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The Genesis of Massachusetts Federalism, 1778-1788

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THE GENESIS OF MASSACHUSETTS

FEDERALISM, 1770-1780.

(TITLE)

BY

Phillip W. Dennis

THESIS

SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
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PREFACE

In a democratic society, elected representatives cannot operate successfully in a political vacuum. People are swayed by external forces which can form opinions and influence actions. The purpose of this paper is to examine the extent to which the circumstances in a state influenced the ideas and actions of four delegates to the Federal Convention in 1787. More specifically, how did the events in Massachusetts between 1780 and 1787 affect the constitutional ideas of four men, Elbridge Gerry, Nathaniel Gorham, Rufus King, and Caleb Strong.

In a sense, this paper attempts to show that there were several experiences which motivated the delegates to advocate constitutional changes in 1787. First, the need for national commercial regulation and a sound fiscal policy were factors which set the stage for their disillusionment in the Confederation. This paper shows that the delegates were especially influenced by what they experienced while serving their state in the Continental Congress. Second, Shays's rebellion was the crystalizing agent in getting the delegates to work for a change in the national government. Once in the Convention, the delegates worked with other large state interests to get favorable terms in the new framework of government. Third, the most significant experience

influencing the delegates was their own state constitution. This paper attempts to document the similarity between the constitutions and the role which the Massachusetts delegates played in securing the similarities.

From time to time, I will allude to other influencing factors such as the financial holdings of the men; however, I will not be concerned with this aspect of the problem.* I hope to point out that each man reflected his position in society--the mercantile class--while in deference to the point of view that class surely influenced their thinking and actions, the amount of securities which they held had relatively little to do with what they thought or did in the Convention. Also the element of practical politics cannot be laid aside completely; however, the central theme of this work is the extent to which state experiences influenced the ideas of four men. The paper will show that the delegates agreed substantially on the nature and the form of the new government due to these collective state experiences.

I wish to acknowledge the role my wife played in typing and proofreading the many drafts of this paper. I doubt the project could have been completed without her unflinching assistance.

*Charles Beard, An Economic Interpretation of the Constitution (New York: MacMillan Co., 1913); Merrill Jensen, The New Nation: A History of the U. S. During the Confederation, 1781-1789 (New York: Alfred Knopf, Inc., 1950); Jackson Turner Main, The Anti-Federalists: Critics of the Constitution, 1781-1788 (Chapel Hill: North Carolina Press, 1961),

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CHAPTER I

When the delegates from twelve states gathered in Philadelphia in the warm summer of 1787, four representatives from the state of Massachusetts presented their credentials to the Federal Convention.¹ Although these men were not the political giants of their state, they had served extensively in state and federal politics. The record of their achievements in public service was notable by the time of the Constitutional Convention, and all but the oldest of their number would continue as state or national figures throughout the Federalist Era.

Elbridge Gerry was the son of an English emigrant who had built up a prosperous mercantile business in Marblehead, Massachusetts. After graduating from Harvard College at the age of eighteen in 1762, Gerry joined his father and elder brothers in the West Indies trade, mainly in the exchange of New England fish for Spanish goods and gold. In May, 1772, he was elected as a representative to the General Court and began to take an active part in the local Committee of Correspondence. Samuel Adams, a Boston patriot, had a great influence on his life, and Gerry worked faithfully and energetically for the revolutionary cause. He was continually re-elected to the General Court and later to the Provincial

¹Francis Dana was selected but declined to serve.

Congress until he was appointed with John Adams as a delegate to the Second Continental Congress in January, 1776. In Congress Gerry was an early advocate of complete separation from Great Britain, and he was present on July 4, 1776, to vote in favor of the Declaration of Independence.²

After serving four years, Gerry left Congress in a dispute over profiteering. Although a merchant and a furnisher of supplies himself, Gerry disliked profiteering. For example, he tried to observe the schedule of prices set up by a New England Convention of 1778. When he attempted to use these prices as a basis of the requisition which Congress demanded from Massachusetts, Congress refused to accept his arguments. Gerry took offense and retired to private life for the remaining three years of his elected term. During these years he engaged in trade. Marblehead suffered from the British trade restrictions in the postwar period; yet Gerry retired from business in 1786 with a comfortable fortune in government securities and western real estate. At the time of the Philadelphia Convention, Gerry undoubtedly owned more real property than personal property. He along with twelve other delegates held undeveloped lands for speculation, especially in the Northwest Territory. Gerry also owned \$50,000 in public securities, but they were worth only one-fifth their face value in 1787. Even so, Gerry ranked highest

²Samuel E. Morison, "Elbridge Gerry," Dictionary of American Biography (New York: Charles Scribner's Sons, 1931-2), IX, 222. Most of the subsequent material in this sketch is derived from this source. Hereafter cited as D. A. B.

of the forty-five delegates to the convention who owned state or national securities. Yet on the convention floor he declared the interest (\$3,500) was so small it would not pay his taxes.³

Throughout his public career, Gerry's character was marked by integrity and industry, but on public matters he frequently changed his mind. John Adams noted that he had "an obstinacy that will risk great things to secure small ones."⁴ He did not have a sense of humor and was always suspicious of the motives of others. His speeches were hesitating and laborious. According to William Pierce, a writer of character sketches of the Federal Convention delegates, he spoke extensively on subjects "without respect to elegance or flower of diction."⁵ He always extolled the virtues of republican simplicity.

After the ratification of the Constitution, Gerry vigorously supported Hamilton's reports on public credit including the assumption of state debts. Although he had objected to the Constitution for its failure to reflect Republican ideas, he favored the creation of a Bank. He

³Forrest MacDonald, We, the People: The Economic Origins of the Constitution (Chicago: University of Chicago, 1958), 87-90; Hereafter cited as MacDonald, We, the People. Charles Beard, An Economic Interpretation of the Constitution (New York: Macmillan Co., 1913), 97; Hereafter cited as Beard, Economic Interpretation.

⁴Merison, "Gerry," D. A. B., as cited from Works of John Adams, edited by Charles Francis Adams, (Boston: Little, Brown Inc., 1853) VIII, 549.

⁵Max Farrand, Records of the Federal Convention (New Haven: Yale University Press, 1937) 2nd revision, III, 88. Hereafter cited as Farrand, Records.

refused to run for re-election and did not enter public life again until John Adams appointed him a member of the famous "XYZ mission" in 1797. He returned to America branded a "Jacobin" by the Federalists but as a hero to the Republicans. Gerry ran for governor of Massachusetts several times before he succeeded to the post in 1810. His first administration was uneventful, but in his second, his attempt to cancel Federalist majorities by redistricting several towns led to the term "gerrymander." In 1812 he was defeated for the governorship but was put on the Republican ticket headed by James Madison and was elected vice president. He died sixteen months later in Washington.

The second delegate, Nathaniel Gorham, was the son of a Charleston packet boat operator and was trained in his early age as a mechanic. He became interested in shipping and accumulated some property. His business prospered despite the fact that the ravages of the British army in 1775 wiped out his personal property. However, during the war he recouped his losses by engaging in reckless privateering and speculation, and he grew to be very wealthy by the conclusion of the war.

From the beginning of the Revolutionary period, Gorham took an active interest in public affairs. On the state level he served as a member of the colonial legislature from 1771 to 1775, as delegate to the Provincial Congress in 1774-5, and on the Board of War from 1778 to 1781. He helped draw up the state constitution of 1780. He served in the legislature, judiciary and on the Governor's Council under this constitution

during the 1780's. In addition to his state activities, he served in Congress in 1782, 1783, and 1785 to 1787. In the Federal Convention, he presided over the Committee of the Whole as he had done in the previous year in the Continental Congress. He was also a member of his state's convention to ratify the Constitution.

William Pierce wrote that Mr. Gorham was a man of "high reputation and much in esteem of his countrymen."⁶ Although he did not have much formal education, he was a man of very good sense. His speeches were eloquent and easy to understand with nothing fashionable or elegant in his style. He debated to convince and if he failed, it was not because he could not be heard or seen. Gorham had "an agreeable and pleasing manner."⁷

Alone of the four delegates, Gorham did not enter into the national scene after the Convention. By the time of his death in 1796, his wealth had been dissipated by unsuccessful business ventures. His most elaborate scheme involved a vast tract of land ceded to Massachusetts by New York as a result of a boundary dispute. Massachusetts sold the six million acres to Gorham and Oliver Phelps, a partner from Windsor, Connecticut. The purchase price was one million dollars in three annual payments in consolidated securities, scrip of

⁶James T. Adams, "Nathaniel Gorham," D. A. B., IV, 433. The information in this sketch is drawn from the J. T. Adams article.

⁷Ibid., 434. Cited from Farrand, Records, III, 88.

Massachusetts which had a greatly depreciated value. Emigrants began to settle soon after the Indian titles were extinguished. Large tracts were sold during the next two years. When Hamilton's funding program caused state securities to rise from 3s to 15s, the partners went bankrupt. Even though a large amount of the property had been sold, Gorham did not have enough resources to tide him over the crisis. Massachusetts reclaimed the land for the displaced Indians. Gorham succumbed to this economic strain and died.⁸

The third Massachusetts delegate to the Constitutional Convention, Rufus King, was the eldest son of a successful Maine storekeeper. In 1777 he entered the study of law in Newburyport under Theophilus Parsons, an influential leader in designing the Massachusetts Constitution of 1780. After a brief military service as aide-de-camp for General Sullivan in Rhode Island, King returned to his studies and was admitted to the Massachusetts' bar in 1780. He was elected delegate to the General Court from Newburyport in 1783, 1784, and 1785.

Between 1784 and 1786, he served as a delegate to the Continental Congress. His most notable achievement was proposing a resolution to exclude slavery from the future Northwest Territory, and the resolution was later accepted as part of the Ordinance of 1787. King also urged all states to contribute to federal expenses in 1786 while he was chairman of a committee on finances. Along with James Madison, King

⁸MacDonald, We, the People, 43-4.

was sent on an unsuccessful mission to plead with Pennsylvania to grant Congress a five percent impost.⁹

King's economic condition improved as he became more involved in New York society both socially and politically. He derived most of his income from the practice of law with merchants involved in interstate and foreign trade. Most of his wealth was in two forms of personal property--bank capital and public securities.¹⁰ Before 1791 he held shares equal to \$3,000 in the Bank of New York. Between 1786 and 1788, he purchased New York securities whose market value was half their \$10,000 face value. The purchase of these securities was a conservative investment because New York had funded its share of the national debt by 1786 and was making regular interest payments. King ranked tenth in Convention delegates holding public securities.¹¹

In the Constitutional Convention, King's personal characteristics were noted by William Pierce in a laudatory paragraph: King was a man distinguished for his eloquent oratory and parliamentary talents. He had a good classical and legal education. His service in Congress had drawn "great and deserved applause."¹² In his public speaking there was "something peculiarly strong and rich in his

⁹Claude M. Fuess, "Rufus King," D. A. B., V, 398. This sketch is drawn from information in C. M. Fuess' article in the D. A. B.

¹⁰MacDonald, We, the People, 67, 90.

¹¹Ibid., 89.

¹²Farrand, Records, III, 87.

expression, clear, and convincing in his argument, rapid and irresistible at times in his eloquence. . . .¹³ Pierce guessed that he might rank among the "luminaries of the present Age."¹⁴ In the ratification convention in Massachusetts, King's familiarity with the provisions of the Constitution and his oratory helped secure the approval of the state.

Having married Mary Alaop, the daughter of a wealthy New York merchant, King moved to New York in 1788. Shortly after his arrival, he was chosen as senator to the new national government by the New York legislature. During his tenure he became a leading Federalist and aided Hamilton's financial program through the Senate. Washington made him minister to Great Britain in 1796 (upon the urging of Hamilton) where he served with distinction until retiring in 1803. In the presidential campaigns of 1804 and 1808, King was the Federalist vice-presidential candidate. Upon re-election to the Senate in 1812, he opposed the War of 1812 but sanctioned measures for the defense of the country. In his next term he opposed the establishment of the second Bank of the United States and the admission of Missouri as a slave state. He opposed the Missouri Compromise of 1820 on the grounds that it merely prolonged the controversy and postponed its adjustment. He retired to private life, an ill man, in 1824, but upon the insistence of President John Quincy Adams, he agreed to serve as minister to England, but within a short time after his

¹³Farrand, Records, III, 87.

¹⁴Ibid.

arrival in London his weakened health forced him to return to the United States. He died within a year, worn out by the exhausting demands of public service.

Caleb Strong was the fourth Massachusetts delegate to the Constitutional Convention. He was the son of an honorable family of Northampton, Massachusetts. After graduating from Harvard in 1764 with highest honors, he became a lawyer of some eminence with the help of Joseph Hawley, an aged statesman in the Connecticut River Valley. He was elected to the General Court in 1776 and returned to Northampton to serve as county attorney for twenty-four consecutive years. Strong was a member of the drafting committee of the state constitution of 1780, but he declined a seat in the Continental Congress and instead became a state senator until 1789. He also declined a position on the state supreme court because he thought his income was too limited to support the expenses of that position.¹⁵

Strong enjoyed a steady but modest income from the fees earned working with western farmers. He held public securities with a face value of \$11,000 giving him the seventh highest rank among the forty-five delegates who owned securities.¹⁶

In the Federal Convention Strong's participation was limited due to the fact that he was called home in August.

¹⁵John G. Kieran, "Caleb Strong," D. A. B., IX, 144. Most of the facts for this sketch were derived from this source.

¹⁶MacDonald, We, the People, 45, 86, 90.

Pierce wrote that as a speaker he was feeble and without confidence.¹⁷ However, Strong favored a strong union and worked in the state ratifying convention with activity. Chosen as one of the Senators from his state in 1789, he was active in framing the Judiciary Act and urged the adoption of Hamilton's financial program. He was re-elected in 1793 but resigned in 1796 to resume his law practice. Four years later the Massachusetts Federalists ran him for governor. His annual re-election for the next seven years while Jeffersonian elements grew more popular attests to his personal popularity. Defeated by James Sullivan, a prominent lawyer, in 1807, he ran again in 1812 and won the governorship against Elbridge Gerry. During the War of 1812, Strong represented the anti-war attitude in his state; yet he prevented disunion by obeying the letter, not the spirit, of federal obligation. He refused to order the state militia into the federal army. He approved legislative action calling for the Hartford Convention; he favored peace with Great Britain, even with concessions of Massachusetts' fisheries and territory. Strong was re-elected governor until 1816 when he retired from public service. His eulogy might have read: a conscientious man who carefully thought out his views.

The four Massachusetts delegates had a unique combination of interlocking experiences while in public service. Gerry, Gorham, and King served a total of twelve years in the

¹⁷Farrand, Records, III, 88.

Continental Congress between 1782 and 1788. They served concurrent terms averaging four years each; therefore, at least two of these men were representing their state's interests in Congress at the same time. When not serving in Congress, they were involved in state politics where they had an opportunity to observe their state's reaction to national problems. Two of them, Gorham and Strong, participated in the writing of their state constitution in 1780 with John Adams, the New England political theorist. With the exception of Gerry, the delegates participated in their state convention helping to ratify the Constitution. In the Federal Convention, they had to clarify and compare the constitutional ideas to the experience of Massachusetts. From their years of collective political experiences the delegates were representative of the times. Most important, their attitudes were influenced by state and local conditions.

