

Antifederalist No. 22

Articles of Confederation Simply Requires Amendments, Particularly For Commercial Power And Judicial Power; Constitution Goes Too Far

Benjamin Austin of Massachusetts, used the pen-name "Candidus." Taken from two letters by "Candidus" which appeared in the [Boston] Independent Chronicle, December 6 and 20, 1787.

.... Many people are sanguine for the Constitution, because they apprehend our commerce will be benefitted. I would advise those persons to distinguish between the evils that arise from extraneous causes and our private imprudencies, and those that arise from our government. It does not appear that the embarrassments of our trade will be removed by the adoption of this Constitution. The powers of Europe do not lay any extraordinary duties on our oil, fish, or tobacco, because of our government; neither do they discourage our ship building on this account. I would ask what motive would induce Britain to repeal the duties on our oil, or France on our fish, if we should adopt the proposed Constitution? Those nations laid these duties to promote their own fishery, etc., and let us adopt what mode of government we please, they will pursue their own politics respecting our imports and exports, unless we can check them by some commercial regulations.

But it may be said, that such commercial regulations will take place after we have adopted the Constitution, and that the northern states would then become carriers for the southern. The great question then is, whether it is necessary in order to obtain these purposes, for every state to give up their whole power of legislation and taxation, and become an unwieldy republic, when it is probable the important object of our commerce could be effected by a uniform navigation act, giving Congress full power to regulate the whole commerce of the States? This power Congress have often said was sufficient to answer all their purposes. The circular letter from the Boston merchants and others, was urgent on this subject. Also the navigation act of this state [Massachusetts], was adopted upon similar principles, and . . . was declared by our Minister in England, to be the most effectual plan to promote our navigation, provided it had been adopted by the whole confederacy.

But it may be said, this regulation of commerce, without energy to enforce a compliance, is quite ideal. Coercion with some persons seems the principal object, but I believe we have more to expect from the affections of the people, than from an armed body of men. Provided a uniform commercial system was adopted, and each State felt its agreeable operations, we should have but little occasion to exercise force. But however, as power is thought necessary to raise an army, if required, to carry into effect any federal measure, I am willing to place it, where it is likely to be used with the utmost caution. This power I am willing to place among the confederated States, to be exercised when two thirds of them in their legislative capacities shall say the common good

requires it. But to trust this power in the hands of a few men delegated for two, four and six years, is complimenting the ambition of human nature too highly, to risk the tranquility of these States on their absolute determination. Certain characters now on the stage, we have reason to venerate, but though this country is now blessed with a Washington, Franklin, Hancock and Adams, yet posterity may have reason to rue the day when their political welfare depends on the decision of men who may fill the places of these worthies....

The advocates for the Constitution, have always assumed an advantage by saying, that their opposers have never offered any plan as a substitute; the following outlines are therefore submitted, not as originating from an individual, but as copied from former resolutions of Congress, and united with some parts of the Constitution proposed by the respectable convention. This being the case, I presume it will not be invalidated by the cant term of antifederalism.

1st. That the Legislature of each state, empower Congress to frame a navigation act, to operate uniformly throughout the states; receiving to Congress all necessary powers to regulate our commerce with foreign nations, and among the several states, and with the Indian tribes. The revenue arising from the impost to be subject to their appropriations, "to enable them to fulfill their public engagements with foreign creditors."

2nd. That the Legislature of each state, instruct their delegates in Congress, to frame a treaty of AMITY for the purposes of discharging each state's proportion of the public debt, either foreign or domestic, and to enforce (if necessary) their immediate payment. Each state obligating themselves in the treaty of amity, to furnish (whenever required by Congress) a proportionate number of the Militia who are ever to be well organized and disciplined, for the purposes of repelling any invasion; suppressing any insurrection; or reducing any delinquent state within the confederacy, to a compliance with the federal treaty of commerce and amity. Such assistance to be furnished by the Supreme Executive of each state, on the application of Congress. The troops in cases of invasion to be under the command of the Supreme Executive of the state immediately in danger; but in cases of insurrection, and when employed against any delinquent state in the confederacy, the troops to be under the command of Congress.

3d. That such states as did not join the confederacy of commerce and amity, should be considered as aliens; and any goods brought from such state into any of the confederated states, together with their vessels, should be subject to heavy extra duties.

4th. The treaty of amity, agreed to by the several states, should expressly declare that no State (without the consent of Congress) should enter into any treaty, alliances, or confederacy; grant letters of marque and reprisal; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder or ex post facto law, or impair the obligations of contracts; engage in war, or declare peace.

5th. A Supreme Judicial Court to be constituted for the following federal purposes -- to extend to all treaties made previous to, or which shall be made under the authority of the confederacy; all cases affecting Ambassadors, and other public Ministers and Consuls; controversies between two or more states; and between citizens of the same state claiming lands under grants of different

states; to define and punish piracies, and felonies committed on the high seas, and offenses against the law of nations.

6th. That it be recommended to Congress, that the said navigation act, and treaty of amity, be sent to the Legislatures (or people) of the several states, for their assenting to, and ratifying the same.

7th. A regular statement and account of the receipts and expenditures, of all public monies, should be published from time to time.

The above plan it is humbly conceived -- secures the internal government of the several states; promotes the commerce of the whole union; preserves a due degree of energy; lays restraints on aliens; secures the several states against invasions and insurrection by a MILITIA, rather than a STANDING ARMY; checks all ex post facto laws; cements the states by certain federal restrictions; confines the judiciary powers to national matters; and provides for the public information of receipts and expenditures. In a word, it places us in a complete federal state.

The resolves of Congress, 18th April, 1783, "recommends to the several States, to invest them with powers to levy for the use of the United States, certain duties upon goods, imported from any foreign port, island or plantation;" which measures is declared by them, "to be a system more free, from well founded exception, and is better calculated to receive the approbation of the several States, than any other, that the wisdom of Congress could devise; and if adopted, would enable them to fulfill their public engagements with their foreign creditors." . . .

Should we adopt this plan, no extraordinary expenses would arise, and Congress having but one object to attend, every commercial regulation would be uniformly adopted; the duties of impost and excise, would operate equally throughout the states; our ship building and carrying trade, would claim their immediate attention; and in consequence thereof, our agriculture, trade and manufactures would revive and flourish. No acts of legislation, independent of this great business, would disaffect one State against the other; but the whole, . . . in one Federal System of commerce, would serve to remove all local attachments, and establish our navigation upon a most extensive basis. The powers of Europe, would be alarmed at our Union, and would fear lest we should retaliate on them by laying restrictions on their trade....

These states, by the blessing of Heaven, are now in a very tranquil state. This government, in particular, has produced an instance of ENERGY, in suppressing a late rebellion, which no absolute monarchy can boast. And notwithstanding the insinuations of a "small party," who are ever branding the PEOPLE with the most opprobrious epithets -- representing them as aiming to level all distinctions; emit paper money; encourage the rebellion -- yet the present General Court, the voice of that body, whom they have endeavored to stigmatize, have steadily pursued measures foreign from the suggestions of such revilers. And the public credit has been constantly appreciating since the present Administration.

Let us then be cautious how we disturb this general harmony. Every exertion is now making, by the people, to discharge their taxes. Industry and frugality prevail. Our commerce is every day

increasing by the enterprise of our merchants. And above all, the PEOPLE of the several states are convinced of the necessity of adopting some Federal Commercial Plan....

CANDIDUS