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instruct the New Jersey congressional delegation to oppose payment to the East India Company.

3. Hushai the Archite, and Absalom, third son of King David. Specifically, the reference is to the treachery of Hushai who, feigning loyalty to the rebel Absalom, counselled delay in attacking David in hopes that the rebellion of the self-proclaimed king and his dissident followers would be crushed by his father. See 2 Sam. 13:1-39, 14:1-24, 15:7-37, 17:1-14, 18:1-17.

### 6 “Z” on the Nature of the Imperial Controversy

[*New-York Gazette; and the Weekly Mercury*, August 15, 1774.]

Perhaps to most New Jerseyans the primary task of the Continental Congress would be to resolve the thorny issue of imperial taxation. There were two dimensions to the dispute. The first problem stemmed from the nature and purpose of the tax. During the Stamp Act crisis Americans had challenged the constitutionality of internal taxes (taxes designed primarily to raise revenue) but not external taxes (duties imposed on imports and exports whose principal purpose was to regulate commerce). Of course the attempt to distinguish between “internal” or revenue taxes and “external” or regulatory taxes was specious because a measure could easily do both. The Townshend duties brought the issue to the fore. Hoping to overcome the American objections to the Stamp Act, Charles Townshend devised a series of import duties that would also raise revenue. The result was the colonial denial of the authority of Parliament to levy any taxes on America. That was the crux of the issue, for in reality the debate over “internal” and “external” taxes was secondary to the larger question of the constitutional power of taxation. In protesting against the Stamp Act and Townshend duties, Americans contended that they could be taxed only by their elected representatives: since they were not actually represented in the House of Commons, Parliament had no right to impose taxes on the colonists. On the other hand, the British argued that the Americans were represented in Parliament in spirit if not in fact because its members acted in the best interests of the nation as a whole. The controversy over “actual” and “virtual” representation, like that over “internal” and “external” taxation, was further complicated because many Americans were unable to vote for their legislators just as numerous Britons were unrepresented in Parliament. The essay that follows is the most extensive discussion of the taxation-representation problem written by a resident of New Jersey during the pre-revolutionary era. Ironically, it is an anachronistic discussion, for by the summer of 1774 the stakes of the imperial contest had shifted from taxes to the more fundamental matter of sovereignty. Nonetheless, the cautious, moderate views

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expressed by the unidentified author capture the prevalent political mood of the province.

New-Jersey, 29th July, 1774

To the INHABITANTS of New-Jersey,

Friends and Countrymen:

We are involved in a dispute with the mother-country, that is of the most serious nature. It is now brought to a crisis, and upon our conduct at this time every thing will depend.

If we calmly view the controversy we shall find that both sides are wrong; the Parliament is carrying their authority or right of taxation farther than is consistent with the rights of the colonists; the colonists too far in denying ALL authority of Parliament.

To draw the line is difficult, but yet, I apprehend a calm, prudent and steady perseverance in what is right, not making extravagant and improper demands, will bring about a reconciliation. We have lost the distinction between internal and external taxation, and absurdly call every impost upon trade a taxation; but if we would restore words to their proper meaning, we should find that TAXES are certain portions of our estates taken from us by the legislative authority, for the public service, and are to be paid whether we will or not; that on the other hand DUTIES are certain rates, set on certain articles of luxury; and are either intended as prohibitions of those articles, and therefore laid high, or are set so low as to raise a revenue to the state, and are levied only on the consumer; so that under this species of taxation every person contributes as he pleases, but none are compelled; hence a wide difference in the taxes if we may with propriety call the last by that name.

The duty on Tea has raised this mighty contest, fomented I fear by men whose interest it is to discourage the trade with Britain for this article of luxury, because it will deprive them of their enormous gains in their trade with the Dutch, to whom they make no scruple to pay duties tho' their consciences will not permit them to pay any to the state that protects them, even while they are carrying on their destructive commerce.<sup>1</sup>

Let us, my countrymen, be steady in our duty to Great-Britain, and at the same time that we carefully guard our liberties; let us not deny the authority of Parliament where it alone can have jurisdiction, and thereby break that bond of union, which has made the empire we belong to so great and glorious. In short, while we contend for our rights, let us not attempt to deprive them of theirs, by denying that we are bound by the acts of the British legislature, in laying duties upon any foreign articles imported to us; we in fact declare an independancy inconsistent with our interest, and with every idea of a colony, which in itself carries the idea of dependance. Instead therefore, my countrymen, of persisting in the absurd denial of the authority of Great-Britain, in imposing any duties upon Tea or other articles of luxury and foreign produce; let us endeavour to draw a line which will put an end to the present, and [prevent]<sup>2</sup> future contests between us and the mother-country.