CHAPTER II

During the decade between 1778 and 1788, the four Massachusetts delegates witnessed their state pass through important economic changes within the framework of limited political change. The economy turned from a commercial-agricultural order to a limited manufacturing state. The dislocation of the war caused a decline and readjustment in both her domestic and foreign commerce. The financial structure of the state also changed in the final years of the Revolution from a conservative, paper money policy to a more strict, hard currency one. At the same time the state constitution of 1780 helped the conservative mercantile elements to retain control of state politics. Out of the clash between the two trends--a changing economy and a slow changing political structure--came a rebellion which influenced national affairs.

Most of the 300,000 people of Massachusetts were engaged in agriculture during the 18th century. Coming from mainly British stock, the people shared common traditions and similar economic attitudes. During the 1780's, the eastern counties were the most densely populated while the western areas, with the exception of the Connecticut River Valley, had a relatively sparse population. One estimate placed 170,000 people along the coast, 90,000 in the central counties of Middlesex and

Worcester, and 33,000 west of the Connecticut River.¹ Life for the farmer had been unusually prosperous during the war years. Those farmers who were able to raise surplus food-stuffs found a ready market during the Revolution. The demands by the colonial army and the French army in the latter part of the war meant good prices and, very important, payment in specie. The war had taken away laborers from the fields so that there was decreased production. Townspeople complained bitterly about the exorbitant prices charged by the farmers. Simple Indian corn went from 3s a bushel in 1777 to £3 12s in 1779. With the evacuation of French troops at the end of the war, a depression gripped the agriculture of the state. Not only was there a greatly reduced local demand for farm produce, but postwar trade restrictions by foreign governments closed the state's most lucrative grain and livestock markets in the West Indies. Massachusetts exports up to 1786 failed to reach one-fourth their 1774 figure. Sagging export markets meant declining prices and scarcity of money, and western subsistence farmers were hardest hit by the agricultural depression.²

¹Davis R. Dewey, "Economic and Commercial Conditions," Commonwealth History of Massachusetts, ed. A. B. Hart, (New York: The State History Co., 1929), III, 355-7. Hereafter cited as Dewey, "Conditions."

²James Truslow Adams, New England in the Republic: 1776-1850 (Boston: Little, Brown and Company, 1926), 54-9; William B. Wieden, Economic and Social History of New England, 1626-1789 (Boston: Houghton, Mifflin Company, 1891), II, 610-625, 896-900; Samuel E. Morison, Maritime History of Massachusetts: 1783-1860 (Cambridge: Riverside Press, 1921), 32. Hereafter cited as Morison, Maritime History.

Even though the majority of the population was engaged in agriculture, the Revolutionary War had stimulated growth in limited manufacturing. Restricted previously by the regulations of the British government during the colonial period, the iron industry developed more rapidly during the conflict to meet the demands. Foundries were small affairs due to limited resources and capital. Worcester County led in the manufacture of metal goods with the Springfield Armory being the most important industry. Plymouth and Bristol counties contained sixteen foundries, twenty forges, and seven rolling and slitting mills. The leather and shoe industry, which also had suffered under British colonial policy, expanded during and after the war in Essex County. Cloth and paper manufactures, salt works and glass factories, and soap and candle making were some of the new industries to benefit by the readjustment of the state's economy. One historian noted that excluding the prewar industries (shipbuilding, distilleries, spermacetti works), there were 1,786 new factories established in Massachusetts during the 1780's. The value of goods for export was three times that before the war.³

With the postwar depression, the state's traditional industries faced several problems of readjustment. Shipbuilding had been New England's basic industry before the Revolution. Encouraged by the Navigation Acts, Massachusetts

³Dewey, "Condition," 358; MacDonald, We, the People, 186. By MacDonald's calculations, the total exports for 1771 equalled \$667,000 and during the 1780's the estimated exports were \$4,000,000.

had produced an average of 125 ships a year. The war kept the demand high because the state government licensed 1,554 ships for privateering and merchant purposes. Most of these vessels were captured, destroyed, or scattered by the British fleet. However, after the war shipbuilding industry was hit by a depression. The American shipowners faced both foreign competition and a lack of capital to rebuild wartime losses. The loss of the old carrying trade further aggravated the situation. Jefferson said that the British trade restrictions had meant a loss to America of 800 to 900 vessels trading on the high seas. A record of the number of vessels built indicated the slump in the industry. In 1784, forty-five vessels were built, twelve of which were for the French Indies contracted by the French government. From 1785 through 1788, the Commonwealth's shipyards averaged only fifteen to twenty keels a year. One historian reported that only eleven ships were started in construction in all New England in 1789, and that this represented a loss of nearly \$100,000 a year.⁴

Removal of the protective hand of the British colonial policy also affected the whaling and fishing industries. The whaling industry declined in importance for several reasons. First, there was a tremendous loss in manpower and ships during the war. Nantucket, the most important whaling port, lost 151 ships and 1200 seamen with only twenty-four whalers

⁴Curtis Nettels, The Emergence of a National Economy: 1775-1815, Vol. II of Economic History of the United States (New York: Holt, Rinehart and Winston, 1962), 52-63. Hereafter cited as Nettels, National Economy; Morison, Maritime History, 34.

remaining at the end of the war. Although the state government passed bounties trying to revive the industry in the 1780's, these efforts failed because there was a drastic decline in the market for spermaceti, the main product of the whale. The domestic market had converted to the use of cheap tallow candles under wartime restrictions and did not return to the use of spermaceti. More important, however, the British market was practically closed to American whale oil and the old English bounties had been terminated. Moreover, the British government levied an oppressive duty of £18 3s per ton of American oil. Therefore, whaling was no longer profitable because the cost of investment was high, prices were low, and markets were limited.⁵

The cod fishing industry was able to revive more quickly but faced the same problems as the whaling industry-- lack of vessels, capital, and markets. Most fishing vessels were left high and dry while privateering lured the sailors to sea during the war. At the war's end, the ships needed expensive repairs. Converted schooners, which served as coastal vessels, and merchantmen needed refitting if they were still able to float. In the Peace of Paris of 1783, John Adam's diligent efforts insured the Americans the right to fish on the Grand Banks, and this agreement played an important role in the industry's recovery, but the best market for American fish was destroyed when the British placed

⁵Nettels, National Economy, 52-3; Dewey, "Conditions," 362; Morison, Maritime History, 30-1, 396.

the West Indies off limits to American goods and ships. The French and Spanish Indies could absorb only half the production of the American fisheries. A scholar has estimated that between 1786-1790, New England receipts from cod fishing averaged \$464,000 a year, a loss of forty-three percent compared with the 1765-1775. Dislocation in the fishing industry meant low incomes and unemployment for many citizens of Massachusetts.⁶

The loss of the lucrative West Indies market was a key factor in creating the postwar depression in Massachusetts. The state's coasting trade also declined without access to valuable goods from the Indies in exchange for tobacco in the Southern states. Homemade goods from New England could not capture or compete in the Southern market with finished goods from Britain. Yankee merchants looked for new markets and found China, India, and Europe; however, the profitability of these routes grew very slowly. The increased wartime markets which resulted from the alliance with France did not survive the peace. However, in 1780, the French and the Spanish Indies set up import duties upon American fish, salt-pork, and bread stuffs in an attempt to stimulate the growth of their own merchant marines. Besides losing British ports by the British restrictions in 1783, the New England merchants had also lost some valuable advantages. After 1784, Algerian corsairs preyed upon American shipping and slowed the

⁶ Morison, Maritime History, 34-5; John B. McMasters, A History of the United States, from the Revolution to the Civil War (New York: Appleton and Company, 1883), I, 301. Hereafter cited as McMasters, History of U. S.

Mediterranean trade considerably. With neither a navy to protect them nor funds to pay tribute, American shipping was wrecked by the piracy of the Barbary Coast. American shipping also suffered from discrimination by British insurance companies. British and French vessels paid two percent while Americans were charged five percent for the same voyage. American merchants had won the freedom to determine the course of their foreign commerce but ended up with few markets. Since Congress lacked effective power to promote trade agreements and states could not engage in diplomacy to get commercial treaties with foreign nations, the Massachusetts export trade slumped badly during the decade.⁷

The import trade of Massachusetts was exactly opposite that of her export trade because the British restrictions on the American carrying trade prevented a balance of trade. In the postwar period the British hoped to and did replace the French as suppliers of the Massachusetts' market. Without trade restrictions by either the national or the state government, the American market was swamped by British goods carried by British ships. The British merchants extended liberal credit terms to the American merchants. Lured by the seemingly endless source of British credit, merchants ordered more finished goods than they could pay for in exports. For example, merchants purchased three-fourths to four-fifths of

⁷ Nettels, National Economy, 48, 63; Morison, Maritime History, 32; Forrest MacDonald, E Pluribus Unum: the Formation of the American Republic: 1776-1790 (Boston: Houghton, Mifflin and Co., 1965), 203. Hereafter cited as MacDonald, E Pluribus Unum.

their goods on credit. In the spring of 1783, one English company extended £150,000 credit to Boston merchants alone. Port records show that between May and December of 1783, twenty-eight French vessels and twenty-eight English vessels brought in \$500,000 worth of luxuries and offered them on credit. But in August, 1784, five London firms failed when Americans could not pay their debts. Although British exportations to America in five postwar years averaged £1,500,000 less than five years before the Revolution, the whole nation, as well as Massachusetts, suffered a balance of payments deficit. Between 1784-1786, the United States imported £7,500,000 of British goods and exported to Great Britain £2,400,000. Her trade deficit averaged £1,260,000 a year or totaled £5,000,000 for the three year period.⁸

With Massachusetts unable to control her commerce to her benefit, the result was a gold drain which intensified the critical problem of state finances. Massachusetts had a unique, hard money system until the conditions of the Revolution forced a change to a form of currency finance. Although the colony had been the first to issue paper money to cover the expenses of a colonial war in 1691, the English colonial government forced her off paper. Because of the plentiful amount of specie brought in by the colony's commerce with the West Indies, Massachusetts was able to maintain a hard money system without too much trouble. But with the Revolutionary

⁸ Nettels, National Economy, 48-9; Morison, Maritime History, 35; McMasters, History of U. S., I, 255.

war came a flood of paper emissions from both Continental and state sources. When the Commonwealth's Provincial Congress raised an army, the urgency of the situation was met by issuing paper money in the form of treasury notes. At first these notes were accepted at par value, but public confidence declined rapidly with the influx of Continental notes and those of neighboring states. Even though printing paper money was a favorite method used by all the governments to finance the war, Massachusetts adhered as much as possible to a conservative, hard money policy. While other states, such as Virginia printed money with the face value of \$128,000,000 in the whole course of the war, Massachusetts printed less than \$4,000,000. In contrast, the Continental Congress printed \$241,533,000 to 1779.⁹

Whereas the Continental currency was printed in small denominations and bore no interest, the Massachusetts notes were purchased mostly by merchants as an investment with the interest repaid in specie. These state notes never became as great a medium of exchange as the Continental paper money. During the course of the war, the specie value of the Continental bills depreciated rapidly. Congress, recognizing that the old emissions were falling below a 40 to 1 ratio in

⁹Arthur N. Holcombe, "Massachusetts and the Federal Constitution of 1787," Commonwealth History of Massachusetts, ed. A. B. Hart, (New York: The State History Company, 1929), III, 369-370. Hereafter cited as Holcombe, "Massachusetts." Robert East, "The Massachusetts Conservatives in the Critical Period," The Era of the American Revolution, ed. Richard B. Morris, (New York: Columbia University Press, 1939), 354. Hereafter cited as East, "Critical Period." Dewey, "Economic Conditions," 342-3.

1780, called upon the states to honor them in tax collections. Yet, Congress went on to issue new bills of credit not to exceed one-twentieth the old emission. Before the old emissions went out of circulation, Massachusetts accepted them as legal tender at a much higher rate than the true ratio of the times--150 to 1. With her evaluation of the currency being higher than the surrounding state, a large volume of the paper emissions gravitated to the state and stacked up in the Massachusetts treasury. The state government hoped that the federal government would honor the certificates at a 40 to 1 ratio when applied to the state's quota. Obviously, the state therefore had an interest in how the federal debt was redeemed.¹⁰

The control of the state's fiscal policy created antagonism between the agrarians and the commercials. The earliest point of conflict between these groups was over the curbing of inflation during the war. The depreciation in the value of the currency created higher prices for the farmer. Many prices showed a 400 percent increase in the period between 1777 and 1780. A Boston merchant wrote to a correspondent in England in 1777 and stated that "though our money has depreciated . . . and though many individuals suffer; yet the farmer and the bulk of the people gain by the war."¹¹ But the

¹⁰Dewey, "Economic Conditions," 342-46; E. James Ferguson, The Power of the Purse (Chapel Hill: North Carolina Press, 1961), 68-9. Hereafter cited as Ferguson, Power of Purse.

¹¹Dewey, "Economic Conditions," 354.

merchants, who were the bankers of the times, wanted to curb runaway inflation. By January, 1776, the General Court passed detailed price lists for commodities, services, and wages reflecting its control by the mercantile interests in an attempt to curb inflation. The laws protected the buyers against extortion. One law stated that any citizen who sold merchandise for less specie than the price in paper currency would be liable to a 20 fine. The farmer who was the seller and not the buyer in most cases only indirectly benefited from this legislation. The law made paper money par to specie, therefore restricting a natural inflationary trend favored by the agrarian debtors. The state was interested in sound money.¹²

The price control movement which started on the state and local level grew to be regional in scope. In December, 1776, delegates from four New England states met at Providence, Rhode Island, and approved a schedule for fixed wages and prices. All four states enacted this agreement into law and sent it to Congress for approval. Congress mildly approved and attempted to initiate other regional meetings, but all the states south of Maryland refused the invitation. Four middle states met in 1778 and approved the Providence codes; however, price controls failed to work on a national level because both the state and the central governments continued to print money at such a rapid rate that the value of all currencies got out of control. Massachusetts attempted to

¹²Dewey, "Economic Conditions," 245-6; Ferguson, Power of Purse, 243.

maintain the price codes until they were repealed in 1778 when the vast dumping of foreign paper currency made price control impossible.¹³

After failing in their brief experiment to manipulate wages and prices, the mercantile interests increased their control of the fiscal policies of the state after 1780. In both the state and the national government, 1780 was a year of crisis. Inflation was rampant throughout the country. On the national level some people listened less to the cries of liberty and instead welcomed the call for more financial stability and stronger governments. Conservatives gained more seats in Congress and began to reorganize the government into more efficient bureaus. The financial conservatives urged that the powers of Congress be extended to include taxation. But Congress had to rely upon requisitions and foreign aid since the calls for imposts in 1781 and 1783 lost when one or more of the states failed to approve.¹⁴

The movement for financial stability and protection of property manifested itself in the political structure of Massachusetts with the state constitution of 1780. The eastern commercial interests of the state had controlled the General Court since the seventeenth century. During the

¹³Nettels, National Economy, 27; Ferguson, Power of Purse, 42-3; Robert J. Taylor, Western Massachusetts in the Revolution (Providence: Brown University Press, 1961), 68-9. Hereafter cited as Taylor, Western Massachusetts.

¹⁴Ferguson, Power of Purse, 112-3.

