May 19, 1938

To the Committee on Graduate Study:

I submit herewith a thesis written by Mr. Horace Bernard Smith and entitled "Some Phases of the Economic Policy of the Confederation Congress, 1781-1785," and recommend that it be accepted for nine quarter hours credit in partial fulfillment of the requirements for the degree of Master of Arts, with a major in History.

J. B. Sanders
Major Professor

At the request of the
Committee on Graduate Study,
we have read this thesis,
and recommend its acceptance.

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Accepted for the Graduate
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# SOME PHASES OF THE ECONOMIC POLICY OF THE CONFEDERATION CONGRESS, 1781-1785

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A THESIS

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of
The University of Tennessee
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by

Horace Bernard Smith

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# PREFACE

The story of the efforts of the Confederation Congress to direct the steps of the "Babe of the Revolution" during the critical period of its early infancy is somewhat like the story of the mother who knows what the sick child in her arms needs to effect his recovery but is powerless to obtain the remedy. Long before the meeting of the Constitutional Convention in 1787, many leaders in Comgress knew that ultimately more power must be given to the central government if the United States were to take its rightful place among the nations of the world.

No attempt is made in this thesis to analyze every phase of the economic policy of the Confederation Congress. This study is confined to the methods used in financing the federal government during the period 1781-1785, to the efforts of Congress to secure a better financial system, and to the establishment of the foundation of the federal land policy.

The writer is indebted to Dr. J. B. Sanders, under whose guidance and supervision this study was made, and to Dr. S. J. Folmsbee and Dr. Marguerite B. Hamer, who have offered many helpful suggestions.

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## Chapter I

## FINANCES

In Philadelphia, the hour of noon, March 1, 1781, was one of jubilation. "The great event, which will confound our enemies, fortify us against their arts of seduction, and frustrate their plans of division, was announced to the public at twelve o'clock under the discharge of the artillery of the land, and the cannon of the shipping in the Delaware. The bells were rung, and every manifestation of joy shewn on the occasion."[1] At two o'clock the members of Congress, the members of the General Assembly of Pennsylvania, the President and Council of the State, the officers of the Army who were in town, and many others "waited on" the President of Congress to congratulate him. In the evening there was an exhibition of fireworks at the "State House, and also on board Paul Jones Frigate in the Harbour, and all the vessels in the Harbour were decorated and illuminated on this occasion and great joy appeared in every Countenance but those of the Disaffected."[2] The occasion for the celebration was the affixing of the signatures of Daniel Carroll,

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1. E.C. Burnett, Letters of Members of Continental Congress, Vol. VI, p. 2, note 2.
2. Ibid., p. 1.

and John Hanson, two of the delegates for the state of Maryland, in behalf of that State, to the Articles of Confederation. This act completed the Confederation, twelve states having ratified it before.

Not all the people in America at that time agreed with the Pennsylvania Packet as to the significance of this event, but most of the patriots believed that it was a step forward. The union which had rested upon the impulses that arose out of a common struggle was now based on a constitutional foundation.

Under the Articles, the impotence of the Continental Congress was not removed. The expenses incurred "for the common defense or general welfare," and allowed by Congress were to be defrayed out of a common treasury which was to be supplied by the several states in proportion to the value of land and improvements within each state.[3] This was well and good, but Congress was not given authority to force the collection of the funds to fill this common treasury. It could entreat the states to fulfill their obligations, but here its efforts must cease. Congress was given the sole and exclusive right and power of making treaties, provided these treaties did not restrain the respective states from imposing such

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3. Gaillard Hunt (ed.), Journals of Continental Congress (hereafter referred to as Journals), Vol. XIX, p. 217.

imposts and duties as they needed.[4]

The chief problem that faced Congress in the first year of the Confederation period was finances. Congress, prior to March 1, 1781, had relied on several ways of raising funds, all of which had proved inadequate. At first the issuance of paper money was resorted to as an emergency measure. The emergency persisted and the emissions of bills of credit continued. Between 1775 and 1779 Congress had issued $241,552,780 in bills of credit.[5] To supplement the paper money and to keep it from depreciating Congress resolved in 1776 to borrow $5,000,000. By 1777 Congress had decided to call on the states to furnish Congress with money through funds derived from whatever source they saw fit. Between 1775 and 1780 specie requisitions to the amount of $2,737,000[6] were made. The states were very dilatory in responding to the requisitions. For instance, between November, 1777, and October, 1779, Congress asked the states for $95,000,000 in paper money; payments amounted to $54,667,000.[7] Congress had resorted, also, to the

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4. Ibid., Vol. XIX, p. 217.
5. D.R. Dewey, Financial History of United States, p. 36.
6. Ibid., p. 45.
7. Ibid.; C.J.Bullock, "The Finances of the United States from 1775-1789" in Bulletin of the University of Wisconsin, Economics, Political Science and History Series, Vol. I, No. 2, p. 158.

requisition of specific supplies. It is impossible to determine the value of supplies furnished in this way. In Hamilton's report of 1790 the states are credited with supplies to the amount of $881,000.[8]

With a few exceptions Congress continued these policies in the Confederation period. One of these exceptions was the emissions of bills of credit. This practice ceased after 1780 when a dollar of the paper money was worth less than two cents.[9] In March of this year Congress passed a resolution providing for the redemption of the bills of credit at one-fortieth of their face value. In order to call in the old bills Congress levied a tax on the states of $15,000,000 a month for thirteen months. This tax could be paid in paper in place of silver at the rate of 40 to 1. When these paper bills came in, they were to be destroyed and replaced by a new issue in an amount equal to one-twentieth of the face value of the old issue. Four-tenths of the new issue was to be retained for the use of Congress. The new bills were to be redeemable in specie in six years, to bear interest at five per cent, and to be receivable in payment of taxes. There seems to have been issued $4,400,000[10] of the new

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8. American State Papers, Finance, Vol. I, p. 55.
9. Bullock, op. cit., pp. 40-41.
10. Dewey, op. cit., Vol. VI, "Preface", p. ix.

tenor. After this time the old notes disappeared from circulation. This was the last issue of Continental paper money. The Confederation Congress did not resort to this method of financing the war. However, it was not the last time that "bills of credit" were to be discussed in Congress: "...a ghost thought to have been laid just a year before had arisen to plague the Continental Congress and bring disturbance to all its works."[11] The plan of March,1780, had not worked out according to the intentions of Congress. The new emissions, every dollar of which was to remove from circulation twenty of the old emissions, met many obstacles. The states discovered impediments to the operation of the Congressional Act of March 18, 1780, and took their own measures accordingly, fixing various rates of exchange. This opened up a great opportunity to speculators who bought up the old bills where they were cheapest and rushed into states where exchange was higher. This operation has been described as follows:

> ...the new bills (in so far as they were issued at all) joined hands with the old, and, like Jack and Jill in the nursery rhyme, went merrily skipping down the hill together; and when Jack fell down and broke his crown young Jill came tumbling after. As for mending Jack's broken head, vinegar and brown paper had lost their efficacy and Jill was in no condition to jeer at him. Some of the new bills...did

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11. Burnett, op. cit., Vol. VI, "Preface" p. ix.

survive, though much emaciated, into the new era and had their part in the funding of the national debt.[12]

The policy of requisitions was continued by the Confederation Congress, for under the Articles of Confederation there was no other way for Congress to raise revenue. It is difficult to discover the amount of money that Congress requested the states to pay into the common treasury, for the accounts differ somewhat. On March 16, 1781, soon after the ratification of the Articles, Congress called upon the states to furnish "for the public expences and for carrying on the war their proportions of $1,500,000 quarterly." In the discharge of this requisition, the bills of credit of the new emission were to be received "as equal to and in lieu of the like sum of specie."[13] If anything was received in payment of this requisition, there is no record of it. The first entry in Morris' accounts of any receipts from taxes is in June, 1782, and the amounts then paid were credited to requisitions made after October, 1781.[14] According to the resolution of March 18, 1780, four-tenths of the bills of the new emission was to be at the disposal of the United States, but this amount was to be credited to the states on their quotas of the requisitions. The share of the new bills that fell

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12. Ibid., Vol. V, "Preface," p. x.
13. Journals, Vol. XIX, p. 267.
14. Bullock, op. cit., p. 160.

to the United States amounted to $1,592,222.52.[15] and, must, consequently, be credited to the requisitions.

On October 30, 1781, a resolution was passed, calling on the states to furnish the common treasury with their quotas of $8,000,000 "for the war department, and civil list, the ensuing year." These quotas were to be paid quarterly beginning on April 1, 1782. Since the valuation of the lands had not been made, upon the basis of which tax levies were to be apportioned, a committee was appointed to make the apportionment.[16] In September, 1782, Congress called on the states for a million and two hundred thousand dollars to pay the interest on the domestic debt.[17] Later, Congress agreed that this amount could be paid in indents of the loan offices. On October 16, 1782, a requisition was made for $2,000,000 in "such quotas as Congress may assign to them respectively." Any other requisition was to be suspended until the result of measures for obtaining loans was determined. Estimates of the amount needed for 1783 totaled six million dollars. If loans could be obtained, no more requisitions would be made for that year.[18] In his report for 1790, Hamilton indicated

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15. American State Papers, Finance, Vol. I, p. 58.
16. Journals, Vol. XXI, pp. 1087-1088.
17. Ibid., Vol. XXIII, pp. 545-546.
18. Ibid., p. 660.

that $1, 392,009[19] was received on account of the requisitions of October 30, 1781, and October 16, 1782.[20]

In April, 1783, Congress asked the states to amend Article VIII of the Articles of Confederation by substituting for the plan of apportioning quotas in proportion to the valuation of lands and improvements thereon within each state a plan for distributing the quotas in proportion to the "whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons ... except Indians, not paying taxes." The census, for this purpose, was to be made triennially.[21] This was not agreed to by the states.

The demands of Congress were excessive. Of the eight million dollar requisition there remained in April, 1784, a surplus of $5,513,488.28 after "answering all demands that actually rose against it, which were not answered by other means nor transferred to other funds."[22] Recognizing this fact, Congress called upon each state to furnish an amount that, when added to that part of the eight million dollar requisition which had been paid up to January 1, 1784, would equal one-half of the origi-

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19. The Congressional Committee report gives this amount as $1,486,511 as shown in Journals, Vol. XXVI, p. 309. Morris' report shows the amount to be $1,466,066. See Bullock, op. cit., p. 160.
20. American State Papers, Finance, Vol. I, p. 56.
21. Journals, Vol. XXIV, p. 260.
22. Ibid., Vol. XXVI, p. 305.

nal requisition; for instance, New Hampshire's quota under the apportionment was $373,598. She had paid prior to December 31, 1783, three thousand dollars. She was called on now to pay for operating expenses for 1784 the amount of $183,799, which, when added to the three thousand dollars already paid, made one-half of the $373,598, the requisition of October, 1781. The amount of money requested in this manner was $2,670,987.89, something over two million of which was to be paid in specie, and the remainder in indents of the loan offices.[23] It was not meant to relieve the states of the remainder of their unpaid requisitions. This was the minimum. The more able states were urged to "go as far beyond this proportion in specie as their happier situation will permit." Any payment above this minimum quota was to be applied to the payment of the public debt and, in the next requisition, to be placed to the credit of the state making the payment. It was promised, also, that, before another requisition for the remainder of the quotas of eight million dollars and the two million dollar requisitions would be made, a revision of the existing quotas under these two requisitions would be effected "agreeable to justice, upon the best information Congress may have when such demand is made."

