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Congressional Control of Foreign Relations During the American Revolution 1774-1789

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TABLE OF CONTENTS

Chapter III.

The Rise and Significance of the Committee System in Congress.

Chapter IV.

The Immediate Effects of the Committee System upon the Conduct of Foreign Affairs.

Chapter V.

The Crucial Period in the Conduct of Foreign Affairs as a Result of the Weakness and Indecision of Congress Working through Its Committee System.

Chapter VI.

The Influence of France in the Conduct of Foreign Affairs.

INTRODUCTION

The history of any nation is ordinarily divided into periods or epochs. This arbitrary division is made, partly for the convenience of the reader or student of history; partly because some event or series of events seem to have given a new direction to the current or continuity of history, resulting in a marked expansion or diminution of control or power in national life. Such periods are commonly observed in the treatment of American history.

However, beneath the records of events, there is always a strong current of motives, of causes and of effects, which is ordinarily obscure to the casual reader of history.

If this idea is kept constantly in mind, it is not an easy task to properly divide American history into periods. This difficulty obtains for two important reasons. (1) Causes are often slow in producing results; (2) Causes are often complex. In any field of research, it is, therefore, evident that changes take place very gradually, especially in the social and industrial fabric. Sudden changes may take place in the political life of a nation, but the ordinary man, unless such changes are catastrophic, is left unaltered in his daily life.

Granted that changes in the political life of a people may be slow as well as in other lines of institutional growth, it follows that the tracing of the causes and effects of the events and movement cited as a basis of discussion in this thesis, will be somewhat difficult. To determine how Congress, from 1774 to 1789, controlled our foreign relations, is to take for granted at once, that the dates mentioned are selected merely for the sake of convenience. The trend of events between these dates had

their beginning long before the year 1774 and their final outcome is not yet seen.

Men who lived in 1790, lived in about the same way as the men of 1730, in spite of the fact that the sovereignty of the country had radically changed during the intervening period. The fact is, the governmental changes had come so gradually that the common citizen was little affected by them. This fact illustrates in a marked way, the essential unity and continuity of history.

However, in America, momentous changes did occur. It is the problem of this thesis to show, if possible, *how* and *why* these changes occurred in the conduct of foreign affairs. This thesis appears to admit of but one valid method of treatment. That method is the tracing out through the careful study of congressional committees, the *causes* and *growth* of those activities favorable to or opposed to the formation of a definite policy in the conduct of foreign relations during the American revolution.

The attempt is here made to show the gradual evolution of a Department of State, having its inception in a Committee of Secret Correspondence. Based primarily upon private communications, secret memoirs, facsimiles and a study of the composition of the Congressional committees, a thread of continuity has been found running through all of them, gradually developing from a condition of chaos, through one of uncertainty and vacillation, to a final definite policy and assumption of power by individuals and departments, having executive functions of wide application in a strong centralized government. In short, it is hoped that it will have been shown how the foreign policy of the American colonies, as regards its initiation, activity, method of control, degree of control and results of that control, was developed by Congress from 1774 to 1789.

CHAPTER I.

The Genesis and Development of the Chief Factors of Control in the First Continental Congress of 1774.

The causes of the American revolution were many and varied. The problem here presented is not that of discovering these causes, except in so far as they coincide with the factors of control in Congress from 1774 to the adoption of the constitution in 1789. With the problem limited, the core of the question is—What were the factors that caused the development of methods of control and how did these methods work to control resolves and the policy of Congress, especially with respect to the conduct of foreign relations?

I. The Folk-mote.

The early and successful struggles for individual freedom in England were only possible through the existence of the institution known as the folk-mote. This was a form of local self-government possessing an enormous importance in the polity of even the primeval Teutons. It was a fixed, frequent, accessible meeting of the individual freemen for the purpose of discussing and deciding upon public matters. This same folk-mote, modified in large measure, conditioned the events which culminated in the American revolution. The folk-mote, therefore, may be said to be, biologically, at least, the primordial cell of every Anglo-Saxon body politic. [1]

This primordial institution was evolved and developed into a somewhat complex organism in England, but it was reborn in

[1] **Freeman: Growth of the English Constitution, p. 17.**

New England with a greater vitality in two, at least, of the original colonies and expressed itself finally in the New England town-meeting.

The people of the Plymouth colony were primarily religious refugees. But they possessed a keen political sense, nevertheless. This political acumen expressed itself in a remarkably homogeneous social and political system. The Plymouth compact, signed on board ship, was a democratic frame of government.[2] Though tinged with theocracy, the little company had hardly set foot upon the new continent before it began to conduct its affairs in a thorough-going democratic manner.[3]

In contrast to the Plymouth colony, the Massachusetts Bay colony of ten years later, was in reality a commercial enterprise. However, soon after the colony was settled, a clean-cut, constitutional system was evolved, based upon its charter.[4] This system was composed of a governor, deputy-governor, assistants and others, clothed with power to make and execute laws.[5]

Opposition to the manner of conducting this form of government soon arose, however. It was charged that the primary principle of the folk-mote was being gradually violated. In 1631, the freemen of Massachusetts Bay demanded that the whole body of freemen choose the body of assistants and that the executive officers be then chosen by these assistants.[6] The demand was reluctantly granted. In 1634, a representative body, composed of delegates elected by the freemen, formed an assembly which acted with the assistants, forming a General Court.[7]

The people thus controlled the selection of the governor

[2] MacDonald: Documentary Source Book of American History, p. 19.
[3] Bradford: History of Plymouth Plantation, p. 110.
[4] MacDonald: Documentary Source Book of American History, p. 23-26.
[5] Bradford: History of Massachusetts (1620-1820), p. 25.
[6] Ibid. p. 29.
[7] Ibid. p. 30.

through their power of selecting the assistants. Thus was the governor made, in large measure, responsible to the people.

The steps from 1631 down to the demand by the people for complete independence of legislative power are many and intricate. But this much stands out clearly. The people continuously claimed all power necessary for the conduct of a separate government, except that they recognized their dependence upon the Crown and passed no laws contrary to those in existence in England.[8] Massachusetts, in particular, asserted its liberties because composed of Englishmen. Upon this ground, and this alone, the people claimed the political power of self-government.[9]

The point to be emphasized here is most important. The original folk-mote was brought bodily to the North American continent, modified and embodied in a colonial government scheme, called a town-meeting, yet its essence always remained the same. Every freeman had an equal liberty of delivering his opinion, without fear or favor. Moreover, he gave or withheld his vote upon any question as he saw fit and every vote weighed equally.[10] In a word the folk-mote was the central hereditary institution of the colonial governments of New England. It gave by its very nature, homogeneity to the successive periods of New England political life. It was the foundation of the spirit of true democracy.

II.

Growth and Differentiation of the Representative Assemblies.

There is evidence that environment and opportunity were important factors in developing the new colonies. Rapid differ-

[8] Bradford: History of Massachusetts (1620-1820), p. 42.
[9] Ibid. p. 42.
[10] Ibid. pp. 25, 26.

entiation occurred in the industrial, educational, religious and social life of the people. Political changes were also inevitable. New towns were founded in the immediate vicinity of Boston. As time passed, others were founded far removed from the mother colony. Such were Portsmouth, Newport, Providence, Hartford, Windsor and others. Each developed in accordance with its own needs. Each venture was an objective illustration of an innate desire for independence in thought and action. The ultimate result was a marked modification of the original town meeting. Representation was only possible through the selection of delegates, properly instructed in their respective town-meetings as to what they should do and say at the General Court. [11] The purpose of this procedure was to effectively check the possible increase of central authority. These men were Englishmen jealous of their liberties. They considered that the power of government still resided in the individual freeman living in the most remote cabin in the wilderness. Hereditary characteristics were more powerful here than environmental factors. The immediate effect was the rise of a true representative system together with a marked decentralization of power.

III. Economic Considerations.

The rapid differentiation in political and, above all, in industrial life resulted in the passage by the British Parliament of a series of Navigation Acts in order to control the laws of trade. With the passing of the Molasses Act in 1733, a colonial policy was rapidly formulated in England. Its most important features were the following:

(1) The enforcement of the Navigation Acts.

(2) The enforcement of uniformity in the colonial governments.

[11] Fundamental Orders of New Haven Colony (MacDonald), p. 36.

(3) The increase of Parliamentary control over colonial internal affairs.

The Navigation Acts were said to be examples of "external" policies, but their influence soon became "internal." The royal governor in Massachusetts Bay attempted to enforce his royal prerogatives in the assembly. Opposed by the assembly, he refused to sign their bills. The assembly retaliated by holding up the governor's salary. This method of procedure soon became common in most of the colonies. In every colony the principle was the same. In every colony leaders of the opposition were being developed. These leaders opposed the will of the proprietor, the arbitrary actions of the royal governors or unjust trade restrictions. In all colonies the control of the revenues by the assemblies effectively blocked royal aggression. The crux of the whole situation was fast becoming an economic one.

The passing of the Sugar Act of April 5, 1764, caused the calling of the Boston Town-meeting on May 25, 1764, at which a committee of five men was appointed to prepare instructions to its newly elected delegates in the provincial assembly. Samuel Adams drew up the instructions and made it very plain that the delegates were limited in their actions.[12] Furthermore, the delegates were enjoined to use "their influence in maintaining the inalienable rights and privileges of the province" and "to preserve that independence in the house of representatives which characterize a free people"....."Our trade has for a long time labored under great discouragement and it is with the greatest concern that we see such further difficulties coming upon it, as will reduce it to the lowest ebb, if not totally obstruct and ruin it."[13]

In addition, the assembly was rebuked for not having taken

[12] Bradford: History of Massachusetts (1620-1820), p. 157.
[13] Hutchinson: History of Massachusetts Bay, III, pp. 106, 107.

earlier action in view of the "intention of the ministry to burden us with new taxes." Here was a protest based ostensibly upon the desire for a redress of grievances resulting from an arbitrary policy in the control of the colonial assembly, but actually founded in a deep resentment at the restriction of trade. The problem was an economic one, when seen in its true light.

James Otis, in the colonial assembly, was quick to pick up the thread of the argument and deliver a speech on the Rights of the British colonies. "If our trade may be taxed," he said, "why not our lands?.....This annihilates our charter rights to govern and tax ourselves.....It strikes at our British privileges .....If taxes are laid upon us in any shape without our having a legal representation where they are laid, are we not reduced from the character of free subjects to the miserable state of tributory slaves?.....As His Majesty's other northern American colonies are embarked with us in this most important bottom (a sheer assumption) we further desire you to use your endeavors, that their might may be added to that of this province; that by the united application of all who are aggrieved, all may happily obtain redress." [14]

Based originally upon trade restrictions, this speech at once raised the issue to higher grounds. It included three principles destined to be of great importance. (1) It asserted the doctrine of no taxation without representation. (2) It claimed for the colonists the full rights of Englishmen. (3) It suggested a united protest of the colonies. Evidence seems to point to Samuel Adams as the author of the fundamentals, especially the last one named.

Two great questions, then, confronted the colonists:

(1) Should the English imperial policy extend to America or should America rule herself and still be united to England?

[14] Otis: Rights of British Colonies, pp. 100-105.

(2) Should the English idea of representation be allowed or obstinately opposed?

The first question was an economic one; the second political. The first situation conflicted with American property and prosperity; the second conflicted with American independence of thought and action as expressed in the folk-mote and subsequent town-meeting.

IV. The Colonial Agent.

A factor which largely contributed to the development of concerted action by the colonies against the prerogatives of the crown was the colonial agent. The practical negation of a true representative form of government through the excessive use of the veto power by the royal governors, developed a most serious situation. While the colonial assemblies could and did check in large measure the coercive plans of the governors by refusing to pay them their salaries, yet they could not, on the other hand, secure the passage of measures benefiting the colonists.

The obvious temporary solution of the problem was the appointment of a representative of the colonies who could go to England and lay before Parliament and the king, the needs and grievances of the various sections of the country. The plan was an attempt to follow the line of least resistance in obtaining certain ends which could not be secured in the colonial assemblies.

The colonial agent became the embodiment of the representative system, modified by existing circumstances. He was a committee system reduced to its lowest terms.

As early as 1764 Franklin represented Pennsylvania in England. He petitioned the crown to relieve the colony of the burden of excessive taxation. Successful in this, he remained in England as the leading representative of the colonies. It was

through his influence that the Stamp Act was repealed. That he did not always reflect the true spirit of the colonies up to the year 1775 is indicated by the fact that he urged the payment of the tea tax by the colonists, in a letter to Thomas Cushing, Feb. 5, 1771.[15]

Massachusetts had been represented in England by Dennys De Berdt from 1765 to the time of his death in 1770.[16] Franklin was at once appointed in his place, but only after strong opposition from Samuel Adams, who suspected him of lukewarmness towards the idea of independence.[17] Adams succeeded in obtaining the appointment of Arthur Lee as his associate and forwarded to Franklin a long and very explicit set of instructions to guide him in his activities as colonial agent.

In 1775, Franklin having returned to America, Lee became the sole agent of Massachusetts in England. The next step was his selection as secret agent of the Committee of Secret Correspondence of the Continental Congress in 1775.

That the leaders in the colonies kept the colonial agents well informed of the trend of events in America after 1765 is shown by the numerous letters of Adams directed to De Berdt and Lee. These letters go into details of events, circumstances, policies and instructions. Especially illuminating are the accounts of the growth of the committees of correspondence in the towns of the colony of Massachusetts.[18] This function of the colonial agent changed and became more important from 1770 to 1775 due primarily to the rapid development of differences between the governors and the assemblies and the consequent growth of intercolonial committees. In fact, the colonial agent became in large measure an executive in function and it was but a slight

[15] Franklin: Works, VII, p. 505.
[16] Samuel Adams's Writings, I, p. 61.
[17] Ibid. II, p. 46.
[18] Samuel Adams's Writings, I, II, III.

transition from the office of the colonial agent to that of a congressional envoy after the Declaration of Independence had made the appointment of such a person necessary.

V. Origin and Growth of the Committees of Corrrespondence as Organs of Resistance to Royal Power.

A study of the history of Massachusetts Bay colony gives unmistakable evidence that from 1764 until the meeting of the first Continental Congress in 1774, the successful resistance to the colonial policy of England was instituted and maintained by a well organized committee system. This system may have had its origin in the standing committees of the English Parliament, but it was certainly modified and adapted to new conditions in America under the stress of coercion. It became necessary early in the disputes between governor and assembly to appoint committees which could hold over the intervals between sessions, in order to keep at white heat the one idea of a redress of grievances. As soon as the assembly met, differences inevitably developed. Foreseeing prorogation, it appointed a committee to work until such time as it could present its report on the progress of its task. In June, 1764, the House of Representatives chose a committee to write to the other colonies informing them of the measures adopted in Massachusetts.[19] The House was at once prorogued and met again in October. At once a large committee was appointed to prepare a memorial to the king, asserting the rights of the colonists as Englishmen. In January, 1765, Governor Bernard recommended moderation and submission to the law of Parliament, as expressed in the Stamp Act. In reply, the assembly chose a committee to consider the state of the province, which proposed the Stamp Act Congress at New York.

[19] Bradford: History of Massachusetts (1620-1820), pp. 159-60.

From 1765 to the time of the revolution, the governor kept the General Court in session as little as possible.[20] Often, on calling the assembly, he suddenly dismissed it, on the discovery that it was deliberating upon resistance to his power. In 1767, the town of Boston requested the governor to call the assembly, but he declined.[21] At a meeting of the citizens of that town, a committee was chosen to obtain subscribers to an agreement to refuse to use British goods. The subscribers were numerous and many other towns adopted measures and similar resolutions through the action of committees.[22]

So marked was this movement, that the amount of goods imported from England in 1767 was 165,000 pounds less than in 1764. In 1768 a large ship was sent back without unloading,[23] The General Court of 1768, chose a large committee to consider the state of the province. Prominent members of this committee were Cushing, Samuel Adams, James Otis and John Hancock. This committee prepared three circular letters through its secretary, Samuel Adams.[24] One was sent to the colonial agent in England, one to the English ministry and one to the king. In addition, a letter was sent to each House of Representatives on the continent with a final expression as follows: "The House is fully satisfied that your assembly is too generous and enlarged in sentiment to believe that this letter proceeds from an ambition of taking the lead or dictating to the other assemblies. They freely submit their opinion to the judgment of others and shall take it kind in your House to point out to them anything further it may be thought necessary."[25]

[20] Bradford: History of Massachusetts (1620-1820), p. 178.
[21] Ibid. p. 189.
[22] Ibid. p. 190.
[23] Ibid. p. 181.
[24] Ibid. p. 190.
[25] Bradford: History of Masscahusetts (1620-1820), p. 190.

This Communication was couched in the most reserved terms, but it aimed to influence the other assemblies, nevertheless, and the adroitness of the wording had just the desired effect. Dignified by the seal of approval of the Massachusetts assembly in the writing of Samuel Adams, it was a clarion call to action.

The General Court was at once requested to rescind the letters. It refused to do so and was at once dissolved by Bernard, the governor, but not before a committee drew up charges against him, accompanied by a petition for his early recall. [26]

It had long been suspected that the real instigator of these radical moves in the Massachusetts assembly was Samuel Adams. Plans were set on foot by Royalists to suppress him or take him to England for trial as an incendiary. [27] Hutchinson wrote, "A man Adams is rather considered as the opposer of government and a sort of Wilkes in New England." [28] Adams' plan of action seemed to be to provoke Hutchinson into making hostile and arrogant answers to the resolutions of the assembly. In this he admirably succeeded. To one of these resolutions Hutchinson replied, "That the charter reserved to the governor the full power, from time to time, to adjourn, prorogue or dissolve the assembly.....To yield to them (assembly) this prerogative .....there would be danger of encouraging the inhabitants of other towns in the province to similar procedure.....which the law had not made the business of town-meetings." [29]

This reply accomplished two things which Adams had foreseen. It provoked the assembly to greater opposition and it developed co-operation among the towns of the province. Hutchinson's communication was repeatedly read in the assembly and scattered broadcast. At the psychological moment Adams pro-

[26] Bradford: History of Massachusetts (1620-1820), p. 184.
[27] Hutchinson's Letters, I, p. 183.
[28] Ibid. I, p. 167.
[29] Hutchinson: History of Massachusetts Bay, III, p. 363.

posed "that a Committee of Correspondence be appointed to consist of twenty-one persons, to state the rights of the colonists and of this province in particular, as men and Christians and as subjects and to communicate the same to the several towns and to the world as the sense of this town, with the infringements and violations thereof, that have been, or from time to time, may be made. [30]

The size of this committee as proposed by Adams was significant. He was evidently fearful of the possibility of the lodging of too much power in the hands of a few men. Yet when the committee met on November 3, 1772, and took up its work, it at once delegated the work of preparing a statement to three men. To Adams was assigned the task of stating the rights of the colonists; the enumeration of infringements was delegated to Joseph Warren, while the letter to be sent to the neighboring towns was to be drawn up by Benjamin Church.

The results of the work of this committee were instantaneous. Several towns (Marblehead, Roxbury, Cambridge, Plymouth) planned to adopt similar resolutions and appoint similar committees. [31] By June, 1773, Hutchinson reported that eighty towns had appointed such committees.

The ostensible purpose of these committees was to forward information of all kinds from one town to another. Such was the import of the letter of the Committee of Correspondence of Boston to Cambridge, Dec. 29, 1772, [32] to Plymouth on the same day and to Worcester, Sept. 11, 1773. The emphasis soon changed, however, and we find the most important principle developed in subsequent letters to be the independence of the judiciary. [33] A letter to Marblehead from Boston dated Nov. 24,

[30] Hutchinson: History of Massachusetts Bay, III, p. 368.
[31] Ibid. III, p. 369.
[32] Writings of Samuel Adams, II, p. 392.
[33] Ibid. III, p. 50.

1774, proposed a Continental Post.[34] A letter to Franklin as agent, Mar. 31, 1774, emphasized the same principle, and developed at length the wonderful effects of the Committees of Correspondence. Adams informed Franklin that the people are "wonderfully enlightened and aroused.....They are united in sentiment and their opposition to unconstitutional measures of the government is become systematic.....colony communicates fully with colony.....There is a common affection.....All colonies are become one, because united in sentiment and opposition to tyranny."[35]

In a letter to Arthur Lee, as colonial agent, dated April 4, 1774, Adams indicates the final result to be, "the entire separation and independence of the colonies.[36] On May 12, 1774, the Committee of Correspondence of Boston wrote to a like committee at Portsmouth asking aid in opposition to the Boston Port Bill.[37] On May 13, 1774, a letter was forwarded to the Committee of Correspondence of Philadelphia on the same matter,[38] and to Silas Deane on May 18, 1774, suggesting that the towns of Connecticut voluntarily and at once, refuse to purchase British goods and further suggested the formation of a conference of Committees of Correspondence of the neighboring colonies.[39]

The original Committees of Correspondence as proposed by Adams had developed a basis for local confederation. Closely associated through the colonial agent with other colonies having the same or similar grievances, it was but a matter of time, before these committees began to take on an inter-colonial character and function, resulting in a definite, organized, continental

[34] Writings of Samuel Adams, III, p. 80.
[35] Ibid. III, pp. 85-92.
[36] Ibid. III, pp. 97-100.
[37] Ibid. III, p. 106.
[38] Ibid. III, p. 109.
[39] Ibid. III, p. 114.

resistance. Indeed, this united movement began as early as the year 1770, when the Massachusetts assembly appointed a committee to correspond with the agent in England and with committees in other colonies on the state of public affairs.[40] Early in 1773 another large committee was chosen to correspond with the committees of other colonies on political subjects.[41] It but needed a concerted action of two colonies to lead the movement. Virginia furnished the link by also proposing in 1770, a correspondence with Masachusetts concerning their grievances with a view to union . On March 12, the House of Burgesses passed a resolution for ascertaining the views of the other colonies.[42]

On June 12, Samuel Cooper wrote to Franklin, "Virginia has led the way by proposing correspondence between all the colonies.....so that New England is now united with Virginia, etc."[43] The Massachusetts House at once voted to correspond with all the colonies.[44]

This concerted action by these two colonies led at once to a better understanding among all the colonies and hastened, without doubt, the calling of the First Continental Congress at Philadelphia in September, 1774.

That Hutchinson realized the full importance of the work of the committees is evidenced by his characterizing their letters as "highly improper, and a glaring attempt to alter the constitution of the colonies.....that it was a procedure which should have been considered an avowal of independence and could be justified only on the principle of independence.[45]

The result of this committee work was foreseen by Adams,

[40] Bradford: History of Massachusetts (1620-1820), p. 232.
[41] Ibid. p. 232.
[42] Virginia State Papers, VIII, p. 1.
[43] Franklin: Works, VIII, pp. 49-50.
[44] Bradford: History of Massachusetts (1620-1820), p. 232.
[45] Bradford: History of Massachusetts (1620-1820), p. 233.

Hutchinson and all other discriminating leaders. On June 17, 1774, at Salem, a series of resolves were presented providing for the election of seven delegates to meet with delegates from other colonies on September 1, 1774, at Philadelphia or other place to be determined upon.[46] John Adams and Samuel Adams were members of this delegation. Notice was at once sent to all other colonies informing them of the action of the Massachusetts assembly. Almost immediately similar action was taken by them all and the Congress was assured.

