

V

The Dickinson Draft of the Confederation

FEW SOURCES remain for study of the work of the committee appointed on June 12, 1776, to draft articles of confederation. Much must be inferred from the political views of the thirteen committeemen and from the document they presented to Congress on July 12. The weight of influence as well as of numbers lay with the conservative party, which up to May, 1776, had spent its efforts in opposing independence and then, when that appeared inevitable, in trying to delay a declaration of independence until a government could be created for the thirteen colonies and foreign alliances could be obtained. Three outstanding opponents of independence, John Dickinson, Edward Rutledge, and Robert R. Livingston, were members of the committee, and of these John Dickinson was the recognized leader. Thomas McKean, though in favor of independence, was on the whole also a conservative, as were Francis Hopkinson and Thomas Stone. Joseph Hewes was a North Carolina merchant and a business associate of Robert Morris. Button Gwinnett was English-born. Thomas Nelson was a product of Trinity College, Cambridge, and closely connected with the royal government of Virginia. Roger Sherman and Josiah Bartlett may be described as middle-of-the-road men. This leaves only two whose radicalism is unquestioned. One was Stephen Hopkins, a very old man. The other, Sam Adams, was unquestionably a radical, but his talents were hardly suited to the work of drafting articles of confederation.

There is little doubt that Dickinson was dominant in the committee. His prestige as a writer and the honesty of his convictions led men to respect him whether they agreed with his political views or not. To him was given the task of writing the Articles which were presented to Congress, and it would seem that, in spite of many compromises, the draft presented was an embodi-

ment of the views of the conservatives, and of his own views in particular.

Dickinson himself admitted that every article was bitterly fought over,¹ and the existing evidence indicates that the disputes were long and sharp. Five days after the committee was appointed Josiah Bartlett wrote that "as it is a very important business, and some difficulties have arisen, I fear it will take some time before it will be finally settled."² On June 29 Edward Rutledge wrote to his friend John Jay that he had lately been much engaged upon a plan of confederation which Dickinson had drawn and that it had "the Vice of all his Productions to a considerable Degree; I mean the Vice of Refining too much."³

Rutledge's attitude toward Dickinson's draft of the Articles illustrates the division of opinion which had been the undoing of the conservative party during the past two years. Unlike the radicals, whose single-minded devotion to one end overcame most of the obstacles they faced, the conservatives were divided, and, being timid and largely on the defensive, they had been helpless in the face of a determined minority. The conservatism of Rutledge was the conservatism of the South, of an aristocracy that had the situation well in hand at home and was determined not to surrender to democratic influences from New England. If South Carolina supported Massachusetts because she feared that her own legislative independence might be endangered once Massachusetts had been conquered,⁴ it was not to be expected that she would surrender it to a government such as the conservatives of the Middle states wished to create.

To Rutledge, who feared the democratic pretensions of the New Englanders, it seemed that "the Idea of destroying all Provincial Distinctions and making every thing of the most minute kind bend to what they call the good of the whole, is in other Terms to say that these Colonies must be subject to the Government of the Eastern Provinces." He had no respect for the military prowess of New England, but he spoke from deep conviction and some experience when he said that he dreaded "their

¹ John Dickinson, "Arguments ag.^t the Independence of these Colonies - in Congress," Dickinson MSS., in the Pennsylvania Historical Society.

² Josiah Bartlett to John Langdon, June 17, in Burnett, *Letters*, 1:495.

³ Edward Rutledge to John Jay, June 29, *ibid.*, 517.

⁴ McCrady, *South Carolina in the Revolution*, 1:171-172.

overruling Influence in Council . . . their low Cunning, and those levelling Principles which Men without Character and without Fortune in general possess, which are so captivating to the lower class of Mankind, and which will occasion such a fluctuation of Property as to introduce the greatest disorder." Rutledge was determined that the reins of power should remain in the hands of the states, for if their power were to be surrendered, he was convinced, a "most pernicious use" would be made of it.⁵

Rutledge saw in the Dickinson plan the ruin of some of the states, should it be adopted. He prophesied that unless greatly modified it would never be accepted, since it had to be submitted to men in the several states who could not be led nor driven into measures which might lay the foundation of their ruin. Thus Rutledge's belief in the independence of the individual states, along with his fear of New England democracy, led him to deny to a central government the powers which the conservatives of the Middle states wished to give to it. To Rutledge the danger seemed to be external, but to the conservatives of the Middle states the danger was from within. Therefore they talked much of "the good of the whole" and presented a constitutional program to provide for what was in effect a "national" government. It cannot be said that they believed unreservedly in doing away with the states. They were as ready to preserve state individuality as were the radicals, but not at the cost of an internal revolution which might throw the colonial governing classes from power. Hence where the conservatives remained in power as the revolutionary tide rose, as in Virginia and South Carolina, they were chary of surrendering any powers to a central government.

