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## **Vol. 15. Commentaries on the Constitution, public and private. Volume 3: 18 December 1787 to 31 January 1788.**

Madison, Wisconsin: The State Historical Society of Wisconsin,  
1984

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THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

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Volume XV

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Commentaries on the  
Constitution  
Public and Private

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◆  
Volume 3

18 December 1787 to 31 January 1788

Editors

JOHN P. KAMINSKI

GASPARE J. SALADINO

Associate Editor  
RICHARD LEFFLER

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**W**E, the People of the United States, in a more perfect Union, establish Justice, Tranquility, provide for the common and secure the General Welfare, and secure Liberty to Ourselves and our Posterity, do ordain a Constitution for the United States of America.

A R T I C L E 1.

*Sec't. 1.* ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

*Sec't. 2.* The House of Representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New-Hampshire shall be en-



*The Documentary History of the Ratification of the Constitution* is a research tool of remarkable power. The volumes are encyclopedic, consisting of manuscript and printed documents compiled from hundreds of sources, impeccably annotated, thoroughly indexed, and accompanied by microfiche supplements. *The Documentary History* is an unrivalled reference work for historical and legal scholars, librarians, and students of the United States Constitution.

*Commentaries on the Constitution: Public and Private*, a five-volume series, is an integral but autonomous part of *The Documentary History*. The documents in this series present the day-by-day regional and national debate over the Constitution that took place in newspapers, magazines, broadsides, pamphlets, and private letters. (Volumes 1 and 2 were published in 1981 and 1983.)

Volume 3 of *Commentaries* covers the period 18 December 1787 to 31 January 1788. During this period the news that Delaware and Pennsylvania had ratified the Constitution was disseminated; New Jersey, Georgia, and Connecticut adopted the Constitution; the strongly divided Massachusetts Convention was in the midst of debating the merits of the new form of government; South Carolina became the eleventh state to call a ratifying convention; and on 31 January and 1 February, the New York legislature debated and adopted a resolution calling a ratifying convention.

This third volume contains six essays by "Brutus" and eight numbers by "Centinel" (Samuel Bryan), two of the most influential Antifederalist serialists, and twenty-five numbers by "Publius," *The Federalist* (Alexander Hamilton and James Madison). Also included are essays by other members of the Constitutional Convention such as Oliver Ellsworth's "Landholder," Luther Martin's "Genuine Information," and Roger Sherman's "A Countryman," as well as Edmund Randolph's letter to the Virginia House of Delegates and New York Antifederalists Robert Yates and John Lansing, Jr.'s letter to Governor George Clinton. One other notable essay, "The Dissent of the Minority of the Pennsylvania Convention," which was the first "official" statement opposing the Constitution, is also published in this volume.

Other items of particular interest are four essays by "Philadelphensis" (Benjamin Workman), two essays by "A Freeman" (Tench Coxe), a lengthy essay by "America" (Noah Webster), Francis Hopkinson's allegorical "The New Roof," selected speeches in the Connecticut Convention, and a pamphlet by "Aristides" (Alexander Contee Hanson). Many other newspaper items, greatly

(continued on back endflap)







THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION

VOLUME XV

*Commentaries on the Constitution*  
*Public and Private*

Volume 3



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MADISON  
STATE HISTORICAL SOCIETY OF WISCONSIN  
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*The Documentary History of the Ratification of the Constitution* is sponsored by the National Historical Publications and Records Commission and the University of Wisconsin-Madison. Preparation of this volume was made possible by grants from the National Historical Publications and Records Commission; the Program for Editions of the National Endowment for the Humanities, an independent federal agency; and from the Oscar Rennebohm Foundation of Madison, Wisconsin. Publication was made possible in part by a grant from the National Historical Publications and Records Commission.

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LIBRARY OF CONGRESS CATALOGING IN PUBLICATION DATA [REVISED]

Main entry under title:

The Documentary history of the ratification  
of the Constitution.

Editors for v. 15: John P. Kaminski, Gaspare J. Saladino.

Includes indexes.

CONTENTS: v. 1. Constitutional documents and records, 1776-1789.-v. 2. Ratification of the Constitution by the States: Pennsylvania.-v. 3. Ratification of the Constitution by the States: Delaware, New Jersey, Georgia, Connecticut.-v. 13. Commentaries on the Constitution, public and private (1).-v. 14. Commentaries on the Constitution, public and private (2).-v. 15. Commentaries on the Constitution, public and private (3).

I. United States--Constitutional history--Sources.

I. Jensen, Merrill. II. Kaminski, John P. III. Saladino, Gaspare J.

KF4502.D63 342'.73'029 75-14149

ISBN 0-87020-228-6 347.30229 AACR2

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## Contents

Acknowledgments	xiii
Organization	xiv
Editorial Procedures	xvi
Symbols	xvii
Calendar for the Years 1787 and 1788	xix
American Newspapers, 1787–1788	xx
Ratification Chronology, 1786–1790	xxii

### THE DOCUMENTS

352. Publius: The Federalist 23, New York Packet, 18 December	3
353. The Dissent of the Minority of the Pennsylvania Convention Pennsylvania Packet, 18 December	7
354. Anti-Cincinnatus, Northampton Hampshire Gazette, 19 December	36
355. Publius: The Federalist 24, New York Independent Journal, 19 December	39
356. Philadelphiensis V, Philadelphia Independent Gazetteer, 19 December	44
357. Benjamin Rush's Speech in the Pennsylvania Convention	47
358. Joseph Barrell to Nathaniel Barrell, Boston, 20 December	49
359. James Madison to George Washington, New York, 20 December	51
360. Samuel McDowell to William Fleming Mercer County, 20 December (excerpt)	53
361. A Countryman V, New Haven Gazette, 20 December	54
362. New York Journal, 20 December	55
363. Ezra Stiles Diary, New Haven, 21 December	57
364. Publius: The Federalist 25, New York Packet, 21 December	59
365. Pennsylvania Mercury, 21 December	64
366. Publius: The Federalist 26, New York Independent Journal, 22 December	65
367. John Quincy Adams to Abigail Adams Newburyport, 23 December (excerpt)	70
368. Rufus King to Jeremiah Wadsworth, New York, 23 December	70
369. Poplicola, Boston Gazette, 24 December	71
370. Ezra Stiles Diary, New Haven, 24 December (excerpts)	74
371. The Landholder VIII, Connecticut Courant, 24 December	75
372. New England, Connecticut Courant, 24 December	80
373. John Armstrong, Sr., to Benjamin Franklin, Carlisle, 25 December	86
374. Charles Nisbet to the Earl of Buchan, Carlisle, 25 December (excerpt)	87
375. Samuel A. Otis to Theodore Sedgwick, New York, 25 December	90
376. George Washington to Sir Edward Newenham Mount Vernon, 25 December (excerpt)	91
377. One of the People: Antifederal Arguments Maryland Journal, 25 December	92
378. Publius: The Federalist 27, New York Packet, 25 December	95
379. Centinel VI, Pennsylvania Packet, 25 December	98
380. James Madison to George Washington, New York, 26 December	102
381. Publius: The Federalist 28, New York Independent Journal, 26 December	102
382. Philadelphiensis VI, Philadelphia Freeman's Journal, 26 December	106
383. Pennsylvania Herald, 26 December	109
384. Brutus VI, New York Journal, 27 December	110

385. Edmund Randolph and the Constitution	117
386. George Washington on the Constitution	
27 December 1787–14 February 1788	135
A. Maryland Journal, 1 January	136
B. George Washington to Charles Carter, Mount Vernon, 12 January	137
C. Brutus, Boston Independent Chronicle, 24 January	137
D. Massachusetts Gazette, 25 January	138
E. Cato, Massachusetts Centinel, 26 January	138
F. An American, Boston American Herald, 28 January	139
G. Junius, Massachusetts Gazette, 29 January	140
H. A Countryman VI, New York Journal, 14 February (excerpts)	141
387. Thomas Tudor Tucker to St. George Tucker	
New York, 28 December (excerpt)	143
388. Samuel Adams and the Constitution	
Massachusetts Gazette, 28 December	144
389. Luther Martin: Genuine Information I	
Baltimore Maryland Gazette, 28 December	146
390. The Circulation of the Letters from the Federal Farmer	
in Massachusetts, 28 December 1787–7 January 1788	156
A. Massachusetts Gazette, 28 December	157
B. Boston American Herald, 31 December	157
C. Massachusetts Gazette, 1 January	157
D. Massachusetts Gazette, 1 January	158
E. Massachusetts Gazette, 1 January	158
F. Massachusetts Gazette, 1 January	159
G. Massachusetts Centinel, 2 January	159
H. Boston American Herald, 7 January	159
I. Boston American Herald, 7 January	160
391. Publius: The Federalist 30, New York Packet, 28 December	160
392. An American: To Richard Henry Lee	
28 December 1787–3 January 1788	165
A. An American: To Richard Henry Lee	
Philadelphia Independent Gazetteer, 28 December	165
B. Tench Coxe to James Madison, Philadelphia, 28 December	171
C. James Madison to Tench Coxe, New York, 3 January	172
D. An American: To Richard Henry Lee	173
393. Timothy Pickering to John Pickering, Philadelphia, 29 December (excerpt)	177
394. Centinel VII, Philadelphia Independent Gazetteer, 29 December	178
395. The New Roof, Pennsylvania Packet, 29 December	179
396. Roger Alden to Samuel William Johnson, New York, 31 December	188
397. A Landholder IX, Connecticut Courant, 31 December	190
398. Isaac Stearns to Samuel Adams, Billerica, 31 December	192
399. America, New York Daily Advertiser, 31 December	194
400. George Washington to Thomas Jefferson	
Mount Vernon, 1 January 1788 (excerpts)	203
401. Luther Martin: Genuine Information II	
Baltimore Maryland Gazette, 1 January	204
402. New Hampshire Spy, 1 January	210
403. Publius: The Federalist 31, New York Packet, 1 January	211
404. Samuel A. Otis to Elbridge Gerry, New York, 2 January	215
405. Publius: The Federalist 32–33	
New York Independent Journal, 2 January	216
406. Advertisement for the Pamphlet Edition of The Federalist	
New York Independent Journal, 2 January	223

407. An Old Man, Carlisle Gazette, 2 January	225
408. An Address to the Minority of the Pennsylvania Convention Carlisle Gazette, 2 January	228
409. Philadelphia Freeman's Journal, 2 January	230
410. Centinel VIII, Philadelphia Independent Gazetteer, 2 January	231
411. Brutus VII, New York Journal, 3 January	234
412. Cato VII, New York Journal, 3 January	240
413. Oliver Ellsworth and William Samuel Johnson Speeches in the Connecticut Convention, 4 January	243
414. Luther Martin: Genuine Information III Baltimore Maryland Gazette, 4 January	249
415. An Old Soldier, Connecticut Gazette, 4 January	256
416. Publius: The Federalist 34, New York Packet, 4 January	258
417. Samuel Osgood to Samuel Adams, New York, 5 January	263
418. Publius: The Federalist 35, New York Independent Journal, 5 January	268
419. Elbridge Gerry: Defense of Conduct in Constitutional Convention Massachusetts Centinel, 5 January	272
420. James Wadsworth and Oliver Ellsworth Speeches in the Connecticut Convention, 7 January	273
421. A Citizen of New Haven: Observations on the New Federal Constitution, Connecticut Courant, 7 January	280
422. Thomas B. Wait to George Thatcher Portland, Maine, 8 January (excerpts)	284
423. George Washington to Edmund Randolph, Mount Vernon, 8 January	287
424. Reports of the Boston Tradesmen Meeting, 8–9 January	289
A. Christopher Gore to Rufus King, Boston, 6 January (excerpt)	291
B. Nathaniel Gorham to Henry Knox, Boston, 6 January (excerpt)	292
C. Massachusetts Gazette, 8 January	292
D. Massachusetts Centinel, 9 January	294
425. Luther Martin: Genuine Information IV Baltimore Maryland Gazette, 8 January	296
426. Publius: The Federalist 36, New York Packet, 8 January	302
427. Centinel IX, Philadelphia Independent Gazetteer, 8 January	308
428. Samuel Huntington, Oliver Wolcott, Sr., and Richard Law Speeches in the Connecticut Convention, 9 January	312
429. Publius: The Federalist 29, New York Independent Journal, 9 January	318
430. Tamony, Virginia Independent Chronicle, 9 January	322
431. From Thomas Hutchins, New York, 10 January (excerpt)	325
432. James Madison to Edmund Randolph, New York, 10 January	326
433. From George Plater, Sotterley, 10 January	329
434. George Washington to Henry Knox Mount Vernon, 10 January (excerpt)	330
435. George Washington to Marquis de Lafayette Mount Vernon, 10 January (excerpts)	330
436. Helvidius Priscus II, Boston Independent Chronicle, 10 January	332
437. Brutus VIII, New York Journal, 10 January	335
438. Philadelphensis VII, Philadelphia Independent Gazetteer, 10 January	338
439. Governor George Clinton: Speech to the New York Legislature, Poughkeepsie, 11 January	340
440. Publius: The Federalist 37, New York Daily Advertiser, 11 January	343
441. Luther Martin: Genuine Information V Baltimore Maryland Gazette, 11 January	348
442. Publius: The Federalist 38, New York Independent Journal, 12 January	353
443. Centinel X, Philadelphia Independent Gazetteer, 12 January	360



444. Samuel Blachley Webb to Joseph Barrell, New York, 13 January (excerpt)	362
445. Charles Johnson to James Iredell Strawberry Hill, 14 January (excerpt)	363
446. James Madison to George Washington, New York, 14 January	365
447. The Report of New York's Delegates to the Constitutional Convention, New York Daily Advertiser, 14 January	366
448. Pennsylvania Packet, 14 January	370
449. Nathaniel Barrell to George Thatcher, Boston, 15 January	372
450. James R. Reid to Tench Coxe, New York, 15 January	373
451. Luther Martin: Genuine Information VI Baltimore Maryland Gazette, 15 January	374
452. Publius: The Federalist 39, New York Independent Journal, 16 January	380
453. Centinel XI, Philadelphia Independent Gazetteer, 16 January	386
454. Philanthropos, Pennsylvania Gazette, 16 January	391
455. Brutus IX, New York Journal, 17 January	393
456. George Washington to Samuel Powel, Mount Vernon, 18 January	398
457. Curtiopolis, New York Daily Advertiser, 18 January	399
458. Publius: The Federalist 40, New York Packet, 18 January	403
459. Luther Martin: Genuine Information VII Baltimore Maryland Gazette, 18 January	410
460. Luther Martin to the Printer Maryland Journal, 18 January	414
461. Henry Knox to John Sullivan, New York, 19 January	416
462. David Ramsay to John Eliot, Charleston, 19 January	417
463. Publius: The Federalist 41, New York Independent Journal, 19 January	418
464. James Madison to George Washington, New York, 20 January	425
465. James Wilson to Samuel Wallis, Philadelphia, 22 January	426
466. Publius: The Federalist 42, New York Packet, 22 January	427
467. Luther Martin: Genuine Information VIII Baltimore Maryland Gazette, 22 January	433
468. Tench Coxe to James Madison, Philadelphia, 23 January	437
469. Publius: The Federalist 43, New York Independent Journal, 23 January	439
470. Centinel XII, Philadelphia Independent Gazetteer, 23 January	446
471. A Copy of a Letter from Centinel, Pennsylvania Gazette, 23 January	450
472. A Freeman I, Pennsylvania Gazette, 23 January	453
473. Philadelphiensis VIII, Philadelphia Freeman's Journal, 23 January	458
474. Brutus X, New York Journal, 24 January	462
475. William Russell to William Fleming, Aspsenville, 25 January	467
476. Publius: The Federalist 44, New York Packet, 25 January	469
477. Tench Coxe to John Barry, Philadelphia, 26 January (excerpt)	475
478. Publius: The Federalist 45, New York Independent Journal, 26 January	476
479. Charles Tillinghast to Hugh Hughes New York, 27–28 January (excerpts)	480
480. John Brown to James Breckinridge, New York, 28 January (excerpt)	485
481. State Gazette of South Carolina, 28 January	486
482. David Ramsay to Benjamin Lincoln, Charleston, 29 January	487
483. Publius: The Federalist 46, New York Packet, 29 January	488
484. Luther Martin: Genuine Information IX Baltimore Maryland Gazette, 29 January	494
485. James Madison to Tench Coxe, New York, 30 January	498
486. Publius: The Federalist 47, New York Independent Journal, 30 January	498
487. Centinel XIII, Philadelphia Independent Gazetteer, 30 January	505
488. A Freeman II, Pennsylvania Gazette, 30 January	508

489. Brutus XI, New York Journal, 31 January	512
490. Aristides: Remarks on the Proposed Plan of a Federal Government, 31 January–27 March	517
A. Aristides: Remarks on the Proposed Plan, 31 January	522
B. Alexander Contee Hanson to Tench Coxe Annapolis, 6 February (excerpts)	551
C. Alexander Contee Hanson to Thomas Bradford Annapolis, 8 February	552
D. Alexander Contee Hanson to Tench Coxe, Annapolis, 24 February	552
E. Alexander Contee Hanson to Tench Coxe Annapolis, 27 March (excerpts)	553
APPENDIX I: Newspaper Squibs or Fillers	
Pennsylvania Gazette, 19 December	555
Pennsylvania Packet, 19 December	555
Benjamin Franklin, George Washington, and the Constitution	555
Pennsylvania Herald, 19 December	555
Pennsylvania Herald, 22 December	556
Newspaper Reports of the Calling of State Conventions, 20–26 December	556
Worcester Magazine, Third Week in December	556
Pennsylvania Packet, 20 December	557
Massachusetts Centinel, 22 December	557
Massachusetts Centinel, 26 December	557
Albany Gazette, 20 December	557
Pennsylvania Packet, 21 December	558
Salem Mercury, 25 December	558
Pennsylvania Packet, 25 December	558
Connecticut Journal, 26 December	559
New Jersey Journal, 26 December	559
Pennsylvania Herald, 29 December	559
Newburyport Essex Journal, 2 January	560
Philadelphia Freeman's Journal, 2 January	560
Pennsylvania Gazette, 2 January	560
The Political Society of Richmond, Virginia	561
Pennsylvania Gazette, 2 January	561
Philadelphia Independent Gazetteer, 5 January	561
John Hancock and the Constitution, 3 January–4 February	562
Worcester Magazine, First Week in January	563
Massachusetts Gazette, 11 January	563
Connecticut Courant, 4 February	563
Philadelphia Independent Gazetteer, 5 January	564
New York Journal, 7 January	564
The Pillars of the American Republic, 9–16 January	564
Massachusetts Centinel, 9 January	565
Massachusetts Gazette, 15 January	565
Massachusetts Centinel, 16 January	566
Pennsylvania Gazette, 9 January	567
Worcester Magazine, Second Week in January	567
Massachusetts Gazette, 15 January	567
Lansingburgh Northern Centinel, 15 January	569
Massachusetts Centinel, 19 January	569
Pennsylvania Packet, 19 January	569

The Minority of the Connecticut Convention, 21–24 January	570
Philadelphia Independent Gazetteer, 21 January	570
New Haven Gazette, 24 January	570
Massachusetts Centinel, 23 January	571
Pennsylvania Gazette, 23 January	571
Philadelphia Independent Gazetteer, 25 January	572
Litchfield Weekly Monitor, 28 January	573
Massachusetts Centinel, 30 January	573
Philadelphia Freeman's Journal, 30 January	573
Pennsylvania Gazette, 30 January	573
<b>APPENDIX II</b>	
Statistical Table of the Circulation of Newspaper Items, Broad­sides, and Pamphlets Published in Volume 3 of <i>Commentaries</i>	575
<b>INDEX</b>	583

## Acknowledgments

Our gratitude for the assistance rendered, over the years, by numerous persons, libraries, and documentary histories was expressed in Volumes I, XIII, and XIV. Particular thanks are extended here to those who have contributed directly to this volume.

The National Historical Publications and Records Commission continues to be the project's principal financial support. Substantial aid has also been received from the National Endowment for the Humanities, the University of Wisconsin-Madison, and The Oscar Rennebohm Foundation, Madison, Wisconsin. In particular, we would like to express our appreciation to Executive Director Frank G. Burke, Roger A. Bruns, George L. Vogt, and Mary A. Giunta of the NHPRC; Dorothy Wartenberg, Helen Aguerra, and Kathy Fuller of the NEH; and William H. Young of the Rennebohm Foundation.

The staff of the State Historical Society of Wisconsin, our primary research library and our publisher, continues to meet our many needs with a spirit of cooperation. The Memorial and Law libraries of the University of Wisconsin-Madison have often been helpful, especially Ruth M. Sanderson of the former and Nancy Paul of the latter. Under the chairmanship of Richard H. Sewell, the History Department of the University of Wisconsin-Madison has continued its support. Several colleagues on documentary histories have helped locate documents or resolve editorial questions. We wish to thank Charles T. Cullen and Ruth Lester of the Thomas Jefferson Papers; Richard A. Ryerson and Celeste Walker of the Adams Papers; Paul H. Smith of the Letters of Delegates to Congress Project; and Dorothy Twohig of the George Washington Papers. We would also like to thank the Massachusetts Historical Society and the New-York Historical Society for granting permission to publish restricted documents in this volume.

This volume is dedicated to Leonard Rapport of the National Archives and Records Service. As this project's first associate editor from 1959 to 1969, Mr. Rapport searched tirelessly and most effectively for documents in archives, libraries, historical societies, and town and city halls from Maine to Georgia. His expertise in the search and collection of documents was absolutely essential to the project in its formative years. As a member of our board of advisors, Mr. Rapport continues to share his knowledge.

## Organization

*The Documentary History of the Ratification of the Constitution* is divided into:

- (1) *Constitutional Documents and Records, 1776–1787* (1 volume),
- (2) *Ratification of the Constitution by the States* (11 volumes),
- (3) *Commentaries on the Constitution: Public and Private* (4 volumes),
- (4) *The Bill of Rights* (1 or 2 volumes).

### *Constitutional Documents and Records, 1776–1787.*

This introductory volume, a companion to all of the other volumes, traces the constitutional development of the United States during its first twelve years. Cross-references to it appear frequently in other volumes when contemporaries refer to events and proposals from 1776 to 1787. The documents include: (1) the Declaration of Independence, (2) the Articles of Confederation, (3) ratification of the Articles, (4) proposed amendments to the Articles, proposed grants of power to Congress, and ordinances for the Western Territory, (5) the calling of the Constitutional Convention, (6) the appointment of Convention delegates, (7) the resolutions and draft constitutions of the Convention, (8) the report of the Convention, and (9) the Confederation Congress and the Constitution.

### *Ratification of the Constitution by the States.*

The volumes are arranged in the order in which the states considered the Constitution. Although there are variations, the documents for each state are organized into the following groups: (1) commentaries from the adjournment of the Constitutional Convention to the meeting of the state legislature that called the state convention, (2) the proceedings of the legislature in calling the convention, (3) commentaries from the call of the convention until its meeting, (4) the election of convention delegates, (5) the proceedings of the convention, and (6) post-convention documents.

### *Microfiche Supplements to Ratification of the Constitution by the States.*

Much of the material for each state is repetitious or peripheral but still valuable. Literal transcripts of this material are placed on microfiche supplements. Occasionally, photographic copies of significant manuscripts are also included.

The types of documents in the supplements are:

(1) newspaper items that repeat arguments, examples of which are printed in the state volumes,

(2) pamphlets that circulated primarily within one state and that are not printed in the state volumes or in *Commentaries*,

(3) letters that contain supplementary material about politics and social relationships,

(4) photographic copies of petitions with the names of signers,

(5) photographic copies of manuscripts such as notes of debates, and

(6) miscellaneous documents such as election certificates, attendance records, pay vouchers and other financial records, etc.

*Commentaries on the Constitution: Public and Private.*

This series contains newspaper items, pamphlets, and broadsides that circulated regionally or nationally. It also includes some private letters that give the writers' opinions of the Constitution in general or that report on the prospects for ratification in several states. Except for some grouped items, documents are arranged chronologically and are numbered consecutively throughout the four volumes. There are frequent cross-references between *Commentaries* and the state series.

*The Bill of Rights.*

The public and private debate on the Constitution continued in several states after ratification. It was centered on the issue of whether there should be amendments to the Constitution and the manner in which amendments should be proposed—by a second constitutional convention or by the new U.S. Congress. A bill of rights was proposed in the U.S. Congress on 8 June 1789. Twelve amendments were adopted on 26 September and were sent to the states on 2 October. This volume(s) will contain the documents related to the public and private debate over amendments, to the proposal of amendments by Congress, and to the ratification of the Bill of Rights by the states.

## Editorial Procedures

With a few exceptions all documents are transcribed literally. Obvious slips of the pen and errors in typesetting are silently corrected. When spelling or capitalization is unclear, modern usage is followed. Superscripts and interlineated material are lowered to the line. Crossed-out words are retained when significant.

Brackets are used for editorial insertions. Conjectural readings are enclosed in brackets with a question mark. Illegible and missing words are indicated by dashes enclosed in brackets. However, when the author's intent is obvious, illegible or missing material, up to five characters in length, has been silently provided.

All headings are supplied by the editors. Headings for letters contain the names of the writer and the recipient and the place and date of writing. Headings for newspapers contain the pseudonym, if any, and the name and date of the newspaper. Headings for broadsides and pamphlets contain the pseudonym and a shortened form of the title. Full titles of broadsides and pamphlets and information on authorship are given in editorial notes. Headings for public meetings contain the place and date of the meeting.

Salutations, closings of letters, addresses, endorsements, and docketings are deleted unless they provide important information, which is then either retained in the document or placed in editorial notes.

Contemporary footnotes and marginal notes are printed after the text of the document and immediately preceding editorial footnotes. Symbols, such as stars, asterisks, and daggers have been replaced by superscripts (a), (b), (c), etc.

Many documents, particularly letters, are excerpted when they contain material that is not directly relevant to ratification. When longer excerpts or entire documents have been printed elsewhere, or are included in the microfiche supplements, this fact is noted.

## Symbols

### FOR MANUSCRIPTS, MANUSCRIPT DEPOSITORIES, SHORT TITLES, AND CROSS-REFERENCES

#### Manuscripts

Dft	Draft
FC	File Copy
MS	Manuscript
RC	Recipient's Copy
Tr	Translation from Foreign Language

#### Manuscript Depositories

CtY	Yale University
DLC	Library of Congress
DNA	National Archives
MHi	Massachusetts Historical Society
NHi	New-York Historical Society
NN	New York Public Library
NhHi	New Hampshire Historical Society
PHi	Historical Society of Pennsylvania
ViU	University of Virginia

#### Short Titles

Adams, <i>Defence of the Constitutions</i>	John Adams, <i>A Defence of the Constitutions of Government of the United States of America . . .</i> (3 vols., London, 1787–1788).
Blackstone, <i>Commentaries</i>	William Blackstone, <i>Commentaries on the Laws of England. In Four Books</i> (Re-printed from the British Copy, Page for Page with the Last Edition, 5 vols., Philadelphia, 1771–1772). Originally published in London from 1765 to 1769.
Boyd	Julian P. Boyd, ed., <i>The Papers of Thomas Jefferson</i> , Volumes 1–20 (Princeton, N.J., 1950–1982).



- Evans Charles Evans, *American Bibliography* (12 vols., Chicago, 1903–1934).
- Farrand Max Farrand, ed., *The Records of the Federal Convention* (3rd ed., 3 vols., New Haven, Conn., 1927).
- Fitzpatrick John C. Fitzpatrick, ed., *The Writings of George Washington . . .* (39 vols., Washington, D.C., 1931–1944).
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### Cross-references to Volumes of

#### *The Documentary History of the Ratification of the Constitution*

- CC References to *Commentaries on the Constitution* are cited as “CC” followed by the number of the document. For example: “CC:25.”
- CDR References to the first volume, titled *Constitutional Documents and Records, 1776–1787*, are cited as “CDR” followed by the page number. For example: “CDR, 325.”
- RCS References to the series of volumes titled *Ratification of the Constitution by the States* are cited as “RCS” followed by the abbreviation of the state and the page number. For example: “RCS:Pa., 325.”
- Mfm References to the microform supplements to the “RCS” volumes are cited as “Mfm” followed by the abbreviation of the state and the number of the document. For example: “Mfm:Pa. 25.”

# Calendar for the Years 1787-1788

1787

S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
<b>JANUARY</b>	<b>FEBRUARY</b>	<b>MARCH</b>	<b>APRIL</b>
1 2 3 4 5 6	1 2 3	1 2 3	1 2 3 4 5 6 7
7 8 9 10 11 12 13	4 5 6 7 8 9 10	4 5 6 7 8 9 10	8 9 10 11 12 13 14
14 15 16 17 18 19 20	11 12 13 14 15 16 17	11 12 13 14 15 16 17	15 16 17 18 19 20 21
21 22 23 24 25 26 27	18 19 20 21 22 23 24	18 19 20 21 22 23 24	22 23 24 25 26 27 28
28 29 30 31	25 26 27 28	25 26 27 28 29 30 31	29 30
<b>MAY</b>	<b>JUNE</b>	<b>JULY</b>	<b>AUGUST</b>
1 2 3 4 5	1 2	1 2 3 4 5 6 7	1 2 3 4
6 7 8 9 10 11 12	3 4 5 6 7 8 9	8 9 10 11 12 13 14	5 6 7 8 9 10 11
13 14 15 16 17 18 19	10 11 12 13 14 15 16	15 16 17 18 19 20 21	12 13 14 15 16 17 18
20 21 22 23 24 25 26	17 18 19 20 21 22 23	22 23 24 25 26 27 28	19 20 21 22 23 24 25
27 28 29 30 31	24 25 26 27 28 29 30	29 30 31	26 27 28 29 30 31
<b>SEPTEMBER</b>	<b>OCTOBER</b>	<b>NOVEMBER</b>	<b>DECEMBER</b>
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2 3 4 5 6 7 8	7 8 9 10 11 12 13	4 5 6 7 8 9 10	2 3 4 5 6 7 8
9 10 11 12 13 14 15	14 15 16 17 18 19 20	11 12 13 14 15 16 17	9 10 11 12 13 14 15
16 17 18 19 20 21 22	21 22 23 24 25 26 27	18 19 20 21 22 23 24	16 17 18 19 20 21 22
23 24 25 26 27 28 29	28 29 30 31	25 26 27 28 29 30	23 24 25 26 27 28 29
30			30 31

1788

S M T W T F S	S M T W T F S	S M T W T F S	S M T W T F S
<b>JANUARY</b>	<b>FEBRUARY</b>	<b>MARCH</b>	<b>APRIL</b>
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6 7 8 9 10 11 12	3 4 5 6 7 8 9	2 3 4 5 6 7 8	6 7 8 9 10 11 12
13 14 15 16 17 18 19	10 11 12 13 14 15 16	9 10 11 12 13 14 15	13 14 15 16 17 18 19
20 21 22 23 24 25 26	17 18 19 20 21 22 23	16 17 18 19 20 21 22	20 21 22 23 24 25 26
27 28 29 30 31	24 25 26 27 28 29	23 24 25 26 27 28 29	27 28 29 30
	30 31	30 31	
<b>MAY</b>	<b>JUNE</b>	<b>JULY</b>	<b>AUGUST</b>
1 2 3	1 2 3 4 5 6 7	1 2 3 4 5	1 2
4 5 6 7 8 9 10	8 9 10 11 12 13 14	6 7 8 9 10 11 12	3 4 5 6 7 8 9
11 12 13 14 15 16 17	15 16 17 18 19 20 21	13 14 15 16 17 18 19	10 11 12 13 14 15 16
18 19 20 21 22 23 24	22 23 24 25 26 27 28	20 21 22 23 24 25 26	17 18 19 20 21 22 23
25 26 27 28 29 30 31	29 30	27 28 29 30 31	24 25 26 27 28 29 30
			31
<b>SEPTEMBER</b>	<b>OCTOBER</b>	<b>NOVEMBER</b>	<b>DECEMBER</b>
1 2 3 4 5 6	1 2 3 4	1	1 2 3 4 5 6
7 8 9 10 11 12 13	5 6 7 8 9 10 11	2 3 4 5 6 7 8	7 8 9 10 11 12 13
14 15 16 17 18 19 20	12 13 14 15 16 17 18	9 10 11 12 13 14 15	14 15 16 17 18 19 20
21 22 23 24 25 26 27	19 20 21 22 23 24 25	16 17 18 19 20 21 22	21 22 23 24 25 26 27
28 29 30	26 27 28 29 30 31	23 24 25 26 27 28 29	28 29 30 31
		30	

## American Newspapers, 1787-1788

### SHORT TITLE LIST

The following short titles of selected newspapers and magazines are arranged alphabetically within each state. The full titles, the frequency of publication, the names of printers and publishers, and other information about all the newspapers of the period are contained in Clarence S. Brigham, *History and Bibliography of American Newspapers, 1690-1820* (2 vols., Worcester, Mass., 1947), and in his "Additions and Corrections to History and Bibliography of American Newspapers, 1690-1820," *Proceedings of the American Antiquarian Society*, LXXI, Part I (1961), 15-62. Similar data on magazines is in Frank Luther Mott, *A History of American Magazines, 1741-1850* (New York and London, 1930).

#### CONNECTICUT

*American Mercury*, Hartford  
*Connecticut Courant*, Hartford  
*Connecticut Gazette*, New London  
*Connecticut Journal*, New Haven  
*Fairfield Gazette*  
*Middlesex Gazette*, Middletown  
*New Haven Chronicle*  
*New Haven Gazette*  
*Norwich Packet*  
*Weekly Monitor*, Litchfield

#### DELAWARE

*Delaware Courant*, Wilmington  
*Delaware Gazette*, Wilmington

#### GEORGIA

*Gazette of the State of Georgia*, Savannah  
*Georgia State Gazette*, Augusta

#### MARYLAND

*Maryland Chronicle*, Fredericktown  
*Maryland Gazette*, Annapolis  
*Maryland Gazette*, Baltimore  
*Maryland Journal*, Baltimore  
*Palladium of Freedom*, Baltimore

#### MASSACHUSETTS

*American Herald*, Boston  
*American Recorder*, Charlestown  
*Berkshire Chronicle*, Pittsfield  
*Boston Gazette*  
*Continental Journal*, Boston  
*Cumberland Gazette*, Portland, Maine  
*Essex Journal*, Newburyport  
*Hampshire Chronicle*, Springfield  
*Hampshire Gazette*, Northampton  
*Herald of Freedom*, Boston  
*Independent Chronicle*, Boston  
*Massachusetts Centinel*, Boston  
*Massachusetts Gazette*, Boston  
*Salem Mercury*  
*Worcester Magazine/Massachusetts Spy*

#### NEW HAMPSHIRE

*Freeman's Oracle*, Exeter  
*New Hampshire Gazette*, Portsmouth  
*New Hampshire Mercury*, Portsmouth  
*New Hampshire Recorder*, Keene  
*New Hampshire Spy*, Portsmouth

#### NEW JERSEY

*Brunswick Gazette*, New Brunswick  
*New Jersey Journal*, Elizabeth Town  
*Trenton Mercury*

NEW YORK

*Albany Gazette*  
*Albany Journal*  
*American Magazine*, New York  
*Country Journal*, Poughkeepsie  
*Daily Advertiser*, New York  
*Hudson Weekly Gazette*  
*Impartial Gazetteer*, New York  
*Independent Journal*, New York  
*New York Gazetteer*  
*New York Journal*  
*New York Morning Post*  
*New York Museum*  
*New York Packet*  
*Northern Centinel*, Lansingburgh

NORTH CAROLINA

*North Carolina Gazette*, Edenton  
*North Carolina Gazette*, New Bern  
*State Gazette of North Carolina*, New Bern  
*Wilmington Centinel*

SOUTH CAROLINA

*Charleston Morning Post/City Gazette*  
*Columbian Herald*, Charleston  
*South Carolina Weekly Chronicle*, Charleston  
*State Gazette of South Carolina*, Charleston

VIRGINIA

*Kentucke Gazette*, Lexington  
*Norfolk and Portsmouth Journal*, Norfolk  
*Virginia Centinel*, Winchester  
*Virginia Gazette*, Petersburg  
*Virginia Gazette*, Winchester  
*Virginia Gazette and Independent Chronicle*, Richmond  
*Virginia Gazette and Weekly Advertiser*, Richmond  
*Virginia Herald*, Fredericksburg  
*Virginia Independent Chronicle*, Richmond  
*Virginia Journal*, Alexandria

VERMONT

*Vermont Gazette*, Bennington  
*Vermont Journal*, Windsor

PENNSYLVANIA

*American Museum*, Philadelphia  
*Carlisle Gazette*  
*Columbian Magazine*, Philadelphia  
*Evening Chronicle*, Philadelphia  
*Federal Gazette*, Philadelphia  
*Freeman's Journal*, Philadelphia  
*Germanitauner Zeitung*  
*Independent Gazetteer*, Philadelphia  
*Lancaster Zeitung*  
*Pennsylvania Chronicle*, York  
*Pennsylvania Gazette*, Philadelphia  
*Pennsylvania Herald*, Philadelphia  
*Pennsylvania Journal*, Philadelphia  
*Pennsylvania Mercury*, Philadelphia  
*Pennsylvania Packet*, Philadelphia  
*Philadelphische Correspondenz*  
*Pittsburgh Gazette*

RHODE ISLAND

*Newport Herald*  
*Newport Mercury*  
*Providence Gazette*  
*United States Chronicle*, Providence

## Chronology, 1786–1790

### 1786

- 21 January Virginia calls meeting to consider granting Congress power to regulate trade.  
11–14 September Annapolis Convention.  
20 September Congress receives Annapolis Convention report recommending that states elect delegates to a convention at Philadelphia in May 1787.  
11 October Congress appoints committee to consider Annapolis Convention report.  
23 November Virginia authorizes election of delegates to Convention at Philadelphia.  
23 November New Jersey elects delegates.  
4 December Virginia elects delegates.  
30 December Pennsylvania elects delegates.

### 1787

- 6 January North Carolina elects delegates.  
17 January New Hampshire elects delegates.  
3 February Delaware elects delegates.  
10 February Georgia elects delegates.  
21 February Congress calls Constitutional Convention.  
22 February Massachusetts authorizes election of delegates.  
28 February New York authorizes election of delegates.  
3 March Massachusetts elects delegates.  
6 March New York elects delegates.  
8 March South Carolina elects delegates.  
14 March Rhode Island refuses to elect delegates.  
23 April–26 May Maryland elects delegates.  
5 May Rhode Island again refuses to elect delegates.  
14 May Convention meets: quorum not present.  
14–17 May Connecticut elects delegates.  
25 May Convention begins with quorum of seven states.  
16 June Rhode Island again refuses to elect delegates.  
27 June New Hampshire renews election of delegates.  
13 July Congress adopts Northwest Ordinance.  
6 August Committee of Detail submits draft constitution to Convention.  
12 September Committee of Style submits draft constitution to Convention.  
17 September Constitution signed and Convention adjourns *sine die*.  
20 September Congress reads Constitution.  
26–28 September Congress debates Constitution.  
28 September Congress transmits Constitution to the states.

28–29 September	Pennsylvania calls state convention.
17 October	Connecticut calls state convention.
25 October	Massachusetts calls state convention.
26 October	Georgia calls state convention.
31 October	Virginia calls state convention.
1 November	New Jersey calls state convention.
6 November	Pennsylvania elects delegates to state convention.
10 November	Delaware calls state convention.
12 November	Connecticut elects delegates to state convention.
19 November–	Massachusetts elects delegates to state convention.
7 January 1788	
20 November–	Pennsylvania Convention.
15 December	
26 November	Delaware elects delegates to state convention.
27 November–	Maryland calls state convention.
1 December	
27 November–	New Jersey elects delegates to state convention.
1 December	
3–7 December	Delaware Convention.
4–5 December	Georgia elects delegates to state convention.
6 December	North Carolina calls state convention.
7 December	Delaware Convention ratifies Constitution, 30 to 0.
11–20 December	New Jersey Convention.
12 December	Pennsylvania Convention ratifies Constitution, 46 to 23.
14 December	New Hampshire calls state convention.
18 December	New Jersey Convention ratifies Constitution, 38 to 0.
25 December–	Georgia Convention.
5 January 1788	
31 December	Georgia Convention ratifies Constitution, 26 to 0.
31 December–	New Hampshire elects delegates to state convention.
12 February 1788	

1788

3–9 January	Connecticut Convention.
9 January	Connecticut Convention ratifies Constitution, 128 to 40.
9 January–	Massachusetts Convention.
7 February	
19 January	South Carolina calls state convention.
1 February	New York calls state convention.
6 February	Massachusetts Convention ratifies Constitution, 187 to 168, and proposes amendments.
13–22 February	New Hampshire Convention: first session.
1 March	Rhode Island calls statewide referendum on Constitution.
3–31 March	Virginia elects delegates to state convention.
24 March	Rhode Island referendum: voters reject Constitution, 2,711 to 239.
28–29 March	North Carolina elects delegates to state convention.
7 April	Maryland elects delegates to state convention.
11–12 April	South Carolina elects delegates to state convention.
21–29 April	Maryland Convention.
26 April	Maryland Convention ratifies Constitution, 63 to 11.
29 April–3 May	New York elects delegates to state convention.

12–24 May	South Carolina Convention.
23 May	South Carolina Convention ratifies Constitution, 149 to 73, and proposes amendments.
2–27 June	Virginia Convention.
17 June–26 July	New York Convention.
18–21 June	New Hampshire Convention: second session.
21 June	New Hampshire Convention ratifies Constitution, 57 to 47, and proposes amendments.
25 June	Virginia Convention ratifies Constitution, 89 to 79, and proposes amendments.
2 July	New Hampshire ratification read in Congress; Congress appoints committee to report an act for putting the Constitution into operation.
21 July–4 August	First North Carolina Convention.
26 July	New York Convention Circular Letter calls for second constitutional convention.
26 July	New York Convention ratifies Constitution, 30 to 27, and proposes amendments.
2 August	North Carolina Convention proposes amendments and refuses to ratify until amendments are submitted to Congress and to a second constitutional convention.
13 September	Congress sets dates for election of President and meeting of new government under the Constitution.
20 November	Virginia requests Congress under the Constitution to call a second constitutional convention.
30 November	North Carolina calls second state convention.

### 1789

21–22 August	North Carolina elects delegates to second state convention.
26 September	Congress adopts twelve amendments to Constitution to be submitted to the states.
16–23 November	Second North Carolina Convention.
21 November	Second North Carolina Convention ratifies Constitution, 194 to 77, and proposes amendments.

### 1790

17 January	Rhode Island calls state convention.
8 February	Rhode Island elects delegates to state convention.
1–6 March	Rhode Island Convention: first session.
24–29 May	Rhode Island Convention: second session.
29 May	Rhode Island Convention ratifies Constitution, 34 to 32, and proposes amendments.

*Commentaries on the Constitution*  
*Public and Private*





### 352. Publius: The Federalist 23 New York Packet, 18 December

This essay, written by Alexander Hamilton, was also printed in the *New York Journal* on 18 December. It was reprinted in the *New York Daily Advertiser* and *New York Independent Journal* on 19 December; and in the *Boston American Herald* on 7 January 1788. *The Federalist* 23 was answered by “Brutus” VI–VII in the *New York Journal* (CC:384, 411). For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

Thomas Greenleaf, editor of the *New York Journal*, prefaced the essay: “Yesterday the manuscript copy of the subsequent was communicated to the Editor, with an assurance, that his press should be preferred, in future, for the first ushering into public view, the succeeding numbers. If the public are pleased to stigmatize the Editor as a partial printer, in the face of his reiterated assertions of ‘BEING INFLUENCED BY NONE,’ what more can be said! This stigma he prefers, to that of a slavish copiest; consequently, unless manuscripts are communicated, he will be constrained (however injudicious) still to crouch under the weighty charge of partiality.” (For an earlier statement of impartiality by Greenleaf on 4 October, see CC:131–A. For more on the *New York Journal*, see CC:Vol. 1, xxxvii–xxxviii.)

Two weeks later, on 1 January, Greenleaf published a statement by “TWENTY-SEVEN SUBSCRIBERS” criticizing his publication of “Publius.” Dated “*Flat-Bush, Dec. 24, 1787,*” the statement reads: “A number of squeamish ladies, around their breakfast table, last Monday, determined not to read your paper any more—To day a number of gentlemen who subscribe for your paper (merely for the variety and to have an opportunity of seeing the arguments as fully as possible on both sides) have expressed as much disgust at you for cramming us with the voluminous PUBLIUS, as for disturbing our appetites with your EXAMINER [Charles McKnight]. We take M’Lean [*Independent Journal*] to read Publius in the best edition, and he gives us two at a time; and Childs [*Daily Advertiser*] for the daily news and advertisements, but they are curtailed, and we are disappointed for the purpose of serving up the same Publius at our expence; Loudon [*New York Packet*] we take for his morality and evangelic sentiments; but here again we are imposed on, by being made to pay for the very same Publius, who has become nauseous, by having been served up to us no less than in two other papers on the same day. And now, Sir, it seems, you have the assurance, notwithstanding your professions, to induce us to subscribe, to give us Publius a fourth time before breakfast and no less than two at a time. Pray Mr. Greenleaf adhere to the principles and professions you set out on, and let us have the wished for variety, or return the money, which you have taken on subscription—do not be so irresolute as to be frightened out of your duty by any *pert* adventurer [Alexander Hamilton], whose principles may be despotic, from habit in the wars and whose ideas of government cannot be satisfied with less than military execution: for a man whose sentiments have been viciated by one profession, will not easily recover virtuous dispositions by another. This new mode of abridging the liberty of the press, in *New-York* also, is not a favourable symptom; but do not encourage the presumptive attempt of that author to occupy a greater proportion of the public *high-way* than decently comes to his share.” Greenleaf, however, continued publishing “Publius” through number 39, which appeared on 30 January.

## The FÆDERALIST, No. 23.

*To the People of the State of New-York.*

The necessity of a Constitution, at least equally energetic with the one proposed, to the preservation of the Union, is the point, at the examination of which we are now arrived.

This enquiry will naturally divide itself into three branches—the objects to be provided for by a Fœderal Government—the quantity of power necessary to the accomplishment of those objects—the persons upon whom that power ought to operate. Its distribution and organization will more properly claim our attention under the succeeding head.

The principal purposes to be answered by Union are these—The common defence of the members—the preservation of the public peace as well against internal convulsions as external attacks—the regulation of commerce with other nations and between the States—the superintendence of our intercourse, political and commercial, with foreign countries.

The authorities essential to the care of the common defence are these—to raise armies—to build and equip fleets—to prescribe rules for the government of both—to direct their operations—to provide for their support. These powers ought to exist without limitation: *Because it is impossible to foresee and define the extent and variety of national exigencies, or the correspondent extent & variety of the means which may be necessary to satisfy them.* The circumstances that endanger the safety of nations are infinite; and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be co-extensive with all the possible combinations of such circumstances; and ought to be under the direction of the same councils, which are appointed to preside over the common defence.

This is one of those truths, which to a correct and unprejudiced mind, carries its own evidence along with it; and may be obscured, but cannot be made plainer by argument or reasoning. It rests upon axioms as simple as they are universal. The *means* ought to be proportioned to the *end*; the persons, from whose agency the attainment of any *end* is expected, ought to possess the *means* by which it is to be attained.

Whether there ought to be a Fœderal Government intrusted with the care of the common defence, is a question in the first instance open to discussion; but the moment it is decided in the affirmative, it will follow, that that government ought to be clothed with all the powers requisite to the complete execution of its trust. And unless it can be shewn, that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed, it must be admitted, as a necessary consequence, that there can be no limitation of that authority, which is

to provide for the defence and protection of the community, in any matter essential to its efficacy; that is, in any matter essential to the *formation, direction or support* of the NATIONAL FORCES.