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23. American State Papers, Finance, Vol. I, p. 5; Journals, Vol. XXVI, p. 309.

In the next year, 1785, it was ascertained that three million dollars would be required for the services of the year. A renewed call was made for three-fourths of the remaining unpaid moiety of the requisition for eight million dollars. Since the states had not transmitted to Congress the valuation of the lands or their assent to the change in the mode of apportionment, the quotas were adjusted according to the best information that Congress could obtain. Two-thirds of this amount was payable in indents and one-third in specie.[24]

It is impossible to determine exactly what part of the total requisitions for this period was paid. Hamilton's report of 1790 does not separate the account into periods in such a manner that the receipts for the period from 1781 to 1785 can be determined. His report shows that $5,900,348 was received from 1781-1789.[25] Morris' accounts, however, show that the total receipts for this period amounted to $4,953,022.84. It appears from the latter account that $2,456,459.67 was remitted by the states during the period from 1781 to 1785, inclusive.[26] Professor McLaughlin's estimate differs from this only slightly. He states that $2,457,987.25[27]

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24. Journals, Vol. XXIX, pp. 767-768.
25. Bullock, op. cit., p. 161.
26. Ibid.
27. A.C. McLaughlin, Confederation and Constitution, p. 80.

was received by the way of requisitions between November 1, 1781, and January 1, 1786. It seems, then, that during this period, 1781-1785, Congress asked the States for something over sixteen million dollars and received something near two and a half millions. The experience of the Confederation Congress with requisitions was sufficient to cause the "fathers of the Constitution" to incorporate in the Constitution the provision for Congressional authority to levy taxes.

One of the fortunate innovations of the Congress of 1781 was the substitution of the executive departments for the old committee system. On February 20, 1781, Robert Morris, a Philadelphia merchant, was elected Superintendent of Finance. Two days before the Ides of March, Morris communicated to Congress his willingness to accept the responsibility of this office under certain conditions. First, he was not to be required to give up any of his commercial connections; second, he was to have the authority to appoint to, and remove from, office, those who were to be connected with him in the Finance Department; and, third, Congress was to indicate its acceptance of these conditions by resolutions recorded in the minutes of Congress.[28] At intervals from

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28. Francis Wharton (ed.), The Revolutionary Diplomatic Correspondence, Vol. IV, pp. 297-299.

March 20 until April 27 Congress debated the advisability of accepting these conditions. It was not until May 14 that Morris signified his final acceptance of the appointment.[29]

On June 15, 1781, before he had received his commission as superintendent of Finance, Morris in a letter to Washington stated his plan. He wrote,

> ... my objects are to reduce our public expenditures as nearly as possible to what they ought to be, and to obtain revenues in our own country to meet those expenses as nearly as can be, and then to show foreign nations engaged in the war that we must look to them for the balance, and I am very confident that when they shall see exertion on one hand and economy on the other they will be willing to assist us all they consistently can.[30]

The policy of borrowing was not an innovation by any means. Congress had found it necessary in the early part of the war to establish machinery for the purpose of promoting domestic loans. Loan offices were established in each state. Lenders received indented certificates, corresponding to the present day coupon bond, in denominations from three hundred to one thousand dollars. Commissioners of the loan offices, who received their remunerations at the rate of one-eighth of one per cent on the amount received, were appointed by the state authori-

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29. Ibid., pp. 412-424.
30. Ibid., p. 505.

ties, in order to allay local jealousy.[31] It is impossible to determine the amount that the Confederation Congress borrowed in this manner. Hamilton's report of 1790 shows that from March 1, 1778, to the close of the loan office, currency to the amount of $59,830,212, with a specie value of $5,146,330, was received from this source.[32]

In order to encourage domestic lending, Congress had raised the rate of interest to six per cent and a little later had decided to use money that had been borrowed in France to pay the interest on the domestic debts. In 1782, France, through Dr. Franklin, communicated to Congress her unwillingness to be responsible for interest on the loan office certificates. Any other bills drawn on France for the payment of this interest would be protested. This caused a great commotion in Congress and among the domestic creditors.[33] Finally, it was agreed to allow the loan offices to issue "indents" for the interest on the loan office certificates. These indents were to be received in payment of the $1,200,000 requisition of September, 1782.[34] There was an effort made to use money borrowed from Holland in payment of interest on the domestic debt. On September 17, 1782, Joseph Montgomery made a motion to appropriate a half million

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31. Dewey, op. cit., p. 45.
32. American State Papers, Finance, Vol. I, p. 27; Dewey, op. cit., p. 45.
33. Burnett, op. cit., Vol. VI, pp. 378-380.
34. Bullock, op. cit., p. 160.

dollars of the money borrowed by John Adams in Holland "to pay the interest due the Loan Office Certificates and other liquidated debts due to the citizens of the United States." This motion was referred to a committee, and a report that the motion was "improper" was made on the next day.[35]

In addition to the loans secured through the loan offices, the financial exigences of the government led Congress into formation of other types of domestic debts. Quartermasters, commissioners, and other officers were authorized to issue certificates of indebtedness. So urgent were the needs of the army that throughout the war it was necessary to impress supplies, especially wagons, horses, and aids for transportation. Certificates of value were given for supplies thus seized. No record of the amount of certificates issued in this manner between 1781 and 1785 is available. Hamilton in his report of the total cost of the war placed the outstanding obligations of this nature at $16,708,000.[36] In his statement of the domestic debt in his report of January, 1790, Hamilton shows the debt of this nature to be $16,947,882.[37]

Congress depended upon foreign loans both before and after the adoption of the Articles of Confederation. It is true that the United States had very little credit

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35. Journals, Vol. XXIII, p. 585.
36. Bullock, op. cit., pp. 114.
37. Dewey, op. cit., pp. 45-47.

abroad before or during the Confederation period, but Congress made bold to ask for credit in large amounts. It is surprising that the credit granted was as large as it was. It was a rather peculiar circumstance that a country which had to depend upon loans from a foreign country to guarantee interest on domestic loans in order to persuade domestic lenders could establish any credit abroad. The rivalries between England and countries of continental Europe made this unusual feat possible.

France was the first of the European countries to come to the aid of the Americans. Secretly France had aided the revolting colonies from almost the outset of the war. After 1778, when the treaty of alliance was formed, the help of France was given in both money and men. In late 1780 Congress appealed "to their Great, Faithful and Beloved Friend and Ally" for a loan of twenty-five million livres.[38] This amount might be furnished from the royal coffers or France might become security for the United States to borrow it elsewhere. France hesitated. On April 16, John Mathews, delegate from South Carolina, wrote to Washington that Congress was depending upon three sources for funds to support the campaign of 1781 -- requisitions of six million dollars, four million dollars from the new emissions, and five million dollars from France. Mathews, however, was not

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38. A livre was equal to approximately eighteen cents.

very sanguine of the production of these sources. Of the first he said, " ... little or no reliance is to be placed on it, because they are now in arrears of $6,400,000 in specie" value. Not much could be expected from the new money because the states were not following the plans prescribed by Congress, but were adopting plans of their own that would delay the receipt of funds from this source. Of the loan from France, he said, "We are now pretty well satisfied, nothing is to be expected from that quarter." [39]

To some, the future of the budding flower of the young American republic was somewhat gloomy. In fact, the blossom was about to wither in the bud. General Washington wrote to John Laurens, who had been sent as a special minister to France to secure the loan, "If France delays, a timely, and powerful aid in the critical posture of our affairs it will avail us nothing should she attempt it hereafter. We are suspended in the Balle .... We are at the end of our tether, and ... now or never our deliverance must come." [40]

Laurens was not successful in securing the loan of twenty-five millions, but the French government did grant a subsidy of six million livres. Of this amount, about two and a half million was brought back to America and the remainder was used to purchase supplies. The

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39. Burnett, op. cit., Vol. VI, 57.
40. J.C.Fitzpatrick (ed.), The Writings of George Washington, Vol. XXI, p. 439.

arrival of Laurens with funds and supplies late in August brought a relief to Congress that was much welcomed. The New York delegates wrote to Governor Clinton that the subsidy "has been the means of enabling us among other good Things to advance the New York Lines, Officers and Men a Month's Pay in Specie .... We suffered the greatest anxiety 'till this Object was accomplished, for the Discontent of the Corps was great and just as well among the Officers as the Soldiers."[41] This was not all the aid that France gave during 1781. The Dutch were not willing to lend money to the United States. France secured for the United States a loan of ten million livres from Holland, guaranteeing the principal and the interest.[42] All told, then, France, during 1781, furnished $1,737,763 in the form of supplies, funds and means for Franklin to pay the bills of exchange that had been drawn on him.[43]

On January 29, 1782, Robert Livingston laid before Congress a communication from Vergennes to Morris. In this communication Vergennes stated that his country "could lend us no more money ... that no bills would be paid in France which the minister did not authorise us to draw."[44] This, however, did not cause Congress to refrain from asking for further support from France. On

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41. Burnett, op. cit., p. 215.
42. J.H.Latane, Our Revolutionary Debt To France, pp. 1-10.
43. Dewey, op. cit., p. 47.
44. Journals, Vol. XXII, pp. 62-64.

February 8, 1782, resolutions were passed in Congress expressing a hope for the continuation of the assistance of his Most Christian Majesty, "since nothing has been wanting," on the part of the Congress, "to apply the aid he generously affords as to distress the common enemy, and lead to the great object of their alliance, a safe and honorable peace." This was followed by another resolution that Congress would need twelve million livres "to render the next campaign decisive," and finally a resolution was passed authorizing the Minister at the Court of Versailles to borrow this amount.[45] The supplications of Congress prevailed to the extent that the French government authorized a loan of six million livres.[46] The letter from Dr. Franklin that brought these good tidings brought also the more disappointing information that practically all this amount together with the remainder of that secured in Holland had been anticipated "by bills of exchange, by supplies of the army," and other demands. The total sum furnished in the form of loans by France during this year, it seems, was $1,892,327.[47]

His Majesty's government put itself further in the good graces of the struggling Congress by remitting "all the interest which he has paid for us, or was due to him on loans to us, together with all the charges

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45. Ibid., pp. 68-70.
46. Ibid., p. 292.
47. Dewey, op. cit., p. 47.

attending the Holland loan." In addition to this, it was agreed that no demand for payment on the principal of the French loans would be made until one year after peace had been established, when it would become due in twelve successive annual payments.[48] The interest thus remitted amounted to two million livres[49] or about three hundred and fifty thousand dollars.

