfield, ed., Diary of Adams, vol. III, p. 352 found in Wood, p. 128.

¹¹The Crisis in Life and Works of Thomas Paine, ed., Van der Weyde, vol. III, pp. 243-245 found in Max Savelle, "Nationalism and Other Loyalties in the American Revolution" The American Historical Review, LXVII (July, 1962), pp. 920-921.

¹²Samuel Chase to R. H. Lee, July 30, 1776, Force, ed., American Archives, 5th Ser., vol. I, p. 672 found in Wood, p. 358.

¹³Wood, p. 358.

¹⁴Merrill Jensen, "The Idea of a National Government during the American Revolution," Political Science Quarterly 58(1943), p. 363.

¹⁵Wood, p. 358.

¹⁶Adams, Notes on the Articles of Confederation, July 30-Aug 1, 1776, Butterfield, ed., Diary of Adams, II, pp. 245-248 found in Wood, p. 357.

¹⁷Notes of Proceedings, Jefferson, vol. I, p. 327.

¹⁸Ibid., p. 325.

¹⁹McLaughlin, History, p. 125.

²⁰Martin Diamond, "What the Framers Meant by Federalism" A Nation of States; Essays on the American Federal System, ed., Robert A. Goldwin (Chicago: Rand McNally & Co., 1963), p. 28.

²¹Stiles, U.S. Elevated in Thornton ed., Pulpit, pp. 418-419 found in Wood, p. 355.

²²McLaughlin, History, p. 124.

Government--or the Lack
of it--in the 1780's

In the early 1780's, the majority of Americans strongly felt that the central government had been granted sufficient power and that once victory was achieved the state governments would be able to take care of all the remaining governmental functions. In 1787 a Convention met which thoroughly revised the central government. In order to understand this shift in thinking, one must examine the changing conditions of the period.

A study of the period must, of necessity, be a study of the conditions in the individual states, for when the war was won, those living on the continent lost whatever national feeling they had had; and loyalty to a government, when it existed, was loyalty to the state government. Massachusetts, a state which had been very strong in support of union as a league of sovereign republics, was willing by 1786 to change almost any phase of government in order to cause a change in conditions. Trade, much of which had been within the empire, had decreased; the fishing fleet had been destroyed by the war. In addition, almost half of Massachusetts had remained loyalist. With their departure after the war, it was necessary to find new leaders in business and politics.

Connecticut, within a few years after the peace, became a strong supporter of any nationalist move for reasons similar to those in Massachusetts. The state, as Forrest McDonald describes it, did not change its opinions because

of specific events, "but simply because the state went so quickly and thoroughly to seed." Many had thought new markets, opened as a consequence of the war, would increase Connecticut's trade; unfortunately by 1787 Connecticut exports totaled only half of its imports.¹ Part of Connecticut's problem could be attributed to the fact that the port of New York was so near. Revenue from import duties could not support the public debt, and attempts to tax land created further hardships for the inhabitants.

In New Hampshire, one could find the extreme of locally minded for most were so "politically apathetic that to get them to become loyal to the states and conscious of its problems would have constituted a vast broadening of their horizons." To understand the extent to which this lack of concern was carried, one need only examine the means by which the state constitution was written: Many towns did not send delegates and those delegates elected often did not attend, thus making a quorum difficult to obtain. The actual drafting was little more than taking clauses from the Massachusetts constitution. Once the document was written there were few who bothered to ratify it; it was put into effect only because the framers, expecting apathy, made provision that inaction would be understood as approval.² Certainly such an area would find little reason to connect itself to other sections a thousand miles away. Only one

cause might bring some to show interest in a national movement. The state owned 134,000 dollars worth of continental securities; an amendment giving Congress the power to tax would increase the value of these securities.

The middle states--New York, New Jersey, Pennsylvania, and Delaware--by 1786 were fighting for their existence. Their views on a stronger union varied with the internal situation in each state. New Jersey was in the worst position of the four. Politically she was split with East and West Jersey fighting; economically she felt a drain because of her dependence on New York and Philadelphia. A stronger union seemed to be the only answer if New Jersey was ever to feel that her neighboring states were working with her and not against her. Pennsylvania also had internal problems which directly affected her views on a stronger union. Delaware, although dependent on its neighbors, prospered and felt it had more to gain from a national government. New York clearly was in the best position, for it had the wealth and strength to attempt existence without others.

