

“PUTTING THE MACHINE IN MOTION”: HOW THE U.S. TREASURY DEPARTMENT  
BUILT A FISCAL-MILITARY STATE

by

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(Under the Direction of Scott Nelson)

ABSTRACT

Following the ratification of the Constitution, the U.S. Treasury Department became the central force of American state-building. This institution tasked itself with the creation of a strong federal government with a robust taxation system and a powerful standing army supporting the government and defending the nation. This dissertation examines four areas that the Treasury officials themselves indicated as crucial – customs, excise, federal military, and the debt funding system. The income from the first two was to sustain the latter two, and all four of these issues caused heated contention between the Treasury Department on one side and business owners, Anti-Federalists, and common Americans on the other. The points of contention between these forces became the sites of negotiation of federal authority over states and people.

INDEX WORDS: Social sciences, American Revolution, Nationhood, Government, Politics, Taxation, Customs, Military, Capitalism, Debt, Colonial America, Atlantic World

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## INTRODUCTION

On October 18, 1801, Oliver Wolcott, a former Treasury Secretary and a close associate of Alexander Hamilton, found himself involved in a very peculiar criminal investigation. A year earlier, a fire broke out in Washington DC in a building that housed both the Treasury and War Department, damaging the former and destroying the latter. At the time of the fire, Wolcott was the Treasury Secretary, sharing the building with Samuel Dexter, his counterpart from the War Department. Dexter, whose name was on the lease, claimed that the building was in poor condition, while landlord Joseph Hodgson blamed the occupants for improper maintenance. Had Hodgson had an ordinary tenant, this would have been a run-of-the-mill lessor-lessee dispute, but as said tenant was the Secretary of War, the case (*Hodgson v Dexter*) ended up in the U.S. Supreme Court, being decided by the famous John Marshall.

As you will see repeatedly in the rest of this work, the Supreme Court case had one well-known implication and one less considered. On the surface, the decision in *Hodgson v Dexter* established that a federal agent acting on the federal government's behalf could not be held personally responsible for damages to a building that was leased on behalf of said government. It was the government that Hodgson had to seek reimbursement from.<sup>1</sup>

More subtly, the investigation brought up some preexisting suspicions about the two executive departments. When Wolcott was questioned by an unnamed investigator on October

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<sup>1</sup> John Marshall and Supreme Court Of The United States, U.S. Reports: *Hodgson v. Dexter*, 5 U.S. 1 Cranch 345 (1803), <https://www.loc.gov/item/usrep005345/>.

Richard H. Seamon, "Separation of Powers and the Separate Treatment of Contract Claims against the Federal Government for Specific Performance," *Villanova Law Review* 43, no. 155 (1998): 169-171.



18, it was quite clear the investigator did not believe the fire was accidental. As Wolcott had resided nearby, he was one of the first people to arrive at the scene of fire. The investigator made Wolcott recount all the details of his arrival, the orders he had given, and the decisions he had made. It seemed to concern the investigator that the fire began in the room where important documents were kept. The door to the room was closed, and Wolcott prevented other people from opening it until the fire engines arrived, out of fear that the fire would spread. “Did any person agree...that the door should not be opened?” “In what manner was the door opened?” “Did the door strike against anything in opening?” the investigator went on, clearly suspecting a sinister motive. Wolcott, a lawyer among his many professions, would not budge, his answers simple: “do not remember, do not recollect, cannot answer.”

“Do you, or do you not, know,” the investigator continued to press Wolcott, “that there was in the War Office... any book, document, account or voucher... the distruction [sic] of which would... prevent the final adjustment of accounts of any individual or individuals, whether in public or private capacity...?” Here, Wolcott the lawyer gave way to Wolcott the Treasury Secretary. Calmly, he explained that the Treasury would advance money regularly to the War Department for common expenses, proof of which are the documents preserved in both departments. The Treasurer, whose job was to disburse the public monies, kept the Treasury’s copy of that document, which could be reviewed at any time. “...Vouchers and accounts for the expenditures of the War Department are first rendered to the accountant, by whom they are provisionally settled; they then pass the examination of the Auditor, are aftermath finally adjusted by the Comptroller of the Treasury, and then deposited with the Register of the Treasury,” he explained.<sup>2</sup>

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<sup>2</sup> “Depositions and Interrogatories, 1800-1801,” *Oliver Wolcott, Jr. Papers*, Connecticut Digital Archive, <https://collections.ctdigitalarchive.org/islandora/object/40002%3A28905#page/12/mode/1up>.

The deposition of Oliver Wolcott hints at the peculiar union between the War and the Treasury. They occupied the same building; the Secretaries were neighbors; the investigator's first thought was not simply arson, but arson to cover up some dark schemes between the two departments. Was it a glimpse into the public mind dissatisfied with the tight embrace of the sword and the purse? Or was it merely a result of the complicated logistics of the new capital with its lack of buildings and cramped spaces?

The sources on the Treasury Department offer too many instances of the fiscal and military power intertwining for it to be a coincidence. From the early days of its existence, the Federalist-led Treasury Department was committed to building a fiscal-military state. Having built a rigorous system of officials and revenue collectors, secured if not alliance then some sort of understanding from the merchants, the arm of the Treasury was reaching into the military sphere to ensure it became and remained an integral part of the strong federal government.

In doing so, Treasury officials and their supporters in Congress relied on the example of America's former metropole. During the seventeenth and eighteenth century, England, later Britain, became the most powerful nation of the Western world, pushing the Dutch Republic to the background. Eighteenth-century Britain was a fiscal-military state – this term was coined by historian John Brewer whose research goal was to find out how exactly Britain had reached that power. “Britain,” Brewer explained, “was able to shoulder an ever-more ponderous burden of military commitments thanks to a radical increase in taxation, the development of public deficit finance (a national debt) on an unprecedented scale, and the growth of a sizeable public administration devoted to organizing the fiscal and military activities of the state.”<sup>3</sup> In two centuries, the English/British administration built a powerful taxation machine and forged

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<sup>3</sup> John Brewer, *Sinews of Power: War, Money and the English State, 1688-1783* (London: Unwin Hyman, 1989), xvii.

connections with large businesses, relying on them for credit and military supplies. The nation became so powerful that it took three others – the United States, France, and Spain – to defeat it in the Revolutionary War.

Both European and American thinkers were suspicious of the fiscal-military machine before the Revolutionary War even began. Whig historians of the eighteenth century frequently compared England to Rome, citing standing armies as a sign of tyranny and oppression. Irish historian Oliver Goldsmith wrote in his *Roman History*, “The militia of ancient Rome made her Mistress of the World; but standing armies enslav’d that great people, and their excellent Militia, and Freedom perish’d altogether.”<sup>4</sup> Thomas Jefferson frequently spoke about the good old Saxons with their simple farming life being ambushed by oppressive Normans with their standing army – a popular idea among British Whigs supported even by the more conservative David Hume.<sup>5</sup> John Adams stated that England “is loaded with debts and taxes, by the folly and iniquity of its ministers... Both electors and elected are become one mass of corruption; ...the nation is oppressed to death with debts and taxes, owing to their own extravagance and want of wisdom.”<sup>6</sup>

British historians have been using the concept of a fiscal-military state for a while. Brewer relied on the previous research by historians of the British state and finance, such as P.G.M. Dickson (*The Financial Revolution in England*).<sup>7</sup> Brewer himself, in his book *Sinews of Power*, described in detail the mechanism of the British fiscal-military machine, especially the

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<sup>4</sup> Edward Exshaw (ed.), *The Gentleman's and London Magazine: Or Monthly Chronologer, 1741-1794* (Dublin: Printed for Edward Exshaw, 1784-1794), 509.

<sup>5</sup> Trevor Colbourn, *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Indianapolis: Liberty Fund, 1998), 27-34, 110-111.

<sup>6</sup> John Adams, “II. To the Inhabitants of the Colony of Massachusetts-Bay, 30 January 1775,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Adams/06-02-02-0072-0003>.

<sup>7</sup> P.G.M. Dickson, *The Financial Revolution in England: A Study in the Development of Public Credit, 1688-1756* (London: Macmillan, 1967).

fiscal part of it.<sup>8</sup> He showed how the British taxation system functioned and how it was connected with big business (sellers and lenders) while the whole thing was protected by the military. He also demonstrated what happens when a nation is lacking this machine (or when it is underdeveloped) by making an extensive comparison between Britain and France. Later historians followed Brewer – for instance, David Hancock (*Citizens of the World*) explores the alliance between the British government and merchants from the point of view of the latter.<sup>9</sup>

The idea of a fiscal-military state later migrated into the histories of other nations (even if historians did not use the exact term), connecting with Atlantic history scholarships. In *Sovereignty and Revolution in the Iberian Atlantic*, Jeremy Adelman explains why Latin American countries ended up less wealthy and powerful than the United States, even though they looked to their northern neighbor while planning their own revolutions.<sup>10</sup> Adelman argues that the new Latin American governments failed to build that trust with capital owners and good financial reputations that the fiscal-military state relies on, which was partly the fault of the bad example from the Iberian colonial governments. Other historians explored the connection between business, government, and the military. Ernesto Bassi (*An Aqueous Territory*) discussed the importance of overseas trade for an empire defining its boundaries, arguing that the borders that mapmakers drew were meaningless without a complicated network of business agreements and unsteady friendships between the imperialist states, Native populations, smugglers, and the motley crews composing the merchant marine.<sup>11</sup>

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<sup>8</sup> John Brewer, *Sinews of Power*.

<sup>9</sup> David Hancock, *Citizens of the World: London Merchants and the Integration of the British Atlantic Community, 1735-1785* (Cambridge, UK: Cambridge University Press, 1997).

<sup>10</sup> Jeremy Adelman, *Sovereignty and Revolution in the Iberian Atlantic* (Princeton: Princeton University Press, 2006).

<sup>11</sup> Ernesto Bassi, *An Aqueous Territory: Sailor Geographies and New Granada's Transnational Greater Caribbean World* (Durham: Duke University Press, 2016).

Of course, there is no shortage of works in early American economic history and finance, and specifically the funding system, but most of them seem to follow a peculiar trend of attributing all the successes and failures of the U.S. funding system to Alexander Hamilton, the fascinating character on a ten-dollar-bill and the example of a truly self-made man. One of the earliest works that focuses entirely on the funding system is James Ferguson's *Power of the Purse*. Ferguson discusses the economic situation during and after the war, foreign loans, state debts and their funding, principal measures of the Treasury Department under Hamilton. Despite being published in 1963, this work is still relevant, and scholars often cite it when they borrow facts, dates, and figures. Ferguson pays some attention to the differences between Hamilton's original plan and the compromise that became the funding system, yet he still presents the system as mostly Hamilton's creation.<sup>12</sup> Forrest McDonald speaks at length about the funding system in his biography of Hamilton. Naturally, in a biography of the Treasury Secretary, the author emphasizes Hamilton's own role in the creation of the funding system rather than discussing the contributions of others. McDonald is interested in the ideological impact of European thinkers on Hamilton and on the limits that the Constitution gave to his policies. The author is quite often defending Hamilton from attacks of his contemporaries, but instead of showcasing the people and factors that left him little choice when he designed the funding system, McDonald keeps repeating that Hamilton's policies were advanced and well-weighted.<sup>13</sup>

In the early 1990s, economists Donald Swanson and Andrew Trout published a series of articles on the early U.S. funding system. Swanson and Trout did not doubt that Hamilton's financial policies were well-balanced and benefited the public credit of the United States. In

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<sup>12</sup> E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (Williamsburg, VA: University of North Carolina Press, 1968).

<sup>13</sup> Forrest McDonald, *Alexander Hamilton: A Biography* (W.W. Norton & Company, 1982).

these articles, the authors equaled Hamilton's views on the funding system with the actual funding system as it came to being. Like McDonald, Swanson and Trout were interested in the influences of European thinkers but not in the people and factors that affected the funding system.<sup>14</sup> Douglas A. Irwin, an economist who has devoted considerable attention to Hamilton's financial policies, stated that "Hamilton almost single-handedly reorganized the nation's finances, managing debt and establishing public credit."<sup>15</sup>

The one who truly knocked it out of the park with the Hamilton apologia is Robert Wright who said that "Hamilton was a *great* administrator and also a first-rate policy maker and statesman, a combination as rare as an albino moose" – a worthy escalation from Forrest McDonald's statement that the roots of the funding system lay deep in Alexander Hamilton's psyche.<sup>16</sup>

Edwin Perkins, in his monumental work *America's Public Finance*, expressed a belief that Hamilton's role as the creator of the funding system is often overstated in historical research, as several states had already had similar systems in place even before the Revolution.<sup>17</sup> I tend to agree. The funding system, and the fiscal-military machine, was hardly a creation of one man. The Treasury Secretary consulted his subordinates at the Treasury Department, as well as

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<sup>14</sup> Donald F. Swanson and Andrew P. Trout, "Alexander Hamilton, 'the Celebrated Mr. Neckar,' and Public Credit," *The William and Mary Quarterly* 47, no. 3 (1990): 422-430.

Donald F. Swanson and Andrew P. Trout, "Alexander Hamilton's Report on the Public Credit (1790) in a European Perspective," *Journal of European Economic History* 19 (1990): 623-633.

Donald F. Swanson and Andrew P. Trout, "Alexander Hamilton's Hidden Sinking Fund," *The William and Mary Quarterly* 49, no. 1 (1992): 108-116.

<sup>15</sup> Douglas A. Irwin, "Revenue or Reciprocity? Founding Feuds over Early U.S. Trade Policy," in *Founding Choices: American Economic Policy in the 1790s*, ed. by Douglas A. Irwin and Richard Sylla (The University of Chicago Press, 2011), 100.

<sup>16</sup> Robert E. Wright, *One Nation under Debt: Hamilton, Jefferson, and the History of What We Owe* (New York, NY: McGraw-Hill, 2008), 129.

Forrest McDonald, *The Presidency of George Washington* (University Press of Kansas, 1974), 47.

<sup>17</sup> Edwin J. Perkins, *American Public Finance and Financial Services 1700-1815* (Ohio State University Press, 1994), 196.

bankers, merchants, and other Federalist professionals. The plan of the funding system that Federalists developed had to take into consideration the arguments of Anti-Federalists to ensure that the plan was adopted. People and entities to whom the federal government was indebted had certain expectations that the funding system needed to meet. Finally, the system was affected by factors that were out of Hamilton's control: the need to defend the nation and repay its debts and the postwar economic crisis.

Applying the idea of a fiscal-military state to American history is a relatively new thing despite the Founders frequently referencing the Atlantic empires as role models for nation-building. Part of it can be attributed to the persistent idea of American exceptionalism, especially when it comes to studying the origins of the nation. Max Edling emphasized the importance of available credit and a solid funding system to maintain a nation's military defenses, presenting early America as a fiscal-military state without naming it that.<sup>18</sup> Dr. Stephen Mihm's essay in *The Oxford Handbook of the American Revolution* highlighted the connection between military spending and the development of federal finance in early America.<sup>19</sup> Gautham Rao stated that Hamilton promoted the creation of fiscal-military institutions to transform American society.<sup>20</sup>

I believe there is benefit in using European historiography to further explore the fiscal-military foundations of the United States. I believe that the concept of fiscal-military state can explain the inability of early modern nations to build strong financial reputation and ally themselves with the big capital led to their contemporary poverty and dependency on or

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<sup>18</sup> Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (Oxford University Press, 2003), 206-207.

<sup>19</sup> Stephen Mihm, "Funding the Revolution: Monetary and Fiscal Policy in Eighteenth-Century America," in *Oxford Handbook of the American Revolution*, ed. by Edward G. Gray and Jane Kamensky (Oxford: Oxford University Press, 2013), 327-351.

<sup>20</sup> Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago: University of Chicago Press, 2016), 55.

oppression by the so-called first world countries. I have been thinking of it a lot, being Ukrainian and wondering why my country is so financially strapped and in constant danger on the international stage. I see a lot of similarities with the early United States – emerging national identity, agriculture-based economy, unreliable finance and banking, volatile economy, and struggle to find the medium between tyrannical government and rampant capitalism. I believe that we Ukrainians have a lot to learn from U.S. history.

The dissertation is organized thematically, covering different aspects of the building of a fiscal-military state.

Chapter 1 focuses on the Treasury Department – its emergence, personnel and goals, and organizational structure, followed by a discussion of the initial measures of the federal government to fix the economic situation and suspicions from the opposition and the public. The long arms of “the fed” will be reaching into the states, forming connections between the federal government and state or local officials. This part will feature the masterminds of the U.S. financial system – Hamilton, Wolcott, Robert Morris, and others.

Chapter 2 concentrates on customs, specifically the new customs legislation, its first steps, and the opposition it encountered as the new officials attempted to implement it. Exploring the legislation and official correspondence between the Treasury Department and customs houses, as well as documents that merchants produced, it will explore how Treasury officials balanced the need to collect revenue, the requirement to reduce corruption, and the desire to keep merchants on their side.

Chapter 3 concentrates on two events, the Whiskey Rebellion (1791-1794) and General St. Clair’s defeat by the Northwestern Confederacy of Native Americans (1791). The Treasury Department and Federalists in Congress used the tax on whiskey (and the resistance it



met) and the nation's desire to combat Native Americans as tools to further build and uphold the fiscal-military state.

The final chapter ties the above topics together, showing what the fiscal-military machine looked like in its (semi)final form. It focuses on the practice of debt funding and the fights over it in the times of the Washington presidency and traces the long-lasting consequences and historical tradition of debt management in the U.S. national debt – or, more precisely, capital – is what ties state-building, taxation, and military together.

## **CHAPTER 1: TREASURY DEPARTMENT BUILDS A STATE**

### **Introduction: The Postwar Chaos and the Solution**

Having achieved independence as a result of the Revolutionary War, the young country was off to a rough start: surrounded by potentially hostile European colonies, its army disbanded, the few ships that had composed its modest navy demolished for their poor condition, 85 million dollars in debt, its farmland burnt, its industry barely yet born. The new government had been struggling with its finances since the beginning of the war, as Continental Congress lacked the means to enforce taxation. Congress had to resort to loans and printing paper currency unsupported by specie, which quickly depreciated.

In 1783, the American Revolutionary war was over, but the struggle for the nation's economic success was only at its beginning. The new government that emerged after the adoption of the Constitution in 1787 was about to face tough challenges. The chaos of making a new country, amateurs in positions of power, a massive national debt, lack of stable army and navy – the list went on. There was no guarantee that Britain was not going to attack again. France could turn against its recent ally, the U.S., at any moment, given the change of power (French Revolution) and the intersecting interests in the American West and the Caribbean. Spain was never quite friendly, and it had vast possessions in the Western Hemisphere that it was going to defend aggressively.

The government needed money to ensure the new nation's safety, money to pay off the debt, money to develop its industry – now that buying merchandise from Britain was no

longer a good option. The existing laws were not providing the federal government with ways to address the nation's needs.

From 1777 and until the Constitution was ratified in 1787, the new country was governed by the Articles of Confederation. The Articles provided very limited power to the federal government – the most power it received was in the sphere of foreign affairs, which was the very reason the Continental Congress emerged in the first place. Congress possessed limited financial powers according to Article I:

All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state... the taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.<sup>21</sup>

This legislation emphasized the need for Congress to collect revenue to finance the war effort, but all the power rested within the states. It was up to state legislatures to voluntarily contribute to the federal budget – and they were not always willing to do so.

The existing public finance institutions were likewise insufficient for the nation's goals. In colonial times, the colonial assemblies usually held the reins of finance, without a separate body to deal with issuing currencies, collecting revenue, and paying off debts. The colonial model no longer worked during and after the war – the tax burden was too heavy for individual states and localities. The New England colonies had undertaken issuing unsupported paper currency to finance wars so frequently that they were banned from doing so several times

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<sup>21</sup> U.S. Constitution, art. 1, sec. 8, cl. 1.

by the British government. At some point, taxpayers no longer wanted to participate in this financial travesty (Perkins, Currency). While Congress did issue Continental dollars during the war, the public was distrustful of them and reluctant to accept them as legal tender. The states had to come together with a different model during the Independence War.<sup>22</sup>

The position of the Superintendent of Finance was established by the Continental Congress in 1781 since the Board of Finance, a committee within Congress, was inefficient in collecting revenue. While the war was mostly over, the financial mayhem was just beginning. The continental dollar and local taxes were done, and Congress was in deep trouble. Morris undertook drastic measures, such as suspending military pay and promising to settle it later, and used his personal credit (which was rather solid as a merchant and financier) to secure foreign loans and back some domestic financial obligations of the United States. He also made states responsible for supporting the troops located within their borders. Still, the limitations of the system prevented Morris from achieving real success, and his war methods would not be enough to get the country out of debt.<sup>23</sup>

After the war, the need for money and resistance or rebellion by unpaid veterans and army suppliers (Shays's Rebellion, Newburgh Conspiracy) pushed the state legislators to revise the system. In 1787, the delegates at the Constitutional Convention made sure to empower the federal government to collect and manage revenue. Article I, Section 7 of the Constitution declared that "All Bills for raising Revenue shall originate in the House of Representatives; but

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<sup>22</sup> Edwin J. Perkins, *American Public Finance and Financial Services 1700-1815* (Ohio State University Press, 1994), 86, 30-32, 39-40.

Murray N. Rothbard, *A History of Money and Banking in the United States: The Colonial Era to World War II* (Ludwig von Mises Institute, 2002), 51-62.

<sup>23</sup> Perkins, *American Public Finance*, 108-109.

Rothbard, *A History of Money and Banking*, 61-62.

William G. Anderson, *The Price of Liberty. The Public Debt of the American Revolution* (University Press of Virginia, 1983), 13-16.

the Senate may propose or concur with Amendments as on other Bills.” Having this provision so early on reminds that the reason the Constitution even emerged was lack of revenue to pay loans and pay back veterans. Section 10 banned state governments from coining money or emitting bills of credit, putting an end to colonial fiat currency and centralizing the federal control over the financial system.

Section 8 of Article I was the most important for the emerging financial system. “The Congress,” it declared, “shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; ...To borrow Money on the credit of the United States; ...To establish Post Offices and post Roads; ...To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”<sup>24</sup> The “necessary and proper” clause here was crucial for the further evolution of the American fiscal-military state. Having listed all possible powers that came to the legislators’ minds – military power, borrowing rights, ability to establish communications – section 8 included a sort of blanket rule that allows the federal government to adopt new, unforeseen powers in case the situation changes or someone comes up with a new solution to an existing problem. This clause opened the way for the federal government to adopt other measures not listed here, such as establishing the National Bank – however, it would cause bitter debates along the party lines.

