

arm of authority, more restricted than empowered, more a handmaiden to the legislators than their guide. The delegates applied themselves most intensely to crafting the lawmaking branch of government, leaving the judiciary to be fleshed out later on and devising the mechanism by which the executive was chosen more by default than by choice.

I can only imagine the bewilderment and bemusement the convention delegates would feel if they were somehow magically transported to America in the twenty-first century. How would we explain the intense struggle over the election of the president in 2000 while the election of many Congress members was noted only in passing? What would they think of the hybrid of universal suffrage and their older mechanism of an electoral college? How could we reassure them that political parties were not the nightmare of partisanship and faction they had labored so hard to prevent? They would surely marvel at the place of pride the United States held in the family of nations, but they would be puzzled by our unspoken assumption, so evident after September 11, that the president was expected to set our agenda in every aspect of domestic and foreign relations. "Hail to the Chief" would be a tune only Alexander Hamilton might relish hearing played.

Above all, I am certain that they would be amazed—and thankful—that the Republic they gave life to had endured.



The Call for a Convention

"Our present federal government
is a name, a shadow"

THE YEAR WAS 1786. It was the tenth anniversary of the Declaration of Independence and the third year of life in a new nation, but political leaders everywhere feared there was little cause to celebrate. Dark clouds and a suffocating gloom seemed to have settled over the country, and these men understood that something had gone terribly wrong. From his plantation in Virginia, George Washington lamented the steady stream of diplomatic humiliations suffered by the young Republic. Fellow Virginian James Madison talked gravely of mortal diseases afflicting the confederacy. In New Jersey William Livingston confided to a friend his doubt that the Republic could survive another decade. From Massachusetts the bookseller turned Revolutionary strategist, Henry Knox, declared, "Our present federal government is a name, a shadow, without power, or effect." And feisty, outspoken John Adams, serving as the American minister

to Great Britain, observed his nation's circumstances with more than his usual pessimism. The United States, he declared, was doing more harm to itself than the British army had ever done. Alexander Hamilton, John Jay, James Monroe, Robert Morris—in short, men from every state—agreed that a serious crisis had settled upon the nation. The question was could they do anything to save their country?

It seemed like only yesterday that these same men, along with Americans everywhere, had greeted the future brightly. In 1783 Americans had looked forward confidently to reaping the benefits of independence. British political oppression, with its threat to natural rights and traditional liberties, had come to an end, and with it the challenge to America's most dearly held principle, "No taxation without representation." In every colony turned state, lawmaking was safely in the hands of a representative assembly, and a guarantee of citizens' rights was written into most state constitutions. British economic oppression had ended as well. Free from the restraints imposed by British navigation, or trade, laws, American shippers, farmers, and planters looked forward to selling tobacco and wheat directly to foreign nations, and entrepreneurs looked forward to manufacturing finished products for sale to markets abroad. New Englanders were equally optimistic, for John Adams's dogged persistence had won them the right to fish the outer banks of Newfoundland. Independence also meant that the rich farmlands west of the Appalachians were at last open to

settlement, good news for ordinary farmers and perhaps even better news for major speculators like George Washington, the Lees of Virginia, and even Benjamin Franklin, who owned shares in large land companies.

Unfortunately, each of these blessings soon proved to have a darker side. True, the restrictions and injustices suffered in the colonial era had been eliminated but so, too, had many of the advantages of membership in the British empire. An independent American merchant marine was free to carry American products to the ports of their choosing, but they no longer enjoyed the protection of the British navy on the high seas. New England fishermen had won the right to fish off Newfoundland, but they had lost the guaranteed British Caribbean markets for their catch. Chesapeake tobacco planters had renounced their debts to Scottish merchants and English consignment agents when they declared independence, but in the process they had lost their most reliable sources of credit. And settlers faced no barriers to westward migration, but they could no longer rely on a well-trained and well-equipped army when Indians attacked. Slowly, Americans realized their new dilemma: Who would provide the protection colonists once found in the sheltering arms of their mother country?