In March of 1784 the New York legislature had gone so far as to give Congress an ultimatum. Their primary complaint was that Congress had been unable to force Britain to respect the treaty agreement. British troops still occupied frontier forts, thereby limiting New York's share of the fur trade. If Congress did not give a satisfactory

response within a few months, New York would "be compelled to consider herself as left to pursue her own Councils, destitute of the Protection of the United States." The answer came that Congress would do what it could--which was nothing--and that states were authorized to recapture forts on their own. Through the influence of Governor Clinton, the New York legislature was brought to accept this response.³ Fortunately the next year for New York was very prosperous; a great increase in trade resulted in the increase of revenue from £38,000 (\$95,000) in 1784 to £180,000 (\$450,000) in 1785.⁴ With this income the state had the power to force British troops back into Canada without outside help. Realization that New York could stand on its own against Britain resulted in a shift in thinking concerning stronger union. Since it would have little to gain, New York no longer emphasized the need to increase the powers of Congress.

In each of the southern states after the war, there were different needs and therefore different ideas concerning their relationship to Congress. Georgia and North Carolina were basically indifferent to the union. Both were too prosperous to be concerned with the problems of other states. It was not so much antagonism to united actions as a feeling that they did not matter. Georgia's reaction to Congress in 1787 was described: Congress "could make any emergency request of Georgia and confidently expect that about three

years later Georgia would agree to do not quite what Congress had asked."⁵ Only one possible threat to Georgia's security existed--the white inhabitants were outnumbered by Indians. An uprising might make Georgia willing to concede anything to gain aid. North Carolina planters had always felt a special allegiance to their state; their participation in the war had been a consequence of this allegiance and after the war, the government of importance to them was the state government.

Virginia was involved with Congressional action only to the extent that she was sure her voice was the dominant one in any decision. Maryland, with Virginia so near, had much to gain by supporting a stronger central government while South Carolina on the other hand had little to gain but still was nationalistic. McDonald attributes this to the education of its aristocracy abroad and contacts with various parts of the world through trade, both of which had a tendency to encourage broad-minded opinions.⁶

In summary then, the continent was returning to prosperity. The economies of the major states were faring well. The smaller states were not doing as well, but this was primarily because their trade was affected by that in the larger ports, not because it did not exist. The high level political leaders did not change thus showing an outward stability. This view, however, is one gained by

looking at the period in relation to later periods of American history: it was not the opinion of those living at that time. For the people, it was, as John Quincy Adams described it, "a critical period." The complaints and tensions of the time were, as an historian later explained, "real, intensely real, rooted however, not in poverty or in real deprivation but rather in prosperity and the very unintended promises the Revolution seemed to be offering large numbers of Americans....Because the Revolution represented in fact a utopian effort to reform the character of American society and to establish truly free governments, men in the 1780's could actually believe it was failing."⁷ It was a period of stabilization--formation of new governments, new trade patterns; a change in the social status as positions emptied by Tories were replaced by others. In the midst of all this, various events occurred which to some Americans foretold the end of American society.

Once peace had been achieved the nation practically disintegrated. The country was in debt from the war with no means of obtaining funds to pay it. With the immediate danger of control by British troops gone, the Congress was soon close to nonexistence. A quorum--necessary to conduct business--was often not possible for several weeks at a time. Even the matter of ratifying the peace treaty was not considered important, and it was almost by accident that ratification

occurred within the specified time.

Foreign nations knowing the impotence of Congress were hesitant to have any dealings with the new country as an independent power. It was obvious that there was no way that Congress could bind the states to any treaty which it signed. Consequently there were few who were willing to have formal dealings with the nation. Its ambassadors abroad--particularly Jefferson in France and Adams in Britain--were treated with contempt. Britain, as mentioned previously, had remained in western forts in clear violation of the peace treaty and had not evacuated them until one state--New York--was strong enough to force them out. Franklin believed that Britain was emphasizing any reports of dissension in the states thus making it even more difficult for the United States to establish normal relations. He wrote:

I think their [the European nations'] desire of being connected with us by treaties is of late much abated; and this I suppose occasioned by the Pains Britain takes to represent us everywhere as distracted with Divisions, discontented with our Governments, the People unwilling to pay Taxes, the Congress unable to collect them, and many desiring the Restoration of the old Government, etc. The English papers are full of this stuff, and their Ministers get it copied into the foreign Papers.