Thus while the conservatives dominated the committee on confederation, they were divided among themselves, and even in their own minds. It is difficult to say how much of a leaven the few radicals on the committee were. Certainly the compromises are evident in the Dickinson draft. Congress was not, for example, specifically given the right to regulate trade, although it was implied in the provision prohibiting the states from levying imposts conflicting with treaties made by Congress. The states were on a footing of equality in voting measures in Congress, yet by

⁵ Rutledge to Jay, June 29, in Burnett, *Letters*, 1:517-518.

and large the Dickinson draft met the wishes of the conservatives, particularly those of the Middle states. James Wilson so testified in the Convention of 1787, where he argued that the Continental Congress had constituted a single state and that the interests of individual states had been unknown, but had crept in only after the formation of the confederation. "The original draft of confederation," he said, "was drawn on the first idea [of Congress as a single state] and the draft concluded on how different!"⁶

Two things should be kept in mind in considering the form and phraseology of Dickinson's draft. In the first place, it has been said of his "Farmer's Letters" that they were able by "argument, subtle but clear," to derive "the nature of an act from the intention of its makers, and the intention of its makers from the nature of the act."⁷ In the second place, the draft was presented to a body dominated by lawyers for whom subtleties of phraseology undiscernible by the lay mind were pregnant with meaning for the future.

The first article of the draft in Dickinson's handwriting⁸ provided that "THE Name of this Confederacy shall be 'THE UNITED STATES OF AMERICA.'"⁹ The second defined the terms of union. The colonies were to unite so as never to be divided by any act, and "hereby severally enter into a firm League of Friendship with

⁶ Robert Yates, "Notes in the Convention of 1787," in Charles Tansill, ed., *Documents Illustrative of the Formation of the Union of the American States* (Washington, 1927), 759; James Madison's notes, *ibid.*, 177.

⁷ Carl Becker, *The Eve of the Revolution* (New Haven, 1918), 133.

⁸ Charles Thomson, "History of the Confederation," p. 7, in the Papers of the Continental Congress, No. 9. The Dickinson draft uses the word "colonies," but uses the term "United States" whenever speaking of the colonies in a collective sense. The draft seems to have been finished at least as early as July 4, for Dickinson probably did not attend Congress after that date. See Burnett, *Letters*, 1:lix. He resigned from Congress after he failed to stem the tide of independence, feeling that he had sacrificed his popularity to his principles, and that he had been unjustly treated by "those unkind Countrymen, whom I cannot forbear to esteem as fellow Citizens amidst their Fury against Me." To Charles Thomson, August 7, 10, 1776, in the Charles Thomson Papers, vol. 1, Library of Congress Manuscripts. Thomson replied that he regretted "that by a perseverance which you were fully convinced was fruitless, you have thrown the affairs of this state into the hands of men totally unequal to them" and as for Dickinson's "unkind Countrymen . . . They did not desert you. You left them." To Dickinson, August 16, 1776, in the Logan Papers, vol. 8, f. 78, in the Pennsylvania Historical Society Manuscripts.

⁹ *Journals*, 5:546-547.

each other, for their common Defence, the Security of their Liberties, and their mutual and general Welfare, binding the said Colonies to assist one another against all Force offered to or attacks made upon them or any of them, on Account of Religion, Sovereignty, Trade, or any other Pretence whatever."¹⁰ In other words, sovereign states were entering "severally" into a league of friendship for protection against attack from the outside. On the face of it this appears to be a concession to the radicals, but the rest of the document is a practical negation of the idea.

The greater part of the Dickinson draft dealt with the apportionment of powers and duties between the states and the Congress. In this matter of the distribution of power lies the fundamental difference between this and the final draft of the Articles of Confederation, as also between the latter and the Constitution of 1787. The Dickinson draft, while by no means as explicit as the Constitution of 1787, made the constitution of the central government the standard by which the rights, powers, and duties of the states were to be measured. Congress was theoretically, if not practically, the supreme authority. In contrast, the final draft of the Articles of Confederation was a pact between thirteen sovereign states which agreed to delegate certain powers for specific purposes, while they retained all powers not expressly delegated by them to the central government.