Defective as the present Confederation has been proved to be, this principle appears to have been fully recognized by the framers of it; though they have not made proper or adequate provision for its exercise. Congress have an unlimited discretion to make requisitions of men and money—to govern the army and navy—to direct their operations. As their requisitions were made constitutionally binding upon the States, who are in fact under the most solemn obligations to furnish the supplies required of them, the intention evidently was, that the United States should command whatever resources were by them judged requisite to “the common defence and general welfare.”<sup>1</sup> It was presumed that a sense of their true interests, and a regard to the dictates of good faith, would be found sufficient pledges for the punctual performance of the duty of the members to the Fœderal Head.

The experiment has, however demonstrated, that this expectation was ill founded and illusory; and the observations made under the last head, will, I imagine, have sufficed to convince the impartial and discerning, that there is an absolute necessity for an entire change in the first principles of the system: That if we are in earnest about giving the Union energy and duration, we must abandon the vain project of legislating upon the States in their collective capacities: We must extend the laws of the Fœderal Government to the individual citizens of America: We must discard the fallacious scheme of quotas and requisitions, as equally impracticable and unjust. The result from all this is, that the Union ought to be invested with full power to levy troops; to build and equip fleets, and to raise the revenues, which will be required for the formation and support of an army and navy, in the customary and ordinary modes practiced in other governments.

If the circumstances of our country are such, as to demand a compound instead of a simple, a confederate instead of a sole government, the essential point which will remain to be adjusted, will be to discriminate the OBJECTS, as far as it can be done, which shall appertain to the different provinces or departments of power; allowing to each the most ample authority for fulfilling the objects committed to its charge. Shall the Union be constituted the guardian of the common safety? Are fleets and armies and revenues necessary to this purpose? The government of the Union must be empowered to pass all laws, and to make all regulations which have relation to them. The same must be the case, in respect to commerce, and to every other matter to which its jurisdiction is permitted to extend. Is the administration of justice between the citizens of the same State, the proper department of the

local governments? These must possess all the authorities which are connected with this object, and with every other that may be allotted to their particular cognizance and direction. Not to confer in each case a degree of power, commensurate to the end, would be to violate the most obvious rules of prudence and propriety, and improvidently to trust the great interests of the nation to hands, which are disabled from managing them with vigour and success.

Who so likely to make suitable provisions for the public defence, as that body to which the guardianship of the public safety is confided—which, as the center of information, will best understand the extent and urgency of the dangers that threaten—as the representative of the WHOLE will feel itself most deeply interested in the preservation of every part—which, from the responsibility implied in the duty assigned to it, will be most sensibly impressed with the necessity of proper exertions—and which, by the extension of its authority throughout the States, can alone establish uniformity and concert in the plans and measures, by which the common safety is to be secured? Is there not a manifest inconsistency in devolving upon the Fœderal Government the care of the general defence, and leaving in the State governments the *effective* powers, by which it is to be provided for? Is not a want of co-operation the infallible consequence of such a system? And will not weakness, disorder, an undue distribution of the burthens and calamities of war, an unnecessary and intolerable increase of expence, be its natural and inevitable concomitants? Have we not had unequivocal experience of its effects in the course of the revolution, which we have just accomplished?

Every view we may take of the subject, as candid enquirers after truth, will serve to convince us, that it is both unwise and dangerous to deny the Fœderal Government an unconfined authority, as to all those objects which are intrusted to its management. It will indeed deserve the most vigilant and careful attention of the people, to see that it be modelled in such a manner, as to admit of its being safely vested with the requisite powers. If any plan which has been, or may be offered to our consideration, should not, upon a dispassionate inspection, be found to answer this description, it ought to be rejected. A government, the Constitution of which renders it unfit to be trusted with all the powers, which a free people *ought to delegate to any government*, would be an unsafe and improper depository of the NATIONAL INTERESTS, wherever THESE can with propriety be confided, the co-incident powers may safely accompany them. This is the true result of all just reasoning upon the subject. And the adversaries of the plan, promulgated by the Convention, ought to have confined themselves to showing that the internal structure of the proposed government, was such as to render it unworthy of the confidence of the people. They ought not to have

wandered into inflammatory declamations, and unmeaning cavils about the extent of the powers. The POWERS are not too extensive for the OBJECTS of Fœderal administration, or in other words, for the management of OUR NATIONAL INTERESTS; nor can any satisfactory argument be framed to shew that they are chargeable with such an excess. If it be true, as has been insinuated by some of the writers on the other side, that the difficulty arises from the nature of the thing, and that the extent of the country will not permit us to form a government, in which such ample powers can safely be reposed, it would prove that we ought to contract our views, and resort to the expedient of separate Confederacies, which will move within more practicable spheres. For the absurdity must continually stare us in the face of confiding to a government, the direction of the most essential national interests, without daring to trust it with the authorities which are indispensable to their proper and efficient management. Let us not attempt to reconcile contradictions, but firmly embrace a rational alternative.

I trust, however, that the impracticability of one general system cannot be shewn. I am greatly mistaken, if any thing of weight, has yet been advanced of this tendency; and I flatter myself, that the observations which have been made in the course of these papers, have sufficed to place the reverse of that position in as clear a light as any matter still in the womb of time and experience can be susceptible of. This at all events must be evident, that the very difficulty itself drawn from the extent of the country, is the strongest argument in favor of an energetic government; for any other can certainly never preserve the Union of so large an empire. If we embrace the tenets of those, who oppose the adoption of the proposed Constitution, as the standard of our political creed, we cannot fail to verify the gloomy doctrines, which predict the impracticability of a national system, pervading the entire limits of the present Confederacy.

1. Article VIII of the Articles of Confederation (CDR, 89).

### **353. The Dissent of the Minority of the Pennsylvania Convention Pennsylvania Packet, 18 December<sup>1</sup>**

The Pennsylvania Convention convened on 20 November and attained a quorum the next day. On Saturday, 24 November, Federalist Thomas McKean, chief justice of the state supreme court, moved "That this Convention do assent to and ratify the constitution. . . ." On Monday, 26 November, McKean proposed that the Constitution be debated by articles. During the debate on the motion, Antifederalists attempted unsuccessfully to have the Convention resolve itself into a committee of the whole, to permit "a more free and candid discussion." The following day Antifederalist Robert Whitehill of Cumberland County moved "that 'upon all questions where the yeas and nays were called, any member might insert the reason of his vote upon the journals of the convention.'" (The members of the General Assembly were allowed this privilege by the state constitution of 1776.)

McKean and Thomas Hartley, a York County Federalist, both argued that this motion should be limited, so that a dissent might be entered on the journals only at the time of the final vote to ratify the Constitution; McKean amended Whitehill's motion to that effect. Federalist James Wilson was "equally opposed . . . to the amendment and to the original motion." He argued that the state constitution's provision for placing dissents on the Assembly's journals was "one of its exceptionable parts" and that members of the Assembly had abused the privilege. The motion would increase the expense of printing the journals and would prolong the Convention, making it "the center from which so many streams of bitterness shall flow." Besides, the press would do an adequate job of publicizing any dissents.

Antifederalist John Smilie of Fayette County remarked that "It appears, Mr. President, that on this question the gentlemen are divided among themselves." McKean quickly denied the existence of a division, explaining that he "thought the measure totally improper, and only proposed the amendment in compliment" to those who had supported Whitehill's motion. He then withdrew his amendment. Smilie regretted McKean's action because he agreed that dissents should be limited to the final vote. He rejected, however, Wilson's reasons for not placing the dissents on the journals, asserting that "the real ground of opposition, that the protests should produce a change in the minds of the people, and incline them to new measures." Even if the Convention ratified the Constitution, opposition to it would continue and the people could "abrogate this federal work so ratified."

At this point, Whitehill yielded to what he believed was "the general disposition," and reduced his motion to read: "Any member shall have a right to enter the reasons of his vote on the minutes on the general question, *viz.* Whether this Convention will assent to and ratify the constitution submitted to their consideration?" Thomas Hartley requested that the motion be postponed. If it were not postponed, he would vote against it, "although at a future period, when the reasons are produced, I may be disposed to concur." Whitehill observed that Hartley's "idea of a postponement, amounts to this; if we like your reasons when we see them, we will permit you to enter them, if we do not, why we will withhold our consent." Wilson opposed any postponement. Whitehill's motion was defeated 44 to 22.

The Convention debated the Constitution until 12 December, when Thomas Hartley moved for a vote on McKean's original motion of 24 November: "Will this Convention assent to and ratify the Constitution. . . ." Before a vote was taken, Robert Whitehill "presented several petitions from 750 inhabitants of Cumberland county, praying . . . that the proposed constitution should not be adopted without amendments and, particularly, without a bill of rights." The petitions were read from the chair and ordered to be tabled. Whitehill then read fifteen proposed amendments to the Constitution and moved that the Convention adjourn to allow the people of Pennsylvania to consider the amendments and any others that might come from other states. The Convention rejected Whitehill's motion by a vote of 46 to 23 and by the same margin voted to ratify the Constitution.

The next day Whitehill "remarked, that the bill of rights, or articles of amendment, which he had the day before presented to the chair, were not inserted upon the journals, together with the resolution which referred to them. This he declared an improper omission, and desired they might be inserted." Smilie moved that the amendments be inserted, and Wilson called for the motion to be put in writing. Smilie responded that he knew "so well that if the honourable member from the city says the articles shall not, they will not be admitted, that I am not disposed to take the useless trouble of

reducing my motion to writing, and therefore I withdraw it." (For the proceedings and debates of the Pennsylvania Convention, see RCS:Pa., 322ff.)

The Convention Journal, then, does not contain either the reasons for the minority's dissent or Whitehill's proposed amendments. On 15 December the *Pennsylvania Herald* printed Whitehill's amendments and the minority rushed its formal objections and the amendments into print three days later. (Ironically, the minority was criticized for so speedily publishing its dissent; the Convention minutes were "the most proper place for them to appear" ["A Creed, supported by solid reasons," *Carlisle Gazette*, 23 January 1788, Mfm:Pa. 354].)

On 18 December the "Dissent of the Minority" was printed in the *Pennsylvania Packet* and by Eleazer Oswald of the Philadelphia *Independent Gazetteer* as a three-page broadside (Evs 20618). Dated "*Philadelphia, Dec. 12, 1787*," the "Dissent" was signed by twenty-one of the twenty-three members of the Convention who had voted against ratifying the Constitution. The two non-signers were William Brown of Dauphin County and James Marshel of Washington County. According to a satirical Federalist newspaper piece, "One member absolutely refused to meet us to sign the protest, and another who did meet us, would not sign it, declaring 'he had not the fifteenth part of the objections against the Constitution there exhibited, and that he did not believe any one of them could lay his hand on his heart, and say he believed in a quarter of them'" ("Margery," Letter II, *Pennsylvania Mercury*, 21 February, Mfm:Pa. 445. "Margery" was a nickname for George Bryan.).

The "Dissent" summarized the arguments against the Constitution as set forth in the state Convention and in the public debate. It attacked the secrecy of the Constitutional Convention and its lack of authority to write a new constitution. It denounced both the force used to secure a quorum of the Pennsylvania Assembly in calling the state Convention and the procedures employed by the majority in the state Convention. Most important, the "Dissent," as the formal statement of the minority of the Convention, presented Whitehill's amendments to the public. The "Dissent" thus gave sanction to the growing demand for amendments in Pennsylvania, and it provided an example for Antifederalists in other states as their conventions met to consider the Constitution.

Contemporary newspapers incorrectly attributed authorship of the "Dissent" to George Bryan, a leading Constitutionalist in state politics, a justice of the state Supreme Court, and the man universally thought to be the author of the "Centinel" essays. "Gomez" saw such similarities of "falshood, nonsense, sophistry and malice" in "Centinel" and the "Dissent" that there was good reason to believe Bryan wrote both (*Pennsylvania Gazette*, 26 December, Mfm:Pa. 291). "Valerius" stated that it was "well known" that Bryan had written the "Dissent" but that the draft had been "corrected and amended by an attorney, who the public cannot but know" (*Baltimore Maryland Gazette*, 1 February). The attorney was probably Jonathan Dickinson Sergeant, a prominent Constitutionalist. The author of an "Extract of a Letter from Philadelphia," referred "to the Protest of G. B— —n, alias the Pennsylvania Minority" (*Providence Gazette*, 12 April, Mfm:Pa. 622). "Z" also attributed authorship to Bryan (*Pennsylvania Gazette*, 23 April, Mfm:Pa. 652).

The author of the "Dissent" appears to have been Samuel Bryan, George Bryan's son and former clerk of the Assembly. In a letter dated 18 December 1790, in which he asked to be appointed Secretary of the Commonwealth, Samuel Bryan declared that he had written the "Dissent." He described the "Dissent" as the equal of anything else written on the subject, especially "considering the arduousness of the subject, its great length, and the hurried



manner in which it was written, owing to Mr. Sargeant declining the task, just as the Convention were about to rise . . ." (to James Hutchinson, contained in Bryan to Albert Gallatin, n.d., catalogued 1790, Gallatin Papers, NHi). Bryan repeated his claim to authorship in 1801 and 1807 in letters to Thomas Jefferson in which he sought federal office (27 February 1801 and 24 July 1807, RG 59, General Records of the Department of State, Letters of Application and Recommendation during the Administration of Thomas Jefferson, 1801–1809, DNA).

Antifederalists attempted to circulate the "Dissent" throughout the United States. "Centinel" asserted that "many thousand copies of the Reasons of Dissent . . . were printed and forwarded in every direction, and by various conveyances, scarcely any of these got beyond the limits of this state, and most of them not until a long time after their publication. The printer [Elezzer Oswald] of these Reasons, by particular desire, addressed a copy of them to every printer in the union, which he sent to the Post-office to be conveyed in the mail as usual. . . ." Despite this effort, "Centinel" charged "that none of them reached the place of their destination" (XVIII, *Independent Gazetteer* and Philadelphia *Freeman's Journal*, 9 April 1788, CC:671). The "Dissent" was reprinted in the December 1787 issue of the Philadelphia *American Museum*, and by 14 March 1788 it was reprinted in thirteen newspapers: R.I. (2), N.Y. (3), Pa. (6), Va. (1), S.C. (1). Eleven of the thirteen devoted at least three issues to reprinting the lengthy "Dissent." Two of the Pennsylvania reprintings were by German-language newspapers. (For more on the publication of the "Dissent," see note 1 below.)

The "Dissent" was readily available throughout New York. On 4 January 1788 the *New York Journal*, which had printed the "Dissent" on 27, 29, and 31 December, announced that "A few Copies" of it were available for sale at the office. Ashbel Stoddard of the *Hudson Weekly Gazette* published an abbreviated edition of the "Dissent" as a four-page broadside (Evans 20620), and in early April 1788 the "Dissent" circulated throughout the state as part of an Antifederalist pamphlet anthology which the New York Antifederal committee distributed to local county committees (CC:666, Evans 21344; "A Federalist," Poughkeepsie *Country Journal*, 22 April; MS initialled "CT" [Charles Tillinghast], Box 5, Lamb Papers, NHi). On 10 April a correspondent in the *Hudson Weekly Gazette* reported that the "Dissent" was being widely circulated "with amazing assiduity" in Columbia County, N.Y.

The "Dissent" also circulated widely in the Southern States. In early January 1788 Augustine Davis of the Richmond *Virginia Independent Chronicle* published the essay as a pamphlet (Evans 20621). Jean-Baptiste Petry, French consul in Charleston, S.C., reported on 12 January that "The minority in Philadelphia, My Lord has spared neither money nor pains in order to flood This state and its Neighbors with Its pamphlets and writings Against This Constitution" (to Comte de Montmorin, Correspondance Consulaires, BI 372, Charleston, Vol. I, ff. 266–71, Archives Nationales, Paris). On 12 March the *Pennsylvania Gazette* noted that Pennsylvania Antifederalists, at considerable expense, had sent copies of the "Dissent" "even into the western country of Georgia." And in mid-April Robert Smith, in Chester County, Pa., wrote to George Bryan that he had received "the Newspapers & the papers of the Minority" and that he had "sent several papers of the Minority by an Intimate fr[ien]d to the State of Maryland—As also I have sent papers of the Minority . . . to the State of Georgia, althou' that State has adopted the New system such papers may be of advantage to the people in calling another Convention" (26 April, Bryan Papers, PHi).

Antifederalists wanted the "Dissent" to reach Boston in time to have an impact on the Massachusetts Convention which met from 9 January to 7 February 1788. Just when the "Dissent" arrived in Boston is unknown. It was not reprinted in any Massachusetts newspaper, but on 11 February Edward E. Powars of the *Boston American Herald* announced that he had "A few Copies" of his pamphlet edition of the "Dissent" left for sale (Evans 20619). It is possible that Powars published the "Dissent" on 16 January. On 18 January the *Massachusetts Gazette* reprinted a Philadelphia newspaper account of a Northampton County, Pa., meeting thanking the majority of the Pennsylvania Convention (RCS:Pa., 646-48). The *Gazette* added a postscript: "Brother POWARS may consider the foregoing as a DAMPER to some things in his extraordinary publication of Wednesday" [16 January]. The weekly *American Herald* was published on Mondays and no extraordinary issue for Wednesday, 16 January, has been located. (The word "damper" had been used previously in the *Massachusetts Centinel* on 2 January to describe an article by "New England" attacking *Letters from the Federal Farmer*—a pamphlet that Powars published on that day [CC:390-G].)

In late March a charge was made that the "Dissent" had not reached Boston before the Massachusetts Convention adjourned ("Purported letter from George Bryan to John Ralston," 7 March, *Pennsylvania Gazette*, 26 March, CC:647). This assertion created much controversy. A correspondent claimed that the "Dissent" had in fact been printed in Boston before the adjournment of the Convention at the behest of Rufus King, who had given "the same to a printer, and procured it to be published before the convention took up the consideration of the constitution". (*Pennsylvania Gazette*, 9 April, Mfm:Pa. 620). "M" denied that King had carried the "Dissent" to Boston, but "Z" confirmed that King had done so (*Pennsylvania Gazette*, 16, 23 April, Mfm:Pa. 629, 652). "Centinel" XVIII greatly "regretted that the opposition in Massachusetts were denied the benefits of our discussion, that the unanswerable dissent of our minority did not reach Boston in time to influence the decision of the great question by their convention. . . ." On 7 May, Benjamin Russell, the printer of the *Massachusetts Centinel*, asserted that the printers of Boston knew the charge to be false and he considered it his duty to "undeceive the publick." Russell assured "his readers that he received *three* copies of these 'Reasons,' by one mail, and within *ten* days after they were signed at Philadelphia—one in Messrs. *Dunlap & Claypoole's* paper [*Pennsylvania Packet*]; another in Mr. *Bailey's* [*Freeman's Journal*], and a third printed separately by Col. Oswald: Other Printers, we suppose, received as many." Postmaster General Ebenezer Hazard, who had been shocked to hear that the "Dissent" did not reach Boston before the Convention adjourned, was delighted with Russell's statement, which, he thought, "will mortify the Antifeds. in Phila. not a little; & I think the Feds. will crow upon it" (to Jeremy Belknap, 5 March, 17 May, CC:Vol. 4, Appendix, Mails).

Soon after the publication of the "Dissent," some Federalists believed that it would have little influence. In Philadelphia, Benjamin Rush asserted that the "Dissent" "will do no harm in the back counties. A letter from Westmoreland assures us that the fœderal Spirit spreads rapidly thro' the Western Country" (to William Irvine, 21 December, Mfm:Pa. 282). Rufus King, in New York City, noted that the "Dissent" contained "more inflammation than Argument" and that it "will not do so much mischief with temperate characters as its Authors expected" (to Jeremiah Wadsworth, 23 December, CC:368).

This initial optimism soon gave way to pessimism, as Federalists were especially worried about the impact that the "Dissent" would have in the

backcountry regions of America. On 25 December John Armstrong, Sr., of Carlisle, Pa., said that the "Dissent" had "a wilde & pernicious tendency" and he prayed that God would "still the tumults of the people" which the dissenters "seem to provoke" (to Benjamin Franklin, CC:373). Two months later, he complained that "Centinel," "Old Whig," and the "Dissent" could not be read "without discovering the treasonable & delusive views of the junto, from whom our Confusions proceed, a sordid & contemptible junto too, but they have their emissaries & interpreters over a great part of the State, whereby they have allarmed the fears & deranged the common sense of the otherwise sober & orderly Citizens, beyond any thing you can well conceive" (to George Washington, 20 February, CC:543). Thomas Hartley and the Reverend John Black, both of whom represented York County in the Pennsylvania Convention and voted for the Constitution, attacked the leaders of the Convention minority and the "Dissent" respectively. Hartley declared that the leaders sought "to inflame the Minds and imbarck the Passions of the People of the Country against the New Constitution. Certain Districts either from Design or Ignorance are under their Influence and there they have and will make their greatest Efforts. In this idle and inclement Season their Imps will be all in Motion . . ." (to Tench Coxe, 11 January 1788, Tench Coxe Papers, Series II, Correspondence and General Papers, PHI). Reverend Black was much concerned at the absence of a Federalist reply to the "Dissent," and reported that "antifederalists are triumphing, as if the publications on their side were unanswerable" (to Benjamin Rush, 13 February, RCS:Pa., 660-61). And "a gentleman of character" from Montgomery County, Pa., noted that the "Dissent" "Has carried conviction through the state; communities are forming in every county, with a determination to prevent its [i.e., the Constitution's] taking place, in its present form . . ." *New York Journal*, 24 April).

Outside Pennsylvania, supporters of the Constitution were similarly concerned. Henry Van Schaack of Pittsfield, in western Massachusetts, charged that the "Dissent" was "a laboured performance and is I think purely calculated to inflame" (to Peter Van Schaack, 20 January 1788, Special Collections, Van Schaack Collection, Columbia University Libraries). A correspondent living in New York's Hudson River Valley wanted Federalists to circulate "an antidote against this artful and designing piece" (*Hudson Weekly Gazette*, 10 April. See also George Nicholas to James Madison, Charlottesville, Va., 5 April, CC:663.). In Charleston, S.C., Jean-Baptiste Petry feared that the "Dissent" and other Philadelphia Antifederalist writings might have "Their effect" on the "up country" members of the South Carolina legislature who were "not very learned in politics and in matters of Government" (to Comte de Montmorin, 12 January, Correspondance Consulaires, BI 372, Charleston, Vol. I, ff. 266-71, Archives Nationales, Paris).

The newspaper articles criticizing the "Dissent" were voluminous, especially in Pennsylvania. Some Federalists charged that the "Dissent" was inflammatory, while others attacked it as the work of George Bryan in particular or Pennsylvania's Constitutionalist Party in general. Several writers responded seriously to various objections to the Constitution put forth in the "Dissent." The most serious and sustained critic was Philadelphian Tench Coxe, who published eight essays answering the "Dissent" between 16 January and 27 February ("Philanthropos," *Independent Gazetteer*, 16 January, CC:454; "A Freeman" I-III, *Pennsylvania Gazette*, 23, 30 January, 6 February, CC:472, 488, 505; and "A Pennsylvanian" I-IV, *Pennsylvania Gazette*, 6, 13, 20, 27 February, Mfm:Pa. 408, 430, 439, 459). Other Pennsylvania critics of the

"Dissent" include: "Gomez," "A Correspondent," and "A Citizen of Philadelphia" (Pelatiah Webster?), *Pennsylvania Gazette*, 26 December, 9, 23 January (Mfm:Pa. 291 and RCS:Pa., 653–54, 658–60); and "Hermenius," *Carlisle Gazette*, 16 January (RCS:Pa., 654–57).

Significant out-of-state criticisms include: "America" (Noah Webster), *New York Daily Advertiser*, 31 December (CC:399); "A Marylander" (Otho Holland Williams) and "Valerius," *Baltimore Maryland Gazette*, 4, 25, 29 January, 1, 12 February; Alexander White, *Winchester Virginia Gazette*, 22 and 29 February; and "A Native of Virginia," *Observations upon the Proposed Plan of Federal Government . . .* (CC:659, Evans 21264).

The reaction to the "Dissent" was not entirely negative. Martin Oster, the French consul in Norfolk, Va., said that "The Pamphlet of the dissidents is considered as the best of all those which have appeared" (to Comte de la Luzerne, 4 February, *Correspondance Politique, États-Unis, Supplement*, Vol. IV, ff. 328–32, Archives du Ministère des Affaires Étrangères, Paris). A correspondent in the *Independent Gazetteer*, 9 May, maintained that the "Dissent" and Luther Martin's *Genuine Information* (CC:389) "contain a complete system of republican government." And on 18 December 1790 Samuel Bryan wrote that "This Dissent was highly celebrated throughout the United States, & occasioned more consternation among the friends of this governmt. than any thing that had preceded or followed it. You remember Parson Black's distress & trepidation even as to personal consequences, he in common with the rest of his party seriously apprehending a civil war" (to James Hutchinson, contained in Bryan to Albert Gallatin, n.d., catalogued 1790, Gallatin Papers, NHi).

For defenses of the "Dissent," see "Uncle Tobey," "A Correspondent," and "John Wilkes" I, *Independent Gazetteer*, 24 December, 22, 26 January (Mfm.Pa. 288, 371; RCS:Pa., 657–58); "Philadelphensis" VI and "Address of Thanks," *Philadelphia Freeman's Journal*, 26 December, 13 January (CC:382; RCS:Pa., 661–63); "An Address to the Minority" and "Union Society," *Carlisle Gazette*, 2 January, 13 February (CC:408; Mfm:Pa. 427); and "A Plebeian" (Melancton Smith), *An Address to the People of the State of New-York . . .*, 17 April (CC:689, Evans 21465).

### The Address and Reasons of Dissent of the Minority of the Convention of the State of Pennsylvania to their Constituents.

It was not until after the termination of the late glorious contest, which made the people of the United States an independent nation, that any defect was discovered in the present confederation. It was formed by some of the ablest patriots in America. It carried us successfully through the war; and the virtue and patriotism of the people, with their disposition to promote the common cause, supplied the want of power in Congress.

The requisition of Congress for the five *per cent.* impost was made before the peace, so early as the first of February, 1781, but was prevented taking effect by the refusal of one state;<sup>2</sup> yet it is probable every state in the union would have agreed to this measure at that period, had it not been for the extravagant terms in which it was demanded. The requisition was new moulded in the year 1783, and

accompanied with an additional demand of certain supplementary funds for 25 years.<sup>3</sup> Peace had now taken place, and the United States found themselves labouring under a considerable foreign and domestic debt, incurred during the war. The requisition of 1783 was commensurate with the interest of the debt, as it was then calculated; but it has been more accurately ascertained since that time. The domestic debt has been found to fall several millions of dollars short of the calculation, and it has lately been considerably diminished by large sales of the western lands. The states have been called on by Congress annually for supplies until the general system of finance proposed in 1783 should take place.

It was at this time that the want of an efficient federal government was first complained of, and that the powers vested in Congress were found to be inadequate to the procuring of the benefits that should result from the union. The impost was granted by most of the states, but many refused the supplementary funds; the annual requisitions were set at nought by some of the states, while others complied with them by legislative acts, but were tardy in their payments, and Congress found themselves incapable of complying with their engagements, and supporting the federal government.<sup>4</sup> It was found that our national character was sinking in the opinion of foreign nations. The Congress could make treaties of commerce, but could not enforce the observance of them. We were suffering from the restrictions of foreign nations, who had shackled our commerce, while we were unable to retaliate: and all now agreed that it would be advantageous to the union to enlarge the powers of Congress; that they should be enabled in the amplest manner to regulate commerce, and to lay and collect duties on the imports throughout the United States. With this view a convention was first proposed by Virginia, and finally recommended by Congress for the different states to appoint deputies to meet in convention, "for the purposes of revising and amending the present articles of confederation, so as to make them adequate to the exigencies of the union."<sup>5</sup> This recommendation the legislatures of twelve states complied with so hastily as not to consult their constituents on the subject; and though the different legislatures had no authority from their constituents for the purpose, they probably apprehended the necessity would justify the measure; and none of them extended their ideas at that time further than "revising and amending the present articles of confederation." Pennsylvania by the act appointing deputies expressly confined their powers to this object;<sup>6</sup> and though it is probable that some of the members of the assembly of this state had at that time in contemplation to annihilate the present confederation, as well as the constitution of Pennsylvania, yet the plan was not sufficiently matured to communicate it to the public.

The majority of the legislature of this commonwealth, were at that time under the influence of the members from the city of Philadelphia. They agreed that the deputies sent by them to convention should have no compensation for their services, which determination was calculated to prevent the election of any member who resided at a distance from the city.<sup>7</sup> It was in vain for the minority to attempt electing delegates to the convention, who understood the circumstances, and the feelings of the people, and had a common interest with them. They found a disposition in the leaders of the majority of the house to chuse themselves and some of their dependants. The minority attempted to prevent this by agreeing to vote for some of the leading members, who they knew had influence enough to be appointed at any rate, in hopes of carrying with them some respectable citizens of Philadelphia, in whose principles and integrity they could have more confidence; but even in this they were disappointed, except in one member:<sup>8</sup> the eighth member was added at a subsequent session of the assembly.<sup>9</sup>

The Continental convention met in the city of Philadelphia at the time appointed. It was composed of some men of excellent characters; of others who were more remarkable for their ambition and cunning, than their patriotism; and of some who had been opponents to the independence of the United States. The delegates from Pennsylvania were, six of them, uniform and decided opponents to the constitution of this commonwealth. The convention sat upwards of four months. The doors were kept shut, and the members brought under the most solemn engagements of secrecy.<sup>(a)</sup> Some of those who opposed their going so far beyond their powers, retired, hopeless, from the convention, others had the firmness to refuse signing the plan altogether; and many who did sign it, did it not as a system they wholly approved, but as the best that could be then obtained, and notwithstanding the time spent on this subject, it is agreed on all hands to be a work of haste and accommodation.

Whilst the gilded chains were forging in the secret conclave, the meaner instruments of despotism without, were busily employed in alarming the fears of the people with dangers which did not exist, and exciting their hopes of greater advantages from the expected plan than even the best government on earth could produce.

The proposed plan had not many hours issued forth from the womb of suspicious secrecy, until such as were prepared for the purpose, were carrying about petitions for people to sign, signifying their approbation of the system, and requesting the legislature to call a convention. While every measure was taken to intimidate the people against opposing it, the public papers teemed with the most violent threats against those who should dare to think for themselves, and *tar and feathers*<sup>10</sup> were liberally promised to all those who would not immediately join in

supporting the proposed government be it what it would. Under such circumstances petitions in favour of calling a convention were signed by great numbers in and about the city, before they had leisure to read and examine the system, many of whom, now they are better acquainted with it, and have had time to investigate its principles, are heartily opposed to it. The petitions were speedily handed into the legislature.<sup>11</sup>

Affairs were in this situation when on the 28th of September last a resolution was proposed to the assembly by a member of the house who had been also a member of the federal convention,<sup>12</sup> for calling a state convention, to be elected within *ten* days for the purpose of examining and adopting the proposed constitution of the United States, though at this time the house had not received it from Congress. This attempt was opposed by a minority, who after offering every argument in their power to prevent the precipitate measure, without effect, absented themselves from the house as the only alternative left them, to prevent the measure taking place previous to their constituents being acquainted with the business—That violence and outrage which had been so often threatened was now practised; some of the members were seized the next day by a mob collected for the purpose, and forcibly dragged to the house, and there detained by force whilst the quorum of the legislature, *so formed*, completed their resolution.<sup>13</sup> We shall dwell no longer on this subject, the people of Pennsylvania have been already acquainted therewith. We would only further observe that every member of the legislature, previously to taking his seat, by solemn oath or affirmation, declares, “that he will not do or consent to any act or thing whatever that shall have a tendency to lessen or abridge their rights and privileges, as declared in the constitution of this state.”<sup>14</sup> And that constitution which they are so solemnly sworn to support cannot legally be altered but by a recommendation of the council of censors, who alone are authorised to propose alterations and amendments, and even these must be published at least *six months*, for the consideration of the people.<sup>15</sup>—The proposed system of government for the United States, if adopted, will alter and may annihilate the constitution of Pennsylvania; and therefore the legislature had no authority whatever to recommend the calling a convention for that purpose. This proceeding could not be considered as binding on the people of this commonwealth. The house was formed by violence, some of the members composing it were detained there by force, which alone would have vitiated any proceedings, to which they were otherwise competent; but had the legislature been legally formed, this business was absolutely without their power.

In this situation of affairs were the subscribers elected members of the convention of Pennsylvania. A convention called by a legislature in

direct violation of their duty, and composed in part of members, who were compelled to attend for that purpose, to consider of a constitution proposed by a convention of the United States, who were not appointed for the purpose of framing a new form of government, but whose powers were expressly confined to altering and amending the present articles of confederation.—Therefore the members of the continental convention in proposing the plan acted as individuals, and not as deputies from Pennsylvania.<sup>(b)</sup> The assembly who called the state convention acted as individuals, and not as the legislature of Pennsylvania; nor could they or the convention chosen on their recommendation have authority to do any act or thing, that can alter or annihilate the constitution of Pennsylvania (both of which will be done by the new constitution) nor are their proceedings in our opinion, at all binding on the people.

The election for members of the convention was held at so early a period and the want of information was so great, that some of us did not know of it until after it was over, and we have reason to believe that great numbers of the people of Pennsylvania have not yet had an opportunity of sufficiently examining the proposed constitution.—We apprehend that no change can take place that will affect the internal government or constitution of this commonwealth, unless a majority of the people should evidence a wish for such a change; but on examining the number of votes given for members of the present state convention, we find that of upwards of *seventy thousand* freemen who are intitled to vote in Pennsylvania, the whole convention has been elected by about *thirteen thousand* voters, and though *two thirds* of the members of the convention have thought proper to ratify the proposed constitution, yet those *two thirds* were elected by the votes of only *six thousand and eight hundred* freemen.<sup>16</sup>

In the city of Philadelphia and some of the eastern counties, the junto that took the lead in the business agreed to vote for none but such as would solemnly promise to adopt the system in *toto*, without exercising their judgment.<sup>17</sup> In many of the counties the people did not attend the elections as they had not an opportunity of judging of the plan. Others did not consider themselves bound by the call of a set of men who assembled at the state-house in Philadelphia, and assumed the name of the legislature of Pennsylvania; and some were prevented from voting by the violence of the party who were determined at all events to force down the measure. To such lengths did the tools of despotism carry their outrage, that in the night of the election for members of convention, in the city of Philadelphia, several of the subscribers (being then in the city to transact your business) were grossly abused, ill-treated and insulted while they were quiet in their lodgings, though they did not interfere, nor had any thing to do with



the said election, but, as they apprehend, because they were supposed to be adverse to the proposed constitution, and would not tamely surrender those sacred rights, which you had committed to their charge.<sup>18</sup>

The convention met, and the same disposition was soon manifested in considering the proposed constitution, that had been exhibited in every other stage of the business. We were prohibited by an express vote of the convention, from taking any question on the separate articles of the plan, and reduced to the necessity of adopting or rejecting *in toto*.—'Tis true the majority permitted us to debate on each article, but restrained us from proposing amendments.—They also determined not to permit us to enter on the minutes our reasons of dissent against any of the articles, nor even on the final question our reasons of dissent against the whole. Thus situated we entered on the examination of the proposed system of government, and found it to be such as we could not adopt, without, as we conceived, surrendering up your dearest rights. We offered our objections to the convention, and opposed those parts of the plan, which, in our opinion, would be injurious to you, in the best manner we were able; and closed our arguments by offering the following propositions to the convention.<sup>19</sup>

1. The right of conscience shall be held inviolable; and neither the legislative, executive nor judicial powers of the United States shall have authority to alter, abrogate, or infringe any part of the constitution of the several states, which provide for the preservation of liberty in matters of religion.

2. That in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore, as well in the federal courts, as in those of the several states.<sup>20</sup>

3. That in all capital and criminal prosecutions, a man has a right to demand the cause and nature of his accusation, as well in the federal courts, as in those of the several states; to be heard by himself and his counsel; to be confronted with the accusers and witnesses; to call for evidence in his favor, and a speedy trial by an impartial jury of his vicinage, without whose unanimous consent, he cannot be found guilty, nor can he be compelled to give evidence against himself; and that no man be deprived of his liberty, except by the law of the land or the judgment of his peers.

4. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.

5. That warrants unsupported by evidence, whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are grievous and oppressive, and shall not be granted either by the magistrates of the federal government or others.

6. That the people have a right to the freedom of speech, of writing and publishing their sentiments, therefore, the freedom of the press shall not be restrained by any law of the United States.

7. That the people have a right to bear arms for the defence of themselves and their own state, or the United States, or for the purpose of killing game; and no law shall be passed for disarming the people or any of them, unless for crimes committed, or real danger of public injury from individuals; and as standing armies in the time of peace are dangerous to liberty, they ought not to be kept up: and that the military shall be kept under strict subordination to and be governed by the civil powers.

8. The inhabitants of the several states shall have liberty to fowl and hunt in seasonable times, on the lands they hold, and on all other lands in the United States not inclosed, and in like manner to fish in all navigable waters, and others not private property, without being restrained therein by any laws to be passed by the legislature of the United States.

9. That no law shall be passed to restrain the legislatures of the several states from enacting laws for imposing taxes, except imposts and duties on goods imported or exported, and that no taxes, except imposts and duties upon goods imported and exported, and postage on letters shall be levied by the authority of Congress.

10. That the house of representatives be properly increased in number; that elections shall remain free; that the several states shall have power to regulate the elections for senators and representatives, without being controuled either directly or indirectly by any interference on the part of the Congress; and that elections of representatives be annual.

11. That the power of organizing, arming and disciplining the militia (the manner of disciplining the militia to be prescribed by Congress) remain with the individual states, and that Congress shall not have authority to call or march any of the militia out of their own state, without the consent of such state, and for such length of time only as such state shall agree.

That the sovereignty, freedom and independency of the several states shall be retained, and every power, jurisdiction and right which is not by this constitution expressly delegated to the United States in Congress assembled.<sup>21</sup>

12. That the legislative, executive, and judicial powers be kept separate; and to this end that a constitutional council be appointed, to advise and assist the president, who shall be responsible for the advice they give, hereby the senators would be relieved from almost constant attendance; and also that the judges be made completely independent.

13. That no treaty which shall be directly opposed to the existing laws of the United States in Congress assembled, shall be valid until such laws shall be repealed, or made conformable to such treaty; neither shall any treaties be valid which are in contradiction to the constitution of the United States, or the constitutions of the several states.

14. That the judiciary power of the United States shall be confined to cases affecting ambassadors, other public ministers and consuls; to cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states—between a state and citizens of different states—between citizens claiming lands under grants of different states; and between a state or the citizens thereof and foreign states, and in criminal cases, to such only as are expressly enumerated in the constitution, & that the United States in Congress assembled, shall not have power to enact laws, which shall alter the laws of descents and distribution of the effects of deceased persons, the titles of lands or goods, or the regulation of contracts in the individual states.

After reading these propositions, we declared our willingness to agree to the plan, provided it was so amended as to meet those propositions, or something similar to them: and finally moved the convention to adjourn, to give the people of Pennsylvania time to consider the subject, and determine for themselves; but these were all rejected, and the final vote was taken, when our duty to you induced us to vote against the proposed plan, and to decline signing the ratification of the same.

During the discussion we met with many insults, and some personal abuse; we were not even treated with decency, during the sitting of the convention, by the persons in the gallery of the house;<sup>22</sup> however, we flatter ourselves that in contending for the preservation of those invaluable rights you have thought proper to commit to our charge, we acted with a spirit becoming freemen, and being desirous that you might know the principles which actuated our conduct, and being prohibited from inserting our reasons of dissent on the minutes of the convention, we have subjoined them for your consideration, as to you alone we are accountable. It remains with you whether you will think those inestimable privileges, which you have so ably contended for, should be sacrificed at the shrine of despotism, or whether you mean to contend for them with the same spirit that has so often baffled the attempts of an aristocratic faction, to rivet the shackles of slavery on you and your unborn posterity.

Our objections are comprised under three general heads of dissent, viz.

WE Dissent, first, because it is the opinion of the most celebrated writers on government, and confirmed by uniform experience, that a very extensive territory cannot be governed on the principles of freedom, otherwise than by a confederation of republics, possessing all the powers of internal government; but united in the management of their general, and foreign concerns.

If any doubt could have been entertained of the truth of the foregoing principle, it has been fully removed by the concession of *Mr. Wilson*, one of [the] majority on this question; and who was one of the deputies in the late general convention. In justice to him, we will give his own words; they are as follows, viz.<sup>23</sup> "The extent of country for which the new constitution was required, produced another difficulty in the business of the federal convention. It is the opinion of some celebrated writers, that to a small territory, the democratical; to a middling territory (as Montesquieu has termed it) the monarchical; and to an extensive territory, the despotic form of government is best adapted.<sup>24</sup> Regarding then the wide and almost unbounded jurisdiction of the United States, at first view, the hand of despotism seemed necessary to controul, connect, and protect it; and hence the chief embarrassment rose. For, we know that, altho' our constituents would cheerfully submit to the legislative restraints of a free government, they would spurn at every attempt to shackle them with despotic power."—And again in another part of his speech he continues.—"Is it probable that the dissolution of the state governments, and the establishment of one *consolidated empire* would be eligible in its nature, and satisfactory to the people in its administration? I think not, as I have given reasons to shew that so extensive a territory could not be governed, connected, and preserved, but by the *supremacy of despotic power*. All the exertions of the most potent emperors of Rome were not capable of keeping that empire together, which in extent was far inferior to the dominion of America."<sup>25</sup>

We dissent, secondly, because the powers vested in Congress by this constitution, must necessarily annihilate and absorb the legislative, executive, and judicial powers of the several states, and produce from their ruins one consolidated government, which from the nature of things will be an *iron handed despotism*, as nothing short of the supremacy of despotic sway could connect and govern these United States under one government.

As the truth of this position is of such decisive importance, it ought to be fully investigated, and if it is founded to be clearly ascertained; for, should it be demonstrated, that the powers vested by this constitution in Congress, will have such an effect as necessarily to produce one consolidated government, the question then will be reduced to this short issue, viz. whether satiated with the blessings of

liberty; whether repenting of the folly of so recently asserting their unalienable rights, against foreign despots at the expence of so much blood and treasure, and such painful and arduous struggles, the people of America are now willing to resign every privilege of freemen, and submit to the dominion of an absolute government, that will embrace all America in one chain of despotism; or whether they will with virtuous indignation, spurn at the shackles prepared for them, and confirm their liberties by a conduct becoming freemen.

That the new government will not be a confederacy of states, as it ought, but one consolidated government, founded upon the destruction of the several governments of the states, we shall now shew.

The powers of Congress under the new constitution, are complete and unlimited over the *purse* and the *sword*, and are perfectly independent of, and supreme over, the state governments; whose intervention in these great points is entirely destroyed. By virtue of their power of taxation, Congress may command the whole, or any part of the property of the people. They may impose what imposts upon commerce; they may impose what land taxes, poll taxes, excises, duties on all written instruments, and duties on every other article that they may judge proper; in short, every species of taxation, whether of an external or internal nature is comprised in section the 8th, of article the 1st, viz. "The 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."

As there is no one article of taxation reserved to the state governments, the Congress may monopolise every source of revenue, and thus indirectly demolish the state governments, for without funds they could not exist, the taxes, duties and excises imposed by Congress may be so high as to render it impracticable to levy further sums on the same articles; but whether this should be the case or not, if the state governments should presume to impose taxes, duties or excises, on the same articles with Congress, the latter may abrogate and repeal the laws whereby they are imposed, upon the allegation that they interfere with the due collection of their taxes, duties or excises, by virtue of the following clause, part of section 8th, article 1st. viz. "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."

The Congress might gloss over this conduct by construing every purpose for which the state legislatures now lay taxes, to be for the "*general welfare*," and therefore as of their jurisdiction.

And the supremacy of the laws of the United States is established by article 6th, viz. "That this constitution and the laws of the United

States, which shall be made in pursuance thereof, and *all treaties* made, or which shall be made, under the authority of the United States, shall be the *supreme law of the land*; and *the judges in every state shall be bound thereby; any thing in the constitution or laws of any state to the contrary notwithstanding.*" It has been alledged that the words "pursuant to the constitution," are a restriction upon the authority of Congress; but when it is considered that by other sections they are invested with every efficient power of government, and which may be exercised to the absolute destruction of the state governments, without any violation of even the forms of the constitution, this seeming restriction, as well as every other restriction in it, appears to us to be nugatory and delusive; and only introduced as a blind upon the real nature of the government. In our opinion, "pursuant to the constitution," will be co-extensive with the *will and pleasure* of Congress, which, indeed, will be the only limitation of their powers.

We apprehend that two co-ordinate sovereignties would be a solecism in politics. That therefore as there is no line of distinction drawn between the general, and state governments; as the sphere of their jurisdiction is undefined, it would be contrary to the nature of things, that both should exist together, one or the other would necessarily triumph in the fullness of dominion. However the contest could not be of long continuance, as the state governments are divested of every means of defence, and will be obliged by "the supreme law of the land" *to yield at discretion.*

It has been objected to this total destruction of the state governments, that the existence of their legislatures is made essential to the organization of Congress; that they must assemble for the appointment of the senators and president general of the United States.<sup>26</sup> True, the state legislatures may be continued for some years, as boards of appointment, merely, after they are divested of every other function, but the framers of the constitution foreseeing that the people will soon be disgusted with this solemn mockery of a government without power and usefulness, have made a provision for relieving them from the imposition, in section 4th, of article 1st, viz. "The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; *but the Congress may at any time, by law make or alter such regulations; except as to the place of chusing senators.*"

As Congress have the controul over the time of the appointment of the president general, of the senators and of the representatives of the United States, they may prolong their existence in office, for life, by postponing the time of their election and appointment, from period to period, under various pretences, such as an apprehension of invasion, the factious disposition of the people, or any other plausible pretence

that the occasion may suggest; and having thus obtained life-estates in the government, they may fill up the vacancies themselves, by their controul over the mode of appointment; with this exception in regard to the senators, that as the place of appointment for them, must, by the constitution, be in the particular state, they may depute some body in the respective states, to fill up the vacancies in the senate, occasioned by death, until they can venture to assume it themselves. In this manner, may the only restriction in this clause be evaded. By virtue of the foregoing section, when the spirit of the people shall be gradually broken; when the general government shall be firmly established, and when a numerous standing army shall render opposition vain, the Congress may compleat the system of despotism, in renouncing all dependance on the people, by continuing themselves, and children in the government.

The celebrated *Montesquieu*, in his *Spirit of Laws*, vol. 1, page 12th, says, "That in a democracy there can be no exercise of sovereignty, but by the suffrages of the people, which are their will; now the sovereigns will is the sovereign himself; the laws therefore, which establish the right of suffrage, are fundamental to this government. In fact, it is as important to regulate in a republic in what manner, by whom, and concerning what suffrages are to be given, as it is in a monarchy to know who is the prince, and after what manner he ought to govern."<sup>27</sup> The *time, mode and place* of the election of representatives, senators and president general of the United States, ought not to be under the controul of Congress, but fundamentally ascertained and established.

The new constitution, consistently with the plan of consolidation, contains no reservation of the rights and privileges of the state governments, which was made in the confederation of the year 1778, by article the 2d, viz. "That each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress assembled."

The legislative power vested in Congress by the foregoing recited sections, is so unlimited in its nature; may be so comprehensive and boundless [in] its exercise, that this alone would be amply sufficient to annihilate the state governments, and swallow them up in the grand vortex of general empire.

The judicial powers vested in Congress are also so various and extensive, that by legal ingenuity they may be extended to every case, and thus absorb the state judiciaries, and when we consider the decisive influence that a general judiciary would have over the civil polity of the several states, we do not hesitate to pronounce that this power, unaided by the legislative, would effect a consolidation of the states under one government.

The powers of a court of equity, vested by this constitution, in the tribunals of Congress; powers which do not exist in Pennsylvania, unless so far as they can be incorporated with jury trial, would, in this state, greatly contribute to this event. The rich and wealthy suitors would eagerly lay hold of the infinite mazes, perplexities and delays, which a court of chancery, with the appellate powers of the supreme court in fact as well as law would furnish him with, and thus the poor man being plunged in the bottomless pit of legal discussion, would drop his demand in despair.