Revolutionary movement, they had looked radical but were actually as conservative as ever. Also the social system changed little; yet, the people within the system changed greatly. As most of the Tory merchants and lawyers fled with the British troops, the vacuum was filled by the patriot merchant with commercial interests still supreme. The Constitution of 1780, written by this Whig aristocracy, embodied their control over state affairs.¹⁵

It is ironic that while the western farmers were responsible for calling for the Constitution, the eastern merchants were able to determine the outcome. The royal government in Massachusetts had been supplanted in 1774 when town meetings in conventions granted the Provincial Congress the right to rule in the place of the royal government. The state then asked the advice of the Second Continental Congress about a general plan by which the state might reorganize. Congress was afraid to endorse any policy which might jeopardize a last-chance conciliation and so it recommended that the state keep its old colonial governmental structure but without the Governor. Not all citizens were happy with this makeshift arrangement. In Berkshire County a minority known as the Constitutionalists declared that Massachusetts had no basis of government because the people had not created or approved it. The western counties led by the Reverend Thomas Allen, leader of this agrarian

¹⁵Elisha Douglass, Rebels and Democrats (Chapel Hill: North Carolina Press, 1955).

reform movement, called for a revision based upon the natural rights of man. In December, 1775, a county convention at Hockbridge protested the naming of judges and county officials without the approval of the residents. The commercial interests in the General Court conceded halfway in the fall of 1776 to the demands of the westerners when the Court assumed the power to draft a constitution itself. When the document was put to the town meetings in the spring of 1778, the instrument was rejected by a six to one margin. The towns objected because it had not been drawn up by a separate convention. The Constitutionalsists used rioting to keep the county courts closed and to maintain pressure on the provisional government. But faced with mounting disorder in the west, the General Court passed a resolution asking towns in February, 1779, to approve the calling of a convention to write the document, a referendum for the people to vote on the proposal, and another convention to count the votes. This passed by a two-to-one margin with no dissenting votes in the western counties.¹⁶

The proposed Constitution of 1780 was a more conservative document than the one submitted to the town meetings in 1778 because the balance of power favored the

¹⁶Taylor, Western Massachusetts, 88-100; Robert J. Taylor (ed.), Massachusetts: Colony to Commonwealth (Chapel Hill: University of North Carolina, 1961), 6, 10-36. Hereafter cited as Taylor, Colony to Commonwealth. Samuel E. Morison, "The Struggle Over the Adoption of the Constitution in Massachusetts, 1780," Proceedings of the Massachusetts Historical Society (Boston: M. H. S., 1917), L, 353-55. Hereafter cited as Morison, "The Struggle over the Adoption of Constitution."

propertied interests. The basic draft of the document was drawn up by John Adams with the help of James Bowdoin and Samuel Adams. John Adams used this opportunity to incorporate some of the political theories which he had put forward in the pamphlet, "Thoughts on Government," published in 1776. This pamphlet was to counteract the radical ideas of the Thomas Paine work, "Common Sense." The proposed constitution contained a separation of branches and a system of checks and balances. There was a two-house legislature chosen by different electorates based upon increased property qualifications. There was also a strong executive with veto power although the veto could be overridden by the legislature. The third branch, the judiciary, was to serve on good behavior or life tenure. Adams also included a declaration of rights based upon the theory of the natural rights of man. The convention accepted the greatest part of Adams's work. Nathaniel Gorham, the delegate from Suffolk County, took an active part in the committees which stylized and amended various provisions of the instrument. Most important, he participated in the committee which set up the rules for the convention and the committee which was in charge of presenting the draft to the convention. These experiences in leadership were carried across to his role in the federal convention.¹⁷

¹⁷Taylor, Colony to Commonwealth, 54, 113-4; Taylor, Western Massachusetts, 100-2; Morison, "Struggle over the Adoption of the Constitution," 384; Page Smith, John Adams (New York: Doubleday and Company, Inc., 1962), 245-8; Works of John Adams, edited by Charles Francis Adams, (Boston: Little,

One section of the Constitution which caused the most debate in the convention was Article III, not even proposed by Adams. This article virtually provided for the establishment of a state religion because towns were to provide tax money for a town church. A committee made up of Samuel Adams, Caleb Strong, Robert T. Paine, Theophilus Parson, Timothy Danielson, Rev. David Sanford, and Rev. Noah Allen proposed the final wording to the convention. Parsons in his Memoirs referred to the first three as intolerant, devout Calvinists who might have desired to establish Congregationalism as the state religion. This was Strong's only documented contribution to the Constitution. Ironically, his mentor, Joseph Hawley, would protest against the new Constitution because the Third Article was so intolerant of the Baptists, Quakers, and Methodists.¹⁸

When the drafting convention referred the instrument to the people, towns were to vote by universal manhood suffrage on each section separately and were to state their objections. The ratifying convention faced some insurmountable objections to a few clauses and had to manipulate the figures to get the required two-thirds vote on each section. Article II, for instance, was six hundred votes short of the required number but it was retained in the constitution. Yet

Brown Inc., 1853), IX, 193-200; Journal of the Conventions Framing the Constitution of Massachusetts, 1779-1780 (Boston: Dutton and Wentworth, 1832), 5-80.

¹⁸Morison, "Struggle over the Adoption of the Constitution," 369, 386; Allen Nevins, The American States During and After the Revolution, 1775-1789 (New York: MacMillan Co., 1924), 175-182.

the fact that there was more opposition regarding religion indicated that the real issue of constitutionality took a back seat to a voicing of religious prejudices. Nevertheless, most parts of the Constitution passed with more than sufficient majorities including the sections on voting and officeholding qualifications.¹⁹

With the approval of the Constitution of 1780, the wealthy interests solidified their control of state politics. The new charter could not be amended for fifteen years and established property qualifications higher than in the colonial period. The mercantile interests had used a system of divide and conquer to push through the conservative document. By giving the people an opportunity to discuss and amend, there was an opportunity for western interests to object to the framework of government. A second convention assuming the large order of rewriting and ratifying was made more palatable by providing for new elections of members. Similar to the arguments put forward by the Federalists, the new constitution with a system of checks and balances and separation of powers was a preventer of tyranny and a promoter of government efficiency. Needless to say, the tyranny was really unrestrained democracy and the efficiency was a bicameral legislature.

¹⁹ Morison, "Struggle over the Adoption of the Constitution," 390-2; Francis Thorpe (ed.) Federal and State Constitutions (Washington: U. S. Government Printing Office, 1909, III, 1889-1911.

Massachusetts was the last state to adopt a new "revolutionary" charter; yet, the finished product was more conservative than all other state constitution.²⁰

Approval of a constitution did not eliminate all the agitation in the western counties, but due to the fiscal policy pursued by the conservative leaders, the protests by the farmers were more economic than political. The main program of the legislature at the conclusion of the war was to enact a conservative revenue policy--the rapid redemption of the public debt. The merchants had a special interest in both the state and national debt, and their influence over legislation was obvious. The state was enjoying a high tide of prosperity and the program at the time did not seem so preposterous. First, Massachusetts appraised her interest-bearing treasury notes, not at their depreciated value, but at their face value when computing the state debt. This policy actually doubled the state's indebtedness and gave some individuals who had purchased the notes at a depreciated value unmerited gains. Second, the General Court passed a series of acts in 1781 which consolidated the public debt and moved up the date of termination from 1788-89 to 1786-89. Later in the spring the Court created consolidated notes which were in exchange for old paper money and certificates. These certificates which bore compound interest rates payable in specie equalled \$4,605,500. In July additional notes

²⁰East, "Critical Period," 353; Morison, "Struggle Over the Adoption of the Constitution," 362, 384.

equaling \$833,700 for soldiers back pay was approved by the legislature. In other words, Massachusetts had taken as her goal to pay off her public debt totalling \$5,439,000 by 1789. Interest alone from July, 1782, to October, 1786, would total \$334,500 in hard money.²¹ Because the state government pursued a restrictive currency program by stopping the printing of paper money and consolidating the notes already in circulation, the farmers protested the inequity of the state's tax structure. Those who could not afford it were paying the most because taxes were primarily based upon lands and polls. In November, 1786, the General Court declared that the estates paid about two-thirds of the state's taxes. When the state legislature appropriated money for expenditures, the State Treasurer automatically issued warrants to the counties and towns to collect the revenue. County courts meeting in quarterly sessions assessed the value of each man's real estate; the sheriff collected the taxes. The other form of direct taxation was the ratable poll or head tax on all males over sixteen. The General Court also announced in 1786 that one-third of the state debt had to be raised by ratable polls. Because Massachusetts levied enormous taxes between 1780 and 1786, direct taxes averaged more than three pounds a year for each of the 90,000 adult males in the state. The farmer was paying a third of his annual income in taxes.²² Consolidating

²¹Ferguson, Power of Purse, 245; Dewey, "Economic Conditions," 352; East, "Critical Period," 355.

²²Nettels, National Economy, 86-7; Dewey, "Economic Conditions," 348-9; Taylor, Western Massachusetts, 138-9; Merrill Jensen, The New Nation: A History of the United

the state debt was the easiest part of the financial program instituted by the legislature. Collecting the revenue to pay the state debts proved to be the most difficult task.

CHAPTER III

Because the Massachusetts government after 1780 was more responsive to the demands of the mercantile interests than to the agrarian interests, the state's fiscal program was closely correlated to the commercial conditions of the times and the desires of the merchants. During the 1780's two administrations dominated by merchant governors, John Hancock and James Bowdoin, rose to power. Hancock, who was more popular with the agrarians than with the commercials, pursued a moderate fiscal policy so as not to lose his popularity with either group. The first order of business for the new government in 1780 had been to pass a law instituting an annual tax levy of \$240,000 to be collected over the next seven years and payable in specie only. The revenue collected was to be used to pay off outstanding notes and the interest on loans which were mostly in the hands of the mercantile-creditor class. The agrarian representatives to the General Court were quick to oppose this increased tax load and worked to enact laws levying taxes on commerce. Circumstances were in their favor. The Court had to find an additional tax source a year later because direct taxation was not bringing in enough revenue. In November, 1781, the legislature levied a moderate excise tax upon spirits, teas, and carriages to pay the interest on state securities. Cider and brandy often made

by western farmers were defined as spirits according to the act. The western farmers protested the inequity of not taxing real luxuries. The first tax on imports was levied a year later. It was not protective enough to disrupt commerce; however, the preamble of the act was apologetic about the injurious nature of the policy but stated that the duties were to be collected only until six months after the peace. Generally speaking, few articles were singled out for special duties and the rates on most commodities were between 2½ to five percent. The merchants were apparently sure that they could pass the tax on to the consumer in the retail prices.¹

When the war ended and the British ships began to compete with the Massachusetts carrying trade, the regulation of commerce took precedence over the collection of revenue. The state's attitude was reflected by her delegates to the Continental Congress. Although other complex issues and motives were involved, Gorham, Gerry, and King worked to get national laws and foreign commercial treaties favoring American commerce. The impost or duties on imports was the first opportunity by which the delegates had a chance to work for their state's advantage. Nathaniel Gorham, a Charleston merchant, openly endorsed the impost program which gave more power to the federal government to regulate commerce. Soon after he entered Congress, Gorham attended a meeting of "nationalists" which

¹Dewey, "Economic Conditions," 347; Jackson T. Main, The Anti-Federalists Critics of the Constitution, 1781-1788 (Chapel Hill: University of North Carolina Press, 1961), 85-6. Hereafter cited as Main, Anti-Federalists.

included Alexander Hamilton and James Madison, delegates from New York and Virginia respectively, at the home of Thomas Fitzsimmons, a Philadelphia merchant. Knowing that the war was drawing to a close and that the previous fiscal program of the Superintendent of Finance, Robert Morris, had failed, the group came to a general agreement on what proposals to make to Congress on federal finances. They agreed to limit Congress to requesting a second impost from the states rather than seeking an amendment to strengthen the Articles on the federal government's power to tax. Learning from the failure of the impost of 1781 which had been approved by all states except Rhode Island, the committee limited the impost to a period of twenty-five years and allowed the states to choose the collectors. In an attempt to obtain a steady source of revenue, they asked that states commit long-term taxes for federal purposes. Seeing the opportunity to regulate trade and collect federal revenue, Gorham's attitude towards the program was favorable and pointed. On the floor of Congress in January, 1783, he opposed levying interest on states which had defaulted in requisition payments. He also opposed a tax on salt because such a levy would hurt New England fisheries. According to Madison's account, he thought that Congress would best confine their attention "for the present to an impost on trade which had been carried so far towards an accomplishment and to remove the objections which had retarded it. . . ."²

²Gaillard Hunt (ed.), The Writings of James Madison (New York: G. P. Putnam's Sons, 1900), I, 347. Hereafter cited as Hunt, Madison.

Gorham also mentioned limiting the terms, letting states nominate the collectors, and appropriating a specific amount. In a letter to Caleb Davis, a state legislator in 1783, he predicted that without the impost, "the Confederacy would dissolve."³ Gorham supported the national program for his state's benefit. Elbridge Gerry also favored the impost and desired to use the issue for political purposes. In September, 1783, he wrote to the Committee of the Massachusetts Assembly headed by Samuel Adams that he had warned Congress that until the remonstrances from Massachusetts were redressed, their constituents would not approve the impost. The state's demands were the reducing of salaries and expenses of the federal government, the honoring of old emissions by Congress, the establishing of a civil list, and the granting of commutations to the retired Continental officers. Gerry concluded that each state had a constitutional check over the Congress by withholding grants until justice was obtained.⁴

These sentiments could have been enough to prevent ratification of the impost by Massachusetts in the critical days of debate. Samuel Adams, according to Stephen Higginson who was another delegate to Congress, suppressed the letter in a fit of mere "forgetfulness" and, in his opinion, allowed the

³Ferguson, Power of Purse, 166; East, "Critical Period," 368.

⁴Edmund C. Burnett (ed.), Letters of Members of the Continental Congress (Washington: Carnegie Institute of Washington, 1936), VIII, 296-7. Hereafter cited as Burnett, Letters.

measure to pass in "an apparent zeal for the public good on this occasion."⁵

Caleb Strong and Rufus King were both members of the state legislature when the Congress called for the impost of 1783. No records are extant for Strong's participation in the ratification; however, King rose to a place of leadership by advocating the ratification of the impost. The mercantile interests and the agrarian interests had reversed their positions on the impost. The commercials had opposed the first grant without success in 1781; but they now favored the new bill because it was a step in regulating national trade. They also knew that the impost would be a consistent source of revenue to be used to pay off the national debt in which they were vitally interested. King continued to work for the passage of the impost even when he became a delegate to Congress meeting in New York, 1786. In a letter to Gerry in August of that year, he wrote that he "had not been the last man in urging the adoption of this Measure."⁶

Strong's position on the impost cannot be determined; however, his knowledge of Massachusetts commerce was attested by the fact that he was chosen to serve on a joint committee to give Thomas Jefferson, United States Commissioner to France,

⁵James T. Austin, The Life of Elbridge Gerry with Contemporary Letters (Boston: Wells and Lilby, 1828), I, 414-5. Hereafter cited as Austin, Gerry.

⁶Fuess, "King," D. A. B., V, 389; Main, Antifederalists, 86; Burnett, Letters, VIII, 454.

information about the state's trade. Strong was appointed along with James Lowell by the Senate in June, 1784, to serve this function, but the commission did not meet because the House of Representatives failed to appoint their three representatives.⁷ The significance of the nomination was that Strong, who came from the Connecticut River Valley, was chosen instead of eastern members who should have known more about commerce than a western member.