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<sup>24</sup> U.S. Constitution, art. 1, sec. 8, cl. 1, 7, 18.

## Treasury Emerges

Now that the legislation allowed more power to the federal government, it was time to start building up the system that would sustain the nation. On September 2, 1789, Congress passed an *Act to Establish the Treasury Department*. The Act named six official positions within the department and outlined their duties. The Secretary of the Treasury was to manage the revenue, support public credit, distribute funds, oversee the sale of Western lands, and report to Congress. The Comptroller, with the help of the Auditor and the Register, was to manage accounts, make payments, and prosecute the violators of tax laws. The Treasurer was to collect and distribute monies.<sup>25</sup>

Alexander Hamilton was in his early thirties when he accepted the position of the nation's first Treasury Secretary. Despite his humble origins – he was an immigrant and son of immigrants – Hamilton managed to make his way into the Northeastern business and political elite. His mentor Hugh Knox, a minister of Scottish origin, introduced him into the New Jersey elite while Hamilton, then in his late teens, worked on his formal schooling at an academy in Elizabethtown. His brief time at King's College (later Columbia University) was interrupted by the American Revolution, and Hamilton quickly turned from a student to a military officer. His faithful service and connections helped him secure his place in the staff of General George Washington, and Hamilton soon became an indispensable assistant to the nation's leader. The position of Washington's aide-de-camp involved composing the general's letters to other military officers, conversing with government officials, and talking to suppliers, which vastly expanded Hamilton's connections among the military, business, and political elite. Having become the Treasury Secretary, Hamilton was not alone – he had powerful, experienced allies

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<sup>25</sup> *An Act to Establish the Treasury Department*, Public Law 9, *U.S. Statutes at Large* 1 (1845): 65-69.

(Tench Coxe, Robert Morris, Gouverneur Morris, and many others) whose support and counsel he enlisted to build and maintain the nation's financial system.

In late 1789, a couple of months after Hamilton was appointed, Congress gave him a task: to plan and present the policies needed to support the new nation's public credit. In a series of reports, Hamilton developed an understanding of this term, and his understanding was to be implemented in the financial policies of the U.S. "To be able to borrow upon good terms," the Secretary wrote in early 1790, "it is essential that the credit of a nation should be well established. ... It is easy to conceive how immensely the expences of a nation, in a course of time, will be augmented by an unsound state of the public credit." Thus, Hamilton approached the meaning of public credit: the reputation of a nation that allows it to borrow on better terms. According to the Secretary, the maintenance of public credit required the nation to abide by the terms of their loan contracts, and such a conduct would reward them with the trust of creditors. Every breach of public engagements harmed public credit. Hamilton also listed the positive things that a good public credit could help achieve:

To justify and preserve their confidence; to promote the encreasing respectability of the American name; to answer the calls of justice; to restore landed property to its due value; to furnish new resources both to agriculture and commerce; to cement more closely the union of the states; to add to their security against foreign attack; to establish public order on the basis of an upright and liberal policy.

Congress agreed with Hamilton and adopted the policy along with the other policies meant to improve America's public credit.<sup>26</sup>

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<sup>26</sup> Alexander Hamilton, "Report Relative to a Provision for the Support of Public Credit, [9 January 1790]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0076-0002-0001>. (First Report on Public Credit)

## Reaching Far and Wide

Even before all the land gains of the Louisiana Purchase, Mexican War, and Western Expansion, the United States was already a fairly large country. To make matters harder, the U.S. consisted of former colonies that were used to being separate entities, doing things their way, and when the British empire tried to force uniform policies, usually resistant to it. As Philip Schuyler – a prominent New York politician and Alexander Hamilton’s father-in-law – noted, in the 1790s, the United States was “several communities composing a nation” rather than a uniform country.<sup>27</sup>

The new Treasury Department could not manage the federal revenue collection by itself. A complicated system emerged in each state, with connections and accountability to the department. To issue acts governing the procedures of revenue collection was only the beginning – there was much work to be done before these resolutions could become reality. While some remnants of the British system of tax collection still remained, the Treasury Department had to build a new structure, one not beholden to an imperial center overseas, one with much more transparency and accountability to the people than the old system had been. One also had to balance the need to unify the practices across the country, as the formerly divided Thirteen Colonies were now one country, while taking into consideration the different needs and unique circumstances of each state. Today, the United States government has numerous federal agencies and departments that concentrate on specific tasks. But at the dawn of the nation’s existence, there were only War, Treasury, and State. The State Department was primarily focused on

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E. James Ferguson, *The Power of the Purse: A History of American Public Finance, 1776-1790* (University of North Carolina Press, 1968), 292-294.

<sup>27</sup> Philip Schuyler, “An Essay Suggesting a Plan to Introduce Uniformity in the Weights and Measures of the United States of America,” in *Transactions of the Society for the Promotion of Agriculture, Arts and Manufactures, Instituted in the State of New York* (Albany, NY: John Barber, 1807), 39.



foreign affairs, the War Department on most (not even all) affairs of the armed forces, but the Treasury Department was left with a wide scope of tasks. Hamilton quickly got to work managing an army of clerks that grew by the minute.

In 1789 and 1790, Congress issued a series of acts that emerged as a result of a conversation between taxpayers, the House of Representatives, and the Treasury Department. *An Act for Laying Duties on Goods* (1789) and *An Act to Regulate the Collection of Duties* (1790) divided the new nation into customs districts and established a complicated hierarchical system of ports, with large ports having smaller dependent ports. The acts announced the amounts of duties for each article and defined the job descriptions and pay of customs staff and established the Coast Guard. Other acts regulated the registration of ships, the imposition of fines, and the legal processes involving violators of the customs law. Each state had anywhere from two to a dozen customs collectors, each of whom oversaw varying numbers of subordinates and would answer directly to the Treasury Department, not the government of their state. Treasury's agents and their military support – the Coast Guard – would now be the first entity to greet foreign merchants and address their contribution to the nation's economy.<sup>28</sup>

Customs and tonnage regulation were on the top of the federal government's list of priorities – the 1789 duties act was the second piece of legislation after administering oaths of office. The act itself highlighted the importance of customs duties “for the support of government, for the discharge of the debts of the United States, and the encouragement and

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<sup>28</sup> *Act for Laying a Duty on Goods, Wares, and Merchandises Imported into the United States*, Public Law 2, *U.S. Statutes at Large* 1 (1789).

*An Act to Regulate the Collection of Duties*, Public Law 11, *U.S. Statutes at Large* 1 (1789).

*An Act for Registering and Clearing Vessels, Regulating the Coasting Trade, and for Other Purposes*, Public Law 16, *U.S. Statutes at Large* 1 (1789).

*An Act to Provide for Mitigating or Remitting the Forfeitures and Penalties Accruing under the Revenue Laws*, Public Law 57, *U.S. Statutes at Large* 1 (1790).

protection of manufactures.”<sup>29</sup> Internal taxes did not receive immediate attention: for the first two years of the new government, only imported goods were taxed, as well as vessels by tonnage, and the Americans not involved in foreign or coastal trade needed not worry about taxes. The initial duties were not enough, which caused Congress to raise them to be able to pay outstanding balances on the national debt.<sup>30</sup> Notably, the increase in duties concerned mostly “luxury” articles unnecessary for basic survival, such as alcohol, tea, porcelain, and mirrors. The rates for commonly used things, such as cheese, sugar, simple footwear, wool, and cotton remained unchanged.

Eventually, the federal government decided to tax alcohol even more, and not only imported alcohol but also the one made in the United States. To do so, another taxation system emerged alongside the customs network. On March 3, 1791, Congress announced the new duties on distilled spirits and that the nation would be divided into fourteen districts based on the existing states, with district supervisors at the head. The districts were further divided into surveys, headed by inspectors, and below the inspectors were county and town tax collectors.<sup>31</sup> All these officials were, again, beholden to the Treasury Department and not their local or state governments. The long arm of the Treasury, supported by military power, was now reaching deep into states and locales, and even further – right into Americans’ very homes, as federal agents would need to inspect distilleries, which for small farmers were part of their dwellings.

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<sup>29</sup> *Act for Laying a Duty on Goods* (1789).

<sup>30</sup> *An Act Making Further Provision for the Payment of the Debt of the United States*, Public Law 83, *U.S. Statutes at Large* 1 (1790): 180.

*An Act to Explain and Amend an Act Intituled “An Act Making Further Provision for the Payment of the Debt of the United States,”* Public Law 129, *U.S. Statutes at Large* 1 (1791): 198.

<sup>31</sup> *An Act Repealing, after the Last Day of June Next, the Duties Heretofore Laid upon Distilled Spirits Imported from Abroad, and Laying Others in Their Stead; and also upon Spirits Distilled within the United States, and for Appropriating the Same*, Public Law 110, *U.S. Statutes at Large* 1 (1791).

The tax machine kept growing and incorporating more institutions. Maritime courts, district courts, the Post Office, the military, Continental Loan Office, and eventually the National Bank became embedded into the system designed to fund and protect the nation.

### **Checks and Balances**

Despite initial congressional approval, trouble soon began brewing in the legislative body. In 1792, as President Washington's first term was approaching its end, the great pamphlet war of Philadelphia began, set off by rival newspapermen John Fenno (Federalist) and Philip Freneau (Democratic Republican). Alexander Hamilton and James Madison debated each other in the press using pseudonyms, arguing over the National Bank, Hamilton's plan to establish domestic manufactures, and taxation. Republicans suspected that the Treasury Department was little more than an elaborate machine built to enrich the speculators of the Northeast, and they were particularly suspicious of borrowing from foreign creditors. In 1793, William Branch Giles of Virginia presented a resolution in the House of Representatives in respect to the loans Hamilton had secured from the Netherlands and other foreign countries. Giles "Resolved, that the Treasury Secretary has violated the law" governing the federal loan procedures, "deviated from instructions given by the President... in exceeding authorities for making loans," "fail[ed] to give Congress official information in due time, of the moneys drawn by him from Europe," and, finally, "has been guilty of an indecorum to this House."<sup>32</sup>

Congress took the charge seriously and decided to make Hamilton report on a full account of the nation's loans. Though Hamilton did prepare a series of reports, his opponents

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<sup>32</sup> "Official Conduct of the Secretary of the Treasury," *Annals of Congress*, House of Representatives, 2nd Congress, 2nd Session, 899-900.

were unsatisfied (and Giles claimed he could not understand the reports), and they sent a group of investigators to the Treasury Department.<sup>33</sup>

Georgia Representative Abraham Baldwin and his committee arrived at the Treasury Department to examine its state “and to report generally and specially thereupon, having examined the original books kept at the treasury, and sundry written communications,” as well as “verbal explanations relating thereto, from the officers of the treasury.”<sup>34</sup> The text that emerged as a result of the visit is invaluable. Some Treasury documents burned in a fire in 1801, and many more in 1830, both in Washington, DC. Baldwin may have had access to some of those papers, as well as the ability to speak to the Treasury employees themselves. As a person not versed in finance, Baldwin (as well as Giles) required detailed explanations, and his report reflects that, unlike internal Treasury sources meant for people who understood accounting and wrote in a sort of professional shorthand.

While Democratic Republicans were largely opposed to the national debt, it was not Baldwin’s job to wonder whether it was a blessing or a curse. Rather, he had to make sure that the monies collected from taxpayers indeed went where they were supposed to, and not into someone’s pockets. What he discovered was more complicated than he perhaps had expected. “The duties on spirits, distilled within the United States, [are received] by the collectors of divisions, who pay them over to the inspectors of surveys, who pay them over to the supervisors of districts” – all in accordance with congressional regulations. The report goes on to mention that fines and penalties go to marshals, foreign loans to banks abroad, postage to the Postmaster

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<sup>33</sup> Stanley Elkins and Eric McKittrick, *The Age of Federalism: The Early American Republic, 1788-1800* (Oxford University Press, 1995), 295-302.

<sup>34</sup> “Condition of the Treasury Department, Communicated to the House of Representatives, May 22, 1794,” in *The New American State Papers: Public Finance, Vol. 1*, edited by Thomas C. Cochran (Wilmington: Scholarly Resources, 1972), 242.

General, and the rest directly to the Treasury Department. Baldwin and the commissioners thus found out that the Treasury Secretary did not have direct control over public monies, perhaps alleviating the fears of the omnipotent Hamilton and his “corrupt squadron.”<sup>35</sup>

“The Treasurer” – a different position from the Secretary – “is a medium of all receipts and disbursements of public moneys, and they must be warranted by him. Treasury Secretary signs these warrants, Comptroller countersigns, and Register registers.”<sup>36</sup> The reason this system was so complicated was to prevent corruption. It is quite likely that Congressmen who passed the *Act to Establish a Treasury Department* and Treasury officials that implemented it used Britain, the number one fiscal-military state, as both a positive and negative example. According to John Brewer, the eighteenth century was the time when Britain transitioned from tax farming (relying on private individuals to collect taxes) to creating a network of public officials whose sole profession was collecting taxes.<sup>37</sup> Tax farmers collected fees (sometimes quite arbitrary) from the population to sustain themselves, whereas public officials were salaried. While Hamilton did follow the French example regarding the national debt management practices (refinancing the debt, focusing primarily on repaying the interest, creating a sinking fund to gradually retire the principal), neither he nor other Federalists considered tax farming an option. They went straight for the British example. However, the British experience was not universally positive. John Cary, a Bristol merchant, claimed that the public money “grows less in every hand through which it passes.”<sup>38</sup>

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<sup>35</sup> The phrase belongs to Thomas Jefferson who referred to the supporters of national debt as “the corrupt squadron of paper dealers.” “From Thomas Jefferson to George Washington, 23 May 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Jefferson/01-23-02-0491>.

<sup>36</sup> “Condition of the Treasury Department,” 242-243.

<sup>37</sup> John Brewer, *Sinews of Power: War, Money and the English State, 1688-1783* (London: Unwin Hyman, 1989), 65, 69.

<sup>38</sup> John Cary, *An Essay on the State of England* (Bristol, 1695), 176, cited in Brewer, *Sinews of Power*, 72.

Not only did every transaction go through multiple officials inside the Treasury Department building; banks were also tightly connected to the process of revenue collection. This complicated network existed in part to ensure the security and legitimacy of every operation and in part to make up for the strained communications of the era and the country's vast size. Baldwin cites a case: a customs collector in Norfolk, Virginia, had to submit the revenue he collected, \$1,000, to the federal government. The Treasury Department billed him, and the Register put the transaction into two different books. But since Norfolk is quite far from Philadelphia, and the money would take a long time to arrive, the Treasurer, Samuel Meredith, put \$1,000 of his own money into the United States' account at the National Bank. The Norfolk collector then sent his \$1,000 directly to Meredith to reimburse the Treasurer for paying his due. Collectors also had an option of putting the revenue into their local bank, and the bank would pass it over to the Treasurer's account.<sup>39</sup> Thus, the complicated network of revenue officials was tightly knit together by personal accounts and reputations to keep the fiscal machine running. Americans were once more trying to avoid the mistakes of Britain where geographical distance and slow transportation slowed down the rate of tax collection, which provided more opportunities for corrupt officials to steal. Additionally, the slowness of the audit made officials believe that it was safe to speculate with the government's money, earn revenue, and then put the original sum back before anyone reviewed their accounts.<sup>40</sup> The American system placed more obstacles in the way of corruption and speculation than the British one.

Treasury officials made regular reports to Congress. As Baldwin noted, all the instructions and agreements between Treasury officials and collectors of revenue had to be in

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<sup>39</sup> "Condition of the Treasury Department," 242-243.

<sup>40</sup> Brewer, *Sinews of Power*, 72.

writing. Much like the way we document our actions via email today, Treasury employees of the time exchanged letters in order to preserve the evidence of legitimacy, even if both correspondents were in the same building.

### **Conclusion**

*The Baldwin Report* demonstrates that, while the Treasury Department largely followed the British fiscal-military model in its organization and practices (having tax officers instead of tax farmers; excise), its employees made an effort to steer clear of the notorious British corruption. They were open about their activity and let the public and politicians access the Treasury documents. Each transaction received several records to ensure accountability, and officials constantly checked each other. Nevertheless, there was still suspicion among Democratic Republicans that stemmed from the distrust towards a fiscal-military state that developed in colonial America and never dissolved.

## CHAPTER 2: “MR. ARNOLD’S DELINQUENCY”: CUSTOMS DUTIES AND THE ORIGINS OF FEDERAL AUTHORITY

### Introduction: “The Most Pernicious Tendency”

On November 6, 1792, ship *Neptune* arrived at the port of Providence, Rhode Island, carrying wine and molasses from Surinam. The cargo had belonged to a prominent local merchant Welcome Arnold – that is, until a day prior, November 5, when it suddenly became the property of one Edward Dexter. The curious transfer of ownership did not evade the attention of the Providence customs collector Jeremiah Olney. Normally, it would not have been a problem, but Welcome Arnold had not paid the duties on his last cargo and now owed the federal government money on a past due bond. He was unable to pay the duties in cash for both that delivery and the one he was receiving on November 6, for which he also intended to leave a bond. According to the Collection Act of 1790, a second bond could not be put in if there was a past due bond, which in Arnold’s case, there was. His cousin Edward Dexter, however, had no overdue bonds and was thus not subject to the restriction.<sup>41</sup>

In the early 1790s, the federal government was still very new, and it had to balance collecting revenue, staying on top of debts, and keeping the friendship of merchants. In a document he sent to customs collectors at the beginning of his tenure, Treasury Secretary Alexander Hamilton stressed that “Though the complaints of the Merchants will not always be

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<sup>41</sup> “To Alexander Hamilton from Jeremiah Olney, 7 November 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-13-02-0024>.



infallible indications of defects, yet they will always merit attention.” Later that year, he encouraged customs officials to exercise moderation when taking legal action against merchants who are behind on duties. Olney appeared to share the sentiment: “refusing Credit to a Merchant of considerable Eminence was a delicate Matter,” he wrote to Hamilton in June 1791. Both the collector and the secretary demonstrated their leniency to Stephen Dexter and another member of that family, John Arnold, in September 1791 when the two merchants violated the law regulating the amount of liquor to be imported. Olney informed Hamilton that “I declare that I have no suspicion of his having the least Intention to defraud the Revenue, and that I believe the forfeiture had been incurred through ignorance of the Law,” to which Hamilton agreed. Even though the law required the merchants to be prosecuted, the secretary told the collector that no legal proceedings should be initiated and “The vessel and Brandy may of course be released.”<sup>42</sup>

However, the federal government’s grace could only stretch so far, and Welcome Arnold may have found that limit. The incident of November 1792 was not Arnold’s first attempt to find ways around the tax law (and Olney’s diligence), nor was it the first time such an attempt backfired. In June 1791, he was past due on a \$1,000 bond when he received a cargo of tea (ironic) carried by the ship *General Washington* (also aptly named), for which he placed another bond. After the first bond became past due, Olney resorted to keeping the teas hostage, though he

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<sup>42</sup> “Treasury Department Circular to the Collectors of the Customs, 2 October 1789,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-05-02-0193>.

“Treasury Department Circular to the Collectors of the Customs, 30 December 1789,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0058>.

“To Alexander Hamilton from Jeremiah Olney, 21 June 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0426>.

The merchants violated section 33 of *An Act repealing the Duties Laid upon Distilled Spirits*, Public Law 110, *U.S. Statutes at Large* 1 (1791): 207.

“To Alexander Hamilton from Jeremiah Olney, 15 September 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-09-02-0164>.

“From Alexander Hamilton to Jeremiah Olney, 24 September 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-09-02-0191>.

allowed Arnold to take out a small amount of cargo to give to an expecting customer. The collector navigated the matter carefully and secured Hamilton's support before filing a suit with district attorney William Channing. Hamilton also told Olney to inform customs collectors from Boston down to New York of "the delinquency of Mr. Arnold" in case the payment is not received soon. Olney presented a summary of the Secretary's decision to Arnold to give him a chance to pay before things are put in motion. The threat of legal action and loss of credit at multiple ports prompted Arnold to pay up, and the matter was thus resolved.<sup>43</sup>

In early September of 1792, Arnold evaded the bond restriction, presenting his other cousin, Stephen Dexter, as the owner of the cargo on board of brigantine *Samuel*. Stephen Dexter's bond was accepted by the Newport (Rhode Island) customs collector William Ellery. Days later, on September 11, 1792, Arnold and Edward Dexter successfully got the cargo of ship *Harriot* through Olney's customs house with a bond. Hamilton, Olney, and Ellery were on to Arnold's tricks. All three maintained regular correspondence concerning the matter – not just the collectors with the Treasury Secretary but the collectors between themselves. By mid-October 1792, the three officials agreed that they should refuse Arnold any future credit until he paid off the bonds for the cargoes of *Samuel* and *Harriot*. "The practice which appears to have been introduced by him [Welcome Arnold] is of the most pernicious tendency," Hamilton concluded

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<sup>43</sup> "To Alexander Hamilton from Jeremiah Olney, 21 June 1791," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0426>.

"From Alexander Hamilton to Jeremiah Olney, 6 July 1791," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0474>.

Jeremiah Olney, Letter to Welcome Arnold, July 15, 1791," U.S. Customs House – Providence, Box 1, Folder 3, Correspondence, Outgoing – General, Rhode Island Historical Society.

"Olney v Arnold; Olney v Dexter," in *The Documentary History of the Supreme Court of the United States, 1789-1800*, Vol. 7, ed. by Maeva Marcus (Columbia University Press, 2003), 566.

in a letter to Olney, “contrary equally to the interest of the Merchant and of Government... It is consequently in my view essential, that it should be withstood in its infancy.”<sup>44</sup>

Less than a month later, Arnold attempted to pull the same stunt with *Neptune*. Olney was at the end of his rope, Ellery was out of patience, and Hamilton was no longer concerned about keeping the federal government’s friendship with Welcome Arnold. The federal machine was now in full motion, and Arnold was going to get crushed by it.