The pessimism slowly engulfing men from Maine to Georgia was intensified by the lingering postwar depression in the South and in New England. Two major British military campaigns had left the Carolinas in shambles, with scores of homeless and penniless still to be cared for.

Rice planters had to replace much of their labor force as hundreds of slaves had run away or found refuge in British army camps. Farther north peace, not war, had dealt the crushing blow to New England's economy. Despairing, idle fishermen could be seen in every seaport town, helpless in the face of British trade restrictions against them in the West Indies. Local agriculture fared no better. Far from the battlefield during most of the Revolution, New England farmers had expanded their production to meet the demands for food in other regions. Now that farming had resumed in every state, New Englanders were scrambling to meet mortgage payments for land they had cleared and planted during the Revolution. A wave of foreclosures and evictions swept across the western counties of Massachusetts, and local prisons soon overflowed with debtors. In Berkshire and Hampshire Counties, the busiest workers were local carpenters, called upon to construct larger jails.

These nagging economic problems had not brought Americans closer together. Wherever one looked, the competing interests of creditors and debtors, rural farmers and urban merchants, artisans and importers, acted as centrifugal forces, dividing the nation. While state governments debated what to do, private citizens took matters into their own hands. Disgruntled Vermont farmers, who had declared their independence from New York in 1777, demanded that the new American government, the Confederation Congress, recognize their statehood. More disturbing was the news that in New Jersey, South Car-

olina, Pennsylvania, Virginia, and Maryland, backcountry farmers were rising up in armed rebellion and had to be controlled by militia units.

Relationships among the states were no better. In the aftermath of the Revolution, real political power resided in these state governments. Animated by a heartfelt ill will and rivalry, state legislators missed no opportunity to exploit the weakness of their neighbors. They rushed to enact tariffs and trade barriers, replacing the hated British restrictions with restrictions of their own. New Jersey had gone so far as to create its own customs service, an ironic tribute to the regulatory system of its former British rulers. Virginia's penalties for avoiding its interstate import duties would have impressed even the most venal British customs men. With duties to pay at every state border, even the most intrepid merchant or shipper found interstate commerce a nightmare. States with natural advantages made every effort to abuse those without them. Virginia and South Carolina cheerfully squeezed what they could out of hapless North Carolina. Meanwhile, New York and Pennsylvania, both blessed with major ports, imposed steep duties on all goods destined for neighboring states. James Madison described New Jersey, trapped between the two states, as "a cask tapped at both ends." Connecticut also fell victim to New York's greed. Tired of being victimized, Connecticut and New Jersey were rumored to be planning a joint assault on New York.

Other sovereign rights claimed by the states hurt domestic trade. Each state insisted on issuing its own

currency, and, thus, a New Yorker sending goods to South Carolina ran a gauntlet of ever-fluctuating exchange rates before his wares reached their final destination. By 1785 the conflict and chaos created by thirteen independent mercantile systems was obvious, yet calls for commercial cooperation that year and the following year were met with suspicion, resistance—and a decided lack of interest.

The solution to these problems, and others, would seem to modern Americans to be the task of the national government. But in 1786 the national government was ill equipped to handle even the smallest crisis. Many of the men who created that government now realized how badly flawed it was. Indeed, it was this faltering, floundering government that threatened, in Washington's view, to condemn America to appear as a "humiliating and contemptible figure... in the annals of mankind."

America's first constitution, the Articles of Confederation, had been written by the Second Continental Congress soon after the Declaration of Independence was signed. Pennsylvania lawyer John Dickinson was called upon to produce the first draft of the document, but the conservative Dickinson's inclination toward a strong central government did not sit well with his fellow Revolutionaries. Congress made short shrift of the document Dickinson presented, systematically editing out any suggestion that the Confederation would enjoy any real power over the states. Where Dickinson's version began with a firm declaration that the "Colonies unite themselves so as never to be divided by any Act whatever," the

amended version began with the equally firm declaration that "each state retains its sovereignty, freedom, and independence."