It was to Britain's advantage, of course, to be able to describe the country as falling apart. It is only speculation as to how much truth there was in Britain's statements or in Franklin's guess as to their effect on Europe. Franklin naturally denied the British reports, as he wrote to a

British correspondent:

We are more thoroughly an enlightned [sic] people, with respect to our political interest, than perhaps any other under heaven. Every man among us reads, and is so easy in his circumstances as to have leisure for conversations of improvement....Our domestic misunderstandings, when we have them, are of small extent, tho'⁹monstrously magnified by your microscopic newspapers.

At another time he disclaimed the "factitious Accounts of Distractions in America." Jefferson had just crossed the Atlantic after traveling through the states and assured Franklin that "general Tranquility reigns, and the People well satisfy'd with their present Forms of Government, a few insignificant Persons only excepted."¹⁰ Clearly there was some truth expressed on both sides, but it would be difficult to determine which was the more objective. In any case, reports of division reaching Europe did not help the United States to gain a place as an independent nation.

In addition to the internal situation affecting international relations, the reverse was also true. John Jay, Superintendent of Foreign Affairs, had been authorized to negotiate a commercial treaty with the minister plenipotentiary of Spain, Diego de Gardoqui. His instructions included the restriction that he was not to yield the United States claim to free navigation of the Mississippi River. In other words, the interests of the western inhabitants were not to be forfeited to gain an advantage for the eastern merchants. Jay's request that these instructions be changed caused great debate in Congress. The vote taken at the end of the summer

of 1786 revealed a clear dividing line between North and South: All seven states above the Mason-Dixon line voted for change; all five south of the line voted against change. By giving up the claim to the Mississippi, the United States would gain access to the port of Havana and possibly other ports and thereby open trade with an area containing hard money needed in the United States and also an area which would be a market for American wheat. This agreement, however, was never completed because of the tension it created within the United States and because under the Articles, two-thirds of the states needed to vote for ratification. As Forrest McDonald writes:

The bitterness of the battle opened a sectional conflict of interests that would not soon be healed. (Off and on during the debates men began to talk of giving up on the Union, and trying to salvage something by creating several regional confederations.)¹¹

The importance attached to the Mississippi was revealed by men such as Patrick Henry who wrote that he would "rather part with the confederation than relinquish the navigation of the Mississippi."¹² In this manner, relations with a foreign nation exposed further divisions among the states which, in turn, decreased the likelihood of other nations respecting the United States.

The closeness of the total disintegration of government was indicated in events in Massachusetts between September of 1786 and February of 1787 which became known as Shays' Rebellion. The chaos existing in the state is evident when one realizes that the critics' major complaints had already

been corrected by the state legislature. The problems arose because the frontier had not learned of the change. Men were already moving toward revision of the Confederation, but this provided an impetus for the more hesitant. It was merely one more example of the problems existing within the states and as such led some to "wish for a General Government of unity, as they [saw] the local Legislatures naturally and necessarily [tended] to retard and frustrate all General Government."¹³

Thus, for many varied reasons, the citizens of the United States came to the conclusion that in some way the government had to be changed. Conditions had to be improved. Some felt union was hopeless and favored a dissolution of the central body. Others believed that only a stronger union would cure the ills of the country and within this group there were many ideas as to how this should be done. The question remained however concerning which proposal would ultimately receive the support necessary for its enactment.

Footnotes

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⁸Benjamin Franklin, "To John Jay," Passy, February 8, 1785, The Writings of Benjamin Franklin, ed., Albert H. Smyth (New York: The Macmillan Co., 1905), vol. IX, pp. 287-288.

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¹²Lee, Arthur Lee, vol. II, p. 321 found in Andrew C. McLaughlin, The Confederation and the Constitution 1783-1789 (New York: Harper & Brothers, 1905), p. 99.

¹³General Henry Knox to Washington, October, 1786 found in Charles Warren, The Making of the Constitution (New York: Barnes & Noble, Inc., 1937), p. 31.

Attempts to Cure an Ailing Confederation

From the time the Articles of Confederation were put into effect, there were political leaders who felt the need to increase the powers of the central government. A congressional committee was appointed to carry through the transition from the Continental Congress to the new government under the Articles. This committee, a group of supporters of a strong central government,¹ proposed that Congress be given power to impress property during wartime; appoint taxcollectors; and seize property of delinquent states, but Congress completely ignored this suggestion. Even before its ratification, there had been proposed amendments to the Articles. In early 1778 Judge Drayton of South Carolina suggested as an amendment that if any state violated the Articles, "the Congress shall within one year thereafter declare such State under the ban of the Confederacy, and by the utmost vigor of arms shall forthwith proceed against such State until it shall have paid due obedience upon which the ban shall be taken off and the State shall be restored to the benefits of this Confederacy."² Little notice of this suggestion was taken by the leaders.