The confrontation resulted in the *Olney v Arnold* case which, after multiple appeals, ended up in the U.S. Supreme Court. Arnold, a proper son of Rhode Island, a state known for its problematic relationship with the federal government, stated that the Supreme Court had no right to try him and demanded the case go back to Rhode Island courts. Because of that demand, which failed to yield Arnold’s desired result, historians see *Olney v Arnold* as the first case that solidified the U.S. Supreme Court’s superiority over state courts.<sup>45</sup> But the case had other serious implications for the U.S. government. The confrontation between Arnold, backed by prominent merchants and lobbyists, and Olney, supported by the full might of the federal government, was the first test of strength for America’s fiscal machine. The case reveals the fine details of the machine’s operation, demonstrates the collaboration between officials on various levels, and highlights how the laws passed by Congress translated into tangible outcomes for the government and the people.

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<sup>44</sup> “From Alexander Hamilton to Jeremiah Olney, 19 September 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-12-02-0302>.  
 “To Alexander Hamilton from William Ellery, 9 October 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-12-02-0373>.  
 “From Alexander Hamilton to Jeremiah Olney, 12 October 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-12-02-0385>.

<sup>45</sup> “Olney v Arnold; Olney v Dexter,” 565.

### Historical Origins of Mr. Arnold's Delinquency

The confrontation between the merchant and the customs collector was not new for the 1790s. British customs houses had experienced the wrath of American merchants for decades before independence. The Navigation Acts of the 1660s and 70s did not receive a positive reception in the American colonies, and customs collectors often bent and broke the protectionist laws – not so much out of compassion for the merchants but rather to keep their lives, health, and customs house buildings intact. The British government, no matter how tyrannical American patriots considered it to be, largely ignored the violations at colonial customs houses. Whitehall could project the image of a strong protectionist empire while American smugglers stole market shares from the rival French and Spanish empires and kept commerce up and running. Even though customs, along with excise, composed the majority of Britain's revenue in the eighteenth century, it was the West Indies and not the Thirteen Colonies that brought the most export value. There was no incentive for the Crown to pick fights with colonial merchants over the payment of duties and origin of goods. Customs houses were few and far between, and the number of government vessels patrolling the coast was woefully insufficient. It was easy for violators to evade the law or overpower its enforcers. The closer to the Revolutionary War, the more jarring these confrontations became.<sup>46</sup>

During the Townshend Acts era, colonists resisted with even more vigor, searching customs houses for stamp paper, taking over customs buildings, and punishing collectors for enforcing the new duties.<sup>47</sup> Some states were worse than others. "Rhode Island traders had a

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<sup>46</sup> Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago: University of Chicago Press, 2016), 19-22.

Brewer, *Sinews of Power*, 92-93.

Stephen J. Hornsby, *British Atlantic, American Frontier: Spaces of Power in Early Modern British America* (Hanover: University Press of New England, 2005), 26-27.

<sup>47</sup> Rao, *National Duties*, 42-45.

long, notorious and cherished history of resisting customs officers,” Frederick Dalzell accurately states. In 1772, a group of Sons of Liberty and Rhode Island merchants, which may or may not have included Welcome Arnold, attacked the British revenue ship *Gaspee*, wounding its captain, seizing the cargo that the crew had confiscated under the Navigation Acts, and burning the ship to ashes. While the British government finally decided to prosecute violators and scrambled to find which law to charge them under, Rhode Islanders were unrepentant.<sup>48</sup> Newport preacher John Allen used the Bible to justify the attack on the ship, proclaiming at his church that “it must certainly be, that the *Gaspee* schooner has committed the transgression, and broke the Laws, of the freedom of this country. No doubt, my Lord, but they have a right to tax the strangers, that come to dwell in their country; but to tax the children, which are free in their own native country, this will not do! Nature forbids it; the law of GOD condemns it. And no law, but that of tyranny, can desire it.”<sup>49</sup>

During the Revolutionary War, the new central government inherited the chaos. Continental Congress lacked the power to tax and did not attempt to establish any control over customs. However, some regulations were already in place. In 1774, Continental Congress resolved that any exports to Great Britain, Ireland, or the West Indies must cease starting September 10, 1775 “unless the grievances of America are redressed before that time.”<sup>50</sup> Wartime Congress continued to pursue a full-scale embargo against the enemy – and went even further. Article 9 of the Articles of Confederation gave Congress the power “of granting letters of

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<sup>48</sup> Frederick Dalzell, “Prudence and the Golden Egg: Establishing the Federal Government in Providence, Rhode Island,” *The New England Quarterly* 65, no. 3 (1992): 356.

<sup>49</sup> “An Oration, upon the Beauties of Liberty, or The Essential Rights of the Americans,” *Evans Early American Imprint Collection*, University of Michigan Library Digital Collections, <https://name.umdl.umich.edu/N10250.0001.001>.

<sup>50</sup> “September 30, 1774,” *Journals of Continental Congress*, vol. 1, 52. <https://tile.loc.gov/storage-services/service/l1/l1scd/l1jc001/l1jc001.pdf>

marque and reprisal in times of peace; appointing courts for the trial of piracies and felonies committed on the high seas; and establishing courts for receiving and determining finally appeals in all cases of captures.” What this power meant was that Continental Congress authorized Americans to be privateers and plunder the enemy’s vessels. That permission had already been given before the Articles of Confederation were finalized. On April 3, 1776, Continental Congress distributed broadsides with instructions to privateers. Upon receipt of a “letter of marque and reprisal,” a privateer’s license, the newly minted state-sponsored pirate was allowed to “attack, subdue, and take all Ships and other vessels belonging to the Inhabitants of Great Britain” except those who are “friends to the American cause.”<sup>51</sup> Merchants turned rebels turned pirates. Their destructive, “fight-the-power” behavior, something that would have earned them a punishment under the British rule, was encouraged and praised by the revolutionary government. Welcome Arnold was part of that history, having lost over 30 vessels in privateering raids during the Revolutionary War. There is no doubt that his efforts helped bring about America’s independence, but Arnold decided to never own any vessel outright again, instead choosing to share both profits and risks with business partners.<sup>52</sup>

Even though Article 4 of the Articles of Confederation stated that the people of all states “shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively,” the day-to-day governance of customs was left to the states until after the Constitution’s ratification. There was no coast guard to speak of, and each state dealt with violators in its own way. In Connecticut, for

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<sup>51</sup> United States Continental Congress, John Hancock, *In Congress, Wednesday, April 3,: Instructions to the Commanders of Private Ships or Vessels of War, which Shall Have Commissions or Letters of Marque and Reprisal, Authorising Them to Make Captures of British Vessels and Cargoes* (Philadelphia: Printed by John Dunlap, 1776), <https://www.loc.gov/item/90898006/>.

<sup>52</sup> Providence Institution for Savings, *Ships and Shipmasters of Old Providence* (Boston: Walton Advertising and Printing Co., printed for the Providence Institution for Savings, 1919), 36.

example, the age-old legislation based on the 1650 legal code was gradually changing during the 1770-1780s. The old code has no mention of customs duties, only a fee for the registration of vessels. The colony of Connecticut subsisted on property and income tax levied by local governments, with an added bonus from a tax on swearing. During the war, the Connecticut Governor, Council, and General Court (the state legislature) banned “clandestine trade and commerce with the enemies of the United States of America” under the penalty of a fine or, if the violator was unable to pay it, forced military service or confinement. A rather impressive number of merchants did not heed the warning, buying and selling British goods despite the ban, often using the British-controlled Long Island as their trading hub.<sup>53</sup> Depending on which port they got caught in, the maritime court of that town would prosecute. Prosecuting embargo violators was the extent of customs regulation in Connecticut through the 1770s.

Things changed during the 1780s. As the war went on, the financial situation became increasingly dire, and Congress asked the states for permission to levy a 5% ad valorem duty on imported goods. Because the Articles of Confederation made Congress liable for any debts of the United States but offered no revenue collection power to effectively get those debts covered, the final decision remained up to the state governments. While some states, like Maryland, Connecticut, and the Carolinas agreed without issue to the duty, Virginia agreed at first and then recanted, Georgia gave no reply, and Rhode Island outright refused.<sup>54</sup> Now the government born out of resistance against taxes collected to pay off wartime debts was trying to charge duties to pay its own wartime debts – and meeting resistance.

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<sup>53</sup> Records of Connecticut Maritime Courts of New Haven and Fairfield Counties, Box 4, Mystic Seaport Museum, 1780-1783.

<sup>54</sup> *Journals of Continental Congress*, vol 19, February 3, 1781, 112; vol. 20, July 16, 1781, 750; vol. 21, October 4, 1781, 1035; vol. 22, April 26, 1782, 213; vol. 22, July 15, 1782, 388; vol. 23, October 10, 1782, 643; vol. 24, January 30, 1783, 101-102; vol. 24, March 18, 1783, 188.  
 “May 1782,” *Public Records of the State of Connecticut*, vol. 4, 153-154.

### New Customs Legislation

The adoption of the Constitution and its gradual ratification by the states radically changed the power dynamic between the central and state governments, and customs houses were the first arena where the federal government flexed its new muscles. Using the power given by the Section 8 of Article I of the Constitution – “The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises” – Congress got to work on legislation.

Customs duties were to become the nation’s ticket out of debt. Shortly after administering oaths of office, the very basic first step, Congress passed an *Act Laying Duty on Goods, Wares, and Merchandises Imported to the United States* (July 4, 1789). It is truly curious that the first piece of legislation passed in a post-Constitution Congress was the one concerning taxes, and specifically customs duties. Lawmakers emphasized within the text of the act that the duties would be collected “for the support of government, for the discharge of the debts of the United States, and the encouragement and protection of manufactures.” The Act introduced a list of duties on imported merchandise, stated in cents per amount of product. Among the items taxed were every type of alcohol, coffee, tobacco, salt, and even the hot commodity that caused it all – tea. This act passed months before the Treasury Department was even established. The very next act imposed duties on tonnage – a charge per ton for operating vessels within U.S. territories.<sup>55</sup>

On July 31, 1789, Congress passed *An Act to Regulate the Collection of Duties* which declared each state its own tax district and listed the officially recognized ports in every state, some of them being delivery-only. The Act also established the positions of customs collector,

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<sup>55</sup> *Act for Laying a Duty on Goods, Wares, and Merchandises Imported into the United States*, Public Law 2, *U.S. Statutes at Large* 1 (1789), 24, 25-27.  
*An Act Imposing Duties on Tonnage*, Public Law 5, *U.S. Statutes at Large* 1 (1789).



naval officer, and surveyor, with major ports having all three, smaller ports only having a collector or surveyor who oversaw several ports at a time. The collector was the top officer of the port, taking care of each ship's paperwork, giving out permits for loading and unloading, estimating duties, and overseeing warehouses and other structures. The naval officer, despite his military rank, was a bureaucratic counterweight to the collector, helping him estimate duties, keeping separate accounting records, and countersigning permits that the collector issued. The surveyor supervised officers who performed inspection and assessment of the weight, amount, and quality of the goods. The law also detailed their compensations, an issue that would reappear in the subsequent modification of the act.<sup>56</sup> The position of the surveyor did not exist under the British system and was introduced as an extra measure to prevent corruption at the port.<sup>57</sup> *An Act For Registering and Clearing Vessels* (September 1, 1789) introduced a system of registration for vessels used in trade and commerce, with regular inspections, certificates, and fees. Vessel builders and owners would have to swear an oath, testifying to the ship's name, tonnage, ownership, and the citizenship status of everyone involved with it.<sup>58</sup>

### **Treasury in Charge**

These major legislative changes occurred before the establishment of the Treasury Department in September of 1789. Today, U.S. customs are under the control of the Department of Homeland Security. However, at the dawn of U.S. customs history, ports were viewed as sources of revenue rather than avenues of immigration. The reason for the Treasury Department's establishment was collection and management of revenue, and at this point,

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<sup>56</sup> *An Act to Regulate the Collection of Duties*, Public Law 11, *U.S. Statutes at Large* 1 (1789).

<sup>57</sup> Gautham Rao, *National Duties: Custom Houses and the Making of the American State* (Chicago: The University of Chicago Press, 2016), 66.

<sup>58</sup> *An Act for Registering and Clearing Vessels, Regulating the Coasting Trade, and for Other Purposes*, Public Law 16, *U.S. Statutes at Large* 1 (1789).

customs duties composed the overwhelming majority of that revenue. The federal government charged Americans no income tax, direct tax, or tax on sale or manufacture of domestic goods. As soon as the new Treasury Secretary Alexander Hamilton took the job on September 11, 1789, his main tasks became keeping Congress updated and managing the newly emerged network of main ports, dependent ports, and revenue collectors that resided within them.

The overarching concern of both the executive and legislative branches was public credit – the reputation of a nation that allows it to borrow on better terms. In his early 1790 report to the House on that issue, Hamilton emphasized that there was no way to keep good public credit without being on good terms with the public creditors – people who owned governmental bonds, ranging from the “very influential and very meritorious” financiers to “the widow and the orphan” and “the war-worn soldier.”<sup>59</sup> They all expected their due payments from the federal government, and for the Treasury Department, the only way to be able to meet these obligations was to keep the customs revenue flowing. Displeasing merchants with overly high duties, charging them extra so that collectors could line their own pockets, being too strict on paperwork – these were sure ways to discourage commerce and go bankrupt.

Britain boasted good public credit, and it also had a sophisticated, though flawed, system of revenue collection. With hard work and some improvement to the design, it could just work for America. The Secretary of the Treasury and the few employees he hired began the effort to catalog, unify, and broaden the existing system of customs collection.

The top-down mode of communication was sending around a circular. Hamilton sent those around quite frequently in the beginning to different groups of federal employees –

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<sup>59</sup> Alexander Hamilton, “Report Relative to a Provision and Support of Public Credit (First Report on Public Credit). New York, January 9, 1790,” in *The Papers of Alexander Hamilton*, vol. 6, ed. Harold C. Syrett (New York: Columbia University Press, 1962), <https://founders.archives.gov/documents/Hamilton/01-06-02-0076-0002-0001#ARHN-01-06-02-0076-0002-fn-0099-ptr>.

namely, customs collectors, loan officers, and later revenue collectors – as well as governors of states. A circular would announce a new law or clarify its details, often in a “frequently asked questions” manner. Some circulars explained how to record things or send collected revenue to the federal government. However, the circulars were not merely directives from above: they also encouraged collaboration between the Treasury Department and the employees in ports. As Hamilton put it in one of the first such documents, “As in the first establishment of Revenue Systems imperfections and inconveniences will naturally present themselves in practice... it is of the greatest moment that the best information should be Collected for the use of the Government.” Hamilton asked collectors to send him feedback “from time to time” on the defects in the system, to suggest means of improvement, and share their suggestions on establishing a coast guard and prevention of smuggling. Two of the early circulars establish the practice for collectors to send weekly, monthly, and quarterly accounts of revenues and expenses of each port. Later, the Secretary ordered customs collectors to collect statistics on article exports to be sent to Congress, which would explain the frequent change in the rates of duties on different items in the Acts of Congress.<sup>60</sup>

One benefit to the customs-only revenue system was that federal employees had access to the quickest messaging system that eighteenth-century America could offer: packetboats. Customs collectors worked in ports, and the federal capitals, both New York City and Philadelphia, were ports. The response time could be as brief as 2-3 days between the

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<sup>60</sup> Alexander Hamilton, “Circular to the Collectors of Customs, October 2, 1789,”

U.S. Customs House – Providence, Box 1, Folder 1, Correspondence, Incoming – Treasury Department, Rhode Island Historical Society.

Alexander Hamilton, “Circular to the Collectors of Customs, September 22, 1789,” U.S. Customs House – Providence, Box 1, Folder 1, Correspondence, Incoming – Treasury Department, Rhode Island Historical Society.

Alexander Hamilton, “Circular to the Collectors of Customs, October 10, 1789,” U.S. Customs House – Providence, Box 1, Folder 1, Correspondence, Incoming – Treasury Department, Rhode Island Historical Society.

Treasury Department and the customs collectors of New England and Mid-Atlantic ports – faster than some of us reply to a work email. Although sometimes not even the waters of the Atlantic could speed up the process of getting Hamilton’s response – according to Newport (Rhode Island) collector William Ellery, “The Secretary is a very good man; but his indisposition sometimes renders him dilatory.”<sup>61</sup>

## Chaos Begins

Hamilton was correct to emphasize that introducing and enforcing the new legislation in a new country was a trial and error process – and all three branches of government, along with the American people and visitors, were involved in it. It was a never-ending mess of rules, violations, feedback, change, and conflict. Americans and foreigners alike got themselves into trouble with the law out of ignorance, confusion, or deliberate disregard, and it was often hard to tell which one was which. In January 1790, the House heard a petition from one Christopher Saddler, a Nova Scotian whose ship was seized in Boston due to a violation of the impost law, “of which law the petitioner was wholly ignorant.”<sup>62</sup> Not even the Treasury Secretary himself was immune to the chaos: he had sent around two circulars allowing the usage of the Bank of America notes before it occurred to him to ask Congress if such a measure was even legal.<sup>63</sup>

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<sup>61</sup> William Ellery, “Letter to Jeremiah Olney, December 6, 1792,” U.S. Customs House – Providence, Box 1, Folder 13, Correspondence, Incoming – General, Rhode Island Historical Society.

<sup>62</sup> “Saturday, January 9, 1790,” *Journal of the House of Representatives of the United States, 1789-1793*, [https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field\(DOCID+@lit\(hj001179\)\)](https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(hj001179)))  
 “Monday, January 11, 1790,” *Journal of the House of Representatives of the United States, 1789-1793*, [https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field\(DOCID+@lit\(hj001180\)\)](https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(hj001180)))

<sup>63</sup> Hamilton, “Circular, September 22, 1789.”

Alexander Hamilton, “Circular to the Collectors of Customs, October 14, 1789,” U.S. Customs House – Providence, Box 1, Folder 1, Correspondence, Incoming – Treasury Department, Rhode Island Historical Society.

In a report to Congress, Hamilton wrote, “The Secretary did not imagine, that the provision ought to be so understood, as to prevent, if necessary, an anticipation of the duties by treasury drafts, receivable at the several custom houses.” “Report on Defects in the Existing Laws of Revenue, 22 April 1790,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0248>.

Not knowing what to do with Saddler's petition, Congress sent it to Hamilton, and it might have been the last straw for the Secretary. Hamilton complained in his report that such petitions kept coming, and "there are other instances which have come under his notice, in which considerable forfeitures have been incurred, manifestly through inadvertence and want of information." He implored Congress to come up with a universal process to deal with violators and grant exceptions where necessary.<sup>64</sup> Representatives in return asked Hamilton to summarize the flaws he saw in the existing revenue legislation, which he did in a report he submitted a few months later. The *Report on Defects in Revenue Laws* indicated that many ports had no customs house or lacked staff, which allowed traders to evade duties. Hamilton encouraged Congress to formally allow bank notes as a means of paying duties to address America's age-old financial problem – lack of cash in circulation and lack of precious metals (gold and silver). The Treasury Secretary also suggested that Congress authorize the creation of a naval unit tasked with enforcing revenue laws and preventing smuggling – later known as the Coast Guard.<sup>65</sup>

Congress took these notes into consideration and came up with the longest document to date – *An Act to Provide More Effectually for the Collection of Duties* (August 4, 1790). The new act, an update to the 1789 *Act to Regulate the Collection of Duties*, expanded the list of ports in various states and created new job positions to service the new and existing ports. It also included Rhode Island as a customs district since the state had finally joined the union. The penalty section was expanded to account for a variety of events and violations in an attempt to reduce the flood of petitions and complaints. Both of the customs acts specified the way that

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<sup>64</sup> "Report on the Petition of Christopher Saddler, 19 January 1790," Founders Online, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0089>.

"Tuesday, January 19, 1790," *Journal of the House of Representatives of the United States, 1789-1793*, [https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field\(DOCID+@lit\(hj001186\)\)](https://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(hj001186)))

<sup>65</sup> Hamilton, "Report on Defects."

customs officials were to be compensated – and there was a concerning provision there. A merchant paid many fees in port – ship entrance fee, clearance of vessel, lading and unlading permits, placement of a bond, various cargo inspection fees. For every fee save the customs duties proper, the customs collector and his subordinates received commissions. The revenue would first need to go to the Treasury, along with an account of fees collected, after which the Treasury would pay commissions to the respective officers out of each fee they charged. A collector would receive between \$2.5 and \$1.5 for every ship that entered the harbor and 40 cents per bond, occasionally having to share these with the naval officer. Surveyors collected their own fees. Measurers, weighers, and gaugers charged commissions per unit of weight or volume, with separate rates for different types of merchandise. Every cask of liquid, for instance, would cost six cents to check – and there was no way out of it.<sup>66</sup> While the commissions system was meant to encourage customs staff not to ignore legislation in order to gain the good will of merchants, it is not hard to imagine that the merchants would be concerned about the implications of it. A collector could be intent on charging every possible fee and not be lenient in borderline cases. He could even purposefully charge a bigger fee than necessary to increase his cut.

To ensure a break from the old lax tradition and prevent corruption at the same time, Hamilton doubled down on the paperwork for customs collectors, directing them to write down the name of every ship arriving at the particular port, its tonnage, ports of origin, cargo, names of the captain and owners, whether it was international or domestic, and how much the owner paid in duties. A similar system existed in the British Exchequer. However, the British government required much more information, thus causing the customs to produce more documents than the

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<sup>66</sup> *An Act to Provide More Effectually for the Collection of Duties*, Public Law 82, *U.S. Statutes at Large* 1 (1790).

Exchequer could possibly manage. Hamilton's more compact system worked more effectively.<sup>67</sup>

On September 14, 1789, only three days after the creation of the Treasury Department, the Secretary sent out a circular (first of many to come) requesting customs houses to produce an account of paid and unpaid duties, not entirely precise but "accurate enough to be relied on."<sup>68</sup> From then on, both the Treasury and Congress demanded increasingly precise records.

### **"A Case between a Citizen and a Public Officer"**

#### **Son of Rhode Island**

Part of what caused the chaos was the fact that the new nation consisted of several former colonies which did things their own way. Since colonies emerged in different ways and were founded by different groups of people, their systems of internal governance also differed, and the metropole did not care to unify them. While the states were free to decide how their legislatures worked, how their citizens voted in state and local elections, or how they punished crimes, upholding their differences, customs were a federal matter, and they required universal regulations and universally applied laws.

The circular of November 25, 1789 requested that customs collectors summarize the laws of their states governing the collection of duties while the government was working on the *Act Laying Duty on Goods* (1789). After ignoring British protectionist laws, American non-importation acts and requests for ad valorem duty from Congress, as well as taking its sweet time joining the union, Rhode Island was not going to go down without a fight.

