

**STATE DOCUMENTS ON
FEDERAL RELATIONS:
THE STATES AND THE
UNITED STATES, NUMBER I**

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State documents on Federal relations: the States and the United States, Number I by Herman V. Ames

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HERMAN V. AMES

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NUMBER I.

INTERPRETATION OF THE CONSTITUTION
DURING THE FIRST TWO DECADES
OF ITS HISTORY. 1789-1809.

EDITED WITH NOTES BY
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1. Memorial from the State of Rhode Island and
Providence Plantations.

September Session, 1789.

In June of 1789, the Rhode Island Assembly for the sixth time defeated a proposition to call a convention to consider the ratification of the Federal Constitution, but hoping to avert hostile tariff legislation by Congress, it had passed in May an impost law providing for the collection of the same duties on imports as Congress might lay upon imports into the Union. In September, after re-enacting the law passed by Congress (July 31, 1 *U. S. Stat. at Large*, 48), they sent the following memorial, an overture for a commercial union. Congress, anticipating the receipt of the memorial, passed an act suspending the impost law in favor of Rhode Island and North Carolina until January 15, 1790. (Sept. 15, 1 *U. S. Stat. at Large*, 100. Memorial received, Sept. 26, *Senate Journal*, 1 *Cong.*, 89 (ed. 1820).) Finally the Rhode Island Assembly called a convention for March 1, 1790, and requested a further suspension of the revenue laws. Congress granted an extension until April 1. The convention, however, adjourned without completing its work to May 24. In consequence of its action, the Senate on May 18 passed a bill prohibiting all commercial intercourse with Rhode Island after the 1st of July next, and authorizing the government to demand of that State the payment of its portion of the continental debt without delay. (*Annals of Cong.*, 1, 976; *S. J.*, 1 *Cong.*, 142.) This attitude of the Senate, together with the open threats of coercion in the public press, apparently had an important influence on the convention. That body ratified the constitution, May 29, 1790, by a vote of 34 to 32, also proposing a series of amendments.

References: The text is from *Rhode Island Colonial Records*, X, 356, also slightly changed in *American State Papers, Miscellaneous*, 1, 10. For the

history, of prime importance is F. G. Bates, *Rhode Island and the Formation of the Union*, Chaps. V, VI (N. Y., 1898); cf. Arnold's *Rhode Island*, II, 536-564 (4th ed.); Curtis, *Constitution*, II, 598-604 (ed. 1860), or I, 692-697 (ed. 1897); Elliot's *Debates*, I, 336, 337.

To the President, Senate and House of Representatives of the eleven United States of America, in Congress assembled:

The critical situation in which the people of this state are placed, engage us to make these assurances, in the behalf of their attachment and friendship to their sister states, and of their disposition to cultivate mutual harmony and friendly intercourse. They know themselves to be a handful, comparatively viewed, and although they now stand as it were, alone, they have not separated themselves, or departed from the principles of that Confederation which was formed by the sister states, in their struggle for freedom and in the hour of danger. They seek by this *memorial* to call to your remembrance the hazard which we have run, the hardships we have endured, the treasures we have spent, and the *blood* we have lost together in one common cause, and especially the object we had in view—the preservation of our *liberty*—wherein ability considered they may truly say, they were equal in exertions with the foremost. The effects whereof in great embarrassments and other distresses, consequent thereon, we have since experienced with severity, which common sufferings and common danger we hope and trust will yet form a bond of union and friendship not easily to be broken. Our not having acceded to or adopted the new system of government found and adopted by most of our sister states, we doubt not have given uneasiness to them. That we have not seen our way clear to do it, consistent with our idea of the principle upon which we all embarked together, has also given *pain* to us; we have not doubted but we might thereby avoid present difficulties, but we have apprehended future mischief. The people of this state from its first settlement have been accustomed and strongly attached to a democratical form of government. They have read in the constitution an approach toward that form of government from which we have lately dissolved our connection at so much hazard of expense of life and treasure,—they have seen with *pleasure* the administration thereof, from the most important

trusts downward, committed to men who have highly merited, and in whom the people of the United States place *unbounded confidence*. Yet, even on this circumstance, in itself so fortunate, they have apprehended danger by way of precedent. Can it be thought strange then, that with these impressions, they should wait to see the proposed system organized and in operation, to see what further checks and securities would be agreed to, etc. [and] established by way of *amendments* before they would adopt it as a constitution of government for themselves and their posterity?