In face of this generous offer, Congress was compelled to draw further upon the generosity of her benefactor. In commenting on the action of France in remitting the interest, Madison said, "The fresh and large demands which we are about to make on him (His Majesty) will I fear, be thought an unfit return for such favors."[50] On September 14, Congress resolved to borrow a sum not exceeding four millions of dollars.[51] First, an effort was to be made to secure this amount from France, and if that effort failed, an "experiment" would be made "on the liberality of our new friends."[52]

In January, 1783, a committee was appointed to consider the propriety of attempting further loans in Europe for 1783. This committee reported that if the loans that had already been requested were granted that

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48. Wharton, op. cit., Vol. V, p. 515.
49. Latané, op. cit., pp. 1-10.
50. Burnett, op. cit., p. 492.
51. Journals, Vol. XXIII, p. 579.
52. Burnett, op. cit., p. 479.

the needs of Congress could be met, and that since the former requests had not been granted, the propriety of a new request was doubted.[53] France, however, came to the aid of Congress once more. In February, Franklin contracted for a loan of six million livres at five per cent interest. This amount was to be repaid in six equal annual payments, beginning in 1797. Interest was not to be counted until January 1, 1784. Reduced to dollars, the French loan of 1783 amounted to a million and eighty-nine thousand dollars.[54]

This was the last loan that France made to the United States. It was not, however, the last attempts made by Congress to secure such loans. On May 2, 1783, a resolution was passed to ask France to add three million livres to the six million already granted. This amount was needed in order "to enable the officers and soldiers to return to their respective homes with convenience and satisfaction" and to maintain the "faith and reputation of the United States."[55] Three days later a motion was made by Theodorick Bland of Virginia to erase this resolution from the Journals because nine states had not voted on it. When the vote on Bland's motion was taken, only two members voted in the affirmative - Bland and Mercer.[56] So, the resolution

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53. Journals, Vol. XXIV, p. 48.
54. Ibid., Vol. XXV, pp. 773-778.
55. Ibid., Vol. XXIV, pp. 325-326.
56. Ibid., p. 328.

stood, and France was approached once more to lend succor to the ally across the ocean. France refused this loan. Writing to Jay, Morris expressed his disappointment. "This refusal was ill-timed and impolitic," he said. "I could show resentment with some effect if I were so disposed, but so far from it, I retain a grateful remembrance of past favors and make a point to promote the Commercial intercourse between France and this country."[57]

Early in 1781, Congress sought financial aid from Spain. To John Jay, who had been appointed Minister to Spain in 1779, Morris wrote urging the necessity of a Spanish loan. The British were at a great expense fighting the war. If Spain could come to the aid of America, Britain would be compelled to increase her forces or submit. To increase her forces would mean that she must be crushed under expenses. Once Britain was driven off the continent of North America, she would have great difficulty in defending her West Indian possessions, especially when Spain and France could use the resources of America to carry on operations for the subjection of the British Islands. Then, too, a defeat of the British would mean an increase in the Spanish trade of this region.[58] The Spanish were rather reluctant to give the financial aid that Morris desired. Thomas McKean, writing to Richard Henry Lee, said of Spain, "Spain continues

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57. Wharton, op. cit., Vol. VI, p. 724.
58. Ibid., Vol. IV, pp. 531-532.

to act an interested and a mysterious part."[59] In the end, Spain gave Jay liberty to accept bills of exchange to the amount of a hundred and fifty thousand dollars.[60] During 1781 and 1782, The United States obtained from Spain a total of $174,017.[61]

It has already been pointed out that Holland at first refused to lend money to the United States, but that France obtained for the United States from Holland about ten million livres. The prospect of a loan in Holland in the early part of 1782 was still slight. In February, John Adams wrote to Livingston, "I tried every experiment, and failed in all; and am fully persuaded that we never shall obtain a credit here until we have a treaty."[62] In May, 1782, Adams wrote that Holland had recognized the independence of America, but a loan was still withheld. "I can represent my situation," he said, "in this affair of a loan by no other figure than that of a man in the midst of the ocean negociating for his life among a school of sharks."[63] Adams' labors were finally rewarded, in a measure at least. In June he was able to write, "I have ... agreed with three houses which are well

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59. Burnett, op. cit., Vol. VI, p. 177.
60. Ibid., p. 176.
61. Bullock, op. cit., p. 147; Dewey, op. cit., p. 47. Hamilton's report on the public credit in 1790 gives $174,011. See American State Papers, Finance, Vol. I, p. 26.
62. Wharton, op. cit., Vol. V, p. 163.
63. Ibid., p. 420.

esteemed here to open a loan. The extreme scarcity of money will render it impossible to succeed to any large amount. I dare not promise anything, and cannot advise Congress to draw."[64] This loan was for five million guilders at five per cent interest. Not all of this amount was subscribed immediately. In fact, so little was subscribed that the Virginia delegates wrote to Governor Benjamin Harrison in December, 1782, that "The enemy already take courage from the prospect and the little progress made by Mr. Adams' Loan."[65] It appears that during the year 1782 the United States received $720,000 from this loan.[66]

Throughout the year 1783 efforts were made to get the entire amount of the loan filled. The Dutch were very slow in subscribing the loan. In October, the commercial houses who had promised the loan wrote Adams that there were two causes for this delay. First, there was the "uncommon scarcity of money; but more important than this was the fact that a great many accounts had come to the attention of the Dutch people of the disputes between Congress and the "particular states." It was admitted that many of the stories had come through the

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64. Ibid., p. 482. The three houses were Willinks, Stopharts, and De La Lande and Fynje.
65. Burnett, op. cit., Vol. VI, p. 559.
66. Dewey, op. cit., p. 47.

English, but they were effective, nevertheless.[67] The situation was further complicated when Morris drew upon the commercial houses for a million florins (about four hundred thousand dollars). This was more than twice the amount that was available to take care of the drafts.[68] It seemed for a while that Morris' bills would be returned. So serious did the affair become that Adams, who had been in London recuperatin from an attack of fever, decided to go to Holland to try to effect some way of saving the credit of the states.[69] Finally, a new loan for two million florins ($800,000) was opened.[70] The American credit seems to have improved by this time, for in January, 1785, Adams was able to write that both the loans had been practically filled. By the close of 1785 Congress had received from the loans made in Holland a total of $2,752,800.[71]

A new feature of the Confederation policy was the chartering of the Bank of North America. In a letter to Congress on May 17, 1781,[72] Morris enclosed a plan for establishing a bank. On May 26, the plan was adopted, and Congress promised that, when the required subscriptions

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67. C. F. Adams (ed.), The Works of John Adams, Vol. VIII, pp. 152-153.
68. Ibid., pp. 161-162; J. B. McMaster, History of the United States, Vol. I, pp. 227-230.
39. Ibid., pp. 170-171.
70. Ibid., p. 191; American State Papers, Finance, p. 26.
71. Dewey, op. cit., p. 47.
72. Journals, Vol. XIX, p. 519.

were obtained and an application made, a charter would be granted. According to the plan, subscription was to be opened for four hundred thousand dollars in shares of four hundred dollars each to be paid in gold or silver. Every subscriber for less than five shares was to pay the entire sum at the time of his subscription; subscribers of five or more shares were to pay one-half of their subscriptions at the time of subscribing and the remainder within three months from that time. The notes of the bank were to be receivable in payment of duties and taxes of the states and in turn by the treasury of the United States from the states in payment of their requisitions.[73] The terms of the plan were met, and, on December 31, 1781, the subscribers were incorporated into "The President, Directors and Company of the Bank of North America," with a permitted capital of ten million dollars. It is interesting to note here that the votes of the five southern states were recorded in favor of establishing the bank, Madison's vote being the only one in the negative, that the votes of the two delegates from Massachusetts were against the bank, and the votes of the delegates from Pennsylvania, the state where the bank was to be located, were divided.[74]

It was not entirely clear to all the delegates

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73. Ibid., pp. 545-547.
74. Ibid., Vol. XXI, pp. 1187-1190.

that Congress had the authority to grant a charter. They found themselves, however, in the predicament of having promised in May that when conditions of the plan were fulfilled that a charter would be granted. Those who voted for the incorporation were of three groups -- the ones who believed themselves under obligation by the previous engagement, those who believed that Congress had the constitutional power, and those who believed the bank an absolute necessity.[75]

The special advantages of the bank to the government was in advancing loans to the treasury in anticipation of expected resources. Short-time loans from the funds subscribed were made to the government, and as the government made a special effort to repay these loans in preference to other claims, the practical result was the maintenance of a convenient working reserve which the goverhment could depend upon for immediate necessities. Between 1782 and 1784 the government borrowed $1,272,842 from the bank and received $22,867 in dividends from stock that the government had subscribed. The United States paid to the bank in the form of interest $29,719.[76]

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75. Burnett, Letters, Vol. VI, pp. 288-289. The Virginia delegates to Benjamin Harrison, Governor of Virginia.
76. Dewey, op. cit., pp. 54-56; Sumner gives the amount borrowed as $1,249,975. See W.G. Sumner, The Financier and the Finances of the American Revolution, pp. 29-35.

## CHAPTER II

### EFFORTS TO RAISE REVENUE AND CONTROL COMMERCE

Congress early recognized the futility of trying to operate a government without a stable revenue. Even before the ratification of the Articles of Confederation proposals had been made and discussed in Congress for establishing some form of revenue that would be levied by Congress and that would be at its disposal from the time of collection. Nothing materialized from these discussions, however, until just before the Articles of Confederations were ratified.

On January 31, 1781, a report of the Committee of the Whole was read. This report recommended to the states the enactment of laws granting to Congress the power to levy an impost.[1] This report was discussed, amended slightly, and passed on February 3, 1781. The resolution embodying the essence of the report recommended to the states that Congress be vested with power to levy a duty of five per cent ad valorem upon all goods imported into the United States after May 1, 1781, except goods imported on account of the United States, and except salt during the war. A duty of five per cent on all prizes and prize goods condemned in the

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1. Journals, Vol. XIX, p. 102.

court of admiralty of any of the states was also requested. The money derived from these sources was to be used for the discharge of the principal and interest of the debt contracted on the faith of the United States for the support of the war, and the duties were to continue until the debt was "fully and finally discharged."[2]

An impost in one form or another was, by no means, a new suggestion. For instance, on March 18, 1780, a date notable for the new emission act, it had been proposed "that the states be requested to pass laws enabling Congress to levy an impost of one per cent on exports and imports as a fund for sinking the emissions for carrying the present war, to continue until a sum equal to the whole of the said emissions shall be collected."[3] This proposal was made by Thomas Burke and seconded by Allen Jones, both from North Carolina, and it seems that they were about the only members of Congress at that time who favored it. Throughout the summer and fall of 1780 proposals and discussions on this topic were before Congress.

Two of the questions that confronted Congress in the discussion of the resolution of February 3, 1781, were the "length of the term assigned for the exercise" of the power to be granted and the method of the collection

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2. Ibid., p. 112.
3. Ibid., Vol. XVI, p. 261.

of the impost. It was feared that if Congress asked for the exercise of this power for a long period of time, the states would refuse to grant the privilege requested. It was evident, however, that, to satisfy the "creditors of the United States or to obtain future loans," the measure must be commensurate with the public engagements. Holding these two objectives in view, Congress decided to limit the duration of the impost in such an indefinite manner as to make it accomplish its objective and still not frighten the states with the possibility of a perpetual tax. Should the revenue derived from the impost increase because of more trade, the public debt would sooner be extinguished and the impost would cease. On the question of the method of collecting the impost, there were those who contended that Congress should be wholly responsible for its collection. Two reasons were submitted in support of this contention. First, if Congress were to be held responsible for the public debt, it was necessary that funds granted for discharging it be exclusively in the hands of that body; second, if the revenue collected or the collectors were left under the control of the states, there was danger that local urgency might cause them to "divert the funds from their proper destination." In opposition to this argument was the more conservative view that the "powers incident to the collection of a duty on trade were in their

operation so irritative that it was improbable that the states should be prevailed on to part with them."[4]

The resolution was sent to the states, and during the months that followed, one state after another enacted laws granting the impost in a form more or less like that requested in the resolution. Finally, favorable reports had come from all the states except Georgia and Rhode Island. On October 10, 1782, Congress passed a resolution "that Congress call upon the states of Rhode Island and Georgia for an immediate definitive answer whether they will comply with the recommendation of Congress to vest them with power to levy a duty of five per cent on all goods imported, and on prizes and prize goods." This resolution was favored by all of the delegates voting except Howell and Arnold from Rhode Island and Jones from Georgia. Howell attempted to get an amendment to the resolution recommending to those states that had passed acts granting the recommended power on certain conditions "to revise and amend said acts."[5] His amendment was overwhelmingly defeated.