Summary.

The folk-mote was primarily a form of local government functioning as a committee of the whole. Transplanted to America, it became a town-meeting, modified into a representative form of government, due to the rapid growth of towns. The people, always jealous of their rights as Englishmen, still controlled governmental action through their committees of delegates, who were definitely and uniformly instructed as to their actions.

Increased economic restrictions caused a rapid crystallization of public sentiment and a revulsion of feeling against the English ministry. This resentment was reflected in the assemblies through the appointment of commttees, with power to instruct delegates or to draw up resolutions relative to the state of affairs.

Opposed and obstructed by the royal governors, these assembly committees sought partial relief through the appointment of the colonial agent, who was in fact a committee of one with delegated powers carefully limited by instructions. He, in a

[46] Bradford: History of Massachusetts (1620-1820), p. 240.

limited way, performed some of the duties which the colonists believed the royal governor should have executed in their behalf.

The next movement was a lateral one. Samuel Adams proposed the selection of a committee of correspondence in the Boston town-meeting. The idea was at once accepted and followed by many towns. By this method the whole public was kept constantly informed of the political conditions and public opinion was thereby rapidly crystallized.

The next step was the formation of inter-colonial committees of correspondence. The work of these committees was constantly enlarged, but it was always limited by definite instructions. The result of this inter-colonial co-operation was the development of a continental spirit of resistance to coercion and a simultaneous demand for a redress of grievances.

The final step in the propaganda, instigated and kept alive by the Committees of Correspondence, was the determination of the leaders in Massachusetts to secure complete independence.

The chief factors of control which originated in the colonial towns and assembly and were carried to the First Continental Congress, there to profoundly influence that body, were, therefore:—

(1) A deep seated resentment towards the English ministry, especially by the Massachusetts and Virginia delegates.

(2) The fixed determination of the Massachusetts delegates to secure independence as the only means of escaping economic ruin and political slavery.

(3) The gradual adoption of the committee system as a natural and effective means of securing this independence through the control of the legislative and executive functions of Congress.

CHAPTER II.

The Formation of Parties in Congress as a Result of Conflict Between Factors of Control and Their Perpetuation through Committees.

1.

The delegates from Massachusetts proceeded to Philadelphia irrevocably committed to a program of complete independence. For this reason a large majority of the delegates from the other colonies regarded them with deep suspicion. Met at Frankfort by Dr. Rush, Mr. Mifflin, Mr. Bayard and others, they were informed that they were regarded as four desperate adventurers. They were advised against assuming the lead in Congress, since this privilege had been reserved for Virginia as the leader of the southern colonies. "This was plain speaking," said John Adams, "but it made a deep impression. That conversation has given a coloring to the whole policy of the United States down to this day.[1]

The supreme task of Massachusetts was to persuade the other colonies to approve her extreme stand against England. She had gone too far to retrace her steps. She must obtain aid or perish. To attempt to withstand the military power of England alone was unthinkable.

Committees were, therefore, organized through the influence of Samuel Adams, with a nice regard for the susceptibilities of the various delegates. But the work of these committees was so slow that all delegations were soon dissatisfied. It soon developed

[1] Hosmer: Samuel Adams, pp. 313-314.

that the delegates from the Middle colonies were utterly opposed to any move which favored independence. In this matter they took their stand beside Virginia. This in itself, is evidence that the Virginia delegates were lukewarm to the idea of independence in spite of the fact that the House of Burgesses had taken a decided stand in this matter some time before. John Adams wrote relative to the Congress of 1774 as follows, "There was not one member, except Patrick Henry, who appeared sensible of the precipice, or rather the pinnacle, on which we stood, and had courage and candor enough to acknowledge it." [2]

After two weeks of constant shifting, practically nothing was accomplished. Finally on Sept. 17, the revolutionary resolves of the Suffolk convention were placed before Congress. Samuel Adams had guided them through the provincial assembly under the immediate supervision of Joseph Warren. These resolves declared that "no obedience is due from this province (Massachusetts) to either or any part of the acts of Parliament." [3] They further advised the meeting of a provincial congress; directed the tax collectors to pay no money into the royal treasury unless the constitution should be restored and finally virtually threatened armed resistance.

The direct object of introducing these resolves into Congress, can have been no other than to precipitate discussion or action or approval of the radical stand of Massachusetts, thus placing upon Congress the responsibility of accepting for the whole country the attitude of the New England colonies.

This motive was at once suspected and caused the rapid formation of opposing factions. Joseph Galloway placed himself at the head of the party of conciliation in opposition to the party of independence, which was fast forming about the New

[2] John Adams: Works, X, p. 78.
[3] Journals of Congress, I, pp. 9-14.

England delegates as a nucleus. The leader of the independence party can be assumed to have been Samuel Adams. Galloway refers to Adams as, "by no means remarkable for brilliant abilities, yet he (Adams) is equal to most men in popular intrigue and the management of factions.....it was this man, who by his superior application, managed the factions in Congress at Philadelphia and the factions in New England."[4]

Galloway's Plan of Union, presented as an offset to the Suffolk resolves on Sept. 28, 1774, was defeated by a majority of only one vote.[5] This close contest conclusively showed the complexion of Congress. Even Franklin approved the plan, ably seconded by Duane and Jay of New York. This vote produced a marked effect upon the New England delegates. They learned in a decisive manner, that they could not force their measures through Congress. They determined, therefore, to attempt to control measures by working indirectly through others and thus, if possible, effect their plans.

The marshalling of forces slowly, but inevitably took place The leaders were Galloway and Samuel Adams. Reconciliation was cherished by a surprisingly large number of the delegates. All felt union to be essential. All felt that the cause of Massachusetts involved the liberties of every colony. Yet all did not see the urgency of engaging in active measures for her support.

After seven weeks of debate Congress accomplished three important things. (1) It approved the Suffolk resolves, which were in essence a declaration of war against England. (2) It drew up a Declaration of Rights and (3) adopted the outlines of an Association of the Colonies.[6] This, of course, was the result of much compromise.

[4] Galloway: Historical and Political Reflections, p. 67.
[5] Journals of Congress, I, pp. 43, 44ff.
[6] Ibid. I, pp. 19-22.

Two remarkable facts are revealed in these resolutions. (1) The Declaration was almost identical in its wording with the non-importation resolutions passed in the Boston town-meeting in 1772. Furthermore it is remarkably similar to the Suffolk resolves. The connection is obvious. The fact that these similarities were known at the time, shows the steady growth of a strong independence party in Congress. (2) There is an assumption by Congress of legislative powers. Congress was ostensibly a mere convention—a debating club. Yet it adroitly developed signs of nationality and union. Furthermore it was clearly assuming executive powers of a most momentous nature. By the adoption of the Declaration of Rights urged by John Adams, the thirteen colonies were nationalized.[7]

2.

The second Continental Congress was to meet on May 10, 1775. During the interval, matters rapidly crystallized in the different colonies, especially in Massachusetts. A new assembly resolved itself in October at Salem into a provincial Congress and drafted resolutions which had all the effect of law throughout the colony.[8] Meeting again in November, the delegates to the First Continental Congress made their report, which was approved. The same delegates (with the exception of Bowdoin) were returned with the addition of John Hancock.[9] The people were exhorted "to consider the danger and to be prepared to meet and avert it, by their love of liberty and of their country, by respect for the memories of their ancestors and by regard for posterity; and to remember that they must stand or fall

[7] Chamberlain: John Adams and the Revolution, p. 90.
[8] Bradford: History of Massachusetts (1620-1820), p. 247.
[9] Ibid. p. 247.

with the liberties of America."[10] In February, 1775, a third provincial Congress met. The committee of safety was continued and its powers enlarged. General officers were appointed and military stores were deposited at Concord and Worcester.

But there was a far different feeling in some of the other colonies. In Georgia, the independence faction could not gain acceptance of the Declaration of Rights.[11] A motion of approval was also defeated in New York.[12] In a letter to Richard Henry Lee, Patrick Henry says, "Perhaps I am mistaken, but I fear too great a bias to aristocracy prevails among the opulent. I am myself a democrat on the plan of your admired friend (Samuel Adams).[13]

It would be reasonable to suppose that the delegates to the Second Continental Congress would be very definitely instructed as to their powers and actions relative to independence. It was evident that the most that could be expected of most of them was an acquiescence to a decided protest to the English ministry.

From the moment the delegates assembled in Philadelphia in May, 1775, party lines were sharply drawn. The Massachusetts delegates were under greater suspicion than ever, because of the recent violent trend of events in New England. The first move of the New England delegates was to persuade Congress to adopt the army before Boston. It was plain to the independence leaders, however, that the only hope of success in this move was in a combination with the Southern colonies, of which Virginia was the recognized leader. Approached upon this matter, the southern delegates agreed to vote for the adoption of the army, if they, in turn, could name the commander-in-chief. To

[10] Bradford: History of Massachusetts (1620-1820), p. 248.
[11] Candler: Revolutionary Records of Georgia, I, pp. 250-251.
[12] Lincoln: Constitutional History of New York, I, pp. 473-477.
[13] Tyler: Patrick Henry, p. 181.

this the New England delegates acquiesced and Washington's appointment to the position was generally understood by him and the delegates to be conditioned upon political bargaining.

The union of New England and Virginia developed a working majority in Congress. The power of this majority was greatly extended by enlarging the scope of the work of the Committee of Correspondence, which, as we have seen, had its origin in Massachusetts and was one of the most important factors in the development of a spirit of union and independence. Resolutions were also presented to fire the patriot mind. To encourage the Radicals in the hesitating colonies, Congress, on June 10, 1775, cut the Gordian knot by urging the colonies to set up their own independent governments. [14]

In October, 1775, the Rhode Island delegates presented a resolution to arm a fleet at the expense of the government. [15] A committee was appointed consisting of New England delegates who reported that each New England colony be requested to furnish two ships to be placed under the command of Washington. The Southern and Middle colonies opposed the plan, but it was finally passed.

This vote was a blow to the moderates. The Independence party was gaining strength. On October 26, the New Hampshire delegation asked the advice of Congress as to its regulation of civil power in the absence of a government. The subject was referred to a committee composed of men favorable to the cause of independence. This committee reported that New Hampshire should set up its own government. [16]

The leader of the opposition to all measures indicating a trend toward independence was John Dickinson. To him has

[14] Journals of Congress, II, p. 84.
[15] Ibid. III, p. 274.
[16] Ibid. III, p. 298.

been ascribed the predominant politico-literary influence in America from 1765 to 1775. But the radicals had now gone too far for him. His consent to a concession of Parliamentary control over America in matters of legislation was now roughly discarded. His substitute, that an allegiance to the Crown was the only just stand for the colonies to take was poison to the Independence party. Rutledge, who in June, 1776, agreed with Dickinson in his opposition to independence, at last expressed impatience with his intellectual fastidiousness and nicety, declaring that the vice of all his productions was the "vice of refining too much." [17]

On June 7, 1776, Richard Henry Lee, of Virginia, moved in Congress, "that these united colonies are and of right ought to be free and independent states." [18] John Adams seconded the motion. At once Dickinson opposed the measure because of his well known views upon independence and because he had been instructed to vote against it by his colony, should it be presented. "Let us form our government," he said, "and agree to terms of a confederation before assuming sovereignty. Settle the existing disputes between the colonies and make firm our nation,.....then let America advance with majestic steps and assume her station among the sovereigns of the world." [19]

But Dickinson's protest fell upon deaf ears. The opposition to his principles was now too strong to be deterred from the execution of its plans. The resolution was referred to a committee consisting of John Adams, Franklin, Roger Sherman and R. R. Livingston, and resulted in the promulgation of the Declaration of Independence, on July 4, 1776.

On July 3, John Adams wrote, "Yesterday, the greatest

[17] John Jay: Correspondence and Public Papers, p. 67.
[18] Journals of Congress, V, p. 425.
[19] Stille: Life and Writings of John Dickinson, I, p. 1373.

question was decided which ever was debated in America and a greater, perhaps, never was or will be decided among men..... When I look back to the year 1761 and recollect the arguments concerning the Writs of Assistance.....which I have hitherto considered as the commencement of the controversy between Great Britain and America.....I am surprised at the suddenness as well as greatness of the Revolution." [20]

Summary.

The Massachusetts delegates went to Philadelphia with a fixed idea of influencing congressional action. Their situation was desperate and demanded heroic measures. By persuasion and pressure, they were able to induce Congress to adopt the Suffolk resolves, thus committing it to decisive action. The immediate result was the formation of opposing factions. Samuel Adams as leader of the independent faction, was able to control most of the minor factions through his powers of persuasion. Measures were passed in favor of the independence faction, but always with a small majority. Meanwhile, Congress unconsciously assumed legislative and executive powers. The appointment of committees followed as a means of controlling measures. This method of conducting congressional business served two distinct purposes. (1) It put an effective check upon any tendency to arbitrary or irresponsible action, so much feared by the New England delegates. (2) It was by the use of this method that Adams was able to get through Congress the measures he felt necessary to assist Massachusetts and to accomplish independence. As a consummate politician he used his powers of persuasion on the floor of Congress to effect the selection of committee members to his liking. He then instructed these members how to act in the committee meetings.

[20] John Adams: Familiar Letters to His Wife, p. 191.

Checked in this work by the decided opposition of Galloway and others, Adams concluded a combination with the southern colonies and thereby secured a working majority which could control action even on the floor of Congress. The work of the Committee of Correspondence was at once enlarged. It began to instruct the colonial assemblies as to the proper procedure in setting up independent governments. The impetus for independence gained in the colonial assemblies by the work of this committee soon had its reflected effect upon the congressional delegates. The sentiment for independence in Congress rapidly crystallized and overcoming a fast dwindling opposition, resulted in the Declaration of July 4, 1776.

The greatest factor in the accomplishment of this result was, without doubt, the elaborate committee system, which had its origin in the Massachusetts towns and colonial assembly under the inspiration of Samuel Adams.

CHAPTER III.

The Rise and Significance of the Committee System in Congress.

On November 2, 1772, the Committee of Correspondence began its life as a local institution of the Revolution.[1] On that date a committee was also appointed to report on "The Rights of the Province as men, as Christians, as subjects of the British Empire."[2] Samuel Adams, a member of this committee, drew up a set of resolutions. He expressly developed the first fundamental positive law of all commonwealths or states to be the establishment of the legislative power and the first fundamental natural law which is to govern the legislative power itself is the preservation of society. Therefore, the legislative power cannot justly assume to itself a power to rule by extempore, arbitrary decrees, but it is bound to see that justice is dispensed and that the rights of the subjects be decided by promulgated standing and known laws and by authorized independent judges.[3]

This exposition seems, on the face of it, extremely theoretical. To include it in the same resolution providing for the formation of a Committee of Correspondence seems incongruous, but it seemed to be the exact thing needed at the time. It appealed to the keenest and most dignified personages in the colony. It placed the basis for redress of grievances upon a high plane of political thought. It gave impetus to action once it had been expressed in correspondence.

[1] Collins: Composition of Committees of the American Revolution, Amer. Hist. Association Report, 1901, V, p. 247.

[2] Bradford: History of Massachusetts (1620-1820), p. 225.

[3] Old South Leaflets, VII, p. 419ff.

The importance of the Committee of Correspondence cannot be overestimated as a piece of revolutionary machinery. It was not merely a channel through which public opinion might flow. It created public opinion and played upon it to fashion events. It was the mother of committees and these subsequent committees, local and inter-colonial, worked up the war. It included measures in its scope of work and its activities comprehended executive, legislative and judicial functions. It formed the germ of government.[4]

After the organization of the Second Continental Congress in May, 1775, it was, therefore, natural that the appointing of committees should be the first plan adopted for the carrying on of the business of Congress. There were several very good reasons why this method of procedure should have been followed.

(1) In Massachusetts and to some extent in Virginia, this had been the accepted method of accomplishing business of importance. This method had been the development of years. It had fitted in with the circumstances. It had been, in many instances, a sheer necessity as a means of successfully combating the arbitrary actions of the royal governors. The system was a direct product of the times.

(2) In several of the colonies the plan had been successful in accomplishing decisive results. Successive committees based their resolutions upon the arguments and findings of previous committees. Ground had thus been gradually won and this ground was never surrendered again. The non-importation agreements, the Stamp Act Congress, the Committee of Correspondence were all results of a system of opportunism. The First Continental Congress, itself, was the best evidence of its success.

(3) It was fitting that as many of the colonies as possible

[4] Collins: Composition of Committees of the American Revolution, Amer. Hist. Association Report, 1901, V, 1, p. 247.

be represented in the conduct of the important affairs of Congress. This procedure would work out for a greater unity of purpose. It was more democratic. It would silence criticism and prevent the formation of factions and oppositions.

(4) It was, furthermore, a politic move on the part of the New England delegates to strive to have the power in committees divided among the several delegates, so as to eliminate, as far as possible, the well founded suspicions of the Middle and some of the Southern colonies that the New England delegates were determined upon independence.

(5) In the interval between the First and Second Continental Congress, public opinion had crystallized among the people of the colonies. This opinion was, of course, reflected in the colonial assemblies. These assemblies, in turn, instructed their new delegates as to what they should do or say in the new Congress. It would be necessary, therefore, to throw matters of importance into committees in order to prevent constant deadlocks upon the floor of Congress.

(6) Deadly afraid of an executive in Congress, with powers of control, the very absence of such a leader made it necessary that some assumption of executive power should take place. This could best be done, with the least amount of friction, through committees.

During the First Continental Congress, the Journals reveal but 10 committees. All of these had to do with the Association; the statement of the rights of the colonies; the address to the king; to the people of Great Britain; the non-importation agreements, etc.

The membership of these committees was evenly distributed among the colonies. On the first committee two members were contributed by each colony. Both John and Samuel Adams represented Massachusetts.[5] The second committee was com-

[5] Journals of Congress, I, p. 28.

posed of one representative from each colony. Patrick Henry represented Virginia.[6] On the eight succeeding committees, the different colonies were represented as follows: Massachusetts 6; New Hampshire 1; Connecticut 0; Rhode Island 0; New York 3; Delaware 1; Pennsylvania 4; Maryland 2; Virginia 9; New Jersey 1; North Carolina 1; South Carolina 2, while Georgia was not then represented in Congress.

There is evidence here that the Massachusetts delegates profited by the advice given them on the way to Philadelphia. The deference shown to Virginia by Massachusetts in the selection of these delegates was not lost upon her. The combined committee membership of the two colonies upon the eight committees, was 18 against 11 for the Middle colonies, which, as we have seen, were moderate in their stand on independence.

The serious selection of committees began after the organization of the Second Continental Congress. During the remainder of the year 1775, 102 special committees were counted. Most of these committees range from 3 to 13 members. Of 51 committees taken at random during this period, the average membership of each committee was five and a fraction.

The objects for which these committees were appointed were as varied and as numerous as their number. There were, besides, some dozen standing committees, all composed of a large number of men. The work of these committees, in general, seems extremely trivial, in view of the importance of the work confronting Congress at the time.

It is plain that the work could and should have been separated and grouped into well defined departments having more or less executive powers. But nowhere is there any indication that such a course was even contemplated during the years 1775, 1776 or 1777.

[6] Journals of Congress, I, p. 29.

During the year 1776, 169 special committees were appointed or elected, besides those which held over from 1775. There were also 14 standing committees. Of 35 committees taken chronologically during 1776, one consisted of 13 members, 14 of three members, while the average number of members in each committee was four and a fraction.

During 1777, 95 special committees were appointed or elected. There were, besides, 17 standing committees. Of 19 committees taken in a chronological order during this year, the largest number of members on any committee was 5 and the lowest 3, while the average number of members in each committee was three and a fraction.

During 1778, 210 special committees were appointed or elected. Of these, 151 were noted as to their nature and purpose. 89 were selected to consider personal or public communications sent to Congress by individuals, committees or colonies. It would be difficult to classify all these communications as to their nature and requirements, but it is plain that they all might have been properly turned over to one committee as a clearing house, which could, in turn, have distributed them to the proper standing committees or to departments, had such departments been in existence. Instead, these communications were placed in the hands of 89 separate committees. With the existence of proper departments, but six would have been necessary, with the possible addition of six standing committees.

During 1779, but 104 special committees were appointed or elected. Of 64 of these committees observed, 39 were selected to consider communications alone.

This sudden reduction in the number of committees was due to the fact that many letters were, during this year, referred to other previously appointed "letter" committees. However, there was no change in the idea or method of conducting the work

of Congress. During this year, of the 104 committees noted, but 10 consisted of 5 members, 2 of 4 members, 1 of 6 members, 1 of 2 members and 1 of 13 members, while the average number of members in each committee was about three.

During this year, there was a marked change in the personnel of the committees. It was constantly changing, either through absences which forced the appointment of new members to fill vacancies; through the transfer of men from one committee to another or through other reasons not easy to determine.

During 1780, 193 special committees were elected. There were, besides, 8 standing committees. Of these 193 committees, just 100 were selected to consider special communications in the form of letters. The marked reduction in the number of standing committees was due to the formation of some ill-defined departments, such as War, Treasury, Commerce, etc. The nature of the special committees outside of the "letter" committees still varied greatly. Of the 193 committees observed during this year, 131 were noted as to their membership. Two committees consisted of 6 members each; 17 of 5 members each; 6 of 4 members; 104 of 3 members; 2 of 2 members, while the average number of members in each committee was 3.2.

The result of the adoption of the committee system in conducting the business of Congress soon became apparent. Inefficiency of an extreme nature inevitably followed. It was an excellent example of the effect of the decentralization of power so often exemplified by the town-meeting and advocated by Samuel Adams and others as the essence of democracy.

Even when Boards were elected to perform the work which would naturally be delegated to them, special committees were elected to do such work. Centralization of power and responsibility was bitterly opposed, even though its admitted corollary was efficiency and the dispatch of a vast amount of work.

During the years 1775 to 1780, the committee system, while showing improvement in some minor respects, was still the most important factor in the conduct of business. The result was an almost total inability to get things done and this weakness was reflected in all the departments of the Congress.

The distribution of the membership on these special committees among the colonies and their personnel may well claim our attention and may throw some light upon the persistence of the committee system through so many years, in spite of its inefficiency. In the year 1775, of 10 committees selected because of their importance, the representation of the different colonies on these committees was as follows: Massachusetts 6; Connecticut 3, making 9 in all from New England. Pennsylvania had 7, New York 11 and Maryland 2, making 20 in all from the Middle colonies. Virginia had 10, North Carolina 2, and South Carolina 4, making 16 in all from the Southern colonies. The percentage of representation of each group of colonies on these 10 committees was as follows: New England 20%; Middle colonies 45%; Southern colonies 35%.

If a second period in the same year is selected beginning June 25, a study of the committees in a chronological order reveals a marked change in proportionate representation among the colonies.

The distribution among the colonies was now as follows: Massachusetts 7, Connecticut 6, Rhode Island 3, New Hampshire 3, making 19 in all from New England. Delaware was represented by 2 members, New York by 8, Pennsylvania by 8, Maryland by 6, and New Jersey by 2, making 26 in all from the Middle colonies. Virginia was represented by 6 members, South Carolina by 6, and Georgia by 3, making 15 in all from the Southern colonies. These figures would show that the representation was very evenly distributed among the colonies.