It was not hard to understand why a congress sitting in 1776 preferred a "firm league of friendship" rather than a potent central government. What, after all, was the country waging war against but the tyranny of centralized power? And what were they fighting for but to secure the absolute sovereignty of their local representative assemblies? For these Revolutionaries, the rallying cry of "No taxation without representation" had meaning only in the context of their local colonial assemblies, now free from the oppression of the British Parliament and the British king. The Revolution was not one battle for independence but thirteen—proof that a profound localism still trumped any embryonic identity as "Americans." These identities were, after all, relational: Patrick Henry, John Adams, and Richard Henry Lee were Americans when they contrasted themselves with the citizens, government officials, and soldiers of England, but at home, when they looked to their own right and left, they were Virginians, New Jerseyites, Connecticut men. Thus, when Patrick Henry declared in 1774 that he was no longer a Virginian but an American, his countrymen took this for the rhetoric that it was. Despairing of this localism sooner than most, General Washington's brash and brilliant young aide-de-camp, Alexander Hamilton, bemoaned the fact that so few Americans "thought continentally." His mentor and friend, General Washington, was forced

to agree. When, as commander in chief, he asked a New Jersey militia troop to swear loyalty to the United States, they refused. "New Jersey," they said, "is our country."

The Continental Congress showed little inclination to "think continentally" as they wrote the Articles of Confederation. As sensible men about to wage a war, they were willing to concede the power to declare war and make peace to the Confederation. Their "common defense... and their mutual general welfare" depended upon central coordination in war and a unified voice in treaty negotiations. In all other areas, however, they took pains to create a government incapable of the political or economic abuses suffered under king and Parliament. In 1776 the wounds inflicted by corrupt royal governors and royal judges were still raw. So, too, was the memory of upper houses or councils in their colonial governments that often betrayed local interests in exchange for patronage and social status. Thus, the Confederation would have no separate executive branch, no independent judiciary, and no upper chamber in the legislature. To create any of these was to risk carrying the worst of the colonial past into the present. Instead, the Articles called for a unicameral representative assembly or congress that would conduct all the government's business.

The distribution of power within this Confederation Congress was in perfect harmony with the goals of the Revolution, for each state had a single vote, regardless of its size or population or the number of delegates it chose to send as its representatives. Intercolonial suspicions and

competition were as much a legacy of the past as parliamentary high-handedness—and no state, reveling in its independence from British control, wanted to submit itself to the collective control of its neighbors. Tellingly, disputes between the states over claims to western lands delayed the ratification of the Articles for almost five years.

The Articles also reflected the ardent desire of the Revolutionary leaders to prevent the rise of a new tyranny from the ashes of an older one. To insure that the government they created would not, could not, become oppressive, they did more than drastically limit the scope of its authority. They denied it the one basic power that they knew tyranny required. Eighteenth-century men and women called it "the power of the purse"; modern Americans know it as the right to tax. The Confederation would have no independent source of income, and this, the Revolutionaries were sure, meant it could never present a danger to American liberty.

Handicapped as it was, the Confederation government did manage to wage the war successfully, wrest loans from foreign governments, and, to everyone's surprise, win major concessions at the peace table in 1783. But the Confederation's inadequacies soon became apparent as it switched from winning independence to overseeing an independent nation. Its diplomatic record was appalling. After the surprising success of the nation's Paris peace commissioners, America suffered a series of rebuffs, embarrassments, and downright humiliations from foreign

nations, large and small. Every effort to protect American interests ended in failure. When Spain closed the port of New Orleans to American shipping in order to slow the influx of Americans into territory adjoining and overlapping Louisiana, the Confederation recognized the crisis that would follow. Without a gateway to the ocean, settlers coming to Kentucky and Tennessee would be cut off from much-needed supplies and deprived of any access to markets for their crops. Yet American ambassadors could make no headway in persuading Spain to reopen the port for they had no leverage in the negotiations. As westerners' confidence in the Confederation faded, they devised their own solutions. One frontier entrepreneur went so far as to sign a loyalty oath to the Spanish government in exchange for trade concessions.