Having accepted the new state into the union, Congress passed *An Act for Giving Effect to the Several Acts Therein Mentioned, in Respect to the State of Rhode Island and*

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<sup>67</sup> Rao, *National Duties*, 80-81. Brewer, *Sinews of Power*, 222-223.

<sup>68</sup> Hamilton, "Circular, 14 September 1789," Box 1, Folder 1, Series A: Incoming Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

*Providence Plantations* (June 14, 1790) – a piece of legislation confirming that all acting customs laws from then on would also apply to Rhode Island. International commerce was big in Rhode Island, and it was dominated by large merchant families with connections in both the state and federal government. The Arnolds and Dexters were one such family. Providence, as a major port, was entirely run by merchants, so Jeremiah Olney had his work cut out for him.<sup>69</sup>

Welcome Arnold was born in Smithfield, Providence County, in 1745. His birth was met with glee since the family had lost their two sons, and so they named their new child accordingly. His father, Jonathan Arnold Sr., was a farmer and could only afford one college degree – that went to Welcome’s younger brother Thomas. The rest of the children got a farm to share. Despite never receiving any higher education or mercantile apprenticeship, Welcome Arnold went on to become a prominent merchant and state politician. At twenty-four years old, Arnold started his first business: he sold lime rock from Rhode Island quarries. In the absence of a local or colony bank (Providence Bank would not open until 1791), aspiring businessmen relied on their families for support when starting a company. Welcome Arnold’s brother Asa and their father were his first creditors.<sup>70</sup>

After a brief partnership with Caleb Green introduced him to the world of commerce, Arnold went solo, which coincided with the beginning of the Revolutionary War. Arnold entered the complicated network of intercolonial and international commerce. While the British government forbade its West Indian colonies to trade with the revolutionaries, that did not mean they listened. And if they did, American privateers could step in and simply take the goods and

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<sup>69</sup> *An Act for Giving Effect to the Several Acts Therein Mentioned, in Respect to the State of Rhode Island and Providence Plantations*, Public Law 71, *U.S. Statutes at Large* 1 (1790).

Frederick Dalzell, “Prudence and the Golden Egg: Establishing the Federal Government in Providence, Rhode Island,” *The New England Quarterly* 65, no. 3 (1992): 356-358.

<sup>70</sup> Tristram Burges, *Memoir of Welcome Arnold*, Box 1, Folder 3, Series 2: Manuscripts by Burges, Tristram Burges Papers, Brown University Library, 2-4.



the ships that carried them. Additionally, Spanish, Dutch, and French colonies in the Caribbean were ready to trade with Americans. West Indian trade had always been questionable in terms of the law – the residents of the islands that were closer to each other than their respective metropolises would find ways around protectionist laws and evade watchful fleets. Despite frequent loss of vessels, engaging in the trade in goods both pirated and peacefully bought must have brought Arnold some notoriety, not to mention wealth. In 1780, he was elected representative from Providence to the Rhode Island General Assembly. He would be reelected many more times, though not always consecutively. His son-in-law later wrote about Arnold's presence in the assembly that "He would never have received this proof of his high merits, if his talents and success in public business had not fully satisfied the people." In addition to his political career, Arnold also expanded his business post-war, and he now traded with Western and Southern Europe, South America, and Russia, in addition to keeping his presence in the West Indies.<sup>71</sup>

In the early days of the new republic, federal offices were still new, and nothing was set in stone. Welcome Arnold and others like him tested the limits of federal authority and ways to deal with it with the least injury to their revenue and reputation. Arnold did not see himself as a transgressor, or at least he would not admit to it, instead presenting himself as an injured party, a law-abiding citizen crushed by the overreach of federal power.

After the 1791 incident with the tea cargo, Arnold sent an emotional letter to the Treasury Secretary, having learned that Hamilton told Olney to warn other collectors of "Mr. Arnold's delinquency."<sup>72</sup> Arnold spared no words, bashing both Hamilton and Olney. "I cannot

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<sup>71</sup> Burges, *Memoir*, 11, 5-7.

*Ships and Shipmasters of Old Providence*, 36.

<sup>72</sup> "From Alexander Hamilton to Jeremiah Olney, 6 July 1791," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0474>.

believe Sir that you would knowingly countenance a Public Office under your department, being used as an Engine of Pique, or Resentment,” he starts his rant. Arnold then poses the questions that many merchants may have asked: “Is it not possible Sir that a Collector may Err? That he may put a bond in Suit when it is not due? That he may demand a Greater Sum than is due?” “Shall a merchant be placed in the disagreeable Alternative of having his credit destroyd, or of paying every demand which a Collector thro’ mistake, or Design shall Exhibit against him?” Arnold then appeals to Hamilton’s sense of integrity, imploring him to treat this “case between a Citizen and a public Officer” with the same impartiality as he would judge a conflict between two citizens. Hamilton did reply in an apologetic tone and sent a notice to Olney to suspend the warnings to other collectors.<sup>73</sup> Even though the trick did not work and Arnold was ultimately forced to pay up, it did not deter them from continuing to challenge authority.

The questions Arnold asked were not entirely in bad faith, and Hamilton knew that. Misinterpretation, whether accidental or deliberate, of the *Collection Act* of 1790, especially given its encouragement towards the customs staff in a form of commissions, led to several transgressions that the Secretary was made aware of. In November 1790, John Davidson, collector of Annapolis, received a brief letter from Hamilton. Davidson was a Scottish immigrant who had served as a customs official under the British system and may have retained some old habits.<sup>74</sup> Hamilton explained to Davidson that the commissions were to be received from the Treasury, not charged directly from the merchants.<sup>75</sup> Davidson went even further next year.

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<sup>73</sup> “To Alexander Hamilton from Welcome Arnold, 15 July 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0500>.

“From Alexander Hamilton to Jeremiah Olney, 22 July 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0510>.

<sup>74</sup> Michael N. Ingrisano, *The First Officers of the United States Customs Service: Appointed by President George Washington in 1789* (Department of the Treasury, U.S. Customs Service, 1987), 4, 9.

<sup>75</sup> “From Alexander Hamilton to John Davidson, 17 November 1790,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0173>.

According to the *Act of Registering and Clearing Vessels*, vessels between 5 and 20 tons can be exempt from clearing and entering fees every time they visit a port, provided that the owner pays an annual fee instead. Davidson went ahead and charged the small vessels entrance fees. “It will be proper that you refund the same to the owners of the several vessels from whom you may have collected it,” the Secretary stated in this brief note. It does not appear that Hamilton launched a full-scale investigation. From the language of the letter, it seems that Hamilton was concerned as much about the challenge to his authority (“The collection of this sum being as I conceive unauthorized by law, and contrary to my circular instruction...”) as he was about the merchants’ reaction to being charged extra duties.<sup>76</sup> Davidson continued causing problems – in 1792, he filled out his drafts (documents authorizing the bank to direct money to the treasury) “in an informal way, which being a deviation from the rules of the Treasury must be avoided in future.”<sup>77</sup> Eventually, Davidson resigned, citing his compensation being unsatisfactory.<sup>78</sup>

Jeremiah Olney was nothing like John Davidson. He belonged to a prominent Rhode Island family, a descendant of the colony’s original proprietors. He was a decorated war hero who climbed the ranks from captain to colonel and fought at Monmouth and Yorktown, and later a member of the Society of the Cincinnati, a club composed of prominent Revolutionary officers, including Hamilton and Washington.<sup>79</sup> Post-war, Olney was a staunch Federalist. In 1788, when Congress was deciding where the nation’s capital would be, Hamilton, then a delegate from New York, reached out to Olney (not a member of Congress) instead of his Rhode Island colleagues,

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<sup>76</sup> “From Alexander Hamilton to John Davidson, 18 June 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0418>.

<sup>77</sup> “From Alexander Hamilton to John Davidson, 9 January 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-10-02-0086>.

<sup>78</sup> “From Alexander Hamilton to John Davidson, 13 April 1793,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-14-02-0208>.

<sup>79</sup> Rao, *National Duties*, 70.

Dalzell, “Prudence and the Golden Egg,” 358.

pleading with him to convince his fellow Rhode Islanders to favor New York City over Philadelphia.<sup>80</sup> More importantly, Hamilton thought it necessary to secure Olney's support in convincing Rhode Island to join the union, as he was "particularly anxious for the accession of your state to the new system."<sup>81</sup>

But military rank and stellar reputation did not mean that the man would make a perfect customs collector. At first, Olney was very enthusiastic about the post, reaching out to General Philip Schuyler (Hamilton's father-in-law) and General Henry Knox (Secretary of War) and, finally, Hamilton himself, as his "old military acquaintance," to express his interest in the position of the customs collector of Providence.<sup>82</sup> Having received the position, Olney promised President Washington he could rely on Olney's "best Endeavours so to conduct myself in the Execution of the arduous task before me."<sup>83</sup> Perhaps Olney was not aware just how arduous the task was going to be. He was not entering an age-old institution with established rules and regulations; it was more like joining a startup while having no work experience in the field. The same day he sent that grateful letter, Olney dispatched another one to his colleague Benjamin Lincoln at the port of Boston where he admitted to "being wholly unacquainted with the practical part of the Business" and essentially asked Lincoln for a Customs Collector 101.<sup>84</sup> Lincoln

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<sup>80</sup> "From Alexander Hamilton to Jeremiah Olney, [12 August 1788]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-05-02-0014>.

<sup>81</sup> "From Alexander Hamilton to Jeremiah Olney, [6 October 1788]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-05-02-0039>.

<sup>82</sup> "To Alexander Hamilton from Jeremiah Olney, 7 June 1790," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0336>.

<sup>83</sup> From Jeremiah Olney to George Washington, 22 June 1790, Box 1, Folder 1, Series B: Outgoing Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

<sup>84</sup> From Jeremiah Olney to Benjamin Lincoln, 22 June 1790, Box 1, Folder 1, Series B: Outgoing Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

helpfully sent one two days later, complete with a makeshift chart and some blank forms for Olney to use.<sup>85</sup>

Shortly thereafter, Olney, Lincoln, Newport collector William Ellery, and occasionally John Lamb of New York and his deputy Charles Tillinghast, formed a sort of club, exchanging questions, loaning each other blank customs forms which always seem to be in short supply, discussing laws, sharing complaints about merchants, and coming up with things to ask Hamilton. In September 1790, Olney and Ellery applied to the Rhode Island legislature together, asking it to clarify the state laws that govern the inspection and measuring of merchandise in ports.<sup>86</sup> A few days later, Olney, Lincoln, and Tillinghast started working on a single master list of duties as they appeared in different federal laws.<sup>87</sup> Later that month, Ellery told Olney that captains of small coasting vessels hide contraband goods under the wooden logs they deliver, taking advantage of the *Act for Registering and Clearing Vessels* giving advantage to vessels under 20 tons and engaging in “licensed smuggling.” He also complained about Hamilton not replying.<sup>88</sup>

Reading these letters, at times frantic, other times frustrated or tired, reveals that much of the time, customs collectors had no idea what they were doing, and the Treasury Department and Congress were not faring much better. In light of the overall chaos of the American customs, as well as the past experience of endless violations and tweaking of rules

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<sup>85</sup> From Benjamin Lincoln to Jeremiah Olney, 24 June 1790, Box 1, Folder 2, Series A: Incoming Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

<sup>86</sup> From Jeremiah Olney and William Ellery to the Honorable the Legislature of the State of Rhode Island, 6 September 1790, Box 1, Folder 1, Series B: Outgoing Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

<sup>87</sup> From Jeremiah Olney to Benjamin Lincoln and Charles Tillinghast, 10 September 1790, Box 1, Folder 1, Series B: Outgoing Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

<sup>88</sup> From William Ellery to Jeremiah Olney, Box 1, Folder 3, Series A: Incoming Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

under the British system, it is not surprising that Welcome Arnold's default reaction to every problem in the port was to blame the customs collector rather than find fault in his own actions.

### **The Legal Trouble**

At first, things went the routine way – or as routine as it can be in a brand-new customs system. On November 7, 1792, the day after the allegedly fraudulent transfer of wine and molasses from Welcome Arnold to Edward Dexter, Olney sent a note to the latter. The collector informed Dexter that his bond request was refused on the grounds of “Probability that Said Transfer was made with design to evade the law.”<sup>89</sup> As the procedure went, the refusal to pay duties allowed Olney to detain *Neptune* and her cargo until a resolution could be found. Meanwhile, Arnold managed to resolve the problem with his outstanding bond (the reason he had gone for that collusive transfer in the first place). His reputation was now cleared of wrongdoing, and his credit restored. As a result, Olney accepted a bond from Edward Dexter as payment of duties for *Neptune's* cargo.

Things could have ended there, but Welcome Arnold was not about to let the matter be. Two weeks later, Arnold and Edward Dexter sued Olney in the Court of Common Pleas of Providence County, asking for £200 in damages to *Neptune* and the cargo and £100 for loss of profit.<sup>90</sup> Jeremiah Olney, a customs collector and federal employee, was now a defendant in a civil suit. This situation was likely a first for both Olney and Hamilton – a federal employee being sued for his work performance and interpretation of law.

For Arnold, it was a conflict between himself, a merchant, and Olney, a customs collector who overstepped his bounds and caused him material damage. But for Olney and

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<sup>89</sup> “From Jeremiah Olney to Edward Dexter,” 7 November 1792, *DHSC*, 577-578.

<sup>90</sup> “Olney v Arnold; Olney v Dexter,” 569.

Hamilton, it was the test of the federal financial system and its ability to bite back at the violators. “It is of great moment,” Olney wrote to Hamilton, “that Such Collusive Transfers (ment to seek a Credit in evasion of the Law) be effectually Checked in their infancy.”<sup>91</sup>

Hamilton promised Olney the full support of the federal government, including the coverage of his legal expenses.<sup>92</sup>

When the district court of Providence County rendered a judgment in favor of Olney, Arnold and Dexter did not give up, though they were, according to Olney, “extremely mortified and Disappointed in the Issue.”<sup>93</sup> They appealed to the Rhode Island Superior Court of Judicature. Now that the case went to a state court, Olney’s transgression was no longer a “Citizen & Citizen” conflict for Arnold – it was an assault of the federal government on the state of Rhode Island.

In January 1793, while the case was ongoing, a group of prominent merchants of Providence signed a petition calling for an impeachment of Olney as a collector. In addition to criticizing his conduct, the merchants summarized their grievances with the federal government. The petition began with an emphasis on the invaluable help that Rhode Island merchants provided to federal politicians in getting their state to join the union, as well as claiming to “venerate” the laws. In the very next paragraph, those same laws are referred to as “really doubtful in their construction,” “in many instances not fully understood by the Citizens or the Collector himself,” “to the highest degree penal,” and causing “a variety of unnecessary and

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<sup>91</sup> “To Alexander Hamilton from Jeremiah Olney, 28 November 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-13-02-0108>.

<sup>92</sup> “From Alexander Hamilton to Jeremiah Olney, 27 November 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-13-02-0102>.

<sup>93</sup> “To Alexander Hamilton from Jeremiah Olney, 27 December 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-13-02-0198>.

perplexing embarrassments.” The merchants claimed that Rhode Island customs collectors followed the law much more strictly than their colleagues in other states.<sup>94</sup>

Whether or not that last part was true, merchants complained everywhere. In 1789, collector Charles Lee of Alexandria informed the Treasury Secretary that “my conduct has appeared rigid, and the Merchants have not been well pleased.”<sup>95</sup> In 1791, New York City collector John Lamb informed Hamilton that the local merchants were “much disgusted” by the new duties and threatened to turn to smuggling.<sup>96</sup> In 1792, the merchants were so displeased with collector William Heth that they petitioned Congress for the removal not just of Heth but the entire office of customs collector in Bermuda Hundred, Virginia.<sup>97</sup> As Arthur Fenner, the governor of Rhode Island, put it, “The Merchants are all linked togethe[r] to push the Custom House officers down.”<sup>98</sup>

### Conclusion

Whether pressured by merchants or not, the Rhode Island Superior Court rendered a judgment against Olney. The judge did not assess damages, instead directing that task to the jury. Instead of waiting for that to happen, Olney – at Hamilton’s urging – had his defense team refer the case to the U.S. Supreme Court. Instead of continuing to press on about Olney’s conduct, Arnold’s attorneys argued that the case belonged back in Rhode Island and even demanded that

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<sup>94</sup> *Petition to Impeach Jeremiah Olney, Customs Collector*, January 31, 1793, Box 1, Folder 15, Series A: Incoming Correspondence, Records of the U.S. Customs House – Providence, Rhode Island Historical Society.

<sup>95</sup> “To Alexander Hamilton from Charles Lee, 24 December 1789,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-26-02-0002-0162>.

<sup>96</sup> “To Alexander Hamilton from John Lamb, January 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0341>.

<sup>97</sup> “To Alexander Hamilton from William Heth, 27 February 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-11-02-0060>.

The petition was not satisfied – Heth remained in office until 1802. *The First Officers of the United States Customs Service*, 9.

<sup>98</sup> “Olney v Arnold; Olney v Dexter,” 582.



the state legislature serve as a court for this case. *Arnold v Olney* thus became a test not only for the fiscal system but for the federal power over states. Both entities reigned victorious: the Supreme Court first affirmed that it had superiority over state courts and then made a decision in favor of Olney, even awarding him some damages.<sup>99</sup> Welcome Arnold's attempt to fight the federal machine was unsuccessful. Later, Congress added a clause to the new collection law (March 2, 1799) to discourage other merchants from trying the Arnold-Dexter trick, stating that all goods will be considered the property of the person they belonged to *prior* to the ship's entry and the payment of duties or signing of bonds "to prevent frauds arising from collusive transfers."<sup>100</sup>

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<sup>99</sup> "Olney v Arnold; Olney v Dexter," 571-577.

<sup>100</sup> *An Act to Regulate the Collection of Duties on Imports and Tonnage*, 675.

## **CHAPTER 3: WHISKEY, GUNS, AND THE FISCAL-MILITARY STATE**

### **Introduction**

The farmers of Western Pennsylvania were disturbed. By the Act of Congress of March 3, 1791, spirits distilled within the United States were now subject to a special tax – excise. After three years of mostly peaceful resistance – writing petitions and putting forth demands – the farmers resorted to a means well known to them since the revolutionary times: violence. They subjected tax collectors to beating and permanent injuries, burned their homes, and threatened their families. By doing so, the farmers challenged the federal government and the institution it was tirelessly laboring to construct: a fiscal-military state. President George Washington sent troops to suppress the rebellion, and although no actual battle happened – the farmers lay down their arms – the rebellion became the first test of the federal government’s strength and its commitment to building a fiscal-military state.

The same year as the resistance to excise started, the United States Army suffered a devastating defeat by the Western Confederacy of Native Americans in the Battle of the Wabash, which came to be known as St. Clair’s defeat. This embarrassment of the American military caused Congress and President Washington to evaluate the relationship between the Treasury and War Departments, as well as increase the enrollment numbers and military budget.

Whiskey Rebellion should be viewed as growing pains of the new fiscal system rather than some sort of unique form of resistance, a failure of the fiscal system, or an example of excise not being feasible in the U.S. Both Whiskey Rebellion and St. Clair’s defeat reinforced the ties between the fiscal and the military, as well as set the U.S. government on the way to

constantly increasing the military budget and accepting the reality that standing army was a necessity to protect the federal government from enemies foreign and domestic.

The introduction of the excise was a necessity for the federal government. While initially, Congress expected customs revenue to be enough to pay up on the national debts, the reality was disappointing. The money was not nearly enough, and the growing military threat from Native Americans added to the list of concerning expenses. Throughout the early to mid-1790s, Congress kept increasing duties and adding new ones, but there was only so much they could get out of merchants who were already unhappy with their mounting financial responsibilities. The federal government had to look for a new source of revenue, but, like with merchants, imposing a new tax burden on the American people came with a cost.

### **Whiskey Rebellion: “The Wicked Insurgents of the West”**

Life in the Pennsylvania backcountry was not easy. Grain was the primary produce of these lands, but the lack of good roads and navigable rivers caused the price of transportation to be so high that selling grain hardly yielded any profit. Grain was notoriously difficult to ship, and it was prone to rot and spoilage. Flour was little better – being transported by water, it could absorb moisture and grow mold, which could cause serious poisoning and even death.<sup>101</sup> And so, farmers found a remedy: distilling the grain and making it into whiskey – a compact, shippable, and non-perishable commodity.

For common Americans at the time, whiskey was more than just a way to make a living or to get drunk. In words of historian W.J. Rorabaugh, they saw whiskey as “as medication that could cure colds, fevers, snakebites, frosted toes, and broken legs, and as relaxants that

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<sup>101</sup> On the dangers of transporting flour, see Trevor Burnard and John Garrigus, *The Plantation Machine: Atlantic Capitalism in French Saint-Domingue and British Jamaica* (Philadelphia: University of Pennsylvania Press, 2018), 116.

would relieve depression, reduce tension, and enable hard-working laborers to enjoy a moment of happy, frivolous camaraderie.” Distilled beverages had the reputation of being healthy and nutritious. In many places, distilled alcoholic beverages were the main source of hydration: water was unclean and believed to cause diseases, tea was British, coffee and wine suffered from high customs duties, milk easily spoiled and occasionally gave people “milk disease” (cows that ate jimson weed made poisonous milk).<sup>102</sup>

### **The Basics of Excise**

Now it becomes clear why excise was so ruinous to Western Pennsylvania. So what is excise? In a 1774 letter to the inhabitants of Quebec, Continental Congress referred to it as “the horror of all free states.”<sup>103</sup> While customs duty, the previously chief source of income for the federal government, was a tax on the importation of goods, excise was a tax on the manufacturing of goods and a fee for a license to produce them.

Several decades before the Whiskey Rebellion, British politician Sir Robert Walpole was dealing with a similar set of public finance issues across the Atlantic. In 1711, the South Sea Company emerged as a joint-stock company whose main goal was reducing the country’s large national debt, the product of the Nine Years War (1688-1697) and the War of the Spanish Succession (1701-1714). The value of the Company’s stock skyrocketed, even though the venture did not bring any real profit. Soon, the joint-stock company turned into a financial bubble whose explosion left the British economy in ruins. As William Coxe, British historian

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<sup>102</sup> W.J. Rorabaugh, *The Alcoholic Republic: An American Tradition* (New York: Oxford University Press, 1979), 25, 95-100.