In short, consolidation pervades the whole constitution. It begins with an annunciation that such was the intention. The main pillars of the fabric correspond with it, and the concluding paragraph is a confirmation of it. The preamble begins with the words, "We the people of the United States," which is the style of a compact between individuals entering into a state of society, and not that of a confederation of states. The other features of consolidation, we have before noticed.

Thus we have fully established the position, that the powers vested by this constitution in Congress, will effect a consolidation of the states under one government, which even the advocates of this constitution admit, could not be done without the sacrifice of all liberty.

3. We dissent, Thirdly, Because if it were practicable to govern so extensive a territory as these United States includes, on the plan of a consolidated government, consistent with the principles of liberty and the happiness of the people, yet the construction of this constitution is not calculated to attain the object, for independent of the nature of the case, it would of itself, necessarily produce a despotism, and that not by the usual gradations, but with the celerity that has hitherto only attended revolutions effected by the sword.

To establish the truth of this position, a cursory investigation of the principles and form of this constitution will suffice.

The first consideration that this review suggests, is the omission of a BILL OF RIGHTS ascertaining and fundamentally establishing those unalienable and personal rights of men, without the full, free, and secure enjoyment of which there can be no liberty, and over which it is not necessary for a good government to have the controul. The principal of which are the rights of conscience, personal liberty by the clear and unequivocal establishment of the writ of *habeas corpus*, jury trial in criminal and civil cases, by an impartial jury of the vicinage or county; with the common law proceedings, for the safety of the accused in criminal prosecutions and the liberty of the press, that scourge of tyrants; and the grand bulwark of every other liberty and, privilege; the stipulations heretofore made in favor of them in the state constitutions, are entirely superceded by this constitution.



The legislature of a free country should be so formed as to have a competent knowledge of its constituents, and enjoy their confidence. To produce these essential requisites, the representation ought to be fair, equal, and sufficiently numerous, to possess the same interests, feelings, opinions, and views, which the people themselves would possess, were they all assembled; and so numerous as to prevent bribery and undue influence, and so responsible to the people, by frequent and fair elections, as to prevent their neglecting or sacrificing the views and interests of their constituents, to their own pursuits.

We will now bring the legislature under this constitution to the test of the foregoing principles, which will demonstrate, that it is deficient in every essential quality of a just and safe representation.

The house of representatives is to consist of 65 members; that is one for about every 50,000 inhabitants, to be chosen every two years. Thirty-three members will form a quorum for doing business; and 17 of these, being the majority, determine the sense of the house.

The senate, the other constituent branch of the legislature, consists of 26 members, being *two* from each state, appointed by their legislatures every six years—fourteen senators make a quorum; the majority of whom, eight, determines the sense of that body: except in judging on impeachments, or in making treaties, or in expelling a member, when two thirds of the senators present, must concur.

The president is to have the controul over the enacting of laws, so far as to make the concurrence of *two* thirds of the representatives and senators present necessary, if he should object to the laws.

Thus it appears that the liberties, happiness, interests, and great concerns of the whole United States, may be dependent upon the integrity, virtue, wisdom, and knowledge of 25 or 26 men.—How unadequate and unsafe a representation! Inadequate, because the sense and views of 3 or 4 millions of people diffused over so extensive a territory comprising such various climates, products, habits, interests, and opinions, cannot be collected in so small a body; and besides, it is not a fair and equal representation of the people even in proportion to its number, for the smallest state has as much weight in the senate as the largest, and from the smallness of the number to be chosen for both branches of the legislature; and from the mode of election and appointment, which is under the controul of Congress; and from the nature of the thing, men of the most elevated rank in life, will alone be chosen. The other orders in the society, such as farmers, traders, and mechanics, who all ought to have a competent number of their best informed men in the legislature, will be totally unrepresented.

The representation is unsafe, because in the exercise of such great powers and trusts, it is so exposed to corruption and undue influence, by the gift of the numerous places of honor and emolument, at the

disposal of the executive; by the arts and address of the great and designing; and by direct bribery.

The representation is moreover inadequate and unsafe, because of the long terms for which it is appointed, and the mode of its appointment, by which Congress may not only controul the choice of the people, but may so manage as to divest the people of this fundamental right, and become self-elected.

The number of members in the house of representatives *may* be encreased to one for every 30,000 inhabitants. But when we consider, that this cannot be done without the consent of the senate, who from their share in the legislative, in the executive, and judicial departments, and permanency of appointment, will be the great efficient body in this government, and whose weight and predominancy would be abridged by an increase of the representatives, we are persuaded that this is a circumstance that cannot be expected. On the contrary, the number of representatives will probably be continued at 65, although the population of the country may swell to treble what it now is; unless a revolution should effect a change.

We have before noticed the judicial power as it would effect a consolidation of the states into one government; we will now examine it, as it would affect the liberties and welfare of the people, supposing such a government were practicable and proper.

The judicial power, under the proposed constitution, is founded on the well-known principles of the *civil law*, by which the judge determines both on law and fact, and appeals are allowed from the inferior tribunals to the superior, upon the whole question; so that *facts* as well as *law*, would be re-examined, and even new facts brought forward in the court of appeals; and to use the words of a very eminent Civilian—"The cause is many times another thing before the court of appeals, than what it was at the time of the first sentence."

That this mode of proceeding is the one which must be adopted under this constitution, is evident from the following circumstances:—1st. That the trial by jury, which is the grand characteristic of the common law, is secured by the constitution, only in criminal cases.—2d. That the appeal from both *law* and *fact* is expressly established, which is utterly inconsistent with the principles of the common law, and trials by jury. The only mode in which an appeal from law and fact can be established, is, by adopting the principles and practice of the civil law; unless the United States should be drawn into the absurdity of calling and swearing juries, merely for the purpose of contradicting their verdicts, which would render juries contemptible and worse than useless.—3d. That the courts to be established would decide on all cases of *law and equity*, which is a well known characteristic

of the civil law, and these courts would have conusance [cognizance] not only of the laws of the United States and of treaties, and of cases affecting ambassadors, but of all cases of *admiralty and maritime jurisdiction*, which last are matters belonging exclusively to the civil law, in every nation in Christendom.

Not to enlarge upon the loss of the invaluable right of trial by an unbiassed jury, so dear to every friend of liberty, the monstrous expence and inconveniences of the mode of proceeding to be adopted, are such as will prove intolerable to the people of this country. The lengthy proceedings of the civil law courts in the chancery of England, and in the courts of Scotland and France, are such that few men of moderate fortune can endure the expence of; the poor man must therefore submit to the wealthy. Length of purse will too often prevail against right and justice. For instance, we are told by the learned judge *Blackstone*, that a question only on the property of an *ox*, of the value of *three guineas*, originating under the civil law proceedings in Scotland, after many interlocutory orders and sentences below, was carried at length from the court of sessions, the highest court in that part of Great Britain, by way of *appeal* to the house of lords, where the question of law and fact was finally determined. He adds, that no pique or spirit could in the court of king's bench or common pleas at Westminster, have given continuance to such a cause for a tenth part of the time, nor have cost a twentieth part of the expence.<sup>28</sup> Yet the costs in the courts of king's bench and common pleas in England, are infinitely greater than those which the people of this country have ever experienced. We abhor the idea of losing the transcendant privilege of trial by jury, with the loss of which, it is remarked by the same learned author, that in Sweden, the liberties of the commons were extinguished by an aristocratic senate: and that *trial by jury* and the liberty of the people went out together.<sup>29</sup> At the same time we regret the intolerable delay, the enormous expences and infinite vexation to which the people of this country will be exposed from the voluminous proceedings of the courts of civil law, and especially from the appellate jurisdiction, by means of which a man may be drawn from the utmost boundaries of this extensive country to the seat of the supreme court of the nation to contend, perhaps with a wealthy and powerful adversary. The consequence of this establishment will be an absolute confirmation of the power of aristocratical influence in the courts of justice; for the common people will not be able to contend or struggle against it.

Trial by jury in criminal cases may also be excluded by declaring that the libeller for instance shall be liable to an action of debt for a specified sum; thus evading the common law prosecution by indictment and trial by jury. And the common course of proceeding against a ship for breach of revenue laws by information (which will be classed among

civil causes) will at the civil law be within the resort of a court, where no jury intervenes. Besides, the benefit of jury trial, in cases of a criminal nature, which cannot be evaded, will be rendered of little value, by calling the accused to answer far from home; there being no provision that the trial be by a jury of the neighbourhood or country. Thus an inhabitant of Pittsburgh, on a charge of crime committed on the banks of the Ohio, may be obliged to defend himself at the side of the Delaware, and so *vice versa*. To conclude this head: we observe that the judges of the courts of Congress would not be independent, as they are not debarred from holding other offices, during the pleasure of the president and senate, and as they may derive their support in part from fees, alterable by the legislature.

The next consideration that the constitution presents, is the undue and dangerous mixture of the powers of government: the same body possessing legislative, executive, and judicial powers. The senate is a constituent branch of the legislature, it has judicial power in judging on impeachments, and in this case unites in some measure the characters of judge and party, as all the principal officers are appointed by the president-general, with the concurrence of the senate and therefore they derive their offices in part from the senate. This may bias the judgments of the senators, and tend to screen great delinquents from punishment. And the senate has, moreover, various and great executive powers, viz. in concurrence with the president-general, they form treaties with foreign nations, that may controul and abrogate the constitutions and laws of the several states. Indeed, there is no power, privilege or liberty of the state governments, or of the people, but what may be affected by virtue of this power. For all treaties, made by them, are to be the "supreme law of the land; any thing in the constitution or laws of any state, to the contrary notwithstanding."

And this great power may be exercised by the president and 10 senators (being two-thirds of 14, which is a quorum of that body). What an inducement would this offer to the ministers of foreign powers to compass by bribery *such concessions* as could not otherwise be obtained. It is the unvaried usage of all free states, whenever treaties interfere with the positive laws of the land, to make the intervention of the legislature necessary to give them operation. This became necessary, and was afforded by the parliament of Great-Britain, in consequence of the late commercial treaty between that kingdom and France.<sup>30</sup>—As the senate judges on impeachments, who is to try the members of the senate for the abuse of this power! And none of the great appointments to office can be made without the consent of the senate.

Such various, extensive, and important powers combined in one body of men, are inconsistent with all freedom; the celebrated Montesquieu tells us, that "when the legislative and executive powers

are united in the same person, or in the same body of magistrates, there can be no liberty, because apprehensions may arise, lest the same monarch or *senate* should enact tyrannical laws, to execute them in a tyrannical manner."

"Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul; for the judge would then be legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor. There would be an end of every thing, were the same man, or the same body of the nobles, or of the people, to exercise those three powers; that of enacting laws; that of executing the public resolutions; and that of judging the crimes or differences of individuals."<sup>31</sup>

The president general is dangerously connected with the senate; his coincidence with the views of the ruling junto in that body, is made essential to his weight and importance in the government, which will destroy all independency and purity in the executive department, and having the power of pardoning without the concurrence of a council, he may skreen from punishment the most treasonable attempts that may be made on the liberties of the people, when instigated by his coadjutors in the senate. Instead of this dangerous and improper mixture of the executive with the legislative and judicial, the supreme executive powers ought to have been placed in the president, with a small independent council, made personally responsible for every appointment to office or other act, by having their opinions recorded; and that without the concurrence of the majority of the quorum of this council, the president should not be capable of taking any step.

We have before considered internal taxation, as it would effect the destruction of the state governments, and produce one consolidated government. We will now consider that subject as it affects the personal concerns of the people.

The power of direct taxation applies to every individual, as congress, under this government, is expressly vested with the authority of laying a capitation or poll tax upon every person to any amount. This is a tax that, however oppressive in its nature, and unequal in its operation, is certain as to its produce and simple in its collection; it cannot be evaded like the objects of imposts or excise, and will be paid, because all that a man hath will he give for his head. This tax is so congenial to the nature of despotism, that it has ever been a favorite under such governments. Some of those who were in the late general convention from this state, have long laboured to introduce a poll-tax among us.<sup>32</sup>

The power of direct taxation will further apply to every individual as congress may tax land, cattle, trades, occupations, &c. to any amount,

and every object of internal taxation is of that nature, that however oppressive, the people will have but this alternative, either to pay the tax, or let their property be taken, for all resistance will be vain. The standing army and select militia would enforce the collection.

For the moderate exercise of this power, there is no controul left in the state governments, whose intervention is destroyed. No relief, or redress of grievances can be extended, as heretofore, by them. There is not even a declaration of RIGHTS to which the people may appeal for the vindication of their wrongs in the court of justice. They must therefore, implicitly, obey the most arbitrary laws, as the worst of them will be pursuant to the principles and form of the constitution, and that strongest of all checks upon the conduct of administration, *responsibility to the people*, will not exist in this government. The permanency of the appointments of senators and representatives, and the controul the congress have over their election, will place them independent of the sentiments and resentment of the people, and the administration having a greater interest in the government than in the community, there will be no consideration to restrain them from oppression and tyranny. In the government of this state, under the old confederation, the members of the legislature are taken from among the people, and their interests and welfare are so inseparably connected with those of their constituents, that they can derive no advantage from oppressive laws and taxes, for they would suffer in common with their fellow citizens; would participate in the burthens they impose on the community, as they must return to the common level, after a short period; and notwithstanding every exertion of influence, every means of corruption, a necessary rotation excludes them from permanency in the legislature.<sup>33</sup>

This large state is to have but ten members in that Congress which is to have the liberty, property and dearest concerns of every individual in this vast country at absolute command and even these ten persons, who are to be our only guardians; who are to supercede the legislature of Pennsylvania, will not be of the choice of the people, nor amenable to them. From the mode of their election and appointment they will consist of the lordly and high-minded; of men who will have no congenial feelings with the people, but a perfect indifference for, and contempt of them; they will consist of those harpies of power, that prey upon the very vitals; that riot on the miseries of the community. But we will suppose, although in all probability it may never be realized in fact, that our deputies in Congress have the welfare of their constituents at heart, and will exert themselves in their behalf, what security could even this afford; what relief could they extend to their oppressed constituents? To attain this, the majority of the deputies of the twelve other states in Congress must be alike well disposed; must alike forego

the sweets of power, and relinquish the pursuits of ambition, which from the nature of things is not to be expected. If the people part with a responsible representation in the legislature, founded upon fair, certain and frequent elections, they have nothing left they can call their own. Miserable is the lot of that people whose every concern depends on the WILL and PLEASURE of their rulers. Our soldiers will become Janissaries, and our officers of government Bashaws; in short, the system of despotism will soon be completed.

From the foregoing investigation, it appears that the Congress under this constitution will not possess the confidence of the people, which is an essential requisite in a good government; for unless the laws command the confidence and respect of the great body of the people, so as to induce them to support them, when called on by the civil magistrate, they must be executed by the aid of a numerous standing army, which would be inconsistent with every idea of liberty; for the same force that may be employed to compel obedience to good laws, might and probably would be used to wrest from the people their constitutional liberties. The framers of this constitution appear to have been aware of this great deficiency; to have been sensible that no dependence could be placed on the people for their support: but on the contrary, that the government must be executed by force. They have therefore made a provision for this purpose in a permanent STANDING ARMY, and a MILITIA that may be subjected to as strict discipline and government.

A standing army in the hands of a government placed so independent of the people, may be made a fatal instrument to overturn the public liberties; it may be employed to enforce the collection of the most oppressive taxes, and to carry into execution the most arbitrary measures. An ambitious man who may have the army at his devotion, may step up into the throne, and seize upon absolute power.

The absolute unqualified command that Congress have over the militia may be made instrumental to the destruction of all liberty, both public and private; whether of a personal, civil or religious nature.

First, the personal liberty of every man probably from sixteen to sixty years of age, may be destroyed by the power Congress have in organizing and governing of the militia. As militia they may be subjected to fines to any amount, levied in a military manner; they may be subjected to corporal punishments of the most disgraceful and humiliating kind, and to death itself, by the sentence of a court martial: To this our young men will be more immediately subjected, as a select militia, composed of them, will best answer the purposes of government.

Secondly, The rights of conscience may be violated, as there is no exemption of those persons who are conscientiously scrupulous of

bearing arms. These compose a respectable proportion of the community in the state. This is the more remarkable, because even when the distresses of the late war, and the evident disaffection of many citizens of that description, inflamed our passions, and when every person, who was obliged to risque his own life, must have been exasperated against such as on any account kept back from the common danger, yet even then, when outrage and violence might have been expected, the rights of conscience were held sacred.

At this momentous crisis, the framers of our state constitution made the most express and decided declaration and stipulations in favour of the rights of conscience: but now when no necessity exists, those dearest rights of men are left insecure.<sup>34</sup>

Thirdly, The absolute command of Congress over the militia may be destructive of public liberty; for under the guidance of an arbitrary government, they may be made the unwilling instruments of tyranny. The militia of Pennsylvania may be marched to New England or Virginia to quell an insurrection occasioned by the most galling oppression, and aided by the standing army, they will no doubt be successful in subduing their liberty and independency; but in so doing, although the magnanimity of their minds will be extinguished, yet the meaner passions of resentment and revenge will be increased, and these in turn will be the ready and obedient instruments of despotism to enslave the others; and that with an irritated vengeance. Thus may the militia be made the instruments of crushing the last efforts of expiring liberty, of riveting the chains of despotism on their fellow citizens, and on one another. This power can be exercised not only without violating the constitution, but in strict conformity with it; it is calculated for this express purpose, and will doubtless be executed accordingly.

As this government will not enjoy the confidence of the people, but be executed by force, it will be a very expensive and burthensome government. The standing army must be numerous, and as a further support, it will be the policy of this government to multiply officers in every department: judges, collectors, tax-gatherers, excisemen and the whole host of revenue officers will swarm over the land, devouring the hard earnings of the industrious. Like the locusts of old, impoverishing and desolating all before them.

We have not noticed the smaller, nor many of the considerable blemishes, but have confined our objections to the great and essential defects; the main pillars of the constitution: which we have shewn to be inconsistent with the liberty and happiness of the people, as its establishment will annihilate the state governments, and produce one consolidated government, that will eventually and speedily issue in the supremacy of despotism.



In this investigation, we have not confined our views to the interests or welfare of this state, in preference to the others. We have overlooked all local circumstances—we have considered this subject on the broad scale of the general good: we have asserted the cause of the present and future ages: the cause of liberty and mankind.

(a) *The Journals of the conclave are still concealed.*

(b) The continental convention in direct violation of the 13th article of the confederation,<sup>35</sup> have declared, “that the ratification of nine states shall be sufficient for the establishment of this constitution, between the states so ratifying the same.”—Thus has the plighted faith of the states been sported with! They had solemnly engaged that the confederation now subsisting should be inviolably preserved by each of them, and the union thereby formed, should be perpetual, unless the same should be altered by mutual consent.

Nathaniel Breading  
John Smilie  
Richard Baird  
Adam Orth  
John A. Hanna  
John Whitehill  
John Harris  
Robert Whitehill  
John Reynolds  
Jonathan Hoge  
Nicholas Lutz

John Ludwig  
Abraham Lincoln  
John Bishop  
Joseph Heister  
Joseph Powel  
James Martin  
William Findley  
John Baird  
James Edgar  
William Todd.

1. On 18 December Eleazer Oswald of the Philadelphia *Independent Gazetteer* announced his publication and sale of the “Dissent” as a three-page broadside (Evans 20618). Between 19 December and 14 March 1788 the “Dissent” was reprinted by thirteen newspapers and one magazine: Philadelphia *Freeman’s Journal*, 19 December; *Pennsylvania Mercury*, 21 December (excerpt); *New York Morning Post*, 24, 25, 26, 27, 28 December; *New York Daily Advertiser*, 25, 26, 27 December; *Carlisle Gazette*, 26 December, 2, 9, 16 January; *New York Journal*, 27, 29, 31 December; *Philadelphia American Museum*, December issue; *Lancaster Zeitung*, 2, 9, 16 January; *Philadelphische Correspondenz*, 8, 15, 22, 29 January, 5, 12, 19, 26 February, 4 March; *Providence Gazette*, 10, 17, 31 January, 14, 28 February, 13 March; *Providence Gazette*, 12, 19, 26 January; *State Gazette of South Carolina*, 21, 24, 28, 31 January, 4 February; *Pittsburgh Gazette*, 26 January, 2, 9 February; and *Winchester Virginia Gazette*, 1, 8, 15, 22 February, 7, 14 March. By early February 1788 the “Dissent” was reprinted in pamphlet editions by Augustine Davis of the *Richmond Virginia Independent Chronicle* (Evans 20621) and by Edward E. Powars of the *Boston American Herald* (Evans 20619), and as a four-page broadside by Ashbel Stoddard of the *Hudson Weekly Gazette* (without the first four paragraphs) (Evans 20620). In early April the “Dissent” also appeared in a New York Antifederalist pamphlet anthology (CC:666, Evans 21344).

After the names of the twenty-one signers of the “Dissent,” the *Packet* and broadside printings of the “Dissent” contain the final roll-call vote on ratification,

followed by the dateline, Philadelphia, December 12, 1787. The *American Museum* reprint omitted the roll call but retained the dateline.

2. For the Impost of 1781, which Rhode Island refused to ratify, see CDR, 140–41.

3. For the Impost of 1783 and the request for supplementary funds, see CDR, 146–48.

4. See the February 1786 report of a committee of Congress, which considered the system of revenue of the United States, including the status of the Impost of 1783 and the supplementary funds, and the compliance of the states with the requisitions of Congress (JCC, XXX, 70–76).

5. For the 23 November 1786 act of the Virginia legislature authorizing the appointment of delegates to a constitutional convention, see CDR, 196–98. For the 21 February 1787 resolution of Congress calling such a convention, see CDR, 185–90.

6. For the appointment of delegates to the Convention by twelve states and for Rhode Island's refusal to do so, see CDR, 192–229. The Pennsylvania act of 30 December 1786 authorized the delegates to devise "all such alterations and further provisions as may be necessary to render the federal constitution fully adequate to the exigencies of the Union . . ." (CDR, 199).

7. The "Address of the Seceding Assemblymen" of the Pennsylvania Assembly, a broadside published on 2 October 1787, complained that the Pennsylvania delegates to the Constitutional Convention "were all citizens of Philadelphia, none of them calculated to represent the landed interest of Pennsylvania, and almost all of them of one political party . . ." (RCS:Pa., 112). A few days later six assemblymen denied that there was any objection to such a representation at the time of the delegates' selection; in fact, it was "well known, that both Mr. Findley and Mr. Whitehill were of opinion that the choice should be confined to the city of Philadelphia and its neighbourhood, as it would not be convenient for persons living at a distance to attend a Convention; the former declaring a seat there would not suit him . . ." (*Pennsylvania Packet*, 8 October, RCS:Pa., 119).

8. Jared Ingersoll was the one non-Republican elected. The Republican delegates were George Clymer, Thomas FitzSimons, Thomas Mifflin, Gouverneur Morris, Robert Morris, and James Wilson. The defeated Constitutionalist candidates were Charles Pettit, Thomas McKean, and John Bayard (RCS:Pa., 118).

9. Benjamin Franklin was added to the delegation by a supplemental act on 28 March 1787.

10. See "Tar and Feathers," *Independent Gazetteer*, 28 September and 2 October, RCS:Pa., 148–49, 152–53.

11. Printed petitions, signed by more than 4,000 inhabitants of the city of Philadelphia and the counties of Philadelphia and Montgomery, were presented to the Assembly between 24 and 29 September. The petitions, which were identical, requested the Assembly to call a state convention to ratify the Constitution "as speedily as possible" (RCS:Pa., 62ff. and Mfm:Pa. 61).

12. George Clymer.

13. For an account of these events, see CC:125.

14. See section 10 of the Pennsylvania constitution (Thorpe, V, 3085).

15. See section 47 (*ibid.*, 3091–92).

16. The elections for convention delegates took place on 6 November. For the election returns and comments on the elections, see RCS:Pa., 233–35, 264–65.

17. See the *Pennsylvania Herald*, 7 November, and William Shippen, Jr., to Thomas Lee Shippen, 7 November, RCS:Pa., 227, 235.

18. For the violence directed at Antifederalist leaders on the election night, see RCS:Pa., 235–56.

19. These amendments are nearly identical to those offered to the Pennsylvania Convention by Robert Whitehill on 12 December (RCS:Pa., 597–99).

20. *The Federalist* 83 (Alexander Hamilton), published in Volume II of the M'Lean edition on 28 May, criticized this proposal as "absolutely senseless and nugatory" because "the present federal government has no judiciary power whatever; and consequently there is no proper antecedent or previous establishment to which the term *heretofore* could relate."

21. This paragraph, a paraphrase of Article II of the Articles of Confederation (CDR, 86), was Whitehill's fifteenth amendment.

22. See RCS:Pa., 547–48.

23. The text quoted in this paragraph is from James Wilson's 24 November speech to the Pennsylvania Convention (see CC:289 and RCS:Pa., 339–50).

24. *Spirit of Laws*, I, Book VIII, chapters XVI–XX, 177–81.

25. All italics in this and later quoted material were supplied by the author of the "Dissent."

26. James Wilson made this argument several times before and during the state Convention (CC:134 and RCS:Pa., 400–2, 404–5, 406, 422, 476, 570).

27. I, Book II, chapter II, 12.

28. Blackstone, *Commentaries*, Book III, chapter XXIV, 392n.

29. *Ibid.*, chapter XXIII, 380–81.

30. Article XIV of the Treaty of Navigation and Commerce (26 September 1786) states that the treaty was to "take Effect, as far as relates to the Kingdom of *Great Britain*, as soon as Laws shall be passed there for securing to the Subjects of His Most *Christian Majesty* the reciprocal Enjoyment of the Advantages which are granted to them by the present Treaty" (*Journals of the House of Commons. From January the 23d, 1787, to October the 16th, 1787* . . . [n.p., n.d.], XLII, 269). In 1786 this treaty was published in several editions in London and Paris, and the next year it was the subject of extended debate in both houses of Parliament.

31. *Spirit of Laws*, I, Book XI, chapter VI, 222.

32. Perhaps a reference to Robert and Gouverneur Morris. On 19 September 1778 both men served on a committee of the Continental Congress that recommended a poll tax of a half dollar on every individual (JCC, XII, 928–29). In 1782 Robert Morris, while serving as Confederation Superintendent of Finance, again recommended a poll tax (CC:324).

33. Section 8 of the Pennsylvania constitution provided that "No person shall be capable of being elected a member to serve in the house of representatives of the freemen of this commonwealth more than four years in seven" (Thorpe, V, 3084).

34. Article II of the Pennsylvania Declaration of Rights guaranteed religious freedom, while Article VIII stipulated: "Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent . . ." (Thorpe, V, 3082, 3083). "A Citizen of Philadelphia" (Pelatiah Webster?) charged that the dissenters were not sincere when they talked and wrote of "*liberty* and of the sacred rights of *conscience*." Six of the dissenters had once approved a report of a committee of the state Assembly that attacked conscientious objectors (*Pennsylvania Gazette*, 23 January 1788, RCS:Pa., 658).

35. CDR, 93.

### 354. Anti-Cincinnatus

#### Northampton Hampshire Gazette, 19 December

"Anti-Cincinnatus" criticizes "Cincinnatus" I (CC:222) for attacking James Wilson's speech of 6 October (CC:134). The *Hampshire Gazette* had reprinted Wilson's speech on 14 November and "Cincinnatus" I on 5 December. "Anti-Cincinnatus" was reprinted in the *New York Journal* on 29 December.

*Mr. Printer*, An antifederal piece, in No. 66, purporting to be an answer to Mr. Wilson, under the signature of Cincinnatus, "appears to abound" with misrepresentation, misconstruction "and sophistry, and so dangerous" to the uninformed and less discerning readers, as for their sakes and theirs only, "to require" reprehension and "refutation." "If we" reject "the new Constitution, let us understand it: whether it deserves to be" rejected "or not, we can determine only by a full" and honest "examination of it; so as truly and clearly to discern what it is we are so" warmly, and I may boldly "say, indesciently called upon to" reject, and for what important reasons: such "examination," so far as the objections and reasonings of said piece have the appearance of weight or force, is the "object" of the following paragraphs.

The introduction is filled with little else but sarcastical taunts liberally bestowed both upon the Constitution, and Mr. Wilson, one of its framers and advocates, which I shall pass without further notice, only requesting the reader to take the trouble in the issue to judge, whether, "the hope" of Cincinnatus "to avoid the censure of having industriously endeavoured to prevent and destroy" the Constitution "by insidious and clandestine attempts," is not founded on slippery ground.

His only objection to the Constitution (after, we may presume, a narrow and critical search for facts) is, "the omission of a declaration of rights;" which omission Mr. Wilson, and with him every man of common sense and candor, justifies, for this reason, viz. in the State Constitutions a bill of rights is necessary, because whatever is not reserved is given, but in this Congressional Constitution whatever is not given is reserved. This, says our author, "is a distinction without a difference, and has more the quaintness of a conundrum than the dignity of an argument;" and exerts himself briskly in the "play of words and quaintness of conundrums" to set aside the distinction: to all which it is sufficient to reply, that it must be obvious to the discerning and candid reader, that the new Constitution, although it contains not a declaration of the rights of the people; yet it contains a declaration of the powers given to rulers; intentionally with precision defines and limits them; thus firmly and stably fixeth the boundaries of their authority, beyond which they cannot pass, unless in violation of the Constitution: To have made a formal declaration, that all the rights and powers not mentioned nor defined are reserved and not granted, would have been as great an affront to common sense, as if after having made a grant of a certain tract of land or other articles of property particularly specified and described in a deed or bill of sale, I should add a particular enumeration of my every other piece of land and article of property, with a declaration in form, that none of these are meant to be granted; for not being granted they are certainly reserved,

as certainly without as with a declaration of it.—Common sense requires not a declaration that articles either of property or power not mentioned in the bill are not granted by the bill.

To illucidate the danger arising from this omission of a bill of rights, and prove *“that a dangerous aristocracy springing from it (the Constitution) must necessarily swallow up the democratic rights of the union, and sacrifice the liberties of the people to the power and dominion of a few,”* he refers to the liberty of the press, as an instance taken by Mr. Wilson, to shew that a bill of rights is not necessary, because this remains safe and secure without it; for this reason, viz. “there is no express power granted to regulate literary publications. The Constitution grants no power more nor less with respect to the liberty of the press; but leaves it just as it found it, in the hands of the several state constitutions: but to enervate this argument, my author sagely observes, “that where general powers are expressly granted, the particular ones comprehended within them must also be granted:”—and with keen sagacity discovers a general power granted to Congress “to define and punish offences against the law of nations,” and after a plausible parade or inconclusive argumentation, assumes to have proved, “that the power of restraining the press is necessarily involved in the unlimited power of defining offences against the law of nations, or of making treaties, which are to be the supreme law of the land.” To clear off the obscurity and confusion which involve the ideas and reasonings of this author, concerning the law of nations and public treaties, and set this matter in a clear convictive point of view, it is needless and would be to no purpose to pursue him through an intricate maze or winding in a pompous declamatory harangue; it is needful, to that end only to consider, that by the law of nations, is intended, those regulations and articles of agreement by which different nations, in their treaties, one with another, mutually bind themselves to regulate their conduct, one towards the other. A violation of such articles is properly defined an offence against the law of nations: and there is and can be no other law of nations, which binds them with respect to their treatment one of another, but these articles of agreement contained in their public treaties and alliances.

These public treaties become the law of the land in that being made by constitutional authority, i.e. among us, by those whom the people themselves have authorized for that purpose, are in a proper sense their own agreements, and therefore as laws, bind the several states, as states, and their inhabitants, as individuals to take notice of and govern themselves according to the articles and rules which are defined and stipulated in them: as law of the land they bind to nothing but a performance of the engagements which they contain. How then doth it appear “that a power to define offences against the law of nations, necessarily involves a power of restraining the liberty of the press?”

Have we the least possible ground of fear, that the United States in some future period will enter in their public treaties an article to injure the liberty of the press? What concern have foreign nations with the liberty or restraint of the American press?

This writer seems to have been set to work with design (not his own) to yield his assistance to verify an observation, said to be made by Dr. Franklin, viz. "That the goodness and excellency of the federal Constitution is evidenced more strongly by nothing, than the weakness and futility of the objections made against it."

That our author had a design in the choice of a signature, to fasten a stigma on the worthy patriotic society,<sup>1</sup> I can not assert. Be assured this is by no means the wish of ANTI-CINCINNATUS.

1. The Society of the Cincinnati.

### 355. Publius: The Federalist 24 New York Independent Journal, 19 December

Alexander Hamilton wrote this essay, which was also printed in the *New York Journal* and the *New York Daily Advertiser* on 19 December. The essay was reprinted in the *New York Packet* on 21 December.

*The Federalist* 24 was the first of five consecutive essays by Hamilton published by 26 December on the merits of standing armies. On 2 January 1788 the Antifederalist Philadelphia *Freeman's Journal* announced the arrival in Philadelphia of "a gentleman of veracity and information" from New York who declared that "there is not the smallest probability of the new constitution being adopted in that State." According to the gentleman, "Publius'" essays on standing armies "have alarmed the people exceedingly" (CC:409). See also, "Brutus" IX-X (CC:455, 474).

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### The FÆDERALIST. No. XXIV.

##### To the People of the State of New-York.

To the powers proposed to be conferred upon the Fæderal Government in respect to the creation and direction of the national forces—I have met with but one specific objection; which if I understand it right is this—that proper provision has not been made against the existence of standing armies in time of peace: An objection which I shall now endeavour to shew, rests on weak and unsubstantial foundations.

It has indeed been brought forward in the most vague and general form, supported only by bold assertions, without the appearance of argument—without even the sanction of theoretical opinions, in contradiction to the practice of other free nations, and to the general sense of America, as expressed in most of the existing constitutions. The propriety of this remark will appear the moment it is recollected that the objection under consideration turns upon a supposed necessity of restraining the LEGISLATIVE authority of the nation, in the article of

military establishments; a principle unheard of except in one or two of our state constitutions, and rejected in all the rest.

A stranger to our politics who was to read our newspapers at the present juncture, without having previously inspected the plan reported by the Convention, would be naturally led to one of two conclusions—either that it contained a positive injunction, that standing armies should be kept up in time of peace, or that it vested in the EXECUTIVE the whole power of leveying troops, without subjecting his discretion in any shape to the controul of the legislature.

If he came afterwards to peruse the plan itself, he would be surprised to discover that neither the one nor the other was the case—that the whole power of raising armies was lodged in the *legislature*, not in the *executive*; that this legislature was to be a popular body consisting of the representatives of the people periodically elected—and that instead of the provision he had supposed in favour of standing armies, there was to be found, in respect to this object, an important qualification even of the legislative discretion, in that clause which forbids the appropriation of money for the support of an army for any longer period than two years: a precaution which, upon a nearer view of it, will appear to be a great and real security against the keeping up of troops without evident necessity.

Disappointed in his first surmise, the person I have supposed would be apt to pursue his conjectures a little further. He would naturally say to himself, it is impossible that all this vehement and pathetic declamation can be without some colorable pretext. It must needs be that this people, so jealous of their liberties, have in all the preceding models of the constitutions which they have established, inserted the most precise and rigid precautions on this point, the omission of which in the new plan has given birth to all this apprehension and clamour.

If under this impression he proceeded to pass in review the several State Constitutions, how great would be his disappointment to find that *two only* of them<sup>(a)</sup> contained an interdiction of standing armies in time of peace; that the other eleven had either observed a profound silence on the subject, or had in express terms admitted the right of the legislature to authorise their existence.

Still however he would be persuaded that there must be some plausible foundation for the cry raised on this head. He would never be able to imagine, while any source of information remained unexplored, that it was nothing more than an experiment upon the public credulity, dictated either by a deliberate intention to deceive or by the overflowings of a zeal too intemperate to be ingenuous. It would probably occur to him that he would be likely to find the precautions he was in search of in the primitive compact between the States—Here at length he would expect to meet with a solution of the enigma. No doubt

he would observe to himself the existing confederation must contain the most explicit provisions against military establishments in time of peace; and a departure from this model in a favourite point has occasioned the discontent which appears to influence these political champions.

If he should now apply himself to a careful and critical survey of the articles of confederation, his astonishment would not only be increased but would acquire a mixture of indignation at the unexpected discovery that these articles instead of containing the prohibition he looked for, and though they had with jealous circumspection restricted the authority of the State Legislatures in this particular, had not imposed a single restraint on that of the United States. If he happened to be a man of quick sensibility or ardent temper, he could now no longer refrain from regarding these clamours as the dishonest artifices of a sinister and unprincipled opposition to a plan which ought at least to receive a fair and candid examination from all sincere lovers of their country! How else, he would say, could the authors of them have been tempted to vent such loud censures upon that plan, about a point in which it seems to have conformed itself to the general sense of America as declared in its different forms of government, and in which it has even superadded a new and powerful guard unknown to any of them? If on the contrary he happened to be a man of calm and dispassionate feelings—he would indulge a sigh for the frailty of human nature, and would lament that in a matter so interesting to the happiness of millions the true merits of the question should be perplexed and entangled by expedients so unfriendly to an impartial and right determination. Even such a man could hardly forbear remarking that a conduct of this kind has too much the appearance of an intention to mislead the people by alarming their passions rather than to convince them by arguments addressed to their understandings.

But however little this objection may be countenanced even by precedents among ourselves, it may be satisfactory to take a nearer view of its intrinsic merits. From a close examination it will appear that restraints upon the discretion of the Legislature in respect to military establishments in time of peace would be improper to be imposed, and if imposed, from the necessities of society would be unlikely to be observed.

Though a wide ocean separates the United States from Europe; yet there are various considerations that warn us against an excess of confidence or security. On one side of us and stretching far into our rear are growing settlements subject to the dominion of Britain. On the other side and extending to meet the British settlements are colonies and establishments subject to the dominion of Spain. This situation and the vicinity of the West-India islands belonging to these two powers



create between them, in respect to their American possessions, and in relation to us, a common interest. The savage tribes on our Western frontier ought to be regarded as our natural enemies their natural allies; because they have most to fear from us and most to hope from them. The improvements in the art of navigation have, as to the facility of communication, rendered distant nations in a great measure, neighbours. Britain and Spain are among the principal maritime powers of Europe. A future concert of views between these nations ought not to be regarded as improbable—The increasing remoteness of consanguinity is every day diminishing the force of the family-compact between France and Spain. And politicians have ever with great reason considered the ties of blood as feeble and precarious links of political connection. These circumstances combined admonish us not to be too sanguine in considering ourselves as intirely out of the reach of danger.

Previous to the revolution, and ever since the peace, there has been a constant necessity for keeping small garrisons on our Western frontier. No person can doubt that these will continue to be indispensable, if it should only be against the ravages and depredations of the Indians. These garrisons must either be furnished, by occasional detachments from the militia, or by permanent corps in the pay of the government. The first is impracticable; and if practicable, would be pernicious. The militia would not long, if at all, submit to be dragged from their occupations and families to perform that most disagreeable duty in times of profound peace. And if they could be prevailed upon, or compelled to do it, the increased expence of a frequent rotation of service, and the loss of labour and disconcertion of the industrious pursuits of individuals, would form conclusive objections to the scheme. It would be as burthensome and injurious to the public, as ruinous to private citizens. The latter resource of permanent corps in the pay of government amounts to a standing army in the time of peace; a small one indeed, but not the less real for being small. Here is a simple view of the subject that shows us at once the impropriety of a constitutional interdiction of such establishments, and the necessity of leaving the matter to the discretion and prudence of the legislature.

In proportion to our increase in strength, it is probable, nay it may be said certain, that Britain and Spain would augment their military establishments in our neighbourhood. If we should not be willing to be exposed in a naked and defenceless condition to their insults or encroachments, we should find it expedient to increase our frontier garrisons in some ratio to the force by which our Western settlements might be annoyed. There are and will be particular posts the possession of which will include the command of large districts of territory and facilitate future invasions of the remainder. It may be added that some of those posts will be keys to the trade with the Indian nations. Can any

man think it would be wise to leave such posts in a situation to be at any instant seized by one or the other of two neighbouring and formidable powers? To act this part, would be to desert all the usual maxims of prudence and policy.

If we mean to be a commercial people or even to be secure on our Atlantic side, we must endeavour as soon as possible to have a navy. To this purpose there must be dock-yards and arsenals; and, for the defence of these, fortifications and probably garrisons. When a nation has become so powerful by sea, that it can protect its dock-yards by its fleets, this supersedes the necessity of garrisons for that purpose; but where naval establishments are in their infancy, moderate garrisons will in all likelihood be found an indispensable security against descents for the destruction of the arsenals and dock-yards and sometimes of the fleet itself.

(a) This statement of the matter is taken from the printed collections of State Constitutions.<sup>1</sup>—Pennsylvania and North-Carolina, are the two which contain the interdiction in these words—“As standing armies in time of peace are dangerous to liberty, *they ought not*<sup>2</sup> to be kept up.” This is in truth rather a *caution* than a *prohibition*. New-Hampshire, Massachusetts, Delaware and Maryland, have in each of their bills of rights a clause to this effect—“Standing armies are dangerous to liberty, and ought not to be raised or kept up *without the consent of the Legislature*”<sup>3</sup>—which is a formal admission of the authority of the Legislature. NEW-YORK has no bill of her rights, and her constitution says not a word about the matter. No bills of rights appear annexed to the constitutions of the other States except the foregoing, and their constitutions are equally silent. I am told, however, that one or two States have bills of rights, which do not appear in this collection; but that those also recognize the right of the legislative authority in this respect.<sup>4</sup>

1. Probably a reference to *The Constitutions of the Several Independent States of America* . . . (New York, 1786) (Evans 20064). This collection, “*Published by Order of CONGRESS,*” was first printed in Philadelphia in 1781 and was reprinted in Boston in 1785 (Evans 17390, 19306).

2. The italics were supplied by “Publius.”

3. The italics were supplied by “Publius.”

4. At this point in his copy of *The Federalist* Thomas Jefferson commented: “the 15th. art. of the bill of rights of Virginia condemns standing armies in time of peace, without any reference to the consent of the legislature” (*The Month at Goodspeed’s Book Shop*, XIII, no. 6 [March 1942], 187). The printed collection of state constitutions (note 1 above) used by “Publius” did not contain a copy of the Virginia Declaration of Rights which declares “that standing armies, in time of peace, should be avoided, as dangerous to liberty” (Thorpe, VII, 3814).

356. *Philadelphiensis* V*Philadelphia Independent Gazetteer*, 19 December

"*Philadelphiensis*" V was reprinted in the *Providence Gazette*, 5 January 1788 and *Boston American Herald*, 14 January. Two Federalists attacked this essay. "Dentatus" criticized "the ranting falsehood" of "*Philadelphiensis*" and likened him to the leaders of the Catilinian conspiracy who had attempted to overthrow the Roman government in 63–62 B.C. (*Philadelphia Independent Gazetteer*, 20 December, Mfm:Pa. 280). A satirist who signed himself "Margery," a sobriquet for Antifederalist George Bryan, told "*Philadelphiensis*" that his essay was "a whining, canting piece." "Margery" wished that "*Philadelphiensis*" had never undertaken the series of essays; it was "a dead weight" upon his fellow Antifederalists. Even the choice of the pseudonym "*Philadelphiensis*" was a mistake. "Margery" described it as "a strain-jaw signature" ("Margery," Letter V, to "Timmy the Rover," *Pennsylvania Mercury*, 1 March 1788, Mfm:Pa. 472).

For the authorship, circulation, and impact of "*Philadelphiensis*," see CC:237.

"This is true liberty, when free born men  
 Having to advise the public may speak free;  
 Which he who can, and will, deserves high praise;  
 Who neither can, nor will, may hold his peace;—  
 What can be juster in a state than this?"<sup>1</sup>

*My Fellow Citizens*, If the arbitrary proceedings of the convention of Pennsylvania do not rouse your attention to the rights of yourselves and your children, there is nothing that I can say will do it. If the contempt and obloquy with which that body (whose legality even may be questioned) has treated your petitions, can not bring you to think seriously, what then will? When a few Demagogues despising every sense of order and decency, have rejected the petitions of the people, and in the most supercilious manner, triumphed over the freemen of America, as if they were their slaves, and they themselves their lords and masters. I say that if such barefaced presumption and arrogance, such tyrannical proceedings of the men, who, if acting constitutionally, were the servants of the people, be not sufficient to awaken you to a sense of your duty and interest, nothing less than the goad and the whip can succeed: your condition must be like that of the careless and insecure sinner, whom neither the admonitions nor entreaties of his friends, nor even the threatnings of awaiting justice, could reclaim or convince of his error; his reformation is neglected until it is too late, when he finds himself in a state of unutterable and endless woe.

It may be asserted with confidence, that besides the petitions that Mr. Whitehill presented to the convention from Cumberland county against the adoption of the new constitution,<sup>2</sup> there is not a county or town in the state that should not have followed the example, if a reasonable time had been allowed for the petitions to come in. Now if we consider but for a moment how contemptuously the people were

treated on this occasion, we may form some idea of the way in which they are hereafter to be governed by their *well born masters*. "The petitions being read from the chair. Mr. M'Kean said he was sorry that at this stage of the business so *improper* an attempt should be made; he hoped therefore that the petitions would not be *attended to*." (Pennsylvania Herald.)<sup>3</sup> Where is the freeman in America that can tamely suffer such an insult to his dignity to pass with impunity; where is that pusillanimous wretch who can submit to this contumely? Is not this the language of Britain, in the years 1775 and 1776, renewed. What said George the third and his pampered ministers, more than this, to the petitions of America? Is it improper for freemen to petition for their rights? If it be; then I say that the impropriety consisted only in their not *demanding* them. Propriety requires that the people should approach their representatives with a becoming humility; but the governors of a free people must ever be considered as their servants, and are therefore bound to observe decency towards them, and to act according to their instructions and agreeably to conscience. If the petitions of the freemen of America, couched in decent and respectful terms, will not be attended to; then be it known, that their *demands* must and will be granted: If no better will do, the *ultima ratio regum* must secure to the people their rights. God in his providence has crowned them with success once already on this head; and their is little doubt, with the same assistance, but a second attempt will terminate just as much in favor of liberty.

The indignity offered to the people and their petitions, by the haughty lordlings of the convention, proclaims the chains of despotism already firmly riveted; like a herald it cries aloud, hush ye slaves, how dare you interrupt your *mighty rulers*, who alone have a divine right to establish constitutions and governments calculated to promote their own agrandizement and honor. Ah my friends, the days of a cruel Nero approach fast; the language of a monster, of a Caligula, could not be more imperious. I challenge the whole continent, the *well born and their parasites*, to show an instance of greater insolence than this, on the part of the British tyrant and his infernal junto, to the people of America, before our glorious revolution. My fellow citizens, this is an awful crisis; your situation is alarming indeed; yourselves and your petitions are despised and trampled under the feet of self-important nabobs; whose diabolical plots and secret machinations have been carried on since the revolution, with a view to destroy your liberties, and reduce you to a state of slavery and dependance; and alas! I fear they have found you off your guard, and taken you by surprise: these aspiring men have seized the government, and secured all power, as they suppose, to themselves, now openly browbeat you with their insolence, and assume majesty; and even treat you like menial servants, your representatives as so many conquered slaves, that, they intend to make pass under the

yoke, as soon as leisure from their gluttony and rioting on the industry of the poor, shall permit them to attend such a pleasing piece of sport.

But I trust, these petty tyrants will soon find to their confusion, that their own imprudent zeal has defeated their designs. Providence has ordered, that they should begin to carry their arbitrary schemes too soon into execution, that, their boundless ambition should precipitate their destruction, and that the glory of God should be made perfect in the salvation of the poor. Blessed be his name, "He hath shewed strength with his arm; he hath scattered the proud in the imagination of their hearts. He hath put down the mighty from their seat, and exalted them of low degree. He hath filled the hungry with good things, and the rich he hath sent empty away."<sup>4</sup> As a villain, who, secreted to rob and murder in the silent hour of night, issues forth from his lurking place before the people have retired to sleep, and thus frustrates his infernal design by impatience; so in like manner the lust of dominion has urged these despots on to the adoption of measures that will inevitably, and, I hope, immediately unhinge every part of their conspiracy against the rights of their fellow-men, and bring on themselves infamy and disgrace.