We are a part of a very great and powerful empire, and tho' from our great distance from the mother-country, we cannot be represented in Parliament, and have therefore a representation of our own; yet this doth not destroy or take away all

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authority of the mother-country, but only abridges its power in such instances, wherein from the nature of the thing it cannot be a complete judge. Hence it follows naturally that it would be improper for Parliament to tax our estates, because they cannot know what sums we are able to pay, nor in what mode it would be proper to raise it, and therefore this should be left to our own Representatives: so on the other hand our jurisdictions are limited, and we cannot regulate trade or extend our authority to any matter out of our colonies; indeed, if we could we should from our situations, the different geniuses of the people of these colonies and many other things, never be able to pass laws that would be uniform (which they ought to be), but our different interests would lead us to different regulations, inconsistent with the central good; our laws would clash and be often repugnant to those of the mother-country: hence it follows that the restraining and regulating trade by prohibitions, by duties, &c. must rest with the mother country, where only a universal and superintendant power can be lodged.

This then being a true state of our situation, instead of denying ALL authority in Parliament; let us contend warmly that our estates should be taxed only by our Representatives in General Assembly; let us acknowledge that as parts of one great empire, we are ready to support and maintain it by contributing our portion to the national expence, but that our own Representatives are the only judges of the mode of laying and raising the taxes for this purpose. That on the other hand Parliament from the nature and necessity of the thing, must and ought to have the right of regulating and restraining trade, and laying such duties (let it be for revenue or what it will) on articles of luxury and foreign growth and manufactures. With these sentiments, let us guard against the madness of some men, who are inflaming our minds and hurrying us into an open rupture with our mother-country. Let us instead of denying the authority in the mother-country instruct our Representatives in General-Assembly and those who shall meet in the intended General Congress, to use every means in their power to conciliate this dangerous controversy, to procure an exemption of our effects from Parliamentary taxation, and leave Parliament to a full exercise of their power as to laying duties and restraints on trade.

Should we thus distinguish between INTERNAL and EXTERNAL taxation, and speedily make the proposal; so just and reasonable a request, we have the greatest reason to believe will not be denied: on the contrary, we may safely presume that his Majesty and his Ministers as well as Parliament will hearken to the justice of our request, and readily accept of our proposals. On the other hand think, my countrymen, of the danger attending an obstinate perseverance in so generally denying the authority of Parliament, that with the confusion it has and will introduce, we may in the heat and hurry of our spirits inflamed by men, who perhaps are without consequence but in times of tumult and disorder, be involved in the horrors of a civil war, and to the ruin of our liberty be compelled to submit by force.

Z.<sup>3</sup>

1. To avoid compliance with the tea tax retained when Parliament repealed the other Townshend duties, American merchants began to smuggle cheap Dutch tea. The Tea Act lowered the price of the East India Company tea to a

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level where smuggling became unprofitable and legitimate merchants could not compete with East India tea retailers.

2. Printer's insertion.
3. Is "Z" John Lawrence? See Sec. IV, Doc. 1, note 2.

## 7 The Reverend John Witherspoon, "Thoughts on American Liberty"

[John Witherspoon, *The Works of John Witherspoon* (9 vols., Edinburgh, 1804), 9:73-77. Hereafter *Works of John Witherspoon*.]

The Reverend Dr. John Witherspoon (1723-1794), an ardent Presbyterian and a zealous Whig, maintained discreet public silence on imperial affairs from his appointment to the presidency of the College of New Jersey (now Princeton University) in 1768 until early 1775. Nonetheless, his personal sentiments were not lost on his associates or students, and the college at Princeton soon became widely recognized as either the paragon of patriotism or the seat of sedition, depending upon one's politics. In 1775 Witherspoon became actively involved in political activities and quickly rose to the forefront of the radical ranks. He unequivocally proclaimed his position to posterity in signing the Declaration of Independence. The undated, unpublished essay that follows was probably written in August—certainly after the New Brunswick meeting of July 21-23 and before the Congress convened on September 5. It succinctly states the position of the more radical Jersey Whigs not only in its uncompromising attitude on the current crisis but also in its decidedly "national" perspective and militancy on the whole matter of Anglo-American relations. Witherspoon is definitely writing here as an American, not as a Jerseyman or a colonial.

[August 1774]

The Congress is, properly speaking, the representative of the great body of the people of North America. Their election is for a particular purpose, and a particular season only; it is quite distinct from the assemblies of the several provinces. What will be before them, is quite different from what was or could be in the view of the electors, when the assemblies are chosen. Therefore those provinces are wrong, who committed it to the assembly as such, to send delegates, though in some provinces, such as Boston and Virginia, and some others, the unanimity of sentiment is such, as to make it the same thing in effect.

It is at least extremely uncertain, whether it could be proper or safe for the Congress to send, either ambassadors, petition or address, directly to king or parliament, or both. They may treat them as a disorderly, unconstitutional meeting