When the other states moved slowly in ratifying the impost, Massachusetts in 1784 moved on its own to protect the state's trade. The General Court enacted legislation which favored Massachusetts shipping more than protecting the state's infant industries. Rates on paper, candles, soap, linseed oil, leather, beef, and pork were levied at 2½ to 7 percent. While finished goods such as saddles, boots, and plated-ware were taxed 12½ percent, the rates on raw products were hardly protective while the moderate rates on finished goods covered only a few luxuries. The real core of the act was the section on British shipping. Rates on goods imported on English ships were twice those rates fixed on goods imported on American vessels. Massachusetts further exacted duties on the weight of British ships entering her ports at five to seven shillings per ton or for the average merchantman 500 to 1,000 pounds. The act was defective

⁷ Julian P. Boyd (ed.), The Papers of Thomas Jefferson (Princeton: Princeton University Press, 1953), VII, 324n.

because British ships went to states without these restrictions and transferred their goods to American ships.⁸

After James Bowdoin, a Boston merchant, replaced Governor John Hancock in 1785, the state began a more aggressive program to correct the destitute condition of Massachusetts commerce. On April 15, 1785, Boston merchants drafted an address to Congress pointing out the distressing situation of trade. A committee was to call upon the state legislature to get the Continental delegates to work for a systematic regulation. One other program of the group was to establish Committees of Correspondence to write merchants in other states to get their cooperation for action. Also, mechanics and artisans of Boston adopted the same stand a month later. John Adams in England reported that these published sentiments caused some reaction in England for a commercial treaty.⁹ But as the situation progressed this hope proved too optimistic.

Governor James Bowdoin strengthened by these petitions addressed the legislature on May 31, 1785, on the subject of commerce. He said that the legislature must be aware of the restlessness of the people and the degenerate state of foreign trade. He stated that there was an extravagant use of imported goods which caused an unfavorable balance of trade in all states. England managed her commerce according to her own

⁸Dewey, "Economic Conditions," 349-50.

⁹McMasters, History of U. S., I, 257.

interests; therefore, America had the right also, but some states refused to grant Congress the power. This caution might be due to the fear of delegating powers to Congress. He reasoned that the experience of the present situation had shown that it was necessary to grant Congress control of trade even if limited for a certain period. He then suggested that the states appoint delegates to decide what powers should be given Congress in order to control commerce. After some debate, the General Court passed a resolution that a convention of delegates from every state be called to revise the Articles. The Governor was instructed to write to the other state executives and urge passage of laws to hinder the policy of Great Britain. From documents which are available, New Hampshire was the only state which reacted favorably to the letters which Bowdoin sent to the other state executives. Even so, the state delegates to the Congress failed to abide by their instructions.¹⁰

The failure of the Massachusetts delegates to follow their instructions needs some explanation because their actions and opinions indicated the level of their constitutional thinking at this critical point in their state's history. Gorham and Strong were not delegates, but King and Gerry were sitting in Congress along with Doctor Samuel Holton. Gorham had been re-elected in June, 1785, but would not take his seat until the beginning of 1786. Strong was sitting as

¹⁰MoMasters, History of U. S., I, 256-59.

a state senator in the General Court. Unfortunately, no records are available of their opinions on commercial regulations. However, in the public and private correspondence of King and Gerry, both men show they favored and worked for commercial regulations, but they opposed general amendment of the Articles of Confederation. The paradox of supporting the former and not the latter was evidence of the level of thinking of these two delegates on constitutional change. In April, 1784, Gerry had reflected his state's interest in demanding a national system of commercial protection. He presented a statement in which he reported that Great Britain had adopted restrictions destructive to American commerce to the West Indies. He observed to his colleagues in Congress that unless Congress "be vested with powers competent to the protection of commerce, they [states] can never command reciprocal advantages in trade; and without these, our foreign commerce must decline and eventually be annihilated."¹¹ Gerry got a chance to implement his report when he was appointed to a Congressional committee in December, 1784, which was to investigate foreign and interstate trade. The committee reported in February of the following year that Congress should be vested with powers to regulate trade by placing duties on imported foreign goods. This proposal was a call for granting Congress the power to tax. The act was to be

¹¹Beard, Economic Interpretation, 95-6 cited from Sanderson, Biography of the Signers (1831 ed.), I, 230.

in force for a limited number of years and allow the states to use the tax collections. Nine states had to approve the ordinance to put it into effect.¹²

In the communication exchange between Gerry and his fellow delegate, Rufus King, over the passage of this controversial commerce-revenue package, both men displayed cautious optimism. When Boston mobs in the spring of 1785 rebelled against the British trade monopoly and imported goods, Gerry wrote King, "You will see by the papers, the Spirit of the people at Boston, I am happy to see things in this situation."¹³ In a return letter, King reported on May 1, 1785, that the Whig merchants of New York would make similar opposition to the unloading of British goods. He then added that he favored the use of more moderate methods.

If this well-founded uneasiness is attended to by wise and moderate men, in the several States, it may be improved to purposes most beneficial, to our national commerce . . . too much precipitancy may injure as moderation, and delay have ever served our true interest.¹⁴

One month later, Gerry and King's optimism was choked by disappointment and frustration. There was a great uneasiness among the merchants and traders in New York, reported King, because only eight states had complied with the resolution. Having second thoughts, King wondered if the act granted

¹²Burnett, Letters, VIII, 13, 16.

¹³Ibid., 108n

¹⁴Ibid., 108.

the power to prohibit, not to regulate trade. He asked if the provision would have been enough to remedy the mischiefs to commerce.¹⁵ Gerry indicated his disillusionment of the whole affair when in his return letter he stated that the set was the best which could be obtained at the time. Although the ordinance was probably vastly inadequate for the needs of the day, he believed that the problem would have to work itself out naturally. "If Congress and the Legislatures have not sense sufficient to rectify the commercial Evils, they will remedy themselves."¹⁶ Gerry obviously favored letting the natural course of the economy correct the problem rather than tinker with the Articles.

Within the context of recent defeat, the Massachusetts delegates had received the instructions of the General Court to call for a convention to make "such alterations and amendments as shall render them . . . conformable to the Spirit of the Confederation."¹⁷ The recent failure could have been a reason for the refusal of the delegates to present the Court's resolution. Samuel Holton, a future Anti-federalist, wrote to the Governor in August stating that the prevailing opinion "gave us no cause to expect the adoption of the plan proposed by the Legislature."¹⁸

King followed a similar line of argument when he wrote to a family friend, Daniel Kilhamy, in July. King

¹⁵Burnett, Letters, VIII, 121.

¹⁶Ibid., 121n.

¹⁷Ibid., 189n.

¹⁸Ibid., 188-9.

described the problem of conciliating all factions of the country to get the passage of regulatory laws. He was very critical of the merchants who were complaining that all their grievances originated with the British nation; yet, they were responsible for excessive importations on credit. King continued that those who stated Congress must have more power or commerce would be ruined did not comprehend the national picture. The Southern states were by nature free traders and, therefore, opposed any commercial treaty or regulations. As long as the Eastern states would delegate powers to Congress to regulate trade and the Southern states would not, King saw that there was no chance for unanimous agreement needed to amend the Articles.¹⁹

The primary reason for the rejection of their order from the Legislature was the conflict in practical politics between the delegates and Bowdoin. The Governor, supported by the eastern mercantile interests, had proposed amending the Articles by the use of a general convention. On September 13, King on behalf of Gerry and Holton, wrote a detailed explanation of their reasons for delaying the instructions.²⁰ King stated that many were of the opinion

¹⁹Charles R. King (ed.), Life and Correspondence of Rufus King (New York: G. P. Putnam's Sons, 1894), II, 605-6. Hereafter cited as King, Life of King.

²⁰The original letter was lost so there is some confusion about who wrote the letter. Burnett favors Gerry and C. King favors King. I believe it was King because there are similarities between this letter and the one King sent to Nathan Dane. See footnote 23.

that states were not experienced enough to determine the extent of powers to be vested in the central government. If there was a necessity to strengthen the commercial powers of Congress, King wanted to know the answers to four questions. First, should these powers be temporary? King suggested a fifteen year limit because that length of time was best to promote foreign commercial treaties. Second, should not the adoption of the temporary powers depend upon their effects? At this point King speculated that any delegation of power to Congress could not be revoked; therefore, any threat to liberty must be sufficiently understood and digested. Third, should any alteration be made by a method which was not expressly pointed out in the Confederation? King judged that the convention method might be unconstitutional according to the Thirteenth article and that any provision proposed by this method would be of doubtful passage. Fourth, should the convention be authorized to revise the Confederation generally or only for express purposes? A call for general revision could destroy the republican principles for which the Revolution was fought. King reported that there were friends of an aristocracy who would exert themselves to strengthen their control over a new government. He concluded that the inconveniences of the present Confederation were preferable to the risk of general dissention which might approach anarchy and prepare the way for a ruinous system of government.²¹

²¹King, Letters of King, II, 60-5.

Constitutional revision of the Confederation was not a program which Gerry and King desired in 1785. The sincerity of their convictions was indicated in letters during the month of September to two Massachusetts observers on the spot. King wrote to Nathan Dane, a member of the General Court, asking him to re-examine the motives for passing the resolves to revise the Articles.²² King conceded that additional commercial powers vested in Congress with proper restrictions and for a limited time were greatly desired. He agreed with the most republican and best informed men in the country who favored a limited period of time. "If the confederation," he concluded, "is generally submitted for revision, the result would be less republican than the present one."²³ Gerry also expressed his fear in amending the Articles in a letter Samuel Adams, presiding officer of the state Senate.

I am happy to find that We unite in Sentiment in the Necessity of vesting Congress with more commercial powers: and flatter myself we shall not differ in making them in the first Instance temporary, and in opposing a general Revision of the Confederation. it [sic] is difficult to determine on a good Expedient, to remedy our present Evils, but We shall attempt it, if Time permits.²⁴

In the spring session of the legislature, the state representatives had second thoughts about their resolution of 1785 and accepted the reasons given by the delegates. The state lost its chance for leadership in a movement to revise the Articles.

²²King, Letters of King, II, 67-70.

²³Burnett, Letters, VIII, 268n.

²⁴Ibid., 224.

The General Court in the winter of 1785 had taken the initiative to make a final attempt to restrict ruinous British trade on a state scale. The first part of the law prohibited British vessels from loading American goods. Massachusetts wanted to export United States goods only in American ships, that is, Massachusetts ships. The second section of the law was to some degree to protect her founding industries and at the same time, restrain extravagant expenditures so as to redress the imbalance of trade. The act stated that it was

highly necessary for the welfare and happiness of all states, and more especially such as are republican to encourage agriculture, the improvement of raw materials and manufactures, a spirit of industry, frugality and economy, and at the same time discourage luxury and extravagance of every kind.²⁵

Fifty-eight commodities were prohibited and an overall increase of duties of twenty-five percent on specific articles was levied.²⁶

King viewed with favor the developments in his home state to get other states to agree to regulate outside the authority of Congress. He reported to John Adams in the winter of 1785, that New Hampshire and Massachusetts had passed Navigation Acts restricting commerce from foreign states. He hoped that Rhode Island, New York, Pennsylvania, Maryland, and South Carolina would do likewise because "the

²⁵Dewey, "Economic Conditions," 350.

²⁶Ibid.

merchants throughout all the states are agreed; they urge the necessity of commercial regulation. . . ."27

Gorham did not share King's enthusiasm for the Navigation Acts. Massachusetts eventually repealed the law in July, 1786, because she did not get any cooperation from her neighboring states. Gorham had favored repeal as early as June when in a letter to Caleb Davis, he observed that the law was no good without the other states cooperating and that the restrictions were harmful to the internal interests of the state especially since Maine was advocating separation from the Commonwealth on this issue.²⁸ Gorham may actually have wanted the full pressures and demands of the country's mercantile interests brought upon the delegates to the forthcoming Annapolis Convention, a commercial convention sponsored by Virginia, and any plan whereby the states would assume a federal function (such as they did in funding the national debt) might wreck the chances for getting a stronger national union. Early in 1786 Gorham had tried to get Caleb Davis to support another proposal for a federal convention. He also desired Davis to use his influence to get the Court to appoint delegates to Annapolis. As Gorham saw the politics of the situation, the real purpose of the convention was to accept an invitation by the South. He stated that

²⁷King, Life of King, I, 115.

²⁸East, "Critical Period," 372n.

we have Men among us who have sufficient commercial knowledge, but are somewhat Antifederal in their opinions. You will therefore Judge how necessary it is to send Men of good Federal ideas and that if they are not so they may overthrow the whole plan.²⁹

Whether Gorham would have nominated Gerry, who was then sitting in the General Court, to attend as a worthy "Federalist" is doubtful, but in any case, the man from Marblehead refused to accept a nomination to attend on the grounds that its competence was too restricted.³⁰ His actions would suggest that Gerry wanted stronger measures in other problems of national concern. Unfortunately no document exists to verify or elaborate this point.

King's views on Annapolis were ambivalent compared to Gorham's because King was fearful of too great a revision in the Articles. To John Adams he wrote that the esteemed group of men gave reason to hope that "the result would be a union of opinions on the subject of commercial regulations through all the states."³¹ To personal friends such as Jonathan Jackson, he stated that he was skeptical about the measures which would be proposed and suspicious of the motives of the Virginians. He thought that the majority of Southern planters favored regulation by individual states rather than a general system under discussion at Annapolis.³²

²⁹East, "Critical Period," 373.

³⁰Morison, "Gerry," D. A. B.

³¹Burnett, Letters, VIII, 354-5.

³²Ibid., 388-90.

King's fear of the aristocrats of the South continued for the rest of the year, but changes in the national scene caused him to reconsider the product of the convention. In his letters to Gerry during the following months, he spoke about the "visionary projects" before Congress and the rumors about a general revision of the Articles. To offset these problems, King wished that more New England states had representatives in Congress and that he desired a conference with Gerry.³³ After being "the daily witness of the humiliating situation of the federal government: without power, destitute of revenue, pledged for engagements, and without ability to execute them,"³⁴ King wrote Jonathan Jackson about the various opinions in Congress on the federal government. The first widely held opinion was that there was a need to pull together the divergent interests of the opposing states. This group believed that the Confederation was born in a common calamity and that there should be new pressure to reform the government. A second attitude which King labelled "by no means the least respectable"³⁵ held that nothing could be done to the original plan because there were too many errors. Because this group believed that a league between small, unequal sovereignties never did nor could work, King reported that their plan called for the complete

³³Burnett, Letters, VIII, 356, 279, 384, 393.

³⁴King, Life of King, I, 611.

³⁵Burnett, Letters, VIII, 458.

reorganization of the number and the size of states and confined their responsibilities to internal affairs. The federal government would be composed of a "vigorous Executive, wise Legislature and independent Judicial,"³⁶ but King was careful to note that these remarks were not meant to authorize monarchy which he opposed. In King's mind, both of these schools of thought meant that "wise and prudent men discerning the imperfections of the present Governments, do not in season and without fear, propose suitable remedies. . . ." ³⁷ This statement indicated that King felt public opinion was against a change in the Articles. Even if Annapolis would propose an exclusive plan for the regulation of trade, King thought that constitutional reform had to be extensive.³⁸

When King heard the recommendations made by the Annapolis Convention, he withheld unqualified support for a convention. He was in Philadelphia with James Madison to plead with the Pennsylvania legislature to approve the requisition of 1786 when Hamilton and Egbert Benson, New York delegates to Annapolis, came through town. In a letter to Governor Bowdoin, King stated that he was not enthusiastic about a general revision of the Confederation but he added, "the Friends of a good federal government through these states looked to it the Philadelphia convention with anxiety and Hope. . . ." ³⁹ Apparently King had accepted the opinion

³⁶Burnett, Letters, VIII, 458.