At the same time, the British openly defied the terms of the Paris peace treaty by refusing to evacuate their Ohio Valley forts. Their continued presence was an affront to American sovereignty, but it was also a real threat to peace on the frontier. Commanders in these forts operated as agents provocateurs, providing Ohio Valley Indians with encouragement, arms, and ammunition as they mounted organized resistance to American settlement. The Spanish offered the same encouragement and aid to the Choctaw, Creek, and Cherokee along the southern frontier. The Confederation could do little to force the British out or to prevent either foreign nation from abetting the Indians. Britain's firm *quid pro quo* for giving up the western forts was the repayment by American planters and merchants of personal debts to British

creditors and the compensation to Loyalists for confiscated property. But Congress had no money to cover these debts and obligations itself, and it had no means to prevent state legislatures from obstructing the collection of prewar debts. The Confederation had no military clout, either. With a peacetime army of fewer than seven hundred poorly equipped soldiers, it could not drive the British out or quell the violence on the frontier. Thus, when southern tribes threatened to mount a full-scale war, Georgia and North Carolina took matters into their own hands. Both states undercut the authority of the national government by negotiating independent treaties with the Indians on their borders.

Grim as these diplomatic failures were, they paled before the humiliation of the American merchant marine in the Mediterranean. Without the protection of the British navy, American vessels carrying wheat and flour to southern European markets became easy prey for Barbary Coast pirates. In 1785 the Dey of Algiers seized an American ship, confiscated its cargo, and imprisoned its crew. When ransom demands arrived, Congress could not meet the captor's price. Crew and captain languished in prison, victims of one government's greed and another's poverty. When the ruler of Tripoli offered to insure safe passage to all American ships—for a price—Congress could not raise the protection money. By 1786 the survival of this valuable trade route was in question.

Perhaps the most telling sign of a failing government was the morale of Congress itself. All too rapidly, the Confederation had sunk into a lassitude bordering on

paralysis. By the fall of 1785 attendance at congressional sessions was already embarrassingly low. Throughout the winter and spring of 1786, absences reached crisis proportions, quorums could rarely be met, and the business of Congress—limited though it was—was rapidly coming to a halt. Tired of dealing with problems they could not solve, congressmen from every state preferred to stay home.

Who could blame them? Every day Congress faced a host of angry creditors, foreign and domestic, clamoring for repayment of wartime loans. But the federal treasury was empty, and Congress had no means to fill it. Under the Articles of Confederation, Congress's only source of revenue was the generosity of the states. When the states proved cavalier, if not derelict, in their support, the federal government could do nothing. In Paris, London, Madrid, and Amsterdam, American diplomats found it impossible to negotiate new loans, for no one was willing to lend money to a nation that could not honor its existing debts. Veterans who held government certificates, widows who had lent their small fortunes to the war effort, and wealthy speculators who had gambled on the government retiring its debt were all losing faith in a government that turned out empty pockets to its creditors.

The Confederation devised two creative plans to solve its financial problems. Both failed. First, it placed its hopes in raising revenues through the sale of the Ohio Valley lands that had been ceded, grudgingly, by the states. Congress produced a series of well-thought-out

and well-designed plans for the division of these lands, their sale, and their political progression from territorial status to statehood. The Northwest Ordinances that resulted were, without question, the government's finest peacetime accomplishment. But if no one challenged Congress's right to the revenues from the sale of western land, few settlers were willing to buy that land without the promise of military protection. The hoped-for flood of income never grew larger than a trickle. With no funds to arm a military and no military to secure the funds, Congress was forced to look elsewhere for revenue. In 1785 it asked permission to levy a small import tax. The states said no. With that, the Confederation Congress seemed to abandon all hope of solvency.