It has been intimated, however, that the New England and Southern colonies, if combined, would always have a balance of power in Congress, even if all the delegates from these two groups of colonies did not follow the majority of their fellows in acting together. The following statement gives some light on the possibility of such a combination. "The Adams's of Massachusetts and the Lees of Virginia were the dangerous minority, who had all along aimed at independency but whose purposes had never been so openly exposed as now. Mr. Dickinson, Mr. Jay and Mr. Deane were the exponents of the majority. During the month of September, 1775, the committees, if nothing else, show with tolerable clearness, the temper prevailing in the body."[7] John Adams himself said, "Mr. Samuel Adams and myself were very intimate with Richard Henry Lee and he agreed with us perfectly in the great system of our policies and by this means we kept a majority of the delegates of Virginia with us. Harrison, Pendleton and some others showed jealousy of this intimacy at times. Harrison courted Hancock and others of our colleagues, but we had a majority and gave ourselves no trouble about their little intrigues."[8]

These statements are significant. They appear to be a clear indication of the trend of events and they clearly show that an attempt was being made to control, absolutely, the actions of Congress through the committee system.

In the beginning of 1776, a chronological list of ten committees was noted. Either Samuel or John Adams are found on every one of them. Five of these committees had to do with the army, with General Washington or with the regulation of trade or foreign affairs. The distribution of the colonies upon these committees was as follows: Massachusetts was represented by 19

[7] Charles Francis Adams: Life of John Adams, I, p. 183.
[8] John Adams: Works, III, p. 32.

members; Rhode Island by 3; Connecticut by 5; New York by 4; New Jersey by 2; Pennsylvania by 1; Delaware by 1; Maryland by 1; Virginia by 7; North Carolina by 1; South Carolina by 4. The New England colonies alone controlled 19 of the total membership of 40 members on these 10 committees; the Southern colonies controlled 12, while the Middle colonies controlled 9. The combined membership of the New England and Southern colonies was 31 out of a total membership of 40.

During the latter part of 1776, the distribution and personnel of 10 committees taken in a chronological order were noted. John Adams or Samuel Adams or Richard Henry Lee were found on every one of them. Lee, alone, served on 7 of these committees. Nine of these committees had to do with executive functions. In these 10 committees the colonies were represented as follows: Massachusetts was represented by 10 members; New York by 2; New Jersey by 2; Maryland by 1; Virginia by 10 and South Carolina by 1. The total for New England was 10 members; for the Middle colonies 5 and for the Southern colonies 11. Combined, the New England and Southern colonies controlled 21 out of a total membership of 26.

Three things of marked significance are here revealed. (1) The number of members on these special committees had been appreciably reduced. (2) The number of colonies represented on these committees had been reduced, on the average, by half. (3) There is evidence of a centralization of power in the hands of a few men with increased executive functions.

The ulterior functions of the committee system now begin to be revealed. By this system, and this system alone, could the destinies of the united colonies be controlled by the Radical or Liberty party in Congress. The work of Congress was placed in the hands of committees, consisting of a membership whose majority was unalterably opposed to any centralization of power

whatsoever. Yet, these men, under the leadership of the Adams's and the Lees, were actually attempting to accomplish centralization of power under the very eyes of Congress. Opposition to this procedure was another factor which aided in producing inefficiency and chaos in Congress.

During 1776, there were 169 special and 14 standing committees. Samuel Adams served upon 22 special and 4 standing committees. John Adams served upon 13 special and 2 standing committees. Of a total of 43 committees taken chronologically from June 17, 1776 to Dec. 28, 1776, all of which had to do with important national affairs, Massachusetts, alone, controlled 14 of them, while in a combination with the Southern colonies, she controlled 32 of the total of 43 committees. Of these 32 committees, 11 had to do with the control of the army and instructions to Washington and 8 with the conduct of foreign affairs. Samuel Adams served on 7 and John Adams served on 4 of the army committees, while each served on 4 of the 8 committees relative to foreign affairs.

Of the 95 special committees elected during 1777, besides the 17 standing committees, Samuel Adams served on 16 special and 1 standing committee (Board of War); John Adams served on 11 special committees and one standing committee, while Richard Henry Lee served on 18 special committees. Most of these special committees were those upon which the Adams's were not serving, so that if the two colonies of Massachusetts and Virginia did not actually control every committee, they used their powerful influence in almost every special committee. They, without doubt, actually controlled 45 of the 95 special committees and knew exactly what was going on in all the rest of them.

Of 158 of the 210 special committees elected in 1778, which have been observed in detail, 66 were elected to consider letters. Of the remaining 92 committees, it was found that the represen-

tation of the different colonies on the more important committees, such as those elected to prepare instructions to the American Commissioners in France or to Washington; to act upon the matter of foreign relations, etc., or to receive communications from the French minister,—was as follows: Massachusetts had 14 members; Connecticut 27; Rhode Island 4; Virginia 24 and South Carolina 15. From the Middle Colonies the membership was as follows: New York 18; New Jersey 13; Pennsylvania 3; Delaware 3 and Maryland 8. The total membership of the New England and Southern colonies was 84 as compared to 45 from the Middle colonies. This would seem natural, since two groups would necessarily more than outvote a third group. But the significant fact is that five colonies of the first two groups had nearly double the representation of the third group of five colonies. Thus Massachusetts, Connecticut, Virginia and South Carolina dominated practically every committee. On the other hand, a majority of the memberships of the unimportant committees, such as those relative to seals, petitions, celebrations, accounts, letters, etc., went to the Middle colonies.

During 1779, 26 different men were represented 244 times on the total of 104 special committees elected. Of these 26 different men, 4 were from Massachusetts, 5 from Connecticut, 1 from Rhode Island, 2 from New York, 1 from Delaware, 4 from New Jersey, 2 from Pennsylvania, 4 from Maryland, 2 from Virginia and 1 from South Carolina. It should be noted that the New England colonies furnished 10 of the 26 men; the Middle colonies furnished 13, while only 3 came from the Southern colonies. Now a most remarkable fact is discovered, when it is considered in the light of what has been said concerning committee control. The three men of the Southern colonies served on 51 of the 104 committees; the 13 from the Middle colonies served on 35, while the 10 men from the New England colonies served on

81. The New England and Southern colonies thus had a combined membership of 132 as compared to 36 from the Middle colonies and these 132 memberships were contributed by only one-half of all the men represented on the 104 committees. Here is clear proof of the increasing determination and power to control national affairs by a very few colonies represented by men who entertained very definite views concerning the proper investment of power in the hands of a few men.

The committees on military and foreign affairs were distributed as follows: New England colonies, 28 members represented by 8 men; the Middle colonies, 20 members represented by 7 men, while the Southern colonies had 17 members represented by 2 men. The New England and Southern colonies had together 45 members represented by 10 men, while the Middle colonies had 20 members represented by 7 men. The tendency here, relative to the control of executive functions in the more important affairs of the colonies, is plain.

During 1780, of the 131 committees noted in a chronological order, the membership was limited to 48 men. The distribution of these men among the colonies was as follows: Massachusetts 68, Connecticut 60, Rhode Island 28, New Hampshire 2, making 158 in all. New York contributed 73, New Jersey 27, Delaware 28, Pennsylvania 21 and Maryland 25, making 174 in all, while Virginia contributed 11, South Carolina 15, North Carolina 38 and Georgia 2, making 66 in all. Here is shown for the first time, the growing power of the Middle colonies. This means that the conservative, constructive policy of men like Morris, Franklin, the Livingstons and others was gaining strength. Furthermore, there is evidence of the beginning of a coalition between Massachusetts and the Middle colonies. Witherspoon of New Jersey, for example, was an able aid of Samuel Adams during the years 1779, 1780 and 1781. There is also noted a distinct falling off

in the power and influence of Virignia and the other Southern colonies. The ways had begun to part and Richard Henry Lee was practically the only member from Virginia who openly supported what may with propriety be called the "militia" policy of the New England or Liberty party.

Coincident with this change, there appears a gradual development of executive power in spite of the large number of committees still appointed. Much work was now being done by the Boards of War, Admiralty, Commerce, and even a Committee of Foreign Affairs was given some work to do in connection with the conduct of foreign affairs.

It is further noticeable that letters from Washington are now referred to committees representing in their membership no one colony or group of colonies. Even the Committee of Foreign Affairs was not now under the control of the New England delegates. Above all there is a remarkable falling off in the original membership of Congress, only Sherman, McKean, Samuel Adams, Dana and Bland having retained their membership in Congress from 1775 to 1780.

During 1781, 261 special committees were elected. Of these 127 were formed for the purpose of considering communications. But 45 of these seemed to have as their function the consideration of important and constructive work. This seems to point to the fact that, in spite of the increased number of special committees, the important work of Congress was being gradually concentrated in the hands of Boards or standing committees. Aside from the committees elected to consider the reports of the different Boards and standing committees, the membership of the remaining committees was very much scattered, no colony or set of colonies having any decided advantage. But one of all these special committees was elected to consider matters relative to foreign relations and this committee was to make proper arrangements to receive the French minister.

On May 15, 1781, a new feature in the election of committees was developed. The weakening of the control of the special committees by the New England and Southern colonies has been noted. Coincident with this we note a marked increase in the number of special committees during 1781. In desperation, the constructive elements in Congress proposed a weekly committee, whose functions should be the distribution of all business to the proper channels for consideration and action. This committee was, in reality, a steering committee.

Here seemed to be another chance for the New England leaders to gain control of the conduct of Congressional actions. By controlling the selection of the steering committees each week, they could check, promote or divert measures to their liking. Observation shows that some such attempt was made. In the 34 committees of this kind, elected from the 15th of May to the end of the year 1781, the New England colonies contributed 28 members; the Southern colonies 31 members, while the Middle colonies contributed 34 members. The New England and Southern colonies had, combined, 59 members as compared to 34 from the Middle colonies. While the combination between the New England and the Southern colonies did not mean so much in 1781 as in 1778, yet the totals show that the power of the Radicals in Congress was still formidable. Of these 34 committees, New England and the Southern colonies absolutely controlled 7 by having every member on them from these colonies. They controlled two of the three members of the committee in 16 of the 34 weeks, leaving 11 weekly committees exclusively controlled by the members from the Middle colonies. During the last six weeks of the year, the Middle colonies seem to have obtained control of the majority of the membership in this weekly committee. But this was apparently of little consequence, for according to the records, not one special committee was appointed, outside of the

steering committees, from the 31st of October to the last day of the year.

The reason for such an omission of committees is not apparent. The committee system, as a scheme of Congressional control, was fast running its course. The war had been concluded. The specific aims of the Radicals had been accomplished, but the amount of time and the number of opportunities lost which might have been used to shorten the war through solidifying the efforts and powers of an efficient government were beyond computation.

The nature and personnel of Congressional committees, leaves no room for doubt concerning the purpose of the committee system and its inevitable tendencies. Whether the leaders perceived the final results of such a policy is beside the question. The system worked for a relatively long period and the system was the necessary cause of inefficiency and the forerunner of executive powers in responsible governmental departments.

Summary.

The committee system had its origin in Massachusetts under the guidance of Samuel Adams. This system was at once adopted by Congress as a means of conducting business, because it had been eminently successful in accomplishing results in the colonies. It was also a democratic method of carrying out the functions of government and effectually prevented the centralization of power. It was an elaboration of the town-meeting.

It was soon found by the Radicals, however, that the committee system was the only method by which their ideas of independence could hope to prevail. The next step was a political combination between the New England and Southern colonies in order that the committee system might be absolutely controlled and used for the ends in view.

A study of the committee system from 1775 to 1781 shows how this process of control was gradually evolved. The immediate effect was the decentralization of power and inefficiency in Congress in the conduct of business, but marked centralization of power in the hands of the Radicals for furthering their own ideas and principles. This centralization was actually accomplished by reducing the size of committees, by a reduction in the number of colonies represented on the various committees and by an increase in the number of representatives from particular colonies having definite principles to promulgate.

Beginning in the year 1780, the power of the Radicals in Congress began to weaken. The Constructionists, largely representing the Middle colonies, were able to break the selfish hold of the Liberty party. Executive power began to develop and expressed itself in well defined Boards and Departments. By 1781, the committee system as a scheme of control of Congressional actions had almost completely lost its power. This break-up was hastened by a change in old party alignments, which had been so effective in accomplishing results in the early years, and the equal distribution of representatives from the different colonies on most of the important committees or in the executive departments.

CHAPTER IV.

The Immediate Effect of the Committee System upon the Conduct of Foreign Affairs.

The first committee having anything to do with the conduct of foreign affairs was elected on November 29, 1775. On this date, it was resolved "that a committee of five be appointed for the sole purpose of corresponding with our friends in Great Britain, Ireland and other parts of the world, and that they lay their correspondence before Congress when directed." The members of this committee were Benjamin Harrison of Virginia; Benjamin Franklin of Pennsylvania; Thomas Johnson of Maryland; John Dickinson of Pennsylvania and John Jay of New York. The Middle colonies were here well represented, having four of the five members. [1]

Some interesting observations may be made concerning this committee. (1) Congress *resolved*. This was, as we have observed, its accustomed way of doing business. (2) A committee of *five* was elected. This number was characteristic of most of the committees formed. They ranged from three to thirteen, and thus centralization of power was prevented. (3) The committee was appointed for the *sole* purpose, etc. Its powers were clearly defined and limited. (4) Its correspondence was to be *laid* before Congress *when desired* by that body. Thus Congress was to have absolute and continuous control of its appointed committee.

Party politics were at once in evidence in the appointment

[1] Journals of Congress, I, p. 192.

and control of this committee. The Liberty* faction was not strong enough to control the personnel of this committee, but did manage to limit and define its powers.

That this committee was not considered a diplomatic one is shown by the fact that on December 2, 1775, Congress resolved that the Committee of Correspondence be directed to use their endeavors to find out and engage in the service of the United colonies, skillful engineers, not exceeding four, to be paid equally to what they received in former services.[2] On May 10, 1776, it was resolved that the Committee of Secret Correspondence be directed to lay their proceedings before Congress on the following Monday, withholding names of persons they have employed or with whom they have corresponded.[3] There is no apparent evidence to show just how the committee came to assume the new name now used by it. There is a possibility that the name was transferred by common consent or usage from that of the Secret Committee, which had been previously appointed to purchase supplies for the army. At any rate, there is little reference to the Secret Committee, as such, after this time and increased reference to the Committee of Secret Correspondence. The latter did all the work of the first committee, together with much correspondence. At the same time the Committee of Secret Correspondence was beginning to take on some of the functions of a diplomatic committee, yet it was not considered as a foreign affairs committee, judging from the attitude of Congress to it.

This observation is borne out by the fact that on May 9,

*Note: The terms Independence party, Liberty faction and Radicals all refer to the same body of men in Congress. The differences between them were due to differences in the stage of their development, rather than to differences in principles. The Independnce party men soon became Liberty men and the Liberty men in turn became Radicals in order that they might insure the acceptance of Liberty principles.

[2] Secret Journals of Congress, I, p. 66.

[3] Journals of Congress, IV, p. 345.

1776, it was resolved that an order for $10,000 be drawn on the treasurer in favor of the Committee of Secret Correspondence for the purchase of two vessels, they to be accountable.[4] That this committee was performing the functions of a Board of War is here evident.

In September, 1776, Congress, again, in a committee of the whole, worked out a set of instructions for Franklin, giving detailed instructions concerning the presenting and handling of a treaty with France, indicating in the minutest details what articles to insist upon, what to surrender at once and what to use as "pawns" in the game.[5] On September 26, 1776, a committee of four was appointed to prepare a draft of instructions to Franklin and his two colleagues (Deane and Jefferson).[6] On September 28, Congress accepted the draft of instructions drawn up by this Committee. It was also resolved on this date that the Committee of Secret Correspondence be directed to export produce or remit bills equal to 1,000 lbs. sterling, subject to the order of the Commissioners in France for their support.[7]

Here we have conclusive evidence of the unimportant foreign relations functions of the Committee of Secret Correspondence. All such relations and functions were given into the hands of a special committee. But this is just what should be expected, in view of what is known concerning the fear of too much concentration of power in the hands of a few. The Committee of Secret Correspondence possessed no power of its own to decide or to act upon any war measures whatsoever, and practically had no power to act upon measures coming within its own jurisdiction.

On December 24, 1776, Congress resolved that a committee

[4] Journals of Congress, V, p. 529.
[5] Secret Journals of Congress, II, pp. 27, 28, 29.
[6] Ibid. II, p. 31.
[7] Ibid. II, pp. 33, 34.

of five be appointed to prepare and report on a plan for obtaining foreign assistance.[8] The men elected to this committee were Gerry of Massachusetts; Witherspoon of New Jersey; Richard Henry Lee of Virginia; Clark of New Jersey and Samuel Adams of Massachusetts.

The name of Samuel Adams is here found upon a foreign affairs committee for the first time. This clearly indicates the increased influence of the Radicals. Unable to control the personnel of the original Committee of Correspondence, they were able to limit its powers, and defeat its functioning as a foreign relations committee. Here we find a special committee having for its definite work the conduct of foreign relations and it is controlled almost completely by the Radicals, four of the five members coming from that faction, since it was known that Witherspoon was in sympathy with the Radical policies and it is entirely possible that he might have influenced Clark, the fifth member of the committee.

Even before this, on September 26, 1776, a committee of four had been elected to draft letters of credence to the Commissioners in France, another piece of work which should have gone to the Committee of Secret Correspondence.[9] The members of this committee were Morris of New York; R. H. Lee of Virginia; Wythe of Virginia and John Adams of Massachusetts. Here again the Radicals controlled three of the four votes on this committee.

The very presence of Samuel Adams, John Adams and R. H. Lee on such committees presages the beginning of a so-called "militia" policy in the conduct of foreign affairs. In the instructions to William Lee as Commissioner to Vienna, this Radical committee directed him as follows: "You will seize the first favorable moment to solicit, with decent firmness and respect, an

[8] Journals of Congress, II, p. 36.
[9] Journals of Congress, V, p. 827.

acknowledgement of the independence of these states and the public reception of their commissioners as the representatives of a sovereign state.'' [10] The instructions to Ralph Izard, Commissioner to Tuscany, were identical in language. Here was the launching of a policy which was destined to cause a perilous situation in the conduct of American foreign relations.

These men of the Radical section or faction in Congress, sought to democratize all efforts to secure international co-operation in the conduct of foreign affairs. They feared the centralization of power even in the hands of envoys and they were afraid of the power residing in the crowned heads of Europe. Despising all accepted methods of diplomacy, they were determined that whatever work of a foreign nature must be done, should be controlled by men of a set and determined purpose, who would make aggressive demands upon foreign powers worthy of recognition. It is worth considering whether these men saw the impending danger of this line of procedure. They, apparently, did not see the defects of an elaborate committee system. It cannot be assumed that they were alive to the outcome of the committee system projected into the conduct of foreign affairs.

On December 27, 1776, Congress directed the Committee of Secret Correspondence to direct the Commissioners in France to procure 100,000 stand of arms. [11] This is the first instance where this committee had anything to do with the men in France over whom it might be assumed to have had full control. Its diplomatic character was here, for the first time, feebly recognized. It is safe to conclude, however, that the work of the committee consisted mainly in the securing of money, munitions and supplies, while the real work of foreign relations was conducted by the special committee elected three days before.

[10] Wharton: Diplomatic Correspondence, II, p. 359.
[11] Secret Journals of Congress, II, pp. 36, 37.

On April 17, 1777, Congress resolved that the Committee of Secret Correspondence be altered and that for the future, it be styled the Committee for Foreign Affairs.[12] It was further resolved that a secretary be appointed or elected to said committee with a salary of $70 per month. The secretary was to take an oath of secrecy. After some debate Thomas Paine was elected secretary of the committee.

There can be no doubt that the motion to change the name of the Committee of Secret Correspondence was made by its friends. These friends, however, were not the Radicals. It was thought by the Constructionists that if the committee were recognized by name as having some functions of a diplomatic nature, the work of the committee along this line might eventually become of more importance. It will be interesting to note if the change in name did bring to it more work of a diplomatic nature than before.

Almost immediately, the Radicals tried to control this committee. On April 17, 1777, the same day upon which the change in the name of the Committee of Secret Correspondence had been effected, it was moved that two members be added to the Committee for Foreign Affairs.[13] The men proposed were Lovell of Massachusetts and Heyward of South Carolina. This recommendation as to the personnel of the enlarged committee was, however, scratched out of the journals. On May 26, 1777, the same names were again proposed and this time they were elected to the committee.[14] Fearing that the change in name actually did mean a change in the nature of the work of the original Committee of Secret Correspondence, the Radicals attempted to change the personnel of the Committee for Foreign Affairs entirely, and in this they largely succeeded, though pre-

[12] Journals of Congress, VII, p. 274.
[13] Ibid. VII, p. 276.
[14] Ibid. VIII, p. 385.

viously the committee had been, under the leadership of Robert Morris of New York, overwhelmingly conservative and constructive in its policy.

The addition of these two Radicals to the Committee for Foreign Affairs did not give the Radicals complete control of the committee, however. It was great enough, nevertheless, to limit to a large degree, the power of the Committee for Foreign Affairs and thus minimize its importance. The Radicals then had recourse to the election of special committees again as some of the following will show:

(1) On May 1, 1778, a committee of three (R. H. Lee, Governeur Morris, Roger Sherman) was elected to draw up proper instructions to the Commissioners to foreign courts.[15] Here is a clear case of a special committee assuming the functions of the Committee for Foreign Affairs. Two of the three men composing the committee were Radicals, fully pledged to the "militia" policy in the conduct of foreign affairs. (2) On May 4, 1778, a committee of three (R. H. Lee, Dana, Drayton) was elected to prepare a form of ratification of treaties already suggested.[16] All three of these men were Radicals. (3) On September 14, 1778, a committee of five (Morris, Chase, Drayton, R. H. Lee, Samuel Adams) was elected to prepare a letter of credence to Louis XVI, notifying him of the appointment of Franklin as minister plenipotentiary to the court of France.[17] The Radicals controlled three of the five members of this committee also. Previous to this, in October, 1777, R. H. Lee, Witherspoon and Hooper had been added to the Committee for Foreign Affairs in the hope of completely controlling it. By this new addition the Radicals now had a majority of one in a total membership of eleven.

[15] Secret Journals of Congress, II, p. 488.
[16] Ibid. II, p. 490.
[17] Ibid. II, p. 504.

On June 1, 1778, the instructions to the Commissioners in France having been reported out, they were found to be unsatisfactory on account of their extreme aggressiveness and they were ordered recommitted. [18] At the same time three more members were added to the Committee for Foreign Affairs. These men were Drayton of South Carolina; Duer of New York and J. Smith of Pennsylvania. Two of these three men were Conservatives,* thus destroying the precarious majority of the Radicals in the committee.