With no way of raising funds and no way of enforcing requisitions placed on the states, Congress attempted in 1781 to have an impost amendment passed by the states which would give Congress the power to levy a five per cent duty on imports. Previous to this, troops had marched on Philadelphia to gain redress of grievances from Congress.

Realization that the central government was in great need of funds pressured all but Georgia and Rhode Island to ratify the amendment in the next year. Indications from Georgia revealed she would eventually support the move but Rhode Island was reluctant to ratify such an amendment. One of her delegates, David Howell compared the amendment to the Stamp Act. When Congress asked for a definite answer, the Rhode Island assembly voted unanimously against the measure. A committee, on the way to Rhode Island to attempt to persuade the assembly to change its decision, learned that Virginia had reversed its vote. Ratification was therefore given up as a hopeless cause.

Various other nationalist movements attempted at different times to strengthen the central government at the expense of the states. One such plan required the continuation of the war and at the same time was complicated by the goals of the Revolution, for one of the primary objectives was to protect the sovereignty of the states. The nationalist group, including Gouverneur Morris, Richard Peters, James Wilson among others, devised a plan which would coordinate the power of the army with the influence of public creditors. With this combined power they hoped to push through the financial program of funding all continental debts, including those to the army, assuming all state war debts, and establishing adequate permanent revenues to pay those debts.

Support from Congress was apparently no problem; however any amendment had to be ratified by every state. The leaders thought that if the army could be kept threatening, if there was a chance that they might use force to improve their conditions and gain their back pay, that perhaps states, at the same time being pressured by creditors, could be forced into ratifying. The plan was killed, however, when news of the conclusion of the provisional peace treaty with Britain reached Philadelphia and when Washington, learning of the plan, publicly refused to support it. The end of the war created the desire in many of the troops to go home and forget the problems of the government and without Washington's leadership even more were unwilling to use what force they had.

With peace achieved, disunity increased for men no longer were fighting for a common objective. Few however denied that there was a need for some revision. The basic questions which had to be decided were the extent of the revision and the best means of obtaining improvement. This need for change was viewed differently by various portions of the population. Some feared the rise of an aristocracy and loss of the goals of the Revolution; some saw it as a failure for republican government. Still others viewed it as a natural consequence of the speed with which the original document was drafted. As the Charleston Gazette wrote in 1787:

"When by some violent convulsion a revolution has been effected," governments would obviously be unsettled, "some time must always intervene before new ideas can be received, new forms established, and the machine of government brought back to a regular motion....Defects appear which time only could bring to view; many things require amendment, and some must undergo a total alteration."³

There were others however who were not as optimistic. An opinion gaining support as the ineffectiveness of the Confederation became apparent was that a union of the entire continent was impossible. The belief had long existed that life in America was too diversified for all to be under one government. As General Benjamin Lincoln described it:

...The citizens of these States are deceiving themselves, in an expectation that any relief can, or will, be granted them by the Congress, under our present system of government....That our interests do and will clash, are troubles which will not be questioned. These are the necessary consequences of our great extent, of our difference of climate, productions, views, etc. I do not see how we shall surmount the evils under which we now labor, and prevent our falling into the utmost confusion, disgrace and ruin, but by a division, which might be formed upon such principles as would secure our public creditors and thereby our public faith, and our after-peace and safety by a firm alliance between the divisions.⁴

Dr. Benjamin Rush explained one of the proposals circulating in the fall of 1786: there was a suggestion of Eastern, Middle and Southern Confederacies which would be united in an offensive and defensive alliance. Within any one confederacy the states would be "united by nature, by interest, and by manners, and consequently they will be safe, agreeable, and durable." The debt of the United States would be divided among each of the Confederations.⁵ Although this

proposal never went past the stage of speculation, it aroused enough fear in those desiring one total union that efforts to strengthen the Articles were reasserted.