Figure to yourselves, my brethren, a man with a plantation just sufficient to raise a competency for himself and his dear little children; but by reason of the immoderate revenue necessary to support the *emperor*, the illustrious *well born Congress*, the *standing army*, &c. &c. he necessarily fails in the payment of his *taxes*; then a hard-hearted federal officer seizes, and sells, his cows, his horses, and even the land itself must be disposed of to answer the demands of government: He pleads unfruitful seasons, his old age, and his numerous, and helpless family. But alas! these avail him nothing, his farm, his cattle, and his all are sold for less than half their value to his wealthy neighbour, already possessed of half the land in the county, to whom also himself and his children must become servants and slaves, or else perish with hunger and want. Do I exaggerate here? No truly. View the misery of the poor under the despotic governments of Europe and Asia, and then deny the truth of my position, if you can. It is a common saying among the poor of Indostan, that to lie is better than to stand, to sleep is better than to wake, but death is best of all; for it delivers them from the cruelty of their nabobs. Even in the freest country in Europe, a lady's lap-dog is more esteemed than the child of a poor man. O God, what a monster is man! that a dog should be nourished and pampered up by him with dainties; whilst a being, possessed of knowledge, reason, judgement, and an immortal soul, bought with no less a price than the blood of our divine Redeemer, should be driven from his door, without admitting him even for a moment to assuage his hunger with the crumbs that might fall from his table.

But the members of the Federal Convention were men who have been all tried in the field of action, say some; they have fought for American liberty: Then the more to their shame be it said; curse on the villain who protects virgin innocence only with a view that he may himself become the ravisher; so that if the assertion were true, it only turns to their disgrace; but as it happens it is not true, or at least only so in part: This was a scheme taken by the despots and their sycophants to bias the public mind in favor of the constitution; for the convention was composed of a variety of characters; ambitious men Jesuites, Tories, lawyers, &c. formed the majority, whose similitude to each other, consisted only in their determination to lord it over their fellow citizens; like the rays that converging from every direction meet in a point, their sentiments and deliberations concentrated in tyranny alone; they were unanimous in forming a government that should raise the fortunes and respectability of the *well born few*, and oppress the plebians.

1. These lines, taken from Euripides, were used as an epigraph on the title page of John Milton's *Areopagitica* (London, 1644). "Philadelphiensis" repeated the lines as an introduction to his eighth essay (CC:473). "Margery" described this verse as a "windy cholicky motto of five lines" (*Pennsylvania Mercury*, 1 March 1788, Mfm:Pa. 472).

2. On 12 December Robert Whitehill, a Cumberland County delegate, had submitted petitions from that county to the Pennsylvania Convention praying that the Constitution not be adopted without a bill of rights. The petitions were read and ordered to lie on the table (RCS:Pa., 309–11, 589, 596).

3. Thomas McKean's comments were printed in the *Pennsylvania Herald*, 15 December (RCS:Pa., 596). The italics within the quoted passage were supplied by "Philadelphiensis."

4. Luke 1:51–53.

### 357. Benjamin Rush's Speech in the Pennsylvania Convention

On 12 December Benjamin Rush gave his last speech in the Pennsylvania Convention. Delivered just after a motion to ratify the Constitution, the speech created a controversy both in and out of the Convention. The *Pennsylvania Herald* of 15 December, in a summary of the speech, reported that Rush had said: "the morals of the people had been corrupted by the imperfections" of the Articles of Confederation. "Doctor Rush then proceeded to consider the origin of the proposed system, and fairly deduced it from heaven, asserting that he as much believed the hand of God was employed in this work, as that God had divided the Red Sea to give a passage to the children of Israel, or had fulminated the ten commandments from Mount Sinai!" (RCS:Pa., 592–93).

The *Pennsylvania Herald* also reported that Robert Whitehill "animadverted upon Doctor Rush's metaphysical arguments, and regretted that so imperfect a work should have been ascribed to God" (RCS:Pa., 596). Alexander J. Dallas, the editor of the *Herald*, referred to Rush's use of the Deity as "this new species of *divine right*" (RCS:Pa., 593).

On 19 December another summary version of Rush's speech, supplied by shorthand reporter Thomas Lloyd, appeared in the *Pennsylvania Gazette*, *Pennsylvania Packet*, and *Philadelphia Independent Gazetteer* (RCS:Pa., 593–96). Lloyd charged Dallas with "a gross misrepresentation, both as to opinions and language," and he promised to publish "every word" of Rush's speech in his forthcoming volume of debates (*Pennsylvania Gazette*, 19 December. Rush's speech was not included in Lloyd's *Debates*.).

The *Pennsylvania Herald* reprinted Lloyd's version of the speech on 22 December with this preface addressed to the printer: "As I have been assured that the gentleman who furnished you with an account of Doctor Rush's speech . . . did not intend to misrepresent it, I am happy to consider it merely as a mistake, and, in that light, beg you will correct the error by the publication of the following summary of the Doctor's sentiments on that occasion." Shortly after, Dallas himself responded to Lloyd's charge concerning the *Herald's* account of the speech: "Doctor Rush has since been assured, and is satisfied of the contrary; you are therefore requested . . . to declare that the assertion alluded to, is a gross falsehood" (*Independent Gazetteer* and *Pennsylvania Gazette*, 24, 26 December, Mfm:Pa. 286). Lloyd replied that Rush's "satisfaction arose from being assured the writer 'did not INTEND TO MISREPRESENT IT,' as is declared in the Herald of Saturday [22 December] in the note prefixed to my abstract of the Doctor's speech—A misrepresentation is not the less a misrepresentation because it was done *unintentionally*, though that *circumstance* may in some degree be an *excuse* for it" (*Independent Gazetteer*, 26 December, Mfm:Pa. 290). (For Dallas' eventual dismissal because this incident, as well as others, cost the *Herald* many subscribers, see CC:Vol. 1, xxxix, and RCS:Pa., 38, 40.)

On 29 December "P.Q." printed both versions of Rush's speech in parallel columns in the *Independent Gazetteer* and concluded that "I cannot, for my life and soul, find any difference in the features of either of these bantlings which have been laid at the Doctor's door: I think the matter has made more *fuss* than it is worth; for let him own which of them he pleases, I do not see that either of the productions bears the least resemblance to their political mother, the proposed constitution, upon which, it is said, the Doctor has begotten them" (Mfm:Pa. 295).

Newspaper writers in Pennsylvania, New York, and Massachusetts criticized Rush's assertion that the Constitution was divinely inspired. See "Tim Quandary," *Independent Gazetteer*, 24 December (Mfm:Pa. 287); "Democritus," *New York Journal*, 28 December; "Helvidius Priscus" II, Boston *Independent Chronicle*, 10 January 1788 (CC:436); "A Correspondent," Boston *American Herald*, 28 January; "A Countryman" VI (Hugh Hughes), *New York Journal*, 14 February; "Hampden" (William Findley), *Pittsburgh Gazette*, 16 February (RCS:Pa., 663–69); and "A Plebeian" (Melancton Smith), *An Address to the People of the State of New-York* . . . (CC:689, Evans 21465).

Dallas' account of Rush's speech was reprinted, in whole or in part, eight times by 10 January 1788: Mass. (4), N.Y. (2), Pa. (2). Lloyd's version was reprinted twelve times by 7 February: N.H. (1), Mass. (2), R.I. (1), N.Y. (3), Pa. (4), S.C. (1). Five of the newspapers that printed Lloyd's version of the speech had already printed Dallas'.

The republication of Lloyd's version in New York City and Boston was perhaps the result of Rush's own efforts. On 21 December he wrote William Irvine, a Pennsylvania delegate to Congress, that "I am reduced to the necessity of doing myself justice from a late attack upon me in the news paper, by requesting you to publish the enclosed extract from One of my Speeches in convention in *all* the news papers in New York.—I am concerned more for the

honor of the cause committed to me by fellow citizens, than for my own reputation—for as a fool & a madman I am you know *Scandal proof* in Pennsylvania. . . . You will confer a particular favor upon me by directing & sending by the post the enclosed letter to the Revd: Dr: John Lathrop—one of the ministers of Boston, and franking it with your name. It encloses a news paper with a request similar to the One I have made of you” (Mfm:Pa. 282).

**358. Joseph Barrell to Nathaniel Barrell**  
**Boston, 20 December<sup>1</sup>**

When I heard you was chosen delegate to the Convention I was glad, because I esteemed you an honest man, and knew you a Sensible one, and from every conversation I ever had with you upon the subject, (if I am not much mistaken) you were always on the side of a Federal Government, I have therefore, upon all proper Occasions mentioned the delegate from Old York, and vouched for the honor and Justness of his Sentiments on this important subject; judge then my surprize when I am told, that my brother is the most decided *Antifederalest*, in the Eastern Country, and that he had declared in the Town Meeting, he would loose his right hand before he would accede to the proposed Constitution;<sup>2</sup> yet, notwithstanding this report, I still defend your Character as a Federalest, because I will not suppose you wish that confusion to the Continent wch. seems agreed on all hands will be the consequence of rejecting; and because I think you too independent to aim at popularity upon any score, much less by opposing a System wch. almost every honest man approves and which will, I hope and believe render its opposers at least contemptable—

I have never 'till now put my pen to paper on account of the proposed constitution, and I have never yet conceived it necessary for any one to do it, it needs only to be read with an unprejudiced mind to be approved; while on the other hand it has always appeard to me, that the Antifederal Writers, have clearly proved themselves, either wickedly selfish, or opposed to all good government; and I am clear to declare according to my poor abilities, I have never yet seen in print, or heard in Conversation, any weighty Objection that was founded in truth; perhaps you, or I, might wish some things altered to suit this particular State, or our particular situation; but shall the man, who is entrusted with this important appointment *for the general good*, be so absorb'd in self, or blinded by local situation, as to endeavour to destroy, or marr, a Fabrick designed for the happiness of Millions,? surely such a Wretch deserves the detestation of every man of honor; and can never be pleaseing to that Being, who governs with an eye to the happiness of all—

If I did not know your opposition to the late Revolution, was owing to Religious Scruples which I hope you have now dismissed, I should



suppose your present opposition, sprung from the same cause<sup>3</sup> and (as I can make every allowance for Religious Frensey) that might save me from the mortification I must suffer in ranking my brother amongst those Antifederal Writers, and opposers of this Excellent Constitution, who, as often as they are found out, appear the most contemptable, and wretched Characters, "*Vox Populi*,"<sup>4</sup> if he had any regard to truth, would have appeared under the more suitable signature of "*Vox Diaboli*," for he is known to be one Abraham Holmes of Rochester,<sup>5</sup> a chief amongst the Insurgents, and who was obliged to quit the State for a Season, on Accot of a State Warrent; this fellow returning upon a general pardon, was sent by that town to disgrace them in General Court; and it need no skill in Physiognomy, to determine on the slightest glance of his detested person, that nothing good could come from him; Agrippa, & John deWit, are no doubt as respectable Characters,<sup>6</sup> but be that as it may; I would ask the *impartial*, have they said any thing true and important against the proposed constitution? and if we go to the Southward, and look at the Objections of a Mason;<sup>7</sup> what are they but such as would disgrace a Tyrant? viz. "*because the proposed constitution does not reserve a right in Congress to make retrospective Laws*"! a Cursed power, which the *most abandoned Despot* alone would wish to possess; and none but the most abject Slaves could possibly endure—and another, "that Congress should make no Navigation Laws unless 2/3ds should agree to them,["] when it is manifest, any Laws of this kind made by Congress, must be in favor of these Northern States, and thereby give the United States, a preference to the British, & effectually preventing the intention of their Mistaken Policy, and the Advantage they have taken of our wretched Government, to render us contemptable in the eyes of those, who once respected the name of America; this Idea alone I should think would fire your Soul, to exert every nerve to adopt a Constitution, which if every circumstance is taken into view, appears to be dictated by Heaven itself; but if you are really opposed to it, I will suppose it is from Principal, and if so, I think this one consideration alone will induce you to adopt it, vizt. because the present Confederation cannot be alterd, unless *all the 13 States* agree and I was going to say *Heaven and Earth may pass away before that event will take place!* While the Constitution now proposed may be alterd when ever *Nine States* shall require it, *Is it not therefore better to adopt this Constitution* (even if it was not the best) *which may be alterd rather than to retain the present Wretched System wch. never can?*—

I shall say no more at present, because I will not beleive you so lost to every noble sentiment, as to oppose but from principal, but if such should be the case, altho' I shall be glad to see you as a brother, yet depend you will meet the most pointed opposition from all your friends here, as an Antifederalest—

You will find inclosed a Medal wch was struck to commemorate, the first American Enterprize to the Pacific Ocean,<sup>8</sup> If you are Federal you will be pleased, but to the Antifederalists, the man of Enterprize must be disgusting, nor can he wish him success, nor upon his principals is success needfull, for what is property without good government?—

1. RC, Sandeman-Barrell Papers, MHi. Joseph Barrell (1739–1804) was a Boston merchant (see also note 8 below). His brother Nathaniel (1732–1831), a former merchant, was a farmer in York, Maine (see also notes 2 and 3 below).

2. On 3 December Nathaniel Barrell was elected to represent York in the Massachusetts Convention. Samuel Phillips Savage of Weston said that Barrell “behaved so indecently before the Choice, as extorted a severe Reprimand from Judge Sewall, and when chosen modestly told his Constituents, he would sooner loose his Arm than put his Assent to the new proposed Constitution” (to George Thatcher, 11 January 1788, George F. Goodwin, ed., “The Thatcher Papers,” *The Historical Magazine*, VI [1869], 264). Judge David Sewall of York asserted that Barrell was elected by “the lower class of Citizens” because of his “great Zeal for the Liberties of the Country” (to Thatcher, 5 January, *ibid.*, 261). On 5 February Barrell, in a long speech, informed the Massachusetts Convention that the arguments in favor of the Constitution “have eased his mind,” and the next day he voted for ratification (*Boston Independent Chronicle*, 7 February; *Massachusetts Centinel*, 5 March. See also Barrell to Thatcher, 20 February, *Historical Magazine*, VI, 339–40. For more on Nathaniel Barrell’s opinion on the Constitution, see his letter of 15 January to George Thatcher [CC:449].).

3. Nathaniel Barrell was one of the earliest and most ardent followers of the Reverend Robert Sandeman who had left Scotland in 1764 to preach the doctrines of his father-in-law, John Glas. Glas had broken with the Church of Scotland. During the Revolution Barrell helped to establish a Sandemanian church in York. Because Sandemanians believed that obedience to the King was a Christian duty, they refused to take up arms against Great Britain and were persecuted as Tories.

4. “Vox Populi,” *Massachusetts Gazette*, 30 October, 6, 13, 16, and 23 November.

5. Holmes (1754–1839) represented Rochester in the state House of Representatives and in the state Convention, where he voted against ratification of the Constitution.

6. Eighteen unnumbered essays by “Agrippa,” believed by contemporaries to have been written by James Winthrop of Cambridge, were published in the *Massachusetts Gazette* from 23 November to 5 February 1788. The essays by “John De Witt” were printed in the *Boston American Herald* on 22, 29 October, 5, 19 November, and 3 December.

7. For George Mason’s objections, first published in the *Massachusetts Centinel* on 21 November, see CC:276.

8. A reference to Joseph Barrell’s joint-stock mercantile venture in 1787 that sent the first American ship, the *Columbia*, to the Pacific Northwest around Cape Horn.

### 359. James Madison to George Washington New York, 20 December<sup>1</sup>

I was favoured on Saturday with your letter of the 7th. instant,<sup>2</sup> along with which was covered the printed letter of Col. R. H. Lee to the Governour.<sup>3</sup> It does not appear to me to be a very formidable attack on the new Constitution; unless it should derive an influence from the

names of the correspondents, which its intrinsic merits do not entitle it to. He is certainly not perfectly accurate in the statement of all his facts; and I should infer from the tenor of the objections in Virginia that his plan of an Executive would hardly be viewed as an amendment of that of the Convention. It is a little singular that three of the most distinguished Advocates for amendments; and who expect to unite the thirteen States in their project, appear to be pointedly at variance with each other on one of the capital articles of the System. Col. Lee proposes that the President should chuse a Council of Eleven and with their advice have the absolute appointment of all officers Col: Mason's proposition is that a Council of six should be appointed by the Congress. What degree of power he would confide to it I do not know.<sup>4</sup> The idea of the Governour is that there should be a plurality of co-equal heads, distinguished probably by other peculiarities in the organization.<sup>5</sup> It is pretty certain that some others who make a common cause with them in the general attempt to bring about alterations differ still more from them, than they do from each other; and that they themselves differ as much on some other great points as on the Constitution of the Executive.

You did not judge amiss of Mr Jay. The paragraph affirming a change in His opinion of the plan of the Convention, was an arrant forgery. He has contradicted it in a letter to Mr. J. Vaughan which has been printed in the Philadelphia Gazettes.<sup>6</sup> Tricks of this sort are not uncommon with the Enemies of the New Constitution. Col. Mason's objections were as I am told published in Boston mutilated of that which pointed at the regulation of Commerce.<sup>7</sup> Doctr. Franklin's concluding speech which you will meet with in one of the papers herewith inclosed, is both mutilated & adulterated so as to change both the form & the spirit of it.<sup>8</sup>

I am extremely obliged by the notice you take of my request concerning the Potowmack.<sup>9</sup> I must insist that you will not consider it as an object of any further attention.

The Philada. papers will have informed you of the result of the Convention of that State. N. Jersey is now in Convention, & has probably by this time adopted the Constitution. Genl. Irvine of the Pena. Delegation who is just arrived here, and who conversed with some of the members at Trenton tells me that great unanimity reigns in the Convention.

Connecticut it is pretty certain will decide also in the affirmative by a large majority. So it is presumed will N. Hampshire, though her Convention will be a little later than could be wished. There are not enough of the returns in Massts. known for a final judgment of the probable event in that State. As far as the returns are known they are extremely favorable; but as they are chiefly from the maritime parts of

the State, they are a precarious index of the public sentiment.—I have good reason to believe that if you are in correspondence with any gentlemen in that quarter, and a proper occasion offered for an explicit communication of your good wishes for the plan, so as barely to warrant an explicit assertion of the fact, that it would be attended with valuable effects.<sup>10</sup> I barely drop the idea. The circumstances on which the propriety of it depends, are best known to, as they will be best judged of, by yourself. The information from N. Carolina gave me great pleasure. We hear nothing from the States South of it.

1. RC, Washington Papers, DLC. Washington responded to Madison on 10 January 1788 (Rutland, *Madison*, X, 357–59).

2. See CC:328.

3. See CC:325.

4. For George Mason's objections, see CC:138, 276.

5. In October Madison had described Edmund Randolph as the leader in the Constitutional Convention of the group that wanted a plural executive (to Thomas Jefferson, 24 October, CC:187). In early June Randolph had opposed a single executive because it resembled a monarchy. He also believed that one man would not have the confidence of everyone and that a plural executive would represent various parts of the country (Farrand, I, 66, 71, 72, 74, 88, 90, 92, 97).

6. For a report printed in the *Philadelphia Independent Gazetteer*, 24 November, that Jay opposed the Constitution, and for Jay's denial printed in the *Gazetteer* on 7 December, see CC:290.

7. On 21 November the *Massachusetts Centinel* printed Mason's objections, but omitted the paragraph criticizing the power of Congress to pass commercial acts by a simple majority instead of a two-thirds majority (CC:276–A). This version was reprinted in the *New York Daily Advertiser* and the *New York Packet* on 30 November.

8. Madison refers to "Z" (CC:323), who quoted only those parts of Franklin's speech (CC:77) that expressed reservations on the Constitution. This technique made it appear that Franklin was a lukewarm supporter of the Constitution. "Z" was first published in the *Boston Independent Chronicle*, 6 December, and reprinted in the *New York Morning Post*, 14 December, and the *New York Journal*, 17 December.

9. On 28 October Madison, at the request of "a foreign gentleman of merit," asked Washington's assistance in getting "a sketch" of the Potomac River and "a sketch of the works which are going on" to improve its navigability. On 7 December Washington described the work that was completed on the Potomac, but informed Madison that he was unable to provide him with a sketch (Rutland, *Madison*, X, 225–26, 297).

10. On 5 February 1788 Washington indicated that he "frequently interchanged letters" with Benjamin Lincoln of Boston (Rutland, *Madison*, X, 469). On 22 March the *Massachusetts Centinel* published an excerpt from Washington's 29 February letter to Lincoln in which Washington expressed his pleasure that Massachusetts had ratified the Constitution and that this action would influence other states (CC:638).

### **360. Samuel McDowell to William Fleming Mercer County, 20 December (excerpt)<sup>1</sup>**

I received Your favour Inclosing the Federal Constitution, framed by the Grand Convention at Phila. Septr Last. And as far as I can Judge of it, And Considering the whole States Colectively, I am of Opinion It

ought to be Agreed to Just as it Stands. Suppose there may be Some Clause or Clauses of it that may Seeme to bear hard on Individual States, Yet it is my Opinion that if the Several States go to Pointing out Amendments, and not Acceade to the Constitution, till their Amendments are agreed to; we Shall be in a Wretched Situation. And I am Sure you See, and deplore, the Imbecility of Congress: under the Present Constitution or Confederation. The Present Situation of America is: Our Credit Sunk with foreign nation, No Power in Congress to comply with their Contracts, The States Refusing or neglecting to comply with the Requesitions of that Body. And a thousand other Inconveniencies. It may be, and Perhaps is certain that the New Constitution is not Perfect, But I observe there is a doore left for Amendments. If I recolect, it is not in the Power of any State to lay a Duty or Impost on goods &c brought into it from any other of these States. that may be hard on this District in a future day, for if this country becomes a Seperate State we ought to Prevent almost any goods being brought here from any Part of the World, As this Ought to be a manufacturing Country. And we are So Distant from the Sea, we may make most of our Necessarys cheaper than they can be brought to us And I most Ardently wish to See the People of this Country Cloathed in home Spun. I have nothing worth Communicating of the news kind Only the Indians are now and then killing Some of our People, About ten or twelve day Since, they killed a man on Baregrass near Colo Bullets, and abot five days ago the[y] killed a Son of Ingleshes above the Crab Orchard. . . .

1. RC, Draper Manuscripts, Frontier Wars, State Historical Society of Wisconsin. McDowell (1735–1817), a judge of the Kentucky district court, was president of seven of the nine statehood conventions which were held in Kentucky from 1784 to 1792. Colonel Fleming (1729–1795), a Botetourt County planter, favored amendments in the Virginia Convention in June 1788, but voted for ratification of the Constitution.

### 361. A Countryman V New Haven Gazette, 20 December<sup>1</sup>

To the People of Connecticut.

You do not hate to read Newspaper Essays on the new constitution, more than I hate to write them. Then *we will be short*—which I have often found the *best* expression in a dull sermon, except the *last*.

Whether the mode of election pointed out in the proposed constitution is well calculated to support the principles which were designed to be established in the different branches of the legislature, may perhaps be justly doubted;—and may perhaps in some future day be discussed.

The design undoubtedly was, that the house of representatives should be a *popular* assembly,—that the senate should, in its nature, be

somewhat more permanent, and that the two houses should be completely independent of each other. These *principles* are right.—For the present we will suppose they will be supported—there then remains to be considered no considerable difference between the continental government which is proposed, and your present government, except that the time for which you choose your present rulers is only for six and twelve months,<sup>2</sup> and the time for which you are to choose your continental rulers is for two, four, and six years.

The convention were mistaken if they supposed they should lessen the evils of tumultuous elections by making elections less frequent.—But are your liberties endangered by this measure? Philosophy may mislead you. Ask experience.—Are not the liberties of the people of England as safe as yours?—They are not as free as you, because much of their government is in the hands of *hereditary majesty* and *nobility*. But is not that part of the government which is under the controul of the commons exceedingly well guarded? But still the house of commons is only a third branch—the *only* branch who are appointed by the people,—and they are chosen but once in *seven years*. Is there then any danger to be apprehended from the length of time that your rulers are to serve? when none are to serve more than six years—one whole house but two years, and your President but four.

The great power and influence of an hereditary monarch of Britain has spread many alarms, from an apprehension that the commons would sacrifice the liberties of the people to the money or influence of the crown: But the influence of a powerful *hereditary monarch*, with the national Treasury—Army—and fleet at his command—and the whole executive government—and one third of the legislative in his hands,—constantly operating on a house of commons, whose duration is never less than *seven years*, unless this same monarch should *end* it, (which he can do in an hour) has never yet been sufficient to obtain one vote of the house of commons which has taken from the people the *liberty of the press,—trial by jury,—the rights of conscience, or of private property*.

—Can you then apprehend danger of oppression and tyranny from the too great duration of the power of *your* rulers.

1. Reprinted: *Massachusetts Centinel*, 29 December; *New York Morning Post*, 9 January 1788. For the authorship and circulation of "A Countryman," see CC:261.

2. Delegates to the House of Representatives were elected every six months; the governor, deputy governor, and councillors were elected annually.

### 362. New York Journal, 20 December<sup>1</sup>

We have it not yet in our power to communicate an adequate idea of the state of AMERICAN POLITICS: respecting the proposed new federal constitution, however, we have collected as follow:

That a state convention is to be convened at Savannah, in Georgia, on the fourth Tuesday of this instant December, which is to decide

upon the important question, whether an adoption be expedient or not.

It is said (though no particular accounts have yet arrived) that the inhabitants of South-Carolina are much prejudiced in favor of the constitution.

We have nothing from N. Carolina.<sup>2</sup>

The convention of Virginia are to set on the 3d of May next, and are only authorised to discuss the subject, and propose amendments.

The Maryland convention, to be delegated, are authorised to convene on the 21st of April, for the purpose of enquiring into the propriety of its adoption, and, if they judge proper and expedient, to adopt it.

Delaware, in convention, adopted it on the 6th instant, as it is, after a discussion of three days.

Pennsylvania, in convention, after tedious debates of near three weeks, adopted it on the 12th instant. *See Phil. head.*

The convention of New-Jersey is appointed. That state is much prejudiced in its favour.

There are, however, *some*, who have the superlative impudence to declare their unprejudiced sentiments.

New-York we pass over in silence at present.

Connecticut convention, in the course of a few weeks, will decide the important question—Whether this decision will be *the great voice of the people*, cannot be pre-determined.

The Commonwealth of Massachusetts has also appointed a convention, who are to convene on the second Wednesday of January next, and are authorised to take it into consideration, and finally determine with respect to it.

New-Hampshire appears to be in favour of a strong executive.

After thus perambulating the United States, how to form a just idea of the *general* sentiment, or rage, remains to be investigated.

1. Reprints by 17 January 1788 (9): Mass. (2), N.Y. (1), N.J. (2), Pa. (3), S.C. (1). Excerpts were also reprinted twice in Massachusetts and once in Connecticut by 4 January.

2. On 21 December the New York *Daily Advertiser* reported that the North Carolina legislature had called a convention, but six days later the *New York Journal* said that there were “no very authentic accounts” that the legislature had done so.

### Editors' Note

Robert Yates and John Lansing, Jr., to  
New York Governor George Clinton, Albany, 21 December

In this letter Yates and Lansing, two of New York's delegates to the Constitutional Convention, explain why they opposed the Constitution.

For the text of the letter and its circulation, see CC:447.

**363. Ezra Stiles Diary****New Haven, 21 December<sup>1</sup>***Abraham Baldwin: On the Proceedings of the Constitutional Convention<sup>2</sup>*

Mr Baldwin was one of the Continental Convention at Philada last Summer. He gave me an Accot of the whole Progress in Convention. It appeared that they were pretty unanimous in the followg Ideas, viz, 1. In a firm foederal Governmt. 2. That this shd be very popular or stand on the People at large. 3. That their Object shd comprehend all Things of coñon foederal Concern & wc individual States could not deterrn or enforce. 4 That the Jurisdictions & Govt of each state shd be left intire & preserved as inviolate as possible consistent with the coercive subordina for preservg the Union with Firmness. 5. That the present foederal Govt was inadequate to this End. 6. That a certain Portion or Deg. of Dominion as to *Laws* and *Revenue*, as well as to Treaties with foreign Nations, War & Armies, was necessary to be ceded by individual States to the Authy of the National Council. 7. That the National Council shd consist of two Branches viz, a Senate, & Representatives. That the last shd be a local Representa apportioned to the Property & Number of Inhabitants, as far as practicable. That this shd be the governg Idea. And yet that the Distinction of States shd be preserved in the House of Representa as well as in the Senate. 8. That the Senate stand on the Election & Distinction of States as at present in Congress and tho' like the Representa be in some measure proportioned to the No of Inhab yet that besides this the Vote in Senate shd be by states, tho' in the House of Representa the Vote shd be by Plurality of Members present indeed, but not by states as States. Hereby two Things are secured, one, that the People at large shall be efficaciously represented, the other that the states as separate States be as also efficaciously represented. 9. That those two Branches combined into one Republican Body be the supreme Legislature & become vested with the Sovereignty of the Confederacy: & have powers of Govt & Revenue adequate to these Ends. 10. As to a President, it appeared to be the Opini of Convention that he shd be a Character respectable by the Nations as well as by the foederal Empire. To this End that as much Power shd be given him as could be consistently with guardg against all possibility of his ascending in a Tract of years or Ages to Despotism & absolute Monarchy:—of which all were cautious. Nor did it appear that any Members in Convention had the least Idea of insidiously layg the Founda. of a future Monarchy like the European or Asiatic Monarchies either antient or modern. But were unanimously guarded & firm against every Thing of this ultimate Tendency.<sup>3</sup> Accordingly they meant to give considerable Weight as supreme Executive, but fixt him dependant on the States at large, and at all times impeachable. 10. [*sic*] They vested Congress thus modified with the Power of an adequate



Revenue, by Customs on Trade, Excise and direct Taxation by Authy of Congress; as well as with the Army, Navy, & makg War & Peace. These were delicate Things, on which all felt sollicitous & yet all were unanimously convinced that they were necessary. 11. They were unanimous also in the Expedy & Necessary of a supreme judiciary Tribunal of universal Jurisdiction—in Controversies of a legal nature between States—Revenue—& appellate Causes between subjects of foreign or different States. 12. The Power of appointg Judges & Officers of the supreme Judiciary to be in the Senate.

These & other general & cõmandg Ideas the Members found themselves almost unanimous in. The Representa would feel for the Interests of their respective local Representations: and the Senate must feel, not for particular local Districts but a Majority of the states or the universal Interest.

After some Discourses, it was proposed that any & all the Members shd draught their Ideas. These were all bro't in & examd & as approved, entered, until all were satisfied they had gone through.<sup>4</sup> Then they reduced these to one Sheet (written) of Articles or Members of the Constitution.<sup>5</sup> These they considered afresh, sometimes in Coõmittee of the whole, & sometime in Convention, with subjoynd Alterations & Additions until August; when they adjourned a few Weeks leavg all to be digested by a Coõmittee of 5 Messrs. Sherman Elsworth,<sup>6</sup> \_\_\_\_\_ On the Return of Adjourn the whole Digest was printed and every Member entered his Remarks, Altera & Corrections. These again were cõmitted to a Coõmittee of one Member of each state of wc Mr Baldwin's one.<sup>7</sup> This matured the whole. Finally a Coõmittee of 5 viz Mess. Dr Johnson, Gouverneur Morris, Wilson<sup>8</sup> \_\_\_\_\_ These reduced it to the form in which it was published. Messrs Morris & Wilson had the chief hand in the last Arrangt & Composition. This was completed in September. By this Time several Members were absent part[icularl]y Judge Yates of Albany, Mr Wyth of Virginia, Judges Sherman & Elsworth.<sup>9</sup> About 42 Signed it. Messrs Mason of Virg & Gerry of Boston & Goñ Randolph refused. Dr Franklin, sd he did not intirely approve it but, that it [was] a good one, did not know but he shd hereafter think it the best, on the whole was ready to sign it & wished all would sign it, & that it shd be adopted by all the states.<sup>10</sup>

Dr Franklins Idea that the American Policy, be one Branch only or Representative Senate of one Order, proportioned to Number of Inhab & Property—often elected—, with a President assisted with an executive Council: but this last have nothg to do in Legislation & senatorial Government.<sup>11</sup> Teste Mr Baldwin

1. MS, Bienecke Library, CtY. Stiles (1727–1795) was graduated from Yale College in 1746 and served as a tutor there from 1749 to 1755. He was licensed to preach in 1749 and was admitted to the New Haven County bar in 1753. In 1755 he

was ordained a Congregational minister and served as pastor of churches in Rhode Island, Massachusetts, and New Hampshire until 1778, when he accepted the presidency of Yale College. Stiles served in that capacity until his death. For Stiles's opinion about the Constitution, see CC:370.

2. Baldwin (1754–1807) was graduated from Yale College in 1772 and was licensed to preach three years later. He was a tutor at Yale from 1775 to 1779. From 1779 to 1783 he served as a brigade chaplain in the Continental Army. In 1783 he was admitted to the bar in Fairfield County, Conn. The following year he moved to Georgia and practiced law. He represented Georgia as a delegate to Congress in 1785 and from 1787 to 1788. He was also a Georgia delegate to the Constitutional Convention, where he signed the Constitution. He served in the U.S. House of Representatives from 1789 to 1799 and in the U.S. Senate from 1799 to 1807.

3. For the issue of monarchy in the Constitutional Convention, see CC:51.

4. For the various plans submitted to the Convention between 29 May and 18 June, see CDR, 243–47, 250–55.

5. This “one Sheet of Articles” was the Amended Virginia Resolutions which were adopted on 19 June (CDR, 247–50).

6. The Convention adjourned on 26 July to allow the Committee of Detail to report a new Constitution. The committee—composed of John Rutledge (chairman), Oliver Ellsworth, Nathaniel Gorham, Edmund Randolph, and James Wilson—reported a Constitution on 6 August (CDR, 255–69).

7. On 31 August the Convention referred “such parts of the Constitution as have been postponed, and such parts of Reports as have not been acted on, to a Committee of a member from each State” (Farrand, II, 481).

8. On 8 September the Convention appointed a committee “to revise the style of and arrange the articles agreed to by the house.” The Committee of Style—composed of William Samuel Johnson (chairman), Alexander Hamilton, Rufus King, James Madison, and Gouverneur Morris—reported on 12 September (Farrand, II, 547; CDR, 270–96).

9. Robert Yates left on 10 July, George Wythe resigned on 16 June, and Oliver Ellsworth last attended the Convention on 23 August. Roger Sherman did not leave the Convention and was one of the signers of the Constitution.

10. For Franklin's speech of 17 September, see CC:77.

11. See Farrand, I, 48, 197–200; II, 542.

### **364. Publius: The Federalist 25 New York Packet, 21 December**

This essay, written by Alexander Hamilton, was also printed in the *New York Daily Advertiser* and the *New York Journal* on 21 December. It was reprinted in the *New York Independent Journal* on 22 December.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### **The FEDERALIST, No. 25.**

*To the People of the State of New-York.*

It may perhaps be urged, that the objects enumerated in the preceding number ought to be provided for by the State Governments, under the direction of the Union. But this would be in reality an inversion of the primary principle of our political association; as it would in practice transfer the care of the common defence from the federal head to the individual members: A project oppressive to some States, dangerous to all, and baneful to the confederacy.

The territories of Britain, Spain and of the Indian nations in our neighbourhood, do not border on particular States; but incircle the Union from MAINE to GEORGIA. The danger, though in different degrees, is therefore common. And the means of guarding against it ought in like manner to be the objects of common councils and of a common treasury. It happens that some States, from local situation, are more directly exposed. NEW-YORK is of this class. Upon the plan of separate provisions, New-York would have to sustain the whole weight of the establishments requisite to her immediate safety, and to the mediate or ultimate protection of her neighbours. This would neither be equitable as it respected New-York, nor safe as it respected the other states. Various inconveniences would attend such a system. The States, to whose lot it might fall to support the necessary establishments, would be as little able as willing, for a considerable time to come, to bear the burthen of competent provisions. The security of all would thus be subjected to the parsimony, improvidence or inability of a part. If the resources of such part becoming more abundant and extensive, its provisions should be proportionably enlarged, the other States would quickly take the alarm at seeing the whole military force of the Union in the hands of two or three of its members; and those probably amongst the most powerful. They would each choose to have some counterpoise; and pretences could easily be contrived. In this situation, military establishments, nourished by mutual jealousy, would be apt to swell beyond their natural or proper size; and being at the separate disposal of the members, they would be engines for the abridgment, or demolition of the national authority.

Reasons have been already given to induce a supposition, that the State Governments will too naturally be prone to a rivalry with that of the Union, the foundation of which will be the love of power; and that in any contest between the foederal head and one of its members, the people will be most apt to unite with their local government: If in addition to this immense advantage, the ambition of the members should be stimulated by the separate and independent possession of military forces, it would afford too strong a temptation, and too great facility to them to make enterprises upon, and finally to subvert the constitutional authority of the Union. On the other hand, the liberty of the people would be less safe in this state of things, than in that which left the national forces in the hands of the national government. As far as an army may be considered as a dangerous weapon of power, it had better be in those hands, of which the people are most likely to be jealous, than in those of which they are least likely to be jealous. For it is a truth which the experience of all ages has attested, that the people are always most in danger, when the means of injuring their rights are in the possession of those of whom they entertain the least suspicion.

The framers of the existing confederation, fully aware of the danger to the Union from the separate possession of military forces by the States, have in express terms, prohibited them from having either ships or troops, unless with the consent of Congress. The truth is, that the existence of a Fœderal Government and military establishments, under State authority, are not less at variance with each other, than a due supply of the fœderal treasury and the system of quotas and requisitions.

There are other lights besides those already taken notice of, in which the impropriety of restraints on the discretion of the national Legislature will be equally manifest. The design of the objection, which has been mentioned, is to preclude standing armies in time of peace; though we have never been informed how far it is designed the prohibition should extend; whether to raising armies as well as to *keeping them up* in a season of tranquility or not. If it be confined to the latter, it will have no precise signification, and it will be ineffectual for the purpose intended. When armies are once raised, what shall be denominated “keeping them up,” contrary to the sense of the constitution? What time shall be requisite to ascertain the violation? Shall it be a week, a month, or a year? Or shall we say, they may be continued as long as the danger which occasioned their being raised continues? This would be to admit that they might be kept up *in time of peace* against threatening, or impending danger; which would be at once to deviate from the literal meaning of the prohibition, and to introduce an extensive latitude of construction. Who shall judge of the continuance of the danger? This must undoubtedly be submitted to the national government—and the matter would then be brought to this issue, that the national government, to provide against apprehended danger, might, in the first instance, raise troops, and might afterwards keep them on foot, as long as they supposed the peace or safety of the community was in any degree of jeopardy. It is easy to perceive, that a discretion so latitudinary as this, would afford ample room for eluding the force of the provision.

The supposed utility of a provision of this kind, must be founded upon a supposed probability, or at least possibility, of a combination between the executive and the legislative in some scheme of usurpation. Should this at any time happen, how easy would it be to fabricate pretences of approaching danger? Indian hostilities instigated by Spain or Britain, would always be at hand. Provocations to produce the desired appearances, might even be given to some foreign power, and appeased again by timely concessions. If we can reasonably presume such a combination to have been formed, and that the enterprize is warranted by a sufficient prospect of success; the army when once raised, from whatever cause, or on whatever pretext, may be applied to the execution of the project.

If to obviate this consequence, it should be resolved to extend the prohibition to the *raising* of armies in time of peace, the United States would then exhibit the most extraordinary spectacle, which the world has yet seen—that of a nation incapacitated by its constitution to prepare for defence, before it was actually invaded. As the ceremony of a formal denunciation of war has of late fallen into disuse, the presence of an enemy within our territories must be waited for as the legal warrant to the government to begin its levies of men for the protection of the State. We must receive the blow before we could even prepare to return it. All that kind of policy by which nations anticipate distant danger, and meet the gathering storm, must be abstained from, as contrary to the genuine maxims of a free government. We must expose our property and liberty to the mercy of foreign invaders, and invite them, by our weakness, to seize the naked and defenceless prey, because we are afraid that rulers, created by our choice—dependent on our will—might endanger that liberty, by an abuse of the means necessary to its preservation.

Here I expect we shall be told, that the Militia of the country is its natural bulwark, and would be at all times equal to the national defence. This doctrine in substance had like to have lost us our independence. It cost millions to the United States, that might have been saved. The facts, which from our own experience forbid a reliance of this kind, are too recent to permit us to be the dupes of such a suggestion. The steady operations of war against a regular and disciplined army, can only be successfully conducted by a force of the same kind. Considerations of œconomy, not less than of stability and vigor, confirm this position. The American Militia, in the course of the late war, have by their valour on numerous occasions, erected eternal monuments to their fame; but the bravest of them feel and know, that the liberty of their country could not have been established by their efforts alone, however great and valuable they were. War, like most other things, is a science to be acquired and perfected by diligence, by perseverance, by time, and by practice.

All violent policy, contrary to the natural and experienced course of human affairs, defeats itself. Pennsylvania at this instant affords an example of the truth of this remark. The bill of rights of that State declares, that standing armies are dangerous to liberty, and ought not to be kept up in time of peace.<sup>1</sup> Pennsylvania, nevertheless, in a time of profound peace, from the existence of partial disorders in one or two of her counties, has resolved to raise a body of troops; and in all probability, will keep them up as long as there is an appearance of danger to the public peace.<sup>2</sup> The conduct of Massachusetts affords a lesson on the same subject, though on different ground. That State (without waiting for the sanction of Congress as the articles of the

confederation require)<sup>3</sup> was compelled to raise troops to quell a domestic insurrection, and still keeps a corps in pay to prevent a revival of the spirit of revolt.<sup>4</sup> The particular constitution of Massachusetts opposed no obstacle to the measure; but the instance is still of use to instruct us, that cases are likely to occur under our governments, as well as under those of other nations, which will sometimes render a military force in time of peace essential to the security of the society; and that it is therefore improper, in this respect, to controul the legislative discretion. It also teaches us, in its application to the United States, how little the rights of a feeble government are likely to be respected, even by its own constituents. And it teaches us, in addition to the rest, how unequal parchment provisions are to a struggle with public necessity.

It was a fundamental maxim of the Lacedemonian commonwealth, that the post of Admiral should not be conferred twice on the same person. The Pelopponesian confederates, having suffered a severe defeat at sea from the Athenians, demanded LYSANDER, who had before served with success in that capacity, to command the combined fleets. The Lacedemonians, to gratify their allies, and yet preserve the semblance of an adherence to their ancient institutions, had recourse to the flimsy subterfuge of investing LYSANDER with the real power of Admiral, under the nominal title of Vice-Admiral. This instance is selected from among a multitude that might be cited to confirm the truth already advanced and illustrated by domestic examples; which is, that nations pay little regard to rules and maxims calculated in their very nature to run counter to the necessities of society. Wise politicians will be cautious about fettering the government with restrictions, that cannot be observed; because they know that every breach of the fundamental laws, though dictated by necessity, impairs that sacred reverence, which ought to be maintained in the breasts of rulers towards the constitution of a country, and forms a precedent for other breaches, where the same plea of necessity does not exist at all, or is less urgent and palpable.

1. Thorpe, V, 3083.

2. The Wyoming Valley in Pennsylvania had been the scene of turmoil for decades. Before the Revolution, a large group of Connecticut settlers purchased land in the valley from a Connecticut land company, settled there, and acknowledged the jurisdiction of Connecticut. From the first, the Connecticut settlers engaged in open warfare with those settlers who accepted Pennsylvania's jurisdiction. In 1782 a federal court awarded jurisdiction of the valley to Pennsylvania, and four years later, Pennsylvania established Luzerne County in the area. Whereupon, the Connecticut settlers, led by John Franklin, organized to resist the laws of Pennsylvania and to boycott state and local elections. In August 1787 they met at Tioga Point and openly defied the authority of Pennsylvania. Their "avowed design" was the creation of "a new state." Soon after, the Pennsylvania Supreme Executive Council ordered Franklin's arrest, and in early October he was apprehended and imprisoned. The Supreme Executive Council then ordered that a

detachment of seventy privates from the Berks County militia be “properly officered and equipped” and ready to suppress the “dangerous tumults and riots” in Luzerne. Money was authorized for this detachment on 13 October, and on 27 October the Council informed the General Assembly of its actions. Four days later the Assembly resolved: “As in the opinion of this House a permanent force of enlisted troops may be necessary to secure the peace of the county of *Luzerne*, that the Supreme Executive Council be authorised and requested to obtain permission of Congress to raise any number of troops for the aforesaid purpose, not exceeding five hundred men.” On 8 November the Council replied that “As the danger to the state appears to be pressing, and the permission solicited from Congress cannot now be obtained, Council therefore recommend it to the General Assembly, to adopt effectual measures for enforcing the laws of the state in the county of *Luzerne*, which they are of opinion cannot be done without a permanent force.” The Assembly, however, did not authorize the establishment of a permanent force. On 14 November the Supreme Executive Council sent instructions to the Berks County militia, which had already proceeded to Fort Allen in Northampton County. (For a response to “Publius,” see “Brutus” X, CC:474.)

3. Article VI of the Articles of Confederation provides 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 . . .” (CDR, 88).

4. Shays’s Rebellion was effectively crushed by a large body of Massachusetts militia by February 1787 (CC:18). In June 1787 the Massachusetts legislature ordered that between 500 and 800 militia be kept in the counties of Hampshire and Berkshire for six more months, unless they were discharged before that time. By mid-September all of the troops stationed in these two counties had been discharged by Governor John Hancock. (For a response to “Publius,” see “Brutus” X, CC:474.)

### 365. *Pennsylvania Mercury*, 21 December

This is one of the first items calling on Pennsylvania Antifederalists to accept the decision of the state Convention and to end their opposition to the Constitution. (For this opposition, see CC:407; RCS:Pa., 642–725.) This item was reprinted ten times by 31 January 1788: Mass. (2), R.I. (1), N.Y. (4), Pa. (3).

It is sincerely and ardently hoped, says a correspondent, that those citizens who have warmly opposed the adoption of the proposed system of federal government, will, as their endeavors have been defeated, through the concurrence of a great majority of their compatriots in favour of it, lay aside all opposition,—convinced, that whatever end it might have answered, heretofore, it cannot now produce any other effect than to disseminate hatred, malice, resentment, and a train of black and satanical passions in private life. When a good man is of opinion a measure is likely to be injurious to his country, he opposes it with all his exertions—When it is adopted, he cheerfully acquiesces in it. It is said, that one of the leading characters in the Congress which declared Independence, after having voted against the question, and found it nevertheless carried by a majority, rose up, and declared he was convinced he must have been mistaken in his idea of the matter—but that none of those who voted in the affirmative should enter more zealously into the support of American Independence than he, since the *die was finally cast*.

**366. Publius: The Federalist 26**  
**New York Independent Journal, 22 December**

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser*, 24 December; and *New York Packet* and *New York Journal*, 25 December. For a response by "Brutus" X, see CC:474.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST. No. XXVI

To the People of the State of New-York.

It was a thing hardly to be expected, that in a popular revolution the minds of men should stop at that happy mean, which marks the salutary boundary between POWER and PRIVILEGE, and combines the energy of government with the security of private rights. A failure in the delicate and important point is the great source of the inconveniences we experience; and if we are not cautious to avoid a repetition of the error, in our future attempts to rectify and ameliorate our system, we may travel from one chimerical project to another; we may try change after change; but we shall never be likely to make any material change for the better.

The idea of restraining the Legislative authority, in the means of providing for the national defence, is one of those refinements, which owe their origin to a zeal for liberty more ardent than enlightened. We have seen however that it has not had thus far an extensive prevalence: That even in this country, where it has made its first appearance, Pennsylvania and North-Carolina are the only two States by which it has been in any degree patronised:<sup>1</sup> And that all the others have refused to give it the least countenance; wisely judging that confidence must be placed some where; that the necessity of doing it is implied in the very act of delegating power; and that it is better to hazard the abuse of that confidence, than to embarrass the government and endanger the public safety, by impolitic restrictions on the Legislative authority. The opponents of the proposed Constitution combat in this respect the general decision of America; and instead of being taught by experience the propriety of correcting any extremes, into which we may have heretofore run, they appear disposed to conduct us into others still more dangerous and more extravagant. As if the tone of government had been found too high, or too rigid, the doctrines they teach are calculated to induce us to depress, or to relax it, by expedients which upon other occasions have been condemned or forborn. It may be affirmed without the imputation of invective, that if the principles they inculcate on various points could so far obtain as to become the popular creed, they would utterly unfit the people of this country for any species of government whatever. But a danger of this kind is not to be apprehended. The citizens of America have too much discernment to be argued into anarchy. And I am much mistaken if experience has



not wrought a deep and solemn conviction in the public mind, that greater energy of government is essential to the welfare and prosperity of the community.