This see-saw work in Congress relative to the conduct of foreign affairs now began to produce its evil results. On August 13, 1778, it was resolved "that Congress take into consideration on the following Saturday the state of foreign affairs and that Mr. Silas Deane be required to attend Congress on that day and give them information respecting the general state of those affairs and a particular statement of the funds and commercial transactions in Europe and especially with Monsieur Beaumarchais." [19] It was further ordered "that the Committee for Foreign Affairs lay before Congress all letters and other public papers which they have received from the commissioners, agents or other persons, who have transacted business for the United States in Europe from the appointment of the Committee of Secret Correspondence to this day." [20]

The leaven of inefficiency due to party politics had begun to work. Previous to this order, on August 1, 1777, a committee of three had been elected to examine the letters which had passed between the then Committee of Secret Correspondence and Mr.

*Note:—The term Conservative is here used to indicate all men who opposed the Radical program. The Constructionists on this issue were included among the Conservatives.

[18] Journals of Congress, X, p. 559.

[19] Ibid. XI, p. 787.

[20] Ibid. XI, p. 788.

Silas Deane and report thereon to Congress.[21] This committee was composed of Samuel Adams, J. Wilson and Henry Laurens. The Radicals again controlled this committee. By January 20, 1779, matters had become so indefinite and embarrassing, that it was resolved that a committee consisting of one member from each state, be appointed to take into consideration the foreign affairs of these United States and also the conduct of the late and present commissioners of the States in Europe and report thereon.[22]

After a long and heated discussion in committee, it was finally decided upon the floor of Congress after at least six votes had been taken upon the matter, that "suspicions and animosities have arisen among the late and present commissioners, namely Benjamin Franklin, Silas Deane, Arthur Lee, Ralph Izard and William Lee, highly prejudicial to the honor and interests of these United States."[23] It apparently did not occur to the members of Congress that the direct cause of the suspicions and animosities was the undecided and inefficient methods of conducting important business through the committee system controlled by the Radicals.

On April 30, 1779, Paca and Drayton, as a special committee on the question, "Shall Arthur Lee, commissioner of the United States at the court of Madrid, be recalled?" laid upon the table a report, which was only accepted after the President had appealed to the House, due to the strenuous objections of Samuel Adams to the report as being out of order.[24] This report was in substance as follows: Whereas, by intelligence communicated to the committee by the minister of France.....Mr. Arthur Lee has not the confidence of either the courts of Ver-

[21] Journals of Congress, VIII, p. 596.
[22] Ibid. VIII, p. 93.
[23] Ibid. XIII, pp. 479-487.
[24] Ibid. XIV, pp. 534-537.

sailles or Madrid.....that his appointment as plenipotentiary to the court of Madrid would be disgusting to that court..... that the conduct of Arthur Lee was disgraceful to those courts and prejudicial to the honor and interests of the United States .....that the committee was astonished to hear an assertion made in Congress on the 15th inst. by an Honorable Member from Massachusetts (Samuel Adams) as from the highest authority in America that the said commissioner had the confidence of the Court of Versailles and since another assertion by the Honorable Member from the same state, that the said member is the most proper person to represent the said state at the court of Madrid, assertions which being made in debate upon foreign affairs,.....were made to influence Congress to continue the said Arthur Lee as the public minister at the Court of Madrid..... that the committee has been compelled to apply to the Minister of France residing near Congress as the highest source of information in America.....and that he produced an original letter to him from Vergennes, in which was said, 'I confess to you, that I fear Mr. Lee and those about him'.....that he disgusted the Court of France.....and that this information was laid before Congress to the end that they may not be misled to continue said commissioner at the Court of Madrid.....that if this advice is disregarded, the committee discharges its duty and will not be responsible for the consequences, ruinous to finances and an impediment to peace.

On May 3, 1779, a vote was taken on the recall of Arthur Lee.[25] The states voted as follows: Massachusetts gave three of her four votes against recall as might have been expected; Rhode Island was divided; Connecticut voted No; New York voted Yes; New Jersey, controlled by Witherspoon, voted No; Pennsylvania was divided; Delaware voted No; Maryland voted Yes;

[25] Journals of Congress, XIV, p. 542.

Virginia, Yes; North Carolina, Yes; South Carolina was divided. A divided vote was given on the whole question and no decision was reached. The vote showed, however, an unmistakable division between old forces formerly standing strongly and firmly together, namely, the New England and Southern colonies. The explanation is to be found in the extreme aggressiveness of the methods of the Radical party and the beginning of a new problem in Congress soon to be known as States Rights.

On June 10, 1779, a second vote was taken in Congress on the recall of Lee.[26] There was not a dissenting vote on the question. Two days before, on June 8th, a vote had been taken on the recall of Ralph Izard.[27] Here the vote was almost unanimous, only Massachusetts, New Hampshire, Pennsylvania and South Carolina voting No. This vote showed how fast the sentiment in Congress was turning against the tactics of the Radical party. The vote on Lee was conclusive.

On November 29th, 1779, two more members were added to the Committee for Foreign Affairs—Houston of New Jersey and Robert Livingston of New York.[28] This action threw the balance of power still more into the hands of the Conservatives, in so far as the conduct of foreign relations was concerned.

From this time on until June, 1781, very little is heard of the Committee for Foreign Affairs. There are two explanations for this: (1) Much of the real work of the committee was carried on by Franklin in France. (2) The Radicals seeing their power in the Committee for Foreign Affairs fast disappearing, went back again to the old system of electing special committees, thereby hoping to control the actual work of the committee.

Previous to June, 1781, the following special committees were elected to act upon foreign relations:

[26] Journals of Congress, XIV, p. 714.
[27] Ibid. XIV, p. 700.
[28] Ibid. XV, p. 1302.

(1) On February 24, 1779, papers relative to negotiations with the Barbary states were ordered referred to a committee of three (Carmichael, Nelson and Burke).[29] All three of these men represented the Radical party.

(2) On April 15, 1779, a committee of thirteen (already mentioned) was elected to consider the report on the Commissioners abroad.[30]

(3) On October 9, 1779, a committee was elected to prepare a commission for the secretaries to the minister plenipotentiary to France.[31]

(4) On October 13, 1779, John Jay asked Congress for information as to the source of moneys he needed to carry on his diplomatic work in Europe. The matter was referred to a new special committee consisting of Henry Laurens, Jenifer and Langdon, two of whom were Radicals.[32]

(5) On the same day, it was moved that Mr. Witherspoon and Mr. Lovell (both Radicals) be added to the above committee. As both these men were also members of the Committee for Foreign Affairs, the motion is significant.[33]

(6) On November 8, 1779, a committee was elected to negotiate a loan from the United Provinces and to prepare a letter to the Courts of Versailles and Madrid, informing them of the appointment of Mr. Jay as the negotiator of a loan in the Low Countries and to solicit their aid to that end.[34] Here is a plain example of the workings of the "militia" system. The one thing that France and Spain did not want the United States to do was to attempt the negotiation of loans among neutrals.

(7) On November 12, 1779, a committee of three (Morris,

[29] Secret Journals of Congress, II, p. 520.
[30] Ibid. II, pp. 525-544.
[31] Ibid. II, p. 273.
[32] Ibid. II, p. 275.
[33] Ibid. II, p. 276.
[34] Ibid. II, p. 295.

Houston, Dickinson) was elected to consider the draft of a speech to be delivered before Congress by the Chevalier de la Luzerne.[35] The Conservatives completely controlled this committee, but it was of no importance.

(8) But on January 25, 1780, when the memorial of the French minister was referred to a committee of seven members (Mathews, Livingston, Ellsworth, Gerry, Griffin, Burke, McKean), the Radicals controlled five of them.[36] The work on this speech was in just that proportion deemed to be important from the standpoint of foreign affairs.

(9) On October 18, 1780, a committee of four (Hawley, VanDyke, Ingersoll, Henry) were elected to draft a memorial to Versailles for procuring aids and supplies for a vigorous prosecution of the war.[37] The Radicals controlled this committee.

(10) On the same day, another special committee was appointed to receive and report on letters from John Adams and was directed to instruct Adams *not* to make a truce with England.[38] This work ought assuredly to have been placed in the hands of the Committee for Foreign Affairs.

(11) On December 11, 1780, a committee of three (Sullivan, Madison, Mathews) was elected to prepare a draft of a commission and instructions to Henry Laurens.[39] All three of these members were Radicals.

(12) On December 15, 1780, a committee of three (Duane, Witherspoon, Madison) was elected to draw up a commission and instructions to the minister to Russia.[40] Two of the three members of this committee were Radicals.

(13) On December 22, 1780, a committee of three (Mathews,

[35] Secret Journals of Congress, II, p. 296.
[36] Ibid. II, pp. 299-311.
[37] Ibid. II, p. 326.
[38] Ibid. II, p. 339.
[39] Ibid. II, p. 357.
[40] Ibid. II, p. 357.

Madison, Duane) was elected to confer with Mr. Laurens on the subject of his mission. [41] Two of the members of this committee were Radicals.

(14) On December 26, 1780, a committee was elected to prepare additional instructions to Franklin. [42] The Conservatives, for the first time, controlled this committee.

(15) On December 26, 1780, a committee was elected, composed of five members (Witherspoon, Sullivan, Duane, Mathews, Madison) to confer with the French minister on the matter of Mr. Laurens' mission. [43] Here, again, the Radicals were in control.

The mere enumeration of the above fifteen committees produces an accumulative effect upon the investigator, inasmuch as every one of them was elected to perform specifically the duties of the Committee for Foreign Affairs. It is clear that the Committee of Secret Correspondence was never considered as a Committee for Foreign Affairs during its early existence. Changed in name on April 17, 1777, to that of the Committee for Foreign Affairs, it began to function as a foreign relations committee. Immediately the Radicals sought representation on this committee. Failing in this as far as complete control was concerned, they had recourse to the election of many special committees, some of which have just been mentioned. The result must necessarily have been extreme chaos in the conduct of foreign relations by so many committees working at cross purposes. This, we will find, was reflected in the conduct of foreign relations abroad and nearly caused the complete break-down of all negotiations for money, loans, supplies, munitions, treaties and alliances.

The difficulties of the situation were further complicated by differences in individual beliefs, antagonisms resulting from

[41] Secret Journals of Congress, II, p. 373.
[42] Ibid. II, p. 373.
[43] Ibid. II, p. 373.

these differences and a growing importance of the affairs of the individual states.

(1) Samuel Adams believed devoutly in the liberty of the individual and the absolute overthrow of despotism. He was able, in Massachusetts, to control political power through the elections, because he choose men of his own stamp to aid him and because his austere character forestalled all opposition. He went to Philadelphia with the firm conviction that Congress was a town-meeting. Beyond this conviction he would not and did not go during his active period in Congress. Here we see how one of the controlling factors developed in a previous chapter influenced Congressional action for nearly six years. The point that Adams could not see was that a homogeneous party in Massachusetts was far different from a heterogeneous, multi-partied group of men from different colonies, having different ideals and experiences. His ideas were the real obstacles to the working out of his schemes of pure democracy, paradoxical as that may seem. The explanation of this is found in the fact that parties out of power become theoretical. The Liberty party in Massachusetts, always out of power, stood as a party of opposition to the functioning of executive power. Experience in leadership was limited to controlling the opposition factions, rather than in ameliorating and solving political problems of expediency and governmental control.[44] The type of Puritanism which subjects public conscience to private conscience was in the ascendency and represented by men who were heroes of revolt, but weaklings in organization and reconstruction.[45]

Samuel Adams was opposed to the scientific principles of war, of finance and of diplomacy. Thus, he fought all executive power and trusted to the committee system as permanent

[44] Wharton: Diplomatic Correspondence of the American Revolution, I, p. 253.

[45] Ibid. I, p. 253.

in itself. He never considered the scaffolding of the stronger government to follow, as did Washington, Franklin, Jay, and others, but at all times attempted to subordinate Boards and Departments to the men who sympathized with his views or by political moves, tried to control all committees by choosing their members.[46] Associated with Samuel Adams in these convictions were John Adams and R. H. Lee. All three chafed at the Fabian policy of Washington in the conduct of military affairs;[47] all three, on the other hand, opposed regulars for the militia, declaring that a standing army was a horrid evil, even against invasion.[48]

Gerard, the French minister to the colonies, said, "Two men led in maintaining the balance of power so that they could profit by it in case of capitulation to England—Witherspoon and Samuel Adams were those men."[49] This statement is borne out in our observation of committees.

(2) All the committees, regardless of their political complexion, were greatly overworked. By this means their efficiency was partly destroyed. John Adams said that he was incessantly at work from four in the morning till ten at night and that he served on ninety separate committees (though I can find no evidence that he served on that number of committees at one time).[50] If he served on half that number of committees, it is safe to say that he could not have possibly attended the meetings of even a majority of them, on account of unavoidable conflicts and the necessity of spending much of his time on the floor of Congress, as well as the executing of the business of these committees.

[46] Wharton: Diplomatic Correspondence, I, pp. 262, 263.
[47] Ibid. I, p. 263.
[48] Bancroft: History of the Constitution, p. 337.
[49] Durand: Documents of the American Revolution, pp. 165-166.
[50] Morse: John Adams, p. 144.

(3) No time was spent in selecting men for any committee because of special fitness for the work of that committee. "Most men in Congress," said Gerard, "owe their positions to zeal and patriotism. Little attention is paid to talent. If one member happens to be more conspicuous, private jealousy and the anticipation of personal ascendency throws him in the background. Competent merchants, therefore, are placed on the Committee for Foreign Affairs. Many colonels and generals are in Congress, but none of them are on the Board of War." [51]

(4) Every delegate in Congress was closely watched by the colony that sent him. The states did not concede to Congress the power formerly allowed to Great Britain. Congress did not, itself, pretend to have sovereign powers. It merely acted as the mouth piece of the Patriot party in the colonies. It resolved and recommended measures, but it could not, or at least did not assume to enforce these resolves. It depended upon the states to approve its actions. [52] Everything from the plan of a hospital to the plan of a seal had to be made in committees. [53] War, itself, was carried on by a debating society.

(5) The personnel of the committees was constantly changing. Strong men who were unwilling to sacrifice all for the good of the country at large, were attracted by desirable work in their own states. Pendleton and Hancock, both of whom became governors of their own states, illustrate this feature. All of the thirteen members of the original Committee on Confederation (except Samuel Adams) had left Congress before debate upon the matter had even begun.

(6) After 1779, a new alignment in Congress became apparent. This division was between the advocates of a strong centralized government (Constructionists) and the States Rights

[51] Durand: Documents of the American Revolution, pp. 174-175.
[52] Journals of Congress, III, p. 458.
[53] Index of Committees, Journals of Congress.

or Liberty party. The former was developed as a protest against the inefficiency brought about by the Liberty party through the use of the committee system. Said Gerard, "There are two parties in Congress—States Rights and National. Debates between them are acrimonious and the effect of this is a certain paralysis of both the diplomatic and military genius of the country. The National party is composed of Washington, Jefferson, Franklin, Harrison, Robert Morris, Madison, the two Livingstons and the Virginia statesmen generally. The States Rights party consists of the Adams's, R. H. Lee and Arthur Lee..... These are strongly anti-French, because the French believe in the *collective power* of the *states.*" [54]

When in the First Continental Congress, Patrick Henry asserted that distinctions between Virginia, Pennsylvania, New York and New England were no more, men shook their heads and shrugged their shoulders. [55] The small states were afraid of the large ones. Most of them considered the union but a temporary one. This idea is expressed in the Constitutions of North Carolina and Pennsylvania in providing for their delegates to the Continental Congress, "as long as such representation shall be necessary." [56] Connecticut in adopting her old charter as a new constitution stated, "This republic is and shall forever remain a free sovereign and independent state." [57] On July 2, 1776, New Jersey issued a constitution, "to be inviolable" in case of no reconciliation; "temporary and provisional," if the reverse. [58] In January, 1779, Massachusetts drew up the first draft of a constitution, but it was rejected in the town-meetings,

[54] Durand: Documents of the American Revolution, p. 194.
[55] John Adams: Works, II, p. 367.
[56] Ibid. II, p. 366.
[57] Rhode Island Calender Records, VII, pp. 448-449.
[58] Minutes of the Provincial Congress and Council of Safety of the State of New Jersey, p. 558.

because it did not secure equality of representation and contained no bill of rights. A committee of three, including the two Adams's, was elected to make a new draft. This was sent to the town-meetings and after more than a thousand suggested changes had been received, digested and in part incorporated, a constitution was finally adopted in 1780 by the assembly. [59]

The power in most states was placed wholly in the hands of the people. Many included in their constitutions a bill of rights. Every error of the British government was to be entirely eliminated. In October, 1776, Virginia did away with the entailment of estates. [60] Jefferson was optimistic concerning the growth of republicanism, but Jay wrote to Rutledge, "We have a government, you know, to form, and God only knows what it will resemble." [61]

The governors were checked and limited in devious ways. The colonies had had experiences with governors. There was universal fear of a one-man power. Consequently short terms in office were popular. In eight states the governor was elected for one year. In eleven states he had no veto power. Others had a council of state to advise him.

By 1777, all states, with the exception of Massachusetts, had adopted definite governmental plans. The fact that this state was the last to do so, is worthy of note. First in demanding independence through her delegates in Congress, she was the last to build for herself a constitution. Most zealous of her position as a colony, she hazarded all in a conflict of arms. Most zealous of her democratic liberties, she developed a remarkable and lofty idea of state sovereignty.

In the light of the difficulties enumerated above, together with the peculiar growth of state governments and the ideals of

[59] Bradford: History of Massachusetts (1620-1820), pp. 277, 293, 294.
[60] Morse: Jefferson, p. 39.
[61] VanTyne: American Revolution, p. 157.

States Rights, the actions and beliefs of the Radical leaders in Congress from 1775 to 1780 can now readily be explained. Expressed in the ponderous and inefficient committee system, it is remarkable that anything of moment was accomplished in the way of diplomacy during those years.

Summary.

The Committees of Correspondence began life as local institutions in 1772. When Congress met in 1774, the election of committees to do business was a natural procedure. Committee work really began with the second Congress. In 1775, we find 102 special committees elected to do work which should have been done by regularly established departments. The number of special committees steadily increased until 1778. In this year the so-called "letter" committees predominated in number.

In 1779 and 1780, the "letter" committees still led in number. There was also much change in the personnel of all committees. Nothing of any moment was referred to Boards or standing committees, although such now existed. The direct result was a marked inefficiency and decentralization of power. This was at first a natural result. But by 1778, it had come to be premeditated, in order to control the work of Congress.

In the beginning, the personnel of committees shows New England delegates in the minority. This minority gradually increased during the latter part of 1775 and by the middle of 1776, the Radicals, with the help of Virginia, were able to control Congressional actions on all important issues. By the latter part of 1776, Massachusetts and Virginia largely controlled the special committees on foreign affairs. By 1777, the Adams's and Lees controlled absolutely the majority of committees on foreign affairs. During 1778, their power was still increased and by 1779 their power was overwhelming. This climax of power coincides

with the rash "militia" policy of the envoys in France and other countries at this time.

During 1780, the power of the Radicals temporarily decreased. More work of importance was referred to Boards and the Committee for Foreign Affairs. This was, primarily, the result of the disclosures of animosities among the envoys abroad. The Constructionists realized the cause of these troubles to be the committee system, and were now attempting to find means to check it.

Not until April 17, 1777, was the Committee of Secret Correspondence recognized as having foreign relations powers. At once the Radicals attempted to control this committee. Failing in this, they sought to nullify its actions by securing the election of many special committees to do its work. During 1778 and 1779, the Radicals were able, for a short time, to control the Committee for Foreign Affairs, but with disastrous results.

During 1779 a new alignment of forces began. State jealousies and States Rights doctrines appeared and greatly interfered with the proper functioning of the work of all committees. Not much is heard of the Committee for Foreign Affairs, therefore, until 1781. Meanwhile, much of its work had been done by Franklin in Europe.

Other factors appeared to weaken the committee system, as well as the conduct of foreign affairs, at this time, so that the power of the Radicals rapidly waned. At this juncture, the Middle states were given an opportunity to assume control of affairs under the leadership of constructive statesmen, aided by the wiser men of the Southern colonies. This change in control checked the inefficiency and chaos resulting from the committee system, and prevented the loss of French aid in the time of greatest need and assured the success of the American colonies in obtaining and retaining independence.

CHAPTER V.

The Crucial Period in the Conduct of Foreign Affairs as a Result of the Weakness and Indecision of Congress Working through Its Committee System.

We have seen that the committee system was a natural and inevitable result of the times. It is possible that nothing better could have been devised to check aristocratic tendencies and effect complete decentralization of power. A form of democracy was built up in Congress, but it soon gave evidence of a lack of the democratic spirit. Sectional jealousies and suspicions developed and the final outcome was most uncertain.

In such a situation, the Committee for Foreign Affairs found itself in an extremely perilous position by the latter part of 1777. The colonies were desperately in need of money and supplies in order to prosecute the war. The Radicals claimed that anything beyond this in the way of help meant ultimate subservience to a foreign power. This belief of the Radicals was the chief basis for the development of the "militia" policy of demanding direct and efficient aid from France. To make affairs more difficult, Congress was hopelessly divided by party animosities. According to de Fleury, these parties were subdivided into infinity, but generally, there was an alignment into two wings,—the Eastern party comprising Pennsylvania, New Jersey and South Carolina, led by Gates and Lee; the Southern party comprising Virginia, Maryland, New York, North Carolina and Delaware. The Eastern party was ably seconded by New England on the platform that no man of influence should have power over all the forces of the state. This party, there-

fore, upheld Gates against Washington and all others desiring a strong, centralized government.[1] The New England faction moreover, formed the "militia" wing of the Patriot or Liberty party, standing for decentralization of power and a demand upon France for immediate aid to be given by her as a privilege and duty.

On September 26, 1776, Congress elected three commissioners to the Court of France (Franklin, Deane and Jefferson). Jefferson declining, Arthur Lee was elected in his place.[2] Their work in France was to be the procuring of funds and ammunition and the signing of a treaty of alliance.

Deane had been sent as a special agent to France as early as 1775. Lee came on from London, where he had been acting as a special agent for New England, appointed through the influence of Samuel Adams. They all gathered in France, December 15, 1776, where they found conditions far from favorable, due to the previous work of Deane. He had been instructed to gain an audience with Vergennes, Minister of Affairs, when he was to discuss the purchase of arms and to intimate that France had been selected as a source of help, because her friendship would be fittest to obtain and cultivate, in the event of a separation from England; that mutual commercial advantages would result from such a friendship, but that arms and clothing were needed *then* and would be paid for as soon as navigation could be protected by America and her friends.[3]

Three things are plain in this suggested line of action. (a) A demand was practically made upon France for aid; (b) Supplies were to be paid for at some future date; (c) Payment depended upon free navigation which was to be controlled and

[1] Stevens: Facsimiles of the American Revolution, XVII, No. 1616.

[2] Secret Journals of Congress, II, p. 31.

[3] Sparks: Diplomatic Correspondence, I, pp. 5-8; Deane Papers, I, p. 123.

protected by France, the creditor. Such extreme assumptions are explained by the fact that the New England party was, for the time, in control of the committee which drafted these instructions. It is a clear demonstration of the spirit of that faction.

