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the Articles of Confederation by the States In Congress

New Jersey, 23, 25 June 1778

*New Jersey Representation to Congress, 15–16 June 1778*¹

To the UNITED STATES in CONGRESS Assembled. *The Representation of the LEGISLATIVE-COUNCIL and GENERAL ASSEMBLY of the State of New-Jersey.*

Sheweth,

That the Articles of Confederation and perpetual Union, between the States of *New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia*, proposed by the Honourable the Congress, to the said States severally, for their Confirmation, have been by us fully and attentively considered, upon which we beg Leave to make the following remarks:

1st. In the fifth Article, where, among other Things, the Qualifications of the Delegates from the several States are described, there is no Mention of any Oath, Test, or Declaration to be taken or made by them, previous to their Admission to Seats in Congress.—It is indeed to be presumed, the respective States will be careful that the Delegates they send to assist in managing the general Interest of the Union, take the Oaths to the Government from which they derive their Authority; but as the United States collectively considered, have Interests as well as each particular State, we are of Opinion, that some Test or Obligation binding each Delegate while he continues in the Trust, to consult and pursue the former as well as the latter, and particularly to assent to no Vote or Proceeding which may violate the general Confederation, is necessary. The Laws and Usages of all civilized Nations evince the Propriety of an Oath on such Occasions; and the more solemn and important the Deposite, the more strong and explicit ought the Obligation to be.

2d. By the sixth and ninth Articles, the Regulation of Trade seems to be committed to the several States within their separate Jurisdictions, in such a Degree as may involve many Difficulties and Embarrassments, and be attended with injustice to some States in the Union:—We are of Opinion, that the sole and exclusive Power of regulating the Trade of the United States with foreign Nations, ought to be clearly vested in the Congress, and that the Revenue arising from all Duties and Customs imposed thereon, ought to be appropriated to the building, equipping and manning of a Navy, for the Protection of the Trade, and Defence of the Coasts, and to such other publick and general Purposes, as to the Congress shall seem proper, and for the common Benefit of the States. This Principle appears to us to be just, and it may be added, that great Security will by this Means be derived to the Union from the Establishment of a common and mutual Interest.

3d. It is wisely provided in the sixth Article, that no Body of Forces shall be kept up by any State in Time of Peace, except such Number only as, in the Judgment of the United States in Congress assembled, shall be deemed requisite to garrison the Forts necessary for the Defence of such State: We think it ought also to be provided, and clearly expressed, that no Body of Troops be kept up by the United States, in Time of Peace, except such Number only as shall be allowed by the Assent of nine States. A standing Army, a Military Establishment and every Appendage thereof in Time of Peace, is totally abhorrent from the Ideas and Principles of this State.—In the memorable Act of Congress, declaring the United Colonies free and independent States, it is emphatically mentioned, as one of the Causes of Separation from *Great-Britain*, that the Sovereign thereof had kept up among us in Time of Peace, standing Armies without the Consent of the Legislatures—It is to be wished the Liberties and Happiness of the People may, by the Confederation, be carefully and explicitly guarded in this Respect.

4th. On the eighth Article we observe, that as frequent Settlements of the Quotas for Supplies and Aids to be furnished by the several States, in Support of the general Treasury, will be requisite, so they ought to be secured. It cannot be thought improper or unnecessary to have them struck once at least in every five Years, and oftener if Circumstances will allow; the Quantity or Value of Real Property in some States may increase much more rapidly than in others, and therefore the Quota which is at one Time just, will at another be disproportionate.

5th. The Boundaries and Limits of each State ought to be fully and finally fixed and made known; this we apprehend would be attended with very salutary Effects, by preventing Jealousies as well as Controversies, and promoting Harmony and Confidence among the States: If the Circumstances of the Times would not admit of this, previous to the Proposal of the Confederation to the several States, the Establishment of the Principles upon which, and the Rule and Mode by which the Determination may be conducted, at a Time more convenient and favourable, and a Provision for dispatching the same at an early Period not exceeding five Years from the final Ratification of the Confederation, would be satisfactory.

