

## The Defects of the Articles of Confederation, Part 8

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**Synopsis:** This is the eighth in a series on the Articles of Confederation. In this edition, the lack of a mutual federal-state guarantee is discussed.

One of the problems of the Articles of Confederation is that it contained no implicit or explicit guarantee that the states would remain qualified to be in the Confederacy. It was conceivable that a state could end up with a form of state government unsuitable for participation in a federal system. While Article 6 addressed instances where Congress could respond if a state was invaded by Indians or other nations, and Article 9 addressed how disputes between states were to be handled, neither of them addressed the problem of an internal rebellion that affected the state constitution. In short, every state was left at risk to handle any internal violence, and could expect no assistance from other states or from Congress.

Hamilton addressed this problem, namely the inability of Congress under the Articles to take action to preserve a state government, in the Federalist #21:

The want of a mutual guaranty of the State governments is another capital imperfection in the federal plan. There is nothing of this kind declared in the articles that compose it; and to imply a tacit guaranty from considerations of utility, would be a still more flagrant departure from the clause which has been mentioned, than to imply a tacit power of coercion from the like considerations. The want of a guaranty, though it might in its consequences endanger the Union, does not so immediately attack its existence as the want of a constitutional sanction to its laws.

Without a guaranty the assistance to be derived from the Union in repelling those domestic dangers which may sometimes threaten the existence of the State constitutions, must be renounced. Usurpation may rear its crest in each State, and trample upon the liberties of the people, while the national government could legally do nothing more than behold its encroachments with indignation and regret. A successful faction may erect a tyranny on the ruins of order and law, while no succor could constitutionally be afforded by the Union to the friends and supporters of the government. The tempestuous situation from which Massachusetts has scarcely emerged, evinces that dangers of this kind are not merely speculative. Who can determine what might have been the issue of her late convulsions, if the malcontents had been headed by a Caesar or by a Cromwell? Who can predict what effect a despotism, established in Massachusetts, would have upon the liberties of New Hampshire or Rhode Island, of Connecticut or New York?

Hamilton is alluding here to Shays' rebellion, a tax revolt in Massachusetts that had just concluded in Feb 1787. It was not necessary for Hamilton to mention those names and battles directly, as they were fresh in the mind of the readers of the Federalist essays. But if we are to understand Hamilton's argument, it is helpful for us to review Shay's Rebellion, and how it influenced the movement toward a replacement of the Articles with the U. S. Constitution. As mentioned in part three of this series, an economic depression occurred after the war owing to Britain's enforcement of its Navigation Acts coupled with Congress' inability to respond accordingly. Meanwhile, the states passed their own laws, some of which negatively affected neighboring states. But the shortage of ready money and the seizure of farms in lieu of unpaid taxes continued in Massachusetts, which led to the following events.

The people of Massachusetts, desperate for money and unable to obtain any satisfaction from the state legislature, began to call conventions in prominent towns to discuss what should be done about economic

conditions. One of the most influential of these was convened at Hatfield (Hampshire County, MA) on 22 Aug 1786; and others occurred about same time in Worcester, Middlesex, Bristol, Lenox, and Berkshire. Mainly these were attended by people who had seen their farms seized for payment of taxes or debt; or who had prosperous farms but were unable to sell their produce because of the lack of circulating medium. Hard money was in short supply, due partly to Britain's policies but also to the foolishness of the people, who continued to buy luxuries they could not afford. The convention at Hatfield formulated a petition of 25 articles summarizing their complaints: a) the state Senate was derelict in its duty, and ought to be abolished; b) the Court of Common Pleas should be abolished; c) there were too many lawyers in the state prospering from the numerous debt-related lawsuits; d) import duties and excise taxes devoted to paying Massachusetts' portion of the requisitions by Congress and payments to the army was denounced; e) the method of apportioning taxes declared to be unfair; and f) an urgent need for paper money. The Court of Common Pleas was an object of hatred, because distress sales and seizures for non-payment of debt were adjudicated there. The resolutions adopted at Hatfield were imitated in other conventions, and large groups of men decided to take action by forming mobs and disrupting court proceedings in the various counties in Massachusetts.