It may not be amiss in this place concisely to remark the origin and progress of the idea which aims at the exclusion of military establishments in time of peace. Though in speculative minds it may arise from a contemplation of the nature and tendency of such institutions fortified by the events that have happened in other ages and countries; yet as a national sentiment it must be traced to those habits of thinking, which we derive from the nation from whom the inhabitants of these States have in general sprung.

In England for a long time after the Norman conquest the authority of the monarch was almost unlimited. Inroads were gradually made upon the prerogative, in favour of liberty, first by the Barons and afterwards by the people, 'till the greatest part of its most formidable pretensions became extinct. But it was not 'till the revolution in 1688, which elevated the Prince of Orange to the throne of Great Britain, that English liberty was completely triumphant. As incident to the undefined power of making war, an acknowledged prerogative of the crown, Charles II. had by his own authority kept on foot in time of peace a body of 5,000 regular troops. And this number James II. increased to 30,000; which were paid out of his civil list. At the revolution, to abolish the exercise of so dangerous an authority, it became an article of the bill of rights then framed, that "the raising or keeping a standing army within the kingdom in time of peace, *unless with the consent of Parliament, was against law.*"

In that kingdom, when the pulse of liberty was at its highest pitch, no security against the danger of standing armies was thought requisite, beyond a prohibition of their being raised or kept up by the mere authority of the executive magistrate. The patriots, who effected that memorable revolution, were too temperate and too well informed, to think of any restraint in the legislative discretion. They were aware that a certain number of troops for guards and garrisons were indispensable, that no precise bounds could be set to the national exigencies; that a power equal to every possible contingency must exist somewhere in the government; and that when they referred the exercise of that power to the judgement of the legislature, they had arrived at the ultimate point of precaution, which was reconciliable with the safety of the community.

From the same source, the people of America may be said to have derived a hereditary impression of danger to liberty from standing armies in time [of] peace. The circumstances of a revolution quickened the public sensibility on every point connected with the security of

popular rights; and in some instances raised the warmth of our zeal beyond the degree which consisted with the due temperature of the body politic. The attempts of two of the states to restrict the authority of the legislature in the article of military establishments are of the number of these instances. The principles, which had taught us to be jealous of the power of a hereditary monarch, were by an unjudicious excess extended to the representatives of the people in their popular assemblies. Even in some of the States, where this error was not adopted, we find [un]necessary declarations, that standing armies ought not to be kept up, in time of peace WITHOUT THE CONSENT OF THE LEGISLATURE—I call them unnecessary, because the reason, which had introduced a similar provision into the English bill of rights, is not applicable to any of the state constitutions. The power of raising armies at all, under those constitutions, can by no construction be deemed to reside any where else, than in the legislatures themselves; and it was superfluous, if not absurd, to declare that a matter should not be done without the consent of a body, which alone had the power of doing it. Accordingly in some of those constitutions, and among others is that of this State of New-York; which has been justly celebrated both in Europe and in America as one of the best of the forms of government established in this country, there is a total silence upon the subject.

It is remarkable, that even in the two States, which seem to have meditated an interdiction of military establishments in time of peace, the mode of expression made use of is rather cautionary than prohibitory. It is not said, that standing armies *shall not be* kept up, but that they *ought not* to be kept up in time of peace. This ambiguity of terms appears to have been the result of a conflict between jealousy and conviction, between the desire of excluding such establishments at all events, and the persuasion that an absolute exclusion would be unwise and unsafe.

Can it be doubted that such a provision, whenever the situation of public affairs was understood to require a departure from it, would be interpreted by the Legislature into a mere admonition and would be made to yield to the necessities or supposed necessities of the State? Let the fact already mentioned with respect to Pennsylvania decide<sup>2</sup>—What then (it may be asked) is the use of such a provision, if it cease to operate, the moment there is an inclination to disregard it?

Let us examine whether there be any comparison, in point of efficacy, between the provision illuded to and that which is contained in the New Constitution, for restraining the appropriations of money for military purposes to the period of two years. The former by aiming at too much is calculated to effect nothing; the latter, by steering clear of an inprudent extreme, and by being perfectly compatible with a proper

provision for the exigencies of the nation, will have a salutary and powerful operation.

The Legislature of the United States will be *obliged* by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense of the matter, by a formal vote in the face of their constituents. They are not *at liberty* to vest in the executive department permanent funds for the support of an army; if they were even incautious enough to be willing to repose in it so improper a confidence. As the spirit of party, in different degrees, must be expected to infect all political bodies, there will be no doubt persons in the national Legislature willing enough to arraign the measures and criminate the views of the majority. The provision for the support of a military force will always be a favourable topic for declamation. As often as the question comes forward, the public attention will be roused and attracted to the subject, by the party in opposition: And if the majority should be really disposed to exceed the proper limits the community will be warned of the danger and will have an opportunity of taking measures to guard against it. Independent of parties in the national Legislature itself, as often as the period of discussion arrived, the state Legislature, who will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens, against encroachments from the Federal government, will constantly have their attention awake to the conduct of the national rulers and will be ready enough, if any thing improper appears, to sound the alarm to the people and not only to be the VOICE but if necessary the ARM of their discontent.

Schemes to subvert the liberties of a great community *require time* to mature them for execution. An army so large as seriously to menace those liberties could only be formed by progressive augmentations; which would suppose, not merely a temporary combination between the legislature and executive, but a continued conspiracy for a series of time. Is it probable that such a combination would exist at all? Is it probable that it would be persevered in and transmitted along, through all the successive variations in the representative body, which biennial elections would naturally produce in both houses? Is it presumable, that every man, the instant he took his seat in the national senate, or house of representatives, would commence a traitor to his constituents and to his country? Can it be supposed, that there would not be found one man, discerning enough to detect so atrocious a conspiracy, or bold or honest enough to apprise his constituents of their danger? If such presumptions can fairly be made, there ought to be at once an end of all delegated authority. The people should resolve to recall all the powers they have heretofore parted with out of their own hands; and to

divide themselves into as many states as there are counties, in order that they may be able to manage their own concerns in person.

If such suppositions could even be reasonably made, still the concealment of the design, for any duration, would be impracticable. It would be announced by the very circumstance of augmenting the army to so great an extent in time of profound peace. What colorable reason could be assigned in a country so situated, for such vast augmentations of the military force? It is impossible that the people could be long deceived; and the destruction of the project and of the projectors would quickly follow the discovery.

It has been said that the provision, which limits the appropriation of money for the support of an army to the period of two years would be unavailing; because the executive, when once possessed of a force large enough to awe the people into submission, would find resources in that very force sufficient to enable him to dispense with supplies from the acts of the legislature. But the question again recurs: Upon what pretence could he be put into possession of a force of that magnitude in time of peace? If we suppose it to have been erected, in consequence of some domestic insurrection, or foreign war, then it becomes a case not within the principles of the objection; for this is levelled against the power of keeping up troops in time of peace. Few persons will be so visionary, as seriously to contend, that military forces ought not to be raised to quell a rebellion, or resist an invasion; and if the defence of the community, under such circumstances, should make it necessary to have an army, so numerous as to hazard its liberty, this is one of those calamities for which there is neither preventative nor cure. It cannot be provided against by any possible form of government: It might even result from a simple league offensive and defensive; if it should even be necessary for the confederates or allies to form an army for common defence.

But it is an evil infinitely less likely to attend us in an united than in a disunited state; nay it may be safely asserted that it is an evil altogether unlikely to attend us in the better situation. It is not easy to conceive a possibility, that dangers so formidable can assail the whole Union, as to demand a force considerable enough to place our liberties in the least jeopardy; especially if we take into our view the aid to be derived from the militia, which ought always to be counted upon, as a valuable and powerful auxiliary. But in a state of disunion (as has been fully shewn in another place)<sup>3</sup> the contrary of this supposition would become not only probable but almost unavoidable.

1. See *The Federalist* 24 (CC:355, note a).

2. See *The Federalist* 25 (CC:364).

3. See *The Federalist* 8, *New York Packet*, 20 November (CC:274).

**367. John Quincy Adams to Abigail Adams  
Newburyport, 23 December (excerpt)<sup>1</sup>**

... I have frequently been prevented from expatiating in my letters, upon political topics, by the sterility of the subject; an uncommon fertility now produces the same effect. I can only say in general terms that parties run very high, and that we are most probably at the eve of a revolution: Whether it will be effected, in silence, and without a struggle, or whether it will be carried at the point of the sword is yet a question.—The Newspapers, will show you how much the public is engaged in the discussion of the new continental form of government, which I fear will be adopted. . . .

1. RC, Adams Family Papers, MHi. Printed: Worthington C. Ford, ed., *Writings of John Quincy Adams* (7 vols., New York, 1913–1917), I, 36–39. For more on John Quincy Adams's views on the Constitution, see CC:293.

**368. Rufus King to Jeremiah Wadsworth  
New York, 23 December<sup>1</sup>**

The news papers will undoubtedly give you the result of the Pennsylvania Convention, 46 were affirmatives and 23 negatives—The Minority have published their reasons of dissent with more inflammation than Argument;<sup>2</sup> indeed the performance will not do so much mischief with temperate characters as its Authors expected—N Jersey have unanimously ratified the Constitution and the accounts from the three southern States are such as authorise an Opinion that they will be in favor of the System—

The Convention of Georgia meet the last week of this month. The Legislature of So. Carolina, which stood adjourned till February, will assemble early in January—The Legislature of No. Carolina have been some Time in session, and we have a report that they have agreed on a convention, but the Time of their meeting is not mentioned<sup>3</sup>—The Nabobs of Virginia begin to be alarmed; although Colo. Mason declared at the first Meeting of their Assembly, which is still in Session, that he was in favor of a reference of the Constitution to a Convention, and against any Act of the Legislature, which would in any manner indicate the Opinion of the Members on the Constitution, yet he is now united with Patrick Henry in an attempt to prejudice the system, by suggesting to the proposed Convention a mode of Effecting Amendments<sup>4</sup>—I understand that the Speaker of their Senate & the Speaker of the Representatives are to be authorised to open a Correspondence with the several *States* on the Subject of the Constitution; to propose *to them* that their Conventions shd. Suggest amendments, and that a second Convention shd. be assembled at Philadelphia for the purpose of reconsidering the System[,] examining

the proposed amendments, and reporting a revised Plan to be submitted for ratification to State Conventions—This was the Plan of Governor Randolph in the federal Convention, but the idea met with an almost unanimous disapprobation in that Assembly;<sup>5</sup> and to me I confess it appears to proceed in the present Instance from no good motive—Henry is decidedly against a confederacy between the *thirteen* States; he fears the accomplishment of that measure, and will make great Exertions to prevent it—I hope in vain—<sup>6</sup>

Publius will be published in a pamphlet or rather in a small volume;<sup>7</sup> for the work will be voluminous—I am uncertain who are the Authors, for there are several of them.

“the Landholder” will do more service our way, than the elaborate works of Publius—

1. RC, Wadsworth Papers, Wadsworth Atheneum, Hartford, Conn.

2. See CC:353.

3. See CC:362, note 2.

4. See CC:328, note 9.

5. For the Convention debates, see CC:75.

6. For reports that Patrick Henry favored separate confederacies, see CC:276, note 4.

7. The first volume of *The Federalist* was announced on 2 January 1788 (CC:406) and offered for sale on 22 March (CC:639).

### 369. Poplicola

#### Boston Gazette, 24 December

“Poplicola” is a reply to a speech delivered by Thomas McKean in the Pennsylvania Convention on 28 November. McKean (1734–1817) represented Delaware in Congress from 1774 to 1776 and from 1778 to 1782. He signed the Declaration of Independence and served as president of Congress in 1781. He was chief justice of the Pennsylvania Supreme Court from 1777 to 1799 and governor of Pennsylvania from 1799 to 1808. He represented Philadelphia in the Pennsylvania Convention and, next to James Wilson, was the most active speaker in behalf of the Constitution.

Throughout his response, “Poplicola” quoted most of McKean’s speech as published by the *Pennsylvania Herald* on 1 December. The complete report reads: “On Wednesday Mr. M’Kean closed a long speech on the legislative article of the new constitution, with this striking observation. ‘Though a good system of government is certainly a blessing, yet it is on the *administration* of the best system, that the freedom, wealth, and happiness of the people depend. DESPOTISM, if wisely administered, is *the best form of government invented by the ingenuity of man*; and we find that the people under absolute and limited monarchies, under aristocracies and mixed governments, are as contented, and as prosperous as we are, owing, undoubtedly, to the wisdom and virtue of their rulers. In short, the best government may be so conducted, as to produce misery and disgrace, and the worst so administered, as to ensure dignity and happiness to a nation.’” This version of the speech was reprinted in the *Boston Independent Chronicle*, 13 December, and the *Boston Gazette*, 17 December. Between 3 and 24 December it was also reprinted in eleven other newspapers: N.H. (1), Mass. (2), R.I. (1), Conn. (2), N.Y. (2), Pa. (1), S.C. (1), Ga. (1). For other versions of McKean’s speech, see RCS:Pa., 411–21.

"Poplicola" was also printed in the *Boston American Herald* on 24 December and was reprinted in the *New York Journal* on 30 January 1788. For other attacks on McKean's notion that despotism was the best form of government, see "William Penn" I and "John Wilkes" I, *Philadelphia Independent Gazetteer*, 2, 26 January (Mfm:Pa. 301, 371); *Boston American Herald*, 7 January; and "Republican Federalist" IV, V, *Massachusetts Centinel*, 12, 19 January.

Messieurs EDES, Mr. McKean, says a Philadelphia paper, closed a long speech on the legislative article of the new Constitution with this striking observation: "Though a good system of government is certainly a blessing, yet it is on the *administration* of the best system, that the freedom, wealth and happiness of the people depend." There is nothing, I confess, so striking to my mind in this observation—A good system of government may be, and too often is, administered by weak and corrupt men; and while this is the case, the people will suffer injury. The fault then will be not in the system, but in the administration; though many persons, when they see public affairs badly managed, are apt to ascribe it to the wrong cause; and hence they wish to change the very nature of a good Constitution; and very frequently change for the worse. The *Federalists*, as they call themselves (improperly in my humble opinion) seem to be aware that the plan offered by the late Convention will not endure a strict scrutiny; they wish, however, that the people would adopt it in its present form, and depend on a wise administration. But do they think the people of America, after so magnanimous and arduous a conflict for the rights of mankind, will be so *improvident* as to adopt a form which they may not think safe for themselves, and their posterity, because Mr. McKean thinks, as we find in another part of his speech, that even the worst government *may* be so administered as to ensure the dignity and happiness of a nation? I presume they will not—Let us aim at a *Federal* Constitution, calculated to establish the *Federal* Union of these sovereign States, and secure the liberties of the people; and having fixed upon *such* a Constitution, we shall even then have enough to do, if we turn our utmost attention to the means of having it administered well. This would be acting up to the character of citizens of a free sovereign and independent State.

But there is one observation made by that honorable gentleman, in the same speech, which, to me, appears *striking* indeed, "DESPOTISM, (says he) if wisely administered, *is the best form of government ever invented by the ingenuity of man!* I cannot but wonder that such a sentiment should fall from the lips of Mr. McKean, who is undoubtedly a man of sense and knowledge—In the course of his studies in the law, and from his other reading, I should have thought he would have been led to a different conclusion.—Is *Despotism* then the offspring of human ingenuity? No. In societies of men, it springs from an intolerably haughty, and imperious temper—an insatiable lust of domination; and

from servility and ignorance in multitudes of the human race, who have been flattered and coaxed to give up their unalienable rights of nature, by degrees, till the tyrant has become strong enough to invade the whole, and immerge the deluded multitude in slavery and wretchedness. For my part, I do not believe there is a man on earth, to whom it would be safe for the people to intrust the powers of a despot, whose will must be their law—I would not trust him however mild and gracious his natural temper might be. *Nero*, was said to be blest with a kind and affectionate heart; but the powers of a despot intoxicated his mind.—He soon became wild and unruly, as the most untameable beasts of the forest—Every tender feeling was eradicated from his soul, and he was the butcher of the *subjects* (not *citizens*) of Rome in a very few years.—Fatal experience has taught the world, that despotism has proved ruinous to the dignity and happiness of men—*Despots* have very rarely, if ever, had wisdom, integrity and other essential qualities, to “administer” their governments “wisely;” and they have as seldom had inclination to spend a thought about it. The Supreme Being, indeed, governs the Universe by the council of his own understanding; and if all his creatures are not happy under his government, it is owing to their imperfection, or their fault. He alone is perfectly wise, powerful, and good—He leaves it to the wisdom of men to institute governments for themselves, and it must be owned that the wisest human institutions are *imperfect*—But it is exceedingly clear, from the government which He prescribed for his favourite people, that *despotism* was not *His* choice—They foolishly changed their free government for a monarchy, though they were faithfully warned of the intolerable burdens it would bring them under, which they afterwards felt to their cost without remedy—The pride and madness, not the *ingenuity* of man, *invented* DESPOTISM.

I wish Mr. McKean would again recur to the histories of Despotic Governments, and see how many of the tyrants have treated their people with savage and brutal barbarity, to one who govern'd with a tolerable degree of mildness and wisdom: Even under the best of them, their forlorn subjects hold their property, their liberties, and lives, on no better a tenure than their sovereign pleasure—I have seen and experienced so much of the depravity and weakness of the human mind, that I hope these States will never be prevailed upon to relinquish a greater share of their powers, to the Federal Union, than is sufficient to give the government a degree of energy, adequate to the emergencies of the Union; and that while they cheerfully do this, they will wisely guard those rights and powers which shall remain, and watch with *republican* jealousy against the least encroachment on them.

Mr. McKean, after speaking of the *Supreme* excellency of DESPOTISM, *IF* wisely administered, mentions absolute and limited monarchies, aristocracies, and mixed governments, and says the people under each



of them "are as *contented* and prosperous as we are, owing, undoubtedly to the wisdom and virtue of their rulers." Absolute monarchies and hereditary aristocracies are much the same, so far as the people whom they govern, are affected. By gazing at the splendor of a monarch, or a nobility, and being well accustomed to military tyranny, they bow to the yoke and bear it as patiently as their brother-oxen—They drag their heavy loads without repining, and will be *contented*, though they are cruelly whipped for their pains. Whence is this abject submission? From their ignorance.—Slavery renders them incapable, even of thinking—The means of information are kept from them, and they have not the idea that men were designed to be free, and that some communities, alas! how few! actually are free. England is a limited monarchy, and a mixed government—The people of that nation must be allowed, to be very *contented*; for they have seen their nation governed by a *junto*—They have seen that *junto* purchasing parliaments to give a sanction to all their profligate measures—They have seen the *junto* raising and keeping a standing army in a time of profound peace: That army murdering peaceable and quiet subjects, and the murderers pardoned—And they have seen that *junto* employing an army and navy for the most dishonorable purpose of slave-making in America, and finally squandering away thirteen of their richest jewels! and after all they have scarcely breath'd a murmur.—God Almighty grant, that these United States may never be ruled by a *junto*, or if they should be so unfortunate, may they not long rest *contented* under it!

### 370. Ezra Stiles Diary

New Haven, 24 December (excerpts)<sup>1</sup>

... Hoñ Abm. Baldwin<sup>2</sup> of Augusta in Georgia, spent the Evenḡ with me. . . .

We conversed on the new Constitution formed by the Convention. On wc I have formed this as my Opinion. 1. That it is not the most Perfect Constitution yet 2. That it is a very good one, & that it is adviseable to adopt it. However 3. That tho' much of it will be Permanent & lasting, yet much of it will be herafter altered by future Revisions. And 4. That the best one remains yet to be investigated.

When the Convention was proposed I doubted its Expediency. 1. Because I doubted whether our wisest Men had yet attained Light eno' to see & discern the best, & what ought finally to prevail. 2. Neither did I think the People were ripe for the Reception of the best one if it could be investigated. And yet 3. I did not doubt but Time & future Experience would teach[,] open & lead us to the best one. And tho' we have got a much better one than I expected, & a very good one, yet my Judgt still remains as before. I think there is not Power enough yet given to Congress for firm Government. Neither can I see how far it is

safe to surrender the powers of the States to the Imperial Body, without. 1. prostratg the Sovereignty of the particular States. 2. without laying the Founda. of the Presidents growing up into an uncontrollable & absolute Monarch. And yet I think the last as well guarded as possible: and I know not whether it is possible to vest Congress with Laws, Revenues, & Army & Navy, without endangering the Ruin of the interior Powers & Liberties of the States.

1. MS, Bienecke Library, CtY. Printed: Franklin Bowditch Dexter, ed., *The Literary Diary of Ezra Stiles, D.D., LL.D., President of Yale College* (3 vols., New York, 1901), III, 296.

2. For Baldwin's account of the proceedings of the Constitutional Convention, as reported in Stiles's diary, see CC:363.

### 371. The Landholder VIII Connecticut Courant, 24 December

This essay is a continuation of "Landholder's" earlier attacks on Elbridge Gerry and George Mason because of their opposition to the Constitution. (See nos. IV–VI, 26 November, 3, 10 December, CC:295, 316, 335.) "Landholder" VIII was also printed in the Hartford *American Mercury* on 24 December. It was reprinted in whole or in part twelve times by 30 January 1788: N.H. (1), Mass. (5), R.I. (1), Conn. (2), N.Y. (1), Pa. (1), Md. (1). The *Massachusetts Centinel* reprint of 2 January was prefaced by a request from "A": ". . . While some papers are wholly dedicated to the service of the writers against the Federal Constitution, you must allot at least a part of your paper to the service of its friends."

For the authorship, circulation, and impact of "Landholder," see CC:230.

To the Hon. ELBRIDGE GERRY, Esquire.

Sir, When a man in public life first deviates from the line of truth and rectitude, an uncommon degree of art and attention becomes necessary to secure him from detection. Duplicity of conduct in him requires more than double caution; a caution which his former habits of simplicity have never furnished him the means of calculating; and his first leap into the region of treachery and falshood is often as fatal to himself as it was designed to be to his country. Whether you and Mr. Mason may be ranked in this class of transgressors I pretend not to determine. Certain it is, that both your management and his for a short time before and after the rising of the fœderal convention impress us with a favorable opinion, that you are great novices in the arts of dissimulation. A small degree of forethought would have taught you both a much more successful method of directing the rage of resentment which you caught at the close of the business at Philadelphia, than the one you took. You ought to have considered that you resided in regions very distant from each other, where different parts were to be acted, and then made your *cast* accordingly. Mr. Mason was certainly wrong in telling the world that he acted a double part—he ought not to have published two setts of *reasons for his dissent to the*

*constitution. His New-England reasons would have come better from you.*<sup>1</sup> He ought to have contented himself with haranguing in the southern states, *that it was too popular, and was calculated too much for the advantage of the eastern states.* At the same time you might have come on, and in the Coffee-House at New-York you might have found an excellent sett of objections ready made to your hand; a sett that with very little alteration would have exactly suited the latitude of New-England, the whole of which district ought most clearly to have been submitted to your protection and patronage. A Lamb, a Willet, a Smith, a Clinton, a Yates,<sup>2</sup> or any other gentleman whose salary is paid by the state impost, as they had six months the start of you in considering the subject, would have furnished you with a good discourse upon the "*liberty of the press,*" the "*bill of rights,*" the "*blending of the executive and legislative,*" "*internal taxation,*" or any other topic which you did not happen to think of while in convention.

It is evident that this mode of proceeding would have been well calculated for the security of Mr. Mason; he there might have vented his antient enmity against the independence of America, and his sore mortification for the loss of his favorite motion respecting the navigation-act; and all under the mask of sentiments, which with a proper caution in expressing them, might have gained many adherents in his own state. But, although Mr. Mason's conduct might have been easily guarded in this particular, your character would not have been entirely safe even with the precaution above mentioned. Your policy, Sir, ought to have led you one step farther back. You have been so precipitate and unwary in your proceedings, that it will be impossible to set you right, even in idea, without recurring to previous transactions and recalling to your view the whole history of your conduct in the convention as well as the subsequent display of patriotism contained in your publication. I undertake this business, not that I think it possible to help you out of your present embarrassments; but, as those transactions have evidently slipt your memory, the recollection of the blunder into which your inexperience has betrayed you, may be of eminent service in forming future schemes of popularity, should the public ever give you another opportunity to traduce and deceive them.

You will doubtless recollect the following state of facts; if you do not, every member of the Convention will attest them—that almost the whole time during the setting of the Convention, and until the Constitution had received its present form, no man was more plausible and conciliating upon every subject than Mr. Gerry—he was willing to sacrifice every private feeling and opinion—to concede every state interest that should be in the least incompatible with the most substantial and permanent system of general government—that mutual concession and unanimity were the whole burden of his song; and although he originated no ideas himself, yet there was nothing in the

system as it now stands to which he had the least objection—indeed Mr. Gerry's conduct was agreeably surprising to all his acquaintance, and very unlike that turbulent obstinacy of spirit which they had formerly affixed to his character. Thus stood Mr. Gerry; till, towards the close of the business, he introduced a motion respecting the redemption of the old Continental Money—that it should be placed upon a footing with other liquidated securities of the United States. As Mr. Gerry was supposed to be possessed of large quantities of this species of paper, his motion appeared to be founded in such barefaced selfishness and injustice, that it at once accounted for all his former plausibility and concession, while the rejection of it by the Convention inspired its author with the utmost rage and intemperate opposition to the whole system he had formerly praised.<sup>3</sup> His resentment could no more than embarrass and delay the completion of the business for a few days; when he refused signing the Constitution and was called upon for his reasons. These reasons were committed to writing by one of his colleagues and likewise by the Secretary, as Mr. Gerry delivered them. These reasons were totally different from those which he has published, neither was a single objection which is contained in his letter to the legislature of Massachusetts ever offered by him in convention.<sup>4</sup>

Now, Mr. Gerry, as this is generally known to be the state of facts, and as neither the reasons which you publish nor those retained on the Secretary's files can be supposed to have the least affinity to truth, or to contain the real motives which induced you to withhold your name from the constitution, it appears to me that your plan was not judiciously contrived. When we act without principle, we ought to be prepared against embarrassments. You might have expected some difficulties in realizing your continental money; indeed the chance was rather against your motion even in the most artful shape in which it could have been proposed. An experienced hand would therefore have laid the whole plan beforehand, and have guarded against a disappointment. You should have begun the business with doubts, and expressed your sentiments with great ambiguity upon every subject as it passed. This method would have secured you many advantages. Your doubts and ambiguities, if artfully managed, might have passed, like those of the Delphic Oracle, for wisdom and deliberation; and at the close of the business you might have acted either for or against the constitution, according to the success of your motion, without appearing dishonest or inconsistent with yourself. One farther precaution would have brought you off clear. Instead of waiting till the Convention rose, before you consulted your friends at New-York,<sup>5</sup> you ought to have applied to them at an earlier period, to know what objections you should make. They could have instructed you as well in August as October. With these advantages you might have past for a complete politician, and your duplicity might never have been detected.

The enemies of America have always been extremely unfortunate in concerting their measures. They have generally betrayed great ignorance of the true spirit and feeling of the country, and they have failed to act in concert with each other. This is uniformly conspicuous, from the first Bute Parliament in London to the last Shays Parliament at Pelham. The conduct of the enemies of the new constitution compares with that of the other enemies above mentioned only in two particulars, its *object* and its *tendency*. Its object was self interest built on the ruins of the country, and its tendency is the disgrace of its authors and the final prosperity of the same country they meant to depress. Whether the constitution will be adopted at the first trial in the conventions of nine states is at present doubtful. It is certain however, that its enemies have great difficulties to encounter arising from their disunion; in the different states where the opposition rages the most, their principles are totally opposite to each other and their objections discordant and irreconcilable; so that no regular system can be formed among you, and you will betray each other's motives.

In Massachusetts the opposition began with you, and from motives most pitifully selfish and despicable; you addressed yourself to the feelings of the Shays faction, and that faction will be your only support. In New-York the opposition is not to this constitution in particular, but to the federal impost; it is confined wholly to salary men and their connections, men whose salary is paid by the state impost. This class of citizens are endeavouring to convince the ignorant part of the community that an annual income of fifty thousand pounds, extorted from the citizens of Massachusetts, Connecticut and New-Jersey, is a great blessing to the state of New-York. And although the regulation of trade and other advantages of a federal government would secure more than five times that sum to the people of that state; yet, as this would not come through the same hands, these men find fault with the constitution. In Pennsylvania the old quarrel respecting their state constitution has thrown the state into parties for a number of years. One of these parties happened to declare for the new federal constitution, and this was a sufficient motive for the other to oppose it: the dispute there is not upon the merits of the subject, but it is their old warfare carried on with different weapons, and it was an even chance that the parties had taken different sides from what they have taken, for there is no doubt but either party would sacrifice the whole country to the destruction of their enemies. In Virginia the opposition wholly originated in two principles; the madness of Mason, and the enmity of the Lee faction to General Washington. Had the General not attended the convention nor given his sentiments respecting the constitution, the Lee party would undoubtedly have supported it, and Col. Mason would have vented his rage to his own negroes and to the wind. In

Connecticut, our wrongheads are few in number and feeble in their influence. The opposition here is not one half so great to the federal government, as it was three years ago to the federal impost; and the faction, such as it is, is from the same blindfold party.<sup>6</sup>

I thought it my duty to give you these articles of information, for the reasons above mentioned. Wishing you more caution and better success in your future manœuvres, I have the honour to be, Sir, with great respect your very humble servant

A LANDHOLDER.

1. A reference to the Northern printing of Mason's objections which omitted his objection to the provision permitting a simple majority of Congress to pass commercial legislation (CC:276).

2. John Lamb, Marinus Willet, Melancton Smith, Governor George Clinton, and Robert Yates were New York Antifederalists.

3. This charge was repeated in "Landholder" X, *Maryland Journal*, 29 February 1788 (CC:580). For denials of the charge by Luther Martin, see CC:460 and *Maryland Journal*, 7 March (CC:604); for denials by Gerry, see CC:419 and *Boston American Herald*, 18 April (CC:691).

Much of the debate in the Constitutional Convention on the public debt took place between 18 and 25 August. Oliver Ellsworth, the author of the "Landholder" essays, was present only until 23 August. Gerry was active in the debate, but neither he nor anyone else "introduced a motion respecting the redemption of the old Continental Money." Gerry, however, along with most other delegates, insisted that the new Constitution explicitly state that Congress be required to pay the public debt.

On 21 August a grand committee, appointed to consider the debt question, reported that the new Congress "shall have power" to pay the public debts incurred by the Confederation. Elbridge Gerry "considered giving the power only, without adopting the obligation, as destroying the security now enjoyed by the public creditors of the U— States. He enlarged on the merit of this class of citizens, and the solemn faith which had been pledged under the existing Confederation. If their situation should be changed as here proposed great opposition would be excited agst. the plan." On 22 August Oliver Ellsworth argued that such a clause was "unnecessary"—the new government would "be bound to fulfil" the obligations of the Confederation. Edmund Randolph, James Madison, Gouverneur Morris, and Gerry disagreed; Gerry "thought it essential that some explicit provision should be made on the subject, so that no pretext might remain for getting rid of the public engagements." Morris, seeking to ensure the obligation, proposed and the Convention agreed unanimously that the new Congress "shall discharge the debts" of the United States.

A few delegates maintained that speculators in the public debt should not be repaid at nominal value. On 23 August Pierce Butler "expressed his dissatisfaction lest" the proposed clause "should compel payment as well to the Blood-suckers who had speculated on the distresses of others, as to those who had fought & bled for their country." On 25 August George Mason said that he feared "the word 'shall,' might extend to all the old continental paper."

On the same day Elbridge Gerry "said that for himself he had no interest in the question being not possessed of more of the securities than would, by the interest, pay his taxes. He would observe however that as the public had received the value of the literal amount, they ought to pay that value to some body." He understood that some soldiers had been defrauded; and, therefore, "If the public faith would admit, of which he was not clear, he would not object to a revision of the debt so far as to

compel restitution to the ignorant & distressed, who have been defrauded. As to Stock-jobbers he saw no reason for the censures thrown on them—They keep up the value of the paper. Without them there would be no market.”

Dissatisfied with the wording of the clause, Edmund Randolph proposed that “All debts contracted & engagements entered into, by or under the authority of Congs. shall be as valid agst the U. States under this constitution as under the Confederation.” This clause was accepted ten states to one (Farrand, II, 355–56, 376–77, 392, 400, 412–14).

4. Almost all of Gerry’s objections outlined in his letter to the Massachusetts legislature had been raised by him during the Convention debates. In his 15 September speech explaining why he would not sign the Constitution, Gerry cited many of the objections that later appeared in his letter to the legislature (cf. CC:75 and CC:227–A).

5. After leaving the Constitutional Convention in Philadelphia, Gerry stayed in New York City until at least 27 October (CC:199).

6. For Connecticut’s adoption of the Impost of 1783, see RCS:Conn., 319–22.

### 372. New England

#### Connecticut Courant, 24 December

“New England” is the only original contemporary source to identify Richard Henry Lee as the author of the *Letters from the Federal Farmer* (CC:242). Nowhere in the essay is there evidence to support this assertion. Four subsequent Massachusetts newspaper items, apparently using “New England” as their source, also identified Lee as the “Federal Farmer” (CC:390 E–H).

“New England” was reprinted in the *New Hampshire Mercury*, 2 January 1788; *New York Daily Advertiser*, 4 January; *Massachusetts Centinel*, 5 January; *Gazette of the State of Georgia*, 21 February; and *Charleston Columbian Herald*, 14 April. The *Massachusetts Centinel’s* reprint was an attempt to offset the effects of the republication of the *Letters from the Federal Farmer* in Boston on 2 January. On that day, the printer of the *Centinel* wrote that “As the publick have been advertised, that this day an antifederal pamphlet will be published, called ‘*Letters from the Federal Farmer to the Republican*,’ said to be written by Richard Henry Lee, Esq. of Virginia—the Printer of the *Centinel* would inform that publick that he has received a *damp*er for said pamphlet, which will be inserted in his next paper” (CC:390–G). “New England” was reprinted in the *Centinel* followed by an editorial statement: “If the foregoing doth not operate a DAMPER indeed, to the (*anti-*) Federal Farmer’s letters, chicanery and falshood are invincible to justice and truth.”

On 7 January Edward E. Powars, editor of the *Boston American Herald* and the publisher of the Boston pamphlet edition of the *Letters from the Federal Farmer*, said that “New England’s” attack on Lee would not prejudice the people against the pamphlet (CC:390–H). Two weeks later “Helvidius Priscus” decried the attempt to personalize the debate over the Constitution. It was immaterial whether the “Federal Farmer” was a Virginian, a slaveholder, or “a man of no property at all.” His arguments were important. “Helvidius Priscus” insisted that “*the New-England Damp*er” and other Federalist writings would “never damp the ardour of liberty, nor check the energy of the able supporters of those genuine principles that mark, with dignity, those who have again stepped forth to defend, in its last struggle, that freedom and independence of spirit, which has made this country the admiration of the philosopher, the hero, and the statesman” (*Massachusetts Gazette*, 22 January).

*To the Hon. Richard Henry Lee, Esq.*

We have by several conveyances, received your laboured essay against the form of government proposed by the Convention, entitled *Letters from a Federal Farmer*. We were at first ignorant to whom we were indebted for that various information which you seem zealous to afford. The Collector of Impost for New-York,<sup>1</sup> with whom your pamphlets were left to be distributed, acquitted himself of his trust as well as could be expected from a man too violent to be prudent, and too ignorant of the characters he addressed, not to be frequently mistaken. It was easy to discover that his intention was to have committed your books to a set of men who are wrong-headed from instinct, and who are ever grateful to those, who furnish them with plausible arguments to justify the errors inherent in their understandings.—But it has happened in some instances, that the addresses were made to gentlemen who despised the affront offered to their reason, and who consider it as a great misfortune that they have been suspected to have been of your party. Your agent certainly cannot be accused of negligence, though by doing too much he has injured your cause—He ought when he distributed the hand-bills and pamphlets committed to his care, to have ascertained the nature of the objections they contained; for want of this attention, you have lost the support of several very respectable wrong-heads—the poison conveyed from the Centinel, has been counteracted by the different poison of the Federal Farmer, and the patients left in their usual state of sanity and dullness.

The active curiosity of the New England character has been employed to discover the officious stranger who has thus familiarly undertaken to advise.—Whether the discovery has been accomplished by human or necromantic arts, cannot be material for you to know. We own that we were much surprised to find that a Delegate in Congress from the *antient dominion of Virginia*, had descended from the imagined dignity of a planter, to unite with the G- v- - - r of N- Y-<sup>2</sup> and a train of collectors of impost and excise, tide-waiters and bailiffs, to instruct us poor and despised Yankees in the arts of government—we did not expect from the owner of several hundred negroes<sup>3</sup> such unusual anxiety for our liberties—still less from a person whom we well remember several years ago endeavored to persuade us to degrade General Washington and promote his relation General Charles Lee—a man altogether unfit to command an army, of violent passions, unprincipled character, and one whom we had good reason to suspect was connected with our enemies.<sup>4</sup>

In one respect only have you discovered your real character, we can perceive that you have a better opinion of your own sagacity and discernment than of ours—your comments and explanations of the new form of government, are such as would be very proper were you



addressing the people of New-Zealand—but we can pardon your minute interpretations—by being accustomed to despise New-England, you probably thought we were as dull as the negroes of Virginia.

We however confess a dullness of apprehension when we attempt to conceive, what *honest* motives could induce a Virginian planter to become the instructor and guardian of New-England—we have heard a rumour that you and your connexions have been for several years the personal enemies of General Washington, and some shrewd men imagine, that your only motive to your present conduct, arises from a low envy of the brilliant virtues and unbounded popularity, of that illustrious character.—If we are not mistaken, all your cant about liberty, democracy and aristocracy, is hypocritical, or else arises from a real ignorance of the nature of political liberty—in your practical sense, liberty can only mean a privilege for gentlemen planters to do what they please—in no conversation, in no intercourse with mankind, have you been known as the guardian or protector of that depressed race of men whose toils have enabled you to live in affluence, and at leisure plot dissensions and mischief to your country.

It is also very remarkable that your associates in New-York, should all happen to be persons whom we consider as our enemies and unworthy our confidence.

If those gentlemen who have printed a vast edition of your books, which they are distributing among us at their own expence,<sup>5</sup> are as zealous friends as they represent, they have in their power to bestow a more unequivocal evidence of attachment, than a present of several thousand pamphlets containing the most evident misrepresentations and the weakest reasoning. We are not so wanting in sagacity as not to discover the motives of this extraordinary zeal. Those gentlemen in New-York who receive large salaries and have large sums to employ in speculations, are too well acquainted with human nature not to know that their offices will be more insecure, and their conduct more attentively observed, when the expences of government shall be paid by their constituents, than while paid by us.

The collector of impost can well afford to pay fifty pounds for pamphlets to be distributed in New-England, to prevent any derangement in a system, which enables him to receive two thousand pounds annually of our property—perhaps he may expect to be reimbursed, for surely it would not be unreasonable in a state which receives a tribute of fifty thousand pounds annually from its neighbours, to expend so trifling a sum to convince them that they were thus fleeced to preserve their liberties.—But know, Sir, the people of New-England are not willing to purchase your books at such a price, nor are they so ignorant of political science that the collector of impost for New-York and his train of tide-waiters, need remit their usual

attentions to business to give them information. The fact is, that the presses in New-England are open to all parties,<sup>6</sup> and a greater number of papers are distributed weekly for the information of the people, than the whole number of persons of all colours in the *antient dominion*, who are able to read.

As you have without our application undertaken to advise us, we on our part will repay you with some information, which if properly improved may be useful.

Know then that the people of New-England are a bold, hardy and intelligent race of men, who are attached from habit and principle to a republican government—there is not among us as you suggest, any party of men who wish to subvert our liberties<sup>7</sup>—if any individuals with such inclinations exist, their impotence and folly is their protection from our resentment. We think that we have just reasons to consider, that the real strength and energy of the American Character resides with us—we are proud of what we have accomplished during the late war—when we reflect that the armies of Britain never entered our borders without being compelled to flee—that they never resided one day within our confines when they were not protected by the cannon of their ships—that our hardy citizens have acquired glory for themselves and country, in every field of danger from the bleak and inhospitable regions of Canada, to the sickly plains of Carolina. That our toils have reared the fabric of American greatness, and that our habits of industry and virtue must preserve American liberty; it is surely not unreasonable for us to wish for such establishments, as may best enable us to grow great by peaceable and regular means and acquire property by directing the exertions of our industry to the best advantage.

Our country is more populous than any other in America, and though we have not any single article of commerce equal to either of the staple commodities of our southern brethren—yet the productions of our country are more various and in greater abundance than theirs—a greater variety of useful domestic manufactures are to be found in New-England, than elsewhere—we are under the best advantages to become the carriers of America, and to breed by our fisheries and commerce, a hardy race of men, who may constitute our wealth in peace and our glory and defence in war.

Every useful object of business which we can propose for ourselves, happens to be in direct competition with the interest of Great-Britain and in some degree opposed to the interest of the other maritime powers of Europe—we judge and we know that we judge truly, that it is for our interest to combine our strength and resources against the encroachments of foreigners, and we are desirous that all the people of the United States may be connected with us for the establishment of the American empire.

These are our principal objects as a people, and we are not deceived in the characters of our public men as you imagine—they are not richer than most of us, or in any respect elevated above our controul, as you suggest—their offices depend upon our suffrages which we bestow upon persons with whom we are intimately acquainted.

It is true that we imagine that the establishment of a Federal Government will remedy some evils with which we find ourselves oppressed by the selfishness of our neighbours—we feel some impatience when we reflect on the conduct of New-York—we remember when the whole strength and resources of that state were not competent to reduce their internal enemies—we have not forgotten the assistance we afforded them—the immense property which they acquired by our exertions and which has been converted to their particular benefit—the extensive region of new country which they claimed without title and which we have tacitly conceded to them—we thought would sufficiently evince the generosity of our dispositions and that we did not fight for plunder, but for liberty.

When the misguided state of Rhode-Island refused to grant the Impost to Congress upon the first requisition,<sup>8</sup> we well remember the curses which some of the *first* characters in New-York vented against that state—we admitted the absurdity of the conduct of Rhode-Island—but what shall we now say of the conduct of New-York, a state famed for political knowledge, a state under the highest obligations of gratitude to New-England, who have since the peace been invariably pursuing a system founded in the most unjustifiable selfishness—a system which increases their relative importance only by weakening and depressing their neighbours.

We mean not to be too general and severe in our censures—we believe that the people of that state are as honestly disposed as any other, but we can by no means admit this to be true, as respects a majority of their present rulers—we have waited for the moment of calm conviction and we trust the period has nearly arrived, when that people will be willing to combine their strength with ours and grow great by the means of regular industry under the protection of an equal and just government—If we should be disappointed in this respect, we shall certainly examine the justice of those measures by which our labours are rendered conducive to their benefit. If then we are told as at present, *that the port of New-York is their property and that they have a right to improve their natural advantages to their best particular advantage*, we shall certainly reply, *that the principles of reason and justice require, that states and individuals should so exercise their rights as not to injure and depress their neighbours*. If this should not induce them to adopt a proper mode of conduct, we have no doubt but arguments derived from our *natural strength*, operating on their *natural weakness* will produce the desired

conviction—the opinion of any statesman is not much to be regarded who supposes that a powerful and enlightened people, uncontrolled by any tie of government, will consent to become perpetual tributaries to a weaker neighbour.

We admit that the adoption of a new form of government is a matter of great importance, and we pretend not to foresee all the consequences which may follow from its reception by the people. When we review the history of human events, we are disposed to acknowledge, that the most momentous affairs of society have owed their origin to accident—the best formed projects of the benevolent mind have originated systems of persecution and tyranny, and what was intended for mischief or a gratification of passion has established the empire of reason—the mad resentment of Luther<sup>9</sup> first enabled science to triumph over superstition—the benevolent exertions of Las Casas<sup>10</sup> in favour of liberty, have entailed slavery on one quarter of mankind!—All that we can know is, that the new plan of government appears to be well calculated to secure our liberty and promote our happiness—that the characters who framed it have given the most unequivocal evidence of their abilities and integrity—they are the ornaments of our country and of human nature—from what has already been accomplished we believe the people of America are capable of arranging the powers of government from a rational conviction of its necessity, and such is our patriotism, that we are willing to run the small risque occasioned by our ignorance of future events, for the sake of an experiment which if successful must greatly advance the dignity of human nature.

Your essay on the new Constitution is doubtless the utmost effort of your art, assisted by several persons of reputed good sense in New-York—it contains many eulogiums on the plan of government proposed, joined with much insinuation against the characters of its authors—it may possibly alarm the timorous and those unacquainted with the nature of government—indeed it much resembles your former productions which were designed to traduce the illustrious Washington, but it will not on that account be more likely to gain our confidence—the ideas which you have suggested on the powers proposed to be vested in the senate and judiciary of the United States—are too distorted and erroneous for a man of your abilities seriously to entertain.—As we know your representations to be uncandid, we shall leave you to correct your errors by that reason which we suppose you to possess, and when you shall next publish your objections against the new form of government, in case they are fairly communicated, and with that candour which becomes a freeman when he addresses freemen as enlightened as himself, your arguments will be refuted or their force admitted by the people of NEW-ENGLAND.

1. John Lamb.
2. Governor George Clinton.
3. Lee owned forty-three slaves in 1782 and thirty-three in 1789.
4. There is no evidence that Richard Henry Lee was involved in an attempt to replace Washington with Charles Lee. For a similar charge, see "A Landholder" VI, 10 December (CC:335).
5. For the distribution of Antifederalist material in Connecticut by New Yorkers, see CC:283.
6. For disagreements with this statement, see CC:131 and RCS:Conn., 492-94, 576-77.
7. For monarchical tendencies in New England, see CC:51.
8. For Rhode Island's refusal to grant the Impost of 1781, see CDR, 63, 140; CC:Vol. 1, pp. 17-18.
9. Martin Luther.
10. Bartolomé de Las Casas (1474-1566) was a Spanish Dominican missionary to the Indians in Latin America.

### **373. John Armstrong, Sr., to Benjamin Franklin Carlisle, 25 December<sup>1</sup>**

I beg you may accept my thanks for your favour inclosing a Copy of the federal Constitution, sometime ago delivered to me by young Mr. Wharton,<sup>2</sup> whom you wish to have recommended for admittance in the Court at Carlisle. be assured Sir, it would give me Sensible pleasure to evince by stronger proof than the small favour you ask for your friend, the invariable regard I have for your Character, and the honour of Old acquaintance. I have not had anything to do with the Courts of Law since the year-75 nevertheless you may depend that the young gentleman shall be at no loss for a recommendation & admittance too, whenever he thinks proper to offer himself.

You must be so tired of various & perverse Speculation on the new Constitution, that I must not add to the common trespass but as little as possible-I confess I am far from pretending to know what is the best system of Government, and ready to question whether any man knows it, otherwise than by a general knowledge of human nature & the particular circumstances of the people for whom it is framed. the people of best discernment this way, instead of caviling are rather amazed, that so many states with their different prejudices, have been brought to meet on so good ground. Dr. Nesbit, with great Strength of reason is clear for adopting it, keeping in view such amendments as experience & a fitter time shall point out. and indeed when we consider our Situation at home (on the confines of Anarchy) and our need of reputation abroad, it appears to me in the light of moral certainty, that immediate adoption is not only our wisest course, but also the shortest & safest mode to obtain such amendments as may either be found to be really salutary in themselves, or only calculated merely to please. in this view my small support shall not be wanting; more apprehensive as I am

of a failure in the duty of the people, than of any early incroachment of a new Congress—nor would the body of the people but by undue influence, give any opposition—Stale & lawless Jealousie, Old prejudice & private motives, have thrown too many men into a political phrensy, which in Pennsylvania we now have to regret. Your last speech in the federal Convention being just up, will be in our paper tomorrow,<sup>3</sup> it is come in good time, and I think can Scarcely fail of some good effect.