³⁷Ibid., 459.

³⁸Ibid.

³⁹Ibid., 468.

of John Adams that Congress was a better agent for change than a convention. King wrote to Adams that "Congress can do all a convention can, and certainly with more safety to original principles."⁴⁰ King reinforced this belief when he spoke before the General Court in October, 1786. Within the framework of the Articles, there was no legal provision for a national convention according to King. The Congress and then the state legislatures had exclusive power to debate and propose amendments to the Articles, and then the people must ratify.⁴¹ King would be converted to support the convention by events in western Massachusetts.

Caleb Strong was also hearing pessimistic arguments about the Annapolis Convention from his Hampshire County friend and delegate to Congress, Theodore Sedgwick. In August, 1786, Sedgwick wrote Strong that Congress had not made any decision on its commercial policy in regards to foreign affairs. He believed that Annapolis would fail because there were no constructive propositions to be argued. In his mind, the convention was only a false measure presented "with an intention of defeating the enlargement of the powers of Congress."⁴² Due to the lack of the cooperation of the South on matters of commerce, Sedgwick proposed that the Eastern States consider framing a separate confederation. He

⁴⁰Burnett, Letters, VIII, 475n.

⁴¹King, Life of King, I, 144.

⁴²Burnett, Letters, VIII, 415.

wrote:

It becomes us seriously to contemplate a substitute; for if we do not controul [sic] events we shall be miserably controlled by them. . . . This language will appear to you I am affraid [sic] as evidence of pusalanimity,⁴³ but I do not think that in politics I am timid.

If we can draw an inference at this point, Strong may have at least agreed with Sedgwick, if not been in favor of other changes in the federal government.

The idea of a subconfederation made up of eastern states crossed the mind of King in the winter of 1786. He rejoiced in the hopes that seven or eight eastern states would form a subconfederation which might allow Congress to regulate trade uniformly throughout it. He believed that this system would be more advantageous than all the treaties and alliances in the world.⁴⁴ While he doubted that the southern states would relinquish their partial and unfederal policy concerning commerce, King believed that if once "a power is brought into existence under the authority of the States, who may generally revise the Confederation, farewell to the present Republican plan."⁴⁵

Although the Massachusetts delegates worked to increase the commercial prosperity of their state, they did not want completely to revise the Articles at the same time nor for the same reasons. Influences such as fiscal policy and the

⁴³Burnett, Letters, VIII, 415.

⁴⁴Ibid., 389.

⁴⁵East, "Critical Period," 371.

internal affairs of Massachusetts caused the delegates to desire revision of the federal government. From their experience in serving the state, the delegates became increasingly aware of the faults of the Confederation. Gorham earlier than King or Gerry converted to the "nationalist" program. Eventually, King observed the ineffectiveness of purely state measures to meet national problems. Gerry and Strong were moved by the internal disruptions in western Massachusetts which threatened disorder and radicalism to support a constitutional change.

CHAPTER IV

Western Massachusetts during the 1780's had become the scene of continuous protests against the government in Boston. The cause of the unrest stemmed basically from the aggressive taxation policy of the state government during a period of economic dislocation. The farmers had a legitimate grievance because there was a scarcity of money. The agitators in the western counties called for the General Court to suspend tax collections, to revise public salaries, and to enact stay laws. Joseph Hawley, a member of the General Court from Northampton, wrote to Ephraim Wright in April, 1782, about his observations of the anti-government feelings in the west. He reported that the growing uneasiness in the country was due to the government's dedication to pay for public securities by all future taxes for which the services were long ago given. Yet the same securities could not be used to pay the taxes. Hawley continued by stating that they were a "fierce set of men, who speak with rage and flame" with whom the government would have difficulties unless their grievances were heard.¹

Hawley's comments about threatened mob action became a reality when Samuel Ely, a disqualified clergyman, led a

¹"Letter of Joseph Hawley to Ephraim Wright," American Historical Review, XXXVI (June, 1931), 776-8.

mob in April which threatened the Court sitting at Northampton. Ely was arrested and the insurgents dispersed. While in court facing charges of sedition, Ely used the size of salaries as a basis of his complaints against the state constitution and government.

The Constitution is broke already. The Governor has too much salary, the Judges of the Superior Court have too much salary, we can get men that will ride the circuit for half the money . . . the General Court should not sit; we will pay no more respect to them than puppies.²

The threat of insurrection forced the Legislature to back down and to pass some laws to appease the rebels. One law made it possible for taxpayers and debtors to pay their debts in kind or goods rather than by legal tender. Governor John Hancock, who was very sensitive to the grievances of his constituents, urged that the tax laws be firm, but he failed to administrate them efficiently. Between 1780 and 1785, only one-fifth of the tax levies were collected. The General Court eventually suspended collections in 1785 and in that same year, they did not have enough to meet the expenses of the government. Eventually, Hancock chose to step down from the Governorship rather than lose his popularity.³

It was with Hancock's resignation in 1785 that Boston merchants were able to get one of their numbers, James Bowdoin,

²James T. Adams, New England in the Republic, 1776-1850 (Boston: Little, Brown and Co., 1926), 132.

³MacDonald, E. Pluribus Unum, 137-9; Dewey, "Economic Conditions," 351.

elected to the Governorship. Bowdoin's tax program was as active as Hancock's had been inactive and demonstrated that the administration favored the mercantile-creditor interests. Payment of the public debt became the primary motive of the tax program. Stephen Higginson, a Boston merchant, reported to John Adams in December, 1785, that Massachusetts had become very respectable, especially in money matters. Asserting that their government was much more liberal than neighboring states, he enclosed a report which was "calculated not only to provide amply for the Interest on the State's Debt, but to reduce the principle."⁴ He had strong hopes that it would pass the next session and reported that it was the "general Sentiment that we can and ought to gradually to reduce the Debt."⁵

Under the administration's leadership, the legislature passed a series of strong tax measures. In his address to the legislature in May, Bowdoin urged not only trade restriction but also legislation to pay off the state debts in the required time. As it will be recalled, the General Court responded by increasing the poll tax and passing an excise tax and a stamp tax. The Court also gave the Governor power to remove all county sheriffs who refused to force tax collectors to do their duty. Bowdoin even proposed that

⁴"Letters of Stephen Higginson," Annual Report of A. H. Association: 1896, I, Edited by J. Franklin Jameson, (Washington: U. S. Government Printing Office, 1897), 732. Hereafter cited as "Letters of Higginson."

⁵Ibid.

farmers unable to pay their taxes in cash should cut down trees, burn them, and turn the ashes over to the state agents who would apply the selling price to the farmer's tax account. The new administration insisted on tax collections even if the payments were in kind.⁶

Another legislative program which reflected strong creditor interests was private debt collection. The legislature reimposed strict rules on those who defaulted in their payment to creditors by forcing them to sell their personal and real property. A debtor was liable to a jail sentence if the receipts from a public sale of his goods failed to pay the creditor's claim. With this new law anxious creditors were able to collect debts which were delayed by tender laws passed in Hancock's administration. In Worcester County there were 2,000 suits and the conviction rate was very high.⁷

To the western farmer, the government's favoritism towards creditor interests created hostility which first took the form of peaceful petition and then active violence. County conventions, a device used during the Revolution, continued to be used by the western farmers as a vehicle of protest long after 1775. The eastern seaboard conservatives were disturbed by the excessive use of the conventions in the west. David Sewall, a selectman from Essex County,

⁶McMasters, History of U. S., I, 301.

⁷Nettels, National Economy, 87.

commented in October, 1786, that whenever there was a measure in the General Court upon which an individual disagreed, the member returned to his constituents to misrepresent the doing of the legislature. This small politician would say that the people must now act or be undone.

[They] Stir up a County Convention, and by Trumpeting Lies from Towne to Towne get one collected and consisting of persons of small abilities--of little or no property . . . of no great Integrity--and these Geniuses vainly conceiving they are competent to regulate the affairs of State--make some hasty incoherent Resolves and these end in Sedition, Riot and Rebellion.⁸

Two years before Sewall wrote these comments, conventions held in Suffolk and Worcester counties censured and condemned the state Senate and the courts. They called upon the common people to set up a new legislature more responsive to their needs.⁹ A Bristol County convention petitioned the General Court for paper money as well as other reforms: lower taxes on land and polls, reduction of salaries of state officials, removal of the legislature from Boston, abolition of the state senate, taxation of luxuries, and the ending of foreclosures by abolishing or adjourning courts.¹⁰

When all of the proposals advocated by the county conventions in 1784 and 1785 were defeated by the Legislature, the western counties were ready to take more direct action.

⁸ McMasters, History of U. S., I, 305.

⁹ Ibid.

¹⁰ Nettels, National Economy, 87.

After a year of harassing the judges and preventing them from holding the Quarter Sessions in August, 1786, the debtors under the reluctant leadership of Captain Daniel Shays, a retired revolutionary soldier, kept four western courts from sitting. Governor Bowdoin issued a proclamation against unlawful assemblies and called out the militia. Shays led the rebels in an attack on Springfield in January, 1787. His two objectives were to capture arms from the federal arsenal and to prevent the state Supreme Court from indicting the insurgents for treason. The attack failed when 1100 men led by Shays broke and ran at the first volley of the militia's cannon. A fresh force under General Benjamin Lincoln, financed by loans from eastern merchants, arrived to pursue the routed mob through western Massachusetts. Eventually the rebels scattered into the surrounding states without ever effectively meeting the militia in a real battle.¹¹

All in all, the rebellion was a relatively bloodless affair, but it was a protest against intolerable conditions. The state exhibited both force on one hand and mercy on the other. Governor Bowdoin in September had urged laws to secure both the safety of the state and to rectify the grievances of the westerners. The General Court passed laws favorable to the taxpayer and the debtor. The use of personal property as tender for taxes was broadened to include forty articles.¹²

¹¹Taylor, Western Massachusetts, 128-168.

¹²Dewey, "Economic Conditions," 348.

In the spring elections of 1787 the people returned representatives sympathetic to the cause of the debtors. During the first session and the sessions for the next few years, the General Court passed a stay law, a temporary suspension of debt collections. They also reformed the legal fee system which had been fairly high. The direct tax levies were reduced and the state began to collect more revenue from an excise tax. Later, in 1789, the leaders of the revolt were pardoned and an amnesty act removed the fear of punishment from the followers. Prosperity returned and the concessions by the government lost their dramatic effect.¹³

The revolt by the western farmers had little effect in changing the internal structure of Massachusetts politics; but the rebellion had a significant effect in national politics. To Gerry and King, Shays's revolt was an event which convinced them that there was a need for a stronger federal government. Gerry who had steadfastly opposed any revision of the Articles was not visibly moved by the insurgents in the fall of 1786. Writing from Cambridge in December, he reported to King that the "Insurgents stopped the court at Worcester, but dared not approach Cambridge." In a matter-of-fact tone he added, "We shall see whether Mr. Shaise [sic] is to govern the Commonwealth or be branded as he is a daring Rebel. . . ."¹⁴ Events in Massachusetts

¹³Oscar and Mary Handlin, Commonwealth--A Study of of the Role of the American Economy, 1774-1861 (New York: New York University Press, 1947), 50.

¹⁴King, Life of King, I, 198.

must have changed his attitude because he accepted the General Court's appointment to go to Philadelphia in May. Gerry's communication with James Monroe in the summer of 1787 reflected his concern about the conditions in the country. He wrote that unless "a system of Government is adopted by Compact, Force I expect will plant the Standard: for such an anarchy as now exists cannot last long."¹⁵ Actually Gerry was not specifically writing about Shays's rebellion which had melted away but the general condition of the country which was filled with rumors of more revolts in different states. He wrote,

Gentlemen seem to be impressed with the necessity of establishing some efficient system and I hope it will secure us against domestic as well as Foreign Invasion.¹⁶

If Gerry's conversion over the revision of the Articles was rapid and somewhat superficial, King's conversion was gradual and soul-searching. In his first years in Congress, King had an optimism about the republican qualities of the Articles, but as he began to receive word about events in Massachusetts, he became more skeptical about the adequacy of the Confederacy. "What does all this mean?" he asked Gerry in August, 1786, when he heard about three county conventions. "Are our Countrymen incapable of a free Government--or does all originate from the defect of the federal Constitution?"¹⁷

¹⁵East, "Critical Period," 388.

¹⁶Ibid.

¹⁷King, Life of King, I, 188.

King answered his own questions when he wrote Theodore Sedgwich, a Berkshire conservative, in October that "the great Body of the people are, without Virtue, and not governed by any internal restraints of Conscience, there is too much reason to fear that the Framers of our Constitution and Laws; have proceeded on principles that do not exist. . . ."18

King mixed both animosity for the principles of the rebels with compassion for the followers of the insurgents. When King traveled to Boston in 1786 to make a report to the Legislature, he was appalled by the apathy among the citizens and the ignorance of the leaders about the principles of the rebels. In King's mind, the movement stood for the abolition of all debts and equal distribution of all property to all people. The safety of the Commonwealth was in jeopardy if the Government did not provide a remedy. The best remedy in King's view was a peaceful redress of grievances in the next session of the Court.¹⁹ He conceded that the state government may have pressed the subject of direct taxes "beyond what prudence would authorize."²⁰ With the Court sitting, he hoped that it would redress the legitimate grievances of the people and establish the honor and energy of government.²¹ While General Lincoln was dispersing the rebels, King remarked to Gerry that he hoped minute attention would be paid "to

¹⁸East, "Critical Period," 377-8.

¹⁹King, Life of King, II, 611-13.

²⁰Ibid., I, 190-1.

²¹Austin, Gerry, II, 7-8.

eradicating every seed of insurgency," yet punishment should be limited to leaders and not the "ignorant and misguided followers."²²

From his position in Congress, King thought of the revolt in his home state exclusively in the context of state politics. Writing to Gerry, he stated that the disturbances tested the authority of the state government and the state constitution. He said that he felt more important in Congress because the authorities acted with "vigour and spirit" to repress the insurgency.²³ Whether King applied the situation in Massachusetts to a national level is uncertain; nevertheless, his actions demonstrated that he was ready to call for a revision of the Articles. Other members in Congress noted that after the unrest in the state, the Massachusetts delegation (King, Gorham, and Nathan Dane) was more friendly and "looked upon foederal [sic] assistance as a matter of great importance. . . ."²⁴ However, an observer remarked that the delegation still "wished for a continuance of the Confederation."²⁵

King became increasingly concerned about the state of national affairs also. In January, 1787, he wrote Gerry:

It is most certain that things will not long continue in their present condition if foreseeing

²²Austin, Gerry, II, 7-8.

²³Ibid.

²⁴Edmund C. Burnett, The Continental Congress (New York: MacMillan Company, 1941), 673. Hereafter cited as Burnett, Congress.