Deane was further instructed to play slowly with Vergennes; to look for opportunities for announcing that the American colonies were anxious to know if France would acknowledge, in the event of separation, these colonies as independent, receive their ambassadors, and enter into treaties or alliances with them, and if so, under what conditions. [4]

That this line of action was the direct result of committee rather than Congressional deliberation is proved by the fact that as late as September, 1777, when John Adams, one of the leaders of the movement to demand aid from France, proposed such procedure upon the floor of Congress, it was rejected. "It was too much for the nerves of Congress," said Adams, "The grimaces and the convulsions were very great." [5] Franklin always thought, "a virgin state should preserve its virtue and character and not go abroad suitoring for alliances." [6]

This conflict in Congress on the question of alliances, added to the growing inefficiency of the committee system, had its immediate effect upon the labors of Deane. In several letters to Congress, he indicates his distress in not receiving word from America. [7] He is finally informed by the Committee of Correspondence that a change has been made in the personnel of the Committee and that Lee and Franklin have been appointed as commissioners to aid him. [8] On October 25, he complains of the

[4] Sparks: Diplomatic Correspondence of the American Revolution, I, p. 8.

[5] Clark: Silas Deane, p. 41.

[6] Foster: A Century of American Diplomacy, p. 9.

[7] Deane Papers, I, pp. 287-288; 325-326.

[8] Wharton: Diplomatic Correspondence, II, p. 162.

silence of Congress.[9] He makes the same complaint on November 9, 1776,[10] and again on November 28, 1776.[11] On November 28, Deane received notice of the Declaration of Independence. The letter was dated August 7, 1776, though the Declaration was consummated on the 7th of July preceding. Deane complains bitterly that the announcement was not made in a more formal way and in the form of a document of some importance, instead of a three or four line letter from a committee of Congress.[12] In another letter he complains with some show of resentment, that he gets no instructions from Congress and that the delay in issuing the Declaration is absolutely destroying American prestige in Europe.[13] Even Lee became disgusted with the dilatory methods of Congress and writes to that body in these words, "For Heaven's sakes, if you mean to have any connexion with this kingdom, be more assiduous in getting your letters here. I know not where the blame lies, but must lie somewhere, when vessels sail from Philadelphia down to the middle of August without a single line (instructions)."[14] As late as March, 1777, Deane writes to the Committee of Secret Correspondence that he has received just three letters since he arrived in France a year before.[15] It should be kept in mind, however, that Congress was just then relying upon committees in the conduct of foreign relations and with these committees under the control of Samuel Adams, nothing else could have been expected.

In desperation, Deane assumed powers and prerogatives which Congress had never granted him. He proceeded to hire

[9] Deane Papers, I, pp. 337-338.
[10] Ibid. I, p. 351.
[11] Ibid. I, pp. 371-372.
[12] Sparks: Diplomatic Correspondence of the American Revolution, V, p. 51.
[13] Ibid. V, pp. 40-45.
[14] Ibid. V, p. 33.
[15] Deane Papers: II, p. 18.

many officers in Europe, granting them commissions of high rank in the American army. This action seriously embarrassed Washington and in September, 1777, Congress, upon a report of the Committee for Foreign Affairs, condemned such action as without authority by Congress. [16]

Meanwhile, a personage, destined to have much to do with American history, now appeared and had a conference with Deane. This man was Beaumarchais. It is known that he went to London to confer with Arthur Lee. It is further known that Lee sent a statement to Virginia soon after this conference, informing that colony that France would furnish five million livres worth of arms and ammunition. [17] Beaumarchais, on his return to France at once endeavored to secure funds from the French government, but without success. He then formed an independent company and finally succeeded, through the instigation of Lee and an agreement with Deane, in shipping supplies in large quantities to America with explanatory letters and bills signed by Rodriguez, Hortalez and Company. [18]

Congress, however, relying completely upon Lee's statement to Virginia, accepted the supplies with grace and bothered little concerning the bills, in spite of the fact that Deane had rendered to Congress statements as to the exact nature of the goods shipped and the amount of America's indebtedness for them.

The results of this misunderstanding were immediate. Both Deane and the French king fell under suspicion. Here is clear evidence of the fruits of the committee system. Deane had received no instructions. He knew nothing of the temper or desires of Congress. The whole situation is traceable to the inability of Congress to adopt a definite policy in the conduct of foreign relations and adhere to it.

[16] Secret Journals of Congress, II, p. 481.
[17] Clark: Silas Deane, p. 55.
[18] Wharton: Diplomatic Correspondence, II, p. 276.

France was, during this time, maintaining strict neutrality. Ships were prevented from clearing loaded with munitions for America and officers whom Deane had hired were arrested on board ship and imprisoned. The situation becoming desperate, Deane began to hold the French government responsible for his difficulties.

At this juncture, the new commissioners, who were appointed to aid Deane, arrived in France. At once, trouble of another form developed, due to the fact that Lee regarded himself as the leader of the commission. He took issue with Beaumarchais because he treated with Deane; with Deane because he considered that Deane had robbed him of much honor; with Franklin because of his great welcome in France; with France because she did not move with more alacrity.[19] But he received no satisfaction in any of his tirades and becoming disgruntled, went to Spain with promises to that Court that America would conquer Pensacola in return for Spanish aid. But the Spanish Court, on advice from Franklin, kept Lee at Vittoria. Franklin strenuously objected to Lee's method of procedure. "A virgin state," he said, "should wait with decent dignity for the applications of others.....while we are asking, it is necessary to comply with the humors of those we apply to."[20]

The leader, then, of the "militia" policy abroad was Arthur Lee. Both he and Samuel Adams were unalterably opposed to the two fundamental ideas of diplomacy of that day, namely, that ambassadors should not be forced upon foreign courts and that delicacy was to be always used even between politically equal countries. Lee, true to his ideas of the efficacy of the "militia" policy, conveyed to Samuel Adams and to Congress

[19] Hale: Franklin in France, pp. 42-43.

[20] Wharton: Diplomatic Correspondence of American Revolution, II, p. 298.

the idea that Vienna, Madrid, the Courts of Prussia, Russia and Tuscany would be pleased to have America send envoys. [21]

Deane, also, thought himself largely superseded by Franklin, and began to carry on negotiations with the French Court on his own account. In a letter to Vergennes, April 8, 1777, he announced that the people and Congress of America expected assistance from France and urged the necessity of not disappointing them. [22]

The English ministry was not slow to suspect that all was not going well with the American envoys. Suspecting a lukewarmness on the part of Deane to the idea of complete independence, it sent secret agents to influence him. On December 12, 1777, Paul Wentworth wrote to Deane asking for a secret interview. [23] Deane replied arranging for such a meeting. [24] Wentworth came to this meeting on December 15, bringing memoranda which included general headings for the preliminaries to an accommodation and perpetual union between Great Britain and the American colonies. [25] It must be said to the credit of Deane, however, that the English ministry was soon convinced that he was absolutely opposed to peace. It was then planned to compromise him by implicating him in the trial of "John the Painter." Failing in this scheme, it was next planned to carry him by force from France to England, there to intern him until peace could be accomplished. [26]

Deane had, by this time, done enough to satisfy Congress of his lack of reliability. Accordingly, it was resolved on November 21, 1777, to recall him and the Committee for Foreign Affairs was directed to take measures to put this resolve into effect. [27]

[21] Lee: Life of Arthur Lee, II, p. 113.
[22] Stevens: Facsimiles, VI, No. 680.
[23] Stevens: Facsimiles, VI, No. 719 (1).
[24] Ibid. VI, No. 719 (2).
[25] Ibid. VI, No. 719 (3).
[26] Ibid. XV, No. 1489.
[27] Secret Journals of Congress, II, p. 481.

Franklin, upon taking up his duties in France, found himself the minority member of the commission in all matters of diplomacy. He refused to press matters in connection with supplies and ammunition. In January, 1777, he was prevailed upon, however, to make an actual demand upon the French king for ships of war. The commission intimated that such demand was "agreeable to our instructions." [28] This last phrase is evidence that Franklin did not intend to assume the responsibility for the "militia" policy. He would not take a high-handed course of action. "It is my purpose," he said, "to procure, while I stay here, what advantage I can for our country, by endeavoring to please this court." [29]

Franklin's stand upon the method of the conduct of diplomatic relations had its effect upon the French Court. This may be gathered from a question put to each of the Commissioners by the French ministry, as follows: "What, in the opinion of the American Commissioners, is necessary to be done to engage them not to listen to any propositions from England for a new connection with that country?"

Franklin answered as follows:—"The Commissioners feel that the immediate conclusion of a treaty of commerce and amity will remove uncertainty.....and give such a reliance on the friendship of France as to reject firmly all propositions made to them by England, which have not for their basis the entire freedom and Independence of America, both in matters of government and commerce." [30]

Deane answered as follows:—"There must be a guarantee by France of the present American possessions with others to be acquired and to enter into war with England, or furnish Con-

[28] Stevens: Facsimiles, VI, No. 614.

[29] Wharton: Diplomatic Correspondence of the American Revolution, II, p. 245.

[30] Stevens: Facsimiles, VIII, No. 774.

gress with money to carry on the war, until peace or the conquering of all English possessions in America." [31]

The contrast between these two answers is striking. One illustrated the essence of the Constructionist party which Franklin represented. The other was the core of the "militia" policy which Samuel Adams fathered in America.

During the whole of the year 1777, the Committee for Foreign Affairs did nothing but correspond with the Commissioners in France. Robert Morris, a member of the committee, informed them, "that the conduct of Congress is discouraging and that as long as that body persists in executing as well as deliberating on their business, it will not be done right. This has been urged many times, but some do not want to part with power (Radicals) or pay others to do what they cannot do themselves." [32] He adds that he was not placed on the committee to correspond, but to carry out the conveyances, but he has done nothing but write letters.

It must have been encouraging to the envoys in France to receive a letter from the Committee of Secret Correspondence that through an accident in removing from Philadelphia to Baltimore, the Secretary of Congress had lost the instructions to the Commission, by which it was empowered to negotiate with the Courts of other neutral nations. [33]

Henry Laurens, as President of Congress, informs John Adams on November 28, 1777, that he has been elected Commissioner to France and asks pardon for the omission of his commission on account of lack of instructions and a knowledge of precedents in such matters. [34] Laurens was a follower of Sam-

[31] Stevens Facsimiles, VIII, No. 776.

[32] Sparks: Diplomatic Correspondence of the American Revolution, I, p. 179.

[33] Ibid. I, p. 181.

[34] Wharton: Diplomatic Correspondence of the American Revolution, II, p. 432.

uel Adams, who gloried in the fact that he knew nothing of diplomatic procedure and did not care to know.

That Congress acted often on diplomatic matters as a committee of the whole, is shown by a letter from Laurens to John Adams, January 1, 1778, in which he says that he had received his (Adams's) letters and had read them to Congress.[35] Nearly a year after this (December 8, 1778) James Lovell wrote to Franklin (for the Committee for Foreign Affairs) that he enclosed plans of operations, but that his letter had been delayed for alterations to be made by Congress.[36]

This indefiniteness in Congress relative to diplomatic affairs, was reflected in the work and correspondence of the envoys in France. They knew not to whom they were responsible or to whom they were to address their complaints, memorials or reports. On July 1, 1777, William Lee received his instructions as Commissioner to Berlin from John Hancock, President of Congress.[37] Lee, replied, acknowledging the receipt of his commission, but directed his letter to Charles Thomson, Secretary of Congress.[38] In many of Lee's letters he says he "is pleased to inform Congress, etc." From January 22, 1778 to September, 1778, he directs his letters to the President of Congress. After this interval, he directs them to the Committee for Foreign Affairs. Ralph Izard, as Commissioner, directs his letters from July 1, 1777 to April 1, 1778, to the Committee for Foreign Affairs. After this interval, he directs them to Henry Laurens, President of Congress.

This state of affairs simply affirms the fact that the American Commissioners were working in the dark through a lack of

[35] Wharton: Diplomatic Correspondence, II, p. 475.

[36] Sparks: Diplomatic Correspondence of the American Revolution, V, p. 147.

[37] Ibid. I, p. 591.

[38] Ibid. I, p. 595.

a definite policy in conducting foreign affairs by Congress. The Commissioners as a body wrote to Congress, March 12, 1777, and said, "It is more than four months since Mr. Franklin's departure from Philadelphia and not a single line from thence written since that time has reached your Commissioners in Europe. We have no information of what passes in America, but through England.....Our total ignorance of the Truth or Falsehood of Facts, when Questions are asked of us concerning them makes us appear small in the eyes of the people here and is prejudicial to our negotiations." [39]

Even John Adams wrote from Passy, May 24, 1778, to the Commerce Committee of Congress, complaining of many agents claiming authority from many different sources. He intimated that this was a waste of energy and money and that all orders should come to these persons from one person. [40] In a letter dated July 9, 1778, and addressed to James Lovell, John Adams said that he had heard but once from Congress since his arrival in France. [41] On February 27, 1779, he wrote to John Jay, then President of Congress, saying that he believed that but one ambassador was necessary in France and since he had heard nothing from Congress, and understands that Franklin had been appointed as such, he was coming home. [42]

These statements from a man who had always been zealous in his support of the committee system and the "militia" policy of the conduct of foreign affairs, is somewhat startling. It is excellent proof that he began to see the futility of both systems.

But the climax of the whole matter of inefficiency of the committee system as a means of conducting foreign affairs came in 1779, when James Lovell on August 6th of that year, wrote to

[39] Stevens: Facsimiles, XIV, No. 1448.
[40] Wharton: Diplomatic Correspondence, II, p. 595.
[41] Ibid. II, p. 642.
[42] Ibid. III, p. 69.

Arthur Lee as follows: "There is really no such thing as a Committee for Foreign Affairs existing. No Secretary or clerk further than I, presumes to be one or the other. The books and papers of that extraordinary body lay yet on the table of Congress, or rather are locked up in the Secretary's private box." [43] It should be noted that this statement was made fully two years after the Committee for Foreign Affairs had been elected to execute diplomatic work. It is now plain why nothing of importance is recorded concerning the work of this committee after the year 1778.

The English ministry by the latter part of 1777, began to suspect that Franklin was the chief obstacle in the way of effecting a compromise between England and the American colonies. Strenuous endeavors were made to discredit him in France. [44] Commissioners were also sent to America with a plan for reconciliation. On June 9, 1778, these commissioners wrote to Henry Laurens as President of Congress intimating that they note with concern the insidious interposition of a power (France) which has always had a most evil intention and motives. [45] Laurens, under orders of Congress, roundly rebuked the Commissioners on June 17, 1777. [46] The Commissioners then replied, questioning the power of Congress to conclude treaties without the delegation of power from the states. [47] They next declared that Congress could not conclude treaties without first referring them to the individual states. [48]

This procedure of the English Commissioners had a most subtle bearing on the whole relation between France and America. It first made a direct appeal to the States Rights Party,

[43] Wharton: Diplomatic Correspondence, III, p. 288.
[44] Stevens: Facsimiles, XIV, No. 1402.
[45] Ibid. XI, No. 1104.
[46] Ibid. XI, No. 1110.
[47] Ibid. XI, No. 1119.
[48] Ibid. XI, No. 1133.

headed by Samuel Adams and others. It was an attempt to divide the union of the colonies. It caused great anxiety in France because the French ministry could not decide whether they were to deal with a union of the states in America or with independent republics. In short, it could not be determined where sovereignty resided.

Vergennes, Beaumarchais and others were now thoroughly aroused to the seriousness of the situation and made frequent appeals to the king to hasten aid and recognition to America. They had reason to believe that the American envoys were becoming thoroughly discouraged. In a letter dated October 1, 1777, Lord Stormont, the English ambassador in France, informed Weymouth that the American Commissioners (excepting Franklin) openly declare that American privateers will make no distinction between English and French ships hereafter. [49] Vergennes, in a letter to Marquis D'Ossun said that he knew that the American Commissioners were discouraged and that they would accept England's terms if not efficiently aided. He added that the existing conditions were brought about by their own indiscretions, however, because they took too much for granted or tried to involve France and thus gain advantages to themselves. [50]

Beaumarchais wrote to the French ministry in the early part of 1778 commending three lines of action, namely,—to remain passive; to conclude a treaty with America or to recognize her independence. [51] Vergennes was active in the same cause, however. In a letter to de Montmoren, January 8, 1778, he emphasizes the necessity of immediate action. [52]

The English ministry, having obtained knowledge of the

[49] Stevens: Facsimiles, XIX, No. 1709.
[50] Ibid. XVIII, No. 1712.
[51] Ibid. XXI, No. 1814.
[52] Ibid. XXI, No. 1827.

probable action of the French ministry were desperate, and finally brought pressure upon Franklin himself. On June 16, 1778, Franklin received in a peculiar fashion, a letter signed with the name of Charles de Weissenstein, which he declared to be actually in the hand writing of George III. The letter made a profound plea for reconciliation.[53] A second was received on the same day containing plans for allaying the present ferment in America. Secret measures were proposed; Franklin was offered a pension, as well as John Adams, John Hancock and General Washington. A treaty of eighteen articles was proposed, the first six of which were to be secret and the people were never to know of their existence.[54] A third letter from the same source outlined a plan of government after the event of reconciliation.[55] But to all of these brilliant offers Franklin made absolutely no reply.

The success of Vergennes in keeping the English ministry in the dark concerning the relations between France and America is fully shown in a study of the correspondence of the time between members of the English ministry. While keeping up this play, Vergennes and Beaumarchais, together turned the tide to America by means of a famous letter to the king under date of December 7, 1777.[56] On February 6, 1778, a treaty of amity and commerce was signed by the American Commissioners at the Court of France, brought to America by Gerard and presented to the American Congress on May 4, 1778.[57] On February 6, 1778, a treaty of alliance, eventual and defensive was signed in Paris, together with an attached secret treaty.[58]

[53] Stevens: Facsimiles, VIII, No. 835.
[54] Ibid. VIII, No. 836.
[55] Ibid. VIII, No. 837.
[56] Clark: Silas Deane, p. 58.
[57] Secret Journals of Congress, II, pp. 57-79.
[58] Ibid, II, pp. 81-89.

The year 1778 brought to a partial close the long series of intrigues and misunderstandings begun in 1775. Their existence meant imminent disaster to the American cause. The constancy of Franklin; the confidence of the French ministry in him; the aid of the French agents in America and the bungling diplomacy of the English ministry, were the chief factors which prevented the loss of the American conflict. The committee system of conducting diplomatic affairs, together with the ridiculous "militia" policy of the Radicals, were the opposing factors. The result was a very slender margin in favor of success for the American colonies. There is no doubt that the war would have been appreciably shortened had there been responsible bodies or departments in Congress clothed with full executive powers to rapidly prosecute the war and hasten the growth of friendly relations with France under the wise guidance of men of the type of Franklin.

Summary.

The growing prominence of the Radical elements in Congress gave courage to the Radical envoys abroad. The demands upon France were constant and insistent. Their immediate acceptance would have assuredly resulted in a general European conflagration.

This method of seeking aid from foreign powers was combated in Congress, but the Radicals prevailed through their control of committees. An attempt to block this control by the Constructionists resulted in an almost total lack of instructions to the Commissioners abroad. Deane, consequently assumed powers which he was never authorized to use. The Beaumarchais affair naturally followed with its suspicions and animosities. In this state of affairs, Arthur Lee assumed the leadership as the champion of a real "militia" diplomacy. Differences among the

American envoys developed on this issue. Dissensions followed and individual secret negotiations began. This gave the English ministry an opportunity to widen these differences by the use of threats, bribes and slander. The result was the recall of Deane and the censure and subsequent recall of all the commissioners except Franklin.

This envoy was next attacked by the English ministry. They attempted to discredit him in France, but he held his prestige by moderation, political astuteness and skill. He was, moreover, sadly handicapped by party struggles in Congress, resulting in the practical non-existence of a Committee for Foreign Affairs. This weakness invited the instigation of an English propaganda in America by an appeal to the States Rights party. Bribes were next extended to Franklin, but without success. A treaty of amity and commerce was signed on February 6, 1778, through the direct work of Franklin and in spite of the inefficiency at home and abroad, directly due to a most dangerous attempt to bring about a complete decentralization of power under the control of an unwieldy committee system.

CHAPTER VI.

The Influence of France in the Conduct of Foreign Affairs.

The French ministry early saw the trend of affairs in America and among the American envoys in France. While implicit confidence was placed in Franklin's universal spirit and mature judgment, nevertheless, it wisely refrained from committing itself in negotiations with men who could not act in unison and who could not secure proper instructions from Congress. Therefore, as early as 1775, at the time of Deane's appointment to act as agent to France, the French ministry sent a secret committee to America. This committee was led by Bonvouloir and forwarded information to France concerning conditions and influenced, as far as possible, public opinion in America.

This committee strongly advised "that great care be used in the treatment of the American envoys, especially those from New England, (Deane and Arthur Lee) for this part of the country, if slighted, will capture and hold all French possessions until aid by France is given." [1]

On September 11, 1776, Hopkins, a brigadier general in the pay of the French army and a member of the committee, wrote de Sartine, asking that the Grand Order of Military Merit be conferred upon him so that he might prove to Americans that the Revocation of the Edict of Nantes would not affect Protestants living in France or in French possessions. [2] The basis of this request was obvious. It was an attempt to allay fears in

[1] Stevens: Facsimiles, XVI, No. 1336.
[2] Ibid. XII, No. 1355.

America over the prospect of an alliance with a Catholic country and to offset the attempts of the English to stir up prejudice against France among the members of Congress.

In the early part of the year 1778, Gerard de Rayneval was sent by France as minister to America. He lived, on account of much illness, within sixty paces of the door of Congress and was soon constantly consulted by the members.[3] The coming of Gerard to America served two purposes. (1) It tended to increase the friendship between the two countries and (2) it kept France in close touch with the vagaries of the Radical party and with its "militia" policy as reflected in France. This was necessary in view of the fact that these factors might compromise France with England at any moment without her being properly prepared to meet the issues involved.

The instructions to Gerard were direct and simple. He was to guard against the making of a separate peace with Britain by Congress; to assure Congress that the French king would make no terms with England short of independence; to dissuade Congress from any plan of peace which would include Florida or Canada; to refuse to extend America any further pecuniary aid; to make it plain to Congress that the king would not prolong the war one day to aid America to make or keep any conquests in the West.[4] This was a program big with possibilities. It indicated that France clearly realized the extent of the inter-state jealousies and the ramifications of the States Rights ideas as early as 1778.

Gerard reported to Vergennes as early as July, 1778, that strong party feeling existed in Congress, through diversity of principles and ambitions.[5] He further reported "that a selfish

[3] Durand: Documents of the American Revolution, p. 164.

[4] Doniol: Participation de la France a' l'etablishment Etats-Unis d'Amerique, III, p. 153.