The tenor of the Minoritys Dissent<sup>4</sup> & particularly a few explicit Sentences—appears to have a wilde & pernicious tendency! we must not pray God to reward them according to their works, but beseech him to restrain the residue of their wrath, to still the tumults of the people which they seem to provoke; and forgive their abettors for the mediators Sake; for they either care not, or know not what they do.

[P.S.] I was agreeably Surprized at seeing the plainness of your handwriting as being about twelve years younger than you, am obliged when I write to support the fingers of the right hand with the left.

1. RC, Franklin Papers, American Philosophical Society. Armstrong (1717–1795) was a brigadier general in the Continental Army from March 1776 to April 1777. Soon after, he was commissioned a brigadier general of the Pennsylvania militia and in June 1777 he was promoted to major general and commander of the militia. He served in Congress in 1779 and 1780 and in 1787 lived in retirement in Carlisle.

2. Richard Wharton, the son of a prominent Philadelphia merchant, Samuel Wharton.

3. Franklin's speech of 17 September (CC:77), printed in the *Virginia Independent Chronicle* on 5 December, was reprinted in the *Carlisle Gazette* on 26 December.

4. "The Dissent of the Minority of the Pennsylvania Convention," first printed in Philadelphia on 18 December (CC:353), was reprinted in installments in the *Carlisle Gazette* on 26 December, and 2, 9, and 16 January.

### **374. Charles Nisbet to the Earl of Buchan Carlisle, 25 December (excerpt)<sup>1</sup>**

This Day, sacred to Religion, Gluttony & Drunkenness, I dedicate to the Remembrance of valuable absent Friends. I am ashamed to observe that your Lordship's last Letter is dated 19th September 1786, but the last Year was to me an Year of Confusion, from Multiplicity of Business & hard Study. I have written more than two hundred & fifty Sheets of Paper before the first Draught of my Lectures was finished. I read your Lordship's Poem with a melancholy Pleasure, and a sincere Wish, that all your favourable Auguries concerning this Country were in the Way of being accomplished. Perhaps they are so, but present Appearances are extremely discouraging. The People of this Country seem to have gained nothing by their Independence, except Impunity of Crimes, & the Prevalence of every human Vice except Superstition & Hypocrisy. Public Spirit appears to be extinct, and public & private Credit entirely at an End. No Man is ashamed even of the most shameful Conduct, &

the Authority of Laws & Magistrates is entirely disregarded. The Magistrates, being chosen by the People, dare not act, for fear of losing their Offices, and a Competition & Reciprocation of Cheating & Knavery seems to pervade this Country from the one End to the other. No Debts are paid, no Engagements are kept, and the only Way a Man has to live, seems to be, to cheat as much as his Neighbours. A few good Characters exist, but like Stars in a dark Night, they are scarcely discerned, & have no sensible Effect on the public Morals. I subsist, as it were by Miracle, waiting & praying for better Times. Dr. Rush<sup>2</sup> deserted my Interest in about three Months after my Arrival, and has been ever since a cold Friend & secret Enemy. Most of the Trustees never mind their Oaths & Engagements and several have lately resigned, I am afraid, by his Influence. Notwithstanding of this, I would have been supported by the Increase & Character of this Seminary, were it not for the general Distress & Want of Money, real or affected, that prevails over all this Country, which hinders Parents from thinking of giving their Children Education. Yet every Body lives in Luxury, & there is no Want of Money for Law suits, Drunkenness, & the Purchase of foreign Goods. Only Debts & Taxes remain unpaid. The Clergy, to be sure, have the worst of it in such a Situation of things, as no Laws protect their Rights, it having pleased the Majesty of the People that Clergymen & Negroes should be entirely at Discretion. Some have much Expectation from the New Federal Constitution, which has been adopted lately by this State, on a Division 46 against 23, & by the State of Delaware without a dissenting Voice. It is hoped that Massachusetts, Connecticut, New Hampshire New York & Jersey will adopt it in a few Weeks, if some of them have not done it already. Maryland & North Carolina may adopt it with some Difficulty. South Carolina & Georgia, as also Virginia are doubtful, being almost equally divided. Rhode Island is despaired of, & must be subdued by Arms, if the States desire to prevent it from becoming a foreign Garrison. Imperfect & Impious as this Constitution is, it is much preferable to a State of Nature, which prevails at present. All honest People are for it, but those who are in Debt to England or at home, are uniformly against it. Those who have property, if they are desirous to preserve it, or even their Lives, must unite to introduce a regular & efficient Government, as the Opposers of the Constitution flatter the People with a Community of Goods, & a general Release of Debts in Case they will take Arms to oppose it. In the late Convention of this State, there were only three Speaking Members against it,<sup>3</sup> and these ignorant & illiterate Men, who had their Speeches made for them by two or three ostensible Characters without Doors. They will all be printed, & sent abroad, being already taken down in short hand.<sup>4</sup> I need the Prayers & Pity of good Christians, as the hottest Opposition is in these Western Counties. Mobbish Meetings were held here last Night, to draw up Letters of

Thanks to the Minority of the Convention, & in these Meetings the Speakers exhorted the People to take up Arms in Defence of their Rights. I hope however that this will be only a Threat.<sup>5</sup> What is worst is, that Congress have Arms for many thousands of Men and a Considerable Quantity of Gun-powder in their Stores here, which they, like wise Men, have ordered to be sold in a few Weeks hence, as if on purpose to Supply the Enemies of their Country. As this Town is the nearest to the Center of the United States, & most commodious for Security, Intelligence & Communication, the Old Congress made Choice of it for their general Magazine, & if the new Congress are wise, they will make it the federal Capital. If they do not, they will lose all the Country to the Westward of the Allegany Mountains, which is only in a Nominal Subjection to the State at present, and is daily filling up with Multitudes of People, almost to a Man disaffected to federal Government, or more properly, to all Government whatsoever. If the Capital is placed here, these People will be easily kept in Order, but at a greater Distance, no Government will be able to secure Respect, & prove efficient. Your Lordship can not conceive how little Knowledge is in this Country. The Progress of it requires Men of Property, Learning, Virtue & Leisure. We have almost none of these here. Curiosity is at a Stand, and every Subject of Conversation gives Way to dirty, senseless & grovelling Politics. No Man of Sense has any Influence, Authority or Respect. The meanest & most wicked of the People bear Rule, & every Man does that which is right in his own Eyes, without fear or Shame. Those Poets & Romantic Politicians who have sung the Charms of Liberty, ought to travel to this Country for Information, & they would soon find that the Person of her Ladyship is extremely deformed & disagreeable when she is seen naked, & not dressed in the Robes of Justice, Law & good Order. God Almighty has raised up all Nations from Tribes of barbarous & wandering Banditti, but the Mob of a conquering Army, the usual Seminary of Nations, is much easier reduced into Order by the Sense of Subordination & the Sense of Honour arising from their Condition, than a Mob of Bankrupts, Fugitives from Justice, transported Convicts & indented Servants, which are the four Elements of which our body Politic here is composed, for the far greatest Part. A love of Order & Obedience to laws may be grafted on a Sense of Honour & a love of Distinction, but almost no such Principles exist here, in all Orders of Men. Lying, Cheating & low Cunning are the highest Political Virtues, and able to raise their Possessors to Seats in Assembly, Congress or Convention. Yet we have three worthy & honourable Members of Congress from this County of Cumberland,<sup>6</sup> and all the most decent People here are on the Side of the federal Government. God grant that it may be established without Bloodshed. As an Instance of the Want of Patriotism among us, when some Persons in England had lately sent



over two Models of the Cotton-spinning Machines to this Country, a Club of worthy Citizens of Philadelphia raised a Purse by Subscription, & purchased those Models & re-exported them to England!!! Such are our Patriots. A Subscription was begun in the same Place for encouraging Domestic Manufactures, but the same Sort of People, having got into the Management of it, the Scheme is already starved, & at an End. If one did not believe that there is a God, & a Providence, one would consider our Condition as quite desperate, & say with Plautus *Ipsa salus, si velit, non potest servare hanc familiam*.<sup>7</sup> But the Ways of Providence are wonderful. Even wicked & selfish Men, who mind only themselves, may be used as Instruments to provide for the public Safety, without which they themselves can not be long safe. . . .

1. RC, Founders Collection, Dickinson College, Carlisle, Pa. Nisbet (1736–1804), a Presbyterian minister from Scotland, had come to America in 1785 after being named president of Dickinson College. He also served as co-pastor of the Presbyterian church in Carlisle.

2. Benjamin Rush and John Dickinson, trustees of Dickinson College, had offered Nisbet the presidency of the college.

3. William Findley, John Smilie, and Robert Whitehill.

4. The debates in the Pennsylvania Convention were recorded in shorthand by Thomas Lloyd. On 7 February 1788 Lloyd published his first and only volume which contained the major speeches of Federalists James Wilson and Thomas McKean. No Antifederalist speeches were published by Lloyd (CC:511; RCS:Pa., 41–42).

5. On 26 December a Federalist celebration in Carlisle was broken up by club-wielding Antifederalists, who, on the next day burned effigies of James Wilson and Thomas McKean. For the Carlisle riot, see CC:407 and RCS:Pa., 670–708.

6. John Armstrong, Jr., James R. Reid, and William Irvine.

7. Titus Maccius Plautus (254?–184 B.C.) was a Roman playwright.

### 375. Samuel A. Otis to Theodore Sedgwick New York, 25 December<sup>1</sup>

Had anything of moment taken place I should sooner have done myself the pleasure of writing to you—And even now it is out of my power to inform you of a representation from more than five States, So Carolina Virginia Pensilvania N Jersey & Massachusetts—Delaware is daily expected, and Mr Langdon from N Hamshr would make a representation of seven States<sup>2</sup>—You have probably heard Virginia have in conformity to Massachusetts stoped any farther supplies to the fœderal chest, and the civil and Military establishments are without the least provision<sup>3</sup>—The old Government seems to be in the last stages of Languishment, and yet there is an incessant fire kept [up?] against the new from the antifederal Batteries—Some of them indeed fire only pop guns—But so much fire & smoke altho there are few balls shott, dazzle & obscure the eyes of the good people, in such manner as I fear those of my dear Countrymen will not see the things which belong to their political peace—Your heavy artillery I hearr has silenced a Strong

redoubt upon Bacon Hill, and sunk some floating batteries from the Vicinity, and flatter myself you will defend Berkshire<sup>4</sup>—But they want help over the mountains, & beyond the great river, where its difficult conveying your ammunition. Sometimes indeed the fogs & vapours of low & boggy Countries, are dissipated by Lightning, if there is any prospect of success give them a peal—But dont let it like Joves thunder strike them dead—But strike conviction—

The Georgians & No Carolinans have brot themselves into hott water with the Indians & now want to vouch in the United States. Would it not be a good time to remind them of certain acts of cession which the other States have made?

Do write me the State of politicks, how Convention is like to operate. I am very anxious to hear what dear Massachusetts are like to do. Her peace honor & dignity are near my heart—The dye seems cast on which they are stamped & Heaven forbid it should turn up a blank! Mason & Henry have got Virginia politically d—k [drunk], and are determined they shall never be physically [so?] with anything but peach & apple brandy & whisky, So amongst other feasible projects are agitating a bill for prohibition of all ardent Spirits from Europe WI & United States.

God bless you my friend & give us cool heads & honest hearts.

1. RC, Sedgwick Papers, MHi. Sedgwick (1746–1813), a lawyer, represented Stockbridge in the Massachusetts House of Representatives and in the state Convention, where he voted to ratify the Constitution in February 1788. Otis and Sedgwick were delegates to Congress.

2. Congress did not attain a quorum until 21 January 1788.

3. The Massachusetts legislature had resolved to pay much of the state's civil list from revenue previously earmarked for the state's quota of the congressional requisition of 1786. The Virginia legislature enacted laws that provided that revenue previously earmarked for Congress should be used for various state purposes (Rutland, *Madison*, X, 292n–93n). For comments on the impact of these actions, see James Madison to Thomas Jefferson, 20 December, *ibid.*, 332; and the Secretary of Congress to the Governor of Connecticut, 27 December, LMCC, VIII, 691.

4. Sedgwick had defended the Constitution in the Stockbridge town meeting on 30 November. The *Worcester Magazine*, second week in December, reported that Sedgwick “so thoroughly convinced the Hon. Mr. [John] Bacon and his adherents of their mistake, that they immediately chose him their delegate; and Mr. Bacon is now said to be as great an advocate for the federal system as he was before his conviction, an opposer.” This report was reprinted nine times, including the *New York Packet* on 21 December.

### 376. George Washington to Sir Edward Newenham Mount Vernon, 25 December (excerpt)<sup>1</sup>

. . . The publick attention here is at present wholly employed in considering and animadverting upon the form of Government proposed by the late convention for these States. The inefficacy of our present general system is acknowledged on all hands, and the proposed one has its

opponents but they bear so small a proportion to its friends that there is little or no doubt of its taking place,—Three States have already decided in its favor—two unanimously and the other by a majority of two to one;—these are the only States whose conventions have as yet determined upon the subject, but from every information, the others will be found pretty fully in sentiment with them.—The establishment of an energetic general Government will disappoint the hopes and expectations of those who are unfriendly to this Country—give us a national respectability—and enable us to improve those commercial and political advantages which Nature and situation have placed within our reach. . . .

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 345–46. Newenham (1732–1814) represented the county of Dublin in the Irish Parliament. Newenham and Washington had begun to correspond regularly in 1784. Washington described him as “a warm friend to America during her whole struggle” (Fitzpatrick, XXVII, 414, 416–18).

### 377. One of the People: Antifederal Arguments Maryland Journal, 25 December

For some time Federalists and Antifederalists had accused one another of deliberately misleading the public. This item is a Federalist rebuttal to a number of alleged Antifederalist misrepresentations. It was reprinted in the January 1788 issue of the Philadelphia *American Museum* and in eight newspapers by 10 March: N.H. (1), Mass. (1), Conn. (2), N.Y. (1), N.J. (1), Pa. (1), S.C. (1). The reprint in the *Massachusetts Gazette*, 15 January, was unique. The *Gazette* inserted a bracketed comment after each Federalist answer. These comments have been placed in angle brackets.

#### ARGUMENT I.

It has been published to the people, that Doctor *Franklin* was opposed to the constitution, and consented to sign it merely as a witness.<sup>1</sup>

#### ANSWER.

Doctor *Franklin*, in his speech, assigning his reasons for agreeing to the constitution, (printed in the *Maryland Gazette*, &c. of December 18th)<sup>2</sup> says, “I hope, therefore, that for our sakes, as a part of the people, and for the sake of our posterity, we shall act heartily and unanimously in recommending this constitution wherever our influence may extend.” (It is sincerely hoped many of the members of the Massachusetts state convention may experience the same *witnessing* influence by which the doctor was actuated, when the all-important question respecting the federal constitution is to be decided.)

#### II.

It has been published, that Mr. *Jay* had changed his opinion, and affirmed the new constitution to be the most artful *trap* that had ever been laid to *catch* the liberties of mankind.<sup>3</sup>

## ANSWER.

Mr. *Jay*, in his letter to Mr. *Vaughan*, of *Philadelphia*, (printed in the *Maryland Journal*, &c. of the 18th *December*) says, "You have my authority to deny the change of sentiment it imputes to me, and to declare that, in my opinion, it is advisable for the people of America to adopt the constitution proposed by the late convention."<sup>4</sup> (What think ye of this, gentlemen, is Mr. *Jay* federal or anti-federal?—Is another better acquainted with his sentiments, than he himself is?)

## III.

It is asserted, in the *Maryland Gazette*, &c. of the 11th *December*, under the *Baltimore* head, that Mr. *Ellsworth*, of *Connecticut*, WITHDREW FROM THE CONVENTION."<sup>5</sup>

## ANSWER.

Mr. *Ellsworth* and Mr. *Sherman*, in their joint letter, enclosing the constitution to their legislature, (published in the *Pennsylvania Herald*, of the 10th *November* ult.)<sup>6</sup> say, "We wish it may meet the approbation of the several states, and be the means of securing their rights, and lengthening out their tranquility." (The sentiments contained in the letter just mentioned, are by no means congenial with the insinuation, that Mr. *Ellsworth* withdrew from the convention from motives of dislike to its proceedings.)

## IV.

Mr. *Richard Henry Lee*, in a letter to the Governor of *Virginia*, (published "by the request of several Gentlemen," in the *Maryland Journal*, &c. of last *Friday*) says, "It has hitherto been supposed a fundamental maxim, that in governments rightly balanced, the different branches of legislature should be unconnected, and that the legislative and executive powers, should be *separate*."<sup>7</sup>

## ANSWER.

In the *British* constitution, which is thought to be the best balanced in the world, the legislative and executive powers are not separate. *Montesquieu*, speaking on this subject, says, the executive power ought to have a *share* in the legislature by the power of rejecting; otherwise it would soon be stripped of its prerogative.<sup>8</sup> (Whose judgment, in regard to the affairs of government, ought to have most weight, *simple Dick's*, or the great *MONTESQUIEU's*?)

## V.

Mr. *Richard Henry Lee* says, in the same publication, "the president is for four years duration, (and *Virginia* for example) has one vote of thirteen in the choice of him, and this *thirteenth vote* not of the people, but electors, *two removes from the people*."

## ANSWER.

By the constitution, the president is to be chosen by *ninety-one electors*, each having one vote of this number, *Virginia* has *twelve*, so that instead of the *thirteenth vote* in the choice of president, (*Virginia* for example) has somewhat less than an *eighth*. (Such a sad mistake as Mr. *Lee* has made, indicates either the most consummate weakness or wickedness, and by which of these the anti-federal champion was guided, the publick will determine.)

The constitution also admits of the people choosing the electors, so that the electors may be only *one remove from the people*. (Mr. *Lee*, it seems by this, has only missed the fact by ONE HALF!! this *trivial* mistake in an anti-federalist is, however, hardly worth noticing.)

## VI.

It is also said by Mr. *Richard Henry Lee*, that the people of this country have thought a bill of rights necessary to regulate the exercise of the great power given to their rulers, as appears by the various bills or declaration of rights, whereon the government of the *greater number of the states* are founded.

## ANSWER.

Only *four states*<sup>9</sup> appear, by the book of constitutions,<sup>10</sup> to have a bill of rights, which are the *lesser number of states*. (What think ye of (Sir) RICHARD, now?)

These, Mr. *Goddard*, are the arguments used to prejudice the minds of the people against the constitution, some of which, it seems, "*several Gentlemen*" requested you to *publish*. For this time, we will suppose these gentlemen to have been ignorant of the deceptions they have thus publicly countenanced, because no *gentleman* would knowingly propagate or countenance *untruths*.

*December 22, 1787.*

1. For a statement that Franklin had signed the Constitution only as a witness, see "Extract of a letter from Queen Anne's county, (Maryland), *November 12,*" *Philadelphia Freeman's Journal*, 21 November (CC:278). This item was reprinted in the *Baltimore Maryland Gazette* on 7 December.

2. See CC:77 for Franklin's 17 September speech in the Constitutional Convention which was printed in the *Virginia Independent Chronicle* on 5 December.

3. For this report, see *Philadelphia Independent Gazetteer*, 24 November (CC:290-A). It was reprinted in the *Maryland Journal* on 30 November.

4. For Jay's letter of 1 December which was first printed in the *Philadelphia Independent Gazetteer* and *Pennsylvania Packet* on 7 December, see CC:290-B.

5. This report was first printed in the *Massachusetts Gazette* on 20 November (CC:Vol. 2, Appendix I). The *Massachusetts Centinel*, on 21 November (CC:Vol. 2, Appendix I), corrected the report, stating that Ellsworth approved the Constitution "though obliged by domestick concerns to return home prior to its being signed." This report, however, was not reprinted in *Baltimore*.

6. For the Sherman-Ellsworth letter to the Governor of Connecticut, 26 September, which was first published in the *New Haven Gazette* on 25 October, see CC:192.

7. Richard Henry Lee's letter of 16 October was first published in the *Petersburg Virginia Gazette* on 6 December (CC:325) and reprinted in the *Maryland Journal* on 21 December.

8. *Spirit of Laws*, I, Book XI, chapter VI, 228–31.

9. On 28 December an errata in the *Maryland Journal* stated that five states, not four, had bills of rights. Only one other newspaper and the *American Museum* printed this correction.

10. See CC:355, note 1.

### **378. Publius: The Federalist 27** **New York Packet, 25 December**

Alexander Hamilton wrote this essay, which was also printed in the *New York Journal* on 25 December. It was reprinted in the *New York Daily Advertiser* and the *New York Independent Journal* on 26 December.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FEDERALIST, No. 27.

*To the People of the State of New-York.*

It has been urged in different shapes that a constitution of the kind proposed by the Convention, cannot operate without the aid of a military force to execute its laws. This however, like most other things that have been alledged on that side, rests on mere general assertion; unsupported by any precise or intelligible designation of the reasons upon which it is founded. As far as I have been able to divine the latent meaning of the objectors, it seems to originate in a pre-supposition that the people will be disinclined to the exercise of fœderal authority in any matter of an internal nature. Waving any exception that might be taken to the inaccuracy or inexplicitness of the distinction between internal and external, let us enquire what ground there is to pre-suppose that disinclination in the people? Unless we presume, at the same time, that the power of the General Government will be worse administered than those of the State governments, there seems to be no room for the presumption of ill-will, disaffection or opposition in the people. I believe it may be laid down as a general rule, that their confidence in and obedience to a government, will commonly be proportioned to the goodness or badness of its administration. It must be admitted that there are exceptions to this rule; but these exceptions depend so entirely on accidental causes, that they cannot be considered as having any relation to the intrinsic merits or demerits of a constitution. These can only be judged of by general principles and maxims.

Various reasons have been suggested in the course of these papers, to induce a probability that the General Government will be better administered than the particular governments: The principal of which reasons are that the extension of the spheres of election will present a greater option, or latitude of choice to the people, that through the medium of the State Legislatures, which are select bodies of men, and

who are to appoint the members of the national Senate,—there is reason to expect that this branch will generally be composed with peculiar care and judgment: That these circumstances promise greater knowledge and more extensive information in the national councils: And that<sup>1</sup> they will be less apt to be tainted by the spirit of faction, and more out of the reach of those occasional ill humors or temporary prejudices and propensities, which in smaller societies frequently contaminate the public councils, beget injustice and oppression of a part of the community, and engender schemes, which though they gratify a momentary inclination or desire, terminate in general distress, dissatisfaction and disgust. Several additional reasons of considerable force, to fortify that probability, will occur when we come to survey with a more critic eye, the interior structure of the edifice, which we are invited to erect. It will be sufficient here to remark, that until satisfactory reasons can be assigned to justify an opinion, that the foederal government is likely to be administered in such a manner as to render it odious or contemptible to the people, there can be no reasonable foundation for the supposition, that the laws of the Union will meet with any greater obstruction from them, or will stand in need of any other methods to enforce their execution, than the laws of the particular members.

The hope of impunity is a strong incitement to sedition—the dread of punishment—a proportionately strong discouragement to it—will not the government of the Union, which, if possessed of a due degree of power, call to its aid the collective resources of the whole confederacy, be more likely to repress the *former* sentiment, and to inspire the *latter*, than that of a single State, which can only command the resources within itself? A turbulent faction in a State may easily suppose itself able to contend with the friends to the government in that State; but it can hardly be so infatuated as to imagine itself a match for the combined efforts of the Union. If this reflection be just, there is less danger of resistance from irregular combinations of individuals, to the authority of the confederacy, than to that of a single member.

I will in this place hazard an observation which will not be the less just, because to some it may appear new; which is, that the more the operations of the national authority are intermingled in the ordinary exercise of government; the more the citizens are accustomed to meet with it in the common occurrences of their political life; the more it is familiarised to their sight and to their feelings; the further it enters into those objects which touch the most sensible cords, and put in motion the most active springs of the human heart; the greater will be the probability that it will conciliate the respect and attachment of the community. Man is very much a creature of habit. A thing that rarely strikes his senses will generally have but little influence upon his mind.

A government continually at a distance and out of sight, can hardly be expected to interest the sensations of the people. The inference is, that the authority of the Union, and the affections of the citizens towards it, will be strengthened rather than weakened by its extension to what are called matters of internal concern; and will have less occasion to recur to force in proportion to the familiarity and comprehensiveness of its agency. The more it circulates through those channels and currents, in which the passions of mankind naturally flow, the less will it require the aid of the violent and perilous expedients of compulsion.

One thing at all events, must be evident, that a government like the one proposed, would bid much fairer to avoid the necessity of using force, than that species of league contended for by most of its opponents; the authority of which should only operate upon the States in their political or collective capacities. It has been shewn,<sup>2</sup> that in such a confederacy, there can be no sanction for the laws but force; that frequent delinquencies in the members, are the natural offspring of the very frame of the government; and that as often as these happen they can only be redressed, if at all, by war and violence.

The plan reported by the Convention, by extending the authority of the fœderal head to the individual citizens of the several States, will enable the government to employ the ordinary magistracy of each in the execution of its laws. It is easy to perceive that this will tend to destroy, in the common apprehension, all distinction between the sources from which they might proceed; and will give the Fœderal Government the same advantage for securing a due obedience to its authority, which is enjoyed by the government of each State; in addition to the influence on public opinion, which will result from the important consideration of its having power to call to its assistance and support the resources of the whole Union. It merits particular attention in this place, that the laws of the confederacy, as to the *enumerated* and *legitimate* objects of its jurisdiction, will become the SUPREME LAW of the land; to the observance of which, all officers legislative, executive and judicial in each State, will be bound by the sanctity of an oath. Thus the Legislatures, Courts and Magistrates of the respective members will be incorporated into the operations of the national government, *as far as its just and constitutional authority extends*; and will be rendered auxiliary to the enforcement of its laws.<sup>(a)</sup> Any man, who will pursue by his own reflections the consequences of this situation, will perceive that there is good ground to calculate upon a regular and peaceable execution of the laws of the Union; if its powers are administered with a common share of prudence. If we will arbitrarily suppose the contrary, we may deduce any inferences we please from the supposition; for it is certainly possible, by an injudicious exercise of the authorities of the best government, that ever was or ever can be instituted, to provoke



and precipitate the people into the wildest excesses. But though the adversaries of the proposed constitution should presume that the national rulers would be insensible to the motives of public good, or to the obligations of duty; I would still ask them, how the interests of ambition, or the views of encroachment, can be promoted by such a conduct?

(a) *The sophistry which has been employed to show that this will tend to the destruction of the State Governments will, in its proper place, be fully detected.*<sup>3</sup>

1. Inserted at this point in the M'Lean edition: "on account of the extent of the country from which those, to whose direction they will be comitted, will be drawn."

2. See *The Federalist*, 15 and 16, *New York Independent Journal*, 1 December, and *New York Packet*, 4 December (CC:312, 317).

3. See *The Federalist* 31 and 44 (CC:403, 476).

### 379. Centinel VI

**Pennsylvania Packet, 25 December<sup>1</sup>**

*To the PEOPLE of PENNSYLVANIA.*

*"Man is the glory, jest, and riddle of the world."*

POPE.<sup>2</sup>

Incredible transition! the people who seven years ago, deemed every earthly good, every other consideration as worthless, when placed in competition with Liberty, that Heaven-born blessing, that zest of all others; the people, who, actuated by the noble ardor of patriotism, rose superior to every weakness of humanity, and shone with such dazzling lustre amidst the greatest difficulties; who, emulous of eclipsing each other in the glorious assertion of the dignity of human nature, courted every danger, and were ever ready, when necessary, to lay down their lives at the altar of liberty: I say the people, who exhibited so lately a spectacle, that commanded the admiration, and drew the plaudits of the most distant nations, are now revealing the picture, are now lost to every noble principle, are about to sacrifice that inestimable jewel, liberty, to the genius of despotism. A golden phantom held out to them, by the crafty and aspiring despots among themselves, is alluring them into the fangs of arbitrary power; and so great is their infatuation, that it seems, as if nothing short of the reality of misery necessarily attendant on slavery, will rouse them from their false confidence, or convince them of the direful deception; but then alas! it will be too late, the chains of despotism will be fast rivetted, and all escape precluded.

For years past, the harpies of power have been industriously inculcating the idea, that all our difficulties proceed from the impotency of Congress, and have at length succeeded to give to this sentiment almost universal currency and belief: the devastations, losses, and burthens occasioned by the late war; the excessive importations of

foreign merchandize and luxuries which have drained the country of its specie, and involved it in debt, are all overlooked, and the inadequacy of the powers of the present confederation is erroneously supposed to be the only cause of our difficulties. Hence, persons of every description are revelling in the anticipation of the halcyon days consequent on the establishment of the new constitution. What gross deception and fatal delusion! For, although very considerable benefit might be derived from strengthening the hands of Congress, so as to enable them to regulate commerce and counteract the adverse restrictions of other nations, which would meet with the concurrence of all persons; yet this benefit is accompanied in the new constitution with the scourge of despotic power, that will render the citizens of America tenants at will of every species of property, of every enjoyment, and make them the meer drudges of government. The gilded bait conceals corrosives that will eat up their whole substance.

Since the late able discussion,<sup>3</sup> all are now sensible of great defects in the new constitution, are sensible that power is thereby granted without limitation or restriction; yet such is the impatience of people to reap the golden harvest of regulated commerce, that they will not take time to secure their liberty and happiness, nor even to secure the benefit of the expected wealth, but are weakly trusting their every concern to the discretionary disposal of their future rulers; are content to risque every abuse of power; because they are promised a good administration, because moderation and self denial are the characteristic features of men in possession of absolute sway. What egregious folly! What superlative ignorance of the nature of power does such conduct discover!

History exhibits this melancholy truth, that slavery has been the lot of nearly the whole of mankind in all ages, and, that the very small portion who have enjoyed the blessings of liberty, have soon been reduced to the common level of slavery and misery. The cause of this general vassalage may be traced to a principle of human nature, which is more powerful and operative than all the others combined; it is that lust of dominion that is inherent in every mind, in a greater or less degree; this is so universal and ever active a passion, as to influence all our actions;<sup>4</sup> the different situation and qualifications of men only modifies and varies the complexion and operation of it.

For this darling pre-eminence and superiority, the merchant already possessed of a competency, adventures his all in pursuit of greater wealth; it is for this, that men of all descriptions, after having amassed fortunes still persevere in the toils of labour; in short, this is the great principle of exertion in the votaries of riches, learning, and fame.

In a savage state, pre-eminence is the result of bodily strength and intrepidity, which compels submission from all such as have the

misfortune to be less able; therefore, the great end of civil government is to protect the weak from the oppression of the powerful, to put every man upon the level of equal liberty; but here again, the same lust of dominion by different means frustrate almost always this salutary intention. In a polished state of society, wealth, talents, address, and intrigue, are the qualities that attain superiority in the great sphere of government.

The most striking illustration of the prevalence of this lust of dominion is, that the most strenuous assertors of liberty in all ages, after successfully triumphing over tyranny, have themselves become tyrants, when the unsuspecting confidence of an admiring people have entrusted them with unchecked power: rare are the instances of self-denial, or consistency of conduct in the votaries of liberty, when they have become possessed of the reins of authority; it has been the peculiar felicity of America, that her *great deliverer* did not prove a Cromwell.<sup>5</sup>

Compare the declarations of the most zealous asserters of *religious* liberty whilst under the lash of persecution, with their conduct when in power; you will find that even the benevolence and humility inculcated in the gospels prove no restraint upon this love of domination—The mutual contentions of the several sects of religion in England some ages since, are sufficient evidence of this truth.

The annals of mankind demonstrate the precarious tenure of privileges and property dependent upon the will and pleasure of rulers; these illustrate the fatal danger of relying upon the moderation and self-denial of men exposed to the temptations that the Congress under the new constitution will be. The lust of power or domination is of that nature, as seeks to overcome every obstacle, and does not remit its exertions whilst any object of conquest remains, nothing short of the plenitude of dominion will satisfy this cursed demon: therefore liberty is only to be preserved by a due responsibility in the government, and by the constant attention of the people; whenever that responsibility has been lessened, or this attention remitted, in the same degree has arbitrary sway prevailed.

The celebrated Montesquieu has warned mankind of the danger of an implicit reliance on rulers; he says, that “a perpetual *jealousy* respecting liberty, is absolutely requisite in all free states:”<sup>6</sup> and again “that slavery is ever preceded by sleep.”<sup>7</sup>

I shall conclude with an extract from a speech delivered by lord George Digby, afterwards earl of Bristol, in the English parliament, on the triennial bill, anno 1641, viz. “It hath been a maxim among the wisest legislators, that whosoever means to settle good laws, must proceed in them with a sinister opinion of all mankind, and suppose that whosoever is not wicked, it is for want only of the opportunity. It is that opportunity of being ill, Mr. Speaker, that we must take away, if

ever we mean to be happy, which can never be done but by the *frequency of parliaments*.

“No state can wisely be confident of any public minister’s continuing good, longer than the rod is held over him.

“Let me appeal to all those that were present in this house at the agitation of the *petition of right*: and let them tell themselves truly of whose promotion to the management of public affairs do they think the generality would at that time have had better hopes than of Mr. Noy and Sir Thomas Wentworth; both having been at that time and in that business as I have heard, most keen and active patriots, and the latter of them, to the eternal aggravation of his infamous treachery to the commonwealth be it spoken, the first mover, and insister to have this clause added to the *petition of right*, viz.

“That for the comfort and safety of his subjects, his majesty would be pleased to declare his will and pleasure that all his ministers should serve him according to the laws and statutes of the realm.’

“And yet Mr. Speaker to whom now can all the inundations upon our *liberties*, under pretence of law, and the late ship-wreck at once of all our property be attributed more than to *Noy*, and all those other mischiefs whereby this monarchy hath been brought almost to the brink of destruction, so much to any as to that *grand apostate* to the commonwealth, the now lieutenant of Ireland, Sir Thomas Wentworth? Let every man but consider those men as once they were.” *British Liberties*, page 184 and 185.<sup>8</sup>

Philadelphia, Dec. 22, 1787.

1. Another version of “Centinel” VI, differing in capitalization and italics, was published in the *Philadelphia Independent Gazetteer* on 26 December. The *Gazetteer* version was reprinted in the *New York Morning Post*, 1 January 1788, the *New York Journal*, 4 January, and in a New York Antifederalist pamphlet anthology distributed in April (CC:666). See the footnotes below for significant differences found in the *Gazetteer* version. For the authorship, circulation, and impact of “Centinel,” see CC:133.

2. Alexander Pope, *An Essay on Man* (London, 1758), Epistle II, 12. The second epistle was originally published in 1733.

3. The Pennsylvania Convention had adjourned on 15 December, and three days later the “Dissent of the Minority” was published (CC:353).

4. The *Gazetteer* substituted “ancestors” for “actions.”

5. The *Gazetteer* added “nor a *Monk*,” a reference to George Monck who had helped Charles II regain the throne of England after the fall of the protectorate of Richard Cromwell. Oliver Cromwell, the father of Richard, had preceded his son as lord protector.

6. This quotation is not from Montesquieu, but from Letter XI of John Dickinson’s *Letters from a Farmer in Pennsylvania* which “Centinel” had cited correctly in his second number (CC:190). First published in the *Pennsylvania Chronicle* on 8 February 1768, Letter XI is in Paul Leicester Ford, ed., *The Writings of John Dickinson* (Philadelphia, 1895), 386.

7. Montesquieu, *Spirit of Laws*, I, Book XIV, chapter XIII, 343.

8. *British Liberties, or The Free-born Subject’s Inheritance . . .* (London, 1766), 184–85.

**380. James Madison to George Washington**  
**New York, 26 December<sup>1</sup>**

I am just informed by a Delegate from New Hampshire that he has a letter from President Sullivan which tells him that the Legislature had unanimously agreed to call a convention as recommended, to meet in February.<sup>2</sup> The second wednesday is the day if I have not mistaken it. We have no further information of much importance from Massachusetts. It appears that Cambridge the residence of Mr. Gerry has left him out of the choice for the Convention, and put in Mr. Dana formerly Minister of the U. States in Europe, and another Gentleman, both of them firmly opposed to Mr. Gerry's Politics.<sup>3</sup> I observe too in a Massts. paper that the omission of Col. Mason's objection with regard to commerce, in the first publication of his Objections, has been supplied.<sup>4</sup> This will more than undo the effect of the mutilated view of them. New Jersey the Newspapers tell us has adopted the Constitution unanimously. Our European intelligence remains perfectly as it stood at the date of my last.

1. RC, Washington Papers, DLC.

2. For President John Sullivan and his address of 5 December to the New Hampshire General Court, see CC:339.

3. Francis Dana (1743–1811), a justice of the Massachusetts Supreme Court, was minister to Russia from 1781 to 1783. He had been appointed to the Constitutional Convention, but illness prevented him from attending. The other Cambridge delegate was Colonel Stephen Dana (1740–1822), a carpenter and town selectman. Both men voted to ratify the Constitution in the state Convention in February 1788.

4. George Mason's omitted objection was printed in the *Massachusetts Centinel* on 19 December (CC:276–D).

**381. Publius: The Federalist 28**  
**New York Independent Journal, 26 December**

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser* and *New York Packet* on 28 December; and in the *New York Journal* on 2 January 1788.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

THE FEDERALIST. No. XXVIII.

To the People of the State of New-York.

That there may happen cases, in which the national government may be necessitated to resort to force, cannot be denied. Our own experience has corroborated the lessons taught by the examples of other nations; that emergencies of this sort will sometimes arise in all societies, however constituted; that seditions and insurrections are unhappily maladies as inseparable from the body politic, as tumours and eruptions from the natural body; that the idea of governing at all times by the simple force of law (which we have been told is the only

admissible principle of republican government) has no place but in the reveries of those political doctors, whose sagacity disdains the admonitions of experimental instruction.

Should such emergencies at any time happen under the national government, there could be no remedy but force. The means to be employed must be proportioned to the extent of the mischief. If it should be a slight commotion in a small part of a State, the militia of the residue would be adequate to its suppression; and the natural presumption is, that they would be ready to do their duty. An insurrection, whatever may be its immediate cause, eventually endangers all government: Regard to the public peace, if not to the rights of the Union, would engage the citizens, to whom the contagion had not communicated itself, to oppose the insurgents: And if the general government should be found in practice conducive to the prosperity and felicity of the people, it were irrational to believe that they would be disinclined to its support.

If on the contrary the insurrection should pervade a whole State, or a principal part of it, the employment of a different kind of force might become unavoidable. It appears that Massachusetts found it necessary to raise troops for repressing the disorders within that State; that Pennsylvania, from the mere apprehension of commotions among a part of her citizens, has thought proper to have recourse to the same measure.<sup>1</sup> Suppose the State of New-York had been inclined to reestablish her lost jurisdiction over the inhabitants of Vermont;<sup>2</sup> could she have hoped for success in such an enterprise from the efforts of the militia alone? Would she not have been compelled to raise and to maintain a more regular force for the execution of her design? If it must then be admitted that the necessity of recurring to a force different from the militia in cases of this extraordinary nature, is applicable to the State governments themselves, why should the possibility that the national government might be under a like necessity in similar extremities, be made an objection to its existence? Is it not surprising that men, who declare an attachment to the union in the abstract, should urge, as an objection to the proposed constitution, what applies with tenfold weight to the plan for which they contend; and what as far as it has any foundation in truth is an inevitable consequence of civil society upon an enlarged scale? who would not prefer that possibility to the unceasing agitations and frequent revolutions which are the continual scourges of petty republics?

Let us pursue this examination in another light. Suppose, in lieu of one general system, two or three or even four confederacies were to be formed, would not the same difficulty oppose itself to the operations of either of these confederacies? Would not each of them be exposed to the same casualties; and, when these happened, be obliged to have

recourse to the same expedients for upholding its authority, which are objected to a government for all the States? Would the militia in this supposition be more ready or more able to support the federal authority than in the case of a general union? All candid and intelligent men must upon due consideration acknowledge that the principle of the objection is equally applicable to either of the two cases; and that whether we have one government for all the States, or different governments for different parcels of them, or even if there should be an intire separation of the States, there might sometimes be a necessity to make use of a force constituted differently from the militia to preserve the peace of the community, and to maintain the just authority of the laws against those violent invasions of them which amount to insurrections and rebellions.

Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace, that the whole power of the proposed government is to be in the hands of the representatives of the people. This is the essential, and after all the only efficacious security for the rights and privileges of the people which is attainable in civil society.<sup>(a)</sup>

If the representatives of the people betray their constituents, there is then no source left but in the exertion of that original right of self-defence, which is paramount to all positive forms of government; and which, against the usurpations of the national rulers, may be exerted with infinitely better prospect of success, than against those of the rulers of an individual State. In a single State, if the persons entrusted with supreme power become usurpers, the different parcels, subdivisions or districts, of which it consists, having no distinct government in each, can take no regular measures for defence. The citizens must rush tumultuously to arms, without concert, without system, without resource; except in their courage and despair. The usurpers, clothed with the forms of legal authority, can too often crush the opposition in embryo. The smaller the extent of territory, the more difficult will it be for the people to form a regular or systematic plan of opposition; and the more easy will it be to defeat their early efforts. Intelligence can be more speedily obtained of their preparations and movements; and the military force in the possession of the usurpers, can be more rapidly directed against the part where the opposition has begun. In this situation, there must be a peculiar coincidence of circumstances to ensure success to the popular resistance.

The obstacles to usurpation and the facilities of resistance increase with the increased extent of the state; provided the citizens understand their rights and are disposed to defend them. The natural strength of the people in a large community, in proportion to the artificial strength of the government, is greater than in a small; and of course more competent to a struggle with the attempts of the government to

establish a tyranny. But in a confederacy the people, without exaggeration, may be said to be entirely the masters of their own fate. Power being almost always the rival of power; the General Government will at all times stand ready to check the usurpations of the state governments; and these will have the same disposition towards the General Government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other, as the instrument of redress. How wise will it be in them by cherishing the Union to preserve to themselves an advantage which can never be too highly prized!

It may safely be received as an axiom in our political system, that the state governments will in all possible contingencies afford complete security against invasions of the public liberty by the national authority. Projects of usurpation cannot be masked under pretences so likely to escape the penetration of select bodies of men as of the people at large. The Legislatures will have better means of information. They can discover the danger at a distance; and possessing all the organs of civil power and the confidence of the people. They can at once adopt a regular plan of opposition, in which they can combine all the resources of the community. They can readily communicate with each other in the different states; and unite their common forces for the protection of their common liberty.

The great extent of the country is a further security. We have already experienced its utility against the attacks of a foreign power. And it would have precisely the same effect against the enterprises of ambitious rulers in the national councils. If the foederal army should be able to quell the resistance of one state, the distant states would be able to make head with fresh forces. The advantages obtained in one place must be abandoned to subdue the opposition in others; and the moment the part which had been reduced to submission was left to itself its efforts would be renewed and its resistance revive.

We should recollect that the extent of the military force must at all events be regulated by the resources of the country. For a long time to come, it will not be possible to maintain a large army; and as the means of doing this increase, the population and natural strength of the community will proportionably increase. When will the time arrive, that the foederal Government can raise and maintain an army capable of erecting a despotism over the great body of the people of an immense empire; who are in a situation, through the mediums of their state governments, to take measures for their own defence with all the celerity, regularity and system of independent nations? The apprehension may be considered as a disease, for which there can be found no cure in the resources of argument and reasoning.

*(a) Its full efficacy will be examined hereafter.*



1. On the raising of troops in Massachusetts (Shays's Rebellion) and Pennsylvania, see CC:18 and CC:364, notes 2 and 4.

2. For New York and Vermont, see *The Federalist* 7, *New York Independent Journal*, 17 November, CC:269, note 3.

### 382. Philadelphiensis VI

#### Philadelphia Freeman's Journal, 26 December<sup>1</sup>

*"Distress'd Columbia, must thou lie so low?  
Must all thy conquests, glories, triumphs, spoils  
End in thine own disgrace?"*

My Fellow-Citizens, If America is to become a respectable nation, the people must retain their freedom in the fullest extent possible; this is the *sine qua non* of our respectability; on this alone must the strength, honor, and national character of this country depend. Indeed, any other system defeats the intention of the revolution; freedom was the ultimate object of the war with Britain, and must, from the nature of things, be the object as long as America remains an independent country. The Turkish empire was established by cruelty and dominion, by the swords of bigotted infidels, whose religion taught them to murder without remorse: probably then, that empire should have been extinct long ago, if the same system of despotism and cruelty had not been preserved; (although there are some authors who affirm that even in Turkey great and valuable privileges have always been enjoyed) but be that as it may, the case is widely different with us; nothing short of pure liberty is consistent with revolution principles; the *temple of freedom* that was raised in America, was intended by providence to be the asylum of the poor and the oppressed of every nation and every clime. If then we prostitute this hallowed edifice, to purposes for which providence never designed it, our ruin is inevitable. Our national independence will probably not survive the loss of our liberties a single day. As darkness brings the night, so despotism will obliterate the very name of the American empire.

It is a principle almost universally confirmed by the joint evidences of reason and experience, that that nation which is most free, is always most victorious; people who enjoy their civil and religious liberty, according to the true sense and meaning of the phrase, are laborious and brave. As the nature of a free government is to protect the lives, liberties, and property of the people, that each may enjoy what he hath by honest industry acquired; so it will be the temper and nature of that people, voluntarily to fight in defence of that government; for its interests and preservation is the same as their own. Hence, under a free constitution which secures the rights and privileges of the people, we will find courage, fortitude, and an unshaken loyalty to that government: but on the contrary, where despotism and tyranny prevail, the people are indolent and pusillanimous, backward to toil

and fight in support of a government which their interest must lead them rather to see annihilated than preserved. If we take a view of ancient or modern history, we shall find that freedom and superiority have ever gone hand in hand. The history of England affords us many striking instances to illustrate this truth; the party that fought for their country, in civil broils, has always been victorious over the faction that endeavored to enslave it. But why need I advance examples to prove a point, that the bare mentioning of the American revolution seems to put beyond controversy. If the history of the Turkish empire does not afford an exception to this principle, *that freedom and victory are inseparable*, there can be none found that I know of, without the conquest of the island of Corsica, by the French, be admitted as one; which certainly ought not, for it rather shows that freemen contending for their liberties are invincible.

Since it is obvious from what has been said, that the energy and national strength of America are concomitant with her freedom; it follows then that the adoption of the new constitution which necessarily destroys the latter, must of consequence destroy the former: This constitution, in the first instance, will lop off one half of our sacred rights and privileges, for which we bled and conquered; and the remainder are generally left insecure, and therefore must eventually be lost too; for the cursed lust of dominion can never be satisfied until it is in possession of all power, yea, it even then will be discontent, for it is insatiable. If America is to be *great* she must be *free*; freedom is her heart, her very life-blood; and the liberty of the press, like the great aorta, the prime artery, must convey it to the remotest parts of the extremities. That the adoption of this new constitution, in toto, will destroy the freedom of the press, and every other right and liberty that should adorn the freemen of America, has been proved in a clear and masterly manner by many patriotic writers, even before the dissent of the virtuous minority of the convention of Pennsylvania appeared;<sup>2</sup> but this gives the matter a finishing stroke: he who denies the evidence of their positions is either a designing villain, or one who insults his own reason, and declares himself incapable of judging right from wrong, or freedom from slavery, and consequently unworthy of enjoying American liberty.