A comparison of the powers of the states and the guarantees made to them with the limitations on the powers of Congress in the Dickinson draft will make this point clear. The draft contained one general clause providing that each state should retain and enjoy "as much of its present Laws, Rights and Customs, as it may think fit, and reserves to itself the sole and exclusive Regulation and Government of its internal police, in all matters that shall not interfere with the Articles of this Confederation."¹¹ Each state might lay imposts or duties on importations and exportations, provided they did not conflict with any stipulations in treaties thereafter entered into by the United States with the King of Great Britain or any foreign prince or states.¹² The states were to maintain a well-regulated and well-supplied militia. When troops were to be raised in any of the colonies for the common

¹⁰ *Journals*, 5:546-547.

¹¹ *Ibid.*, 547, Art. III.

¹² *Ibid.*, 547-548, Art. VIII.

defense, the state legislatures were to appoint "Commission Officers," but Congress was to appoint the general officers.¹³

These and no other powers were allotted to the states by the Dickinson draft, and even these few contain provisos which in effect nullified them. In Article III, which is a general guarantee to the states, there are two such provisos negating its legal effectiveness. The states were to enjoy their *present laws*, nothing being said about future state legislation. The control of internal police is qualified, if not negated, by a stipulation that it must "not interfere with" the Articles of Confederation.¹⁴ The same interpretation may be applied to Article VIII, which provided that each state might lay imposts and duties, but treaties made by Congress were to be superior to such state regulation. The privilege of maintaining militia was a duty as well as a privilege, and the right to appoint the subordinate officers of troops raised for the Continental Army was little more than a guarantee of patronage. The third article was really the heart of the matter, as Thomas Burke was to convince Congress nearly a year later. He saw that since it granted only the power of regulating internal police, it clearly assigned every other power to Congress.¹⁵

If, by implication and interpretation, the states could thus be made to resign all powers but one, and that one was to be subject to interpretation by Congress, what were the restrictions on the power of Congress? There was only one unqualified restriction, that Congress might never impose taxes or duties except in managing the post office. A qualified restriction was that which forbade Congress from interfering in the internal police of a state "any further than such Police may be affected by the Articles of this Confederation."¹⁶ One other restriction, which was really protection for the larger states rather than a limitation of the powers of Congress, was the requirement that the votes of nine

¹³ *Ibid.*, 548, Arts. IX, X.

¹⁴ The states are to control their internal police "in all matters that shall not interfere with the Articles of this Confederation." Dickinson's "Quaere" attached indicates his state of mind: "Quaere. The Propriety of the Union's garranteeing to every colony their respective Constitution and form of Government? J. D." *Journals*, vol. 5, p. 547, note 1.

¹⁵ Thomas Burke to Richard Caswell, April 29, 1777, in Burnett, *Letters*, 2:345-346.

¹⁶ *Journals*, 5:552, Art. XVIII.

states were necessary to make war, grant letters of marque and reprisal in peacetime, enter into treaties and alliances, coin money and regulate its value, fix the sums necessary for the "common defence and general welfare," emit bills and borrow money on the credit of the united colonies, raise naval forces, and agree upon the number of land forces to be raised.¹⁷ Thus the sole restraint upon the power of Congress was that it might not lay taxes and duties, which was logical enough if the American Revolution was in any sense a revolt against taxation by an external and superior political agency.

The reverse of the picture is to be found in a consideration of the restrictions placed on the power of the states and of the powers specifically granted to the Congress. The states might not send or receive embassies nor enter into negotiations with any foreign powers.¹⁸ No two or more states were to enter into any treaty, confederation, or alliance without the previous consent of Congress, which was to specify the purpose and duration.¹⁹ The inhabitants of each state were to have all the "Rights, Liberties, Privileges, Immunities and Advantages" in the other states which they then had²⁰ and the same "Rights, Liberties, Privileges, Immunities, and Advantages, in Trade, Navigation, and Commerce" in any other state, and in going to and from them to any part of the world.²¹ The states were to keep no standing armies nor bodies of forces except such as were necessary to garrison forts for the defense of the colony; and each state was to keep up a militia with arms and public stores.²² Every state was to abide by the decisions of the Congress "concerning the Services performed and Losses or Expences incurred by every Colony for the common Defence or general Welfare," and in no case was any state to attempt to secure by force a redress of any injury supposed to have been done by Congress in denying such satisfactions, indemnifications, etc.²³ No state or states were to engage in war without the consent of Congress unless danger from invasion was so imminent as to admit of no delay. Neither were the states to

¹⁷ *Journals*, 5:552, Art. XVIII; Samuel Adams to James Warren, June 30, 1777, in *Writings*, 3:380-381.