If men like Henry Knox and James Madison were surprised to find the Articles of Confederation so flawed, there was one political figure ready to say "I told you so." In 1780, long before the American victory in the war was assured, the young immigrant from the West Indies, Alexander Hamilton, sat down to compose his thoughts on a suitable government for a new, independent republic. In a long letter to his friend James Duane, Hamilton called for a strong national government, able to rein in the individualism and localism of the states, with powers to tax and regulate commerce and the military and naval power to win the respect of foreign nations. Perhaps Hamilton found it easier to "think continentally," for, though he had settled in New York, he had no deep family roots in any state. Indeed, several of the men who rallied early

to Hamilton's cause were born abroad or had moved from one region to another. For others, their national identity had been forged through long years in the Continental army. But Hamilton's unshakable confidence that the right government could serve as midwife at the birth of a new economic and political challenger in the family of nations cannot be explained by his recent arrival in America. More clearly than most, he saw the potential of the young Republic, and, more quickly than anyone, he dismissed the Confederation as a faulty blueprint for a dynamic nation.

By 1785 Hamilton had begun to sound more like a prophet than a cynic. That spring a group of influential Virginians, including George Washington, James Madison, and Edmund Randolph, took steps that were decidedly Hamiltonian. At their urging, Virginia appointed commissioners to negotiate an agreement with neighboring Maryland on the use of the rivers and bays the two states shared in common. Washington invited the commissioners to hold their meetings at his Mount Vernon estate, perhaps hoping that his presence would inspire real cooperation. So it did. Encouraged by the ability of two states to come to an amicable agreement, Maryland proposed that a meeting on interstate commerce be held, this time including Pennsylvania and Delaware. The project grew spontaneously. When Virginia politicians with nationalist inclinations suggested that all the states be invited, their governor Patrick Henry—no friend to the nationalist agenda—surprised them by agreeing that

interstate commerce was a topic in urgent need of discussion. On February 23, 1786, Henry circulated a letter to his fellow governors, recommending that every state send delegates to a commercial convention in Annapolis that September. Enthusiasm rose briefly—and then died. Although the most ornery of states, Rhode Island, pledged to send a delegation, four states refused to act. When the convention met on September 11, only five states were represented. Most of the delegates were ardent supporters of what could best be called a nationalist movement.

These delegates shed no tears over the poor turnout. Free of the need to argue with, persuade, or outvote men who opposed their nationalist views, they were able to devote their energies to drafting a manifesto that they offered as a convention report. Pointedly calling themselves the duly appointed Commissioners to Remedy Defects of the Federal Government, these twelve men from New York, New Jersey, Pennsylvania, Delaware, and Virginia urged their legislatures to call a "general meeting, of the States, in a future Convention, for the same, and such other purposes, as the situation of public affairs, may be found to require." "And such other purposes" opened the way, of course, to far more than recommendations to improve interstate trade. With masterful understatement, the report noted that any effective reform of commerce would require "a correspondent adjustment of other parts of the Federal System." No one should have been surprised to learn that the author of this report was Alexander Hamilton.

Fortune—in the form of hundreds of angry farmers—now seemed to smile on the nationalists. For at the very moment that the Annapolis convention was meeting, six hundred desperate farmers were storming the courthouse at Springfield, Massachusetts. The trouble had been brewing for some time, ever since the return of peace brought with it an economic depression in the western counties of the state. Many of these farmer-rebels, armed with pitchforks and old muskets, were in danger of losing their farms to creditors. Since 1783 they had watched helplessly as their property taxes rose and their profits declined. As the wealthy Bostonians who held the mortgages on their land went to court to begin foreclosure proceedings, the farmers saw their futures slipping away. For months they sought relief through political channels, petitioning the state assembly to issue paper money, to lower taxes, and to approve “stay laws” that would temporarily prevent the courts from acting on the foreclosure demands. The state government, however, turned a deaf ear. Dominated by hard-money men and mortgage holders, it refused to provide any relief to these debtors.