[5] Durand: Documents of the American Revolution, pp. 165-166.

and calculating spirit prevails in America. Mercantile cupidity exists, especially in the northern people and it will undoubtedly exercise an important influence on the future destiny of the republic."[6] He still further reports a woeful lack of efficiency in Congress through the placing of wrong men on committees.[7]

Several questions soon arose which the French minister was obliged to consider and to influence, if possible, their decision. Among such questions were the following: (1) The fisheries question which the New England delegates to Congress thought the most important of all, since this was the basis of New England's prosperity. In fact, it was one of the most important causes of the war. Other states thought this question of slight importance and nine of them outside of the New England group indicated that they would not continue the war for this advantage to a particular section. (2) The New England delegates laid increasing stress upon the immediate invasion of Canada, until the plan was emphatically vetoed by Washington on the advice of Gerard. (3) Several delegates were desirous of bringing Spain into the war, but this plan meant the raising of complicated boundary questions. After some difficulty it was silenced by Gerard. (4) A cabal against Washington and Franklin was in full sway, but both schemes were rendered abortive through the diplomatic skill of Gerard and Vergennes.[8] Gerard was also obliged to counteract the strong representations of the British ministry in an attempt to win over certain influential parties in Congress. R. H. Lee asserted in Congress that the United States had a right to deal independently with England, but members of Congress instantly assured Gerard, however, that Lee's assertion was received with contempt and indignation. "All the delegates affirmed to me," said Gerard, "that not two men in Con-

[6] Durand: Documents of the American Revolution, p. 176.
[7] Ibid. pp. 174-175.
[8] Ibid. pp. 194-196.

gress were capable of listening to Temple's (one of the British commissioners) proposals, but the conduct of the delegates of Massachusetts still hampered their action.'' [9] The implications concerning Samuel Adams are patent and Gerard reported that Congress was fast becoming weary and ashamed of the ascendency enjoyed by the party headed by R. H. Lee and Samuel Adams. [10]

Five members of Congress drew up an answer to a question by Gerard concerning Lee's doctrines. Four members sent in a secret second answer. The fifth member, Samuel Adams, refused to agree to it, and tried to persuade others that an explicit answer was not required. Gerard reported that he was fortifying his colleagues against fallacious arguments. [11] The use of the word ''colleagues'' is interesting as showing how intimate the French minister had become with the political conditions in America and with some of the members of Congress.

On March 10, 1779, Gerard reported, ''Our friends in Confiress began to attack their opponents yesterday. They brought forward the principle of treating with France in perfect confidence. The Lee faction was hard pressed. Samuel Adams said, 'Why must our interests be so closely united with those of France? Here is the spot where our independence must be established.' '' [12]

This conflict in Congress culminated in the appointment of a committee of thirteen to investigate the condition of foreign affairs of the United States and also the conduct of the Commissioners in France and report thereon. This committee brought in a report in March, 1779, based upon evidence furnished by the French minister, and resulted in the censure of all and the

[9] Durand: Documents of the American Revolution, p. 197.
[10] Ibid. p. 196.
[11] Ibid. p. 199.
[12] Ibid. p. 200.

recall of most of them. From this time until 1781, practically nothing is heard of the Committee for Foreign Affairs. There is evidence that the American foreign relations were largely carried on by the French minister working through friends and committees in Congress.

On July 18, 1779, the Chevalier de la Luzerne assumed his duties as minister to America. He at once came into contact with a scheme of the Radicals to displace Franklin in France. Arthur Lee and Ralph Izard were the leaders in this movement. "If," said Lee, "the total disorder and neglect which prevails in the public affairs committed to him (Franklin) will not satisfy gentlemen that the continuation of him in office is incompatible with the public honor and interest, there is no use of my making further charges. [13] Luzerne reported these charges to Vergennes, who replied, "His (Frankln's) conduct leaves nothing for Congress to desire. It is as zealous and patriotic as it is wise and circumspect...The method he pursues is much more efficacious than if he were to assume a tone of importunity in multiplying his demands,—and especially if these were enforced by threats to which we would attach neuter value or importance and which would serve to render him personally disagreeable." [14]

The question naturally arises,—Who saved Franklin's political head? It is, without doubt, safe to assume that it was Luzerne's untiring efforts in Franklin's behalf, coupled with the sympathy and work of the level headed men in Congress, which prevented diplomatic disaster.

In 1779, Vergennes suggested to Congress through the French minister that it would be well for it to select an envoy empowered to treat for peace, as that was now a possibility. The selection was at once made the basis for a campaign of state intrigue. The choice lay between John Adams and John Jay.

[13] Wharton: Diplomatic Correspondence, IV, p. 184.
[14] Durand: Documents of the American Revolution, pp. 247-248.

Franklin, already in France was the logical candidate and the one man most acceptable to Vergennes. Jay had the support of New York and practically all of the Southern states, because of his known views upon the navigation of the Mississippi river. Adams was supported by New England and some of the Middle states because of his views on the fisheries. Here was the split in the old alignment noted in committee control in Chapter IV, and which began to assume importance about 1780. The Radicals won in the selection of Adams for the post in France, while Jay was sent to Madrid. [15]

Next came the instructions to these men. Luzerne here took active part. He controlled factions and made it plain that he desired nothing done in the way of demands outside of independence. He further stipulated that Spain must be considered. This action by Luzerne at once placed France in a position of embarrassment and suspicion and the Radicals were not slow in making the most of the situation. [16] This suspicion was increased by evidence that Vergennes did not care to see America emerge from the war too strong and he was, therefore, inclined to use his influence in securing some of Spain's demands, relative to Florida and the Mississippi. He even suggested to Congress the value of placating Spain by allowing her western territory and warned Congress that France would not prolong the war a single day to help America in western conquests. [17]

Suspicious of France, John Adams, on arriving in Paris, assumed at once, an attitude of antagonism. He disliked all parties and men. For this reason he fought Franklin and reviled Vergennes. He informed Vergennes that the colonies were under no distressing burden of obligation to France, for without

[15] Doniol: Participation de la France, etc., III, p. 293.

[16] Secret Journals of Congress, II, p. 310.

[17] Ibid. II, pp. 244, 249; Doniol: Participation de la France, etc., III, p. 153.

America, the Bourbons would be defeated by England.[18] Franklin at once wrote the President of Congress, "I think an expression of gratitude is not only our duty, but our interest.....Mr. Adams, who means our welfare and our interest as much as I do or any man can do, seems to think a little stoutness and a greater use of independence and boldness in our demands will secure us ample assistance. It is for the Congress to judge and regulate their affairs accordingly."[19]

But this suspicious attitude to France began to permeate Congress. That body, in 1780, repudiated paper money and recommended that it be redeemed at 40 to 1. † Adams informed Vergennes of this action of Congress, which much incensed him. "In giving this information," said Adams, "I flatter myself, that I am so much the master of the principles, as to demonstrate that the plan of Congress is not only wise, but just." ‡ Vergennes at once wrote to Luzerne, asking him to have Congress modify the resolutions as far as France was concerned, since it spelled ruin for French financial interests.

This financial muddle came at the most critical period of the whole revolution. On August 7, 1780, Vergennes informed Luzerne of the paper money conference with Adams and added, "I give you these details in order that you may confidentially confer with the President and principal members of Congress and thus enable them to judge whether if Mr. Adams is such as to qualify him for the important task confided to him by Congress. As far as I am concerned, I foresee that the Plenipotentiary will do nothing but raise difficulties and cause vexations on account of a stubborness, a pedantry, a self-sufficiency and a self-conceit, which render him incapable of handling political questions.....

[18] Durand: Documents of American Revolution, p. 226.
[19] Wharton: Diplomatic Correspondence, IV, p. 23.
† Journals of Congress, XVI, p. 264.
‡ John Adams: Works, VII, p. 193.

if really attached to independence, which I cannot verify..... he seems to be feebly attached to the alliance, so that it would cost him nothing to take steps which would imply the ingratitude of the United States, whilst the opposite sentiment forms the basis of his instructions." [20] Meanwhile, Vergennes took the matter to Franklin, [21] who agreed to lay the whole matter before Congress. [22] Luzerne wrote Vergennes on January 2, 1781, stating that Adams's letters had been laid before Congress and that this body regarded Adams's views of his instructions and mission as absurd. [23] On January 28, 1781, Luzerne informed Vergennes that Congress disapproved generally of Adams's management of his mission and regretted that negotiations for peace should be in the hands of one so capable of being mistaken in its real object. [24].

Adams, however, was not to be swerved from his course by the opinions of Congress. Writing to Vergennes regarding the instructions to Rochambeau, he implied that France did not mean to give any effective aid to America. He further added, after criticizing Vergennes, "I am determined to omit no opportunity of communicating my sentiments to your excellency upon everything that appears to me of importance to the common cause, in which I can do it with any propriety." [25]

Vergennes at once replied that, "his Majesty did not require Mr. Adams's solicitations in order to interest him in the welfare of the United States." [26] Adams had, at last, become so distasteful to Vergennes that he wrote to Luzerne on Febru-

[20] Durand: Documents of the American Revolution, pp. 233-234.
[21] Wharton: Diplomatic Correspondence, III, p. 827.
[22] Ibid. III, p. 844.
[23] Durand: Documents of the American Revolution, p. 233.
[24] Ibid. p. 234.
[25] Doniol: Participation de la France, etc., IV, p. 422; John Adams: Works, VII, p. 241.
[26] Doniol: Participation de la France, etc., IV, p. 423.

ary 18, 1781, and indicated that he hoped that Congress would not appoint Adams as an aid to Franklin again, but he directed Luzerne to refrain from trying to procure his recall, but rather to get Congress to give him instructions which will keep him from doing mischief. [27]

The situation was now the more delicate, because Franklin had allowed himself to be used by Vergennes as a channel of communication with Congress concerning his troubles with Adams. This materially injured Franklin and created a large support for Adams. [28] Nevertheless, through Luzerne's suggestions, Congress decided to strengthen Adams by the selection of joint commissioners from widely scattered states. To accomplish this plan, Luzerne employed means which cannot be countenanced, though it seemed justified at the time on account of the rabid opposition of the Radicals to Franklin and his work. It was found possible to elect Franklin as one of these Commissioners, by the manipulation of Sullivan of New Hampshire. Thomas Paine was also bribed to aid in carrying out the plan. This is proved by Luzerne's letter to Vergennes in which he says, "He informed me that he would accept this task with pleasure. I promised him $1,000 a year." [29] The same kind of an inducement was, it may be inferred, extended to Sullivan, for Luzerne says concerning him, "This delegate has shown in this affair equal patriotism and attachment to the alliance." [30] With the aid of these two men and others, instructions suitable to Vergennes were agreed upon and John Jay, Franklin, Henry Laurens and Thomas Jefferson were chosen to aid John Adams in Europe. [31] Adams, on hearing of this affair was furious, "Congress," he said, "surrendered their own sovereignty into the

[27] Durand: Documents of the American Revolution, pp. 235-237.
[28] Bancroft: History of the United States, X, p. 443.
[29] Doniol: Participation de la France, etc., IV, p. 60.
[30] Ibid. IV, p. 608.
[31] Bancroft: History of the United States, X, p. 238.

hands of the French minister. Blush, Blush, ye guilty record—Blush and perish.'' [32]

The success of Luzerne in selecting envoys and writing instructions for them, did not effectually check the Radical opposition, however. It actually made it more rabid. The Massachusetts delegates held their seats in Congress in spite of a regulation of Congress that no delegate should hold his seat for more than three consecutive years. Samuel Adams was returned to Congress year after year. That Luzerne fought against the pernicious influence of this man by means which would not always bear the light, is shown by a report to Vergennes in which he says that the actions of the Massachusetts delegates ''has led me into several proceedings of which I have not complained, because I have prevented their effects by other means.'' [33]

In May, 1779, Samuel Adams had nominated Arthur Lee for a post in Europe as special envoy in place of Franklin, in spite of all the charges against him. Luzerne reported that Adams did all that he could through intrigue and friendship to accomplish this selection, but Luzerne put a stop to the plan by refusing to transact business through him (Lee), if he were selected. [34] Adams then attempted to nominate General Gates, but Washington and Luzerne checked this plan by announcing that Gates could not enter upon diplomatic duties until cleared of military charges. [35]

By December, 1780, Congress was filled by cabals and schemes to discredit both Washington and Franklin. The number of special committees suddenly increased. Their work was so bungling that an attempt was made to reduce their number and size, but Samuel Adams blocked every move of this kind. So

[32] Doniol: Participation de la France, etc., IV, p. 608.
[33] Durand: Documents of the American Revolution, p. 249.
[34] Ibid. p. 241.
[35] Ibid. p. 242.

great was the committee evil, that Washington was obliged to keep his plans of campaigns secret from Congress. D'Estaing and Luzerne were the only two men in America to whom they could be entrusted. Things came to such a serious state by the middle of 1780, that Livingston of New York was bent upon forming a separate confederation with New England left out. But Luzerne counseled delay and an attempt to win back Pennsylvania and Delaware, both of which had been won over to the New England side. By this means Luzerne hoped that the Middle states would hold the balance of power. Lafayette, in a letter to Vergennes dated May 20, 1780, indicated that Luzerne was convinced that Congress could never act with discretion and promptitude on any diplomatic matters and had accordingly asked Congress to name a committee to confer with him, with power to set in motion all the resources of America.[36] This letter is evidence that Luzerne was satisfied that disaster could only be averted by clothing Washington with extraordinary powers and allowing Franklin to use his best judgment in an executive control of foreign relations. Consequently, the French minister adopted the plan of bombarding Congress with memorials and securing the selection of the committee named above.

This committee was selected on December 26, 1780. It consisted of Witherspoon, Sullivan, Duane, Madison and Mathews.[37] Witherspoon was the only member of the committee, who as a confessed Radical, stood out for New England. Madison believed in the concentration of power for efficiency up to a certain limit and Mathews was much interested in the Mississippi question. The complexion of the committee gives evidence of the influence of Luzerne in its selection.

The Radicals and Constructionists for the first time were able to agree upon a new plan for the conduct of foreign affairs

[36] Stevens: Facsimiles, XVII, No. 1625.
[37] Ibid. XV, No. 1193.

about the middle of 1780, but for far different reasons. The Radicals saw the growing control of diplomatic relations by Luzerne and wished to check it; the Constructionists hoped that such control would arouse the leaders of Congress to a realization of the necessity of a Department of Foreign Affairs, having a definite policy of action.

On May 15, 1780, a motion was made to select a committee of three to consider and report upon proper arrangements for the establishment of a Department of Foreign Affairs.[38] The members of this committee were Lovell, Houston and Duane, two of whom were followers of Samuel Adams. This, alone, assured the defeat of the plan. It was felt by the Radicals that this committee would make uncertain the plans of Luzerne and check his control of diplomatic affairs. It was not until December 17, 1780, however, that Congress was privileged to consider the report of this committee.[39] Nothing again was heard of the plan until January 10, 1781, when the original committee reported on a plan for a Department of Foreign Affairs.[40]

On May 29, 1781, the French minister conferred with a committee which had been appointed to consider two memorials sent by him to Congress concerning the conditions of affairs in France.[41] During 1781, Luzerne still continued to forward memorials to Congress upon many subjects, the majority of them having a direct bearing upon the appointment and control of consuls;[42] plans of conventions for discussion of peace;[43] reports on treaties;[44] and communications from abroad.[45]

[38] Journals of Congress, XVI, p. 428.
[39] Ibid. XVII, p. 505.
[40] Ibid. XIX, pp. 43-44.
[41] Secret Journals of Congress, II, pp. 372-373.
[42] Ibid. III, p. 10.
[43] Ibid. III, p. 20.
[44] Ibid. II, p. 267.
[45] Ibid. III, p. 26.

On August 11, 1781, Luzerne reported to Vergennes that he had used his influence to procure the appointment of Livingston as Secretary of State, but that his opponents declare that the endorsement of the French minister is a guarantee of the defeat of any candidate. Luzerne praised Livingston, but admitted him to be somewhat indolent and a lover of quiet. [46]

Meanwhile, the committee which had been appointed to confer with Luzerne, was enlarged at his request, because it could not apparently accomplish the work outlined for it to do. Vergennes informed this committee through Luzerne, that the war could not be further prosecuted by France unless Congress indicated greater activity at once. [47] He also directed Luzerne to inform Congress that it would be necessary for that body to draw a line of conduct for John Adams, of which he might not be allowed to lose sight and accused Adams of a wrong use of his powers in treating with England. [48]

Luzerne at once made a strong representation to Congress, asking for the immediate appointment of a committee with which he could treat. [49] Luzerne indicated to this committee the dangers of delay and the possibility of the loss of the war. [50]

Stirred to action at last, this committee reported out letters which were forwarded by Congress to the French king on October 18, 1781, assuring him of redoubled efforts by Congress to bring the war to a speedy conclusion. [51] On October 24, 1781, Washington reported to Congress the surrender of Cornwallis and this event was ordered communicated to the French minister through the Secretary of Foreign Affairs. [52]

[46] Durand: Documents of the American Revolution, p. 238.
[47] Secret Journals of Congress, III, p. 22.
[48] Journals of Congress, XX, p. 563.
[49] Ibid. XX, p. 561.
[50] Secret Journals of Congress, III, pp. 36-37.
[51] Ibid. III, p. 40.
[52] Ibid. III, p. 47.

Summary.

As early as 1775, the French ministry sent secret envoys to America to study conditions and to influence public opinion in favor of France. After the signing of the treaty of 1778, a minister was sent to America to further influence public opinion and to control, as far as possible, the actions of Congress in the conduct of foreign affairs.

Gerard early realized the pernicious influence of the Radicals and the inefficiency of the committee system of Congressional control. Under these conditions, he boldly endeavored to control domestic affairs and so far succeeded as to be directly instrumental in effecting the recall of some of the American envoys to France.

Luzerne, upon his arrival in America, used his influence in checking the inefficient control of the army and the attempt to replace Franklin. He took part in the framing of instructions to John Adams as peace envoy; he was instrumental in procuring the modification of the paper money tangle; he induced Congress to bring Adams to account for failure to follow the letter of his instructions; he was probably concerned in the wording of new instructions to Adams; he secured the appointment of other Commissioners to aid Adams; he frustrated an attempt by Samuel Adams to secure the election of Arthur Lee again to a post in Europe; he prevented an attempt of the Middle and Southern colonies to secede from New England, thus maintaining a balance of power.

Finally he asked Congress to appoint a committee to confer with him on the marshalling of America's entire resources; he worked through this committee to secure the clothing of Washington with dictatorial and Franklin with plenary powers in their respective fields of labor. In this work, he largely assumed the functions of the original Committee of Foreign Affairs.

He suggested the establishment of a Department of Foreign Affairs and probably aided in drawing up the report of the committee on the Department. He used his influence in securing the election of Livingston as Secretary of Foreign Affairs. He urged Congress to redouble its efforts in the prosecution of the war and discouraged Congress from laying claim to western territory. He constantly kept in mind the best interests of France as well as those of America.

Luzerne's services to America cannot be estimated. He finally succeeded in arousing Congress to a supreme effort in winning the war and events conclusively proved that his influence was effective.

CHAPTER VII.

The Beginning of the Centralization of Power in the Conduct of Foreign Affairs.

The recall of Arthur Lee and John Adams as special envoys to France in October, 1778, and the election of Benjamin Franklin as minister plenipotentiary to that country on October 26, 1778, were milestones in the development of the executive powers of government in the United States.

The work of the Commission in France had been almost fruitless, if we except the treaty of 1778, owing to the "animosities and disputes detrimental to the interests and honor of the United States." Complete disgust at the chaotic turn of events, had forced the leaders in Congress to demand the censuring of all the Commissioners; the recall of two of them and the conferring of plenary powers upon Franklin.

On December 28, 1776, a committee was appointed in Congress to prepare plans for obtaining foreign assistance. It reported and its plans were referred to a committee of the whole.[1] On December 30, 1776, the report of the committee was read and considered.[2] The direct result of this report was the sending of Izard to Tuscany; Dana to Russia; Arthur Lee to Prussia; William Lee to Vienna and Laurens to the Netherlands. But in every instance, they were either never received or allowed to wander harmlessly about without recognition or accomplishment. This was a typical result of the "militia" policy. Furthermore, it kept six ministers in Europe, when one would have been suffi-

[1] Secret Journals of Congress, II, p. 37.
[2] Ibid. II, pp. 38-39; 40, 41.

cient. It harassed the work of Franklin; it was a matter of great expense. It had a bad effect upon the French negotiations. It nearly broke up the work of the Commissioners during 1777 and 1778.

It was the accumulated results of all these embarrassing situations, that caused Congress to accept the report of the Committee of Secret Correspondence on January 2, 1777, in the form of a commission for Franklin. [3] But this report was, as usual, referred to a committee of three (Chase, Wilson, Samuel Adams). The appearance of Adams on the committee was a guarantee that Franklin would be limited in his powers. The report of the committee was adopted by Congress and gave Franklin new powers beyond those he first enjoyed as Commissioner to France. This was, without doubt, a concession to Wilson, who was a Constructionist and a member of this committee. [4]

Franklin's instructions were grouped under eleven heads. Most of the items appeared to be compromises between the opposing parties in Congress. The last item, however, definitely stated that he was to make no engagements without the consent of Congress having previously been obtained. [5] This was the one point which shows the power of the advocates of the decentralization of power. Yet in this very point, there was a great advance in the conduct of foreign affairs, because the entire work was placed in the hands of one man. This would, in the end, work out for increased executive powers of foreign ministers.

Necessity had been the cause of many of the executive assumptions of Franklin during all the years from 1776 to 1782. This assumption of power had been a gradual growth and when in 1778, he was given special powers, he was not at a loss as to how they should be used. Lacking instructions from Con-

[3] Secret Journals of Congress, II, p. 42.
[4] Ibid. II, pp. 42, 43.
[5] Ibid. II, pp. 107-111; Journals of Congress, XII, pp. 1038-1042.

gress, he soon found himself acting as Secretary of the Treasury in negotiations for loans and in the disbursing of money.[6] He was a deputy Secretary of War, in that he bought and forwarded military supplies and in part, gave suggestions and views to the French Court on the conduct of campaigns and the movement of troops. He acted as deputy Secretary of the Navy in fitting out cruisers and planning naval campaigns.[7] He acted as Secretary of State in conducting various diplomatic matters. All these functions implied the delegation of power by Congress, but such power it did not delegate, as we have had occasion to observe. Such powers were tacitly assumed, however, with the encouragement of the French Court and the Constructionists at home. Here was the first real executive work, which was the antecedent of the subsequent development of power of an executive nature in the American scheme of government after 1789. That this early power of Franklin was not abused was due to his stability and integrity. In the hands of Arthur Lee or John Adams it might have been fatal.

After the recall of the envoys, Franklin was free to use his new powers in the most efficient way and with a wide interpretation. But his respite was short. The enemies of Franklin in Congress attempted to replace him with John Adams. Failing in this, they were able to secure the selection of Adams as peace envoy, and he arrived in France in this capacity early in 1780.