The political alchemist, Dr. Rush, in his fulsome speech, that he has so assiduously published, patched, and re-published in all our newspapers,<sup>3</sup> says, that our adoption of the new constitution will "produce paleness and distress at the court of St. James's." From such a fallacious assertion, one would imagine that the doctor must suppose the people of the United States are already as blind as he would wish to make them, if he thinks they will swallow this his bolus of deceit; such a declaration may probably work upon the prejudices of an American

reader, but can never convince his reason. The assertion is false, take it in what sense you will; whether the doctor meant that the adoption of this system of government will produce our *misery* or *prosperity*, he is equally wrong. That our establishing a despotic government possessed of every necessary power and qualification for annihilating the freedom of the people, and reducing them to the lowest state of slavery and wretchedness, should excite paleness and distress at the court of London is truly paradoxical; the sentiments of that nation must have undergone a great change; a greater change certainly than any man of common sense can credit. I know there are many good men of patriotic hearts and friends of American liberty in Britain, who will feel the most poignant grief when they hear of its adoption; but that these are of the court party, I can scarce believe: and I question much whether we should not doubt the sincerity of a positive and official declaration of that court, sympathizing with us in our sorrow. So that, upon the whole, I think it is pretty obvious, that the court of St. James's will not be much distressed at our misery. And that the British government should be distressed on account of the prosperity that must result to this country from our adoption of this system of government is a sophistical falsehood, that a grain of reason is sufficient to detect: Britain will never be distressed by reason of our prosperity under this constitution; for the truth of the matter is, we cannot *prosper* under it, but on the contrary, we will sink into misery and contempt, and probably cease to be an independent nation: This is a consequence that every politician will necessarily and quickly draw, and that the British, or any other government, must comprehend in an instant: Neither *energy*, *strength* nor *respectability* can exist a moment in America after the adoption of this tyrannical government.

There are several who have imagined that this government will for some time be a moderate aristocracy but end in a despotic monarchy;<sup>4</sup> but this is a mistake; for it must commence in despotism, if ever it has a beginning. A large *standing army* will be absolutely necessary to set it in motion; I say a large standing army, for a small military force would only excite opposition in its enemies, and encourage them to attempt its destruction, by an appeal to arms. The impolitic conduct of Britain at the commencement of the American war, is a lesson for despotic governments in future; a decisive blow must be struck at once, otherwise liberty may triumph.

The advocates of the new constitution must be pretty well convinced by this time, that there are in every state a considerable number of people, perhaps one half of the whole, disaffected to it; now if nine states should really come into the measure, would it be prudent to compel the rest. I think not; although it is already whispered about, that if Virginia, or any of the southern states should not adopt it, that

force will certainly be applied; but this is Utopian altogether, nor can I conceive even if every state in the union should adopt it, how this *faction* can be crushed, and crushed it must be effectually, before this government is firmly established: I even doubt, whether all the military that the *well born* and their parasites can raise, will complete this piece of business to their satisfaction. Has not America already shown to the world that no power on earth can overcome a *phalanx of freemen* defending their sacred liberties?

Many patriotic writers wishing to compromise matters between the friends and enemies of the proposed government, have imagined that the difference might be amicably settled, if a declaration of rights were prefixed to the constitution, so as to become a part of it; and therefore have recommended this to the parties as a necessary measure to reconcile them again to each other: But these good men did not consider that a declaration of rights would effectually and completely annihilate the constitution; of this however, its advocates were well aware, and consequently could not consent to the amendment. No, no, the haughty lordlings and their sycophants must have no *limits* set to their power; they alone should rule; yes, and rule as they *list* too: why should any poor poltroon speak of rights; what are his rights? Why, to work as a slave for his *well born master*. Ah, my fellow-citizens, this is a trying moment! an awful time indeed! Is it possible that the freemen of America should lose their liberties so soon? I hope not; and I trust, that the Lord, who is the friend of the poor and oppressed, will defeat the purposes, and confound the counsels of their haughty enemies; so that "They shall take them captives, whose captives they were, and they shall rule over their oppressors."<sup>5</sup> Amen.

1. Reprinted: Philadelphia *Independent Gazetteer*, 27 December; *New York Journal*, 1 January 1788; *New York Morning Post*, 7 January. The last three paragraphs were reprinted, at the request of customers, in the *Providence Gazette*, 1 March, and in the *Boston American Herald*, 13 March. For the authorship and impact of "Philadelphiaensis," see CC:237.

2. See CC:353.

3. For Benjamin Rush's speech of 12 December in the Pennsylvania Convention, see CC:357; RCS:Pa., 592-96.

4. George Mason made such a prediction (CC:138, 276).

5. Isaiah 14:2.

### 383. Pennsylvania Herald, 26 December<sup>1</sup>

A correspondent remarks that already *one third* of the number of states necessary to the establishment of the proposed constitution, has passed the *Rubicon*. His sentiments are favourable to that system, but he wishes anxiously to be relieved from one doubt:—what is to be done, if four states refuse, or even one refuses, to acquiesce in the measure? Under the present articles of confederation an unanimous concurrence

is necessary to an alteration;—no state can be obliged to concur in an alteration, but *all* the states are bound to abide by the original compact, if a *single* state should refuse its concurrence.<sup>2</sup> Again, twelve states were represented in the federal convention, by what rule, therefore, has that body released and destroyed a compact at the will of *nine*, to which there were *twelve* parties, equally interested? The federal convention were called together to amend the old constitution, but they chose to make a new one, (this the writer does not complain of) but they were called upon to act for *twelve* states, and, in effect, they have only acted for *nine*. It appears to our correspondent on this view, that the consequence must be either a civil war between the assenting and dissenting states, or the establishment of separate republics on the American continent. The former event must be painful to every friend of humanity, and the latter it is agreed by all men, and expressly stated by Mr. Wilson, would be incompatible with the peace and welfare of the states.<sup>3</sup> In this dilemma, however the proposed constitution meets the approbation of our correspondent, he cannot give a negative to this important question—is it not better to refer the proposed plan with the explicit sentiments of the people on its principles, to another convention, than to incur either of the consequences above stated?—The unanimous opinion of the states, respecting the alterations that ought to be made, will render the task of the proposed constitution easy, and clear from future objections; while much less time will be requisite to accomplish this measure, than either to force our sister states to sacrifice their judgment to our will, or to arrange the business of a separation into several and unconnected republics.

1. Reprinted: *New York Morning Post*, 31 December; *Baltimore Maryland Gazette*, 1 January 1788; *Salem Mercury*, 15 January; *New Hampshire Gazette*, 23 January.

2. For Article XIII, see CDR, 93.

3. For James Wilson's views which he expressed in his 24 November speech to the Pennsylvania Convention, see RCS:Pa., 344–46; CC:289.

### 384. Brutus VI

**New York Journal, 27 December<sup>1</sup>**

It is an important question, whether the general government of the United States should be so framed, as to absorb and swallow up the state governments? or whether, on the contrary, the former ought not to be confined to certain defined national objects, while the latter should retain all the powers which concern the internal police of the states?

I have, in my former papers, offered a variety of arguments to prove, that a simple free government could not be exercised over this whole continent, and that therefore we must either give up our liberties and submit to an arbitrary one, or frame a constitution on the plan of

confederation. Further reasons might be urged to prove this point—but it seems unnecessary, because the principal advocates of the new constitution admit of the position. The question therefore between us, this being admitted, is, whether or not this system is so formed as either directly to annihilate the state governments, or that in its operation it will certainly effect it. If this is answered in the affirmative, then the system ought not to be adopted, without such amendments as will avoid this consequence. If on the contrary it can be shewn, that the state governments are secured in their rights to manage the internal police of the respective states, we must confine ourselves in our enquiries to the organization of the government and the guards and provisions it contains to prevent a misuse or abuse of power. To determine this question, it is requisite, that we fully investigate the nature, and the extent of the powers intended to be granted by this constitution to the rulers.

In my last number<sup>2</sup> I called your attention to this subject, and proved, as I think, uncontrovertibly, that the powers given the legislature under the 8th section of the 1st article, had no other limitation than the discretion of the Congress. It was shewn, that even if the most favorable construction was given to this paragraph, that the advocates for the new constitution could wish, it will convey a power to lay and collect taxes, imposts, duties, and excises, according to the discretion of the legislature, and to make all laws which they shall judge proper and necessary to carry this power into execution. This I shewed would totally destroy all the power of the state governments. To confirm this, it is worth while to trace the operation of the government in some particular instances.

The general government is to be vested with authority to levy and collect taxes, duties, and excises; the separate states have also power to impose taxes, duties, and excises, except that they cannot lay duties on exports and imports without the consent of Congress. Here then the two governments have concurrent jurisdiction; both may lay impositions of this kind. But then the general government have superadded to this power, authority to make all laws which shall be necessary and proper for carrying the foregoing power into execution. Suppose then that both governments should lay taxes, duties, and excises, and it should fall so heavy on the people that they would be unable, or be so burdensome that they would refuse to pay them both—would it not be necessary that the general legislature should suspend the collection of the state tax? It certainly would. For, if the people could not, or would not pay both, they must be discharged from the tax to the state, or the tax to the general government could not be collected.—The conclusion therefore is inevitable, that the respective state governments will not have the power to raise one shilling in any

way, but by the permission of the Congress. I presume no one will pretend, that the states can exercise legislative authority, or administer justice among their citizens for any length of time, without being able to raise a sufficiency to pay those who administer their governments.

If this be true, and if the states can raise money only by permission of the general government, it follows that the state governments will be dependent on the will of the general government for their existence.

What will render this power in Congress effectual and sure in its operation is, that the government will have complete judicial and executive authority to carry all their laws into effect, which will be paramount to the judicial and executive authority of the individual states: in vain therefore will be all interference of the legislatures, courts, or magistrates of any of the states on the subject; for they will be subordinate to the general government, and engaged by oath to support it, and will be constitutionally bound to submit to their decisions.

The general legislature will be empowered to lay any tax they chuse, to annex any penalties they please to the breach of their revenue laws; and to appoint as many officers as they may think proper to collect the taxes. They will have authority to farm the revenues and to vest the farmer general, with his subalterns, with plenary powers to collect them, in any way which to them may appear eligible. And the courts of law, which they will be authorized to institute, will have cognizance of every case arising under the revenue laws, the conduct of all the officers employed in collecting them; and the officers of these courts will execute their judgments. There is no way, therefore, of avoiding the destruction of the state governments, whenever the Congress please to do it, unless the people rise up, and, with a strong hand, resist and prevent the execution of constitutional laws. The fear of this, will, it is presumed, restrain the general government, for some time, within proper bounds; but it will not be many years before they will have a revenue, and force, at their command, which will place them above any apprehensions on that score.

How far the power to lay and collect duties and excises, may operate to dissolve the state governments, and oppress the people, it is impossible to say. It would assist us much in forming a just opinion on this head, to consider the various objects to which this kind of taxes extend, in European nations, and the infinity of laws they have passed respecting them. Perhaps, if liesure will permit, this may be essayed in some future paper.

It was observed in my last number,<sup>3</sup> that the power to lay and collect duties and excises, would invest the Congress with authority to impose a duty and excise on every necessary and convenience of life. As the principal object of the government, in laying a duty or excise, will be, to

raise money, it is obvious, that they will fix on such articles as are of the most general use and consumption; because, unless great quantities of the article, on which the duty is laid, is used, the revenue cannot be considerable. We may therefore presume, that the articles which will be the object of this species of taxes will be either the real necessities of life; or if not these, such as from custom and habit are esteemed so. I will single out a few of the productions of our own country, which may, and probably will, be of the number.

Cider is an article that most probably will be one of those on which an excise will be laid, because it is one, which this country produces in great abundance, which is in very general use, is consumed in great quantities, and which may be said too not to be a real necessary of life. An excise on this would raise a large sum of money in the United States. How would the power, to lay and collect an excise on cider, and to pass all laws proper and necessary to carry it into execution, operate in its exercise? It might be necessary, in order to collect the excise on cider, to grant to one man, in each county, an exclusive right of building and keeping cider-mills, and oblige him to give bonds and security for payment of the excise; or, if this was not done, it might be necessary to license the mills, which are to make this liquor, and to take from them security, to account for the excise; or, if otherwise, a great number of officers must be employed, to take account of the cider made, and to collect the duties on it.

Porter, ale, and all kinds of malt-liquors, are articles that would probably be subject also to an excise. It would be necessary, in order to collect such an excise, to regulate the manufactory of these, that the quantity made might be ascertained, or otherwise security could not be had for the payment of the excise. Every brewery must then be licensed, and officers appointed, to take account of its product, and to secure the payment of the duty, or excise, before it is sold. Many other articles might be named, which would be objects of this species of taxation, but I refrain from enumerating them. It will probably be said, by those who advocate this system, that the observations already made on this head, are calculated only to inflame the minds of the people, with the apprehension of dangers merely imaginary. That there is not the least reason to apprehend, the general legislature will exercise their power in this manner. To this I would only say, that these kinds of taxes exist in Great Britain, and are severely felt. The excise on cider and perry, was imposed in that nation a few years ago, and it is in the memory of every one, who read the history of the transaction, what great tumults it occasioned.<sup>4</sup>

This power, exercised without limitation, will introduce itself into every corner of the city, and country—It will wait upon the ladies at their toilet, and will not leave them in any of their domestic concerns;



it will accompany them to the ball, the play, and the assembly; it will go with them when they visit, and will, on all occasions, sit beside them in their carriages, nor will it desert them even at church; it will enter the house of every gentleman, watch over his cellar, wait upon his cook in the kitchen, follow the servants into the parlour, preside over the table, and note down all he eats or drinks; it will attend him to his bed-chamber, and watch him while he sleeps; it will take cognizance of the professional man in his office, or his study; it will watch the merchant in the counting-house, or in his store; it will follow the mechanic to his shop, and in his work, and will haunt him in his family, and in his bed; it will be a constant companion of the industrious farmer in all his labour, it will be with him in the house, and in the field, observe the toil of his hands, and the sweat of his brow; it will penetrate into the most obscure cottage; and finally, it will light upon the head of every person in the United States. To all these different classes of people, and in all these circumstances, in which it will attend them, the language in which it will address them, will be GIVE! GIVE!

A power that has such latitude, which reaches every person in the community in every conceivable circumstance, and lays hold of every species of property they possess, and which has no bounds set to it, but the discretion of those who exercise it. I say, such a power must necessarily, from its very nature, swallow up all the power of the state governments.

I shall add but one other observation on this head, which is this—It appears to me a solecism, for two men, or bodies of men, to have unlimited power respecting the same object. It contradicts the scripture maxim, which saith, “no man can serve two masters,”<sup>5</sup> the one power or the other must prevail, or else they will destroy each other, and neither of them effect their purpose. It may be compared to two mechanic powers, acting upon the same body in opposite directions, the consequence would be, if the powers were equal, the body would remain in a state of rest, or if the force of the one was superior to that of the other, the stronger would prevail, and overcome the resistance of the weaker.

But it is said, by some of the advocates of this system, “That the idea that Congress can levy taxes at pleasure, is false, and the suggestion wholly unsupported: that the preamble to the constitution is declaratory of the purposes of the union, and the assumption of any power not necessary to establish justice, &c. to provide for the common defence, &c. will be unconstitutional. Besides, in the very clause which gives the power of levying duties and taxes, the purposes to which the money shall be appropriated, are specified, viz. to pay the debts, and provide for the common defence and general welfare.”<sup>(a)</sup> I would ask those, who reason thus, to define what ideas are included under the

terms, to provide for the common defence and general welfare? Are these terms definite, and will they be understood in the same manner, and to apply to the same cases by every one? No one will pretend they will. It will then be matter of opinion, what tends to the general welfare; and the Congress will be the only judges in the matter. To provide for the general welfare, is an abstract proposition, which mankind differ in the explanation of, as much as they do on any political or moral proposition that can be proposed; the most opposite measures may be pursued by different parties, and both may profess, that they have in view the general welfare; and both sides may be honest in their professions, or both may have sinister views. Those who advocate this new constitution declare, they are influenced by a regard to the general welfare; those who oppose it, declare they are moved by the same principles; and I have no doubt but a number on both sides are honest in their professions; and yet nothing is more certain than this, that to adopt this constitution, and not to adopt it, cannot both of them be promotive of the general welfare.

It is as absurd to say, that the power of Congress is limited by these general expressions, "to provide for the common safety, and general welfare," as it would be to say, that it would be limited, had the constitution said they should have power to lay taxes, &c. at will and pleasure. Were this authority given, it might be said, that under it the legislature could not do injustice, or pursue any measures, but such as were calculated to promote the public good, and happiness. For every man, rulers as well as others, are bound by the immutable laws of God and reason, always to will what is right. It is certainly right and fit, that the governors of every people should provide for the common defence and general welfare; every government, therefore, in the world, even the greatest despot, is limited in the exercise of his power. But however just this reasoning may be, it would be found, in practice, a most pitiful restriction. The government would always say, their measures were designed and calculated to promote the public good; and there being no judge between them and the people, the rulers themselves must, and would always, judge for themselves.

There are others of the favourers of this system, who admit, that the power of the Congress under it, with respect to revenue, will exist without limitation, and contend, that so it ought to be.

It is said, "The power to raise armies, to build and equip fleets, and to provide for their support, ought to exist without limitation, because it is impossible to foresee, or to define, the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them."

This, it is said, "is one of those truths which, to correct and unprejudiced minds, carries its own evidence along with it. It rests

upon axioms as simple as they are universal: the means ought to be proportioned to the end; the person, from whose agency the attainment of any end is expected, ought to possess the means by which it is to be attained."<sup>(b)</sup>

This same writer insinuates, that the opponents to the plan promulgated by the convention, manifests a want of candor, in objecting to the extent of the powers proposed to be vested in this government; because he asserts, with an air of confidence, that the powers ought to be unlimited as to the object to which they extend; and that this position, if not self-evident, is at least clearly demonstrated by the foregoing mode of reasoning. But with submission to this author's better judgment, I humbly conceive his reasoning will appear, upon examination, more specious than solid. The means, says the gentleman, ought to be proportioned to the end: admit the proposition to be true it is then necessary to enquire, what is the end of the government of the United States, in order to draw any just conclusions from it. Is this end simply to preserve the general government, and to provide for the common defence and general welfare of the union only? certainly not: for beside this, the state governments are to be supported, and provision made for the managing such of their internal concerns as are allotted to them. It is admitted, "that the circumstances of our country are such, as to demand a compound, instead of a simple, a confederate, instead of a sole government," that the objects of each ought to be pointed out, and that each ought to possess ample authority to execute the powers committed to them. The government then, being complex in its nature, the end it has in view is so also; and it is as necessary, that the state governments should possess the means to attain the ends expected from them, as for the general government. Neither the general government, nor the state governments, ought to be vested with all the powers proper to be exercised for promoting the ends of government. The powers are divided between them—certain ends are to be attained by the one, and other certain ends by the other; and these, taken together, include all the ends of good government. This being the case, the conclusion follows, that each should be furnished with the means, to attain the ends, to which they are designed.

To apply this reasoning to the case of revenue; the general government is charged with the care of providing for the payment of the debts of the United States; supporting the general government, and providing for the defence of the union. To obtain these ends, they should be furnished with means. But does it thence follow, that they should command all the revenues of the United States! Most certainly it does not. For if so, it will follow, that no means will be left to attain other ends, as necessary to the happiness of the country, as those committed to their care. The individual states have debts to discharge;

their legislatures and executives are to be supported, and provision is to be made for the administration of justice in the respective states. For these objects the general government has no authority to provide; nor is it proper it should. It is clear then, that the states should have the command of such revenues, as to answer the ends they have to obtain. To say, "that the circumstances that endanger the safety of nations are infinite," and from hence to infer, that all the sources of revenue in the states should be yielded to the general government, is not conclusive reasoning: for the Congress are authorized only to controul in general concerns, and not regulate local and internal ones; and these are as essentially requisite to be provided for as those. The peace and happiness of a community is as intimately connected with the prudent direction of their domestic affairs, and the due administration of justice among themselves, as with a competent provision for their defence against foreign invaders, and indeed more so.

Upon the whole, I conceive, that there cannot be a clearer position than this, that the state governments ought to have an uncontrollable power to raise a revenue, adequate to the exigencies of their governments; and, I presume, no such power is left them by this constitution.

- (a) Vide an examination into the leading principles of the federal constitution, printed in Philadelphia, Page 34.<sup>6</sup>
- (b) Vide the Federalist, No. 23.<sup>7</sup>

1. On 26 December the *New York Journal* announced that "Brutus" VI would be published "To-Morrow." Unlike the first five numbers, "Brutus" VI-IX and XI-XVI are not addressed to the citizens or people of the state of New York. "Brutus" VI was not reprinted. For the authorship, circulation, and impact of "Brutus," see CC:178.

2. See "Brutus" V, *New York Journal*, 13 December (CC:343).

3. *Ibid.*

4. A reference to the excise tax on cider adopted in 1763 by Parliament, upon the recommendation of Lord Bute's administration. This unpopular tax touched off several riots. Eight days after the act levying the tax had received the royal assent, Lord Bute resigned as first lord of the treasury.

5. Matthew 6:24.

6. "A Citizen of America" (Noah Webster), 17 October (CC:173; Mfm:Pa. 142).

7. See CC:352.

### 385. Edmund Randolph and the Constitution

Early in the Constitutional Convention Governor Edmund Randolph of Virginia presented and supported the Virginia Resolutions calling for the creation of a powerful central government. During the succeeding debates he continued to advocate such a government, although he objected to certain provisions of the draft Constitution that did not adequately protect the interests of Virginia or provide sufficient safeguards for the rights and liberties of the people. He told the Convention on 29 August "that there were features so odious in the Constitution as it now stands, that he doubted he should be able to agree to it." Two days later he advocated the idea that the

state conventions be allowed to recommend amendments to a second constitutional convention. On 10 September he offered detailed objections to the Constitution, which he said would result in tyranny if not altered, and he moved for amendments and a second convention. The motion was postponed. On 15 September—three days after the Committee of Style had reported the revised Constitution—Randolph reintroduced his motion and announced that if it were not adopted, it would “be impossible for him to put his name to the instrument.” The motion was defeated unanimously and Randolph refused to sign the Constitution on 17 September. “He said however that he did not mean by this refusal to decide that he should oppose the Constitution without doors. He meant only to keep himself free to be governed by his duty as it should be prescribed by his future judgment.” On the same day he wrote Richard Henry Lee explaining that he had not signed the Constitution because, unless it was amended, it would end in a monarchy or an aristocracy (CDR, 243–45; Farrand, II, 452–53, 479, 560–61, 563–64, 564, 631–33, 634, 644–45; CC:75; and Lee to Randolph, 16 October, CC:325).

Randolph sent the Constitution to Lieutenant Governor Beverley Randolph on 18 September, and explained that “Altho’ the names of Colo. Mason and myself are not subscribed, it is not, therefore, to be concluded that we are opposed to its adoption. Our reasons for not subscribing will be better explained at large, and on a personal interview, than by letter” (Farrand, III, 83).

On 30 September Randolph, who had arrived home the previous day, outlined the steps that Virginia should take concerning the ratification of the Constitution. He told James Madison that he had written to George Mason, “suggesting to him this expedient: to urge the calling of a convention as the first act of the assembly; if they shd. wish amendments, let them be stated and forwarded to the states: before the meeting of the convention an answer may be obtained: if the proposed amendments be rejected, let the constitution immediately operate: if approved, by nine states, let the assent of our convention be given under the exception of the points amended. This will, I believe, blunt the opposition, which will be formidable, if they must take altogether or reject” (Rutland, *Madison*, X, 182. Randolph’s letter to Mason has not been located.).

Soon after, Randolph began drafting a letter to the Virginia legislature, explaining why he had not signed the Constitution. When the legislature convened on 15 October, Randolph sent a copy of the Constitution to it with the terse statement that “The Constitution proposed by the late federal Convention has been transmitted to me officially from Congress. I beg leave therefore now to inclose it” (Executive Communications, Virginia State Library). On 23 October Randolph was reelected governor. Two days later the House of Delegates adopted resolutions calling a state convention and on 31 October the Senate concurred.

In late October, Randolph explained to James Madison why he had not addressed the legislature fully on the Constitution: “I have thought proper to postpone any explanation of myself, except in private, until Every thing is determined, which may relate to the Constitution. I have prepared a letter, and shall send you a copy in a few days” (23 [c. 29] October, Rutland, *Madison*, X, 230).

Throughout October, Virginians speculated about Randolph’s position on the Constitution and the effect it would have in their state. St. George Tucker said that “The Governor wishes it [the Constitution] emended in some respects, but thinks it in it’s present state the less of two Evils” (to Frances Tucker, 3 October, Tucker-Coleman Papers, Swem Library, College of William and Mary). George Washington heard that “it is conjectured that the

Governor wishes he had been among the subscribing members" (to James Madison, 10 October, CC:146). Washington thought that Mason's and Randolph's failure to sign the Constitution would have "a bad effect" in Virginia and that it was "highly probable" that Randolph and Mason would present their reasons for refusing to sign "in terrific array, with a view to alarm the people" (to Henry Knox, 15 October, CC:160). A member of the House of Delegates said that "the Governor does not appear, but feels his character interested in its [the Constitution's] destruction, his friends & connexions are therefore generally against it" (John Peirce to Henry Knox, 21 October, Knox Papers, MHi). Edward Carrington and James Madison believed that Randolph would not be openly hostile or inveterate in his opposition, but that his opposition and Mason's would make ratification more difficult (Carrington to Thomas Jefferson, 23 October; and Madison to Jefferson and to William Short, 24 October, CC:185, 187, 188). And Archibald Stuart said "The Govr. on his return here was coolly received, upon which it is said he discovd much anxiety, since the Opposition to the Constitution has been heard of from Dift parts of the State he speaks with more confidence against what he calls the Objectionable parts" (to James Madison, 2 November, Rutland, *Madison*, X, 234–35).

Four members of the House of Delegates wrote Randolph on 2 December, having heard his reasons for opposing the Constitution no longer existed. They asked him to favor them with his earlier objections (already known to them) so that they could have them published. Eight days later Randolph sent them a copy of a letter to the state House of Delegates dated 10 October.

On 11 and 12 December the House and Senate, completing their actions on the state Convention, respectively passed an act providing for the payment of Convention delegates. Randolph forwarded this act to the other states on 27 December. On the same day he also sent Washington and Madison each a sixteen-page pamphlet containing (1) a preface by the four legislators who had sought permission to publish Randolph's objections; (2) their request of 2 December; (3) Randolph's reply of 10 December; and (4) Randolph's letter of 10 October (Evans 20669).

No copy of the title page of the pamphlet has been found and the identity of the printer is unknown. John Dixon of the Richmond *Virginia Gazette and Independent Chronicle* and Augustine Davis of the Richmond *Virginia Independent Chronicle* appear to be the two most likely printers.

Augustine Davis reprinted the pamphlet without the preface in the *Virginia Independent Chronicle* on 2 January 1788. The entire pamphlet was reprinted in two installments on 3 and 10 January in the Richmond *Virginia Gazette and Weekly Advertiser*—the only newspaper to reprint each item. Randolph's 10 October letter was also reprinted in the January issue of the *Philadelphia American Museum* and in sixteen newspapers outside Virginia by 31 March: Mass. (3), R.I. (2), Conn. (2), N.Y. (5), Pa. (3), Md. (1). The *Museum* and five of these newspapers also republished the other two letters. On 10 January the *Pennsylvania Mercury* printed a summary of Randolph's 10 October letter, and on the 12th this summary appeared in the *Pennsylvania Journal*. Lastly, Randolph's letter was reprinted in a New York Antifederalist anthology distributed in that state in April (CC:666, Evans 21344). This anthology edition, however, omitted the second from the last paragraph of the letter, in which Randolph declared his devotion to the Union and his willingness, "as an individual citizen," to accept the Constitution even without amendments. "A Federalist" noted the omission of what he described as "the most interesting paragraph in the whole letter" and lamented that it was "wantonly suppressed to the great injustice of that liberal patriot, and with the most daring affrontery to the public" (Poughkeepsie *Country Journal*, 22 April).

In private letters, Federalists throughout the United States reacted favorably to Randolph's letter. George Lee Turberville reported from Virginia that "The Letter of the Governor, has been of great service in promoting the adoption of it [the Constitution]—he convinced its Enemies of the necessity of a change, & has pointed out not a single objection to the new plan in which they will coincide with him" (to James Madison, 8 January 1788, Rutland, *Madison*, X, 353). Edward Carrington, another Virginian, agreed that Randolph's letter "will be of service, and will doubtless do the writer much honor" (to Henry Knox, 12 January, Knox Papers, MHi. For other Virginia commentaries, see Tobias Lear to John Langdon, 25 January, Langdon/Elwyn Papers, NhHi; and Olney Winsor to [---], 25 January, Winsor Papers, Virginia State Library.). Samuel Hodgdon of Philadelphia sent the letter to Timothy Pickering and declared that it disclosed "in the most full, candid, and masterly Manner his objections" to the Constitution (to Timothy Pickering, 12 January, Pickering Papers, MHi). Walter Rutherford of New York forwarded the letter to his son, indicating that he believed Randolph's remarks "will do much more good than harm" (to John Rutherford, 8, 15 January, Rutherford Collection, NHi). James Madison said that in New York City it was understood that Randolph's arguments in favor of the Constitution "are much stronger than the objections which prevented his assent. His arguments are forceable in all places, and with all persons. His objections are connected with his particular way of thinking on the subject, in which many of the Adversaries to the Constitution do not concur" (to George Washington, 25 January, Rutland, *Madison*, X, 419).

Federalists also praised Randolph publicly. The Reverend Samuel Stillman of Boston, just before he voted in favor of ratification in the Massachusetts Convention, quoted Randolph's letter and praised its conciliatory tone and Randolph's willingness to accept the Constitution without amendments (*Massachusetts Centinel*, 8 March). Other Federalists were also pleased with the conciliatory nature of the letter. Some Federalist newspaper writers lauded Randolph as a "respectable" critic of the Constitution who, unlike other Antifederalists, respected the Constitutional Convention and its members and deferred to the people on the issue of amendments. Federalists did not consider his objections substantial. See *Pennsylvania Gazette*, 9 January 1788; *Pennsylvania Packet*, 14 January (CC:448); "Conciliator," *Philadelphia Independent Gazetteer*, 15 January (Mfm:Pa. 331); "Americanus" VII (John Stevens, Jr.), *New York Daily Advertiser*, 21 January; "A Citizen," *Hudson Weekly Gazette*, 24 January; "A Marylander" (Otho Holland Williams), *Baltimore Maryland Gazette*, 12 February; and "One of Your Constant Readers," *Pennsylvania Mercury*, 21 February (Mfm:Pa. 446).

"Philanthropos" (Tench Coxe) argued that the differences among Randolph, the other non-signers of the Constitution (George Mason and Elbridge Gerry), and the "Dissent of the Minority of the Pennsylvania Convention" (CC:353) proved the futility of the suggestions for another convention (CC:454). "A Native of Virginia" in his pamphlet, *Observations upon the Proposed Plan of Federal Government* . . . , concluded that "Mr. Randolph has said much to point out the necessity of an energetic federal government; but nothing to prove that his proposed amendments are founded in reason" (CC:659, Evans 21264).

Antifederalists said little about Randolph's letter. New York Antifederalists omitted the embarrassing second from the last paragraph from *Observations on the Proposed Constitution* . . . "Sommers" quoted the letter to justify the right to propose amendments (*Pittsburgh Gazette*, 15 March, Mfm:Pa. 532).

On 13 February the *Virginia Independent Chronicle* published "A Plain Dealer," who saw the letter as Randolph's attempt "to catch the spirit of all his countrymen, and to reconcile himself to all parties." He attacked Randolph's willingness to accept the Constitution without amendments even though Randolph had told Richard Henry Lee (CC:325) that the Constitution would end in a monarchy or an aristocracy if not amended. "A Plain Dealer" also argued that Randolph should have made his objections when the legislature considered the Constitution and should not have hesitated because of his pending reelection as governor.

Randolph speculated that "A Plain Dealer" was Spencer Roane (1762–1822), an Essex County lawyer and political ally and son-in-law of Patrick Henry. Randolph charged that "the importunities of some to me in public and private are designed to throw me unequivocally and without condition into the opposition." He believed that there was a danger he would not be elected to the state Convention from Henrico County because his politics had not been "sufficiently strenuous against the constn" (to James Madison, 29 February, CC:579), but on 3 March Randolph and John Marshall, a Federalist, were elected to represent Henrico County. Several weeks later Randolph expressed his fear that those who favored amendments to the Constitution might have ulterior motives that endangered "public safety." Even at this late date, Randolph remained uncertain as to his position on ratification stating that "my final determination will not be taken, until I hear something from Maryland at least" (to Madison, 17 April, CC:688).

Randolph quickly declared himself in favor of the Constitution in the Virginia Convention in June 1788. He spoke often and voted for ratification without prior amendments. Patrick Henry, the leader of the Antifederalist opposition, pointed to what he considered the inconsistency between Randolph's letter and his position in the state Convention, and Randolph defended himself at length.

Randolph's active support of the Constitution in the state Convention embittered some Antifederalists. One observer noted that "you cannot conceive how the Anti party, reprobate, curse, & abuse, this Man" (James Duncanson to James Maury, 7–13 June, Maury Papers, ViU). James Monroe, who voted against ratification, stated "*The Governor exhibited a curious spectacle to view: having refused to sign the paper every body supposed him against it. But he afterwards had written a letter and having taken a part which might be called rather vehement than active he was constantly labouring to shew that his present conduct [was] consistent with that letter and the letter with his refusal to sign*" (to Thomas Jefferson, 12 July, Boyd, XIII, 352. The text in italics was in code.).

TO THE PRINTER.

*SIR, The inclosed letter contains the reasons of his Excellency Governor Randolph for refusing his signature to the proposed Fæderal Constitution of Government submitted to the several states by the late Convention at Philadelphia. The manner in which we have obtained it, and the authority by which we convey it to the Public, through the channel of your Press, will be explained by the letter herewith sent to you, which, we request may precede his Excellency's letter to the Speaker of the House of Delegates in your publication of them.*

M. SMITH,  
CHARLES M. THRUSTON.

JOHN H. BRIGGS.  
MANN PAGE, jun.<sup>1</sup>



To his Excellency EDMUND RANDOLPH, Esquire.

SIR,

December 2, 1787.

*It has been reported in various parts of the state, that the reasons which governed you in your disapprobation of the proposed Fæderal Constitution, no longer exist; and many of the people of this Commonwealth have wished to know what objections could induce you to refuse your signature to a measure so flattering to many principal characters in America, and which is so generally supposed to contain the seeds of prosperity and happiness to the United States.*

*We are satisfied, sir, that the time is passed, when you might with propriety have been requested to communicate your sentiments to the General Assembly on this subject; but, as you have been pleased to favor us with your observations in private, and we conceive they would not only afford satisfaction to the public, but also be useful by the information and instruction they will convey, we hope, you can have no objection to enable us to make them public through the medium of the Press. We have the honor to be, with respectful esteem, Sir, your most obedient servants,*

M. SMITH,

CHARLES M. THRUSTON,

JOHN H. BRIGGS.

MANN PAGE, jun.

To M. Smith, Charles M. Thruston, John H. Briggs, and Mann Page, jun. Esquires.

GENTLEMEN,

December 10, 1787.

*Your favor of the second instant, requesting permission to publish my letter on the new Constitution, gives me an opportunity of making known my sentiments, which, perhaps I ought not to decline. It has been written ever since its date, and was intended for the General Assembly. But I have hitherto been restrained from sending it to them, by motives of delicacy arising from two questions depending before that body, the one respecting the Constitution, the other myself. At this day too I feel an unwillingness to bring it before the Legislature, lest in the diversity of opinion, I should excite a contest unfavorable to that harmony with which I trust the great subject will be discussed. I therefore submit the publication of the letter to your pleasure.*

*I beg leave however, to remind you, that I have only mentioned my objections to the Constitution in general terms, thinking it improper, and too voluminous, to explain them at full length. But it is my purpose to go at large into the Constitution when a fit occasion shall present itself.*

*I am, Gentlemen, with the greatest respect, your most obedient servant,*

EDMUND RANDOLPH

A LETTER OF HIS EXCELLENCY EDMUND RANDOLPH, ESQUIRE,  
ON THE FEDERAL CONSTITUTION.

SIR,

RICHMOND, OCTOBER 10, 1787.

The Constitution, which I inclosed to the General Assembly in a late official letter, appears without my signature. This circumstance, although trivial in its own nature, has been rendered rather important to myself at least, by being misunderstood by some, and misrepresented by others—As I disdain to conceal the reasons for with-holding my subscription, I have always been, still am, and ever shall be, ready to proclaim them to the world. To the legislature therefore, by whom I was deputed to the Fœderal Convention, I beg leave now to address them; affecting no indifference to public opinion, but resolved not to court it by an unmanly sacrifice of my own judgment.

As this explanation will involve a summary, but general review of our fœderal situation, you will pardon me, I trust, although I should transgress the usual bounds of a letter.

Before my departure for the Convention, I believed, that the confederation was not so eminently defective, as it had been supposed.<sup>2</sup> But after I had entered into a free communication with those, who were best informed of the condition and interest of each state; after I had compared the intelligence derived from them, with the properties which ought to characterize the government of our union, I became persuaded, that the confederation was destitute of every energy, which a constitution of the United States ought to possess.

For the objects proposed by its institution were, that it should be a shield against foreign hostility, and a firm resort against domestic commotion: that it should cherish trade, and promote the prosperity of the states under its care.

But these are not among the attributes of our present union. Severe experience under the pressure of war—a ruinous weakness, manifested since the return of peace—and the contemplation of those dangers, which darken the future prospect, have condemned the hope of grandeur and of safety under the auspices of the confederation.

In the exigencies of war indeed the history of its effects is short; the final ratification having been delayed until the beginning of the year 1781. But howsoever short, this period is distinguished by melancholy testimonies, of its inability to maintain in harmony the social intercourse of the states, to defend Congress against incroachments on their rights, and to obtain by requisitions supplies to the fœderal treasury or recruits to the fœderal armies. I shall not attempt an enumeration of the particular instances; but leave to your own remembrance and the records of Congress, the support of these assertions.

In the season of peace too not many years have elapsed; and yet each of them has produced fatal examples of delinquency, and sometimes of pointed opposition to fœderal duties. To the various remonstrances of Congress I appeal for a gloomy, but unexaggerated narrative of the injuries, which our faith, honor and happiness have sustained by the failures of the states.

But these evils are past; and some may be lead by an honest zeal to conclude, that they cannot be repeated. Yes, sir; they will be repeated as long as the confederation exists, and will bring with them other mischiefs, springing from the same source, which cannot be yet foreseen in their full array of terror.

If we examine the constitutions, and laws of the several states, it is immediately discovered, that the law of nations is unprovided with sanctions in many cases, which deeply affect public dignity and public justice. The letter, however of the confederation does not permit Congress to remedy these defects, and such an authority, although evidently deducible from its spirit, cannot, without a violation of the second article,<sup>3</sup> be assumed. Is it not a political phænomenon, that the head of the confederacy should be doomed to be plunged into war, from its wretched impotency to check offences against this law? And sentenced to witness in unavailing anguish the infraction of their engagements to foreign sovereigns?

And yet this is not the only grievous point of weakness. After a war shall be inevitable, the requisitions of Congress for quotas of men or money, will again prove unproductive and fallacious. Two causes will always conspire to this baneful consequence.

1. No government can be stable, which hangs on human inclination alone, unbiassed by the fear of coercion; and 2. from the very connection between states bound to proportionate contributions,—jealousies and suspicions naturally arise, which at least chill the ardor, if they do not excite the murmurs of the whole. I do not forget indeed, that by one sudden impulse our part of the American continent has been thrown into a military posture, and that in the earlier annals of the war, our armies marched to the field on the mere recommendations of Congress. But ought we to argue from a contest, thus signalized by the magnitude of its stake, that as often as a flame shall be hereafter kindled, the same enthusiasm will fill our legions? or renew them, as they may be thinned by losses?

If not, where shall we find protection? Impressions, like those, which prevent a compliance with requisitions of regular forces, will deprive the American republic of the services of militia. But let us suppose, that they are attainable, and acknowledge, as I always shall, that they are the natural support of a free government. When it is remembered, that in their absence agriculture must languish; that they are not habituated to

military exposures and the rigor of military discipline, and that the necessity of holding in readiness successive detachments, carries the expence far beyond that of inlistments—this resource ought to be adopted with caution.

As strongly too am I persuaded, that requisitions for money will not be more cordially received. For besides the distrust, which would prevail with respect to them also; besides the opinion, entertained by each state of its own liberality and unsatisfied demands against the United States, there is another consideration, not less worthy of attention. The first rule for determining each quota was the value of all land granted or surveyed, and of the buildings and improvements thereon.<sup>4</sup> It is no longer doubted, that an equitable, uniform mode of estimating that value, is impracticable; and therefore twelve states have substituted the number of inhabitants under certain limitations, as the standard according to which money is to be furnished.<sup>5</sup> But under the subsisting articles of the union, the assent of the thirteenth state is necessary, and has not yet been given. This does of itself lessen the hope of procuring a revenue for fœderal uses; and the miscarriage of the impost almost rivets our despondency.<sup>6</sup>

Amidst these disappointments, it would afford some consolation, if when rebellion shall threaten any state, an ultimate asylum could be found under the wing of Congress. But it is at least equivocal, whether they can intrude forces into a state, rent asunder by civil discord, even with the purest solicitude for our fœderal welfare, and on the most urgent intreaties of the state itself. Nay the very allowance of this power would be pageantry alone, from the want of money and of men.

To these defects of Congressional power, the history of man has subjoined others, not less alarming. I earnestly pray, that the recollection of common sufferings, which terminated in common glory, may check the sallies of violence, and perpetuate mutual friendship between the states. But I cannot presume, that we are superior to those unsocial passions, which under like circumstances have infested more ancient nations. I cannot presume, that through all time, in the daily mixture of American citizens with each other, in the conflicts for commercial advantages, in the discontents, which the neighborhood of territory has been seen to engender in other quarters of the globe, and in the efforts of faction and intrigue—thirteen distinct communities under no effective superintending controul (as the United States confessedly now are notwithstanding the bold terms of the confederation) will avoid a hatred to each other deep and deadly.

In the prosecution of this inquiry we shall find the general prosperity to decline under a system thus unnerved. No sooner is the merchant prepared for foreign ports with the treasures, which this new world kindly offers to his acceptance, than it is announced to him, that

they are shut against American shipping, or opened under oppressive regulations. He urges Congress to a counter-policy, and is answered only by a condolence on the general misfortune. He is immediately struck with the conviction, that until exclusion shall be opposed to exclusion and restriction to restriction, the American flag will be disgraced. For who can conceive, that thirteen legislatures, viewing commerce under different relations, and fancying themselves, discharged from every obligation to concede the smallest of their commercial advantages for the benefit of the whole, will be wrought into a concert of action in defiance of every prejudice? Nor is this all:—Let the great improvements be recounted, which have enriched and illustrated Europe: Let it be noted, how few those are, which will be absolutely denied to the United States, comprehending within their boundaries the choicest blessings of climate, soil and navigable waters; then let the most sanguine patriot banish, if he can, the mortifying belief, that all these must sleep, until they shall be roused by the vigour of a national government.

I have not exemplified the preceding remarks by minute details; because they are evidently fortified by truth, and the consciousness of United America. I shall therefore no longer deplore the unfitness of the confederation to secure our peace; but proceed, with a truly unaffected distrust of my own opinions, to examine what order of powers the government of the United States ought to enjoy? how they ought to be defended against incroachment? whether they can be interwoven in the confederation without an alteration of its very essence? or must be lodged in new hands? shewing at the same time the convulsions, which seem to await us from a dissolution of the union or partial confederacies.

To mark the kind and degree of authority, which ought to be confided to the government of the United States is no more than to reverse the description, which I have already given, of the defects of the confederation.

From thence it will follow, that the operations of peace and war will be clogged without regular advances of money, and that these will be slow indeed, if dependent on supplication alone. For what better name do requisitions deserve, which may be evaded or opposed, without the fear of coercion? But although coercion is an indispensable ingredient, it ought not to be directed against a state, as a state; it being impossible to attempt it except by blockading the trade of the delinquent, or carrying war into its bowels. Even if these violent schemes were eligible, in other respects both of them might perhaps be defeated by the scantiness of the public chest; would be tardy in their complete effect, as the expence of the land and naval equipments must be first reimbursed; and might drive the proscribed state into the desperate resolve of inviting foreign alliances. Against each of them lie separate

unconquerable objections. A blockade is not equally applicable to all the states, they being differently circumstanced in commerce and in ports; nay an excommunication from the privileges of the union would be vain, because every regulation or prohibition may be easily eluded under the rights of American citizenship, or of foreign nations. But how shall we speak of the intrusion of troops? shall we arm citizens against citizens, and habituate them to shed kindred blood? shall we risque the inflicting of wounds, which will generate a rancour never to be subdued? would there be no room to fear, that an army accustomed to fight, for the establishment of authority, would salute an emperor of their own? Let us not bring these things into jeopardy. Let us rather substitute the same process, by which individuals are compelled to contribute to the government of their own states. Instead of making requisitions to the legislatures, it would appear more proper, that taxes should be imposed by the fœderal head, under due modifications and guards: that the collectors should demand from the citizens their respective quotas, and be supported as in the collection of ordinary taxes.

It follows too, that, as the general government will be responsible to foreign nations, it ought to be able to annul any offensive measure, or enforce any public right. Perhaps among the topics on which they may be aggrieved or complain, the commercial intercourse, and the manner, in which contracts are discharged, may constitute the principal articles of clamour.

It follows too, that the general government ought to be the supreme arbiter for adjusting every contention among the states. In all their connections therefore with each other, and particularly in commerce, which will probably create the greatest discord, it ought to hold the reins.

It follows too, that the general government ought to protect each state against domestic as well as external violence.

And lastly it follows, that through the general government alone can we ever assume the rank, to which we are entitled by our resources and situation.

Should the people of America surrender these powers, they can be paramount to the constitutions, and ordinary acts of legislation, only by being delegated by them. I do not pretend to affirm, but I venture to believe, that if the confederation had been solemnly questioned in opposition to our constitution or even to one of our laws, posterior to it, it must have given way. For never did it obtain with us a higher ratification, than a resolution of Assembly in the daily form.<sup>7</sup>

This will be one security against incroachment. But another not less effectual is, to exclude the individual states from any agency in the national government, as far as it may be safe, and their interposition may not be absolutely necessary.

But now, sir, permit me to declare, that in my humble judgment the powers by which alone the blessings of a general government can be accomplished, cannot be interwoven in the confederation without a change of its very essence; or in other words, that the confederation must be thrown aside. This is almost demonstrable from the inefficacy of requisitions and from the necessity of converting them into acts of authority. My suffrage, as a citizen, is also for additional powers. But to whom shall we commit these acts of authority, these additional powers? To Congress?—When I formerly lamented the defects in the jurisdiction of Congress, I had no view to indicate any other opinion, than that the foederal head ought not to be so circumscribed. For free as I am at all times to profess my reverence for that body, and the individuals, who compose it, I am yet equally free to make known my aversion to repose such a trust in a tribunal so constituted. My objections are not the visions of theory, but the result of my own observation in America, and of the experience of others abroad. 1. The legislative and executive are concentrated in the same persons. This, where real power exists, must eventuate in tyranny. 2. The representation of the states bears no proportion to their importance. This is an unreasonable subjection of the will of the majority to that of the minority. 3. The mode of election and the liability to be recalled may too often render the delegates rather partizans of their own states, than representatives of the union. 4. Cabal and intrigue must consequently gain an ascendancy in a course of years. 5. A single house of legislation will some times be precipitate, perhaps passionate. 6. As long as seven states are required for the smallest, and nine for the greatest votes, may not foreign influence at some future day insinuate itself, so as to interrupt every active exertion? 7. To crown the whole, it is scarcely within the verge of possibility, that so numerous an assembly should acquire that secrecy, dispatch, and vigour, which are the test of excellence in the executive department.

My inference from these facts and principles is, that the new powers must be deposited in a new body, growing out of a consolidation of the union, as far as the circumstances of the states will allow. Perhaps, however, some may meditate its dissolution, and others partial confederacies.