²⁵Ibid.

the dangers which hang over us, we do not unite in measures calculated to establish the public happiness. . . ."²⁶

King was referring to the threat of anarchy and rebellion, and he warned Gerry to be careful who Massachusetts sent to Philadelphia. "The times becoming critical; a movement of this nature ought to be carefully observed by every member of the community."²⁷ A month later, King thought things were hurrying to a crisis. "Prudent and sagacious men should be ready to seize the most favourable circumstances to establish a more perfect and vigorous government." By February, 1787, King was inclined to support the Convention for the revision of the Articles more "for the purpose of watching, than from an expectation that much Good will flow from it."²⁸ When the report of the Annapolis Convention came up for debate on the floor of Congress a few days later, King moved that Congress should call a convention "for the sole and express purpose for revising the Articles of Confederation . . . to render the federal Constitution adequate to the exigences of government, and the preservation of the Union."²⁹ Apparently King conceded on the point of letting a convention propose amendments to the federal government and also on the point of calling for a general revision.

²⁶Austin, Gerry, II, 3-4.

²⁷Ibid.

²⁸Burnett, Letters, VIII, 541.

²⁹King, Life of King, I, 204.

However, King did not at this point support the Nationalistic program of eliminating the Articles. The wording of his motion restricted the Convention to recommending changes in the Articles rather than making alterations to form a national government. Whatever the product of the Convention, it still had to be approved by Congress and submitted to the state legislature for ratification.

Another important factor which led to King's change in attitude toward a convention was the action taken by the Massachusetts legislature. On February 22 the General Court approved the plan for the convention by an overwhelming vote. The members were well aware that the westerners considered them anti-republican. The trend of opinion in the United States was hostile to the dissolution of the Confederation.³⁰ King had written to Gerry that "every man who wishes to strengthen the federal Government, and confirm the Union, is represented as unfriendly to the Liberties of the People."³¹ After Shays's rebellion, financial interests took precedence over public opinion. Massachusetts merchants had a strong interest in the national debt because Massachusetts possessed about twenty percent of the federal debt. By 1791 about \$5,055,000 was held by some 1,480 Massachusetts citizens. About seventy-three percent of this debt was in the hands of about twelve percent of this group who were mostly from eastern towns, especially Boston. The Continental government had

³⁰King, Life of King, I, 137.

³¹Ibid.

issued loan certificates in 1780 to bring in revenue, but the certificates went instead to pay off the debts of the army, and thereby gravitated into the hands of the merchants. Eighty percent of the state's share of the debt was held by merchants, brokers, esquires, and professional men most of whom were not the original holders of the federal debt. By 1786 when New York and Pennsylvania were absorbing their share of the national debt, Massachusetts inflated state debt prevented her treasury from assuming no more than three percent of the state's share of the debt.³² Before the outbreak of insurrection, the eastern seaboard interests had been confident that the state could fund both the state and national debts. When Massachusetts ratified the impost of 1783, the state had lodged a formal protest against Congress's action of forcing "all creditors to look to the central government for payment."³³ But faced with the alternative of limited or devalued payments in paper money, the commercials now favored a convention. Theodore Sedgwick wrote to King:

Could we fund the public debt, which is our state's power, giving Security to the creditor and alleviating the burdens of direct taxation, we might prevent the vessel [the Confederation] in which we are at present embarked from going down until another was provided by the Philadelphia Convention. . . ."³⁴

³²Ferguson, Power of Purse, 69, 273-75, 232.

³³Ibid., 175-6.

³⁴King, Life of King, I, 224.

Stephen Higginson in his letter to Henry Knox, the Secretary of War, indicated that agrarian revolt had changed many minds in Massachusetts regarding the "expediency of increasing the powers of Congress, not merely as to commercial Objects, but generally."³⁵ He further stated that the danger of anarchy had showed us "the necessity of abridging the power of the States to controul [sic] or impede the measures of the Union."³⁶ The creditors' interests which controlled the state house had to look to the central government to pay both the state debt and the state's share of the national debt. Therefore, Rufus King reflected this change of attitude in Massachusetts by supporting the call for a convention to revise the Articles. Undoubtedly his abhorance of social radicalism represented by the ideology of Shays's revolt and his skepticism about the adequacy of the Articles to meet the crisis in national affairs facilitated his conversion too.

³⁵"Letters of Higginson," 743.

³⁶Ibid.

CHAPTER V

Fifty-four men with a variety of backgrounds and experiences met in Philadelphia to write the framework for a national government in May, 1787. Among these men were four delegates from Massachusetts whose political thoughts and actions had heretofore been largely regulated by the desires of their state. Now these delegates were assuming a broader, national role which put them above the direct restraints of state instructions. All had agreed that state and/or national events made it imperative that they strengthen the central government; otherwise, they would not have agreed to attend the convention. However, in the debates over the organization of the national government and the nature of the central government, to what extent did the delegates' experiences in their own state contribute to the constitutional ideas which they expressed in the convention? Obviously, these men were also motivated by other complex influences; nevertheless, this study attempts only to correlate state experiences with their constitutional ideas. Each man's contributions in the convention were varied and unequal, but on the whole, most of their comments were related either to state experiences or to experiences had while serving their state in national affairs.

Elbridge Gerry made the most comments of any in the Massachusetts delegation but his remarks seem to have been the least constructive as far as influencing the end result. At times his opinions reflected an agrarian influence; yet, he was so confounded by the social revolution in Massachusetts that he feared the excesses of democracy. In some cases his opinions were specifically favorable to mercantile-commercial interests, but he also had an aversion to an aristocratic tyranny. Gerry's constitutional ideas were a conglomeration of revolutionary ideals and of middle class interests. Because he often changed his mind in the course of debates, his proposals were vacillating and contradictory. Apparently, Gerry was unsure which ideology to support for fear of losing popular favor. He attempted to take a middle-of-the-road attitude on a subject where there were few alternatives. In the end he refused to support the Constitution on the basis that it was not democratic. His experiences in Massachusetts politics had shown him that the most popular choice was to support revolutionary republicanism.

When John Randolph of Virginia presented his plan for a national government, Gerry approved of the three branch structure because it was very similar to the Massachusetts arrangement. Although Gerry may have had a few doubts about the method of change, he voted with the majority to have a national government divided into three branches even though he had stated that this plan would annihilate the Confederation. His early emphasis in the Convention was in the method of change.

He was relying upon Congress to check any radical change in the central government. He stated that the distinction between "federal" and "national" was not as important as proposing a structure of government which would meet with the approval of Congress. The Massachusetts delegates were bound by their commission to revise the Articles as were all the other delegates.¹

After Gerry approved the three branches of government, most of his comments centered on the strict separation of powers. Gerry, using his knowledge of the Massachusetts Constitution, believed in a system of checks and balances. When James Madison proposed the combining of the executive and judicial branches into a Council of Revision, Gerry opposed the idea for several reasons. First, he favored the Executive remaining aloof from the "seductive sophistry of the judges,"² The Executive would be more impartial if it stood alone. Second, a combination of the two branches was too strong of a check on the Legislature. In Gerry's view, the Legislature would not enter into a contest against that powerful alliance.³ The system of checks and balances proposed was similar in arrangement to the Massachusetts' Constitution of 1780.

Gerry's familiarity with his state's constitution led him to propose some specific alterations to be made

¹Farrand, Records, I, 42-3.

²Ibid., 139.

³Ibid., II, 78.

within each department which came under discussion, for instance, the judiciary. The structure and role of the judiciary in Gerry's mind was to be very similar to that found in the Massachusetts constitution. Judges were to serve as expositors of the law but could be called in by the other branches to give advice on the framing or the administration of the laws. In the Convention Gerry said that he did not favor judges setting themselves up as guardians of the people by passing on the constitutionality of laws. From his viewpoint which was also that of the state, the legislature served to protect the rights and interests of the people. The judges merely explained the law. On a second idea concerning the appointment of judges, Gerry's view paralleled the structure incorporated in his state's charter. He favored the appointment of judges by the entire legislature rather than having only the Senate confirm the nominations of the President. In Massachusetts judges were chosen by the Governor with the consent of the Council and the whole legislature. He gave two reasons in the Convention which demonstrated his ability to reapply state experiences to a wider national scale. First, the Executive and the Senate could not be well-informed on all men. This illogical argument assumed that the more men involved in the choice, the better informed the body would be for a correct decision. Gerry's second argument was that the appointment by the President and the Senate did not give "satisfaction both to

the People and to the States"⁴ because the Senate was more biased towards state's interests than towards the people as a whole. Experience with the western farmers protest about the lack of popular will in the choice of judges obviously made Gerry cautious about supporting Senate-approved judges.⁵

Gerry's ideas about the national executive were also based upon his knowledge of the Massachusetts constitution of 1780. He knew that his state had one of the most powerful executives of all the states; therefore, his proposals never went further than his state experiences. He did not favor giving the national executive unlimited power. He opposed the absolute veto because he thought there was no need for this strict control over the legislature since it was comprised of the "best men of the community."⁶ Gerry did favor an executive veto which could be overturned by two-thirds of both houses of the legislature. This latter arrangement was taken from the government of the Commonwealth as was his proposal to add a council to the national executive. Although Gerry supported the principle of having a single executive, he suggested that a Council be annexed to the executive "to give weight and inspire confidence."⁷

⁴Farrand, Records, II, 82.

⁵Ibid., II, 74-5; Thorpe, Federal and State Constitutions, 1905-6.

⁶Farrand, Records, I, 98; Thorpe, Federal and State Constitutions, 1898.

⁷Farrand, Records, I, 66; Thorpe, Federal and State Constitutions, 1900.

The Council could advise the Executive and would be called into account for their opinions and impeached. Gerry's theory was that the Council was a "medium through which the feelings of the people ought to be communicated to the Executive."⁸

One of the very best examples of Gerry's transfer of state experiences onto a national scale was his final proposal for the nomination and election of the President. At first he opposed the election of the executive by the National Legislature because he reasoned that there would be too much intrigue and bargaining with the legislature to get good government. He suggested that electors should be appointed by national election districts. The state legislatures would nominate and the electors would choose the new Executive. Gerry conceded the flaw in his plan; popular opinion of the day would not allow the states being stripped of their powers. But his confidence in the people was so badly shaken by Shays's revolt that he was unclear what the role of the people should be in choosing electors; in any case he was utterly opposed to direct election because he considered the people too uninformed and too easily deceived. When the Convention set aside his proposal for the state legislatures to nominate Electors, Gerry moved that the state executives elect the President. He reasoned that if the people chose the first branch and the states chose the second

⁸Parrand, Records, I, 70-1, 74.

branch, the state governors should choose the national executive. He considered Governors beyond the intrigue of the National Legislature. This method also offered a strong attachment between state and national government, but it too was turned down by the convention. The final plan Gerry presented on July 24th was a carbon copy of the election of the governor in Massachusetts. He proposed that the state legislatures vote by ballot for the President in proportion to their state's population. If there were no majority candidate, the lower house was to select the two leading candidates and the Senate choose the President. In Massachusetts the people nominated on the local level, and if no person had a majority, the lower house by ballot would elect two out of the four who had the highest number of votes, and the upper house would choose the governor. Although none of Gerry's ideas was followed, he finally supported the proposal for an Electoral College; it at least kept the choice out of the hands of the people.⁹

In the convention's discussion about the make-up and election of the two houses of the national legislature, Gerry's speeches reflected the recent experiences in his state. He could tolerate the election of the lower house by the people if candidates met certain conditions. Referring to Massachusetts, he reported that the evils which the state

⁹Farrand, Records, I, 80, 91, 175-6; II, 100, 56-8, 101, 105-6, 109; Thorpe, Federal and State Constitutions, 1900.

experienced had come from the excess of democracy. "The people do not want virtue; but are dupes of pretended patriots."¹⁰ The attacks on the government were too radical in his opinion. He felt that he had been taught the "danger of the leveling spirit."¹¹ As a solution Gerry advanced the idea of election by the people if the candidates had to meet certain property qualifications so that they would be "men of honor and character."¹² The standards should be set high enough to exclude public debtors, army pensioners, and contractors. In Gerry's opinion protecting property was one object of government; therefore, setting up property restrictions could not be considered improper.¹³

Using Massachusetts as an example, Gerry proposed that the Senate be chosen by the state legislatures. He thought that the worst men got elected to the lower house of the state legislature because unrestricted suffrage let in the poor, the criminals, and the ignorant. Reiterating the fact that he was against aristocracy and monarchy, he conceded that the first branch had to be from the people, but the second branch should be made up of men of character and merit.¹⁴ He stated that the mercantile interests and stockholders would "be represented if the state legislatures choose the second branch."¹⁵

¹⁰Farrand, Records, I, 48; II, 114. ¹¹Ibid., I, 48.

¹²Ibid., 50, 56.

¹³Ibid., 125.

¹⁴Ibid., 132, 140.

¹⁵Ibid., 154-5, 157.

Gerry assumed that the people had two great interests--land and money. Most of the people made up the landed interests and opposed the commercial and monied interests; hence, Gerry felt that the state legislatures which favored the mercantile class would be the best electorate for the Senate.¹⁶ Gerry also assumed that the upper houses of the state legislatures would balance the evils found in the popularly-elected lower houses. Gerry's insistence upon property qualifications for officeholding in both branches stemmed from his knowledge of the Massachusetts constitution. The state charter stated elections were free if the people met the property qualifications and officeholders had to have three pounds annual income to be members of the House and six pounds to be members of the Senate. Gerry had used both his experience and his personal observations to justify property requirements for national office holding.¹⁷

The critical question of representation to the Senate caused a great deal of frustration in the convention and in Gerry's mind. Like most New Englanders, Gerry favored proportional representation in the upper house. If the larger, wealthier states such as Massachusetts were to be assessed direct taxes on their inhabitants, they should have a proportional voice in government. He was not in favor of states having an equal vote because he concluded that this principle

¹⁶Farrand, Records, I, 152.

¹⁷Ibid., 467; Thorpe, Federal and State Constitutions, 1893, 1896-9.

had been one of the great weaknesses of the Confederation. Gerry had to violate his anti-Federal views at this point and use nationalistic arguments to put across the validity of his case. He criticized and condemned the states and their advocates for being "intoxicated with the idea of their sovereignty."¹⁸ He argued that the states were not or never could be independent states according to principles of the Confederation. According to Gerry they had only corporate rights. The system of government was inadequate because some small states abused their power. He stated, "Confederations are a mongrel kind of government, and the world does not afford a precedent to go by."¹⁹ Gerry chaired the Grand Committee which worked out the compromise between large and small state interests, but he was not directly responsible for the eventual compromise. The Senate was to have an equal number of representatives from each state, but as a concession to the large states, all revenue bills were to originate in the lower house and the Senate could only approve or disapprove. Gerry was reluctant to support the compromise even though the arrangement was a concession to the large states and was similar to a provision in the Massachusetts constitution. Undoubtedly, his primary motive was to protect the economic interests of his constituents by being uncompromising. He did think that making the revenue bills the exclusive right of the lower house made "it a constitutional principle that the

¹⁸Farrand, Records, I, 467.

¹⁹Ibid., 474, 479.

second branch [Senate] were not possessed of the Confidence of the people in money matters, which would lessen their weight and influence."²⁰

After the representative compromise, Gerry worked for two basic principles--states' rights and mercantile interests. After the Committee on Detail presented their report, Gerry reportedly was shocked at the form of national government which he had agreed to in the debates. Whether he had reactions of conscience against what he had done cannot be documented sufficiently, but eventually he would reject the document after attempting to amend it in the later days of the Convention.