<sup>103</sup> James Callender, *A Short History of the Nature and Consequences of Excise Laws* (Philadelphia: Printed for Thomas Stephens, 1795), 89.

and Walpole's contemporary, put it, "England had never experienced so total a destruction of credit, never was any country in so violent a paroxysm of despondency and terror."<sup>104</sup>

The nation still struggled with a massive debt and needed solutions. Robert Walpole, the British Prime Minister and the Chancellor of the Exchequer, set out to address the situation. He was just in the right position to do that: he had the king and influential London financiers on his side, as well as the majority of the Parliament.

As Britain was a largely agricultural country at the time, the rate of the land tax was quite high. In the early 1720s, Walpole announced his plans to lower the land tax so that the nation's producing class had less of a burden on it. His support for the farmers, however, was not necessarily sincere. "Walpole devoted himself to this objective by playing the country squire, by outrageously indulging in farmyard metaphors with an enhanced Norfolk accent, by keeping the Land Tax low and by a pacific foreign policy," writes British historian Frank O'Gorman.<sup>105</sup> Having passed for the country squire, the Prime Minister proposed other sources of national income: higher import duties and excise (tax on production) on distilled spirits (1733).

"Now where can a Tax be more reasonably laid, than upon Commodities not necessary to human Life, but only used through Custom and Luxury?" Walpole asked the public. "If Particulars cannot pay for such, why do they use such? If they will have them, 'tis plain they can pay for them."<sup>106</sup> The excise was not only a means of taxation but also a way to ensure the quality of the product. Former subjects of the British Empire had reason to be wary of wines.

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<sup>104</sup> William Coxe, *Memoirs of the Life and Administration of Sir Robert Walpole, Earl of Orford, Vol. 1* (London: Printed for T. Caddell, Jr., and W. Davies, in the Strand, 1798).

<sup>105</sup> Frank O'Gorman, *The Long Eighteenth Century: British Political and Social History, 1688-1832* (London: Bloomsbury, 2016), 96.

<sup>106</sup> Robert Walpole, *Some General Considerations Concerning the Alteration and Improvement of Publick Revenue* (London: Printed for J. Roberts in Warwick Lane, 1733), 16-17.

One London correspondent put it about pub wine, “most of the wines served in pubs are clandestinely made” and are “nothing but a poisonous composition of unknown materials.”<sup>107</sup>

In 1730s Great Britain, the excise proposal from Chancellor of the Exchequer Robert Walpole faced the strongest opposition that presaged the American response fifty and more years later. Those against Walpole’s excise started a pamphlet war against the minister, arguing that instead of helping “the people,” he had violated their right to buy gin, as the burden of the tax would ultimately fall on the consumer. Smaller producers whose distilleries were adjacent to their houses were worried about the excise officers entering their homes. The excise bill did not pass easily through the Parliament, facing a long struggle. Intellectuals, tobacco and alcohol producers, and the populace alike expressed their displeasure. “In the streets the attack was carried on with vigorous success. Scurrilous ballads were cried about and sung, folk were delighted with pictures of the wicked Walpole iniquity and his power,” writes Raymond Turner. Public outrage turned into an uprising, much like the Whiskey Rebellion would be later. Only the King’s support helped Walpole survive the crisis.<sup>108</sup>

Excise in America faced a similarly tumultuous path. In 1782, tasked with an insurmountable task of paying on the war loans while states slacked off paying their federal taxes, Superintendent of Finance Robert Morris proposed three measures to help the cash-strapped Continental Congress gain revenue: land tax, poll tax, and excise. According to Morris, land tax was hugely unpopular in a largely agrarian country, poll tax raised concerns about

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<sup>107</sup> Anonymous, *A Letter from a Member of Parliament to His Friends in the Country Concerning the Duties on Wine and Tobacco* (London: Printed for T. Cooper, in Ivy-Lane, 1733), 16. The authorship of the pamphlet is commonly attributed to Walpole.

<sup>108</sup> Anonymous, *A Letter from a Member of Parliament*, 26.

Raymond Turner, “The Excise Scheme of 1733,” *The English Historical Review* 42, no. 165 (1927): 39.  
Paul Langford, *The Excise Crisis: Society and Politics in the Age of Walpole* (Oxford: Clarendon Press, 1975), 6-7.  
O’Gorman, 102-103.

equality and democracy, while excise “can produce no ill consequences” because taxing alcohol was morally right and would not hurt any social group disproportionately.<sup>109</sup> The Continental Congress required a unanimous vote, which Morris failed to achieve, so his excise proposal did not pass. Years down the line, Morris would learn just how far from the truth his statement was.

### **Drinking Down the National Debt: Excise Debates in Congress**

During the 1780s, it became evident that paying off the debt with only customs duties as originally planned was unrealistic. The excise bill went through two cycles of House debates, in 1790 and 1791 – first, a failure, and then, a success. What is interesting about the two excise debates at the House of Representatives – 1790 and 1791 – is that they represent a growing polarization which eventually would result in the two-party system based on Congressmen’s opinion on the fiscal-military state.

The first debate, taking place in the June of 1790, coincided with the argument over the assumption of Revolution-era state debts by the federal government. The June 21 vote on the excise bill happened the day after the notorious Dinner Table Bargain whereby Alexander Hamilton, James Madison, and Thomas Jefferson agreed that Southerners would not oppose the assumption plan in exchange for the new capitol’s location being in the South. The assumption of state debts would allow the United States to develop uniform policies of taxation and debt repayment, filling creditors with confidence and building up the nation’s financial reputation – but at the expense of the states having to submit to the federal machine and accept its tax requirements.

Hamilton, the main advocate for the assumption plan, had already thought through how the federal government was going to repay all that assumed debt, and excise was a part of

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<sup>109</sup> *Journals of Continental Congress*, Vol. 22, 441.

the plan. In his Report on Public Credit of January 1790, Hamilton proposed an excise on spirits distilled in the United States from foreign and domestic materials.<sup>110</sup> Hamilton favored the excise as an option because distilled spirits were popular among all classes, which he believed made it more egalitarian than other taxes, as well as a plentiful source of revenue – a callback to Morris’s earlier report. He gathered that Congressmen would not be able to oppose the idea for moral and financial reasons. “Should the increase of duties tend to a decrease of the consumption of those articles,” the Secretary claimed, “the effect would be, in every respect desirable.” A whiskey tax would make the prices of whiskey and rum (the latter being affected by import duties on molasses) comparable, so Hamilton would get the support of New England where rum distilling was widespread. Congress did not adopt the excise right away, busy with organizing a new government and hoping to get by on import duties. Hamilton’s tariff bill was defeated in the House: both New England and the South hated it. Several congressmen vaguely suggested that there must be other, better ways to get revenue than excise. A committee was formed to find those other ways, but nothing came out of it.<sup>111</sup>

Several months later, in January 1791, the excise bill came up again in the House. It took another report from Hamilton for it to get there. The so-called First Report on Public Credit and Second Report on Public Credit, i.e. the Report on National Bank, are well known, but there was another report in between them, not as glamorous but arguably equally important. In *First Report on the Further Provision Necessary for Establishing Public Credit*, submitted in

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<sup>110</sup> Alexander Hamilton, “Report Relative to a Provision for the Support of Public Credit, [9 January 1790],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0076-0002-0001>.

<sup>111</sup> “Report Relative to a Provision for the Support of Public Credit.”

For the 1790 debate, see: “Distilled Spirits,” *Annals of Congress* 2, H 1694-1695; “Duty on Spirits,” *Annals of Congress* 2, H 1698-1700. For the 1790 vote, see: “Duty on Spirits,” *Annals of Congress* 2, H 1700.

For the 1791 debate, see “Wednesday, January 5. Duties on Spirits,” *Annals of Congress* 2, H 1890-1893; “Duties on Spirits,” *Annals of Congress* 2, H 1893-1900. For the 1791 vote, see: “Thursday, January 27,” *Annals of Congress* 2, H 1933-1934.

Rorabaugh, *Alcoholic Republic*, 51-52.



December 1790, Hamilton pointed out a growing problem: there was a troubling disparity between the amount of revenue the federal government expected to collect during the year 1791 and the amount it needed to pay towards the interest on the assumed state debts that would begin to accrue after 1791. Hamilton preliminarily addressed common objections to an excise by essentially repeating what Morris had argued in his report – this, however, did little to prevent a heated debate in the House.<sup>112</sup>

The bill was the very same one from 1790 – one Congressman even argued that there was no need to waste time reading it again (that idea was rejected). The 1790 debate did not show any clear party split, and the objections were often half-hearted or vague, citing procedural reasons, uncertainty of the assumption debate in the Senate, or just doubting the necessity of a new source of revenue. Now, the objectors went on tirades, attacking the very idea of excise and bringing up examples. James Jackson of Georgia called the measure “odious, unequal, unpopular, and oppressive, more particularly in the Southern States.” He even gave a brief summary of excise in Britain and concluded that “we are too much in the habit imitating that country” and “the time will come when a shirt shall not be washed without an excise.” (1890-1) Josiah Parker, a Virginian, warned that adopting an excise would “let loose a swarm of harpies... prying into every man’s house and affairs.” (1891-2) James Madison and Thomas Fitzsimmons (Pennsylvania) pointed out that, like it or not, the government needed the cash, and Samuel Livermore (New Hampshire) approved the excise as a mode of revenue which the people would see as “drinking down the national debt.” (1896)

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<sup>112</sup> “Final Version: First Report on the Further Provision Necessary for Establishing Public Credit, [13 December 1790],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0227-0003>.

See *Annals* vol.2, 1875-1876 for the discussion of Hamilton’s report; *Annals* vol. 2, 1933-1934 for the debate.

On January 27, 1791, the excise bill passed. A comparison between the two House votes over the

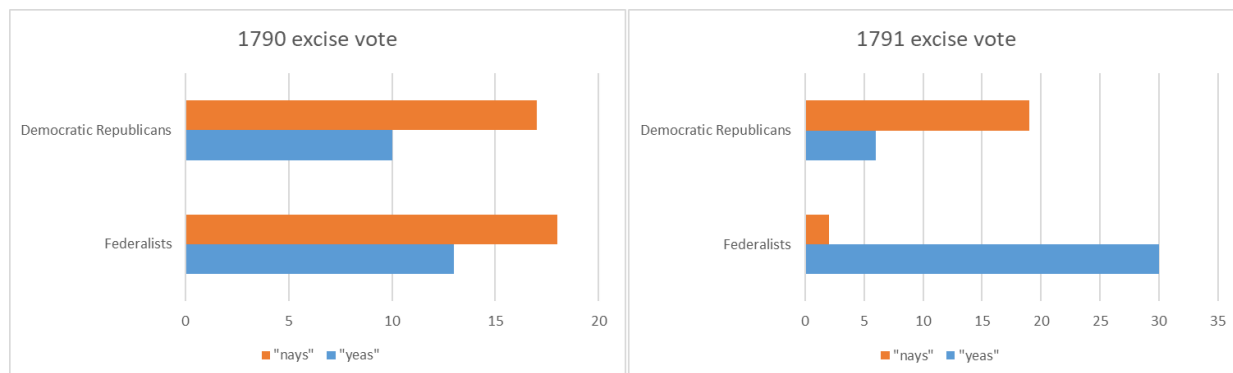


Figure 1: 1790 vs 1791 excise vote. Source: *Annals of Congress, The Historical Atlas of Political Parties*.<sup>113</sup>

same excise bill which took place seven months apart and featured mostly the same voters (aside from a few absences) reveals an interesting trend. While in 1790, the yeas and nays were largely unrelated to party divisions, the 1791 chart presents an almost perfect party alignment, with several representatives having voted differently than last time. By January 1791, the assumption debate was over, having polarized the members of Congress and caused a clearer divide over whether or not the federal government should have more power over states and citizens than it previously had. The two parties formed along the lines of being pro and against the significant attributes of a fiscal-military state: strong central power, federal taxes, and a military force at the federal government's disposal that those taxes support. This comparison between the two House debates is one of the examples of this phenomenon in progress.

<sup>113</sup> Note: the Federalist and Democratic Republican parties were still forming at the time, but I categorized pro-administration people as Federalists and their opponents as Democratic Republicans. One of the representatives, Josiah Parker of Virginia, switched from anti- to pro-administration, but that happened after the second excise vote. "Duty on Spirits," *Annals of Congress* 2, H 1700.

"Thursday, January 27," *Annals of Congress* 2, H 1933-1934.

For political affiliations, see Kenneth C. Martin, ed., *The Historical Atlas of Political Parties in the United States, 1789-1989* (New York: Macmillan Publishing Company, 1989), 70-73.

Democratic Republicans were disappointed with the introduction of yet another lever of federal control. William Findley, one of the chroniclers of the Whiskey Rebellion and its ardent supporter, claimed that “Many of the uninformed people, being told by the warm advocates of the federal government that after it was ratified we would have no more excises considered the excise law therefore unconstitutional. ...It is not easy to convince people that a law, in their opinion unjust and oppressive in its operation, is at the same time constitutional.”<sup>114</sup> However, Article I, Section 8 of the U.S. Constitution states that “Congress shall have Power To lay and collect Taxes, Duties, Imposts and **Excises**, to pay the Debts and provide for the common Defence and general Welfare of the United States.”<sup>115</sup> Excise was constitutional, but opponents would soon find that attacking its constitutionality was not the only way to combat it.

### **“Swarm of Harpies” at Work**

On March 3, 1791, Congress passed an act regulating duties on distilled spirits, both imported and distilled within the United States. The tax would be charged on gallons of produced distilled spirits, as well as on the stills used for their production. For the imported spirits, nothing would change: this type of duty already existed, and there were customs officers equipped to collect it. The domestic spirits, however, required a new structure of tax collection, one not based in ports.<sup>116</sup> Secretary Hamilton prepared a helpful document for Congress, explaining how it was going to work: revenue districts – already existent, coinciding with state borders, and led by district supervisors. Districts were to be divided into surveys of inspection, with smaller or less populated states each forming one survey. In the rest of the states, surveys consisted of one or

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<sup>114</sup> William Findley, *History of the Insurrection in the Four Western Counties of Pennsylvania in the year M.DCC.XCIV* (Philadelphia: Samuel Harrison Smith, 1796), 43.

<sup>115</sup> Emphasis mine. U.S. Constitution, art. 1, sec. 8, cl. 1.

<sup>116</sup> *An Act repealing the Duties Laid upon Distilled Spirits*, Public Law 110, *U.S. Statutes at Large* 1 (1791): 199-214.

several counties. Surveys were headed by inspectors who answered to district supervisors. Inspectors of surveys, same as customs inspectors, were given both a salary and a commission from the duties they collected, thus making them financially incentivized to charge the maximum extent of duties. Inspectors of surveys were assisted by county tax collectors, the number of them per county being left to the discretion of the district supervisor.<sup>117</sup>

Whereas before, federal tax collection happened in the ports of entry, only angering rebellious merchants like Welcome Arnold, now the federal tax collector existed on a county level and could appear at a common American's threshold, and in some cases, even cross it. For frontier people, the only taxes they had experience with had been local and state ones, established by the people they often knew, or at least people who had some knowledge of their local situation and could claim some commonality with them. Now, the fiscal-military state was digging its hands into their lives, into their pockets, either not understanding or uncaring about their economic hardship.

### **“Distillers through Necessity, Not Choice”**

Shortly after the passage of the excise law, state governments began protesting excise, claiming, among other things, that it made domestic alcohol more expensive than imported one, which was counterintuitive to protectionism.<sup>118</sup> For instance, in November 1791, Baltimore distillers were “praying for a reduction of duties and farther revision and amendment of the act.” The distillers of Salem, Massachusetts, asked for the same thing, and those of Kentucky requested that the act get altogether suspended in their district. The four westernmost counties of

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<sup>117</sup> Alexander Hamilton, “Spirits, Foreign and Domestic, Communicated to Congress, Nov.1, 1791,” in *The New American State Papers: Public Finance*, vol. 29, 23-24.

<sup>118</sup> Mary K. Bonsteel Tachau, “A New Look at the Whiskey Rebellion,” in *The Whiskey Rebellion: Past and Present Perspectives*, ed. by Steven R. Boyd (Greenwood Press, 1985), 98-99.

Pennsylvania – Washington, Westmoreland, Fayette, and Allegheny – also put forth a petition requesting the suspension of the excise act – this would not be their last one.<sup>119</sup>

By November 1791, only a few months after the law came into effect, Congress was so flooded with protest petitions (from state governments, private entities, and individuals) that the House asked Hamilton to prepare a report outlining the main objections to excise. Hamilton found it necessary to argue with the objectors, dismissing their main concerns, particularly the statement from the distillers of the Western Counties of Pennsylvania insisting that it was unfair to tax their only marketable commodity. The Secretary reminded, not without bitterness, that “more money has in the course of the last year been sent into the western country from the Treasury... for the pay of the troops and Militia...” (for their protection from Native Americans) “than the whole amount of the tax in the four western counties of Pennsylvania and the district of Kentucky is likely to equal in four or five years.” Still, he made some suggestions to please petitioners, including establishing permanent inspection offices in every county to keep records and issue licenses.<sup>120</sup> After the Secretary’s report, in 1792, Congress updated the law, taking several of the suggestions. The excise duties on domestic distilled spirits were lowered while the import duties on spirits increased dramatically, with the grain-based liquors being singled out and taxed higher (see Figure 2).<sup>121</sup>

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<sup>119</sup> *Journal of the House of Representatives*, 2nd Congress, 1st session (Washington: Gales and Seaton, 1826), 453, 455, 458.

“Pittsburgh, September 10,” *Pittsburgh Gazette*, Sep 10, 1791.

<sup>120</sup> Alexander Hamilton, “Report on the Difficulties in the Execution of the Act Laying Duties on Distilled Spirits, [5 March 1792],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-11-02-0079>.

<sup>121</sup> Excise Act 1792.

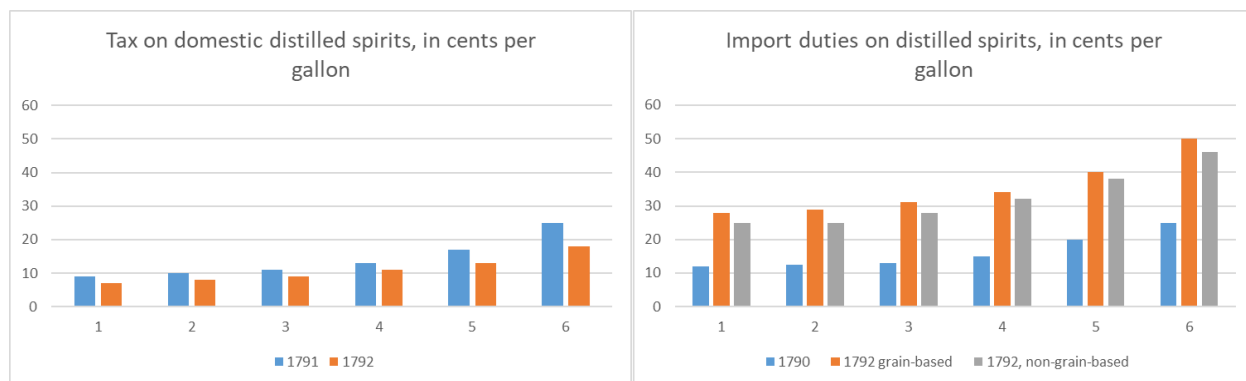


Figure 2: Changes in taxes on domestic and imported distilled spirits. Numbers 1 through 6 refer to classes of proof (alcohol content in the distilled beverage), with 1 being the lowest (40% and lower) and 6 being the highest (90% and higher). Based on data from Acts of Congress.<sup>122</sup>

Keeping in mind the accusation of harming domestic manufactures with the tax, Congress lowered excise rates on domestic distilled beverages and significantly increased customs duties on the imported ones, adding a special provision for the grain-based ones which were taxed higher. This protectionist measure still failed to satisfy the whiskey producers. It was not the monetary amounts and the record-keeping difficulties that the petitioners had a problem with but the duty itself.

Some of the opponents of excise tried legal means: petitions, articles in newspapers, letters to and meetings with public officials on the county, state, and federal level. In August 1792, the four counties prepared a new petition, entrusting Anti-Federalist politician Albert Gallatin with writing the text. Gallatin pointed out that the tax was not progressive (varying amounts based on amount of property) but affected everyone equally, therefore being harder on the poor. He claimed that the public did not have proper information about the federal deficit and how much the excise would help remedy it. Once again, Gallatin reiterated that cash (to pay the

<sup>122</sup> *An Act repealing, after the Last Day of June Next, the Duties Heretofore Laid upon Distilled Spirits Imported from Abroad, and Laying Others in their Stead*, Public Law 110, *U.S. Statutes at Large* 1 (1791), 199-214. *An Act Concerning Spirits Distilled within the United States*, Public Law 191, *U.S. Statutes at Large* 2 (1792), 267-271.

excise) was scarce in the frontier lands – something Hamilton had dismissed in his report. “We have no means of bringing the produce of our lands to sale either in grain or in meal. We are therefore distillers through necessity, not choice,” Gallatin reminded the federal government.<sup>123</sup>

Congress, like Hamilton, repeatedly emphasized that the excise money, as well as the alcohol import duties, would go to the protection of frontiers. The first excise act of 1791 specified that the revenue would go to the payment of interest on U.S. government’s loans.<sup>124</sup> In 1792, things changed. The *May 2 Act for Raising a Sum of Money for the Protection of Frontiers* listed increased import duties for the aforementioned purpose.<sup>125</sup> The 1792 excise act (May 8) referenced the May 2 act and reiterated that the excise income would cover the expenses of protecting the frontiers.<sup>126</sup> Protesters did not even mention frontier protection as a factor. It was unclear if they were even aware of it, much less whether they trusted it. The struggle against excise represented the same problem that the British government had encountered in the colonial days: white residents requiring military protection by the central government from Native Americans, on whose soil they encroached, while being dissatisfied with indirect taxes intended to cover that protection. Now the federal government had to tackle that issue with the same ferocity that the British once had, while desperately avoiding comparisons with the former metropole, eagerly drawn by the unhappy taxpayers.

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<sup>123</sup> Albert Gallatin, “1792. Petition Against Excise,” *The Writings of Albert Gallatin*, Vol. 1, ed. by Henry Adams (Philadelphia: J.B. Lippincott, 1879), 2-4.  
Hamilton, “Report on Difficulties.”