These amendments we believe have already afforded some relief and satisfaction to the minds of the people of this state: And we earnestly look for the time, when they may with clearness and safety, be again united with their sister states under a constitution and form of government so well poised, as neither to need alteration or be liable thereto by a majority only of nine states out of *thirteen*, a circumstance which may possibly take place against the sense of a majority of the people of the United States. We are sensible of the extremes to which democratical government is sometimes liable; something of which we have lately experienced, but we esteem them temporary and partial evils compared with the loss of liberty and the rights of a free people. Neither do we apprehend they will be marked with severity by our sister states, when it is considered that during the late trouble, the whole United States, notwithstanding their joint wisdom and efforts, fell into the like misfortune. That from our extraordinary exertions, this state was left in a situation nearly as embarrassing at that during the war. That in the measures which were adopted, government unfortunately had not the aid and support from the monied interest, which our sister states of New York and the Carolinas experienced under similar circumstances, and especially when it is considered that upon some abatement of that fermentation in the minds of the people which is so common in the collision of sentiments and of parties, a disposition appears to provide a remedy for the difficulties we have labored under on that account.

We are induced to hope that we shall not be altogether considered as foreigners, having no particular affinity or connection

with the United States. But that trade and commerce upon which the prosperity of this state much depends, will be preserved as free and open between this and the *United States* as our different situations at present can possibly admit. Earnestly desiring and proposing to adopt such commercial regulations on our part as shall not tend to defeat the collection of the revenue of the United States, but rather to act in conformity to, or incorporate [co-operate] therewith, and desiring also to give the strongest assurances that we shall during our present situation use our utmost endeavors to be in preparation, from time to time, to answer our proportion of such part of the interest or principal of the foreign and domestic debt, as the United States shall judge expedient to pay and discharge.

We feel ourselves attached by the strongest ties of friendship, kindred and of interest with our sister states, and we cannot without the greatest reluctance look to any other quarter for those advantages of commercial intercourse which we conceive to be more natural and reciprocal between them and us.¹

2. Virginia on the Assumption of State Debts.

December 23, 1790.

Virginia especially was opposed to the act for the assumption of State debts, as she had already paid off the greater portion of her revolutionary debt. Jefferson, nearly a month prior to the adoption of this memorial, wrote Morris: "The States of Virginia and North Carolina are peculiarly dissatisfied with this measure. I believe, however, that it is harped on by many to mask their disaffection to the government on other grounds. Its great foe in Virginia is an implacable one." (Patrick Henry.) *Jefferson's Works*, (ed. 1854), III, 198; *Writings* (Ford's ed.), V, 250.

In addition to this memorial, the Legislature of Virginia also passed resolutions, Dec. 21, 1790, one of which pronounced the law in question "repugnant to the Constitution of the United States, as it goes to the exercise of a power not expressly granted to the general government." *Hening's Statutes*, XIII, 234. As soon as this resolution had passed the House of Delegates, Hamilton wrote to Chief Justice Jay: "This is the first symptom of a spirit which must either be killed or will kill the Constitution of the United States.

¹ The formal indorsement is omitted, which practice will be followed usually.

I send the resolution to you that it may be considered what ought to be done. Ought not the collective weight of the different parts of the Government to be employed in exploding the principles they contain?" *Correspondence and Public Papers of John Jay*, III, 405. (N. Y., 1891.) Jay replied: "To treat them as very important might render them more so than I think they are. * * * The assumption will do its own work; it will justify itself, and not want advocates. Every indecent interference of State assemblies will diminish their influence; the national government has only to do what is right and, if possible, be silent. If compelled to speak, it should be in a few words strongly evinced of temper, dignity, and self-respect." *Ibid.*, 410.

These resolutions were presented to the Senate by Monroe on January 13, 1791, and to the House by Madison on the following day, and communicated by the President on January 17, but Congress took no important action thereon.

In Maryland resolutions pronouncing assumption as dangerous to the independent existence of the State government were defeated by the casting vote of the Speaker of the House. North Carolina likewise condemned the measure in vigorous language.

References: Text in Hening's *Statutes*, XIII, 237-239 (Phila., 1823); also in *Amer. State Papers, Finance*, I, 90, 91. For comments, see Jefferson's *Works*, III, 152, 166, 167, 198; Jay's *Correspondence and Public Papers*, III, 405, 410; Hamilton's *History of the Republic*, IV, 479, 480; McMaster's *United States*, I, 593. For references on the previous opposition to funding in Congress, see MacDonald's *Documents*, 47; Channing and Hart's *Guide*, § 158.

IN THE HOUSE OF DELEGATES, }

THURSDAY, THE 16TH OF DECEMBER, 1790. }

The General Assembly of the Commonwealth of Virginia to the United States in Congress assembled.

Represent,

That it is with great concern they find themselves compelled, from a sense of duty, to call the attention of Congress to an act of their last session, intitled "An act making provision for the debt of the United States," which the General Assembly conceive neither policy, justice nor the constitution warrants. Republican policy in the opinion of your memorialists could scarcely have suggested those clauses in the aforesaid act, which limit the right of the United States, in their redemption of the public debt. On the contrary they discern a striking resemblance between this system and that which was introduced into England, at the revolution; a system which has perpetuated upon that nation an enormous debt, and has moreover insinuated into the hands of