Gerry was violently opposed to a standing army in peace time. He favored volunteer militia which would take orders from local commanders rather than from national generals. His record in Congress demonstrated that he thought the militia was the last resort of liberty and that a regular army was the first instance of coercive tyranny.²¹ Western Massachusetts held the same opinion because in October, 1786, Gerry wrote King that some of the "country members laugh and say the Indian war is only a political one to obtain a standing army."²² During an August day of the Convention, Gerry debated the evil effects of a

²⁰Farrand, Records, I, 545.

²¹Burnett, Letters, VII, 604-5.

²²King, Life of King, I, 197.

standing army. He proposed that there be a limit of two or three thousand troops. The plan was defeated and so this attempt by Gerry to protect the states from the coercive power of the central government failed.²³

Gerry was most successful in protecting the interest of his state by prohibiting the taxing of exports. He was strenuously against the national legislature having the power to tax exports because he thought that it would be used to compel states to grant new powers to the general government. He stated that "we have given it more power already than we know how will be exercised. It will enable the General Government to oppress the States, as much as Ireland is oppressed by Great Britain."²⁴

Besides protecting states' interests in commerce, Gerry in the latter days of the Convention worked to provide a return on public securities. As a merchant, Gerry, as well as his constituents in Massachusetts, had invested in government securities.²⁵ On August 18 he urged some provision be made in the Constitution for public securities. His specific recommendation was that the new government had the obligation to redeem the public debt even though the loans had been made under the Confederation. If a plan for redemption were not included, there would be great opposition to the document. He pleaded that states such as Massachusetts which had tried

²³Farrand, Records, II, 329-30.

²⁴Ibid., 362.

²⁵The reader will recall that the interest from government bonds would almost pay Gerry's taxes. Chapter I.

to fund their debts be given special consideration. He was fearful that they would be obligated to pay more than their share on other states' debts. Gerry desired to transfer the conservative monetary policy of his state to the national level. Oliver Ellsworth, a Nationalist from Connecticut, later charged Gerry with working to get the national government to redeem Continental notes at par value. The records prove that Gerry had said nothing as specific as that but the subject probably had crossed his mind.²⁶

Toward the conclusion of the Convention, Gerry's opposition to the proposed Constitution became stronger until finally he refused to sign the document. In his first speech rejecting the Constitution, Gerry emphasized that a possible civil war might erupt over ratification. He thought the plan went too far because the experiment decreased the power of the states for the sake of the national government. Since most people regarded the state as a protector of their democratic liberties, there would be a conflict with those who supported a vigorous government.²⁷ His later objections were calculated to appeal to the anti-Federal farmer. He felt that the rights of the citizen were not secure for the following reasons. First, the elastic clause gave too much general power to the Legislature. Second, the national

²⁶Farrand, Records, II, 326, 356, 377, 413; III, 170-2, 259-60, 239-40.

²⁷Ibid., II, 386, 388.

government could raise an army and money without constitutional limitations. Third, courts were established without juries. To remedy these essential defects, Gerry proposed a second convention.²⁸ In his report to the Massachusetts legislature, Gerry's principal objection was, rather ironically, that there was not adequate provision for representation of the people. Other objections were that the powers of the Legislature were ambiguous, the Executive blended with the Legislature, the Judiciary was oppressive, and there was no Bill of Rights. This last objection was significant to his Massachusetts constituents because the state constitution had thirty provisions in the Declaration of Rights to protect their interests. To justify his participation in the Convention, Gerry stated that the Convention had gone beyond its commission. Because he had wanted a more efficient government, he went along with the majority during the proceedings. He conceded that the amending of the Articles would have proved difficult too. "The Constitution proposed has few if any federal features; but is rather a system of national government."²⁹ Gerry concluded that the document had great merit if it could be amended to preserve liberty.³⁰

Whereas Gerry's brittle republicanism bordered on the calculating as he appeared to be playing to the political galleries. Nathaniel Gorham's constitutional ideas were

²⁸Farrand, Records, II, 632-3.

²⁹Ibid., 128-9.

³⁰Austin, Gerry, II, 42-3.

extremely practical. Gorham applied his Massachusetts experiences, especially those which he had had working with the state's constitution. Chosen the presiding chairman of the Committee of the Whole, Gorham was able to propose compromises drawn from his knowledge of Massachusetts politics. He served on the Committee of Detail which consolidated the ideas produced in two months of debate. Although documents are not available, Gorham could have exerted a strong influence in determining the structure and powers of the new government. Gorham spoke few times in the Convention; yet each speech drove to the core of the problem, and more often than not, he concluded his arguments by quoting some observations from Massachusetts' experience.

During his tenure of office in the Continental Congress, Gorham desired a more efficient government. The key to the problem of the Confederation in his opinion, was the principle of representation and voting. In March, 1786, he wrote to James Warren, a Massachusetts lawyer, that he was perplexed by the inattention and negligence of the states to attend Congress. The basis of the problem was that all states were considered equal in the Confederation. There was no reason for the small states to have the same weight in national affairs as the large states. He thought that "if the representation had been apportioned according to numbers or property, and a suitable quorum established and the majority vote to determine questions, this inattention would not exist."³²

³¹Burnett, Letters, VIII, 317-8.

Gorham defended this philosophy in the course of the Convention, especially in the debate over proportional representation to the upper house of Congress. Assuming a tough policy against the small states, he felt that if large states would consolidate on common principles of government, the small states would be forced to follow out of economic necessity. If the Union broke apart, the large states would be able to maintain order within themselves. Therefore, he urged that weak states and strong states consolidate into a union, much as Massachusetts was an incorporation of three colonies, old Massachusetts, Plymouth, and Maine. "All parties were safe and satisfied; every distinction is now forgotten."³² Getting to the main point of his argument, Gorham stated that a union of states was necessary for the happiness of everyone and a firm, general government was necessary for their union.³³

However, Gorham was not inflexible on the subject of representation, especially when a compromise was needed to save the union. When Gorham saw that the small states would not accept a document in which the large states had a greater influence in the national government than they had, he spoke in favor of the compromise presented by the Grand Committee. To justify his change of course, he cited a case in the Massachusetts constitution in which the representatives in the larger districts were not "in an exact ratio of their

³²Farrand, Records, I, 462-3.

³³Ibid., 463.

numbers."³⁴ He said that experience had shown this "provision to be expedient"³⁵ in satisfying most of the counties of the state.

The Massachusetts constitution provided that all state officials be elected annually, but Gorham disagreed with this idea on the national level. In the lower house, he saw that the "great bulward of our liberty was in the frequency of elections, and their great dangers is the septennial parliaments."³⁶ Nevertheless, when the question of Senatorial terms caused a general argument in the Convention, Gorham jettisoned the theory of annual elections and proposed six year terms for Senators with one-third being elected every two years.³⁷

Gorham in his discussions demonstrated that he favored a reduction in the states' powers. He suggested each state have two representatives to the upper house because "the strength of the general Government will lie not in the largeness but in the smallness of the States."³⁸ He predicted that the number of states would be increased by western expansion and that large states would be separated. He was not as apprehensive about the size and influence of states as Gerry because he believed that the general government would be stronger if the states were smaller. As an

³⁴Farrand, Records, I, 404-5.

³⁵Ibid., 405.

³⁶Ibid., 381.

³⁷Ibid., 421, 430.

³⁸Ibid., II, 94.

example of state separation he used the province of Maine which was holding a convention to separate from Massachusetts.³⁹

While Gorham was a delegate to the Continental Congress, he had jealously guarded the erosion of federal powers by the state government while increasing the power of the central government.⁴⁰ He was against parting with a power of Congress which someday might be used against Congress. Probably as a result of Shays's rebellion, Gorham favored the general government having the right to intervene in a rebellion within a single state.⁴¹ He also believed that the national government should settle disputes between states.⁴²

Commerce was one issue upon which Gorham's desire for a strong, national government overlapped with the primary interest of his constituency. He bluntly stated in the heat of the discussion over national regulation of commerce that the eastern interests attended the convention not for their safety but to guarantee their commerce. He said that they did not fear external dangers nor did they need the aid of Southern states. He reminded the delegates that the "Eastern States had no motive to Union but a commercial one."⁴³ In an

³⁹Farrand, Records, I, 540. Gorham was not bothered by the contradictory use of Maine as an example for both the uniting and the separating of states. See p. 83, n.32.

⁴⁰Hunt, Writings of Madison, I, 363. In 1783 Gorham opposed states choosing committees to value land which would be taxed to pay off war quotas.

⁴¹Farrand, Records, II, 48.

⁴²Ibid., 405.

⁴³Ibid., II, 374.

apparent attempt to soften Southern opposition on the issue of commerce and to make way for a compromise, Gorham stated that if the new government did not relieve the situation in the commercial states by having the power to restrict foreign trade and regulate interstate commerce, the commercial states had no reasons to join the union. He warned the Southerners that they would have the most reason to dread disunion because the middle and eastern states were more able to protect themselves.⁴⁴

Because Massachusetts had a fairly autocratic constitution, Gorham used a state example to strengthen his case for a strong national government. Copying the Massachusetts experience, he preferred that the judges be appointed by the Executive with the advice and consent of the second branch of Congress rather than the whole legislature. He said that this was the method approved by one hundred and forty years of experience in Massachusetts.⁴⁵ He believed that the lower branch was "too numerous and too little responsible to ensure a good choice."⁴⁶ In his view, "legislatures, which represented the people, gave full play to intrigue and cabal."⁴⁷ Evidently Gorham believed that his state had founded a strong judiciary which was removed from the influence of the people.

Gorham had enough political understanding to know that if the national government was given too many powers, the

⁴⁴Farrand, Records, II, 453.

⁴⁶Ibid., 215-6.

⁴⁵Ibid., 43-4.

⁴⁷Ibid., 44.

people would not agree to the Constitution. One concession which he left to the states was the privilege of establishing voter qualification. When pressed on the subject, he thought that restrictions written into the Constitution would be impolitic. Merchants and manufacturers who benefitted by property qualifications would be put in an unfavorable position. Many people, especially mechanics in the New England cities, had long been accustomed to the right of voting. Gorham concluded that an abridgment of this right would probably mean the rejection of the Constitution by the freeholders.⁴⁸ As another concession to the New Englanders, Gorham urged a plan familiar to Massachusetts dealing with meetings. Gorham favored a fixed time for national meetings in the Constitution. His reasons were that at least one meeting a year was needed to check the Executive branch, and that disputes within the legislatures and between the states would be avoided. Drawing another example from the state's experience, he stated that "the annual time of meeting had been long fixed by their Charters and Constitutions, and no inconveniency had resulted."⁴⁹ Since separate ballots for the elections of state officers had been used in Massachusetts, Gorham suggested a joint ballot on the national level so as to do away with some of the inconvenience and confusion found at state level.⁵⁰

⁴⁸Farrand, Records, II, 215.

⁴⁹Ibid., 198.

⁵⁰Ibid.

Gorham's dedication to creating a national government left him few concessions to give to the states. When the question was raised about who should ratify the Constitution, he expressed more confidence in conventions than in the state legislatures. Obviously, he believed that the Federalists could control the conventions better than the state legislatures. Besides, conventions had been used successfully in Massachusetts to change and to ratify new frameworks of government. New Englanders favored conventions because they were the originators of higher law, that is, above the usual legal process. He presented several reasons which demonstrated his political understanding of the national situation. First, he believed men elected by the people for the purpose of ratifying the document would be more candid than legislators who had to watch out for their jobs. Second, he knew that it was more difficult to get a resolution through two branches of a legislature than one convention. Third, in many states some qualified men would be excluded from the legislature. Gorham was referring to the clergy whom he considered to be "friends of good government."⁵¹ He commented that their services had been valuable in the formation of the Massachusetts' Constitution. Fourth, Gorham thought that state legislatures could delay the issue of ratification and frustrate the national system. Last, Gorham feared that one state might refuse to ratify the Constitution. To prevent this problem he favored implementing the national system while waiting for

⁵¹Farrand, Records, II, 90.

unanimous approval by the states.⁵² Gorham obviously was a dedicated supporter of a strong central government whose flexible and practical attitude in the Convention helped create a document which reflected the interests of his own state.

More than any other Massachusetts delegate, Rufus King favored a strongly centralized national government. With his marriage to the daughter of a New York merchant, King had joined a social and political world different from the one he had known in Massachusetts. He fell under the influence of Alexander Hamilton and was converted to Hamilton's anti-Confederation views in the early part of 1787. Hamilton observed to a friend, "I have revolutionized his mind."⁵³ Most of King's contact with his Massachusetts constituents were by letter after he was elected a member of the Second Continental Congress in 1784. After his marriage in 1786, his wife demanded that he stay in New York rather than return to Boston. However, King made a few trips to New England to meet with the legislature. At the Philadelphia Convention he apologized for not knowing the views of his constituents on many subjects considered. In 1787 he changed his residence to New York, but returned to Boston to help win the ratification battle in the state convention.

⁵²Farrand, Records, II, 90.

⁵³King, Life of King, I, 203.

Most of King's comments at Philadelphia were influenced more by his experience in the Congress than his Massachusetts experiences. At first, he had feared the use of a convention to amend the federal Articles, but once convinced the Articles of Confederation needed to be changed, he rationalized the use of a convention.⁵⁴ The basis of his objection to the Confederation was the sovereignty of the states. He believed that states were not sovereign because they did not possess the power to make war, peace, treaties, and alliances. King reasoned that Congress acted with and without instructions by the states. When the states had formed the Confederation, they also formed a nation. Even though the states had retained some portion of their sovereignty, they had given up the essential parts. If Congress could propose changes by using the last provision of the Articles, the convention delegated by Congress could deliberate and propose any alterations.⁵⁵

One essential part of King's concept of the national government was the reduction of the powers of the states. Instead of eliminating the states as other Nationalists desired, King thought that much of their present power could be transferred to the central government.⁵⁶ The states would

⁵⁴Burnett, Letters, VIII, 488-9. For example, King was aware of the critical need for federal revenue and wrote to Gerry in October, 1786, pleading with him to "Impress upon the minds of our monied friends the indispensable necessity of a Loan of monies. . . ."

⁵⁵Farrand, Records, I, 323-4. ⁵⁶Ibid., 324.

be preserved but in a subordinate role, and their rights would be secured in a national constitution.⁵⁷ King felt that the states had had too much influence in the Confederation. In Congress the delegates had been subservient to the views of the state rather than to the general interest because the state had elected them.⁵⁸ King believed the proposed Constitution would mean more contact with the individual citizen than with the state. In the arguments over whether the Senate should be based upon proportional representation or not, King said the Confederation was an example of the principle of state equality and he feared that this facade of state sovereignty was sacrificing the rights and happiness of the whole people. He was amazed that a government based upon fair representation of the people should be renounced for an attachment to an ideal of the importance of the states.⁵⁹ Once a new government was established, King believed that the general government would not interfere with the process of state governments.⁶⁰ Yet when asked specifically about what rights and powers would be given to the state by the national government, King's proposals were ambiguous and contradictory. For example, he stated that the vice of the Confederation had been too much legislation, most of which he felt rightfully belonged to the states. He envisaged the national legislature discussing only revenue and commerce.⁶¹

⁵⁷Farrand, Records, I, 492.

⁵⁸Ibid., 359-60.

⁵⁹Ibid., 492-3; 489-90.

⁶⁰Ibid., II, 6-7.

⁶¹Ibid., 198.