Immediately, Adams began his old tactics of berating Franklin and especially the French ministry. In October, 1780, Franklin advised him to assume a different attitude to Vergennes but to no avail.[8] On July 12, 1781, Adams' commission as an envoy to close a commercial treaty with France was revoked by Con-

[6] Wharton: Diplomatic Correspondence, I, p. 291.
[7] Ibid. II, pp. 224-245.
[8] Ibid. IV, p. 87.

gress.[9] On May 29, 1782, Livingston, then Secretary of Foreign Affairs, scored Adams for not replying to a letter from the Department of Foreign Affairs and warns him against signing a separate peace.[10] On October 31, 1782, Adams wrote to Livingston, lamenting that he is bound by instructions.[11] On November 18, 1782, he wrote again to Livingston arguing against the limitations placed upon him by his instructions and adds, "There is nothing that humbles and depresses; nothing that shackles and confines; in short nothing that renders totally useless all your ministers in Europe so much as these positive instructions to consult and communicate with the French ministry upon all occasions and follow their advice."[12]

This is certainly a marked change in the attitude of this leader of Radicals and believer in the utmost decentralization of power. He then feared the use of power. Now it was a far different matter. Cold reason compelled Adams to gradually assume a national view, though it was diametrically opposed to his state interests and affections, which made him at heart provincial. In this mental state, Adams was not of great value to America in France. The French ministry turned naturally to Franklin with the hope that he could assume enough power to conclude peace with satisfaction to all concerned.

Franklin's executive powers rapidly increased from this time. Two factors, among many, seem of great importance in hastening this increase of powers. (1) The committee system in Congress completely broke down about 1781. In spite of the appointment of 261 committees during this year, nothing of importance was accomplished. The direct result was the establishment of the Department of Foreign Affairs with Livingston, a

[9] Journals of Congress, XX, p. 746.
[10] Wharton: Diplomatic Correspondence, V, pp. 226-227.
[11] Ibid. VI, pp. 53, 54.
[12] Ibid. VI, pp. 52-53.

staunch friend of Franklin, as its first Secretary. He at once placed in Franklin's hands all the powers he, as Secretary, could give him and kept, to the best of his ability, the Radical element in the dark concerning Franklin's plans.

(2) The other important factor was the surrender by the Southern states of their claims to the Floridas and the instructing of Jay to agree to give up the free navigation of the Mississippi below the 31st parallel of latitude.[13] But Jay never revealed these instructions as Spain did not enter the French and American alliance and as a result, the French-American treaty was modified to the advantage of the United States.

Here was a clear case of the assumption of executive power. It was good evidence that the conduct of foreign affairs was not in the hands of Congress or even in the hands of the Secretary of Foreign Affairs.

In 1782, Franklin called Jay to France from Spain with this comment, "Spain has taken four years to consider whether she would treat with us or not. Give her forty years and let us mind our own business."[14] With Jay in France, negotiations for peace began between Oswald, the English representative, and Franklin in the spring of 1782. Jay, as a commissioner, refused to treat with Oswald whatsoever, on the basis of the "American colonies and plantations," but only upon the basis of a sovereign power entitled the United States of America.

Franklin and Vergennes both urged Jay to assume a conciliatory attitude. This aroused Jay's suspicions.[15] They were increased by a letter of Marbois to Vergennes in which reference was made to the United States in such a way as to cause Jay to think that the French ministry was distinctly unfriendly. Jay was convinced that France would oppose the extension of Ameri-

[13] Secret Journals of Congress, III, p. 99.
[14] Jay: Correspondence and Public Papers, II, p. 193.
[15] Ibid. II, p. 372.

ca to the west, limit the Newfoundland fisheries, aid Spain in securing her claims to the Mississippi and support the English claim to all the territory above the 31st degree latitude. [16]

He was determined that France should not sacrifice the interests of the United States to satisfy Spain and the Family Compact. He, therefore, determined to act without instructions, even without the sanction of Franklin. He urged, without informing the French ministry, (which according to his instructions he was bound to do) the dispatch of an envoy to England to show the English ministry the immediate necessity of cutting the cords binding France to America. [17]

Jay was partly right and partly wrong in his suspicions. France was well within her rights in demanding knowledge and aid from America in negotiating terms of peace. On the other hand, had France and Spain known all the details of the negotiations between America and England, the treaty of peace, which was ultimately signed, would not, in all probability, have been as advantageous to the United States. This action by Jay was a clear case of the assumption of executive powers in such a way as to save a most vital and delicate situation.

Jay's stand all through the negotiations was opposed to that of Franklin. It is true that Franklin was a Constructionist as well as Jay, but he was an opportunist Constructionist. Jay's stand in the whole matter was extremely technical, but extremely useful. He, no doubt, suspected and feared too much, but these fears and suspicions were of immense value to the United States. He knew before he left America, that France did not believe that the United States would make the possession of the fisheries the absolute and irreducible basis of peace. [18] The persistence of Adams on this point, however, came very near wrecking the

[16] Jay: Correspondence and Public Papers, II, p. 398.
[17] Ibid. II, pp. 405-407.
[18] Wharton: Diplomatic Correspondence, V, p. 241.

whole negotiations. For this reason the conferences dragged on until the latter part of 1782. But Adams and Jay, together, finally gained all the disputed points, pleasing both Northern and Southern states. The boundary question, the fishery question, the treatment of the Loyalists and the settlement of the American debts were all settled and the articles of the provisional treaty signed on November 30, 1782.

Thus the transfer of the executive functions of government to France and their assumption by three American envoys, made possible the advantageous provisions of the articles of peace. What advantages, if any, would have been attained, had the American Congress controlled foreign affairs to the end, can never be known. That the war would never have ended successfully with it in power, working through its inefficient committee system, is probable. That the terms of peace would not have been satisfactorily completed and with advantage to America under a true Congressional regime is almost certain.

Summary.

New England demanded that the fisheries question should be settled in her favor at the outcome of the war, regardless of its effect upon the rest of the country. This was always the spirit of the "militia" policy. This kind of diplomacy was sectional. Franklin's policy was national.

Since the Radicals could not remove Franklin, they sought to limit his powers. His instructions were made very definite. But the fact that the work in France was placed in the hands of one man was a great step in advance in the use of executive power. The committee system had miserably failed and the Committee for Foreign Affairs was inactive. The only solution of the problem was the one attempted—the virtual transfer of the conduct of foreign affairs to Europe.

Franklin, in France, assumed varied executive powers. He was driven to do this by the necessities of the case. This was the first real development of executive power in connection with the American government. That it was wisely used was due to the man using it. He was most acceptable to the French Court. This very position of confidence stirred up suspicions against him. When Jay arrived in France, he was soon able to follow Franklin's lead. With the consent of Franklin, he broke his instructions in 1782 and the treaty of peace was signed with England without the knowledge of France and contrary to the instructions of Congress.

This action of the American envoys was hastened by party strife in Congress. The assumption of executive power could alone save the situation. Its results were acceptable. The end seemed to justify the means. This was all accomplished by the concentration of executive power in the hands of men able to properly use it. That it was assumed is evidence that Congress did not have the power to give it, or possessing it, would not delegate it to the envoys abroad. Their successful work in France was the beginning of the rapid growth of the executive functions of government.

CHAPTER VIII.

The Establishment of a Definite Policy in the Conduct of Foreign Affairs.

The actions of the peace envoys in France is proof that the executive power of the government, through its representatives, developed more rapidly than it was delegated by Congress.

It is interesting to note, however, that the growth of executive power began early in the life of Congress. As early as January 24, 1776, a committee was appointed to consider the establishment of a War Office.[1] After June 25, 1776, many questions which had formerly been referred to special committees for action, were now turned over to this Board.[2] During 1776, a committee was appointed to consider the establishment of a Post Office.[3] On April 17, 1777, the Committee of Secret Correspondence was changed to the Committee for Foreign Affairs.[4] During this year, Samuel Adams was elected a member of the Board of War.[5] It is at once noticeable that fewer special committees were appointed to consider letters from Washington, since most of them were referred to this Board.

The first marked delegation of power appears on May 16, 1778, when it was resolved that such alterations in or additions to the instructions given to the Commissioners at the Courts of Berlin, Vienna and Tuscany may be made by the Committee for Foreign Affairs as they may think expedient.[6]

[1] Journals of Congress, IV, p. 85.
[2] Journals of Congress, IV, p. 85ff.
[3] Ibid. IV, p. 107.
[4] Ibid. VII, p. 274.
[5] Ibid. VII, p. 32.
[6] Journals of Congress, XI, p. 505.

On May 15, 1780, a committee of three was appointed to consider a plan for the establishment of a Department of Foreign Affairs.[7] Six months later, on December 17, 1780, this special committee brought in its plan.[8] Here was good evidence of the inability of Congress to do efficient work. On Jan. 10, 1781, the report of the committee was seriously considered by Congress.[9]

Meanwhile a concentration of executive power had begun in other lines of governmental work. On January 10, 1780, a committee of four had been appointed to consider the establishment of a Court of Appeals.[10] On August 21, 1780, a committee had been appointed to consider a plan for an executive department. During this period much work was being assigned to the Boards of War, Marine, Commerce and Treasury, but very little to the Committee for Foreign Affairs, as we have observed.

On January 10, 1781, the Department of Foreign Affairs was established, with recommendations for the selection of a Secretary.[11] On January 17, 1781, Arthur Lee and Livingston were placed in nomination by the Radicals and Constructionists respectively, but no action was then taken.[12] It was voted that the ballots be cast on these names on February 9, 1781.[13] No action was taken, however, until June 13, 1781, and it was then voted to postpone action until the following week.[14] There seems to be no record as to the exact date when the Secretary was elected, but it may be assumed from the records of events that Livingston was elected as Secretary sometime in August,

[7] Journals of Congress, XVI, p. 428.
[8] Ibid. XVII, p. 1156.
[9] Ibid. XIX, p. 42.
[10] Ibid. XVI, p. 32.
[11] Ibid. XIX, p. 42.
[12] Ibid. XIX, p. 65.
[13] Ibid. XIX, p. 133.
[14] Ibid. XXI, p. 637.

1781.[15] On January 16, 1781, the salary had been fixed at $4,000 per year.[16]

The duties of the new Secretary of Foreign Affairs were in substance as follows: (1) To hold office during the pleasure of Congress; (2) To have custody of all books, papers, etc., belonging to the Department; (3) To conduct all correspondence; (4) To correspond with governors; (5) To receive the applications of foreigners; (6) To secure the redress of private injuries in foreign lands; (7) To attend Congress and report on all cases referred to him by Congress; (8) To give Congress information concerning his department; (9) To have access to all state papers; (10) To control foreign ambassadors.[17]

It had taken a long time to come to this position in the control of foreign affairs and it is evidence that the leaven of executive control had begun to work in Congress. Yet it is surprising how much Congress hampered the new Secretary in the conduct of his department. Able man as Livingston was, he was never allowed to initiate any diplomatic activities of any consequence. That he had a definite foreign policy which he desired to carry out was early manifest, but he was handicapped by constitutional limitations.[18] Furthermore, Congress continually infringed upon his delegated powers as Secretary.

On November 23, 1781, Congress ordered the Secretary to inform its Ministers in France to confer with Lafayette and to employ him in accelerating supplies and fulfilling plans for the assistance of America.[19] On January 2, 1782, the Secretary was ordered to lay before Congress an estimate of the expenses to be incurred by the Ministers abroad.[20] On May 1, 1782, the Secre-

[15] Journals of Congress, XXI, p. 855.
[16] Ibid. XIX, p. 64.
[17] Wharton: Diplomatic Correspondence, V, pp. 199-201.
[18] Ibid. I, pp. 663-664-665.
[19] Secret Journals of Congress, III, p. 49.
[20] Ibid. III, p. 52.

tary lays before Congress a letter from the French minister.[21] On May 14, 1782, he is directed to state the condition of commerce and outline plans for its protection.[22] Committees began to be appointed to do the work originally assigned to the Secretary. One committee was selected to revise the instructions to Adams.[23] Another committee was appointed to draft a commission and instructions for a minister to Sweden.[24] A third was elected to receive communications from the French minister.[25] On September 24, 1782, a committee of three was elected to confer with the French minister relative to England's attitude to peace.[26] On October 4, 1782, the same committee reported on dispatches from Jay and Lafayette.[27] On October 22, 1782, a committee of three reported on a letter from Jay and recommended that he be ordered to at once conclude a treaty with the United Provinces.[28] On November 25, 1782, on receiving the report of a committee of three, Congress ordered the Secretary to send all information possible to Congress and to Ministers to European Courts, except secret materials.[29] On December 3, 1782, Livingston resigned as Secretary of Foreign Affairs.[30] On December 25, 1782, Livingston, on the request of Congress to remain in office until spring, consented to perform the duties of the office until that time, but this consent was given with great reluctance.[31]

It was natural that Livingston should have resigned. At first, Congress saw to it that he was kept strictly within his

[21] Secret Journals of Congress, III, pp. 93-100.
[22] Ibid. III, p. 109.
[23] Ibid. III, p. 142.
[24] Ibid. III, p. 215.
[25] Ibid. III, p. 217.
[26] Ibid. III, pp. 218-226.
[27] Ibid. III, pp. 248-250.
[28] Ibid. III, p. 251.
[29] Ibid. III, p. 254.
[30] Ibid. III, p. 255.
[31] Ibid. III, p. 265.

duties as outlined in the original plan. The Radicals were, moreover, particular that a very strict construction should be placed upon his powers. A little later, the Radicals took up their old plan of securing the appointment of special committees to control the work and functions of the Secretary. He became a mere "rubber stamp." Self respect required him to resign. That Livingston had a real policy and planned to use it, had he been allowed to do so, is shown by several instances.

After a report by the Secretary with recommendations, on February 5, 1782, it was voted by Congress, "that Franklin be authorized to enter into such engagements in France or with any state or province or with any man or body of men whatsoever, when necessary, for binding the United States to discharge said loans with interest and the United States pledges their faith to conform to what he executes." [32]

The above stands out, however, as the only clear case where the recommendations of the Secretary resulted in any clearly defined action on the part of Congress relative to the enlargement of the powers of the Ministers abroad.

There were several other reasons why Livingston was compelled to resign. (1) The work of the Department was very arduous owing to the large amount of correspondence. (2) He found that as soon as he had incorporated the sentiments of Congress in communications to his Ministers, the sentiments of Congress had again changed, so that his instructions meant nothing. (3) He desired to give instructions to his ministers of a secret nature, in many instances, but he dared not send them without the advice and consent of Congress. (4) He was seldom able to gain information of value to him in his work by listening to the debates in Congress and he was never encouraged to ask questions.

[32] Journals of Congress, XXII, p. 66.
[33] Ibid. XXII, p. 370.

That Livingston faithfully fulfilled the duties of the office during his term as Secretary is proved by the fact that on July 2, 1782, a committee of five, most of whom were Radicals, began an investigation of the Department.[33] On September 18, 1782, the committee reported on the number and nature of the books, papers, etc., in the archives of the Department. It reported that the Secretary had shown much industry, attention and ability in his work; that whatever errors were discovered were too trivial to be reported to Congress, and that some suggestions were made to the Secretary, which no doubt would be acted upon.[34]

It would seem that Livingston's incumbency as Secretary of Foreign Affairs was a distinct period of transition from utter chaos to the beginning of executive control and he was the particular victim of a natural reaction against such change. Had he remained a year longer as Secretary, he would, without doubt, have begun to reap the good results of the transition.

Two factors changed conditions very materially during 1782, so that by 1783 and 1784, the Department of Foreign Affairs really began to function as such. (1) The Committee system completely broke down during 1781 and 1782 as a means of control of Congressional action. Whereas, in the early part of 1781, many special committees were elected to consider matters which most certainly belonged to the several Departments; by 1782, most of the committees elected had as their function the consideration of matters presented to Congress by these Departments. The positions of Congress and Departments, as far as functions and actions were concerned, were now exactly reversed. The result was a most remarkable growth of executive power in the several Departments of government. (2) On November 21, 1782, James Madison offered a resolution in Con-

[34] Journals of Congress, XXIII, pp. 586-589.

gress to the effect that the powers of the Secretary of Foreign Affairs be enlarged.[35] Previous to this, his powers had been somewhat enlarged, but now a committee of five was appointed to consider the matter of further enlarging them. Their report was wordy and grandiloquent, but when reduced to its lowest terms was not much of an improvement. The appointment of the committee was no doubt a concession to the Constructionists, especially Madison, but the Radicals saw to it that the teeth of the measure should be effectually drawn. The work of the Department, as outlined by this committee, ended with the provision that all letters to United States Ministers or foreign powers must receive the approval of Congress before sent. The suggestion that the Secretary be given a seat in Congress was struck out. He was to reduce all communications to proper form in his office, which were to be resubmitted to Congress, then countersigned by the Secretary and then delivered to the proper destination.[36]

This plan gave the Secretary more work than before, but no more real power. The new Department of Foreign Affairs was accepted with the repeal of the law establishing the first one.[37] But the new Department did not then receive any more work of importance to do. Some committees were still elected to do this work. On February 14, 1783, a committee reported on a letter from Jefferson and Congress at once acted on his proposed mission as a special envoy to Europe.[38] On April 1, 1783, a committee of five reported that Laurens be allowed to return home.[39] On June 4, 1783, Livingston flatly refused to serve longer as Secretary of Foreign Affairs, and it was ordered that the Secretary of Congress receive the papers of the De-

[35] Secret Journals of Congress, III, p. 254.
[36] Journals of Congress, XXII, p. 87.
[37] Ibid. XXII, p. 92.
[38] Secret Journals of Congress, III, p. 318.
[39] Ibid. III, p. 320.

partment of Foreign Affairs until a successor was elected.[40] Congress at this time accepted Livingston's resignation with reluctance, extended to him its thanks and praised his zeal, fidelity and ability in the work of the Department.[41] Without a Secretary, the work of the Department of Foreign Affairs was again conducted by special committees. This plan had been the customary one up to 1780, as we have seen. Yet its shortcomings were at once manifest. The leaders in Congress saw at once that the government had outgrown the old ways of conducting Congressional business and demanded a responsible Secretary for the conduct of diplomatic relations. After a short delay and with no postponement, John Jay was elected Secretary of the United States of America for Foreign Affairs on May 7, 1784, at a salary of $3,000 per year.[42] The Department now advanced to a new position of importance and usefulness.

Summary.

From the year 1776, there were scattered attempts to place executive power in the hands of standing committees. Some executive work of a domestic nature was beginning to be referred to various Boards, but no serious attempt had been made to establish an executive Department of Foreign Affairs. On January 10, 1781, such a Department was, however, established, but it required seven months more to select a Secretary.

New powers were granted the Secretary, yet he was not allowed to initiate any important measures or follow a well defined policy. He was strictly limited in his powers. Embarrassments and slights followed and the office of Secretary fell into disrepute. Livingston, the Secretary, unable longer to withstand the existing conditions, resigned.

[40] Secret Journals of Congress, III, p. 363.
[41] Ibid. III, p. 363.

Livingston was a victim of a period of transmission. The committee system was collapsing and Franklin was assuming enlarged powers abroad. The committee system again took charge of the Department, but it was soon found inadequate. In 1783 more powers were given to the Secretary, but this did not suffice. Finally in 1784, Jay was elected as Secretary for the United States of America and the Department assumed new life.

CHAPTER IX.

The Election of a Secretary of the United States of America for the Department of Foreign Affairs and the Formation of a Department of State.

1.

The election of John Jay as Secretary of the United States of America for the Department of Foreign Affairs marked an epoch in the history of the control of foreign relations. In Jay, the Department possessed a far different type of man from Livingston. Experienced in the conduct of peace negotiations with England while in France, he brought to the new office the same aggressiveness which he had shown abroad. Jay also possessed initiative and the will power to persevere until his policies were wrought out. His one supreme purpose was to make the power of the United States felt abroad, but he knew that this could not be accomplished until there was a far stronger government at home. His experiences in France and Spain had given him conclusive proof of its weakness. It was because of this weakness, that he felt justified in assuming unauthorized powers as a special envoy.

Jay met strong obstacles in carrying out his plans, however. The enemies of strong government fought him at every point. In a letter to Washington on June 27, 1786, two years after he became Secretary, he complained of the dire condition of affairs and outlines the absolute necessity of a strong government ably administered.[1] On August 18, 1786, he wrote to Jefferson and

[1] John Jay: Correspondence and Public Papers, III, p. 203.

deplored the lack of energy in the state and federal governments.[2] In a second letter to Jefferson, dated October 27, 1786, he indicated that the inefficiency of the government became daily more apparent.[3] In a letter to Mr. Carmichael, January 4, 1787, he indicated that business of importance had not been done since November 3, 1786, owing to the lack of a quorum in Congress.[4] On February 9, 1787, he wrote Jefferson, indicating that the executive, judicial and legislative work of the government must be arranged in separate departments.[5]

Jay was not alone in this opinion. Both Jefferson and Madison stood with him. Jefferson as a revolutionist, possessed keen constructive powers and a clear appreciation of the need of the adaptation of the government to the needs of the people.[6] As chairman of the Committee for Foreign Affairs, he drafted instructions for the concluding of commercial treaties on the basis of reciprocity. In this he was in full accord with Franklin. He supported the establishment of a Department of Foreign Affairs against the Radicals. He supported Madison against R. H. Lee in sustaining measures in the Virginia legislature giving power to Congress to impose impost duties.[7]

As early as March, 1785, Madison wrote concerning the Department of Foreign Affairs, "If the office of Foreign Affairs be a proper one and properly filled, a reference to it of all foreign dispatches is so obvious a course, that any other disposition of them by Congress condemns their own establishment and affronts the minister in office and puts on him a label of caution and against respect and confidence of the ministers of foreign powers,

[2] John Jay: Correspondence and Public Papers, III, p. 210.
[3] Ibid. III, p. 212.
[4] Ibid. III, p. 225.
[5] Ibid. III, p. 231.
[6] Wharton: Diplomatic Correspondence, I, p. 257.
[7] Ibid. I, p. 258.

essential to his usefulness."[8] He added that while Congress might reject the opinions of the Secretary, it should not renounce the opportunity of using them. In the light of the citations above, it is interesting to note the gradual development of power on the part of Jay as Secretary.

On June 23, 1784, Jay took office. On May 5, 1784, the Radicals made their last attempt to carry out the States Rights policy in connection with the conduct of foreign affairs. It was resolved that two Commissioners be appointed in addition to Mr. Adams, Mr. Franklin and Mr. Jay (then in Europe) to be chosen in such manner that the commercial interests of the different parts of the country might be equally attended to.[9] This motion was lost, after a prolonged debate, on the ground that the interests of the United States did not require more than three ministers plenipotentiary in Europe at the same time. There was little doubt that the "strong government" advocates defeated this plan, since they had observed in so many instances how the multiplication of envoys in Europe had disrupted the policies of the best statesmen in America.

To counteract this abortive attempt of the Radicals, on May 10, 1784, a motion was made to give Adams, Franklin and Jefferson (who had been elected to take Jay's place) power to make and receive propositions for a treaty of commerce and amity and to negotiate and sign the same, transmitting it to Congress for its final ratification.[10]

The Southern states now made their demands known by causing it to be resolved on June 3, 1784, that the Ministers should not enter into any compact with Spain by which any rights of the citizens of the United States to a free navigation of the Mississippi river from its source to the ocean should be given up.[11]

[8] Madison: Writings, I, p. 141.
[9] Secret Journals of Congress, III, p. 469.
[10] Ibid. III, p. 489.
[11] Ibid. III, p. 511.