In August 1786 the farmers decided to take matters into their own hands. The government, they said, had turned its back on the people—and the people no longer owed such a government any loyalty. This was a rhetoric familiar to all Americans, torn straight from the pages of John Locke and the Declaration of Independence. The farmers struck their first blow against the new tyranny by

blocking the entrance to the court of common pleas at Northampton, preventing lawyers and judges from entering. Within days the farmers' revolt had spread. Reports of court closings came from Worcester, Concord, Taunton, and as far north as Great Barrington. But the heart of the rebellion seemed to be at Springfield, where a thirty-nine-year-old Pelham veteran of the Battle of Saratoga, Daniel Shays, led some fifteen hundred men in an assault on the courthouse. Dressed in their old Continental army uniforms, sporting sprigs of hemlock in their hats just as the Continental soldiers had once done, Shays's makeshift army seized and occupied the courthouse on September 25.

A frightened Massachusetts government took steps to restore law and order. The governor called up an impressive force of over forty-four hundred militiamen, and General Benjamin Lincoln, a veteran like Shays of Saratoga, was appointed to lead this army against the rebels. The end came quickly. On February 3, 1787, Lincoln surprised and routed the farmers. A general amnesty was issued, and although Shays and thirteen of his followers were tried and convicted, Governor John Hancock thought it best to pardon them.

The rebellion sent shock waves across the nation and across the ocean. Thomas Jefferson, serving as American ambassador to France, was one of the few Americans who refused to be alarmed by the uprising. Writing to James Madison from Paris on January 30, Jefferson declared that “a little rebellion now and then is a good thing.”

Madison emphatically did not agree. Neither did the chief justice of Massachusetts, William Cushing, who spoke for many of Boston's most prominent former Revolutionaries when he pronounced the leaders of the rebellion to be "evil minded persons," demagogues, and rabble-rousers who were "ignorant, unprincipled, bankrupt, and desperate." Even Samuel Adams, one of the earliest and most devoted champions of revolution, condemned the rebels. There was no moral connection, he insisted, between the American Revolution and their revolt. "Rebellion against a king may be pardoned," he declared, "but the man who dares to rebel against the laws of a republic ought to suffer death." Men more distant from the scene responded to news of Shays's Rebellion with anguish rather than anger. "I am mortified beyond expression," wrote George Washington, calling the revolt "a triumph for the advocates of despotism."

But in truth, the most powerful emotion stirred in the breasts of planters and wealthy merchants by Shays's Rebellion was fear. How many more "evil minded persons" stood ready to stir up the discontent and despair of farmers, slaves, and urban debtors? Only a strong and energetic government could stand in the way of what these men of property labeled anarchy. It was a sobering realization—and it was one that played into the hands of the nationalists as 1787 began.

The Confederation Congress had not yet endorsed the Annapolis report's request for a national convention. But while Shays's Rebels were still at large, both Virginia

and New Jersey announced their intention to send delegates to Philadelphia. In January, as General Lincoln bore down on the rebels, Pennsylvania and North Carolina announced that they, too, would attend. Delaware and Georgia soon followed suit. By the time the rebels had surrendered, the Confederation Congress, meeting in New York City, had decided to take up the matter of the Philadelphia convention. Still reeling from the rejection of its impost proposal, and aware of the impact of the Massachusetts uprising, Congress had little choice but to seek help wherever it could find it. On February 21, 1787, the Confederation issued the following resolve: "That in the opinion of Congress, it is expedient, that on the second Monday in May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia..."

Hamilton had every reason to celebrate his victory. But from his beloved Mount Vernon, George Washington struck a more somber note. He wrote to his young friend James Madison: "That the present moment is pregnant of great, and strange events, none who will cast their eyes around them can deny." Stranger events were certain to follow.