If King's idea about the role of the states was unclear, his concept of the executive was very distinct. He desired a stronger executive than found in the government of his state. He favored an Executive who would hold office on good behavior, but he later conceded that the Chief Magistrate should serve a limited time but be eligible for reelection. The Executive would be tried periodically by his electors according to how well he performed his duties. The electors had exclusive power to remove him from office. King believed that he should not be impeachable by the Legislature because this would jeopardize the Executive's independence.⁶² King's proposal for an aristocratic executive was defeated, but the proposal demonstrated that King was sympathetic with Alexander Hamilton who had favored a similar arrangement early in the Convention. King continued to work for a strong executive which he thought was needed to give the country stability and order.

How would the President be nominated and elected.? At first, King approved of Gerry's proposal which was taken from the Commonwealth's Constitution, that is, the state legislature would nominate the candidate, the lower house select the two leading candidates, the upper house elect.⁶³ When the other delegates overwhelmingly defeated this idea, King objected to the alternative proposal that the President be chosen by the National Legislature because he believed that a large state could control the election of one of its

⁶²Farrand, Records, II, 66-7.

⁶³Ibid., 101.

candidates. The only recourse left in King's mind was a compromise plan by which the presidential electors would be chosen by the people at large.⁶⁴ The final solution was the Electoral College which incorporated King's idea to provide for an indirect election of the President by the people.

King believed in a separation of branches and a system of checks and balances, both found in the Massachusetts Constitution; however, in the course of the proceedings he attempted to strengthen the Senate and the Presidency at the expense of the lower house. King had seconded a motion by Gerry giving the Executive the right to veto legislation which could be overridden by two-thirds of both houses of the legislature. This arrangement paralleled that in the Massachusetts Constitution; however, late in the Convention, King moved to strengthen the Executive's veto by proposing that three-fourths vote of both houses would be needed to override the veto.⁶⁵ This measure failed; nevertheless, King continued to work for an aristocratic government. Several days later he proposed to weaken the lower house and strengthen the upper house. After observing the revolt in Massachusetts, King felt that the lower house was "governed too much by the passions of the moment. . . . One assembly would have hung all insurgents in that State; the next was equally disposed to pardon them."⁶⁶ To give more stability

⁶⁴Farrand, Records, II, 109.

⁶⁵Ibid., I, 98; II, 586-7.

⁶⁶Ibid., II, 626-7.

to the Legislature, King favored six-year terms for Senators because longer terms meant more "judgment and deliberation for business of government especially foreign treaties."⁶⁷ He did see the necessity of annual meetings of the legislature until the issues of commerce and revenue were settled. Then he saw no need for continued sessions.⁶⁸

King's basic concern throughout the Convention was that the national government should have enough power, especially in fiscal policy, so as not to be dependent upon the states. King had observed in the Continental Congress the futility of the requisition system in raising enough revenue to pay off the foreign and domestic debt. He had also worked for an impost which would have given Congress a limited taxing power only to see the proposal go down to defeat two times because one state refused to make approval unanimous. In the Convention King proposed that the national legislature make its own appropriations to meet the expenses of the central government.⁶⁹ However, he was reluctant to give the national legislature power to levy both an export and import tax for fear that they might interfere with manufactures in some states, especially

⁶⁷Jonathan Eliot (ed.), The Debates in the Several States' Conventions on the Adoption of the Constitution (Philadelphia: J. B. Lippincott Company, 1836), 2nd edition, II, 47. Hereafter cited as Eliot, Debates.

⁶⁸Farrand, Records, II, 198.

⁶⁹Ibid., I, 196; II, 442.

Massachusetts. He agreed to a revenue impost because it would not restrict Massachusetts commerce.⁷⁰

Because Massachusetts had a vital concern in the payment of the public debt, King was the first of the state delegation to raise the idea that the national government assume and pay off the approximately \$70,000,000 states' debts. He noted that state creditors were the strongest foes of the plan to tax imports on a national level because they feared the loss of state revenue which was used to pay off state bonds. These men would probably oppose the Constitution said King if the state debts were not transferred along with the best source of tax revenue.⁷¹ In the end the Constitution was silent on the matter though King's mentor, Hamilton, carried through the scheme in Washington's administration.

King agreed with his fellow delegates that state conventions were the method for ratifying the new government. State legislatures were legally the correct body, but practical politics had taught King that conventions could be manipulated more easily. Legislatures, being the ones to lose power, would most likely have more objections than the people. The general public never had any power and would not be concerned about which government ruled them.⁷² The convention method was the most efficient way to get around the legal restrictions of the "old" Constitution; yet,

⁷⁰Farrand, Records, I, 196; II, 442.

⁷¹Ibid., I, 6-7, 327-8.

⁷²Ibid., 12-3.

it would offer the people a voice in the new Constitution. King distrusted the people but realized they were more malleable than thirteen state legislatures.

Caleb Strong, in the words of one historian, was an 18th century Calvin Coolidge.⁷³ His comments in the Convention were short and sparse. On the whole he stuck to a form of Massachusetts republicanism; yet he was willing to compromise when he thought national interest took precedence over state interests. For example, Strong favored the election of the first branch of the national legislature by the people in annual elections. He stated that, "The fixed habit throughout our country . . . is in favor of annual Elections."⁷⁴ In the state ratification convention, Strong reported that biennial elections were the best arrangement which the state's delegates could get at the time. Many states had desired more than two years; therefore, by concession and compromise, the term was fixed to make it agreeable with South Carolina. The southern states desired longer terms because the expense in "more frequent elections would be great."⁷⁵

Strong's belief in annual elections also touched the Senate and the Presidency. He opposed a seven-year term for the Executive⁷⁶ as well as a seven-year term for Senators.⁷⁷

⁷³MacDonald, E. Pluribus Unum, 163.

⁷⁴Farrand, Records, I, 361.

⁷⁵Ibid., III, 247.

⁷⁶Ibid., II, 72.

⁷⁷Ibid., 219.

Although he failed to specify what length of term he would support, the principle of frequent elections was part of the Massachusetts heritage, and Strong echoed them by desiring shorter terms for the two "aristocratic" offices.

The separation of branches was an important part of Strong's political philosophy as it was the other delegates from his state. He agreed with Gerry "that the power of making ought to be kept distinct from that of expounding the laws."⁷⁸ When the idea of combining the Judiciary and the Executive in a council of revision was made by James Madison, Strong stated that "no maxim was better established" than removing the judges from the influence of framing the law.⁷⁹ The Massachusetts constitution of 1780 provided for the three separate branches and Strong reflected this arrangement in making the judges separate from other parts of the government.

Strong, who had no experience in the Continental Congress, favored a constitutional limitation on the salary of Congressmen. He proposed that the national government pay up to \$4.00 a day and expenses of travel to and from Congress.⁸⁰ The states would make additions beyond that expense. This compromise arrangement between state and central government would make it possible for the state to have some control of their delegates while at the same time, the national

⁷⁸Farrand, Records, II, 75.

⁷⁹Ibid.

⁸⁰Ibid., II, 293.

government would not be totally dependent upon the states to get their representatives to serve their terms. More important, the Massachusetts Constitution provided that delegates receive only travel expenses and salaries were to be paid by the local towns.

On July 24, Strong agreed with the position of Gerry and King in that the Executive should be chosen by the national legislature in an arrangement similar to that found in the Massachusetts instrument of government. In answering attacks upon his position, Strong showed that he believed the Executive should not be ineligible to return to office a second time because electing a new legislature would take place between the first and second appointments. Strong did not think that there would be any great dependence of the Executive on the legislature for re-election which could destroy the system of checks and balances between the two branches. Unlike King, however, Strong refused to accept the idea of electors who would choose the President. He stated that it was "of great importance not to make the government too complex" by introducing more people.⁸¹ He was also afraid that the Electors would not be the states' most reputable citizens.⁸² Like most of his fellow delegates Strong had an aversion to popular elections even if they were part of an indirect system to choose the President; however, he eventually did support the plan for choosing the President.

⁸¹Farrand, Records, II, 100.

⁸²Ibid.

Strong had worked for equal representation in both houses of Congress based upon population. Large states including Massachusetts favored this arrangement because the Constitution provided that the national government would use a system of direct taxes based upon wealth or population. When the issue divided the Convention, Strong accepted the compromise rather than face the prospects of disunion. The compromise was similar to the Bay state's arrangement that all revenue bills would originate in the lower house and that the upper house could only agree or disagree. Strong thought that the origination of revenue bills was a considerable concession by the small states, and he accepted the report on the representation of the Senate. He was willing to compromise when the union was in jeopardy.⁸³

⁸¹Farrand, Records, II, 7-8.

CHAPTER VI

Massachusetts was the first colony to revolt against British centralization, but the last state to write a "revolutionary" constitution. Internal unrest in western Massachusetts caused the provisional government to agree to a convention to write a new constitution. The conservative principles of the new charter reflected the eastern commercial interests which controlled the state government as they had the colonial government. Their control over state politics was legalized and solidified by a document which had a division of branches and a system of checks and balances. Most of the governmental machinery was indirect so that authority was removed from the pressure of popular will. Only the local government and the lower branch of the legislature remained responsive to the people. The state government was superior to local government. When the state government pursued a "sound money" fiscal policy in the post-war depression, the western population at first strongly objected through normal government channels. But when the mercantile-centered government was not responsive to the grievances of the farmers, the agrarians turned to "illegal" devices such as county conventions and riots to force the state to accede to their demands. Yet in the end the rebellion was more significant nationally than in Massachusetts.

How did these state experiences influence the four Massachusetts delegates to support a movement for constitutional revision on a national level? All of them were merchants or lawyers who had been involved in state government. They also represented to a minor degree the creditor class because they owned shares in the public debt. While serving in national politics, three of them had observed the weaknesses of the Confederation, especially in commercial and revenue problems. Gorham worked to strengthen the central government when he recognized that the excessive power of the states lay at the root of the problem. Gerry and King were concerned about national problems but not to the point of sacrificing states' rights. They rejected their state's call in 1785 for amending the federal government even though they were working to get relief for the state's commercial depression. Shays's revolt, two years later, was the emotional event which caused these two men to favor amending the Articles. Apparently they felt that they would not be able to preserve their control of the state government against the leveling influence of democracy unless the national government were strengthened. When it appeared that their own state might not be able to fund its public debt, they looked to the central government to secure the public credit. Both Gerry and King proposed that the national government assume the state debts. Therefore, their motive for constitutional revision was apparently not only the welfare of their state but also of their personal interests and those of their class.

In the Convention, to what extent did state factors influence the constitutional ideas of the delegates? Technically, if the delegates had represented their constituents, meaning the whole population of the state, they would have been opposed to the destruction of state power. The state constitutional ratification convention representing all the towns in Massachusetts was mostly anti-Federalist in its sympathies at the beginning of the meeting. The Federalists in Massachusetts were made up of the intellectual leaders and most influential men in state politics. They were able to convert the nominal anti-Federalists by shrewd political maneuvering. First, they had the convention debate each clause of the Constitution so that Gorham, King, and Strong could weaken the opposition. Second, they held out a promise of the Presidency to John Hancock to win his support. Third, they stirred up the Boston mechanics to urge Samuel Adams to tone down his opposition to the document. Finally, they agreed to a compromise resolution which let the opposition propose amendments as a condition for ratification.¹ However the four delegates were mainly interested in a more efficient, central government than in representing the total sentiment within their state. In both a general and a specific way, the delegation reflected their knowledge of their state government. First, the general political philosophy put forward in

¹Samuel B. Harding, The Contest over the Ratification of the Federal Constitution in the State of Massachusetts (New York: Longmans, Green and Co., 1896), 67.

the speeches of the four greatly paralleled that found in the state's constitution. The four delegates were in favor of a separation of branches (legislature, executive, and judicial) and they resisted attempts to combine the executive and the judiciary. Although all four approved of a system of checks and balances, Gorham was the only individual to support a balanced arrangement. King was partial to a stronger executive while Strong and Gerry favored a stronger legislature. On the issue of elections, all the delegates reflected their distrust of the "evils of democracy" by allowing only the lower house of Congress to be chosen by the people. The upper house, the executive, and the judiciary were to be chosen by indirect methods. Gerry and Strong were republicans and favored frequent elections; however, Strong would compromise, but Gerry refused to sacrifice his republican principles. More specifically, the extent to which the state constitution influenced the delegates can be measured by the ideas which were taken directly from the state document. Gerry and King proposed that the executive have a veto, but that it could be overridden by the legislature. Gorham and Gerry proposed that the legislature approve the judges nominated by the executive. All four delegates agreed that revenue bills should originate in the lower house. Gerry, Strong, and King at one time, all favored the nomination and the election of the President by state and national legislatures. There were other stillborn proposals such as a

a council or property qualifications for officeholding, which died on the floor of the Convention. On the whole, the Massachusetts delegation was greatly influenced by their state constitution.

The four delegates were also influenced by their experiences in the Continental Congress. Concerning the issue of commerce, Gorham was the only member to work dramatically for the primary interest of the state. Gerry and King proposed that the national government assume and pay the public debt. The proposal reflected their concern for instituting a conservative monetary policy which was practiced in Massachusetts on a national level. All four delegates to the Convention before the Great Compromise believed in representation to both houses of Congress based upon population. The three delegates to the Continental Congress, Gorham, King, and Gerry, had observed that one of the weaknesses of the Confederation was the lack of unanimity. Therefore, they supported a large state position which stood against equal voting for states since taxes would be levied directly on population and/or wealth.

Although there were many more similarities between the state and the national constitutions which were never mentioned in Farrand's Records, this leads to a secondary question. Was there a causal relationship between the documents? Based upon the above evidence, the state constitution had an influence on the delegates as individuals, but not as a collective group. First, the Massachusetts

delegates were not in positions of creative leadership and did not put forward detailed plans of government. They rarely worked together. They merely debated and chose the proposals most similar to their individual ideas. Gorham, who served as chairman of the Committee of the Whole and on the Committee of Detail, probably was in the best position to exert some influence to create the similarities. Second, to men of learning, the ideas of separation of powers and the system of checks and balances were not new. The British system of colonial government was an example although Rufus King was the only one to mention this fact in a reference in a speech. John Adams, who wrote the Massachusetts Constitution of 1780, published a book, Defence of Constitutions, at the time of the Philadelphia Convention. James Madison, "the father of the Constitution," wrote that "Men of learning find nothing new in it. Men of taste many things to criticize."² There is no evidence that the Massachusetts delegation was familiar with the book; however, they may have read Adams's work, "Thoughts on Government," which contained a foundation for the state constitution of 1780 which Gorham and Strong had also helped write. Third, the Constitution of Massachusetts was the most mentioned document in the convention. James Wilson and John Randolph both referred to the document at times. The Committee of Detail used all the states'

²Julian Boyd (ed.) The Papers of Thomas Jefferson (Princeton: Princeton University Press, 1955), II, 401-2.

constitutions for their resources to guide their work, and it can be assumed that the Massachusetts constitution was among them.³

In summary, the Massachusetts constitution had a marked influence upon the federal document. The similarity of the political philosophy of the document was an indication of the "spirit of the times." The conservative leaders of the day sought a governmental structure which would protect them from the "tyranny of the mobs" and the "tyranny of autocracy." The Massachusetts constitution was a model which could meet the exigencies of the hour. The state's delegation although they did not plan to incorporate the document into the national constitution used their state experiences to justify the arrangement of the new government. Most important, whatever motives of the delegates were for changing the government, the fact remains that their constitutional ideas reflected their state experiences.

³Max Farrand, Framing of the Constitution of the United States (New Haven: Yale University Press, 1913), 180, 243.

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