The boundary and navigation questions were fast becoming national issues. In such an approaching crisis, it was seen that divided responsibility would be ruinous to the Spanish-American controversy. Accordingly, on February 11, 1785, it was resolved, on the basis of the report of a committee of five, to whom had been referred letters from the Secretary for Foreign Affairs, that all communications, as well to as from the United States in Congress assembled, on the subject of foreign affairs, be made through the Secretary for the Department of Foreign Affairs and that all letters, memorials or other papers on the subject of foreign affairs, be addressed to him. Also, it was further resolved that all papers written in a foreign language, which in future shall be sent to Congress from the Secretary of the Department of Foreign Affairs, be accompanied with a translation in English and that a proper interpreter be engaged to do this work. [12]

On May 14, 1785, the Secretary reported out the form of a commission for John Adams as minister to England. [13] This was the first instance where the Secretary had been allowed to do this important work, though it had always been one of his functions. On the next day the Secretary was ordered to make out a letter of credence to Adams, taking care not to make any reference to former disputes. [14]

A marked change had now taken place in the conduct of foreign affairs, yet the committee system of control had not entirely disappeared, even at this date. A committee was, for instance, appointed to take into consideration letters from the ministers of the United States at foreign Courts. [15] But the system as such, was practically dead. The "militia" idea of diplomacy

[12] Secret Journals of Congress, III, p. 527.
[13] Ibid. III, p. 546.
[14] Ibid. III, p. 547.
[15] Ibid. III, p. 550.

was still active, however. Adams was elected as Minister on February 24, 1785.[16] He at once left for England. Blunt and proud of his country, he demanded, on his arrival, rewards for America. In this spirit, he worked for three years and returned empty handed. This failure was due primarily to the attitude of Adams, but a second large factor was the fact that England could not ascertain with whom to conclude a treaty, because she did not know whether Congress or the individual states held the sovereign power of the United States. It was for this reason that no Minister was sent to America by England until 1791.[17]

On July 2, 1785, the Secretary introduced the Spanish minister, don Diego Gardoqui to Congress. Here was assumed another function formerly always delegated to special committees of selected membership. Gardoqui announced that he was empowered to treat on adjustment of points of difference between Spain and America.[18] On July 20, 1785, it was resolved "that the Honorable John Jay, Secretary to the United States of America for the Department of Foreign Affairs be and he hereby is invested with full powers in behalf of the United States of America to treat, adjust, conclude and sign with don Diego de Gardoqui whatever articles, compacts and conventions may be necessary for establishing and fixing the boundaries between the territories of the said United States and those of His Catholic Majesty, etc."[19] Congress added, however, that the general plan of each article be submitted to Congress previous to making it a proposition to the Spanish Minister.

Here is seen for the first time, the power to conclude treaties placed in the hands of the Secretary to the United States.

[16] Secret Journals of Congress, III, p. 533.
[17] Wharton: Diplomatic Correspondence, I, p. 574.
[18] Secret Journals of Congress, III, pp. 562-566.
[19] Ibid. III, p. 568.

The seat of the control of affairs of a diplomatic nature was now being brought back from Europe and placed in the hands of the Secretary to the United States, where it had always legally belonged, but owing to party struggles and the inefficiency of the committee system, had never been allowed to remain.

The first reference to Jay as the Secretary to the United States of America for the Department of Foreign Affairs, was made in the Journals of Congress on July 13, 1785, over a year after he had been elected to that office.[20] While plainly belated, it was proof that Congress had begun to regard Jay and his office seriously. On July 20, 1785, the same day that Jay received his new powers as a negotiator of treaties, we find the first instance of a special committee having been elected to receive communications from the Secretary. This committee was instructed to report back to Congress on a suggested method of procedure with regards all such communications.[21]

Here, for the first time, the positions of the Secretary and a special committee, are exactly reversed as compared to their positions in 1780 and 1781. At that time, the committees were appointed to conduct the work of the Department of Foreign Affairs and the Secretary was either ignored or directly ordered to carry out the wishes of the committees.

On July 21, 1785, a special commission was issued to Jay, closing as follows: "and we hereby promise in good faith to approve, ratify and fulfill and cause to be observed and fulfilled .....whatsoever shall by him, our plenipotentiary, be stipulated and signed, etc."[22]

On August 25, 1785, however, the clause, requiring him (Jay) to refer all plans of propositions to Congress before action upon them, was repealed. He was ordered to stipulate the

[20] Secret Journals of Congress, III, p. 566.
[21] Ibid. III, p. 568.
[22] Ibid. III, p. 571.

rights of the United States as to their territorial boundaries and the free navigation of the Mississippi river from its source to the ocean, as established in the treaty with Great Britain and he was not to conclude any treaty until he had submitted it to Congress. [23]

The truth of the matter was that the Spanish minister knew the proverbial weakness of Congress. He was playing a deep game. Congress became suspicious of this and changed front to meet the issue. The remarkable fact concerning this action is that Congress had become so solidified in aims and purposes that it could adopt at once a certain line of action and follow it. This shows a great advance in united action and centralization of power.

On May 31, 1786, Jay, having been actually threatened by the Spanish minister, asked Congress to appoint a committee to instruct and direct him on every point and subject relative to the proposed treaty with Spain. He also recommended that such committee be a secret one. [24] This seems to be proof that enough power had been given to the Secretary by Congress, that he now found it undesirable to assume the full responsibility in the use of that power. Called before Congress relative to his request, he informed Congress on August 3rd, that he considered a treaty with Spain of the greatest importance. He stated that France would not remain neutral in a struggle with Spain; that the two great obstacles in the negotiations were the boundaries and the navigation of the Mississippi, and that the Spanish minister had informed him that the Spanish king would never compromise on these points. Jay suggested a compromies by negotiating a treaty for twenty-five years and no use of the river below the southern boundary of the United States. [25]

[23] Secret Journals of Congress, III, p. 586.
[24] Ibid. IV, p. 43.
[25] Ibid. IV, p. 44ff.

This suggestion at once stirred up a heated debate in Congress. States Rights statesmen came at once to the front. The Southern states stood solid against Jay's plan. The Northern states wanted Jay relieved from directions demanding the navigation of the Mississippi. Patrick Henry said that he would rather part with the confederation than relinquish the navigation of that river. [26]

On August 10, 1786, Jay was asked by Congress to lay before it all information which he possessed concerning the attitude of France to the Mississippi river question. [27] Jay reported to Congress on the matter the same day, and informed that body that the Court of France in his opinion, would not admit the claims of America. [28] He indicated that Gerard and Luzerne both talked against the American position, while representing France in America.

After deliberating upon the matter for two weeks, Congress, on August 28, 1786, repealed the act of August 25, 1785, and resolved to give Jay very definite instructions upon the boundary and navigation questions, particularly as to the relinquishing of rights below the southern boundaries. [29] Congress was evidently apprehensive that Jay might decide to disobey instructions again as he had done in France, and it was determined to take no chances. On the same day, therefore, Jay's commission was repealed. [30] Congress then revised the whole plan of negotiations. In a conference with the Secretary, it was indicated that the negotiations must proceed in accordance with his views (a tacit admission of his increased powers) or through a conviction of their impropriety, Congress must adopt some other plan. To

[26] Lee: Arthur Lee, II, p. 321.
[27] Secret Jornals of Congress, IV, p. 63.
[28] Ibid. IV, pp. 63-71.
[29] Ibid. IV, p. 81.
[30] Ibid. IV, p. 85.

accept Jay's plan confused the treaty of commerce and amity and also the boundary question. [31]

On August 30, 1786, the Secretary was instructed not to conclude any treaty of commerce with Spain unless and until the boundary question was settled satisfactorily. [32]

Nothing of importance was heard of the Spanish-American question during the remainder of 1786. Beginning with the year 1787, the Secretary generally formally reported to Congress in writing on all letters and communications sent to him. He almost invariably accompanied these communications with recommendations as to what Congress should do. Sixteen different sets of such communications were noted in the Secret Journals of Congress from February 3, 1787 to July 28, 1788. [33]

On April 4, 1787, the Secretary was asked by Congress to report on the state of the negotiations with the Spanish minister. [34] On April 13, 1787, Jay gave the complete correspondence in the matter to Congress. He indicated that much had been done by indirection, but little could be forced upon the Spanish minister. He showed that it had been partially agreed that both Spain and the United States were to use the Mississippi down to the United States southern boundary. He strongly advised that the United States adopt some fixed and stable plan or policy towards Spain. [35] On April 20, 1787, Jay was asked to prepare a commission to a special envoy to Spain to conclude the whole matter. Jay strenuously opposed this action, but added, that if Congress insisted, he should propose Jefferson as the envoy. [36]

On September 24, 1787, the Secretary, fully cognizant of the fruitlessness of Adams's mission to England as Minister, still

[31] Secret Journals of Congress, IV, p. 91ff.
[32] Ibid. IV, p. 92ff.
[33] Ibid. IV, pp. 285-438.
[34] Ibid. IV, p. 297.
[35] Ibid. IV, pp. 299-300.
[36] Ibid. IV, pp. 339-341.

deplored the fact that England had not sent a Minister to the United States. He indicated a desire to retaliate, but recommended caution until "affairs justify a more nervous style of conduct and language.....this neglect will cease the moment the American government and the administration of it shall be such as to impress other nations with a degree of respect .....which deny Congress the means of inspiring at present." [37]

On October 5, 1787, Jay recommended the appointment of a Minister to succeed Adams, who was coming home at his own request. [38] On October 13, 1787, the Secretary recommended the repeal of state laws favoring certain nations through treaties of the states. [39] The frequency of these recommendations indicates plainly that a new era had begun in the Department of Foreign Affairs. The Secretary, through his personality, had developed new powers relative to the initiation of policies and the bringing of them to a successful conclusion.

On September 16, 1787, Congress, fearful that a report that they were disposed to surrender to Spain in the matter of claims to the navigation of the Mississippi river, would nullify all efforts in coming to an understanding with that country, resolved, "that the free navigation of the Mississippi river is a clear and essential right of the United States and that the same ought to be considered and reported as such." [40] It was at the same time resolved, "that no further progress be made in the negotiations with Spain by the Secretary for Foreign Affairs, but that the subject be reopened by the federal government which is to assemble in March next." [41]

It is evident that Congress had taken into serious consider-

[37] Secret Journals of Congress, IV, pp. 388-389.
[38] Ibid. IV, p. 401.
[39] Ibid. IV, pp. 411-413.
[40] Ibid. IV, p. 453.
[41] Ibid. IV, p. 454.

ation the recommendation of the Secretary that a more stable government be organized in order that an impression might be made upon the powers of Europe in the matter of diplomatic negotiations.

This was the last action on matters pertaining to the Department of Foreign Affairs under the Confederation.

2.

The steps in the development of a definite Department of Foreign Affairs had been gradual from 1776 to 1788. First came the Committee of Secret Correspondence, which soon functioned as a Committee of Foreign Affairs. Then followed a long contest over the establishment of a Department of Foreign Affairs. With the formation of this Department, we saw how the Radicals attempted to keep real power away from it, but, in spite of this movement, necessity gave the Department power and under Livingston and Jay, it became a real power in the control of diplomatic relations. The decided work of Jay made the formation of a Department of State relatively easy.

The Constitution, when adopted in 1789, did not provide, in so many words, for the creation of executive departments of government. It referred to them, however, as things which would, as a matter of course be adopted or established. Article II, Section 2, in treating of the powers of the President, said, "He may require the Opinion, in writing, of the principal Officer in each of the executive departments, upon any subject relating to the duties of their respective offices.....but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, or in the courts of law, or in the heads of departments."

Under the Confederation, there were Departments of Finance, War, Marine, Post Office and Foreign Affairs, but, of

course, no Department of State. Laws, Ordinances, proclamations, etc., were promulgated from the office of the Secretary of Congress, signed by the President and countersigned by the Secretary, who kept the great seal after 1782.

Alexander Hamilton at once proposed a plan of government which contemplated a supreme executive, "to have sole appointment of the heads or chief officers of the Departments of Finance, War and Foreign Affairs." [42] An executive council was also proposed, composed of the President of the Senate, the Chief Justice and Ministers who might be appointed for the Departments of Foreign and Domestic Affairs, War, Finance, Marine, etc., who shall advise, but not conclude the President. [43]

Pinckney proposed a second plan including the following: A Council of State, composed of the following officers,—Chief Justice, Secretary of Domestic Affairs, Secretary of Commerce, Secretary of Foreign Affairs, Secretary of War, and Secretary of Marine, who shall be appointed by the President during his pleasure. The duties of the Secretary of Foreign Affairs shall be to correspond with all foreign Ministers, prepare plans of treaties and consider such as may be transmitted from abroad and generally to attend to the interests of the United States in their connection with foreign powers. [44]

The three outstanding facts concerning these proposed plans of government were: (1) The placing of the supreme authority in the hands of a strong central executive power vested in one person—the President. (2) The separation of the functions of government into an executive, judicial and legislative tripartite form. (3) The more definite placing of executive functions in the control of Departments as aids to the President. But it is a fact to be noted that all three of these features were

[42] Madison: Writings (Hunt), III, p. 195.
[43] Ibid. IV, p. 234.
[44] Ibid. IV, p. 242.

built upon the lines already developed in a limited way from 1776 to 1788, omitting in a large measure the weaknesses and adopting the good points they possessed.

A marked innovation, however, was the suggestion that the President shall appoint a Secretary of State to hold office during his pleasure, who shall be a Secretary to the Council of State and also the public Secretary of the President. It was to be his duty to prepare Public dispatches from the President, which he shall countersign. [45]

The scheme for the Council of State, after due consideration was rejected, but its importance was recognized in Section 2 of Article II of the Constitution. It pointed unmistakably towards executive Departments of government. After the fiasco of the preceding twelve years in the conduct of governmental functions, it is little wonder that the "strong government" advocates insisted that something better should now be attempted.

Congress met April 6, 1789. Washington was inaugurated as President of the United States of America on April 30, 1789, but not until the 19th of May was the establishment of executive Departments taken up in earnest. After much discussion on this matter, James Madison offered a substitute for all the former propositions as follows: "That there should be established an Executive Department to be denominated the Department of Foreign Affairs at the head of which there shall be an officer, to be called the Secretary to the Department of Foreign Affairs, appointed by the President, by and with the advice and consent of the Senate and such person to be removable by the President." [46] The idea at once gained credence that Madison's motion assumed that this Department would be at the head of all the other Departments and for this reason, the plan was strenuously opposed. Yet, in the end, Madison's idea prevailed. The

[45] Hunt: Department of State, p. 55.
[46] Ibid. p. 59.

"strong government" leaders insisted that had the Confederation possessed a strong Department of Foreign Affairs during the war period, much trouble would have been avoided and the war probably appreciably shortened.

Finally on June 2, 1789, a committee reported to Congress two bills, each purporting to establish a Department:—(1) A Department of War and (2) a Department of Foreign Affairs. There had been much heated discussion concerning the power of the President to remove the head of Departments, so the bills were amended so as to give the President an implied power of removal. In this form the bills were passed by the House on June 24, 1789, by a vote of 29 to 22.[47] The vote indicated that the "strong government" men did not completely control the situation, but this condition was natural. There was still fear of delegating too much power to one man or Department. The bills passed the Senate, however, on July 18, 1789, and were signed by the President on July 27, 1789.[48] The act provided in Section 1, that (1) There shall be an Executive Department to be denominated the Department of Foreign Affairs; (2) That this Department shall be headed by a principal officer to be called the Secretary for the Department of Foreign Affairs; (3) That the duties entrusted to him by the President shall be relative to correspondence, commissions, instructions, etc., to or with public Ministers from foreign states or princes, or to memorials or other applications from foreign public Ministers or other foreigners or such other matters as the President shall assign.

Here is seen the establishing of a new Department with the usual duties and asignments of the old and preceding one. In Section 2, it is provided that there shall be an inferior officer called a chief clerk who will take the place of the principal (Secretary) when said principal shall for any cause, be removed by

[47] Hunt: Department of State, p. 66.
[48] Annals of Congress, I, p. 659.

the President, or in any other case of vacancy, he shall have charge of all records, books, papers, etc.

In Section 3, each of the officers of the Department is required to take an oath to fulfill with fidelity the duties of their respective offices. Here again was an old idea applied to new conditions.

In Section 4, it is provided that the Secretary shall have charge of all records, books, papers, etc., in the office of the Secretary for the Department of Foreign Affairs, heretofore established by the United States in Congress assembled. [49] This plan had been adopted back in 1781.

A Home Department was proposed on July 23, 1789, to be headed by a Secretary of the United States, who was to correspond with the states, keep the great seal and file copies of public proceedings, etc. This plan met with little favor, it being urged that too much correspondence had already been carried on with the states. [50]

On August 27, 1789, a bill was passed by the House and on September 7, 1789, the Senate concurred. It was signed by the President on September 16, 1789. This act provided that the Executive Department denominated the Department of Foreign Affairs, hereafter be called the Department of State and that the principal officer shall be called the Secretary of State. His duties shall be to review and print bills, orders, resolutions or votes of the Senate and House. The Secretary shall also keep the great seal and shall have the custody of all books, papers, etc., as before. Here is seen the simple combining of the duties of the Secretary of the Department of Foreign Affairs and that of the Secretary of Congress. Both sets of duties had been fully developed years before.

For some time John Jay continued to act as Secretary for

[49] Heney: Statutes at Large, p. 28.
[50] Annals of Congress, I, p. 666.

Foreign Affairs, even though the Department had been greatly changed. He even acted as the new Secretary of State for fifty days. On September 26, 1789, however, Thomas Jefferson was commissioned as the regular Secretary of State and in February, 1790, he took up his duties in that office as provided by the bill passed on September 15, of the previous year. [51]

Summary.

The election of John Jay as Secretary of Foreign Affairs marked a second great epoch in the development of the control of diplomatic relations by Departments. Jay had a policy of aggressiveness which he proposed to follow. In this he was seconded by the ablest leaders in Congress, though the Radicals unsuccessfully tried to limit his powers and those of his Ministers abroad. By the passing of resolutions on February 11, 1785, it was decided that all communications, which had to do in any way with the conduct of foreign affairs, must pass through the hands of the Secretary.

This put an effectual stop to the special committee control of the Secretary, who began at once to issue commissions and recommendations. The "militia" idea of diplomacy still persisted, however. This is well shown by Adams's actions in England and the uselessness of his work. His failure was due partly to his methods of working and largely to the inefficiency of Congress. No foreign power knew whether the United States was one nation or thirteen.

On July 20, 1785, Jay was given full power to treat with Spain upon the boundary and navigation questions. Here was the first instance of power being given to a Secretary of Foreign Affairs to conclude a treaty. Jay's strong stand upon the duties of his Department, caused Congress to attempt to limit him,

[51] Jay: Correspondence and Public Papers, III, p. 381.

however, in his conduct of the negotiations. This showed plainly the increased power of the Secretary and his Department.

The increase in the dissensions between the States Rights and National parties now threatened the welfare of the country. Jay was early aware of this and pleaded for a stronger government. He opposed the sending of a special envoy to Spain to conclude the treaty, claiming that this action would show weakness on the part of America. He opposed the sending of more Ministers to Europe, claiming that a few would do far better work than many. During 1786 and 1787, Jay sent many recom mendations to Congress, many of which were favorably received.

The increased weakness of the foreign relations position of Congress, owing to its indefinite federal policy, brought the majority of the leaders to see the absolute need of a strong centralized government. Even John and Samuel Adams were finally convinced of this. After the adoption of the Constitution, Madison and Hamilton made proposals for the establishment of strong executive departments. All these proposals were based upon previous workable schemes. They were the results of an evolutionary force, gradually adapting itself to new conditions. Along with this adaptation, however, there was seen the necessity of much greater powers of government. This was in the minds of the promoters of the founding of Departments.

A Secretary of State was consequently proposed, but with no ready response. A strong Department of Foreign Affairs was then established in July, 1789. A Home Department was proposed on July 23, 1789, but rejected. On August 27, 1789, a compromise plan was proposed, namely,—that the Department of Foreign Affairs be called the Department of State and that the principal officer be called the Secretary of State, whose duties should include those of the Secretary of the proposed Home Department. This was finally passed and Jefferson became the first Secretary of State of the United States of America on Septem-

ber 26, 1789, with greatly increased powers of a distinctively executive nature.

General Summary.

This thesis has attempted to show that hereditary qualities and environment and the development of special organizations as a result of these influences, had a marked effect upon the beliefs and convictions of the several delegates (especially those from Massachusetts) to the First Continental Congress and that this resulted in the rapid development of controlling factors which first began to be important and to struggle for supremacy in the Second Continental Congress. (Chapters I and II).

This difference in beliefs among the delegates caused the formation of parties and the division of the whole country into two or three fairly well defined areas or sections. The work of the Congress was at first naturally carried on largely by committees, but when party lines began to be drawn, the committee system began to be used as a means of controlling the political situation in Congress. Both Liberative and Constructionist elements struggled for the mastery of this democratic, but markedly inefficient system. (Chapter III).

During the years 1776, 1777, 1778 and 1779, the committee system prevailed. All executive power was expressed through the passing of resolutions and carried out through the hands of special committees. This procedure resulted in the marked decentralization of power and the effectual defeat of all measures aiming to conduct the affairs of government in an efficient and successful manner. The most marked effect of this weakness in governmental action was the inability of Congress to conduct foreign relations in a proper way. The results were most disastrous both at home and abroad. Little or nothing was done in a diplomatic way until the year 1778. Imminent disaster caused the rapid growth of the Constructionist party, which desired a

strong government with the centralization of power in the hands of executive departments. (Chapter IV).

The growing of this party was shown in its demand for the control of the envoys to France and their final recall, and the placing of larger powers in the hands of Franklin in France. This struggle between parties over governmental powers, without doubt, prolonged the war. During this period of chaos, the negotiations with France were periodically in danger of breaking down and it was only through giving a free hand to Franklin that French aid was finally secured. (Chapter V).

During this period of chaos the conduct of foreign affairs in America was practically in the hands of the French minister to the United States. It was largely through the policies of the French Minister that dictatorial powers were lodged in the hands of Washington, the cabals against Franklin and Washington largely defeated and the negotiations with France prevented from reaching the breaking point. (Chapter VI).

The assumption or granting of these powers was the beginning of the executive functioning of government through the work of individuals, both at home and abroad. Through this policy the treaty of 1778 with France was signed; it was by the disobeying of instructions that the peace with England was consummated. Meantime, the Department of Foreign Affairs was established in Congress. The process was necessarily slow, because it was continually fought by the Radicals. But the committee system was now breaking down and by 1783, its controlling power was destroyed. (Chapter VII).

The executive impetus could now never be destroyed. It had been shown to have been successful. The centralization of power in departments began in earnest. The prolonged negotiations with Spain over the boundary and navigation questions proved beyond a doubt, the absolute necessity of a stronger and more efficient government than had hitherto existed.

The Constitution was accordingly adopted in 1789 and provided for the immediate establishment of strong executive departments. The Department of Foreign Affairs with a Secretary was formed with greatly enlarged powers. But this Department almost immediately resolved itself into a Department of State with a Secretary of State. (Chapters VIII and IX).

The whole process of development had been slow and irregular. But its outcome was sure, since the very existence of the United States of America depended upon it, and because there were enough wise leaders in America who could see the meaning of the problem and possessed the sagacity and courage to fight it through to a successful issue.

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INDEX