But still no favorable news came from Rhode Island. Two months later, December 6, 1782, Alexander Hamilton introduced a motion "That a deputation be sent to the State of Rhode Island (for the purpose of making

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4. Gaillard Hunt (ed.), The Writings of James Madison, Vol. I, pp. 136-138.
5. Journals, Vol. XXIII, pp. 643-645.

a full and just representation of the public affairs of the United States,) and of urging the absolute necessity of a compliance with the recommendation of Congress of the 3rd day of February, 1781, respecting the duty on imports and prizes, as a measure essential to the safety and reputation of these states." Of the delegates from the ten states voting on this motion, all except Howell and Arnold, both from Rhode Island, voted for it. The Rhode Island delegates urged Congress to delay this action until a reply to the resolution of October 10, had been received. The deputation was to be composed of Samuel Osgood from Massachusetts, Thomas Mifflin from Pennsylvania, and Abner Nash from North Carolina;[6] thus each section of the country was to be represented. To reenforce the deputation with other Congressional ammunition, Congress sent to the governor of Rhode Island a letter in which were mixed flattery and expressions of fear of the consequences of a final refusal of that state to comply. "Convinced by past experience of the zeal and patriotism of the state of Rhode Island," this letter ran, "they (Congress) cannot doubt that it will yield to those urgent considerations which flow from a knowledge of our true situation ... Deprived of this resource, our affairs must ... rapidly hasten to a dangerous crisis."[7]

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6. Burnett, op. cit., p. 556.
7. Journals, Vol. XXIII, pp. 770-772.

One reason for the necessity of sending this deputation was the fact that David Howell had reported to a friend in Providence that loans in Europe were being established easily and that the five per cent impost was not needed. An excerpt from this letter which got into the newspaper declared, "Such is their (the United States) credit, that they have of late failed im no application for foreign loans, and the only danger on that score is that of contracting too large a debt."[8]

On December 12, 1782, a letter from the lower house of the assembly of Rhode Island to the president of Congress was read in Congress. This letter brought the discouraging news that a unanimous resolution had passed this legislative body rejecting the recommendation of Congress for power to levy an impost. The reasons for this action were enumerated. First, an impost of this nature would be unequal in its operation, bearing heaviest on the commercial states, of which Rhode Island was one. Second, it would introduce into the states officers unknown and unaccountable to them. Third, by granting to Congress a power to collect "monies" from the commerce of the states without definite limit as to time and quanity and without making it accountable to the states for the expenditure of the funds, the states

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8. Ibid., pp. 783-784.

would make Congress independent of its constituents.[9]

Immediately the question arose as to whether to send the deputation as it had been planned, and it was finally decided to delay their departure until further order from Congress. In the meantime Alexander Hamilton,[10] James Madison, and Thomas Fitzsimmons were appointed to consider the letter from Rhode Island. On December 16, this committee brought in a report in which an attempt was made to refute each one of the objections that had been raised. To the objection that the impost would bear heaviest on the commercial states, it was answered that the consumer would ultimately pay the amount; that if a state didn't import goods itself, it must obtain them from the state that did. The duty, then, was not a charge on the importing state for what was consumed in another state, for the consumer paid the impost in his purchase price. To the objection that it would introduce into the states officers responsible only to the central government, it was answered that the original Articles of Confederation had expressly declared that Congress should have the power to appoint such "civil officers as may be necessary for managing the general affairs of the United States" under Congressional direction and that to deny this

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9. Ibid., p. 788.
10. Ibid., p. 798.

authority would be to declare the appointment of post office officials unconstitutional. To the objection that the proposal granted to Congress a power to collect money from the states indefinitely as to time and quanity, it was pointed out that in time the fund collected was co-extensive with the public debt and that when the debt was paid the duty on imposts provided in the recommendations of Congress would cease. The proposal was not indefinite as to quanity because the rate was fixed. The total amount derived from the impost might vary, but the rate would not. At any rate, the whole amount would be applied to the payment of the interest and principal of the public debt, and could not exceed this amount.[11]

It is quite evident that there were other reasons than these that prompted the action of Rhode Island. It is just as evident that David Howell played a great part in prompting the rejection of the impost. On November 17, 1782, he wrote to Welcome Arnold saying,

> The rejection of the Impost by the Independent 54 is an event highly pleasing to me ...
> I am sorry that you forgot to mention in your letter the names of the committee appointed to write a Letter to Congress on the subject. Without knowing their names a suitable letter cannot be written to them.... You will please to write to them not to assign the with-holding of the Back Lands as a reason.

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11. Ibid., pp. 798-809.

> That reason was better calculated to influence the State than to satisfy Congress. And besides, New York's session of claims has been accepted ...[12]

Some of the members of Congress were somewhat perturbed. James Madison, writing to Edmund Randolph said,

> The prospect derived from impost of 5 pr Ct. seems to be pretty thoroughly blasted by a unanimous veto by the Assembly of Rhode Island. This state by its delegates ... voted in Congress that 6 millions of dollars were necessary for the year '83, that 2 millions were as much as the States could raise and ought to be required by Congress, and that applications for loans in Europe ought to be relied on for the residue. And yet they absolutely refuse the only fund which could be satisfactory to lenders. The indignation against this perverse sister is increased by her shameful delinquency in the Constitutional requisitions.[13]

Following the report of Hamilton's committee on December 16, Congress decided to send their deputation to Rhode Island in the hope that the Assembly of that State could be prevailed on even yet to rescind its action and grant the power requested.[14] On December 22, the deputation departed on its journey. The members had proceeded a half day on its all important mission when Nash "casually" mentioned that Madison had receiv-

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12. Burnett, op. cit., Vol. II, pp. 542-543; Bates, "Rhode Island and the Impost of 1781" in the Annual Report of the American Historical Association, 1894, pp. 351-359.
13. Burnett, op. cit., p. 548.
14. Journals, Vol. XXIII, pp. 811-812.

ed a private letter from Edmund Pendleton informing him that the Legislature of Virginia had, in consequence of the refusal of Rhode Island, repealed her law for granting the power to levy an impost. After consultation the deputies decided that if this were true, their chief argument, the unanimity of the other states had been destroyed; and they returned to Philadelphia to await further information regarding this rumor.[15] On December 24, a letter from Randolph to Madison confirmed the report, and Congress resolved to suspend the deputation to Rhode Island and to appoint a committee to report "such further measures as may be proper for Congress to take upon the subject at large."[16] One doesn't need a very vivid imagination to conjure up the chagrin and the consternation of Madison. He recorded in his notes, "The most intelligent members were deeply affected and prognosticated a failure of the Impost scheme, and the most pernicious effects to the character, the duration and the interests of the Confederacy."[17]

So important did Congress deem the impost that it resolved to persevere in its efforts to obtain it. A federal revenue of some kind was becoming, it seemed, a necessity. In memorials of August 28, and November 12,

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15. Ibid., pp. 871-872. (Madison's Notes).
16. Ibid., p. 831.
17. Ibid., p. 872.

1782, Pennsylvania requested that "Congress will be pleased to give them such information as will enable the house to judge what steps it may be proper to take in order to afford that effectual relief to the public creditors in Pennsylvania, which they conceive it to be their indispensable duty to procure." The memorials intimated that Pennsylvania might use the money collected for the state payments on Congressional requisitions to pay the citizens of Pennsylvania who were creditors of the United States.[18] In reply to these memorials on January 30, 1783, Congress again stated its determination "to persevere in their intentions, and to renew and extend their endeavors to procure the establishment of revenues equal to the purpose of funding all the debts of the United States."[19] Madison expressed the same idea in a letter to Randolph on January 22, 1782. "Congress cannot abandon the plan as long as there is a spark of hope. Nay, other plans on a like principle must be added. Justice, gratitude, our reputation abroad, and our tranquility at home require provision for a debt of not less than fifty millions of dollars, and I pronounce that this provision will not be adequately met by separate acts of the states."[20] After explaining that deputies of the

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18. Ibid., pp. 850-862.
19. Ibid., Vol. XXIV, p. 104.
20. Hunt, Madison's Writings, Vol. I, pp. 175-176.

army had been urging their claims, Madison continued, "What can a Virginia Delegate say to them, whose constituemts declare that they are unable to make the necessary contributions, and are unwilling to establish funds for obtaining them elsewhere."[21]

After several days of discussion in the Committee of the Whole on means of "restoring and supporting" the public credit, a special committee of five members was appointed on February 21, 1783, to consider this colossal task. The members of the committee were Nathanial Gorham of Massachusetts, Alexander Hamilton of New York, James Madison of Virginia, Thomas Fitzsimmons of Pennsylvania, and John Rutledge of South Carolina.[22] Numerous methods of providing a sufficient revenue were discussed in this committee and in the Committee of the Whole.[23] A poll tax, with blacks rated somewhat lower than whites, was suggested;[23] also a land tax, a house and window tax,[23] a tax on salt,[24] and an excise on imported wines,[24] spirits,[24] and coffee.[25]

In the midst of all this discussion a bomb was dropped on March 17, 1783, in the form of a letter from General Washington, telling how anonymous addresses, in-

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21. Ibid.
22. Journals, Vol. XXIV, p. 144.
23. Ibid., Vol. XXV, p. 877.
24. Burnett, op. cit., Vol. VII, pp. xiii, 60.
25. Ibid., p. xiii.

citing the soldiers to take matters into their own hands, had been circulated. Already, on January 6, 1783, memorials from the army had been presented by a deputation of officers. The demands could not be met without funds. Congress had discussed and debated and postponed. The army had grown more restless; and in consequence the letter of General Washington[26] frightened the delegates. It is an evidence of grim humor that Congress, in designating the committee to whom the dispatches from the army should be assigned, chose to saddle this embarrassment on five men each of whom had opposed the measures necessary for satisfying the army. Through the genius of General Washington the blow designed by this anonymous document, usually referred to as the Newburgh Address, was turned aside, and "Congress heaved a sigh of relief."[27]

The committee of five, which had been appointed on February 21, reported on March 6.[28] The resolutions reported by the committee were debated, amended, and

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26. Ford (ed.), The Writings of George Washington, Vol. x. p. 168; Hatch, L. C., The Administration of the American Revolutionary Army, pp. 142-178.
27. Burnet, op. cit., Vol. VII, "Preface," pp. xi-xvi. A little later Congress was compelled to flee from Philadelphia as a result of the meeting of eighty soldiers who marched to that city and expressed their determination to have a settlement of their accounts. See J.B. McMaster, History of the United States, Vol. I, 181-184.
28. Journals, Vol. XXIV, p. 170.