In 1786 Washington expressed the views of many leaders when he wrote to Jay:

Your sentiments, that our affairs are drawing rapidly to a crisis, accord with my own...I do not conceive we can exist long as a nation without having lodged somewhere a power which will pervade the whole union in as energetic a manner, as the authority of the State Governments extends over the several States.... Requisitions are a perfect nullity, where thirteen sovereign, independent, disunited States are in the habit of discussing and refusing compliance with them at their option. Requisitions are actually little better than a jest and a byword throughout the land. If you tell the Legislatures they have violated the treaty of peace and invaded the prerogatives of the Confederacy, they will laugh in your face....Things cannot go on in the same train forever. It is much to be feared, as you observe, that the better kind of people, being disgusted with the circumstances, will have their minds prepared for any revolution whatever....⁶

By the time this was written, a series of moves had already begun which was to culminate in the Constitutional Convention in May of 1787.

On February 15, 1786, a congressional committee, appointed to study the need for a stronger union reported that "the crisis has arrived when the people of the United States... must decide whether they will support their rank as a nation, by maintaining the public faith at home and abroad; or whether, for want of a timely execution in establishing a general revenue...they will hazard not only the existence of the Union, but of those great and inviolable privileges for

which they have so arduously and so honorably contended."⁷
In spite of this, Congress took no action.

In the meantime, states were moving toward greater union through their calling of conventions. As early as March of 1785 delegates from Maryland and Virginia had met in Alexandria to discuss regulation of trade on the Chesapeake Bay. The result of the conference had been a compact for joint control of the area. When the Maryland legislature informed Virginia of its approval of the arrangement, it also suggested that invitations be sent to all the states to meet and discuss general commercial regulations. In response, Virginia passed a resolution on January 21, 1786, inviting states to send commissioners to meet in convention "to take into consideration the trade of the United States; to examine the relative situations and trade of the States; to consider how far a uniform system in their commercial regulations may be necessary to their common interests and their permanent harmony and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, will enable the United States in Congress effectually to provide the same."⁸ Five states--New York, New Jersey, Pennsylvania, Delaware and Virginia--sent delegates to the convention which met in Annapolis in September of 1786. Although supposedly having as its purpose the discussion of regulation of trade, the delegates chosen revealed a different goal. Men such as Madison, Hamilton, and Dickinson, while not involved in commerce were very much interested in working

for a stronger central government. As Stephen Higginson of Massachusetts wrote to John Adams:

The ostensible object of that Convention is the regulation of commerce, but when I consider the men who are deputed from New York, Pennsylvania, and Virginia and the source from whence the proposition was made, I am strongly inclined to think political objects are intended to be combined with commercial, if they do not principally engross their attention.... Few of them have been in the commercial line, nor is it probable⁹ they know or care much about commercial objects....

Higginson's suspicion was shown to be justified when the convention submitted its report to Congress and the states claiming that the "power of regulating trade could not be given to the federal government without adjustments in other parts of the federal system,"¹⁰ and recommended a meeting of delegates from the states to meet in Philadelphia in May of 1787 "to devise such further provisions as shall appear to them necessary to render the Constitution of the Foederal [sic] Government adequate to the exigencies of the Union."¹¹

Response in any form to this suggestion was slow in appearing. Congress referred the report to a committee of three which referred it to a committee of thirteen which was never appointed by Congress. It was natural for Congress to hesitate supporting a convention which might abolish it. In spite of the lack of support from Congress, Virginia, Pennsylvania and New Jersey elected delegates to the convention and Shays' Rebellion in Massachusetts encouraged some of the more hesitant to move toward a more stable government.

Finally on February 21, 1787, the forthcoming Convention received official congressional support and a formal statement of its purpose-- that of "revising the Articles of Confederation, and reporting to Congress and the several Legislatures, such alterations and provisions therein, as shall, when agreed to in Congress, and confirmed by the States, render the Federal Constitution adequate to the exigencies of the Union."¹²

As the time of the Convention came near, more and more importance was attached to it. Franklin wrote of the meeting: "If it does not do Good, it must do Harm, as it will show that we have not Wisdom enough among us to govern ourselves; and will strengthen the opinion of some Political Writers, that popular Governments cannot long support themselves."¹³ And in a New Hampshire newspaper one found the statement:

We are happy to hear that the citizens of the American States begin to be more deeply impressed with the importance of having a Federal head--for we are headless at present. We sincerely wish that this event, the vesting of the United States in Congress assembled, with powers sufficient to regulate the internal and external police of the States may speedily be effected --on it, in great measure,¹⁴ depends the political salvation of this country.