<sup>124</sup> *An Act repealing, after the Last Day of June Next, the Duties Heretofore Laid upon Distilled Spirits Imported from Abroad, and Laying Others in their Stead*, Public Law 110, *U.S. Statutes at Large* 1 (1791), 213.

<sup>125</sup> *An Act Raising a Farther Sum of Money for the Protection of the Frontiers*, *U.S. Statutes at Large* 2, Public Law 162 (1792), 259-263.

<sup>126</sup> *An Act Concerning Spirits Distilled within the United States*, Public Law 191, *U.S. Statutes at Large* 2 (1792), 270.

George Clymer, the revenue supervisor for the district of Pennsylvania, attributed that dissatisfaction to the obnoxious character of frontier people: “All their men of distinction are either sordid shopkeepers, crafty lawyers or candidates for office, not inclined to make personal sacrifices to truth or honour... The duties of Citizenship are but poorly understood, or regarded where the moral sense is so greatly depraved as it is in this Country, by the intemperate use of the favourite drink.”<sup>127</sup> It seemed that Hamilton and his subordinate revenue officials had little respect or desire to negotiate with the backcountry folks – a stark contrast to the way they treated disagreeable merchants like Welcome Arnold or speculators and fraudsters like William Duer.

Whiskey producers could not be swayed by protectionism and lowered excise rates because it was not the amount of money they were concerned with but several other, much more pressing issues. One of them was the very fact that the federal government dared to tax them, something Great Britain had done to its detriment. In the words of a committee of delegates from the Western counties gathered in Pittsburgh in September 1791, “It is a bad precedent, intending to introduce the excise laws of Great Britain, and of countries where the liberty, property, and even the morals of the people are sported with to gratify particular men in their ambitious and interested measures.”<sup>128</sup>

Another problem was the fact that federal officers had access to their farms to check the equipment and the amount of whiskey produced, as well as measure the alcohol content: “Internal taxes upon consumption, from their very nature, never can effectually be carried into operation, without vesting the officers appointed to collect them with powers most dangerous to

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<sup>127</sup> “To Alexander Hamilton from George Clymer, [10 October 1792],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-12-02-0378>.

<sup>128</sup> Pittsburgh Gazette, Sep 11, 1791. *Oliver Wolcott Papers*, Connecticut Museum of History and Culture, box 9, folder 10.



the civil rights of freemen, and must in the end destroy the liberties of every country in which they are introduced,” as resolved by another meeting of Pennsylvania distillers.<sup>129</sup>

The protestors despised the federal court system, which reminded them of being sent to England for trial at the beginning of the American Revolution. “By the constitution of the United States, a new wheel is introduced into the federal machine, to which the union was before a stranger, and which is not necessary to its genuine motion,” argued a citizen from Washington County, Pennsylvania. The wheel he referred to was the federal courts. The fight for American independence was supposed to protect Pennsylvanians from being summoned to a distant court, and now “a citizen of Pittsburgh may be summoned to Philadelphia and tried by a jury of that city.”<sup>130</sup> Whiskey Rebellion was a test of the federal fiscal machine, the same way Welcome Arnold’s resistance had been earlier. Both sides recognized that.

None of these objections were addressed by Hamilton or Congress, and the 1792 excise law did nothing to satisfy the rebels, so their resistance remained unwavering. In August 1792, several months after the passage of the law, another meeting took place in Pittsburgh. This time, in addition to putting together a new petition to Congress, attendees resolved to “have no intercourse or dealings with” federal tax collectors, “withdraw from them every assistance, and withhold all the comforts of life which depend upon those duties that as men and fellow citizens we owe to each other, and upon all occasions treat them with that contempt they deserve.”<sup>131</sup>

Not all whiskey rebels subscribed to the reserved statements of the Pittsburgh petitions – some of them found the tactics of the Sons of Liberty more effective. On September

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<sup>129</sup> “At a Meeting of Sundry Inhabitants of the Western Counties of Pennsylvania, held at Pittsburgh, on the 21st day of August, 1792.”

<sup>130</sup> Pittsburgh Gazette, Dec 11, 1791.

<sup>131</sup> “At a Meeting of sundry Inhabitants of the Western Counties of Pennsylvania, held at Pittsburgh, on the 21st day of August, 1792.”

6, 1791, exciseman Robert Johnston of Washington and Allegheny Counties, was attacked by a group of men, some of whom were cross-dressed. The assailants “treated with such marks of disgrace, as... during the war, were bestowed on enemies and their country” – an anonymous writer’s gentle way of saying “tarred and feathered.”<sup>132</sup> His supervisor General Nevill, a survey inspector, suggested that the goal of the attackers was to “abuse collectors secretly and by this means deter others from serving.” Later, Nevill made a statement that ended up being prophetic: “I am now fully convinced it will be impossible to carry the law into effect without an armed force.”<sup>133</sup>

The 1792 excise act did nothing to deter the radical resistance to the excise – in fact, the violence only intensified. According to Hamilton, the excise objectors had complained that there were not enough excisemen to cover every town, which led to difficulties in assessing and paying the tax, causing taxpayers to be accused of evasion. The 1792 law corrected that by establishing a specific number of local excise offices (the 1791 law left that number to the

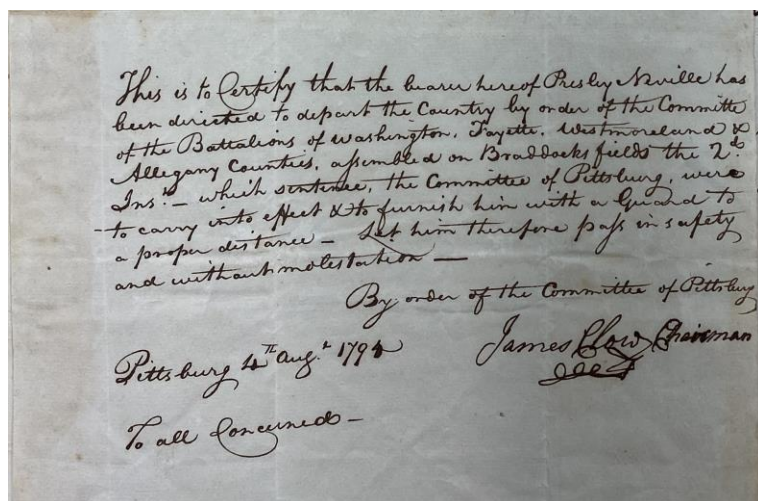


Figure 3: A “passport” issued to Col. Presley Nevill(e), son of General Nevill, by the self-proclaimed regulatory organ of the rebels. Col. Neville was to depart the Western counties of Pennsylvania and be allowed free passage to do so.<sup>134</sup>

<sup>132</sup> “A Citizen,” *Pittsburgh Gazette* Nov 8., 1791, Box 9, Folder 10, *Oliver Wolcott Jr. Papers*, Connecticut Museum of Culture and History.

“From Alexander Hamilton to George Washington, 2 September 1794,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-17-02-0146>.

<sup>133</sup> Nevill to Clymer, Sep 15, 1791.

Nevill to Clymer, Nov 1, 1791.

<sup>134</sup> “August 4, 1794,” Box 9, Folder 13, *Oliver Wolcott Papers*, Connecticut Museum of Culture and History.

discretion of the supervisor). Now that there were more officers, the rebels ramped up the tarring and feathering, attacking excise officers, people suspected of being officers, and even landlords and those who provided services to officers.<sup>135</sup> Not only that, but rebels united into committees and exiled suspected excise supporters from their counties, had armed confrontations with them, destroyed their property, and even stole and inspected mail to establish whether someone was an excise supporter. Inspector Nevill himself ended up attacked and exiled, along with his son Colonel Presley Nevill, and so did other officers.<sup>136</sup>

The rebels did not just refuse to pay the excise. They organized their own governments, held their own judicial proceedings, issued what were essentially immigration documents, violently challenged the authority of officers, and intercepted mail. They attacked almost every vestige of federal power with systemic resistance, and their opponents understood the magnitude of these actions. In a letter to his sister-in-law Angelica Church, Hamilton referred to the whiskey rebels as “the wicked insurgents of the West” and claimed that “the insurrection will do us a great deal of good and add to the solidity of every thing in this country.”<sup>137</sup> In early August 1794, the President, the Cabinet, and Pennsylvania state officials gathered for a

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<sup>135</sup> Neville to Clymer, May 24, 1793; June 7, 1793, Box 9, Folder 11, *Oliver Wolcott Jr. Papers*, Connecticut Museum of Culture and History.

Neville to Clymer, June 13, 1794, Box 9, Folder 12, *Oliver Wolcott Jr. Papers*, Connecticut Museum of Culture and History.

“From Alexander Hamilton to George Washington, [5 August] 1794,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-17-02-0017>.

<sup>136</sup> “From Alexander Hamilton to George Washington, 2 September 1794,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-17-02-0146>.

“Col. Presley Neville Passport, August 4, 1794,” *Oliver Wolcott Jr. Papers*, Box 9, Folder 13, Connecticut Museum of Culture and History.

“Meeting of the Committee of Twenty-One,” Box 9, Folder 13, *Oliver Wolcott Jr. Papers*, Connecticut Museum of Culture and History.

<sup>137</sup> “From Alexander Hamilton to Angelica Church, 23 October 1794,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-17-02-0324>.

conference to decide what to do with the whiskey rebels. According to Hamilton, “now the crisis was arrived when it must be determined whether the Government can maintain itself, and that the exertion must be made, not only to quell the rioters, but to protect the officers of the Union in executing their offices, and in compelling obedience to the laws.”<sup>138</sup> Both sides understood that it was not a case of aggravated tax evasion – it was a challenge to the fiscal-military state, a test of its power.

Congress passed a series of laws as the threat of an open rebellion grew. The laws enabled the president to call forth militia, including at a moment’s notice, to suppress insurrections. However, the rebellion folded as soon as the federal army closed in on them. What followed was a long set of trials which resulted in only two convictions. President Washington pardoned both people – one on account of mental troubles, the other of cognitive decline.<sup>139</sup>

Like with Welcome Arnold, there was a tense negotiation of authority between the federal and state court. Even the Pennsylvanians who did not support the rebels were still against the suspects being prosecuted by the federal courts. Alexander Addison, the president of the Circuit Court for the rebellious counties, argued that it had to be Pennsylvania courts that prosecuted the rebels, arguing that the state was “perfectly capable” of rendering judgment. His efforts were unsuccessful, but his protest echoed the rebels’ suspicion of the federal judicial power.<sup>140</sup>

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<sup>138</sup> “Conference Concerning the Insurrection in Western Pennsylvania, [2 August 1794],” Founders Online, National Archives, <https://founders.archives.gov/documents/Hamilton/01-17-02-0009>.

<sup>139</sup> Acts of Congress, vol. 1, 121, 222-223, 241; vol. 2, 264-265.

Richard A. Ift, “Treason in the Early Republic: The Federal Courts, Popular Protest, and Federalism During the Whiskey Insurrection,” in *The Whiskey Rebellion: Past and Present Perspectives*, ed. by Steven R. Boyd (Westport, CT: Greenwood Press, 1985), 176.

<sup>140</sup> Ift, “Treason in the Early Republic,” 166-168, 177.

The Whiskey Rebellion was a complex event that does not receive enough attention because it happened between two events that eclipse it: the American Revolution and the Civil War. There are different interpretations of the rebellion. James Kirby Martin referred to the excise as “the whiskey tax” and presented the rebellion as a conflict between the struggling farmers and the federal administration. For a long time, historians took sides, arguing whether the rebels or the federal government was right. Forrest McDonald dismissed the rebels and their concerns and attributed the rebellion to the hotheadedness of the populace and the power hunger of their leaders. Richard Cohn called the Whiskey Rebellion “a clear-cut case of the failure of law and necessity of coercion.” Jacob E. Cooke attributed the conflict to the differences in the interpretation of liberty and law and order. Saul Cornell characterized the event as a clash between federalism and localist democracy. Richard Ift characterized the situation as “the growing pains of federalism,” but to him, the main problem was the tension between the state legislatures and state courts on one side and the federal government on the other side.<sup>141</sup> I consider the Whiskey Rebellion another of the growing pains of the taxation system, similarly to the conflict between Welcome Arnold and Jeremiah Olney. Excise was not just a whiskey tax, it was part of a well-developed financial system, and there were protests against most elements of that system. In the case of Western Pennsylvania, those protests simply took a more violent form. There was no right or wrong side – just a side effect of an emerging fiscal-military state.

### **A Loss for General St. Clair, a Win for the Fiscal-Military State**

Both European and American thinkers were suspicious of the fiscal-military machine before the Revolutionary War even began. Whig historians of the eighteenth century frequently

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<sup>141</sup> *Whiskey Rebellion: Past and Present*, 4, 9, 19-20, 21, 177.  
Saul Cornell, *The Other Founders*, 213.

compared England to Rome, citing standing armies as a sign of tyranny and oppression. Irish historian Oliver Goldsmith wrote in his *Roman History*, “The militia of ancient Rome made her Mistress of the World; but standing armies enslav’d that great people, and their excellent Militia, and Freedom perish’d altogether.”<sup>142</sup> Thomas Jefferson frequently spoke about the good old Saxons with their simple farming life being ambushed by oppressive Normans with their standing army – a popular idea among British Whigs supported even by the more conservative David Hume.<sup>143</sup> John Adams stated that England “is loaded with debts and taxes, by the folly and iniquity of its ministers... Both electors and elected are become one mass of corruption; ...the nation is oppressed to death with debts and taxes, owing to their own extravagance and want of wisdom.”<sup>144</sup>

Despite the historical anxiety over standing armies, the inevitable parallel with the old metropole, and the resistance of various political establishments, the fiscal-military state could not exist without its military arm, and Americans would soon forget their fear of professional troops. Proclamation by the Confederation Congress of April 12, 1785 established the size of the federal standing army as 700 servicemen. It also said that the commissioners of treasury would arrange for supply contracts according to the requests from the secretary at war, so army procurement was a joint affair, with the War Department calling the shots.<sup>145</sup> The War

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<sup>142</sup> Edward Exshaw (ed.), *The Gentleman's and London Magazine: Or Monthly Chronologer, 1741-1794* (Dublin: Printed for Edward Exshaw, 1784-1794), 509.

<sup>143</sup> Trevor Colbourn, *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution* (Indianapolis: Liberty Fund, 1998), 27-34, 110-111.

<sup>144</sup> John Adams, “II. To the Inhabitants of the Colony of Massachusetts-Bay, 30 January 1775,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Adams/06-02-02-0072-0003>.

<sup>145</sup> U.S. War Department, *Military Laws of the United States* (Washington: Edward de Craft, 1852), 38-40.

Department began its existence on August 7, 1789 with only two officers: the Secretary of War and the clerk.<sup>146</sup> Oliver Wolcott called it “a difficult and popular department.”<sup>147</sup>

Even though the Revolutionary War was over, the U.S. government soon felt the need for a federal army. After the war, the relationship with Native American tribes became increasingly tense, particularly those around the Ohio river watershed. There was no decisive peace between the two sides, white settlers kept encroaching on Native lands, disregarding treaties, occasionally engaging in armed conflicts, and demanding the government’s protection. The federal army was small and scattered, and the usage of militias depended on the consent of state governments.<sup>148</sup> At the same time, access to Native lands was crucial to the federal government. Land was the backing of many loans, and the federal government would sell “public lands” to states and individuals to gain revenue, a backup plan to stay afloat and keep paying interest on national debts.<sup>149</sup> To keep the fiscal system running, the federal government needed a reliable military force.

In September 1789, at the dawn of the federal government’s existence, Congress passed an Act Establishing the Troops. The act briefly reiterated the conditions established by the Confederation Congress and gave the president the power to call on state militias to protect frontier inhabitants “from the hostile incursions of the Indians.”<sup>150</sup> Now, the president no longer needed to negotiate with state governments before addressing a threat. A 1790 act increased the

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<sup>146</sup> An Act to establish an Executive Department, to be denominated the Department of War. Aug. 7, 1789.

<sup>147</sup> Leonard D. White, *The Federalists: A Study in Administrative History* (New York: The MacMillan Company, 1956), 155.

<sup>148</sup> Richard H. Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802* (New York: The Free Press, 1975), 92-94.

<sup>149</sup> *The New American State Papers 1789-1860: Public Finance, Vol I*, edited by Thomas C. Cochran (Wilmington: Scholarly Resources, 1972), 136.

*The New American State Papers Vol. II*, 182, 186.

<sup>150</sup> *Acts of Congress*, vol. 1, 95-96.

federal military to 1,216 men and restated that the president had the right to summon militia to protect the frontiers, but this time, there was no mention of Native Americans.<sup>151</sup> The following year, in March 1791 – after the successful passage of the excise – the size of the standing army increased by an additional infantry regiment of 912 servicemen each. The provision would be remaining active for three years. The President also gained the power to turn a regiment of militia into cavalry – all for the further protection of frontiers, once again without explanation from what.<sup>152</sup> A year later, three additional regiments were added to the roster, to be discharged “as soon as the United States shall be at peace with the Indian tribes.”<sup>153</sup> In May 1792, the new law established the president’s right to call forth militia to “suppress insurrections.” It stated that “whenever the laws of the United States shall be opposed, or the execution thereof obstructed,” the president shall have the right to use the militia of that state to suppress the rebellion, or that of any other state should the local militia be unhelpful. This law also had a time limit on it.<sup>154</sup> In 1794, Congress decided that the President would be allowed to request specific numbers of militia from each state “at a moment’s warning.”<sup>155</sup> Later the same month, Congress prohibited the exportation of weapons and suspended duties on their importation.<sup>156</sup>

Why do we need to know all this? The U.S. government goes from a fear of a standing army and considering it a sign of tyranny, through gradually expanding the size of the armed forces and adding more conditions under which they can be created and used, to finally accepting the need for a professional standing army to defend the national borders, protect the

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<sup>151</sup> *Acts of Congress*, vol. 1, 121.

<sup>152</sup> *Acts of Congress*, vol. 1, 222-223.

<sup>153</sup> *Acts of Congress*, vol. 2, 241.

<sup>154</sup> *Acts of Congress*, vol. 2, 264-265.

<sup>155</sup> *Acts of Congress*, vol. 3, 367-368.

<sup>156</sup> *Acts of Congress*, vol. 3, 369-370.



federal authority internally, and uphold the financial system. One would think that would be as far as the connection between the fiscal and the military went, but they were about to get much more cordial.

Following a series of confrontations with Native Americans in Ohio and Kentucky, General St. Clair, the governor of the Northwest Territory, recommended that the federal government take military action. The March 1791 law (two additional regiments to the army) was supposed to help that action, but the practical fulfillment of it did not go well. The government expected the two regiments to be raised, trained, and equipped in five months. The army contractor was William Duer, a speculator who would later end up in prison for his financial crimes. Quartermaster General Samuel Hodgdon was not much better than Duer – his failure to supply a sufficient number of river boats caused the troops to slow down when they were urgently needed.

On November 4, 1791, a combined force of Miamis, Shawnees, and Lenape launched a sudden attack on the U.S. campsite. Even though Native Americans were smaller in numbers, they had the surprise factor and were much more experienced in combat and better motivated. U.S. soldiers were mostly new recruits, lacking good ammunition, undertrained, underpaid, and by that point very unhappy about their service. They ran away, leaving most of their already meager supplies and weapons behind. General St. Clair, who was in charge of the troops, reported everything to War Secretary Knox and President Washington.

At first, neither Congress nor Washington showed much interest. Enter William Branch Giles, the representative from Virginia. Giles believed that all elements of the governmental machine should be accountable to Congress – that included the President, Cabinet, and the army. Hamilton was a subject of his inquiries the most often (Giles would later cause the

Baldwin report to happen), but this time, Giles wondered why the U.S. army suffered such a devastating defeat despite having the numbers' advantage. Giles convinced Congress to start the first congressional investigation – something that would become a common occurrence in the future.

### **Congress Takes Action**

Congress formed a committee to investigate the cause of the defeat. They questioned officials from the Treasury and War Departments, General St. Clair, some of the officers, and officials responsible for supplying the army. According to St. Clair himself, the defeat was caused by the following reasons. The U.S. military was plagued by tensions between militia and federal troops, as well as desertion, mostly caused by late payment or nonpayment. There was also insubordination of officers and their incompetence, St. Clair's sickness, and someone's bright idea to use whiskey in lieu of payment to the soldiers – with all the resulting consequences. Another important reason was logistical failures – problems with transportation and food supply, poor caretaking of horses, and incompetence of suppliers. Bad weather made everything worse.<sup>157</sup>

On May 8, 1792, the committee prepared a preliminary report. They attributed most of the failures to the army contractors, somewhat agreeing with St. Clair, but they also examined a source unavailable to the general – the papers of the Treasury and War Departments. The committee found out that the Treasury stayed on top of things, giving all the necessary funds the

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<sup>157</sup> Arthur M. Schlesinger and Roger Bruns (ed.), *Congress Investigates: A Documented History, vol. 1, 1792-1794* (New York: Chelsea House Publishers, 1975), 22-37.

Whiskey as payment to troops was Hamilton's idea, though St. Clair did not call him out. Hamilton believed that military purchases of whiskey would help increase demand for the product and thus pacify excise opponents in Kentucky. He thought the recipients would use whiskey as barter currency, as people often did on the frontiers, but instead they just consumed it. The only result was drunken debauchery among soldiers, and whiskey producers still hated the excise.

War Department requested in a timely fashion. The problem was that the War Department was not making requests on time or at all. The committee also declared that General St. Clair was not at fault – he had done his best.<sup>158</sup>

In February 1793, the committee produced a final report, focusing even more on the contractors and the chain of command. While this report did not explicitly assign blame to anyone in particular, it showed that the army supply system needed an adjustment. People who knew what to do did not have access to funds, people who had funds did not know what to do, and when someone happened to have both, it was unclear who was in charge, and there was no coordination between different actors. War Secretary Knox did not look good in this report, while Treasury Secretary Hamilton had all the papers in order and available for any request from Congress, unlike his fellow Cabinet member.<sup>159</sup>

It is worth noting that Hamilton and his department were used to accountability before Congress (regular reports about revenue, expenses, updates on the domestic and foreign debt situation) and occasional investigations whenever Anti-Federalists (mostly William Branch Giles) questioned the Secretary's integrity, conduct, or proper governance of the nation's finances.<sup>160</sup> The War Department was wholly unprepared for such an investigation: they had a small amount of staff, they seemed to lack procedural guidelines, and, like with St. Clair's army, no one knew who was responsible for what. Secretary Knox was not nearly as energetic as

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<sup>158</sup> *Congress Investigates*, 37-45.