passed finally on April 18, 1783. These resolutions would have brought financial relief to Congress had they gone into effect. They contained the following provisions: 1. Congress was to be vested with the power to levy for the use of the United States specific duties on Jamaica rum, and all other spirituous liquors, Madeira wine, and all other wines, tea, pepper, sugar, molasses, cocoa, and coffee, imported into the states from "any foreign port, island or plantation," and to levy upon all other goods a duty of five per cent ad valorem at the time and place of importation. 2. Funds derived from these duties were to be applied to no other purpose than the discharging of the interest and principal of the debt contracted on the faith of the United States for the support of the war. 3. The duties were to continue for not longer than twenty-five years. 4. Collectors of the duties were to be appointed by the states within which their offices were to be exercised. Once appointed, however, they were to be "amenable to and removable by the United States in Congress assembled, alone." In case a state did not appoint collectors within a month after notice given for that purpose, the appointment was to be made by Congress. 5. The states were to establish for a term limited to twenty-five years and appropriate to the discharge of the interest and principal of the debt contracted on the faith of the United

states for the support of the war "substantial and effectual revenues" of such nature as they chose, for the supplying of their respective proportions of one and a half million dollars. The proportions were to be fixed and equalized according to the rule "which is or may be prescribed by the Articles of Confederation." If the revenues established by the state for this purpose exceeded the amount of its proportion, they were to be refunded; if they were deficient, the deficiency was to be made up "with as little delay as possible." 6. The resolutions were not to become effective until acceded to by all the states. After becoming effective, they were to form a "mutual compact" among the states, which was to be irrevocable "without the concurrence of the whole, or of a majority of the United States in Congress assembled." 7. States that had not passed acts complying with the resolutions of Congress of September 6, and October 10, 1780,[29] were asked to make the cessions of their western lands as liberal as Congress had recommended, and those states that had passed acts which complied only in part with the recommendations of the resolutions were asked to revise or amend the acts so that they would comply in full with the requests. 8. In order that a more convenient and certain rule for ascertaining the

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29. These resolutions dealt with the cession of western lands by the individual states to Congress.

proportion to be supplied by each state to the common treasury, the Articles of Confederation were to be amended so that the requisitions on the states would be in proportion to the "whole number of whites and other free inhabitants of every age, and sex and condition, including those bound to servitude for a number of years, and three-fifths of all other persons, not comprehended in the foregoing description, except Indians, not paying taxes, in each state." The census for this purpose was to be taken triennially.[30]

Every delegate present voted for these proposals except Collins and Arnold from Rhode Island and Hamilton from New York. Hamilton voted against it because, as he wrote to Governor Clinton, " ... the plan now proposed will have little more chance than a better one; and, ... if agreed to by all the states, it will in a great measure fail in execution."[31] Hamilton suggested three objections. First, the plan did not designate the funds (except the impost) by which the whole interest would be met; second, the duration of the funds was not co-extensive with the debt; third, the nomination and appointment of the collectors was to be made by the states, "the consequence of which would be that those states which have little interest in the funds by having a small share of

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30. Journals, Vol. XXIV, pp. 257-260.
31. Burnett, op. cit., Vol. VII, p. 165.

the public debt due to their citizens will take care to appoint such persons as are least likely to collect the revenues ...."[32]

During the progress of the debate on the report of the committee of five, Hamilton submitted a program of his own. According to his plan the federal revenues would be collected and appropriated by the authority of the United States. The collectors would be nominated by Congress from inhabitants of the states in which they were to serve, and approved and appointed by the states, but they would be accountable to and removable by Congress. In addition to the duties specified in the report as adopted, Hamilton wanted to place a five per cent ad valorem tax on all prizes and prize goods condemned in the court of admiralty of any of the states as lawful prize. He also wished a land tax, and a house tax of a half-dollar for each dwelling house, except cottages, plus an additional rate of two and one half per cent on whatever sum the rent of the house exceeded twenty dollars. The duties on the imposts were "to pass to the general benefits" of the United States, without credit for the proceeds to any particular states, but the sums that accrued from the house and land taxes were to be accredited to the state in which they were collected. These methods of raising revenue were to continue until the principal

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32. Ibid., p. 165.

debt of the United States "at the termination of the present war shall be finally discharged."[33]

Hamilton's motion to consider his proposals instead of the committee's was defeated by a vote of seven to four with the Delaware vote evenly divided.[34] What the results would have been had Hamilton's plan been adopted no one can know.[35] Any answer to this question is mere conjecture, but it is entirely possible to believe that had the plan been adopted, the group that formed the constitutional convention of 1787 might have amended the Articles of Confederation so as to meet the exigencies of interstate commerce and transportation and left the states to continue for some years in the "firm league of friendship" into which they had entered on March 1, 1781. It has already been pointed out that Congress defeated these proposals and prevented their being submitted to the states where they, without doubt, would have met with a similar defeat.

An address to the states was to accompany the

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33. Journals, Vol. XXIV, pp. 198-201.
34. There were no delegates from Georgia at the time, and New York, New Jersey, Connecticut, and Pennsylvania voted to consider Hamilton's plan.
35. It may be incorrect to call this Hamilton's plan. Robert Morris offered suggestions almost identical with Hamilton's, except that he wanted to hold out to the states the alternative of establishing these permanent revenues, or of complying with "a Constitutional demand of the principal within a very short period." Madison gives a summary of Morris' suggestion in his Notes on the Debates, Journals, Vol. XXIV, p. 923. See also Hunt, The Writings of James Madison, Vol. I, pp. 401-402.

resolutions that had been adopted. The address presented an estimate of the debt of the United States. The total debt, domestic and foreign, was estimated at forty-two million three hundred and seventy-five dollars. Interest on the debt amounted to $2,415,956 annually. These figures were given as evidence that a more effective method of providing funds to discharge Congress' obligations was necessary. It was pointed out that under this new plan the objections to the impost proposals of 1781 were partially met in that the new impost was limited to a definite time and would be collected by officers appointed by the states themselves. It was estimated that the imposts would yield nine hundred and fifteen thousand nine hundred and fifty six dollars; the requisitions on the states for one million five hundred thousand dollars would furnish the remainder of the total interest. No provision was made for the retirement of the principal of the debt except that it was hoped that the increase in commerce would bring a natural increase of revenue. This, together with special requisitions "as circumstances may dictate" and the "prospect of vacant territory," formed the basis for the retirement of the principal. It was pointed out, however, that if these funds proved inadequate at the expiration of the twenty-five year period, it would be necesaary to continue them or to establish such new sources of revenue as might then be found convenient. The address ended

with an appeal to the states to do justice "To An Ally ... who to the execution of his arms in support of our cause, has added the succours of his treasure ....

"To individuals in a foreign country ... who were the first to give so precious a token of their confidence in our justice, and of their friendship for our cause ...."

And to "that illustrious and patriotic band of fellow citizens, whose blood and whose bravery have defended the liberties of their country, who have patiently borne, among other distresses, the privation of their stipends, whilst the distresses of their country disabled it from bestowing them."

Finally, an appeal was made to the pride of America.

> If justice, good faith, honor, gratitude and all the qualities which ennoble the character of a nation, and fulfil the ends of government be the fruits of our establishments, the cause of liberty will acquire a dignity and lustre which it has never yet enjoyed; and an example will be set which cannot but have the most favorable influence on the rights of mankind. If on the other side, our government should be unfortunately blotted with the reverse of these cardinal and essential virtues, the great cause which we have engaged to vindicate will be dishonored and betrayed; the last and fairest experiment in favor of human nature will be turned against them, and their patrons and friends exposed to be insulted and silenced by the votaries of tyranny and usurpation. [36]

This powerful appeal was not effective enough to

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36. Journals, Vol. XXIV, pp. 277-283. This address was

bring the desired results. By January, 1785, all the states except New York and Georgia had complied in full or in part with the recommendation of April 18, 1783. Efforts were exerted to persuade Georgia and New York to alleviate the pecuniary difficulties that were facing Congress at the end of 1785. On February 3, 1786, a committee of which James Monroe was chairman reported that the demands upon Congress could not be met by the three means authorized by the federal constitution; that is, by requisition, by ordinances, and by bills of credit. Only one recourse was left -- earnestly to recommend to New York and Georgia to comply with the recommendations submitted to them about three years before. Finally, resolutions embodying the suggestions of the report of Monroe's committee were adopted on February 15. Before the end of March, Congress received information that Georgia had adopted the impost measure. New York, however, was now as stubborn as Rhode Island had been regarding the five per cent impost proposal of 1781. In May, 1786, the New York legislature vir-

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drawn up by James Madison, although Oliver Ellsworth and Alexander Hamilton were on the committee with Madison to draw up the address. It is rather interesting that Hamilton who had voted against the resolution was on the committee to draw up the letter to accompany the resolution. It might be added that he urged the legislature of New York to enact legislation granting the power recommended.

tually rejected the measure and adjourned. Congress appealed to Governor Clinton to reconvene the legislature to consider again the recommendation of Congress, but he refused, and once more Congress was thwarted in its efforts to provide a revenue that would enable it to meet its obligations.[37]

The amendments of 1781 and 1783 were proposed purely as revenue measures. Congress needed funds, and it was thought that an impost was the easiest way of raising the funds. Another amendment was proposed in 1784 that had for its purpose the control of commerce. From the time of the peace, British restrictions on the trade of the states had been to Congress as a thorn in the flesh.[38] Efforts to remove the difficulties that stood in the way of a commercial treaty with Great Britain failed. Further complication developed in the domain of domestic commerce.[39] Moreover, the differences in the commercial interests of the Eastern States and the Southern States caused trouble. "So chaotic had the situation become," says Burnett, "that most men of Commerce and some statesmen became convinced that the

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37. Burnett, op. cit., Vol. VIII, "Preface", pp. xix-xxi, xxxi.
38. A summary of the British restrictions on the American trade may be found in E.R.Johnson, History of the Domestic and Foreign Commerce of the United States, Vol. I, pp. 129-131.
39. Ibid., p. 247.

only remedy was a power in Congress to regulate trade, not only with foreign nations, but also among the states; and the need for such a regulation became increasingly perceived."[40]

On April 30, a Congressional committee reported certain resolutions regarding commerce. Preceding these resolutions were some observations of importance. "Already," the report ran, "has Great Britain adopted regulations destructive of our commerce with her West India Islands .... It would be the duty of Congress, as it is their wish, to meet the attempt of Great Britain with similar restrictions on her commerce, but their powers on this head are not explicit ...." It was apparent that Congress could never command reciprocal trade advantages so long as its powers were so meager. In view of this fact two resolves were passed. First, the legislatures were asked to vest Congress, for fifteen years, with power to prohibit goods from being imported into or exported from any of the states in vessels belonging to or navigated by the subjects of any power with whom the United States had not formed commercial treaties. Second, it was recommended to the legislatures to vest Congress, for fifteen years, with power to prohibit except by treaty the importation of goods into

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40. Ibid., "Preface," p. xiii.

the United States by subjects of "any foreign state, kingdom, or empire", unless these goods were the products of the "dominion of the sovereign whose subjects they are."[41] In other words, merchants from any European country could be deprived of the right to bring goods from any other foreign countries to the United States, unless this privilege was authorized by Congress. It was provided also that the assent of nine states was necessary to the passage of any acts under the powers granted by these resolutions. The idea that prompted this action on the part of Congress was expressed by the New Hampshire delegates in the following words: "This, we conceive necessary to be complied with, as means to convince foreign Nations, that America can act in concert in guarding her Trade, as well as in defending her liberties, and to prevent our trade from being sported with and sacrificed to European policy."[42]

Time elapsed and many of the states did not comply with the recommendation. Developments made it evident that control of a wider scope was needed. A movement to bring about this result was begun with the appointment of a committee, consisting of Jay, Gerry, Monroe, Spaight, and Houston, on the motion of Monroe, to bring in a report on this question.[43] An active cam-