¹⁸ *Journals*, 5:547, Art. IV.

¹⁹ *Ibid.*, 547, Art. V.

²⁰ *Ibid.*, 547, Art. VI.

²¹ *Ibid.*, 547, Art. VII.

²² *Ibid.*, 548, Art. IX.

²³ *Ibid.*, 548-549, Art. XII.

grant commissions to ships of war, or letters of marque and reprisal; except after a declaration of war by the United States and only under regulations established by the latter.²⁴ None of these restrictions was considered excessive by the states, since war and foreign affairs were admittedly the province of a confederation and, at the time, one of the chief forces promoting a union of the states.

But the Dickinson draft gave to Congress, by indirection in two articles and directly in another,²⁵ the control of Indian affairs and of the boundaries of the states with charter claims to the "South Sea." The question of the control of the West was a powder magazine so far as interstate relationships were concerned. Its inclusion speaks for Dickinson's courage and his faithfulness to the interests of the landless states, but hardly for his political acumen. These clauses must have been the subject of some dispute in committee, and of some remaining doubt, for in a note attached to those provisions giving Congress jurisdiction over the West, Dickinson attached the cryptic note, "these clauses are submitted to Congress," and signed it with his initials.²⁶

The powers granted to Congress by the eighteenth article are a remarkable list, when one considers that this was the first earnest attempt to bring all the states together into some form of union and that the war was, in one sense, a revolt against centralization. It provided that the United States "shall have the sole and exclusive Right and Power" of determining peace and war; of establishing the legality of, and rules for, captures on land and water; of dividing prizes taken by land or naval forces in the service of the United States; of granting letters of marque and reprisal in times of peace; of appointing courts for the trial of all crimes, frauds, and piracies committed on the high seas or on navigable rivers not within any county or parish; of establishing courts for the final determination of appeals in all cases of captures; of sending and receiving ambassadors "under any Character"; of entering into treaties and alliances; of settling all disputes

²⁴ *Ibid.*, 549, Art. XIII.

²⁵ *Ibid.*, 549, 550-551, Arts. XIV, XV, XVIII. In July, 1775, Congress had organized Indian departments and had appointed commissioners for their administration. *Ibid.*, 2:174-177.

²⁶ *Ibid.*, vol. 5, p. 551, note 1, Art. XVIII.

that exist or may arise between two or more states concerning boundaries, jurisdictions, or any other cause whatever; of coining money and regulating its value; of regulating trade and managing affairs with the Indians; of limiting the bounds of colonies claiming by charter or proclamation to the South Sea, and of ascertaining bounds of colonies whose bounds appeared indeterminate; of assigning territories for new colonies from the lands thus separated or purchased by the Crown of Great Britain from the Indians, or to be hereafter purchased from them; of disposing of all such lands for the benefit of the United Colonies; of fixing the boundaries of new colonies within which forms of government are to be established "on the Principles of Liberty"; of establishing and regulating post offices; of appointing general officers of the land forces in the service of the United States; of commissioning such other officers as should be appointed by the tenth article; of appointing all the officers in the service of the naval forces of the United States; of making rules for the government and regulation of the land and naval forces of the United States, and directing operations; of appointing a Council of State and such committees and civil officers as might be necessary for managing the general affairs of the United States while assembled in Congress, and during its recess, of the Council of State; of appointing a presiding officer and a secretary; and of adjourning at any time during the year.²⁷

Besides these "sole and exclusive" powers Congress was to "have Authority for the Defence and Welfare of the United Colonies and every one of them" to fix the amounts of money to be spent, to emit bills and borrow money on the credit of the United States, to raise naval forces, to determine the number of land forces, to request each legislature to raise and equip its quota, which was to be based on the number of white inhabitants,²⁸ and to establish uniform weights and measures.²⁹

Some of these powers had long been conceded without ques-

²⁷ *Journals*, 5:550-551.

²⁸ *Ibid.*, 551-552. Congress was allowed to vary the quotas of the individual colonies. Legislatures might take exception to the demand for more than their normal share of troops if in their opinion the extra number might not be safely spared.

²⁹ *Ibid.*, 552.

tion to the empire: war and peace, the post office, foreign affairs, and Indian affairs; and it was therefore natural enough, in view of past practice and immediate necessities, to give them to Congress. Certain others were the result more particularly of immediate needs and of conservative attitudes, such as the control over the troops, the power to issue bills and borrow money on the credit of the colonies, and to coin money and regulate its value. If war was to be waged with any hope of success, some central power had to take charge of such matters.