The Court of Common Pleas at Northampton, MA was disrupted on 29 Aug 1786 by a mob of 1,500 armed men, who had occupied the court before the judges arrived. This encouraged other groups to do the same in other towns. On 5 Sep, the Court of Common Pleas at Worcester, MA was also disrupted by an armed mob. The local militia sided with the mob, and the court was adjourned. Likewise, the Courts of Common Pleas at Concord and Great Barrington, MA were disrupted by armed mobs on 12 Sep 1786. At Great Barrington, the mob broke into the jail and set the prisoners free, and intimidated three of the four judges to sign papers stating they would not exercise their duties until the complaints of the people had been addressed by the legislature. The Supreme Court of Massachusetts was scheduled to open on 19 Sep 1786 at Springfield. In light of the disruptions of the past few weeks, Governor Bowdoin ordered General Shepard and his militia to occupy the courthouse beforehand in order to ensure that it could do business. But the militia was met by a group of rebels, who called themselves The Regulators, led by Daniel Shays, who had served as a captain during the war. There was a tense standoff between the Regulators and the militia, and the court adjourned 21 Sep 1786 when it could not do business owing to a lack of jurors.

At the end of September, Shays heard a rumor that the Massachusetts Supreme Court was not going to convene at Great Barrington as scheduled. But he believed this to be a ruse, and marched his "Regulators" there and occupied the town. But when they got there, they found the court was in fact to sit at Boston. Disappointed, the rebels started a riot, searched some houses, and ran a few government officials out of town. The Court convened without incident at Boston on 27 Sep 1786.

Three more conventions were held in Worcester, Boston, and Middlesex, MA in early Oct 1786 by people angry about the state of the economy and the lawsuits over debt. Each of them filed petitions with the state legislature. The main complaints were about the various courts (General Sessions of the Peace, Common Pleas, Probate, and General), the lack of money, and the manner in which revenues from the import duties and excise taxes were appropriated. The state legislature in Massachusetts passed legislation on 18 Nov 1786 which they believed addressed the concerns expressed by the petitions presented by the three conventions in Middlesex, Boston, and Worcester in October. But the remedies suggested by the legislature proved to be the spark that set off Shays' Rebellion.

The Court of General Sessions was prevented from sitting at Worcester, MA on 21 Nov 1786 due to the court being occupied by a band of armed men. On 23 Nov 1786, a convention assembled at Worcester read the resolutions adopted by the legislature of Massachusetts in response to the petitions of Oct 1786. These were condemned as the work of people out of touch with the common people. The members of the legislature were accused of being men of affluence, of never having experienced being sued for non-

payment of debts or having their property seized for inability to pay the high property taxes (all of which was true). The convention likewise condemned the interference with the courts, but to no avail. In the next few weeks, a large group of rebels from Bristol, Worcester, Hampshire, and Middlesex met at Middlesex, despite a previous pledge to prominent people of Middlesex that they would not assemble.

On 2 Dec 1786, a large band of rebels under Shays assembled at Worcester, despite freezing cold and deep snow. He imposed on residents of the town to house his men, which provoked many people in the state against him when the news got out. The militia was called out on 4 Dec 1786 in Boston to defend the city against an attack by Shays' Regulators, to be commanded by General Lincoln. Shays decided to retreat from Worcester rather than attack Boston. By mid-December, Governor Bowdoin decided to raise a militia to deal with Shays, but was careful to select militiamen who did not reside in the same areas as Shays' men. This was done to prevent a situation in which friends and neighbors would fight each other in the fields. A force of 4,400 was called up: 500 from Essex, 700 from Suffolk, 800 from Middlesex, 1,200 from Hampshire, and 1,200 from Worcester. The contingents from Suffolk and Essex were to be stationed in Boston; those from Hampshire to be stationed in Springfield, and the men from Worcester to be stationed at the eastern part of the county. They were enlisted for 30 days starting from 18 Jan 1787. General Lincoln was in overall command, assisted by Generals Tupper, Shepard, and Patterson. But it was soon discovered that there was no money in the treasury to pay them, and the legislature was out of session. Even if it were called in, any tax levied would be too late to make timely payment to the soldiers. A group of wealthy Boston businessmen volunteered to fund the militia.