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41. Journals, Vol. XXVI, pp. 321-322.
42. Burnett, op.cit., Vol. VII, "Preface," p. xliii.
43. Ibid., Vol. VIII, p. 13.

paign on behalf of the measure did not begin, however, until January 24, 1785, when a committee, with Monroe as chairman, was appointed.[44] This committee brought in a report on February 16, 1785,[45] proposing an amendment to the ninth article of the Constitution. This article gave to Congress the right to make peace, to declare war, and to make treaties, provided that no commercial treaty was made whereby the power of the legislature would be limited in imposing imposts and prohibiting imports and exports. The report asked that this article be amended to give Congress power to regulate "trade of the states, as well with foreign Nations, as with each other, and for laying such imposts and duties upon imports and exports, as may be necessary for the purpose ...." The states were to retain the right to prohibit exports and imports within their borders and to collect any imposts that Congress might levy. Too, the impost was "to accrue to the use of the State in which the same" was payable.[46]

On March 11, the committee was instructed to formulate a letter to accompany the recommendation pro-

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44. The committee of December 6, was renewed. See footnote in Journals, Vol. XXVIII, p. 70. Burnett says that a new committee was appointed. See Burnett, Vol. VIII, "Preface," p. xiv.
45. Journals, Vol. XXVIII, p. 70.
46. Ibid., pp. 201-202.

posed in the report,[47] and on March 28, 1785, the report with the circular letter was submitted to Congress. This letter gave several reasons why the proposal was made. First, treaties made with France, Sweden, and the Netherlands, and treaties yet to be made demanded that "such internal arrangements" be made "as may strictly comply with the faith of those treaties and insure success to their future negociation." The arrangements could not be made if the legislature of each state placed its own interpretation on the various treaties. Second, unless Congress had power to make such arrangements, it could not complain if a foreign country violated its treaties. Third, since commercial treaties are usually reciprocal, other countries would be slow in making treaties with the United States unless Congress was given power to make these necessary internal arrangements.[48]

The advocates of this proposal proceeded rather cautiously. Writing to Jefferson on April 12, 1785, Monroe ventured the opinion that it would be best to postpone

> this for the present. Its adoption must depend on the several Legislatures .... It hath been brought so far without a prejudice ag'nst it. If carried farther here prejudices will take place, at least I fear so, and those who oppose it here will in their states. The way then will be effected by obtaining the permission of Congress for each delegation to take

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47. Ibid., p. 148, Note No. 1.
48. Ibid., pp. 202-205.

copies for that purpose.[49]

By July 13, the advocates of the amendment appear to have overcome sufficiently their hesitancy to resume the discussion. The report was read and referred to a committee of a whole. For two days it was debated in the committee.[50] The argument against the measure which appeared to have the greatest weight was that it was dangerous to concentrate power. Richard Henry Lee, the leader of the opposition, voiced the crux of the adverse argument. In a letter to James Madison he wrote,

> ... it seems to me clear, beyond doubt, that the giving Congress a power to Legislate over the Trade of the Union would be dangerous in the extreme to the five Southern or Staple States, whose want of ships and seamen would expose their freightage and their produce to a most pernicious and destructive Monopoly, that by the exclusion of all rivals whether for the purchasing of our produce or freighting it, both these might be at the Mercy of our East and North. The Spirit of Commerce ... is a spirit of Avarice .... What little difficulty there would be in drawing over one of the 5 to join the 8 interested States would be very discernable to those who have marked the progress of intrigue in Congress.[51]

The Eastern people hesitated also. Monroe believed that this hesitation was due to the "magnitude of the subject;"[52] they feared the consequences that might result from it.

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49. Burnett, op. cit., Vol. VIII, p. 88.
50. Journals, Vol. XXIX, p. 533.
51. Burnett, op. cit., Vol. VIII, p. 181.
52. Ibid., p. 187.

Final action by Congress on this measure, it seems, occurred on October 26, 1787,[53] when it was filed. This, of course, was during the session of the Constitutional Convention and all discussions of this nature were dispensed with until the results of the convention destroyed their raison d'etre.

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53. Journals, Vol. XXIII, p. 205.

## CHAPTER III

## THE LAND POLICY

Closely related to the ever present problem of raising funds wherewith to perform the functions of government and discharge the debts incurred by the United States during the war were the acquisition and the disposition of the public domain. This vast area of land lying between the Appalachian Mountains and the Mississippi River had been included in the boundaries established by the colonial charters. Seven colonies -- Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia -- maintained title to lands west of the Appalachians. The Royal Proclamation of 1763 was not interpreted in America as abrogating the charter boundaries of the colonies, but only as postponing the settlement of the western lands. The Quebec Act of 1774 was not recognized as binding by the colonies.[1] It was one of Parliament's "acts of pretended legislation." So, with the Declaration of

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1. H. B. Adams, Maryland's Influence Upon The Land Cessions To The United States, Johns Hopkins University Studies, Series 3; F. L. Paxson, The American Frontier, p. 51; P. J. Treat, The National Land System, pp. 1-14; D. E. Clark, The West In American History, p. 240; S. Sato, The Land Question In The United States, Johns Hopkins University Studies, Series 4, p. 25.

Independence the seven colonies, now become states, exerted their claims to the western lands. They became "landed proprietors"[2] and soon developed the proprietary attitude; recognizing the opportunity that these lands offered for production of a state revenue, they were reluctant to forego their claims to them.

Jealousy soon developed. The six landless states resented the lack of land endowment and were jealous, if not covetous, of the vast acreage of the former sea-to-sea colonies. It was Maryland that held out to the last against the use of the lands by the individual states. Basing her opposition on her fear that the landed states would use revenue from these unoccupied domains to make possible a lower tax rate than the landless states could maintain, and thus drain the population from the high-tax states into the low-tax states, and on the claim that since the lands had been won by common "blood and treasure," they should be used for the common benefit, this state refused to ratify the Articles of Confederation until the larger states had made a move toward ceding these lands to Congress.[3]

Since the controversy between the states was in

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2. Paxson, op. cit., p. 46.
3. Ibid., p. 49. These arguments are presented in Maryland's instructions to her delegates in Congress. See Journals, Vol. XIV, pp. 619-622.

the process of being settled before the Confederation Congress came into existence, it will not be necessary to follow it in detail here. Suffice it to say that the controversy had reached such a state in 1779, when Virginia was about to establish a land office, that the delegates from Maryland introduced a resolution (which passed by a vote of eight to three) "That it be earnestly recommended to the state of Virginia to consider their late Act of Assembly for opening their Land Office; and that it be recommended to the said state, and all other states similarly circumstanced, to forbear settling or issuing warrants for unappropriated lands, or granting the same during the continuance of the present war." This resolution was passed, because, in the opinion of Congress, the appropriation of vacant lands by the states would "be attended with great mischiefs."[4]

Virginia responded to this resolution and other acts of Congress by sending her famous "Remonstrance."[5] Virginia protested against the idea of Congress assuming or exercising any "jurisdiction" or right of adjudication concerning the petitions of the Vandalia or Indiana land companies. It also affirmed that the only basis for determining the boundaries of the states was the royal charters and that the United States held no ter-

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4. Sato, op. cit., p. 32.
5. Ibid., p. 32-33; Adams, op. cit., p. 29.

ritory except through the right of the individual states. It asserted further that Virginia had no idea of expanding her territory. It was a question only of holding her own. The most important part of the "Remonstrance," however, was that expressing Virginia's willingness "to listen to any just and reasonable propositions for removing the ostensible causes of delay to the complete ratification of the confederation."

In February, 1780, the New York Legislature passed "An act to facilitate the completion of the Articles of Confederation and perpetual union among the United States of America." By this act, New York authorized her delegates in Congress "to limit and restrict the boundaries of this State in the western parts thereof, by such line or lines ... as they shall judge to be expedient." The delegates were to determine whether to cede both jurisdiction and soil preemption rights or to preserve the jurisdiction in "part or in whole."[6]

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6. It seems that the landless states, except Maryland, would have been satisfied had the landed states granted to Congress the right of soil preemption, leaving jurisdiction over the soil to the states that claimed the territory. In other words, these states were interested in using these lands for raising a Congressional revenue. Even Hamilton was in favor of this. See Adams, op. cit., p. 35. The New York Act is in the Journals, Vol. XIX, pp. 208-209.

These acts of the Legislature of Maryland, Virginia, and New York resulted in Congressional action. On September 6, 1780, a report on these acts was made and agreed to. Congress believed that no good could come out of examining the issues in controversy between Maryland and Virginia, It was considered more advisable to "press upon those states, which can remove the embarrassment respecting the western country, a liberal surrender of their territorial claims, since they cannot be preserved entire without endangering the stability of the general confederacy."[7]

The states were reminded of the indispensable necessity of establishing the federal union "on a fixed and permanent basis, and on principles acceptable to all its respective members." The resolution that followed this report

> earnestly recommended to those states, who have claims to the western country to pass such laws, and give their delegates in Congress such power as may effectually remove the only obstacle to a final ratification of the articles of confederation; and that the legislature of Maryland be earnestly requested to authorize their delegates in Congress to subscribe the said articles.[8]

A month later, on October 10, 1780, Congress

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7. It may be that Congress had in mind here the conflicts that would result from the various states claiming the same territory, as well as Maryland's refusal to ratify the Articles.
8. Journals, Vol. XVII, p. 806.

passed another resolution regarding the western lands. It was resolved that lands that should be ceded by the states in accordance with the recommendations of September 6, should not only be disposed of for the benefit of the United States, but should be formed into distinct republican states which should become members of the federal union and have the same rights of sovereignty as the other states. It was added, probably as an inducement to Virginia, that Congress would reimburse any state for the "necessary and reasonable expenses" incurred since the beginning of the war in subduing, defending, or acquiring any part of the territory that might be ceded.[9] The expedition of George Rogers Clark for the reduction of the northwestern posts had been undertaken by Virginia without aid from Congress or the Continental Army, and this fact had been advanced by Virginia in support of her title to the land north of the Ohio.

At last the insistence of Maryland, together with the financial needs of the country, prevailed upon Congress to act, and in turn Virginia began to weaken in her determination not to yield. On January 2, 1781, she offered to cede to the Confederation "all right, title and claim which the said Commonwealth hath to the

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9. Ibid., Vol. XVIII, p. 915.

lands northwest of the river Ohio," upon certain conditions . These conditions were: 1. Territory so ceded should be laid out and formed into republican states and admitted into the Union. 2. Virginia should be reimbursed for her actual expenses in reducing the British posts and all other expenses incurred on account of this territory since the beginning of the war. 3. Troops should be stationed at the "kaskaskies and St. Vincents" region to protect the French Canadian and other settlers in the enjoyment of their rights and liberties. Inhabitants, who had professed themselves citizens of Virginia, were to have their possessions and titles confirmed to them. 4. A strip of land, not exceeding 150,000 acres, should be set aside for George Rogers Clark and the officers and soldiers of his regiment. 5. In case there were not enough good lands in the region southwest of the Ohio River to meet the needs of Virginia for land bounties to her troops, the deficiency should be made up to the troops of the "good lands" between the Scioto and Little Miami Rivers "in such portions as have been engaged to them by the laws of Virginia." 6. All the territory so ceded and not reserved for any other purpose should be considered as a common fund to be used for the benefit of the states that were and should become members of the Confederation according to their "usual re-

spective proportions in the general charge and expenditure." 7. Purchase and deeds from Indians for any lands within the territory which had been made to "any private person or persons (including, of course, the Vandalia and Indiana Land companies) whatsoever, and royal grants within the territory, inconsistent with the chartered rights, laws and customs of Virginia should be denied and declared absolutely void." 8. All the remaining territory of Virginia southeast of the Ohio River should be guaranteed to Virginia by the United States.[10]

In spite of the financial conditions of Congress, when this concession came before it, it hesitated to accept the territory on the conditions named by the Virginia Legislature. Nevertheless, Maryland's fears were sufficiently allayed by the acts of the legislatures of Virginia, New York and Connecticut, that she ratified the Articles of Confederation, thereby establishing a constitutional union of the thirteen states.