The express grant of certain judicial powers to Congress was less unusual than it might seem in the light of the objections to British judicial relations with the colonies. The British government had acted often as an arbiter between classes in a given colony, and in intercolonial disputes.³⁰ The Dickinson draft provided that Congress should settle all disputes between the states, although it did not provide the machinery for doing so. As we have seen, such delegation of power was eminently desirable in the eyes of the conservatives, who viewed with alarm disputes over boundaries and land claims. The right to abrogate charter claims had never been expressly conceded to the British government in theory, although practice had compelled its concession in fact. If Virginia was moved to revolt, in part, by attempts to mutilate her charter claims to the West, it is obvious that she and other states with charter claims would never consent to placing control over the West in the hands of a central body. Such centralized control was most desired by speculators, who had nothing to hope for from the state governments, and its inclusion was a clear expression of the desires of the landless states in general and of their speculators in particular.

In keeping with conservative ideas, the Dickinson draft provided the foundation of an executive organization. Among the "sole and exclusive" powers of Congress was that of appointing a "Council of State, and such Committees and civil Officers as may be necessary for managing the general Affairs of the United States, under their Direction while assembled, and in their Recess,

³⁰ Everts B. Greene, "American Opinion on the Imperial Review of Provincial Legislation," in the *American Historical Review*, 13:104 (October, 1917).

of the Council of State."³¹ This Council, whose functions were detailed in a separate article, could make no commitments binding upon the United States, but it was to have certain definite powers which were to be permanent, since they were embodied in a "perpetual" document. It was to have charge of all military and naval operations when Congress was not in session. Although it could not alter the objectives of expeditions agreed upon by Congress, yet an "Alteration of Circumstances" would permit it to do so. It was to "expedite" such measures as might be agreed upon by Congress in pursuance of the powers given to the Council. It could make contracts and draw upon the treasury for payment of them. It was to "superintend and controul or suspend" both civil and military officers acting under the authority of the United States. It was to prepare "matters for the Consideration of the United States" and to summon Congress earlier than the appointed time when it was believed to be necessary. The business of the Council might be carried on by seven members.³²

The Dickinson draft thus really provided for the establishment of a bureaucratic staff and a continuity of policy in the central government. The implication in the term "Council of State" was that it was the executive arm of a single state, whereas in the draft of the Confederation finally adopted the term "Committee of the States" was applied to a body which was designed to sit only during the recess of Congress and which was given only the most limited functions. It would seem that it was the intention of the Dickinson draft to create a permanent executive body which could do most of the executive work of a centralized government. Its tenure was to be permanent. Its power to spend money and to control the army and navy during the recess of Congress, and its control over civil and military officers, combined to give this body a vast influence for centralization. Although it was not superior to the legislative branch, its powers could not be touched by that branch. The complete change effected in the final draft is evidence — in the absence of contemporary opinion — that such were the possibilities inherent in the "Council of State."³³

³¹ *Journals*, 5:551.

³² *Ibid.*, 553-554, Art. XIX.

³³ See below, ch. 8. See also Jennings B. Sanders, *Evolution of the Executive Departments of the Continental Congress, 1774-1789* (Chapel Hill, North Carolina, 1935), *passim*.

The failure to grant Congress the power to regulate trade has been thought strange,³⁴ but when viewed in the light of the disputes among the states over the restraining acts in 1775, and the opening of the ports in 1776, it seems quite natural. There seems also to have been a belief that trade would regulate itself, and that in any case the treaty-making power was sufficient for the purpose.³⁵

We have then, so far as the constitution itself is concerned — and it must be considered as a tool rather than as a source of power — a Congress with practically unlimited powers. The states are guaranteed only a conditional control over their internal police. Basically the Dickinson draft was a limitation of the power of the states, a natural expression of the conservative philosophy; yet it was a flat contradiction of the Revolution as a movement against irresponsible centralized political authority. As will be seen, the final form of the Articles of Confederation reversed this situation and made the constitution the measure of the powers of the central organization, and gave to the states the field of undefined authority.