Shays marched his men to Springfield at the end of January 1787, planning to capture the supplies at the arsenal there by defeating Shepard before Lincoln could arrive from Worcester. His men were split into three groups commanded by Luke Day, Eli Parsons, and Shays himself. Shepard had already arranged his troops on the heights surrounding the town. On the 24th, Shays ordered Day to attack on the 25th, but Day, determined to gain all the glory for himself, sent a message back to Shays informing him that he would not attack until the 26th. But Day's message to Shays was intercepted and sent to Lincoln. Shays attacked Shepard on the 26th, but his inexperienced men panicked after a few casualties, and most of his men retreated to Ludlow. On the 26th, Shays' men met with Parsons at Chicopee, and found that 200 had deserted. Parsons escaped over the border to New Hampshire and then to New York while Shays remained in Springfield with a small force. On the 27th, Lincoln arrived in Springfield, defeated Shays in a skirmish, and Shays' army retreated to and pillaged S. Hadley, then continued to Amherst. Lincoln pursued Shays as far as Amherst on the 28th, but Shays had by that time moved to Pelham and took up a strong position in the hills.

Meanwhile, a group of rebels under Hubbard had assembled at W. Stockbridge; their plan was to aid Shays by diverting the army to several places at once. However, Hubbard was defeated by General Patterson and was captured. Hubbard's men retreated, but were pursued and defeated by Patterson at Adams and Williamstown. Lincoln pursued Shays' army for several days in early February, and Shays was captured on 5 Feb 1787. With Shays' men now scattered, Lincoln was confident that the revolt was over; he marched to Pittsfield via Amherst, Hadley, Chesterfield, Partridgefield, and Worthington, and ordered Shepard to meet him there. But Shays' ally, Eli Parsons, having escaped capture in Massachusetts, traveled from town to town in Vermont and New York, successfully raising another army to oppose Lincoln. On 26 Feb 1787 Parson's rebel force from New York, commanded by Hamlin, invaded Stockbridge, plundered it, and took some prominent men as hostages. The militia at Sheffield and Great Barrington were called out, and they marched around trying to find Hamlin. They stumbled across him by accident at Springfield. They defeated Hamlin and captured him, and this ended Shays' Rebellion. Hamlin had missed a golden opportunity; if he had attacked a few days earlier, he would have been unopposed, since the militia's enlistments had run out on the 21st, and for a few days, Lincoln only had 30 men in the field.

It is easy to see that a victory by Shays would have produced a very serious situation: at minimum, a state would have been held hostage to the demands of the leaders of an armed revolt. Suppose Shays had decided to set up a monarchy or a dictatorship? Clearly Massachusetts would no longer be eligible for membership in the Confederation, and the entire system could have collapsed over that issue. It is important to recall that all during this period, Congress was aware of these events, but took no action. It was unwilling or unable to act in the interest of preserving the confederation upon which its existence was founded. Shay's revolt was in fact one of the two primary factors that led to the states' assent to the Constitutional Convention in 1787 (the other was inability to raise revenue).

There was also a currency revolt in Rhode Island in 1786 which caused considerable political distress, symptomatic of the instability that could occur in the states due to poor policies. The details will be covered in a later edition of this series; for our purposes here, it is important to note that the government of Rhode Island actually passed a requirement that the people pledge an oath to accept the state paper currency at par or else they would lose the right to vote (among other penalties). This was a most un-republican development; one which Congress under the Articles could not address.

The general problem of ensuring state stability was resolved by the adoption of a provision in the U. S. Constitution granting power to the federal government to suppress revolts directly. It is in effect a guarantee by all the states that none of them could be overthrown by a domestic insurrection. It is found in the fourth section of Article IV:

**[Article IV] Section 4.** The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

This provision does not prevent the people of a state from changing their constitution by peaceful means, but only gives power to the federal government to act when violent means are attempted. However, in order to maintain the consistency of the union, every state is also required to maintain a republican form of government. Part four of this series discussed the general requirement for republican governments.