Although there was a general feeling throughout the continent that there was a need for change, there was not a general consensus as to the extent of this change. The delegates to the convention represented a cross-section of the country both geographically and in political opinion.

There was, however, a clear majority supporting the creation of a stronger union; only one state was definitely dominated by states' rights supporters and that was New York. The most extreme opponent of a stronger union--Rhode Island--refused to send delegates.

It was Madison who attempted to describe the philosophy on which the delegates would ultimately attempt to base their new government:

Conceiving that an individual independence of the States is utterly irreconcilable with their aggregate sovereignty, and that a consolidation of the whole into one simple republic would be as inexpedient as it is unattainable, I have sought for some middle ground, which may at once support a due supremacy of the National authority and not exclude the local authorities wherever they can be subordinately useful.

Clearly the idea of a "federal government" had gone through a period of transition. The first federal government of the country, the Articles of Confederation, were found to be insufficient. A Constitution was written to replace it which formed a federal government supporting the "supremacy of the National authority." Men would continue to argue for states' rights but never again would the majority of United States citizens favor an extensive subordination of the central authority to the states.

Footnotes

¹The committee included James Madison, James Duane, and James Varnum.

²Charles Warren, The Making of the Constitution (New York: Barnes & Noble, Inc., 1937), p. 8.

³Charleston St. Gazette of South Carolina, February 22, 1787 found in Gordon S. Wood, The Creation of the American Republic, 1776-1787 (Chapel Hill: University of North Carolina Press, 1969), p. 431.

⁴Life and Correspondence of Rufus King (1894), vol. I, p. 156 found in Warren, p. 26.

⁵Price Papers in Mass. Hist. Soc. Proc. 2d Series (1903), XVI found in Warren, pp. 27-28.

⁶Washington to Jay, 1786 found in Warren, pp. 17-18.

⁷Warren, p. 20.

⁸Ibid., p. 15.

⁹Stephen Higginson to John Adams, July, 1786 found in Warren, pp. 21-22.

¹⁰Merrill Jensen, The Making of the American Constitution (Princeton: Van Nostrand Co., Inc., 1964), pp. 33-34.

¹¹Warren, p. 23.

¹²Ibid., p. 42.

¹³Benjamin Franklin, "To Thomas Jefferson," Philadelphia, April 19, 1787, The Writings of Benjamin Franklin, ed., Albert H. Smyth (New York: The Macmillan Co., 1905), vol. IX, p. 574.

¹⁴Warren, p. 93.

¹⁵Madison to Washington, April 16, 1787 found in Warren, pp. 49-50.

Conclusion

If one keeps in mind the definition of federalism presented at the beginning of this paper while examining this country's history in the years 1754 to 1786, he should be able to watch the development of American political thinking as this form of government slowly emerged. The British colonies in the mid-eighteenth century had grown accustomed to managing their own internal affairs with little concern for any outside their boundaries. Imperial authority was evident in the action of the governor and the few restrictions on trade, but the inhabitants of America had come to assume the right to determine matters for themselves.

Union of the colonies, when considered at all, was discussed most frequently at times when several colonies felt they were vulnerable to attack. The colonies, however, never remained in danger for an extended period of time and thus did not develop any desire for a strong permanent union. Proposals such as the Albany plan were thought to be a much greater risk to the colonial rights than any threat of attack. This plan would have established "a central government on a federal model with specifically limited powers in relation to war, defense, western lands and Indian affairs. Within the realm of its delegated authority, the envisioned confederation would operate with a real binding power directly over the citizens of the individual colonies." It was not merely an alliance but a "permanent organism with real authority to

rule and tax within the limitations of the powers considered."¹ In spite of the fact that these concessions were limited, their extent was considered too great to grant to another body. They revealed, however, the degree to which colonial leaders had studied division of powers between local governments and a central authority. As such the Albany plan provided a basis for discussion when Americans began contemplating union.

It was a shift in British imperial policy which caused the colonies to begin looking to one another for aid. Men in America resented control of their affairs by any body which claimed authority over them. When Britain attempted after 1763 to reorganize her empire, colonial protest resulted in the further development of a theory of government.