The balance of power between the states on the one hand and the Congress on the other is the most significant aspect of the Dickinson draft. The second important feature is the balance of power among the states themselves. Equality was provided for in the provision that each state was to have one vote in Congress.³⁶ Expenses were to be paid from a common treasury, to which each state was to contribute in proportion to its population of every age, sex, and quality, except Indians not paying taxes. The taxes were to be levied by the authority and direction of the several legislatures.³⁷

The remainder of the Dickinson draft deals with the organiza-

³⁴ McLaughlin, "Background of American Federalism," in the *American Political Science Review*, 12:239.

³⁵ This seems to have been the belief of so ardent a "nationalist" as James Wilson. See his "Considerations on the Nature and Extent of the Legislative Authority of the British Parliament," in Adams, *Selected Political Essays of James Wilson*, pp. 81-82, note 44. This view held by Wilson contradicts that held by such men as James Duane, another conservative whose views were expressed in the first Continental Congress.

³⁶ *Journals*, 5:550, Art. XVII.

³⁷ *Ibid.*, 548, Art. XI. On July 29, 1775, Congress had agreed to include negroes and mulattoes in each colony. Since population could not be ascertained

tion of Congress and methods of procedure. No matter was to be decided unless seven colonies voted in the affirmative.³⁸ On certain important questions, such as entering into treaties and alliances, coining money and regulating its value, fixing sums for expenses, and borrowing money, the affirmative votes of nine states were necessary.³⁹ Congress was to meet on the first Monday of each November.⁴⁰ Its journals were to be published except such parts relating to treaties or military operations as must necessarily be kept secret, and they were to be furnished to the delegates of any colony to lay before the legislatures. The colony's years and days were to be entered in the journal at the request of any delegate or delegates.⁴¹

The delegates to Congress were to be appointed annually as the legislatures of the several colonies might direct. Each colony was to support its own delegates, who were to be subject to recall and replacement at any time during the year.⁴² No person could be a delegate for more than three in any six years. No person holding any office under the United States for which he received pay of any kind could be a delegate.⁴³

Canada was to be allowed to enter the Confederation on equal terms, but no other colony was to be admitted except with the consent of the delegates of nine states.⁴⁴

The Articles were to be submitted to the several legislatures, which were to approve them and authorize their delegates to ratify them; this being done, the Articles were to be perpetual. No alteration was to be made unless agreed to by the Congress and afterwards confirmed by the legislatures of all the colonies.⁴⁵

The immediate attacks on the Dickinson draft were not the result of its general nature but of certain specific features. Three provisions especially excited dissension. The equal representation of all the states in Congress aroused the antagonism of the larger states. The apportionment of common expenses according to at the time, an arbitrary proportion was agreed upon. The occasion was the emission of three million dollars in bills of credit by Congress. See the *Journals*, 2:221-222.

³⁸ *Ibid.*, 5:552, Art. XVIII.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, 549-550, Art. XVI.

⁴¹ *Ibid.*, 549-550, Art. XVI. This was in a measure a guarantee to the states, for they could control their delegates and thus insure a reflection of the prevailing political atmosphere at any given time.

⁴² *Ibid.*, 552, Art. XVIII.

⁴³ *Ibid.*, 554, Art. XX.

⁴⁴ *Ibid.*

total population aroused the bitter opposition of the states with large slave populations. The grant to Congress of broad powers over Western lands and boundaries was resisted stubbornly by the states whose charters gave them large claims to the West.

These three features of the confederation were debated bitterly in July and August of 1776, before the second draft was printed. The second draft, agreed to by Congress on August 20,⁴⁶ contained only sixteen articles, whereas the Dickinson draft had contained twenty. The most significant change was the omission of the article which gave Congress control of boundaries, charter claims, and unlocated lands. The two articles which erased state lines with respect to legal and commercial privileges and rights were likewise omitted. The right to fix the standards of weights and measures was placed in the category of the "sole and exclusive" powers of Congress. The provisions for a council of state were removed from this category and placed in that giving Congress "the authority."⁴⁷ In addition there were many verbal changes simplifying the Dickinson draft, which had contained much involved and ambiguous phraseology and which would have lent itself to multiple interpretation. But completion of the final draft came only after long and bitter disputes over the major issues of representation, the basis of taxation, and the control of the West. Over the most vital problem of all—the distribution of power between the states on the one hand and Congress on the other, the problem of "sovereignty"—there was only a short discussion, though a sharp and illuminating one.

⁴⁶ Charles Thomson, "History of the Confederation," p. 19, in the Papers of the Continental Congress, No. 9; *Journals*, 5:589.

⁴⁷ In the *Journals*, 5:674-689, the Dickinson draft of the Articles and the draft agreed to by Congress on August 20 are printed in parallel columns.