<sup>159</sup> *Congress Investigates*, 93-100.

<sup>160</sup> Congress regularly requested reports and explanations of the Treasury Secretary. For instance, a House resolution of January 19, 1790 required Hamilton to summarize common difficulties in collecting tax revenue. *Journal of the House*, 1st Congress, 2nd session, 143.

For a summary of the measures Giles took against Hamilton, see "Introductory Note: Report on the Balance of All Unapplied Revenues at the End of the Year 1792 and on All Unapplied Monies Which May Have Been Obtained by the Several Loans Authorized by Law, [4 February 1793]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-13-02-0299-0001>.

Hamilton – he frequently slept during Cabinet meetings, was in poor health, and was absent from his office a lot. He had already been in trouble with the president in 1790, after another preventable defeat by the Miamis, but Washington took no action that time.<sup>161</sup>

No one would say it out loud, but Congress and the President seemed to agree that Knox and the War Department were to blame for the devastating defeat, along with the irresponsible contractors. The Treasury Department had the infrastructure, skills, set procedures, and clear organizational hierarchy necessary to accomplish the task, but they were not in charge. The War Department was in charge but lacked any of the above – it looked like a group of undergraduate students doing a group project for a class they did not want to be in rather than a federal department upkeeping an army.

Congressmen did not even wait for the investigation to wrap up to take actions. On May 8, 1792, the day of the first investigative report, Hamilton's allies in the Senate, Oliver Ellsworth, Caleb Strong, and Rufus King, authorized a bill that gave the supervision over army procurement to the Treasury Department, taking that authority from War. The bill passed without debate in both houses. Not even the Anti-Federalists objected – they would rather give Hamilton more power than allow Knox any responsibility. The Treasury Department was already in charge of the wartime debt, veterans' pay claims, military widow and orphan claims, Revolutionary army contractor claims and disputes, military hospital funding, and disabled veterans' pensions. Now, it was also taking over the very minute details of the army's operation. Every single army operation that required money was to go through the Treasury Department.<sup>162</sup> Even so, Knox did

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<sup>161</sup> Leonard D. White, *The Federalists: A Study in Administrative History* (New York: The Macmillan Company, 1956), 147-148.

<sup>162</sup> *Annals of Congress*, vol 3, 558.

*Annals of Congress*, vol 3, 125 – Senate, 600 – House. No debate in either.

Oliver Wolcott, Jr., "Comptroller's Office Report, February 2, 1792, 1800," *Oliver Wolcott, Jr. Papers*, Connecticut Digital Archive, <https://collections.ctdigitalarchive.org/islandora/object/40002%3A28926#page/12/mode/1up>, 1-8.

not let go easily: Hamilton had to request that President Washington compel Knox to share the necessary information with the Treasury Department for the procurement takeover.<sup>163</sup>

On the same day, Congress passed an act containing a very detailed list of regulations for the militia concerning discipline, ranks, horse care, chain of command, and inspections. They were not taking any chances with a disorganized military force again.<sup>164</sup>

### **Conclusion: The Fiscal and the Military**

William Duer, “America’s first famous deadbeat,” had a long and disappointing career as an army contractor and speculator. During the Revolutionary War, Continental Congress and the state governments relied on private contractors to supply the army, and Duer was one of them. He took valuable letters of credit as payment while paying his suppliers in worthless colonial currency. He conducted insider trading as an official of the Board of Treasury and later the Treasury Department, and may have stolen a lump sum from the latter. He became a supplier for St. Clair’s army while simultaneously running a settler colony in the Northwest territory – and did a terrible job with both of these ventures. Duer and his cronies ended up going bankrupt and causing a financial panic in 1792.<sup>165</sup>

The British model of the fiscal-military state required the government to rely on numerous contractors for their military. But the British government had firm regulations in

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<sup>163</sup> White, 149-150.

“April 3, 1792,” *Annals* vol 3, 116.

<sup>164</sup> “An Act more effectually to provide for the National Defence by establishing an Uniform Militia throughout the United States,” *Acts of 2nd Congress*, 271-274.

<sup>165</sup> Scott Nelson, *A Nation of Deadbeats: An Uncommon History of America’s Financial Disasters* (New York: Alfred A. Knopf, 2012), 4-35. The quote is from page 4.

Cathy Matson, “Public Vices, Private Benefit: William Duer and His Circle, 1776-1792,” in *New York and the Rise of American Capitalism: Economic Development and the Social and Political History of an American State, 1780-1870*, ed. by William Pencak and Conrad Edick Wright, (New York: The New-York Historical Society, 1989), 96-101, 106-107.

Robert F. Jones, “*King of the Alley.*” *William Duer: Politician, Entrepreneur, and Speculator* (Philadelphia: American Philosophical Society, 1992), 128-129, 141, 157-158.

practice, an established punitive system, stable taxes, and age-old banks. In the U.S., everything was new, the market was volatile and unpredictable, law enforcement and even the laws themselves were just coming together. Building a fiscal-military state not gradually, like Britain, but quickly and urgently, was bound to lead to failures and the government being failed and taken advantage of by financial dealers such as Duer, not to mention incompetence, corruption, insider trading, and outright theft of resources.

Still, the one achievement Duer could boast (besides disappointing his investors, making the public hate the Federalists, and breaking Hamilton's trust) was that he helped advance the fiscal-military state. Every time the rulebreakers – Duer and other speculators, whiskey rebels, arrogant merchants like Welcome Arnold, deserting soldiers – threatened federal interests, it created a precedent that the government could then use to impose stricter or more clearly defined rules and grow a bigger government. Rulebreaking showed that the government could not trust private citizens, even those with money, to be virtuous – the government needed to have more control and more army to maintain that control. Cathy Matson emphasized the transition in the minds of Americans post-Revolution from the belief that these merchants were Enlightenment men who would gleefully promote public interest while simultaneously meeting their own goals to the bitter realization that these merchants were exclusively profit-minded, neglected public good, and needed laws to limit their greed.<sup>166</sup> That need caused citizens to expect action from the federal government, thus giving it more power.

St. Clair's defeat, which Duer doubtlessly contributed to, caused Congress to hand the job of supplying the federal army (and militia when summoned by the President) over to the Treasury Department, further connecting the fiscal and the military. Speculators contributed to

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<sup>166</sup> Matson, "Public Vices, Private Benefit," 73-75.

specie scarcity and superabundance of various forms of paper money, which then required the government to intervene by regulating paper money, trying to keep specie in the country and control speculation, all of which increased the federal government's fiscal power. Speculators, the government's dealings with them, and various fiscal laws would occasionally cause public outrage, sometimes expressed by violent means (like the Whiskey Rebellion), which again requires the government to either make new fiscal legislation or use military power to suppress popular resistance.

When it comes to excise, historians often concentrate on its monetary benefit, which was not impressive, or regard its short life (Jefferson abolished it in 1802) as evidence of its inefficiency. However, the often overlooked consequence is the resulting change in the military legislation. Along with St. Clair's defeat, resistance to excise gave the federal government an excuse to increase the army and expand the military authority of the executive. Federalists used these two conflicts to overcome the nation's fear of standing armies and move on from temporarily summoned militias to a professional military that answered to the federal authority. Their opponents were so busy debating the ethics of excise they missed the moment "peacetime standing army" stopped being a terrifying idea and became the norm. Democratic Republicans even supported the increased enrollment because they feared Native Americans and wanted to secure the possibility of Western expansion. Even after Mad Anthony Wayne defeated the Native American confederacy and the excise was abolished, their legacy lived on.

## CHAPTER 4: “TO CEMENT THE UNION”: FUNDING THE NATIONAL DEBT

### Introduction: The Loan Office’s Friends and Enemies

Like many of his colleagues, federal loan officer Richard Wylly received the appointment because he had already held the same position under Continental Congress. Prior to the 1790 Funding Act, Treasury Secretary Hamilton directed Auditor Oliver Wolcott to examine the accounts of Continental loan officers, and Wylly was among those who received the auditor’s seal of approval.<sup>167</sup>

Colonies had loan offices, also called land banks, which served as the government-owned credit institutions. Borrowers used their real estate as collateral and received paper instruments they could use as currency, and the colonial government received a steady and reliable source of income when borrowers repaid the debt. Loan officers existed in each of the thirteen colonies except Virginia.<sup>168</sup>

During the war, Continental Congress issued America’s first national currency, continental dollars. By 1779, these dollars depreciated and became worthless. Congress began paying for supplies in the so-called loan certificates, which were essentially IOUs. Later, these certificates became the basis of federal debt.<sup>169</sup> There was little choice – the domestic capital market was nonexistent, and there were no reliable banks to borrow from. Loan office certificates accounted for approximately 4-6% of the wartime federal spending, according to

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<sup>167</sup> “To Alexander Hamilton from Oliver Wolcott, Junior, 31 July 1790,” Founders Online, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0419>.

<sup>168</sup> Perkins, *American Public Finance*, 70, 44-45.

<sup>169</sup> Rothbard, *Money and Banking*, 61.



Edwin Perkins. Every state had loan offices, but the investment was more active in New England and Philadelphia because the traders there had done it during colonial years frequently. The timeline of the war was unclear, so three-year obligations were converted into open-ended, and the interest rate changed from 4 to 6% in February 1777. In the late 1780s, investors received “indents” (IOUs) from the government in payment of the interest.<sup>170</sup>

After the Dinner Table Bargain, whereby Anti-Federalists agreed to the federalist debt program in exchange for a new capital being built in the South, Congress passed the 1790 Funding Act that established the manner in which the federal government would handle the Revolutionary debt. Congress authorized a loan in the amount of the domestic debt, opened loan offices in each state for people to subscribe to the loan, and made the loan payable in the old Revolutionary War certificates – those of Continental Congress, state governments, old loan offices, and IOUs from various Continental Army officials.<sup>171</sup> Three days later, President Washington appointed loan officers in each state, except Rhode Island, which he either forgot or was not sure joined the Union. Richard Wylly, an Irish immigrant and Revolutionary War veteran, received the Georgia appointment.<sup>172</sup>

Having gone through the Revolutionary War, Wylly was doubtlessly used to chaos but perhaps unprepared to the levels of it in postwar finance. For the following year, Wylly manned his office alone, until he finally hired a clerk (and it took another year to get reimbursed by Congress).<sup>173</sup> 1791 was not a great year for Wylly. Some continental loan office certificates

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<sup>170</sup> Perkins, *American Public Finance*, 96, 101, 102.

<sup>171</sup> *Acts of Congress*, vol 1, 138-139.

<sup>172</sup> “From George Washington to the United States Senate, 6 August 1790,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Washington/05-06-02-0091>.

<sup>173</sup> “To Alexander Hamilton from Richard Wylly, 22 November 1791,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-09-02-0387>.

turned up, signed by one Edward Davies (by then deceased). Davies had issued numerous certificates in payment for army supplies, as many government officials had done, but there was a problem: Davis had seemingly never been a government official and had no authority to issue or sign such certificates. Wyllly wondered “by what authority Mr. Davies acted as Loan Officer” and was subsequently “well assured, he had none.” Unlike William Duer, who used his connections and a pretense of being a patriot to conduct his scams, Davis possibly went even further, resorting to outright lies and theft, which had gone unchecked until years after his death. The truth came out when some of the domestic loan subscribers from Georgia paid with the Davis certificates, which the Treasury Department refused to accept. Edward Telfair, the governor of Georgia, had even fewer answers than Wyllly.<sup>174</sup>

The poor loan officer had no idea just how far his investigation would reach into the fabric of the fiscal-military state. The fake loan certificates, similarly to Welcome Arnold’s bond machinations, triggered a chain reaction that resulted in a Supreme Court case and yet another test of the federal fiscal and judicial authority. You would think that this would be the prime time story here, but the nascent American fiscal-military state had so many moving parts and contested, troubling elements that even a landmark Supreme Court case would get lost among them.

### **Assumption and Non-Discrimination**

#### **“A Measure of Sound Policy and Substantial Justice”: Assumption**

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“Report on the Petitions of Jabez Bowen and William Gardner, 29 February 1792,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-11-02-0070>. Act, Vol 2, 284.

<sup>174</sup> “To Alexander Hamilton from Richard Wyllly, [17 May 1791],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0319>.

“To Alexander Hamilton from Richard Wyllly, [13 June 1791],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0402>.

America's postwar debt, as Richard Wyllly was about to find out, was more complicated than it seemed at a first glance. Continental Congress, state governments, and various federal and state institutions incurred debt to achieve the common goal – American independence. As early as 1782, the first federal assumption of state debt took place as the war still went on. Robert Morris, the superintendent of finance, assured Continental Congress that a consolidated public debt properly funded by taxes would tie public and private interests together and ensure the survival of the union as “moneyed men” would then be financially invested in its success. Morris ran into the issue of the federal government's inability to enforce taxation requirements, a problem stemming from the Articles of Confederation. States ended up reabsorbing the assumed debt, taking it back from the federal government.<sup>175</sup> Still, the first federal treasury official attempted to tie together the federal fiscal system and the interests of investors – an essential component of a fiscal-military state. The first attempt was unsuccessful, but it would not be the last one.

The discussion of assumption started anew at the Constitutional convention, but most delegates did not seem to find the issue important. John Rutledge of South Carolina believed that the U.S. had to assume state debts: “a Grand Committee be appointed to consider the necessity and expediency of the U. States assuming all the State debts.” Rufus King said he would “have no objections” to assumption. In the end, the Constitution said nothing about assumption to limit possibilities for future discord within the union, and assumption was largely ignored in ratification debates. Post-Constitution, federalists reminded Americans about public credit and

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<sup>175</sup> *Journals of Continental Congress*, vol. 22, 432.

William G. Anderson, *The Price of Liberty. The Public Debt of the American Revolution* (University Press of Virginia, 1983), 15-16.

the financial stability needed for the nation to make it through another war should one occur. Their opponents countered with the fears of an ever-growing national debt like in Britain.<sup>176</sup>

Once the new federal government was set up, lawmakers and the Treasury Department began addressing the nation's financial obligations. The debate in Congress over assumption happened at the same time as the excise debate. Both events were affected by and contributed to further political division and the formation of parties. Congressmen repeatedly asked for the vote on the excise to be delayed until the issue of assumption was decided.<sup>177</sup>

The whole point of assumption was upholding public credit, which Robert Morris and Hamilton repeatedly pointed out. Figuring out how to strengthen the nation's public credit was the first task that Congress gave to Hamilton as a Treasury Secretary. Hamilton proposed that the Union took (assumed) the debts of each state upon itself and then distributed the responsibility for debt evenly across the nation by imposing taxes. He explained his plan in his *First Report on Public Credit*, calling it "a measure of sound policy and substantial justice." Anticipating some backlash, Oliver Wolcott had preliminarily informed Hamilton that some states had already taken care of their wartime debts or at least started to, and he proposed that those states be appeased. Hamilton agreed to include it into his plan that the states be considered "creditors of the union."<sup>178</sup>

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<sup>176</sup> Wright, *One Nation Under Debt*, 83-84, 117-118.

<sup>177</sup> "Monday, June 14, 1790," *Annals of Congress*, vol. 2, 1693-1695.

<sup>178</sup> Alexander Hamilton, "Final Version: First Report on the Further Provision Necessary for Establishing Public Credit, [13 December 1790]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0227-0003>.

Oliver Wolcott, "To Alexander Hamilton from Oliver Wolcott, Junior, 29 November 1789," *Founders Online*, National Archives, last modified November 26, 2017, <http://founders.archives.gov/documents/Hamilton/01-05-02-0359-0001>.

Hamilton's letter responding to Wolcott's proposition is missing from the *Founders Online* collection, but the Secretary did replicate Wolcott's words verbatim in the *First Report on Public Credit*.

Critics of Hamilton's report used the experience of the critics of the British national debt. They claimed that the resulting funding system would encourage political corruption. The public was suspicious of those Congressmen who owned securities (which were many). Benjamin Rush called Hamilton's plan "highway robbery" and claimed its implementation would turn America into Britain.<sup>179</sup>

Once again, federalist-leaning lawmakers were victorious. *An Act for Making Provision for the Debt of the United States* of August 4, 1790 spelled out the federal government's concerns over fairness to creditors and financial reputation: "justice and the support of public credit require, that provision should be made for fulfilling the engagements of the United States, in respect to their foreign debt, and for funding their domestic debt upon equitable and satisfactory terms." The act reaffirmed that revenue from customs duties will be spent on loan repayment; allowed President to take new loans (basically they would be debt consolidation loans); created a system of subscriptions for investors in domestic debt and regulated those papers; earmarked western land sale proceeds for a sinking fund (we'll come back to that later); created loan offices in each state to handle subscriptions; declared assumption of state debts by the federal government.<sup>180</sup>

Taxes are the backbone of the fiscal-military state. Both supporters and opponents of assumption understood that the Constitution gave the federal government power to establish taxes in order to repay debts, meaning that assumption gave the central government even wider taxing powers in accordance with the necessary and proper clause.

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<sup>179</sup> Wright, *One Nation Under Debt*, 139.

<sup>180</sup> *Acts of Congress*, vol 1, 138-144.

### **“Very Influential and Very Meritorious”: Non-discrimination**

Opponents of assumption were even less happy about the idea that original certificate holders would get treated the same as “speculators” that bought certificates off desperate soldiers and farmers. “We stand bound to no common creditors,” proclaimed Tench Coxe in 1787. “The friendly foreigner, the widow and the orphan, the trustees of charity and religion, the patriotic citizen, the war-worn soldier, and a magnanimous ally – these are the principal claimants upon the feelings and justice of America.”<sup>181</sup> Contrary to what many Anti-Federalists believed, Americans who purchased government bonds from their original holders (soldiers and civilians who assisted the government during the war) were not necessarily wealthy speculators. The creditors of the United States were quite diverse: they ranged from foreign governments to farmers, artisans, and women, both in the Northern and Southern states. Many individuals acquired the bonds to secure a long-term income or ensure financial stability for their families. For instance, Abigail Adams purchased government securities to serve as a college fund for her sons.<sup>182</sup>

In *First Report*, Hamilton subtly hinted at non-discrimination by reminding Congress that the maintenance of public credit required “a punctual performance of contracts” and that a breach of contract was not the way to go. The pressure from these diverse creditors, the urgent need to meet their expectations at least partially is one of the factors that Hamilton mentioned in *Defense of the Funding System*, an apologia he wrote after his resignation. “The public creditors... a large proportion of them very very meritorious and very influential... had a

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<sup>181</sup> Tench Coxe, “An Enquiry into the Principles on Which a Commercial System for the United States of America Should be Founded,” Evans Early American Imprint Collection, University of Michigan Library, accessed 15 December 2017, <https://quod.lib.umich.edu/e/evans/N15882.0001.001/1:4?rgn=div1;view=fulltext>, 31.

<sup>182</sup> Wright, *One Nation under Debt*, 12, 162. Woody Holton, *Abigail Adams* (New York, NY: Simon and Schuster, 2010), 273-4.

considerable agency in promoting the new Constitution,” the former Secretary wrote.<sup>183</sup> The creditors, foreign and domestic, expected that after the federal government was created, the U.S. would be able to work out a uniform policy of repaying governmental debts and proceed to their repayment. The same people who supported the Constitution so eagerly could just as eagerly turn into the nation’s enemies if the government did not meet their expectations by changing the conditions of repayment or canceling some debts altogether.<sup>184</sup>

Hamilton and his associates believed that preserving the trust of all the creditors, whether they were speculators or not, was essential for the public credit of the American nation. Americans who invested in the bonds expressed their belief that the government would be able to return the investment, and they must not have been disappointed. Federalist financiers saw the national debt as a way to tie the nation together by having citizens of various backgrounds invest in the government.<sup>185</sup> Rejecting the claims of some holders, even if they were speculators, was a threat to private property and liberty, as it seemed to Hamilton.<sup>186</sup> Such considerations made the Secretary propose a non-discrimination policy – the redemption of bonds for both original (soldiers) and non-original holders.<sup>187</sup> The rejection of a discrimination policy meant that the federal government owed money to more people, which required more taxes to pay off the debt. In exchange, the U.S. government would receive these people’s loyalty and trust.

Foreign creditors were even more of a concern to Hamilton since good relations with them would not only preserve America’s public credit (same as with domestic creditors) but also

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<sup>183</sup> Alexander Hamilton, “The Defence of the Funding System, [July 1795],” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-19-02-0001>.

<sup>184</sup> Hamilton, “Defence of the Funding System.”

<sup>185</sup> Wright, *One Nation under Debt*, 14.

<sup>186</sup> Hamilton, “Defence of the Funding System.”

<sup>187</sup> Hamilton, “First Report on Public Credit.”

Hamilton, “Defence of the Funding System.”

ensure peace and national security. The problem of national security has always been a serious concern to Hamilton and other Federalists. The former Secretary reminded his potential readers that the loans from foreign nations helped America secure its independence, and failing to comply with the terms of the loan repayment would have been “an act of suicide.”<sup>188</sup>

The Act of 1790 declared that all public debt certificates were to be destroyed and new ones issued in their stead. It made no mention of discrimination, or lack thereof, instead specifying that certificates subject to this law were not to be counterfeit and had to be issued for “compensations and expenditures for services or supplies towards the prosecution of the late war, and the defence of the United States” – without mentioning *to whom* they had to be issued.<sup>189</sup> Thus, the two debates wrapped up in favor of Hamilton and the proponents of the fiscal-military state, and, like Robert Morris intended, the interests of the “monied men” were now tied to those of the union.

### **“An Institution of Primary Importance”: The Bank of the United States**

Having access to credit and an ability to borrow was a necessary condition for the building of a fiscal-military state.<sup>190</sup> A national bank was an essential part of the funding system: it helped the federal government accumulate the cash collected during taxation, received foreign loans to deposit and convert the currencies into dollars when necessary, and gave loans to commercial banks.

The most well-recognized success story of a central bank for colonial, Revolutionary, and post-Revolutionary America was the Bank of England. It had emerged in similar

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<sup>188</sup> Hamilton, “Defence of the Funding System.”