During the 1760's one can find the emergence of various theories in the formation of American government. The colonies were to be considered parts of the empire with powers and functions of their own. They had been given the right to tax and control their own internal affairs in their royal charters. It was possible to distinguish between one power and another and therefore possible to grant one power to a governing body but not another. It was concern for the empire as a whole which led them to accept parliamentary authority over the regulation of trade. Colonial assertion of their rights and therefore limitation of Parliament's

authority was expressed most strongly in answer to the Stamp Act. Their refusal to accept Parliament's right to tax was based on the argument "that the colonies as corporate parts of the empire, had their own governments possessed of the power to tax and to regulate internal concerns." In other words, "the British empire was in reality not a simple empire but a composite empire in which each commonwealth had its share of duty and authority."² Problems arose when leaders in Britain were unable to accept, or even to understand this principle. As Gordon Wood comments, "the Americans' efforts to divide and limit this sovereignty [Parliament's supreme authority] was so new, so original, and so contrary to the prevailing maxims of political science that they could not be sustained."³ From 1765 to 1776 it was this difference in thinking concerning the division of governmental authority which was at the heart of the tension between mother country and colonies. Colonial thinking continued to develop until, in the years just before independence, some came to deny all parliamentary authority over the colonies. Parliament was one of the co-equal legislatures in the empire, governing Britain as the colonial legislatures governed the individual colonies. Thomas Jefferson, in the summer of 1776, noted this view as he explained the views of delegates to the Continental Congress:

That as to the people or Parliament of England, we had always [sic] been independent of them, their restraints on our trade deriving efficacy from acquiescence only & not from any rights they possessed

of imposing them, & that so far our connection had been federal only, & was now dissolved by the commencement of hostilities.⁴

Union had been accepted as an essential part of the fight against British oppression but this did not imply the relinquishing of vast powers to a central authority. Colonists had become too afraid of parliamentary authority to grant far-reaching powers to the Continental Congress. The Declaration of Independence broke ties with Britain but it did not form a new government to unite the colonies in their struggle. The Continental Congress, beginning as a means through which the colonies could voice their common grievances and common desires, evolved into the body which symbolized the unity of the states. Clearly, however, Americans were more concerned with revising their state governments. Creation of a permanent central body backed by a constitution had to be delayed until the more important business of writing state constitutions was completed.

The emphasis on state governments and their powers continued into the 1780's. Gradually the realization came that for the country to remain in existence it was necessary to increase the powers of the central authority. The line dividing state and central powers, drawn at a time when the majority had intense fear of usurpation of power by a central authority, had left too little power in the hands of the central authority for it to be effective. Many had felt as Jefferson did in 1783 that with peace Congress would not

be necessary, only a committee of the states. "The constant session of Congress can not be necessary in time of peace, and their separation will destroy the strange idea of their being a permanent body, which has accountably taken possession of the heads of their constituents and occasions jealousies injurious to the public good."⁵ Conditions within the states and their attempts to establish relations with foreign nations soon brought leaders to realize as Washington did that revision was necessary if the United States were to remain an independent, respected nation. He felt several things were required if the country were to continue, among them:

An indissoluble Union of the States under one Federal Head;...and the prevalence of that pacific and friendly disposition among the People of the United States, which will induce them to forget their local prejudices and policies; to make those mutual concessions, which are requisite to the general prosperity; and in some instances, to sacrifice their individual advantages in the interest of the Community.⁶

The Articles of Confederation provided the basis for a stronger government but only if it could be revised to give the central authority power to regulate trade and power to raise funds in some manner. Delegates met in Philadelphia in the spring of 1787 to provide for this revision. It was not their goal to concede all power to the central government; all possible power was still to be retained in the states, but they had realized that the powers of the state and central governments had to be balanced more in favor of the central government. The question remained as to how great this change had to be for the government to receive the necessary strength.

Footnotes

¹Robert C. Newbold, The Albany Congress and Plan of Union of 1754 (New York: Vantage Press, Inc., 1955), p. 134.

²Andrew C. McLaughlin, A Constitutional History of the United States (New York: D. Appleton-Century Co., 1935), p. 35.

³Gordon S. Wood, The Creation of the American Republic, 1776-1787 (Chapel Hill: University of North Carolina Press, 1969), p. 350.

⁴Thomas Jefferson, The Papers of Thomas Jefferson, ed., Julian P. Boyd (Princeton: Princeton University Press, 1950), vol. I, p. 311.

⁵Ibid., vol. VI, p. 374.

⁶George Washington, "Circular to the States," June 8, 1783, The Writings of George Washington, ed., John Fitzpatrick (Washington: USGPO, 1938), vol. XXVI, p. 487.

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