6th. The ninth Article provides, that no State shall be deprived of Territory for the Benefit of the United States:—Whether we are to understand that by Territory, is intended any Lands, the Property of which was heretofore vested in the Crown of *Great-Britain*; or that no Mention of such Lands is made in the Confederation; we are constrained to observe, that the present War, as we always apprehended, was undertaken for the general Defence and Interest of the confederating Colonies, now the United States. It was ever the confident Expectation of this State, that the Benefits derived from a successful Contest were to be general and proportionate, and that the Property of the common Enemy, falling in Consequence of a prosperous Issue of the War, would belong to the United States, and be appropriated to their Use: We are therefore greatly disappointed in finding no Provision made in the Confederation for empowering the Congress to dispose of such Property, but especially the vacant and unpatented Lands, commonly called the Crown Lands, for defraying the Expences of the War, and for other such publick and general Purposes.—The Jurisdiction ought in every Instance to belong to the respective States within the Charter or determined Limits of which such Lands may be seated; but Reason and Justice must decide, that the Property which existed in the Crown of *Great-Britain*, previous to the present Revolution, ought now to belong to the Congress, in Trust for the Use and Benefit of the United States: They have fought and bled for it in Proportion to their respective Abilities, and therefore

the Reward ought not to be predilectionally distributed. Shall such States as are shut out by Situation from availing themselves of the least Advantage from this Quarter, be left to sink under an enormous Debt, whilst others are enabled in a short Period to replace all their Expenditures from the hard Earnings of the whole Confederacy?

7th. The ninth Article also provides, that the Requisitions for Land-Forces to be furnished by the several States, shall be proportioned to the Number of *white* Inhabitants in each.—In the Act of Independence we find the following Declaration: ‘We hold these Truths to be self-evident, that all Men are created equal; that they are endowed by their Creator with certain unalienable Rights, among which are Life, Liberty, and the Pursuit of Happiness;’ of this Doctrine it is not a very remote Consequence that all the Inhabitants of every Society, be the Colour of their Complexion what it may, are bound to promote the Interest thereof, according to their respective Abilities: They ought therefore to be brought into the Account on this Occasion. But admitting Necessity or Expediency to justify the Refusal of Liberty in certain Circumstances, to Persons of a particular Colour; we think it unequal to reckon Nothing upon such in this Case.—If the whole Number of Inhabitants in a State, whose Inhabitants are all Whites, both those who are called into the Field, and those who remain to till the Ground, and labour in Mechanick Arts and otherwise, are reckoned in the Estimate for striking the Proportion of Forces to be furnished by that State, ought even a Part of the latter Description to be left out in another? Should it be improper for special local Reasons to admit them in Arms, for the Defence of the Nation, yet we conceive that the Proportion of Forces to be embodied, ought to be fixed according to the whole Number of Inhabitants in the State, from whatever Class they may be raised. As it is of indispensable Necessity in every War, that a Part of the Inhabitants be employed for the Uses of Husbandry and otherwise at Home, while others are called into the Field, there must be the same Propriety that Persons of a different Colour who are employed for this Purpose in one State, while Whites are employed for the same Purpose in another, be reckoned in the Amount of the Inhabitants in the present Instance.

8th. In order that the Quota of Troops to be furnished in each State on Occasion of a War, may be equitably ascertained, we are of Opinion that the Inhabitants of the Several States ought to be numbered as frequently as the Nature of the Case will admit, and once at least every five Years, the disproportionate Increase in the Population of different States may render such Provision absolutely necessary.

9th. It is provided in the ninth Article, that the Assent of nine States out of thirteen shall be necessary to determine in sundry Cases of the highest Concern. If this Proportion be proper and just, it ought to be kept up, should the States increase in Number, and a Declaration thereof made for the Satisfaction of the Union.

We think it our indispensable Duty to solicit the Attention of Congress to these Considerations and Remarks, and to request the Purport and Meaning of them may be adopted as Part of the general Confederation, by which Means we apprehend the mutual Interest of all the States will be better secured and promoted, and the Legislature of this State will then be justified in ratifying the same.

Ordered,

That the President do sign a Copy of the foregoing Representation, and transmit the same to the Delegates of this State, to be presented to Congress.

Journals of Congress, 23 June 1778

The delegates from New Jersey being called upon for the report of their constituents respecting the Articles of Confederation laid before Congress a representation of the Legislative Council and General Assembly of their state.

Adjourned to 10 o'clock tomorrow.

Journals of Congress, 25 June 1778

Congress took into consideration the representation from New Jersey which was read as follows:

[Text of the New Jersey Representation]

Whereupon, a motion was made, That the several articles in the Confederation referred to in the representation of the State of New Jersey be so far reconsidered at this time, as to admit the purport and meaning of the additions, alterations and amendments proposed in the said representation.

Question put.

Passed in the negative: 3 Ayes, 6 Noes, one divided.

1. Governor William Livingston submitted the Articles of Confederation to the General Assembly on 4 December 1777. The Assembly read them on 26 February 1778, but took no action. Livingston reminded the Assembly on 23 March and 29 May that it had not acted on the Articles. On 25 March a joint committee of the Assembly and Council began to consider the Articles, but after a few sessions it accomplished little. On 2 June the joint committee began meeting again, and on 15 June it reported nine amendments to the Articles. On the same day another joint committee drafted a representation to accompany the report. The Council approved the report and the representation on 15 June, and the Assembly approved them on 15 and 16 June, respectively.

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