<sup>189</sup> *An Act Making Provisions for the Debt of the United States*, Public Law 63, *U.S. Statutes at Large 1* (1790), 141, 143.

<sup>190</sup> Christopher Storrs, “The Fiscal-Military State in the ‘Long’ Eighteenth Century,” in *The Fiscal-Military State in Eighteenth-Century Europe*, ed. by Christopher Storrs (Ashgate, 2009), 15.



circumstances as the Bank of the United States later would: Britain was exhausted from a long war with France, the treasury was empty, and the credit low. The Bank, devised by Charles Montague, Lord Halifax, helped fix these problems: the credit soon stabilized, and Britain would never default on a loan again. Having firm credit, the government could finance its endless wars on land and sea: merchants would line up to lend to the government, as they knew they would receive a hefty return on their investment.<sup>191</sup>

As early as 1780, Alexander Hamilton, then a member of General Washington's headquarters staff, recognized the importance of a national bank for the building of a successful fiscal-military state. "The Bank of England unites public authority and faith with private credit," he wrote to James Duane, a Continental Congress delegate from New York. "Had it not been for this, England would never have found sufficient funds to carry on her wars; but with the help of this she has done, and is doing wonders."<sup>192</sup>

In 1781, Robert Morris and a group of his associates followed the British example and founded the Bank of North America to ease the financing of the Revolutionary War and obtaining supplies. The bank was located in Philadelphia, and its founders planned it as a source of credit for the new central government. The Bank of North America was a fully private bank, originally chartered by Congress. After the Revolutionary War, Congress did not renew the charter, but the bank reopened soon after with a charter from the Pennsylvania Assembly. With Morris no longer in charge of the nation's finances and the charter originating from a state

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<sup>191</sup> Anonymous Author, "Thoughts on the Finances of America," *The American Museum* VI, October 1789, 294-295.

<sup>192</sup> "From Alexander Hamilton to James Duane, [3 September 1780]," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-02-02-0838>.

government, the Bank of North America was reduced now to the role of a regional bank, though an influential one.<sup>193</sup>

The new Treasury Secretary believed a private bank, even one founded by his ally Morris, was insufficient to help sustain a new nation's fiscal system. In late 1790, Hamilton brought it up with Congress in a report, once again using the same justification he did for most of his policies: "a National Bank is an Institution of primary importance to the prosperous administration of the Finances, and would be of the greatest utility in the operations connected with the support of the Public Credit."<sup>194</sup>

A bank bill originated in the Senate and caused heated debate all the way up to the President and the Cabinet. Like the previous debates – over assumption, non-discrimination, and excise, the struggle over the bank bill further polarized lawmakers, pushing them into either Federalist or Anti-Federalist camp. Opponents of the bank feared the growth of federal power and objected to Hamilton's interpretation of the necessary and proper clause. Edmund Randolph, the Attorney General of the United States, warned President Washington that "a similar construction on every specified federal power will stretch the arm of Congress into the whole circle of State Legislation."<sup>195</sup> Anti-Federalists envisioned corrupt federal officials having ready access to large sums of money from a bank that represented their interests. The threat of another South Sea Company loomed large in their minds.<sup>196</sup>

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<sup>193</sup> Rothbard, *History of Money and Banking*, 63.  
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<sup>194</sup> Alexander Hamilton, "Final Version of the Second Report on the Further Provision Necessary for Establishing Public Credit (Report on a National Bank), 13 December 1790," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0229-0003>.

<sup>195</sup> Edmund Randolph, "Enclosure: Opinion on the Constitutionality of the Bank, 12 February 1791," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Washington/05-07-02-0200-0002>.

<sup>196</sup> H. Wayne Morgan, "The Origins and Establishment of the First Bank of the United States," *The Business History Review* 30, no. 4 (1956): 480-481.

There were obvious similarities between the Bank of England and the Bank of the United States: both were central banks, both were intended to uphold the nation's public credit, and both issued loans to their respective governments. However, that does not mean that the U.S. bank was a copy of the British one. More accurately, the blueprint of the bank was a unique blend of the Bank of England, the Bank of North America, and a compromise between the federalists about what could work. The British bank was fully private – compelled to help the government but ultimately not under its control. Antifederalists were distrustful of “moneyed interests” and unwilling to give them another vehicle of control over the nation's financial well-being. Even supporters of a national bank were not thrilled about the idea of a private national bank. Pelatiah Webster, a Philadelphia merchant and prominent political economist, claimed that “a bank, whose stock is made up by the subscription of private men, and managed by the stockholders, is the surest antidote or preservative against tyranny in the government.”<sup>197</sup>

At the same time, Americans were familiar with an example of a government-controlled bank – the one founded by John Law and famously disastrous. “The only plan that can preserve the currency is one that will make it the immediate interest of the monied men to cooperate with the government in its support. This country is in the same predicament in which France was prior to the famous Mississippi scheme projected by Mr. Law,” Hamilton wrote, recalling that example.<sup>198</sup> Arguing over the Bank of North America in Congress, Robert Morris asserted that a government-owned bank would not be feasible since no one would want to entrust their money to the government. Additionally, investors would have no one to appeal to,

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<sup>197</sup> Pelatiah Webster, “An Essay on Credit,” in *Political Essays on the Nature and Operation of Money, Public Finances, and Other Subjects* (Philadelphia: J. Cruikshank, 1791), 439.

<sup>198</sup> “From Alexander Hamilton to ———, [December–March 1779–1780],” Founders Online, National Archives, accessed September 29, 2019, <https://founders.archives.gov/documents/Hamilton/01-02-02-0559-0002>.

should the government violate the terms of investment, since the government was itself the provider of justice.<sup>199</sup>

So, the Treasury Secretary went for a compromise, making the bank neither governmental nor fully private. The capital stock was not to exceed \$10 million, and the government was to own 20% of it, the rest being given to the “monied men.” Unlike the Bank of England which issued credit only to the government, the Bank of the United States was also allowed to lend to merchants. The American bank could also form branches, unlike the British bank, which accounted for America’s greater size and allowed tax collectors easier access to an authorized institution to handle revenue.<sup>200</sup>

Ultimately, the majority of Congress agreed with Hamilton that “a bank will be very conducive to the successful conducting of the national finances; will tend to give facility to the obtaining of loans, for the use of the government, in sudden emergencies; and will be productive of considerable advantages to trade and industry in general.”<sup>201</sup> Thus, Hamilton and the Federalists in Congress managed to secure support for yet another pillar of the fiscal-military state, another vestige of federal power.

### **Sink or Swim**

Despite the Anti-Federalist concerns over perpetual debt, the Treasury Department did actually intend to pay it off. Customs duties and excise would help deal with the interest, but

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<sup>199</sup> “Debates and Proceedings of the General Assembly of Pennsylvania, on the Memorials Praying a Repeal or Suspension of the Law Annulling the Charter of the Bank,” *Evans Early American Imprint Collection*, University of Michigan Library, <https://quod.lib.umich.edu/e/evans/N15592.0001.001/1:4.6?rgn=div2;view=fulltext>, 46-7.

<sup>200</sup> An Act to incorporate the subscribers to the Bank of the United States, 191. Alexander Hamilton, “Final Version of the Second Report on the Further Provision Necessary for Establishing Public Credit (Report on a National Bank), 13 December 1790,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0229-0003>.

<sup>201</sup> *An Act to Incorporate the Subscribers to the Bank of the United States*, Public Law 17, *U.S. Statutes at Large* 1 (1791), 191.

the principal sums for loans (the amounts actually borrowed, separate from interest) remained a problem. A common technique (both today and in the past) for dealing with a large debt principal is called a sinking fund – setting up a separate bank account or fund for the payment of a debt principal so that there is money saved for the day that debt becomes due. For a public debt, sinking funds could also be used to buy back bonds from investors to cut down on the interest a government would need to pay the investors.

Tench Coxe, Hamilton's associate and an experienced financier, proposed the sale of public lands and other public property to create a sinking fund as early as in 1787.<sup>202</sup> Gouverneur Morris suggested using the income from postage to create a sinking fund.<sup>203</sup> Land sales were heavily dependent on the relations with Native Americans, as discussed in the previous chapter, and thus were not always a reliable source of revenue or collateral. Hamilton accepted the postage proposal quite enthusiastically: "From its nature, with good management, it must be growing, and will be likely to become a considerable fund."<sup>204</sup>

But for Hamilton, the principal inspiration came from an unusual source. In the late 1780s-early 1790s, both France and the United States lacked means to repay their loans and struggled with a low public credit. Jacques Necker, the French Crown's finance minister, devised a plan.

Necker was a notable figure in France as well as in the rest of the eighteenth-century Atlantic world. Like Hamilton, he was an outsider, born in Switzerland rather than France. In his

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<sup>202</sup> Tench Coxe, "An Enquiry," <https://quod.lib.umich.edu/e/evans/N15882.0001.001/1:4?rgn=div1;view=fulltext>, 31.

<sup>203</sup> Gouverneur Morris. "Enclosure: Abstract of Mr. G. Morris's Plan of American Finances, 19 April 1789," Founders Online, National Archives, last modified November 26, 2017, <http://founders.archives.gov/documents/Jefferson/01-15-02-0120>.

<sup>204</sup> Alexander Hamilton, "Report Relative to a Provision and Support of Public Credit (First Report on Public Credit). New York, January 9, 1790," in *The Papers of Alexander Hamilton, Vol. VI*, ed. by Harold C. Syrett (New York, NY: Columbia University Press, 1962), 106.

Administration of Finances, Necker expressed his opinions on the role of finance minister in the government and society, as well as the way in which the minister had to behave. Necker recommended such things as being prudent, disciplined, and attentive to details. Though one cannot say with certainty whether Hamilton had these qualities by himself or developed them following Necker's advice, his strive for prudence and discipline is well-known. Like Necker, Hamilton became a target of attack for his policies, especially the ones that concerned the national debt. In 1795, after his resignation, Hamilton attempted to justify himself – as did Necker after his first resignation – in an essay titled *Defense of the Funding System*. In this document, Hamilton referred to himself as “the minister.” In the U.S., like in Britain, the members of the cabinet were called secretaries rather than ministers, yet, for some reason, Hamilton chose to refer to himself in the same way as Necker did.<sup>205</sup>

Hamilton seemed to be acquainted with both Necker's writing and his activity as the minister of finance. In *The Federalist Papers*, Hamilton used Necker's *Administration of Finances* to support his argument on commerce and taxation. In his speech at the New York Assembly in 1787, Hamilton referred to Necker's negative opinion on arbitrary taxes. He called the French minister “the celebrated mister Neckar” and stated that the “statesman, who conducted the finances of France for several years, and during the most critical periods of the late war, with infinite ability and success, is a most respectable authority in a matter of this

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<sup>205</sup> Robert D. Harris, *Necker. Reform Statesman of the Ancien Regime* (Berkeley: University of California Press, 1979), 1-5.

Jacques Necker, *Compte Rendu au Roi* (France: Impr. Royale, 1781), 2-3.

Alexander Hamilton, “Address to the Public Creditors, [1 September 1790],” *Founders Online*, National Archives, <http://founders.archives.gov/documents/Hamilton/01-07-02-0001>.

Hamilton, “Defence of the Funding System.”

kind.”<sup>206</sup> Hamilton referred to Necker on several other occasions, calling him “a great and good man” and “the able minister.”<sup>207</sup>

Necker attracted the public attention to the deficit of the budget (56 million livres) that occurred due to the expenses of the American Revolutionary war. Instead of raising taxation, he recommended the Estates-General to take more loans, but the conditions of borrowing depended on the public credit, which needed to be maintained.<sup>208</sup>

Necker suggested delaying the payment of the principal amount of the loan and focusing on repaying the annual interest, earmarking certain funds for this purpose (in 18th-century America, the latter measure was called funding.) He believed that, by keeping the debt funded, the government would strengthen the public credit and buy itself enough time to collect the money necessary for the repayment of the principal amounts of the loans.<sup>209</sup> Necker’s focus on paying off the interest rather than the principal amount of public loans did not mean that he was not planning to ever repay them. Taking the government’s lack of income to repay the principal within a short period of time, Necker proposed to create a sinking fund (*caisse d’amortissement*): certain governmental revenues would have to compose a fund, and over years, there would be enough money to pay off the principal one. The minister suggested using consumption taxes, savings, and the taxes of the church. Necker had advocated the institution of

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<sup>206</sup> “New York Assembly. Remarks on an Act for Raising Certain Yearly Taxes Within This State, 17 February 1787,” Founders Online, National Archives, last modified November 26, 2017, <http://founders.archives.gov/documents/Hamilton/01-04-02-0033>.

<sup>207</sup> Alexander Hamilton, “From Alexander Hamilton to Marquis de Lafayette, 6 October 1789,” Founders Online, National Archives, last modified November 26, 2017, <http://founders.archives.gov/documents/Hamilton/01-05-02-0202>.

Alexander Hamilton, “Final Version of the Report on the Establishment of a Mint, [28 January 1791],” Founders Online, National Archives, last modified November 26, 2017, <http://founders.archives.gov/documents/Hamilton/01-07-02-0334-0004>.

<sup>208</sup> Jacques Necker, *Ouverture des Etats-Generaux* (Paris: Impr. Royale, 1789), 30-31, 41-42.

<sup>209</sup> Swanson and Trout, “Public Credit,” 423.

a caisse d'amortissement in his address to the States General as a means of supporting public credit.<sup>210</sup>

Hamilton adopted the idea of a sinking fund, though, adjusting Necker's scheme for American conditions, he found different sources for it. Consumption taxes (excises) were already used for paying off interest for the loans. In America, there was no state church, and the government was too young to have made any savings, yet there was a national postal service.<sup>211</sup>

Opponents of the federalist financial policy in Congress did not present any resistance towards the sinking fund part of the public debt bill. In fact, they hardly noticed it, busy with the much more controversial issues of assumption and non-discrimination.<sup>212</sup> The August 12, 1790 *Act Making Provision for the Reduction of the Public Debt* appointed a committee responsible for purchasing the debt to reduce the overall amount, using their personal funds if necessary for the speed acquisition, to be reimbursed later. In internal documents, it was referred to as the Sinking Fund Committee, but Congress likely decided not to confuse the public with financial terms. The membership of the initial committee was curious: Hamilton, the Treasury Secretary, literally putting his money where his mouth is; Secretary of State Thomas Jefferson, fiercely opposed to the entire funding system; Vice President John Adams, a federalist but an opponent of Hamilton's; Attorney General Edmund Randolph, a staunch Anti-Federalist; and Chief Justice John Jay, Hamilton's loyal ally. One could only imagine the intensity of their meetings, but somehow, they made it work, diligently making regular purchases of public securities and reporting annually to Congress. The practice continued under the Jefferson administration as

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<sup>210</sup> Necker, "Ouverture," 33, 55-56.

Swanson and Trout, "Alexander Hamilton, 'the Celebrated Mr. Neckar,' and Public Credit," 428.

<sup>211</sup> Hamilton, "First Report on Public Credit," 106.

<sup>212</sup> See, for example, the following debate. "Public Debt," *Annals of Congress* 1, H 1743-1754.



well. Between 1790 and 1798, the Sinking Fund Committee rescued \$2,734,479.44 of public debt securities, preventing the need to pay interest on this sum.<sup>213</sup>

### **The Curious Case of the Post Office**

The Post Office served as a source of the sinking fund, but it was part of the fiscal-military state in a broader sense. In the United States, the post office has been a pillar of democracy from the beginning. As the rebellion against Britain grew, an underground postal network emerged. Colonists began boycotting Crown mail or bribing mailmen to bring their post cheaper and without paying the King. Committees of correspondence and newspaper editors established their own postal networks. In 1775, Continental Congress agreed to unite these networks into a Post Office, but the founders of the new nation did not want a British-like revenue-oriented mail system. They wanted a republican institution that would help them uphold democracy: accessible, offering citizens access to political and social education, and eventually, a means for democratic political campaigning.<sup>214</sup>

The Post Office that emerged under the Washington administration was a federal institution, and it was decidedly an indispensable part of the fiscal-military state. The 1792 Post Office Act authorized mail service for the entire population, not just those with money or in convenient locations. Communities could petition the federal government to establish a post office, and the government usually responded. For many, this was their first experience with the new federal government, and they could see that it was responsive and took their input. This

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<sup>213</sup> *The New American State Papers: Public Finance, Vol. 1: General Reports* (Wilmington: Scholarly Resources, 1972), 73-75, 83, 123, 195, 213, 269, 324, 363, 401, 471-474.

*The New American State Papers: Public Finance, Vol. 2: General Reports* (Wilmington: Scholarly Resources, 1973), 66.

<sup>214</sup> Winifred Gallagher, *How the Post Office Created America: A History* (Penguin Press, 2016), 32-34, 38-39.

process put many frontier villages on the map for the first time because they now had to come up with a name and make themselves known to the federal government.<sup>215</sup>

The Post Office was indispensable for the collection of federal revenue and ensuring the accountability of federal tax collectors. In 1789, before the Post Office was even officially recognized, Hamilton sent customs collectors detailed instructions on mailing bank notes and reports to the Treasury Department.<sup>216</sup>

Thus, with a lot less suspicion or resistance from Anti-Federalists, the Post Office became another vehicle for centralization, another way the long federal arm was now reaching across state lines and into communities.

### **Conclusion**

By the end of the 1790s, the lawlessness and disorganization of America's public debt was officially over. In place of military units, quartermasters, contractors and agents of the army, numerous committees, and state assemblies, there was now only one debtor – the United States government. That debtor stayed on top of interest, was gradually taking care of the principal, possessed stable income, and planned for emergencies. Almost in the blink of an eye, the United States turned from a financial disaster hobbling from one overpriced loan to the next into a reliable investment. No longer could audacious entrepreneurs like Edward Davies issue loan certificates under dubious authority: loan office commissioners now had to be appointed personally by the president, take an oath before a judge, and enter a \$10,000 bond to ensure their “good behaviour in the said office.” They had to follow extremely detailed instructions regarding

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<sup>215</sup> Gallagher, *How the Post Office Created America*, 34-35.

<sup>216</sup> “Treasury Department Circular to the Collectors of the Customs, 14 October 1789,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-05-02-0232>.

issuing certificates and record-keeping, being overseen and surveyed by the Treasury Department.<sup>217</sup>

Investors in the U.S. government, both foreign and domestic, could now know for sure where and from whom to buy bonds, or who to sell them to if the Sinking Fund Committee wanted to recover the debt. They could be assured that their investment would bring return by means of taxation whose stability would be maintained by the military force. They could rely on the federally recognized banks to handle transactions and step in for emergencies, and there was now a federal postal system to ensure somewhat timely communication. At the price of numerous dissatisfied taxpayers, concerned proponents of popular democracy, and unfulfilled dreams of the nation's capital being in Philadelphia, the federal debt funding system was now complete and working full force.

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<sup>217</sup> "Treasury Department Circular to the Commissioners of Loans, 31 August 1790," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-06-02-0494>.

"Treasury Department Circular to the Commissioners of Loans, 16 September 1790," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-26-02-0002-0223>.

"Treasury Department Circular to the Commissioners of Loans, 7 October 1790," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-07-02-0094>.

"Treasury Department Circular to the Commissioners of Loans, 4 June 1791," *Founders Online*, National Archives, <https://founders.archives.gov/documents/Hamilton/01-08-02-0372>.

## CONCLUSION

During the American Revolution, the Articles of Confederation provided limited power to Congress, which led to severe financial repercussions and often jeopardized the war effort as Congress could not enforce taxation. The postwar financial crisis and political unrest prompted state governments to agree to a revision of the Articles. The resulting Constitution not only provided the federal government with the powers to collect and manage revenue but also allowed it to make “all laws necessary and proper” in order to execute those powers (section 8 of Article I). The necessary and proper clause would later allow proponents of a strong federal government to start working on the establishment of a fiscal-military state.

Leading this effort was the U.S. Treasury Department, under the leadership of Alexander Hamilton and later Oliver Wolcott. While the other executive departments were still figuring things out and running on modest staff, Treasury quickly covered the new country with a network of customs houses, tax collection officers at every level, and state loan office commissioners. Treasury employees came up with methods of communication and accountability practices to ensure prompt and accurate collection of revenue, combat fraud, and keep Congress and the public informed.

The public debt was massive, and the new country’s credit history did not necessarily inspire confidence. The federal government quickly standardized customs regulations and began earning revenue to stay on top of interest payments on national debt. Merchants, used to previously lax British regulations, resisted the duty collection effort, and one of such cases even

made it to the Supreme Court. The Treasury Department had to find a delicate balance between maintaining federal income and staying in the good graces of merchants whose collaboration was essential to the fiscal-military state.

The latter requirement put a limit on how much the government could charge in duties, prompting the Treasury Department to search for new sources of revenue. Excise, initially thought to be a “harmless” inland tax as it targeted “sinful” commodities such as alcohol, was met with severe resistance. In Western Pennsylvania, farmers started a rebellion against the federal government, protesting not just the tax but the whole idea that the federal government could have fiscal, political, and judicial authority over them. At the same time, the U.S. military suffered a devastating defeat from Native Americans of the Northwestern Confederacy. While these two events put the federal government in a difficult situation, both politically and financially, the proponents of the fiscal-military state managed to turn these threats into advantages. Federalists in Congress advocated for the increase of a federal standing army, an idea that had previously scared American politicians due to the perceived association between professional military and tyranny. The threat from rebels and Native Americans was scary enough for Anti-Federalists to get over their distrust of a standing army, and since then, the American military only grew in size. The suppression of the Whiskey Rebellion allowed the nascent fiscal-military state to flex its muscles and show common Americans and the world that it had authority to rule and collect revenue.

While there were concerns over standing army, higher taxes, and increased federal authority, it was difficult to argue with the results. The measures that Federalists implemented allowed the United States to consolidate the national debt, arrange its gradual repayment, and in the process establish itself as a reliable and worthy investment. By the early nineteenth century,

the fiscal-military system was complete. Any attempts to undo it, such as Thomas Jefferson's embargo, James Madison's delay in renewing the National Bank's charter, and Andrew Jackson's destruction of the Second Bank of the United States, would cause ruinous consequences to the American economy. Moving forward, the federal government acquired more powers and responsibilities, charged more taxes, and operated an increasingly larger and stronger military force, allowing the United States to take its place as a leading world power. The origins of that status are back there, in the 1790s.

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