During the next two years one of the principal questions before Congress was that of the western lands. Finally, on October 29, 1782, Daniel Carroll of Mary-

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10. Ibid., Vol. XXV, pp. 559-562. The opinion that Maryland's attitude toward the cession of the western lands was determined by the interest of some of her leading citizens in the Illinois -- Wabash Land Company is expressed in Merrill Jensen, "The Cession of the Old Northwest," Mississippi Valley Historical Review, Vol. XXIII, pp. 27-48.

land moved that Congress accept the "right, title, interest, jurisdiction, and claim of the State of New York as ceded by ... the instrument of writing executed for that purpose by the agents of New York." The cessions made by Virginia and Connecticut[11] were not mentioned in the resolution. The two delegates from Virginia, Bland and Madison, with Blount from North Carolina, Rutledge and Gervais from South Carolina, and Osgood from Massachusetts voted against the resolution.[12]

There were two principal objections to the Virginia proposals. First, the demand that the United States guarantee the title of Virginia to lands not ceded to Congress was obnoxious because parts of this territory were claimed by New York. Second, the demand that Congress make void all other titles to this territory was rejected because it was believed that some of these titles were bona fide.[13] On September 13, 1783,

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11. Connecticut had ceded her soil pre-emption right without giving up her jurisdiction over her back lands on October 10, 1780.
12. Journals, Vol. XXIII, p. 694.
13. Those of the Indiana Company. The objections to the Virginia cession are found in the Journals, Vol. XXII, p. 227.

Congress proposed to accept the lands ceded by Virginia if Virginia would eliminate these two objectionable conditions.[14] This Virginia did, and on March 1, 1784, just three years after the accession of Maryland to the Articles of Confederation, the cession of the Virginia lands was completed.[15]

Although the claims of Massachusetts and Connecticut were not finally adjusted until 1785 and 1786 respectively, plans for the disposition of the lands were under discussion long before that time. In fact, as early as 1781, Pelatiah Webster came forward with a very ingenious plan. He proposed that the region be surveyed into townships of six, eight, or ten miles square and sold at auction to the highest bidder. The minimum price was fixed at one Spanish dollar per acre; the purchaser must settle on or improve the land in two or three years or forfeit the same; the townships should be laid out in tiers and sold in that fashion, and only when one tier was settled should the next be placed on sale.[16]

Another plan, usually referred to as the "Army Plan," came before Congress on July 11, 1783.[17] This plan was contained in a petition to Congress from a group of Army officers at Newburgh. This petition was

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14. Ibid., Vol. XXV, pp. 563-564.
15. Ibid., Vol. XXVI, pp. 113-117.
16. Treat, op. cit., p. 16.
17. Journals, Vol. XXIV, p. 421.

transmitted to Congress by General Washington with his approval of the plan. It asked for the creation of a new state out of a part of the public domain; the satisfaction in that region of the bounty offers of Congress to the officers and soldiers (with additional land granted to those who settled within a year); the disposal of all other land for the common good as the common property of the states; the forfeiture of the rights to the land for non-compliance with the conditions of settlement and cultivation which were to be attached to the grant; the payment by the United States of the expense of the journey of the settlers to the Ohio region; governmental supply of subsistence for three years to those settling on the land; and total exclusion of slavery from the region.[18]

On June 5, 1783, a plan that is sometimes referred to as the "Financier's Plan" was presented in a motion made by Theodorick Bland and seconded by Alexander Hamilton. According to this plan, a large tract of the western land was to be laid off in districts not exceeding two degrees of latitude and three degrees of longitude. The districts were to be divided into townships. After being thus surveyed, the land was to be used to satisfy the land bounties promised during the war, and to

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18. Treat, op. cit., pp. 18-19.

pay all moneys due to the soldiers in lieu of the commutation for half pay and all other arrearage, at the rate of thirty acres for every dollar due. The lands thus granted to the soldiers were to be free from all taxes and rents for seven years. When these districts were inhabited by twenty thousand people, they were to "become and ever after be and constitute a separate, Independent free and sovereign state." Out of every hundred thousand acres thus granted, ten thousand were to be reserved for the United States, which land would remain forever the property of the United States, unless disposed of by Congress. The proceeds from rent, and other revenue derived from this territory, were to be used in payment of the "Civil List of the United States, the erecting of frontier forts, the founding of Seminaries of larning (sic.), and the surplus after such purposes (if any) (was) to be appropriated to the building and equipping a navy." The motion was referred to the Grand Committee and there it rested.[19]

It was very well for Congress to go about the consideration of these plans in a rather leisurely or desultory fashion, for as yet there were no Congressional or common lands. But once these common lands were acquired through the Virginia and New York cessions,

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19. Journals, Vol. XXIV, pp. 384-386.

there was reason for taking speedy action.[20] The soldiers were restless, and wanted more than mere land warrants; they wanted an opportunity to make use of the warrants. Then, too, the soldiers were holding certificates of indebtedness which were selling at no more than three shillings six pence or four shillings the pound. If Congress would agree to accept these certificates in exchange for land, their value might rise. Congress needed funds for other purposes too. The five per cent impost had failed and requisitions were very unsatisfactory. The quicker the land could be disposed of, the quicker would Congress have funds to meet some of its obligations. Also, there were dangers that threatened the land. The Indians were always a menace; and the commercial relations of the settlers in this region might draw them more closely to England than to the United States, if the latter did not act speedily for their protection. Moreover, settlers were moving into this region and speculators were laying claims to it in defiance of the proclamation of Congress.[21]

The pressure of some of these problems was perhaps partially responsible for the action of Congress on

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20. B. H. Hibbard, A History of the Public Land Policies, pp. 32-34.
21. A. C. Ford, Colonial Precedents of Our National Land System, in the Bulletin of the University of Wisconsin, History Series, Vol. II, No. 2, pp. 415-421.

October 10, 1780. The petition of the army officers now prompted Congress to appoint a committee to prepare an ordinance for ascertaining and disposing of the lands in the western territory. This committee, composed of Thomas Jefferson of Virginia, Hugh Williamson of North Carolina, Elbridge Gerry of Massachusetts, and Jacob Read of South Carolina, reported an ordinance on May 7, 1784. This measure, had it been adopted, would have divided the ceded territory, after it had been purchased from the Indians and laid off into states, into "hundreds" of ten geographical miles square, each mile containing 6,086.4 feet. The "hundreds" would have been sub-divided into lots of one mile square or 850.4 acres. Surveyors, appointed by Congress, would have divided the territory into "hundreds" by lines running due north and south, crossed by lines running due east and west. The lots would have been surveyed in the same fashion. A register would have been appointed by Congress for each state, with his office in the state for which he was appointed. It would have been his duty to prepare warrants for the lots and for the "hundreds." These warrants, then, would have been turned over to the treasury department and through the treasury to the loan offices. Warrants could have been purchased at the treasury or the loan offices; and specie, loan office certificates reduced to specie value, certificates of the liquidated debt, or

military warrants would have been received in payment for the land warrants. After the purchaser had bought his land warrant, he would have located his lot or "hundred" and given a description of it to the surveyor. The surveyor would have ascertained the location of the land and issued a certificate to the holder of the warrant. The would-be-settler or speculator then might take his certificate and his warrant to the register, who would execute the deed to the land.[22] Although this scheme for disposing of the western lands was not adopted,[23] it certainly formed a basis for the ordinance that was enacted in 1785.

In the summer of 1784, Washington made a trip into the West to examine portages between the Potomac and the James Rivers on the Atlantic side, and the Ohio and the Kanawha on the western side of the mountain.[24] In a letter to Jacob Read, then a member of Congress, re-

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22. Journals, Vol. XXVII, pp. 446-453. This method of selling land warrants and then allowing the purchasers to locate the land wherever they pleased was characteristic of the land system of the Southern colonies before they became states. It is usually referred to as the system of "indiscriminate location."
23. When the ordinance was called up for a second time on May 28, 1784, a question was put as to whether it should be taken into consideration. Only one state, North Carolina, voted in the affirmative with two individual ayes -- Mercer of Virginia and Howell of Rhode Island.
24. Treat, op. cit., p. 28.

garding the public lands, he emphasized the need of action on the part of Congress and action without delay. The rage for speculating was so widespread "that scarce a valuable spot, ... is left without a claimant. Men in these times talk with as much facility of fifty, an hundred, and even 500,000 Acres, as a gentleman formerly would do of an@00," said Washington. He expressed the belief that conflict between the Indians and the whites would result. To avoid this, Congress ought to buy from the Indians enough lands lying just back of the states to establish one or two new states and fix such a price on the lands so purchased as would not prevent settlers from taking it but would discourage "monopolizers." Then, Congress should declare all acts of the trespassers beyond the Ohio River null and void and should declare future intruders on the Indian lands outlaws and "fit subjects for Indian vengeance." He urged the necessity of speed on the part of Congress. Said he, " ... the slow determinations of Congress involve many evils -- 'tis much easier to avoid mischiefs than to apply remedies when they happen."[25]

In this letter, and in another of March 15, 1785, to Richard Henry Lee, President of Congress, Washington pointed out the desirability of selling a small amount of

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25. Ford, The Writings of Washington, Vol. X, pp. 415-421.

land at a "happy medium price." He believed that the best method for disposing of the land and one that would make possible the administration of law and good government, was what he called "progressive seating" -- perhaps the settlement of one state at a time.[26] This letter was placed in the hands of Grayson[27] and must have received some consideration.

The Ordinance of 1784 was carried over into 1785 when Congress had it read twice and referred to a committee composed of one member from each state. Jefferson, who was in Europe at this time, was replaced on the committee by Grayson. This committee, after considering the ordinance submitted to it, reported a new ordinance on April 12, 1785, and the measure was approved by Congress on May 20 of the same year.

On April 15, following presentation of the committee report, Grayson wrote to General Washington, stating at some length the reasons advanced by friends of the measure in the committee. Surveys were advocated because they would make it possible to obtain information about the lands. It would be impossible for people living at a distance to visit the lands and then return to make their competitive purchases. Furthermore, sur-

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26. Ibid., Vol. X, pp. 447-448.
27. Treat, op. cit., p. 29, note 30.

veys would prevent "controversy on account of bounds to the latest ages." Sale by auction was introduced because it would give equal opportunity to purchase to those near the lands and those remote from it. Sale by township was defended on the basis that it had worked well in New England, "where lands are more equally divided than in any other part of the Continent" and that the "idea of a township, with the temptation of a support for religion and education, holds forth an inducement for neighborhoods of the same religion" to purchase. Under this system the poorer class would unite to purchase a township. If a speculator purchased a township, he would not be able to hold it on account of the higher price and interest charges. If, however, in spite of these, he were able to buy one, the "design of the land office, which is revenue," would be accomplished. Offering a small amount of land for sale at a time would have a tendency to prevent the price of land from being diminished by a flooding of the market.

In this latter, Grayson gave also some of the ideas that clashed with those of the advocates. Some members looked upon the disposition of the lands as a "matter of revenue only" and accordingly favored getting the money "without parting with inhabitants to populate the country, and thereby preventing the lands in the o-

riginal states from depreciating." Others feared that a disposition of western lands at this time would interfere with the "lands now at market in the individual states. Some of the "Eastern gentlemen" wanted to dispose of the land in such a manner "as to suit their own people, of whom ... there will be great numbers, particularly from Connecticut." Others were apprehensive of the consequences which might result from "the New States" taking their position in the Confederacy.[28]

For more than a month after it emerged from the committee, the ordinance was debated in Congress. In its final form the Ordinance of 1785 provided that the ceded lands, when purchased from the Indians, should be surveyed by men who had been appointed by Congress or a committee of Congress -- one surveyor from each state. Upon entering upon his work, each surveyor was to take an oath before the Geographer of the United States for the faithful discharge of his duty. Likewise the surveyors were to administer such an oath to chain carriers who worked under them.

The surveyors were to be guided by very explicit directions. First,they were to divide the territory into townships of six miles square, by lines running due north and south and others crossing these at right angles.

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28. Burnett, op. cit., Vol. VIII, pp. 95-97.

The first lines, one running west and one running north and south, were to begin at the Ohio at the western termination of the southern boundary of Pennsylvania. The territory between two of the lines running north and south was called a range. The ranges were to be numbered progressively from east to west. The townships in each range were to be numbered consecutively from south to north, the southernmost township or fractional part of a township in each range to be number one. The lines marking the areas were to be measured with a chain and marked by chops on the trees. A map of the region was to be made, showing the ranges, the townships, mines, salt springs and licks, mill-seats, water courses, mountains, and "other remarkable and permanent things" as well as the quality of the land.

The townships were to be sub-divided into lots of one mile square, or 640 acres. These lots were to be numbered from one to thirty-six, beginning at the south-eastern lot.

When seven ranges had been surveyed, the Geographer was to transmit maps of the region to the Board of Treasury. The Secretary of War was then to select by lot such a number of townships as would equal one-seventh part of the whole surveyed territory, which part was to be used to satisfy the claims of the army. The Board of

Treasury was to send to each commissioner of the loan office a copy of the original plot of the territory, previously noting thereon the townships and the fractional parts of a township that fell to each state under the system of distribution that was adopted. This system provided that, after the needs of the army had been satisfied, the Board of Treasury should draw lots from the number of townships remaining acting in the name of the thirteen states, and according to the quotas in the "last preceeding requisition." The commissioners of the loan offices, after giving notice of not less than two nor more than six months by displaying posters at the courthouse or other public places and inserting advertisements in at least one newspaper published in the state of their respective residence, were to sell the township at public sale. The manner of the sale was provided for in the act. The townships of the first range were to be sold alternately undivided and in lots. The odd numbers of the township were to be sold in units; the even numbers were to be sold in lots. In the second range the order was reversed; that is, the odd numbers were to be sold in lots and the even numbers in units. The third range was to be sold in the same manner as the first range, and thus alternately throughout all the ranges. None of the territory could be sold for less

than one dollar per acre. Spacie, loan office certificates reduced to specie value, and certificates of the liquidated debt of the United States were to be received in payment of these lands. In addition to the purchase price of the lands, each purchaser was to pay the cost of surveying, which was estimated at thirty-six dollars a township.

Out of each township there were to be reserved for the use of the United States sections eight, eleven, twenty-six and twenty-nine, and, in addition to this, one-third of all the gold, silver, lead, and copper mines. These reservations were to be disposed of in such manner as Congress might direct. Another interesting feature was the provision that section sixteen of every township was to be reserved for the maintenance of a public school in the township.

It fell to the lot of the Secretary of War to decide who was eligible for lands under the provisions that had been made for the army. Moreover, he was to devise a means of distributing this land in proper amounts to the soldiers. When this had been done, he was to transmit certificates to the loan offices indicating the amount and the location of lands for each soldier. The loan officers would then issue the deeds.

Certain reservations were made for refugees from Canada and Nova Scotia who might be entitled to lands

under the Congressional resolution and for the use of the Christian Indians who had settled there. Finally, no land between the Little Miami and the Scioto was to be sold until the claims of the Virginia troops were satisfied.[29]

Such was the Ordinance of 1785; but as pointed out in Grayson's letter, this document did not emerge fully formed at one time. There was much debate, and many additions and subtractions were made to the motion that was presented on April 12, 1785. The report of this date called for townships of seven miles square, for sales to begin after four ranges had been surveyed, and for the reservation of the lot adjoining the one reserved for school purposes for the support of religion. From this it can be seen that the Ordinance of 1785 was largely a compromise measure. Along this line, William Grayson, writing to James Madison said,

> ... if it is not the best in the world, it is I am confident the best that could be procured for the present: There was such a variety of interests most of them imaginary, that I am only surprised that it is not more defective.
>
> The Eastern people who before the revolution never had an idea of any quantity of Earth above a hundred acres, were for selling in large tracts of 30,000 acres, while the Southern people who formerly could scarce bring their imaginations down so low as to comprehend the meaning of a hundred acres of ground were for selling the whole territory in lots of a mile square.
>
> In this situation we remained for eight days, with great obstinacy on both sides, until a kind

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29. Journals, Vol. XXVIII, pp. 375-381.

of compromise took effect.[30]

The compromise, of course, was the sale of half the townships as a unit, and the other half in sections.

To Washington he wrote in the same vein. " ... indeed if the importunities of the public creditors, and the reluctance to pay them by taxation either direct or implied had not been so great I am satisfied no land Ordinance could have been procured except under such disadvantages as would in a degree have excluded the idea of actual settlements within any short length of time."[31]

There were some individuals who saw objections to having the sale of lands at different places, but at the same time they realized that it was impossible to obtain a concession on this point.[32]

The provision for the reservation of lots for the support of religion was expunged om April 23, but "strangely enough," as Burnett says, "five of the states voted for its retention."[33]

Any treatment of the Ordinance of 1785 would be incomplete without an indication that in a final analysis the Ordinance was primarily a compromise between two land systems that had been developed during the colonial period. In New England the system of township

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30. Burnett, op. cit., Vol. VIII, pp. 129-230.
31. Ibid., p. 118.
32. Ibid.
33. Ibid., "Preface," p. vii.

planting prevailed. There, new areas were located, surveyed, and plots made and recorded by the colony, before prospective settlers could obtain a foot of the land. Conditions were imposed upon the settlers so that the new settlement would be compact and easily protected from frontier dangers. It should be pointed out, however, that the use of parallels and meridians to bound the townships uniformly over a large area regardless of topography was not customary in New England.[34] In the colonial South, there was much less governmental oversight of the land system than in New England. New settlements in this region were largely the result of individual work. The settlers were permitted to locate on any unappropriated land that they might chose, work out their own boundaries, and have the claim recorded accordingly. It is interesting to note that, although Jefferson and Grayson, both from Virginia, were prominent in the formation of this ordinance, the New England land system was embodied in it.[35]

There remains to be discussed one aspect of Congressional action in regard to the western lands -- the establishment of a government for the territory. On March 1, 1784, the same day that the Virginia cession

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34. Hugh Williamson of North Carolina, a member of the land ordinance committee, claimed for himself the honor of originating this plan. See Ibid., Vol. VII, pp. 563-564.
35. Ford, op. cit., pp. 54-82.

was accepted, a committee, composed of Jeremiah Chase, David Howell, and Thomas Jefferson, appointed to prepare a plan for the temporary government of western territory, reported. The resolution they reported was not primarily economic in its purpose, but it is so closely related to the land ordinance that it seems well to discuss it here. It provided for the creation of ten states out of the western territory after it had been purchased from the Indians and offered for sale by the United States. Each state was to comprise two degrees of latitude, beginning with the thirty-first parallel. These states were to have such fanciful names as Michigonia, Slyvania, Cherronesus, Assenisipia, Metropotamia, Illinoia, Saratoga, Polypotomia, Pelisipia, and Washington. The settlers, under Congressional authority, were to be granted the right to form a temporary government, based on free manhood suffrage. The temporary government would exist until the population in the new state reached twenty thousand free inhabitants. The principles on which the temporary and permanent governments were to rest were enumerated: the new states must remain forever a part of the United States; they must be subject to Congress and the Articles of Confederation in the same manner as the original states; they must be subject to pay a part of the federal debt apportioned to them in the same way

that apportionments were made to the original states; the governments must be republican in form, denying citizenship to any persons holding a hereditary title; slavery and involuntary servitude, except as punishment for crime, must be abolished after 1800. When each of the states had as many free inhabitants as the least populous of the original states, it was to be admitted into the Union.[36]

This resolution was recommitted on March 17, and a new report was passed on April 23, 1784. The resolution as adopted contained some additions and some omissions from the original. The additions were that the states should not interfere with the primary disposal of the soil by Congress; that they should not tax land that belonged to the United States; that they should not levy higher taxes on the non-resident proprietors than on those of residents; and that the articles of the ordinance should form a compact between the new states and the original states unalterable except by common consent. The omissions consisted in eliminating the clause that named the states; that which referred to the hereditary title of citizens; and that which prohibited slavery after 1800.[37] This act was on the statute books until it was superseded by the Ordinance of 1787, but no effort was

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36. Journals, Vol. XXVI, pp. 118-120.
37. Ibid., pp. 275-279.

made to put it into operation.

In conclusion, it may be said that the Confederation Congress followed largely the same economic policy that the Continental Congress had pursued. There was nothing else that could be done. Under the Articles of Confederation, each state retained its sovereignty, freedom, independence, and every power not expressly delegated to the federal government. Congress exercised all the powers that the Articles granted to her, but these powers proved to be too limited to meet the exigencies of a young and struggling nation. Recognizing these deficiencies, the Confederation Congress asked for such powers as seemed necessary for a proper performance of its duties. Since Congressional powers were delegated, the central governement had no other legal way to acquire authority.

Experience taught the delegates to Congress that the federal government needed two fundamental powers -- the power to raise revenue and the power to regulate commerce. In accordance with the plan provided in the Articles of Confederation, Congress appealed to the states to vest it with those powers. Jealousy, fear of a tyrannical central government, and the fact that these powers in the hands of the British government had proved obnoxious caused the states to delay in delegating to a governemnt far removed from the people the power to

control the purse strings and to regulate commerce.

In this period when communication was difficult, it was quite natural that there should be little feeling of cooperation among the states. Before the Revolution each colony was a distinct unit and bore a separate relationship to the mother country. It was not until the English restrictions began to bear too heavily upon them that they resorted to united action. But with the Revolution over, it was not until difficulties had arisen out of interstate and foreign commerce and payment of the national debts that the states agreed to grant more power to the federal government.

It must not be assumed, however, that the Confederation Congress did nothing but petition the states to grant new powers. The Confederation Congress made some rather significant achievements. It chartered a Bank of North America, in spite of the fact that this was not one of the powers specifically delegated to Congress. It established credit abroad, when it could not pay the interest on the money it borrowed at home. It concluded a peace treaty that was perhaps more favorable than the majority of the people had expected. Last but not least, it acquired a vast public domain and established a land and governmental policy that became the basis for the disposition of the public lands and territorial government throughout the period of westward expansion.

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