The first is an idea awful indeed and irreconcilable with a very early, and hitherto uniform conviction, that without union we must be undone. For before the voice of war was heard, the pulse of the then colonies was tried and found to beat in unison. The unremitted labour of our enemies was to divide, and the policy of every Congress to bind us together. But in no example was this truth more clearly displayed, than in the prudence, with which independence was unfolded to the sight, and in the forbearance to declare it, until America almost unanimously called for it. After we had thus launched into troubles,

never before explored, and in the hour of heavy distress, the remembrance of our social strength not only forbade despair, but drew from Congress the most illustrious repetition of their settled purpose to despise all terms, short of independence.

Behold then, how successful and glorious we have been, while we acted in fraternal concord. But let us discard the illusion, that by this success and this glory the crest of danger has irrecoverably fallen. Our governments are yet too youthful to have acquired stability from habit. Our very quiet depends upon the duration of the union. Among the upright and intelligent, few can read without emotion the future fate of the states, if severed from each other. Then shall we learn the full weight of foreign intrigue—Then shall we hear of partitions of our country. If a prince, inflamed by the lust of conquest, should use one state, as the instrument of enslaving others—if every state is to be wearied by perpetual alarms, and compelled to maintain large military establishments—if all questions are to be decided by an appeal to arms, where a difference of opinion cannot be removed by negotiation—in a word, if all the direful misfortunes, which haunt the peace of rival nations, are to triumph over the land—for what have we contended? Why have we exhausted our wealth? Why have we basely betrayed the heroic martyrs of the federal cause?

But dreadful as the total dissolution of the union is to my mind, I entertain no less horror at the thought of partial confederacies.<sup>8</sup> I have not the least ground for supposing, that an overture of this kind would be listened to by a single state; and the presumption is, that the politics of the greater part of the states flow from the warmest attachment to an union of the whole. If however a lesser confederacy could be obtained, by Virginia, let me conjure my countrymen well to weigh the probable consequences, before they attempt to form it.

On such an event, the strength of the union would be divided into two or perhaps three parts. Has it so increased since the war as to be divisible?—and yet remain sufficient for our happiness?

The utmost limit of any partial confederacy, which Virginia could expect to form, would comprehend only the three southern states, and her nearest northern neighbour. But they, like ourselves, are diminished in their real force, by the mixture of an unhappy species of population.

Again may I ask, whether the opulence of the United States has been augmented since the war? This is answered in the negative by a load of debt, and the declension of trade.

At all times must a southern confederacy support ships of war, and soldiery. As soon would a navy move from the forest, and an army spring from the earth, as such a confederacy, indebted, impoverished in its commerce, and destitute of men, could, for some years at least provide an ample defence for itself.



Let it not be forgotten, that nations, which can enforce their rights, have large claims against the United States, and that the creditor may insist on payment from any one of them. Which of them would probably be the victim? The most productive and the most exposed. When vexed by reprisals or war, the southern states will sue for alliances on this continent or beyond sea. If for the former, the necessity of an union of the whole is decided. If for the latter, America will, I fear, re-act the scenes of confusion and bloodshed, exhibited among most of those nations, which have, too late, repented the folly of relying on auxiliaries.

Two or more confederacies cannot but be competitors for power. The ancient friendship between the citizens of America, being thus cut off, bitterness and hostility will succeed in its place. In order to prepare against surrounding danger, we shall be compelled to vest somewhere or other power approaching near to a military government.

The annals of the world have abounded so much with instances of a divided people, being a prey to foreign influence, that I shall not restrain my apprehensions of it, should our union be torn asunder. The opportunity of insinuating it will be multiplied in proportion to the parts, into which we may be broken.

In short, sir, I am fatigued with summoning up to my imagination the miseries, which will harrass the United States, if torn from each other, and which will not end, until they are superseded by fresh mischiefs under the yoke of a tyrant.

I come therefore to the last and perhaps only refuge in our difficulties, a consolidation of the union, as far as circumstances will permit. To fulfil this desirable object, the constitution was framed by the Fœderal Convention. A quorum of eleven states, and the only member from a twelfth have subscribed it;<sup>9</sup> Mr. MASON of Virginia, Mr. GERRY of Massachusetts and myself having refused to subscribe.

Why I refused, would, I hope, be solved to the satisfaction of those, who know me, by saying that a sense of duty commanded me thus to act. It commanded me, sir, For believe me, that no event of my life ever occupied more of my reflection. To subscribe seemed to offer no inconsiderable gratification; since it would have presented me to the world, as a fellow-labourer with the learned and zealous statesmen of America. But it was far more interesting to my feelings, that I was about to differ from three of my colleagues; one of whom is, to the honor of the country, which he has saved, imbosomed in their affections, and can receive no praise from the highest lustre of language; the other two of whom have been long inrolled among the wisest and best lovers of the commonwealth; and the unshaken and intimate friendship of all of whom I have ever prized, and still do prize, as among the happiest of all my acquisitions. I was no stranger to the

reigning partiality for the members, who composed the convention; and had not the smallest doubt, that from this cause, and from the ardor for a reform of government, the first applauses at least would be loud, and profuse. I suspected too, that there was something in the human breast, which for a time would be apt to construe a temperateness in politicks into an enmity to the union. Nay I plainly foresaw, that in the dissensions of parties, a middle line would probably be interpreted into a want of enterprize and decision. But these considerations, how seducing soever, were feeble opponents to the suggestions of my conscience. I was sent to exercise my judgment, and to exercise it was my fixed determination; being instructed by even an imperfect acquaintance with mankind, that self approbation is the only true reward, which a political career can bestow, and that popularity would have been but another name for perfidy, if to secure it, I had given up the freedom of thinking for myself.

It would have been a peculiar pleasure to me, to have ascertained, before I left Virginia, the temper and genius of my fellow-citizens, considered relatively to a government, so substantially differing from the confederation, as that, which is now submitted. But this was for many obvious reasons impossible: and I was thereby deprived of what I thought the necessary guides.

I saw however that the confederation was tottering from its own weakness, and that the sitting of the convention was a signal of its total insufficiency. I was therefore ready to assent to a scheme of government, which was proposed, and which went beyond the limits of the confederation, believing, that without being too extensive it would have preserved our tranquility, until that temper and that genius should be collected.

But when the plan which is now before the General Assembly, was on its passage through the convention, I moved, that the state-conventions should be at liberty to amend, and that a second general Convention should be holden to discuss the amendments, which should be suggested by them. This motion was in some measure justified by the manner, in which the confederation was forwarded originally, by Congress to the state-legislatures, in many of which amendments were proposed, and those amendments were afterwards examined in Congress.<sup>10</sup> Such a motion was doubly expedient here, as the delegation of so much more power was sought for. But it was negatived. I then expressed my unwillingness to sign. My reasons<sup>11</sup> were the following.

1. It is said in the resolutions, which accompany the constitution,<sup>12</sup> that it is to be submitted to a convention of Delegates, chosen in each state by the people thereof, for their assent and ratification. The meaning of these terms is allowed universally to be, that the

Convention must either adopt the constitution in the whole, or reject it in the whole, and is positively forbidden to amend. If therefore I had signed, I should have felt myself bound to be silent as to amendments, and to endeavor to support the constitution without the correction of a letter. With this consequence before my eyes and with a determination to attempt an amendment, I was taught by a regard for consistency not to sign.

2. My opinion always was, and still is, that every citizen of America, let the crisis be what it may, ought to have a full opportunity to propose through his representatives any amendment, which in his apprehension tends to the public welfare—By signing I should have contradicted this sentiment.

3. A constitution ought to have the hearts of the people on its side. But if at a future day it should be burthensome, after having been adopted in the whole, and they should insinuate, that it was in some measure forced upon them, by being confined to the single alternative of taking or rejecting it altogether, under my impressions and with my opinions I should not be able to justify myself had I signed.

4. I was always satisfied, as I have now experienced, that this great subject, would be placed in new lights and attitudes by the criticism of the world, and that no man can assure himself, how a constitution will work for a course of years, until at least he shall have heard the observations of the people at large. I also fear more from inaccuracies in a constitution, than from gross errors in any other composition; because our dearest interests are to be regulated by it, and power, if loosely given, especially where it will be interpreted with great latitude, may bring sorrow in its execution. Had I signed with these ideas, I should have virtually shut my ears against the information, which I ardently desired.

5. I was afraid, that if the Constitution was to be submitted to the people, to be wholly adopted or wholly rejected by them, they would not only reject it, but bid a lasting farewell to the union. This formidable event I wished to avert, by keeping myself free to propose amendments, and thus, if possible, to remove the obstacles to an effectual government. But it will be asked, whether all these arguments were not well weighed in Convention. They were, sir, and with great candor. Nay, when I called to mind the respectability of those, with whom I was associated, I almost lost confidence in these principles. On other occasions I should cheerfully have yielded to a majority; on this the fate of thousands, yet unborn, enjoined me not to yield, until I was convinced—

Again may I be asked, why the mode pointed out in the Constitution for its amendment, may not be a sufficient security against its imperfections, without now arresting it in its progress?—My answers

are, 1. that it is better to amend, while we have the Constitution in our power, while the passions of designing men are not yet enlisted and while a bare majority of the states may amend, than to wait for the uncertain assent of three fourths of the states. 2. That a bad feature in government becomes more and more fixed every day. 3. That frequent changes of a Constitution even if practicable ought not to be wished, but avoided as much as possible: and 4. That in the present case it may be questionable, whether, after the particular advantages of its operation shall be discerned, three fourths of the states can be induced to amend.

I confess, that it is no easy task, to devise a scheme which shall be suitable to the views of all. Many expedients have occurred to me, but none of them appear less exceptionable than this: that if our Convention should choose to amend, another federal Convention be recommended: that in that federal Convention the amendments proposed by this or any other state, be discussed; and if incorporated in the constitution or rejected, or if a proper number of the other states should be unwilling to accede to a second Convention, the constitution be again laid before the same state-conventions, which shall again assemble on the summons of the Executives, and it shall be either wholly adopted, or wholly rejected, without a further power of amendment. I count such a delay, as nothing in comparison with so grand an object; especially too as the privilege of amending must terminate after the use of it once.

I should now conclude this letter, which is already too long, were it not incumbent on me from having contended for amendments, to set forth the particulars, which I conceive to require correction. I undertake this with reluctance; because it is remote from my intentions to catch the prejudices or prepossessions of any man. But as I mean only to manifest, that I have not been actuated by caprice, and now to explain every objection at full length would be an immense labour, I shall content myself with enumerating certain heads, in which the constitution is most repugnant to my wishes.

The two first points are the equality of suffrage in the Senate, and the submission of commerce to a mere majority in the legislature,<sup>13</sup> with no other check than the revision of the President. I conjecture that neither of these things can be corrected; and particularly the former; without which we must have risen perhaps in disorder.

But I am sanguine in hoping, that in every other, justly obnoxious clause, Virginia, will be seconded by a majority of the states. I hope, that she will be seconded 1. in causing all ambiguities of expression to be precisely explained: 2. in rendering the President ineligible after a given number of years: 3. in taking from him either the power of nominating to the judiciary offices, or of filling up vacancies which

therein may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session: 4. in taking from him the power of pardoning for treason, at least before conviction: 5. in drawing a line between the powers of Congress and individual states; and in defining the former; so as to leave no clashing of jurisdictions nor dangerous disputes: and to prevent the one from being swallowed up by the other, under the cover of general words, and implication: 6. in abridging the power of the Senate to make treaties the supreme laws of the land: 7. in providing a tribunal instead of the Senate for the impeachment of Senators: 8. in incapacitating the Congress to determine their own salaries: and 9. in limiting and defining the judicial power.

The proper remedy must be consigned to the wisdom of the convention: and the final step, which Virginia shall pursue, if her overtures shall be discarded, must also rest with them.

But as I affect neither mystery nor subtilty, in politics, I hesitate not to say, that the most fervent prayer of my soul is the establishment of a firm, energetic government; that the most inveterate curse, which can befall us, is a dissolution of the union; and that the present moment, if suffered to pass away unemployed, can never be recalled. These were my opinions, while I acted as a Delegate; they sway me, while I speak as a private citizen. I shall therefore cling to the union, as the rock of our salvation, and urge Virginia to finish the salutary work, which she has begun. And if after our best efforts for amendments they cannot be obtained, I scruple not to declare, (notwithstanding the advantage, which such a declaration may give to the enemies of my proposal,) that I will, as an individual citizen, accept the constitution; because I would regulate myself by the spirit of America.

You will excuse me, sir, for having been thus tedious. My feelings and duty demanded this exposition: for through no other channel could I rescue my omission to sign from misrepresentation, and in no more effectual way could I exhibit to the General Assembly an unreserved history of my conduct.

I have the honor, Sir, to be, with great respect, your most obedient servant,

EDMUND RANDOLPH.

*The Honorable the Speaker  
of the House of Delegates.*

1. Meriwether Smith (1730–1794) was a member of Congress, 1778–79, 1781, and an Essex County delegate to the House of Delegates, 1775–77, 1778, 1781–82, 1785–89. In the fall of 1787 he opposed the Constitution and worked in the House to procure amendments in cooperation with the other states. Smith voted against ratification of the Constitution in the Virginia Convention in June 1788. Charles Mynn Thruston (1738–1812) represented Frederick County in the House, 1782–84, 1785–88. In late September 1787 it was reported that he would probably oppose the Constitution. John Howell Briggs was a Sussex County delegate to the House,

1784–90, and voted against ratification in the Virginia Convention. Mann Page, Jr. (c. 1749–1803) was a delegate to Congress, 1777, and represented Spotsylvania and Gloucester counties in the House almost continuously from 1776 to 1790. He served for Gloucester in the 1787–88 session. In October 1787 he was reported to be opposed to the Constitution, but in February 1788 he was said to favor it. Page was an unsuccessful candidate to represent Spotsylvania County in the Virginia Convention.

2. In March and April 1787 Randolph, seeking to convince George Washington to attend the Constitutional Convention, asserted that “every day brings forth some new crisis” and that “every thing travels so fast to confusion.” The Convention “is, I fear, the last anchor of our hope” (11 March and 2 April, Washington Papers, DLC). In his speech of 29 May presenting the Virginia Resolutions to the Convention, Randolph said that the defects in the Articles of Confederation made them “totally inadequate to the peace, safety and security of the confederation. . . .” “A more energetic government” was an “absolute necessity.” Randolph also declared “that the confederation fulfilled *none* of the objects for which it was framed.” The aim of the Virginia Resolutions was to create “a strong *consolidated* union, in which the idea of states should be nearly annihilated” (Farrand, I, 23–24).

3. Article II states: “Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled” (CDR, 86).

4. See Article VIII of the Articles of Confederation (CDR, 89).

5. In April 1783 Congress proposed this amendment to the Articles of Confederation (CDR, 148–50), and by 1787 eleven (not twelve) states had ratified it. New Hampshire and Rhode Island failed to ratify.

6. For the Impost of 1783, see CDR, 146–48.

7. For Virginia’s ratification of the Articles of Confederation, see CDR, 120.

8. For the sentiment in Virginia in favor of separate confederacies, see CC:276, note 4; and for the sentiment throughout America, see CC:3.

9. Rhode Island was not represented in the Convention and only Alexander Hamilton signed for New York.

10. For the amendments proposed to the Articles, see CDR, 96–135.

11. For the reasons Randolph gave at the time the Constitution was signed, see CC:75.

12. For the resolutions, see CC:76.

13. During the Convention debate on the regulation of commerce, Randolph had first indicated that he might not agree to sign the Constitution (29 August, Farrand, II, 452–53).

### 386 A–H. George Washington on the Constitution 27 December 1787–14 February 1788

Throughout the debate over ratification, Federalists urged others to accept the Constitution because Washington had signed it. Washington did not make a public statement on the Constitution, but his private letters reveal he supported it. He wrote one such letter on 14 December to Charles Carter (1733–1796) of Ludlow, a Stafford County, Va., planter, who also owned a home in Fredericksburg. After discussing farming matters, Washington concluded by briefly giving his opinion on the Constitution. On 27 December Washington’s opinion was printed in the Fredericksburg *Virginia Herald* apparently under the heading of an “Extract of a letter of a late date from a member of the late Fœderal Convention, to his friend in this town.” The *Herald* has not been located, but on 3 January 1788 the *Pennsylvania Mercury* published this heading under the dateline, “FREDERICKSBURG, December 27.”

Two days earlier, on 1 January, the *Maryland Journal* had reprinted the *Herald's* extract as a letter "from the illustrious President of the late Federal Convention" (CC:386-A).

Washington wrote Carter on 12 January that "I find that an extract of my letter to you, is running through all the news papers; and published in that of Baltimore with the addition of my name" (CC:386-B). Five days later Carter explained that he had distributed copies of Washington's remarks "under a prohibition . . . that they should not go to the press." Washington accepted the explanation and was sorry that his concern had given Carter "so much trouble" (Washington to Carter, 20 and 22 January, Fitzpatrick, XXIX, 387-88, 390; Washington to James Madison, 5 February, CC:499).

By 27 March 1788 Washington's letter was reprinted in the January issue of the Philadelphia *American Museum* and in forty-nine newspapers: Vt. (1), N.H. (3), Mass. (9), R.I. (4), Conn. (7), N.Y. (8), N.J. (3), Pa. (10), Md. (1), S.C. (1), Ga. (2). All but two of these newspapers—the *Pennsylvania Mercury*, 3 January, and Philadelphia *Independent Gazetteer*, 4 January—identified Washington as the letter writer.

The letter precipitated an exchange between Antifederalists and Federalists, especially in Massachusetts, concerning its authenticity and the validity of its opinions (CC:386 C-H). Commenting on this debate, James Madison said that "I cannot but think on the whole that it [the letter] may have been of service, notwithstanding the scandalous misinterpretations of it which have been attempted" (to Washington, 20 February, Rutland, *Madison*, X, 527. For Madison's earlier attempt to have Washington's opinions on the Constitution disseminated, see Madison to Washington, 20 December, CC:359; and Washington to Madison, 5 February, CC:499.).

### 386-A. *Maryland Journal*, 1 January<sup>1</sup>

*Extract of a Letter, of a late Date, from the illustrious President of the late Federal Convention, to his Friend in Fredericksburg, Virginia—extracted from Mr. Green's Virginia Herald.*

"I thank you for your kind Congratulation on my safe Return from the Convention, and am pleased that the Proceedings of it have met your Approbation.<sup>2</sup>—My *decided* Opinion of the Matter is, that there is *no Alternative* between the *Adoption* of it and *Anarchy*. If one State (however important it may conceive itself to be) or a Minority of them, should suppose that they can dictate a Constitution to the Union<sup>3</sup> (unless they have the Power of applying the *ultima Ratio* to good Effect) they will find themselves deceived. All the Opposition to it that I have yet seen, is, I must confess, addressed more to the Passions than to the Reason; and *clear I am*, if another Federal Convention is attempted, that the Sentiments of the Members will be *more* discordant or *less* accommodating<sup>4</sup> than the last. In fine, that they will agree upon no general Plan. General Government is now *suspended by a Thread*, I might go further, and say it is *really at an End*, and what will be the Consequence of a fruitless Attempt to amend the one which is offered, before it is tried, or of the Delay from the Attempt, does not in my Judgment need the *Gift of Prophecy to predict*.

“I am not a blind Admirer (for I saw the Imperfections) of the Constitution I aided in the Birth of, before it was handed to the Public; but I am fully persuaded it is the *best that can be obtained at this Time*,<sup>5</sup> that it is free from many of the Imperfections with which it is charged,<sup>6</sup> and that *it* or *Disunion* is before us to choose from. If the first is our Election, when the Defects of it are experienced, a constitutional Door is opened for Amendments, and may be adopted in a peaceable Manner, without Tumult or Disorder.”

386—B. *George Washington to Charles Carter*  
Mount Vernon, 12 January<sup>7</sup>

I find that an extract of my letter to you, is running through all the news papers; and published in that of Baltimore with the addition of my name.—

Altho' I have no dis-inclination to the promulgation of my Sentiments on the proposed Constitution (not having concealed them on any occasion) yet I must nevertheless confess, that it gives me pain to see the hasty, and indigested production of a private letter, handed to the public, to be animadverted upon by the adversaries of the new Government.—Could I have supposed that the contents of a private letter (marked with evident haste) would have composed a news paper paragraph, I certainly should have taken some pains to dress the Sentiments (to whom know[n] is indifferent to me) in less exceptionable language, and would have assigned some reasons in support of my opinion, and the charges against others.<sup>8</sup>

I am persuaded your intentions were good, but I am not less persuaded, that you have provided food for strictures and criticisms.—be this however as it may, it shall pass off[f] unnoticed by me, as I have no inclination, and still less abilities for scribbling.—

386—C. *Brutus*  
*Boston Independent Chronicle*, 24 January<sup>9</sup>

January 23, 1787.

Mess'rs. ADAMS and NOURSE, I have this moment read in the Centinel,<sup>10</sup> what is said to be a letter from General Washington. I have had, and do as yet entertain a high opinion of that illustrious Commander, and therefore have not yet brought myself to believe this to be his production, for he never could thus insult the country *with a military arrogance*. The letter says, that “*if one State, however important it may conceive itself to be, or a minority of them, should suppose that they can dictate a Constitution to the Union, unless they have the power of applying the* **ULTIMO RATIO**, *to good effect, they will find themselves deceived.*”



The subject of the letter, is the proposed Constitution. A general Convention was appointed to add efficient articles to the confederation—but they have reported a form of government, as nearly like that of Great-Britain, as the circumstances of the country will admit. This if adopted, dissolves the confederation, and the people are called to deliberate on this momentous question. In the midst of their debates, is published a letter said to be from General Washington, holding up the idea that if a majority of the States, agree to this New Constitution, the *ULTIMO RATIO*, that is the *BAYONET*, shall compel the minority to submit. To justify the threat, it is declared that government is at an end.—Are we then in a state of nature? Is there any other tyranny than that of compelling the weaker to submit to the stronger?—Is this what that illustrious General fought for? Are these his Laurels? If they are, he borrowed them from *Cæsar*.

386—*D. Massachusetts Gazette, 25 January*<sup>11</sup>

A scribbler under the signature of *Brutus*, in the Independent Chronicle of yesterday, says a correspondent, with all that impudence so concomitant with the principles of anti-federalism, insinuates that the letter wrote by the late illustrious president of the federal convention is a forgery; this is no doubt done with a view to take off the weight of any influence which the said letter might impress upon any minds. The deception will, however, easily be seen through, and its author despised. The comments of *Brutus* upon the letter are too ridiculous and contemptible to notice.

386—*E. Cato*

*Massachusetts Centinel, 26 January*<sup>12</sup>

TO BRUTUS.

Oh! BRUTUS—how it grieves the ingenuous heart, thus to see thee prostitute thy sense and thy honesty (if any yet is left within thee) to the vile practice of falshood and deceit.—Every one who has read the letter of Gen. *Washington*, published in the last *Centinel*,<sup>13</sup> is ashamed for his species, that there is one so corrupt as to endeavour to mislead his fellow-citizens as to its real meaning—which is this—*if Massachusetts, or Virginia, or a minority of the States, in refusing to accept the new Constitution, can suppose themselves strong enough to dictate to the majority of the States, whom they suppose to be weaker, such a Constitution as they please to make, [they] will very much deceive themselves—for they may depend on it that majority, though weaker, will never consent to be dictated to by a minority, who may suppose themselves stronger, unless they force them by dint of the bayonet.* This is his plain and obvious meaning.—Blush, BRUTUS! blush! wrap thyself again in thy native insignificance—retire from the world—and in solitude and silence pray heaven to forgive thee thy sins.

## 386—F. An American

*Boston American Herald, 28 January*<sup>14</sup>

We have been frequently advertised in the public papers, that General Washington, when he set his hand to the proposed Constitution, uttered these words—"THIS IS, PERHAPS, THE LAST TIME THE AMERICANS WILL HAVE AN OPPORTUNITY, COOLLY, TO SET DOWN, AND AGREE UPON A FORM OF GOVERNMENT."<sup>15</sup>—The mode of expression from a Soldier,—from a Man, who, besides the CINCINNATI, could call out many followers—from a Man, who stands in the public eye, the sole candidate for Chief Ruler of all the States: From such a one, it was as void of prudence as it was of foundation—This has alarmed many patriots, and given pain to many of his friends—but they all feel a respectful delicacy towards that Great Man, and have therefore been silent, while they might have observed, that, as the motion made by Virginia for a General Convention, was so readily agreed to by all the States; and that as the people were so very zealous for a good Federal Government, though this plan, which was aided in its birth by that Great Man, should fail, the people could again *set themselves down coolly, to make another.*—The mode of expression might have been animadverted upon. THE LAST TIME they would have an OPPORTUNITY!—From whom do they receive this OPPORTUNITY, but from Heaven?—And who shall withhold the boon?

Had not his letter appeared in the papers, fully explanatory of his ideas, still the regard all feel for him, might have constrained a decent silence. In this letter he says, "MY DECIDED OPINION IS, THAT THERE IS NO ALTERNATIVE BETWEEN THE ADOPTION OF IT (that is the proposed Constitution) AND ANARCHY." One would suppose it very strange, that a Convention of fifty members, however respectable, should have such an opinion of their own sagacity, that when they had performed a task *which they took upon themselves*, they supposed that three millions of people could not amend it, or wish an alteration! and that unless this identical System, with every letter and figure thereof should be adopted, all Government would be at an end, "Old Chaos would come back again, and nothing but anarchy ensue!"—No new Convention, no new set of men can ever agree again, why?—Because miracles have ceased.

But he goes on,—“If ONE STATE, however important it may conceive itself to be, or a minority of them, should suppose, that they can dictate a Constitution to the Union, unless they have the power of applying the ULTIMO RATIO, to good effect, they will find themselves deceived.”—One expression more ought to be attended to, in order to find the General’s meaning:—“GENERAL GOVERNMENT IS NOW SUSPENDED BY A THREAD—I MIGHT GO FURTHER, AND SAY, IT IS REALLY AT AN END.”—The proposed Constitution, is by the recommendation of the Convention, to be in force when nine

States shall ratify it; if seven or eight out of 13 agree to it, yet the old Confederation remains until the people agree upon another.—But General Washington tells us, that the General Government is at an end already, and that unless the New Plan is adopted, anarchy and confusion takes place, and that a minority, unless they can apply the *Ultimo ratio* with good effect, will find themselves deceived. I do by no means wish to put an uncandid construction upon this letter, but I cannot resist the conclusion, that the General has declared, that this Constitution shall be supported by the *ULTIMO RATIO*, that is—by force.

What is a Tyranny, but a Government forced by the stronger upon the weaker?—How imprudent then must the General be to make these declarations?—Does our soil produce no more Washington's? Is there none left who would oppose the attempt to establish a Government by force?—Can we not call from the fields, the counters, the bar, and mechanics' shops, any more Generals?—Is our soil exhausted?—And does any one suppose that the Americans, like the Romans, will submit to an Army merely because they have conquered a foreign enemy?

The truth is that we cannot exist without a General Government, and that great thanks are due to the Convention for the plan they offer; but should the body of the people, or even a majority of the States, wish for alterations, before they ratify the work, surely they may be obtained without bloodshed, without the *ULTIMO RATIO*. And the majority with usual American candour, will yield to their brethren.

386—G. Junius

*Massachusetts Gazette, 29 January*<sup>16</sup>

#### TO THE PUBLICK.

Can the citizens of this metropolis, or the well wishers to the establishment of good government throughout the state, be accused of deficiency in point of candour, should they resent, in the highest degree, the insults offered them by a band of harpies and knaves—by a set of beings, destitute of principle, of property, and decency? Can you, my countrymen, tamely submit to see the characters of men who have fought your battles, who have assisted in your councils, and braved danger in every shape, to rescue you from the devouring jaws of despotism, and establish your national honour and dignity on a permanent basis, now defamed, villainously defamed, by the most infamous scurrillity that ever blotted the newspaperial page. Defamed too by men whose only boast is treachery and injustice, and whose publications exhibit insurgency in its most glaring colours

I this morning took up the *AMERICAN HERALD*, and, after perusing it, with emotions of indignation and contempt, committed it to the flames. It was fraught (with some exceptions) with defamation

and slander, and I was astonished to think that the editor of that publication should make it the vehicle of so much stupidity, finished impudence and complete puppyism, to the publick. The piece signed an "American," is a composition of scandal and abuse, levelled at one of the first characters in the universe, and could proceed only from a mind capable of suggesting ideas that can be stiled nothing else but the mere filth and scum of the most finished rascality.

Let the red lightning wing its way, with double force,  
To blast the black'ning wretch who dares  
Traduce the fame of characters  
The height of whose ambition is their country's welfare.

The character of the illustrious Washington is too firmly established to be injured by the pitiful insinuations and misrepresentations of a paltry and insidious scribbler—the fame of the American Fabius can never be wounded by the shafts of wretches, however well skilled in ribaldry and defamation—nor by the aspersions of those who wish to bury their own crimes in the vale of publick iniquity. The fame of Washington will stand recorded on the brightest pages of the historian, while the deeds of his vile calumniators

Now do, and will in future ages, live  
"In all the glare which infamy can give."

What true American can peruse the vile misconstructions which are put upon the sentiments of the president of the late federal convention, and not feel an honest indignation rising in his bosom against those nefarious, despicable, midnight croakers, who make it their business to squall from the pit of darkness, against characters whose patriotism darts rays of brightness that damps the feeble powers of their opticks, and forces them to retire to their gloomy cells, from whence they breath forth their noxious vapours with an intent to taint the clear atmosphere of truth and reason? But feeble will be the attempts of villainy, to sap the confidence which the citizens of America have in men of tried and known integrity, firmness and patriotism. The citizens of America have too much knowledge and good sense to be led away by the arts of men who need only be known to be despised.

386—H. A Countryman VI

*New York Journal, 14 February (excerpts)*<sup>17</sup>

LETTERS from a Gentleman in DUTCHESS COUNTY to his friend in NEW-YORK.

. . . The Daily Advertiser, of January 17th, contains an extract, which is said to be part of "A letter from the late illustrious president of the general convention, to his friend in Fredricksburgh, Virginia," but

which, I do not believe to be his inditing, and for the following reasons:—That, neither the style nor composition, appears to be genuine; besides, several of the expressions are too positive and unguarded for any man of common prudence, and much more so, for a person who has always been considered as eminent for that very qualification.

Had such a thing made its appearance in the course of the war, I believe, that the medium of its origination might have been much more rationally accounted for, than it now appears to be. . . .

But, to return to the extract, in which there are two periods, in the first paragraph, that prove too much (if they prove any thing) and, of course, amount to nothing, unless it be the writer's design. They are these:—"And clear I am, if another federal convention is attempted, that the sentiments of the members will be more discordant, or less accommodating than the last. In fine, they will agree upon no general plan."

Now, if it be *impossible* for all the people of the United States, to form another *single* convention which shall agree upon *any one kind of government* (and is not this the obvious import or meaning of the assertion) I should be glad to learn, how the ingenious contriver of this curious extract expected, that *thirteen*, or even *nine different* conventions should ever agree to adopt the constitution, unless he intended to apply his "ultima ratio" to them?

Of late, I have observed several of these spurious extracts, paragraphs, &c. in the papers; but, as they were either anonymous, or the characters not of much consequence, I thought them unworthy of notice.—In this, I am impelled by duty.

1. Because the *Virginia Herald* of 27 December has not been located, this extract has been transcribed from the *Maryland Journal* of 1 January 1788—the earliest known reprint. None of the text, except the words "ultima Ratio," was italicized by the *Journal*. All other italics first appeared in the Providence *United States Chronicle* on 17 January. Seven newspapers repeated all of the italics: Mass. (6), N.Y. (1); four others repeated some of the italics: Vt. (1), N.H. (1), Mass. (2). For significant differences between the newspaper version and Washington's letterbook copy (Washington Papers, DLC), see notes 2–6 below.

2. In the letterbook copy the clause reads "and with what you add respecting the Constitution."

3. The letterbook copy reads "to the Majority."

4. The letterbook copy reads "Conciliator[y]."

5. Only the word "this" is underlined in the letterbook copy.

6. This clause does not appear in the letterbook copy.

7. FC, Washington Papers, DLC.

8. For further elaboration by Washington on this matter, see his letters to Benjamin Lincoln, 31 January (Fitzpatrick, XXIX, 396) and to James Madison, 5 February (CC:499).

9. "Brutus" was printed in the *Independent Chronicle* immediately preceding Washington's letter to Carter. It also immediately preceded the letter in the

Springfield *Hampshire Chronicle* on 30 January and Portland *Cumberland Gazette* on 31 January. "Brutus" was also reprinted in the *Massachusetts Centinel*, 26 January; *New York Morning Post*, 5 February; and Philadelphia *Independent Gazetteer*, 4 April, all of which had published Washington's letter earlier.

10. The *Massachusetts Centinel* reprinted Washington's letter on 23 January under the heading: "The illustrious WASHINGTON's opinion on the federal Constitution."

11. Reprinted: *Pennsylvania Mercury* and *Pennsylvania Packet*, 7 February; *Pennsylvania Journal*, 9 February. On 2 February "A Question" was posed in the *Massachusetts Centinel*: "Whether there was any necessity for the signature of BRUTUS to the piece of scurrility upon the American FABIUS in the Independent Chronicle of the 24th ult?—Does not this wretched performance carry the mark of the BRUTE upon the face of it? How gross the writers ignorance, with his *ultimo ratio*! how ridiculous his affectation of learning! how contemptible his remarks! how impudent his reflections!"

12. Reprinted: Portland *Cumberland Gazette*, 31 January.

13. See note 10 above.

14. Reprinted: *New York Journal*, 12 February.

15. This quotation has not been identified, but on 7 November 1787 the *New Jersey Journal* printed an item which stated: "Should the states reject this excellent Constitution, the probability is, an opportunity will never again offer to cancel another in peace—the next will be drawn in blood!" (CC:233-A). By 29 December this report was reprinted thirty-eight times.

16. Four days earlier "Junius," in an answer to the Antifederalist "Agrippa," had used Washington's letter to demonstrate that anarchy would follow the rejection of the Constitution (*Massachusetts Gazette*).

17. "A Countryman" VI was written by Hugh Hughes, a Dutchess County, N.Y., Antifederalist. It was reprinted in the Philadelphia *Independent Gazetteer* on 3 May.

### 387. Thomas Tudor Tucker to St. George Tucker New York, 28 December (excerpt)<sup>1</sup>

... I arriv'd here about 10 days ago, but find that there are not States enough yet to make a Congress. However, I suppose they will gather soon after the Holidays.—The new Constitution seems to go on very well. Three joining States have already agreed to it, & there is no reason to doubt of it's being approved by at least nine. The People of this City appear to be pretty generally for it, & I can't help thinking that it has a pretty good Chance even here. It's Operation will certainly be very extensive & will leave but the bare Shadow of State Government. The President will be a Monarch whilst in Office, & every President will have it in his Power to get himself continued in Office for Life. And this will be a great Step towards a hereditary Monarchy. The Senate are the ministerial Agents of the States & at the same time Legislators for the People but free of all Responsibility to either & irrevocably appointed for six Years. The biennial Election of one third holds out an Appearance of frequent Changes, but in fact leaves two thirds always in Office, who by taking the other third by the Hand will be able always to keep them in & will in their Turn receive the same Favor: Life Estates

will in time become hereditary Estates. The other House will be a nominal Representation merely of the People. The Members must be totally unknown to nine tenths of their Constituents, & every Election will be carried by Intrigue among the most unprincipled of the People. It is possible for a Man to be elected by one tenth only of the Persons who actually vote, to be unknown to nine of ten of those who vote for him, & to be disliked by the other nine tenths of the Electors. Something like this will be actually the Case as soon as some System of Rule & Influence is establish'd which will enable the Members of both Houses to feel their own Power & Importance. The State Legislatures will dwindle into Insignificance & their Members will in time become the Tools of their Superiors. The Objects of the judicial Department are so numerous that they will exist more or less in every County & Parish of every State & of course the Courts must be multiplied exceedingly. The State Laws will fall into Contempt, for they will not have the Force even of the Bye Laws of a Corporation, the Authority being not derived from the superior Governmt. but retain'd from it, & therefore having it not as a Supporter but as a Competitor ready to swallow up all Remains of State Power. The State Debts will never be paid & even the Civil Lists will not long be supported.—What I have said is at least possible & perhaps not very improbable. But I am apt to think that the People who certainly are not aware of the Extent of it's Operation, will on feeling it make effectual Opposition to it before there is a Force sufficient to keep them in Subjection. Our Grand Children will be better Judges of the Matter than we are, & it might perhaps have been as well for us not to have too much Confidence in ourselves, but to give Power with a sparing Hand only so far as it is absolutely necessary; since more may at any time be given but none can ever be peaceably taken back. . . .

1. RC, Tucker-Coleman Papers, Swem Library, College of William and Mary. Thomas Tudor Tucker (1745–1828) was born in Bermuda and studied medicine at the University of Edinburgh. He moved to South Carolina and served as a surgeon during the Revolution. He represented South Carolina in Congress from 1787 to 1788 and was a member of the U.S. House of Representatives from 1789 to 1793. In 1801 Thomas Jefferson appointed him Treasurer of the United States and he served in that position until his death. His brother, St. George, was a Williamsburg, Va., lawyer.

### **388. Samuel Adams and the Constitution Massachusetts Gazette, 28 December**

Samuel Adams's political power had declined since the Revolution, but as President of the Massachusetts Senate he was still an important force. His position on the Constitution was unclear until December. In early October James Madison heard a report that Adams objected only to the prohibition of a religious test for officeholding (to Edmund Randolph, 7 October, CC:137). Adams had more profound objections. In early December he criticized the Constitution because it established a national government and created the

danger of aristocracy (to Richard Henry Lee, 3 December, CC:315). By this time Boston Federalists considered Adams an enemy of the Constitution, and they cautiously opposed his election to the state Convention. Two of the published slates of candidates in the Boston newspapers omitted Adams's name. These slates were submitted for publication by "A Mechanick" and the "Mechanicks of the North-End"—ostensibly the base of Adams's political power (*Massachusetts Centinel*, 1, 5 December). "C" disapproved of this omission: "Let us hear the sentiments of this venerable sage, whatever they may be; if they are in favour of the federal constitution, they will strengthen and confirm it; if otherwise, they will give opportunity for confuting them" (*Massachusetts Gazette*, 4 December).

No organized opposition to Adams's election emerged, however. Federalists feared that Adams would "openly declare himself against it [the Constitution], and endeavor to make proselytes—Whereas, an election, by his townsmen, under an idea, that he was really its advocate, might damp his opposition, for he is too old not to know his dependence is more on the people, than theirs on him—Further, it was said that his arguments could be opposed, with greater probability of success, while he was a member—than, if he was absent, suggesting objections to small circles of the delegates, and that the rumour of his opposition would weigh more, than any real objections he could raise in Convention" (Christopher Gore to Rufus King, 23 December, King Papers, NH). On 7 December Adams was elected one of Boston's twelve delegates to the Convention.

As Adams's position became widely known he came under heavier attack. On 25 December the *Massachusetts Gazette* published two items asserting that Adams was opposed to the Constitution. Three days later the *Gazette* printed another piece that repeated this assertion. This item (CC:388) was reprinted thirteen times by 21 January 1788: N.H. (1), Mass. (1), Conn. (1), N.Y. (3), N.J. (1), Pa. (4), S.C. (2). An unidentified Cambridge correspondent accused Adams of dipping his "pen in venom and gall against the constitution" and of encouraging the republication in Massachusetts of the *Letters from the Federal Farmer* (CC:390–E). Others accused him of encouraging Antifederalist essayists and of writing the "Helvidius Priscus" essays (CC:436). For more on the efforts to neutralize Adams's opposition to the Constitution, see CC:424.

*Extract of a letter from a gentleman in Salem, to his friend in this town, December 26.*

"The new constitution meets with general approbation in this town; almost every person of property and honesty wishes for the adoption of it. There are some few, however, whose characters as honest men and good citizens, is thoroughly established, who are rather in opposition to it. This I much wonder at; but candour obliges me to judge favourably of their motives, because they have ever been decided friends to the welfare and happiness of their country. I however hope that time will effect a change of their sentiments; and I think I have some foundation for my hopes;

For truth and reason's bright'ned rays combin'd,  
Will force conviction on the candid mind.

I think, my friend, that it can be demonstrated to the conception of every rational mind, that the new constitution is nobly calculated to support and defend those inestimable rights for which the citizens of



America so long toiled and bled. I need not, however delineate its beauties to you, as you are already fully sensible of them.

There is one thing which gives me not a little pain, and it is this. The hon. SAMUEL ADAMS, I hear, is in opposition to the plan of federal government. Although he may act from motives truly patriotick in this affair, you know the caprice of human nature is such, that mankind never put the most favourable construction upon the conduct of each other; and if a man does ninety-nine good actions and neglects the hundredth, he often comes under the goading lash of censure. I may perhaps be mistaken, but it is really my opinion, that mr. Adams's opposition to the federal constitution will, in the eyes of America, sully the brightness of those laurels which have so long encircled the brow of that venerable statesman.<sup>1</sup>

You ask me, whether I suppose that there will be much opposition made to the new constitution, in our state convention. I answer, I hope not. For before the federalism of a HANCOCK, a BOWDOIN, a DANA, a KING,<sup>2</sup> and many other illustrious characters, who are members of the convention, anti-federalism must droop, and recoil in silent shame. I think we have every thing to hope, and very little to fear."

1. A Federalist correspondent in the *Massachusetts Gazette*, 25 December, warned that "a certain honourable gentleman [Adams], whose popularity has long been on the decline, and whose opposition to the federal plan of government, unless he soon 'turns from the error of his ways to the wisdom of the just,' will consign him over to the shades of oblivion." A week later another writer defended Adams: "It is indeed astonishing, that any one should have the effrontery to attempt to asperse the reputation of the *old Patriot* of Winter-Street, whose character was the object of veneration, when *some* of his artful and insidious enemies were then in their Cradles" (*Boston Gazette*, 31 December. Adams lived on Winter Street.).

2. John Hancock and James Bowdoin of Boston, Francis Dana of Cambridge, and Rufus King of Newburyport all voted to ratify the Constitution. For Hancock's position on the Constitution, see CC:177, and John Hancock and the Constitution, 3 January–4 February 1788, Appendix I.

### **389. Luther Martin: Genuine Information I Baltimore Maryland Gazette, 28 December<sup>1</sup>**

Luther Martin, attorney general of Maryland, attended the Constitutional Convention from 9 June until its recess on 26 July. He returned on 13 August, one week after it had reconvened. Martin was an active delegate who wanted to strengthen the central government without seriously undermining the states. He supported a federal government in which the states were sovereign and equally represented. The central government was supposed to protect all of the states against foreign invasion and the small states against incursions by the large states. Martin also opposed a powerful executive and a large standing army, and he wanted federal judges appointed by the Senate, the representative of the states. Martin helped win some concessions in favor of the states, but the Convention moved inexorably toward the establishment of a national government. Consequently, Martin decided to oppose the new

Constitution, and on 31 August he and fellow Maryland delegate Daniel Carroll moved that the unanimous consent of the states be required for ratification. Only Maryland voted for this motion, and the Convention instead decided on ratification by nine states (Farrand, II, 477). In a last attempt to protect the people, Martin drafted a bill of rights but was dissuaded from presenting it because it had no chance for adoption (Luther Martin II, *Maryland Journal*, 21 March 1788, CC:636). Martin left Philadelphia on 4 September and, although he had intended to return, did not attend before the Convention's final adjournment on 17 September.

On 23 November the Maryland House of Delegates requested that the state's delegates to the Constitutional Convention attend the House on 29 November to give "information of the proceedings" of the Convention. Four of the five delegates appeared on the 29th, and copies of the speeches of two of them, Martin and James McHenry, have survived. The delegates were dismissed on the 30th, and the next day the legislature called a state convention to meet in April 1788 (CC:304).

After he left the House, Martin enlarged and reorganized his speech. On 28 December "A CUSTOMER" announced in the Baltimore *Maryland Gazette* that he had collected, at the behest "of many respectable characters both in the House of Assembly, and others . . . the substance of the information" Martin had given to the House. This announcement was followed by the first of twelve unnumbered installments that were printed in the Baltimore *Maryland Gazette* by 8 February 1788. Beginning with the second installment, Martin's speech was entitled "Mr. MARTIN'S *Information to the House of Assembly*." The term *Genuine Information*, the most often used description of Martin's published speech, was not adopted until the twelve installments were published as a pamphlet in April 1788 (see below).

The newspaper installments of the *Genuine Information* were reprinted in Massachusetts, New York, Pennsylvania, Virginia, and South Carolina by the end of May 1788. The *New York Journal* and the *Philadelphia Independent Gazetteer* reprinted all twelve installments; *Pennsylvania Packet* eleven; *Boston American Herald* and *State Gazette of South Carolina* parts or all of nine; *Pennsylvania Herald* six; *Philadelphia Freeman's Journal* and *Petersburg Virginia Gazette* two; and *Charleston City Gazette* one. The *New York Journal's* reprinting of the first installment was prefaced: "As every Species of information, received immediately from Delegates in the late General Convention, may be supposed universally interesting, the subsequent Communication, at the Request of many respectable Characters in this City, is here inserted." (This statement was reprinted in the *American Herald* on 4 February.)

In the course of reprinting Martin's *Genuine Information*, the *Pennsylvania Herald*, *Independent Gazetteer*, *Pennsylvania Packet*, and *New York Journal* complained that they were not receiving the *Maryland Gazette* regularly, thereby delaying republication. Upon completing the series, the editor of the *New York Journal* said, on 8 April, that republication was accomplished "chiefly by favor of correspondents." He apologized that republication over so long a period made "it difficult to have one collective view," and as a result, he listed all issues of the *Journal* that contained the *Genuine Information*. Antifederalists charged that the post office was responsible for the delays ("J. B-wd-n" and "James de Caledonia," *Independent Gazetteer*, 27 February and 4 March [CC:570, Mfm:Pa. 481]; and "Extract of a letter from Worcester," *Freeman's Journal*, 27 February).

On 12 April Eleazer Oswald of the *Independent Gazetteer* announced that he had "just published" a pamphlet entitled *The Genuine Information, Delivered to the Legislature of the State of Maryland . . .* (CC:678, Evans 21220). According to

Luther Martin, "Col Oswald was deputed by the Democratical Society of Philadelphia to obtain from me the original and the permission for its publication,—And I always understood that the present Governor [George] Clinton paid part of the Expence of Publication—" (to Aaron Burr, 27 March 1804, Mary-Jo Kline and Joanne Wood Ryan, eds., *Political Correspondence and Public Papers of Aaron Burr* [2 vols., Princeton, N.J., 1983], II, 861). In his announcement Oswald asserted that "This excellent performance ought, for the solid and serious truths it contains, like the *Bible* and the letters of *Junius*, to be in the hands of every real friend to American liberty." In addition to the twelve installments, the pamphlet includes two letters by Martin—one dated 27 January to the Speaker of the Maryland House of Delegates and another dated 30 January "To the Citizens of the United States." In these letters, Martin reaffirmed the accuracy of his information. The pamphlet ends with two essays: "REMARKS on a STANDING ARMY" by "A Citizen of the State of Maryland" and "REMARKS relative to a BILL of RIGHTS."

The *Independent Gazetteer* ran its advertisement for the pamphlet almost continuously until 30 July, while the *New York Journal* did the same after 24 April. The pamphlet was also advertised in the *Freeman's Journal*, 16, 23, 30 April; *State Gazette of South Carolina*, 22 May; *North Carolina Wilmington Centinel*, 11, 18, 25 June, 2 July; and the *Worcester American Herald*, 9 October.

Antifederalists in New England complained that they could not get the *Genuine Information*. Joshua Atherton received the pamphlet the same day he set out to attend the New Hampshire Convention as a delegate, and he remarked that "Is it not surprising how these Pamphlets have been kept back?" (to New York Federal Republican Committee, 23 June, Lamb Papers, NHi). William Williams charged that the pamphlet could not be obtained in Connecticut. He asked a friend to obtain one for him, but to keep his request secret because "I suppose it is treason with the hot Constitutionals" to oppose the Constitution (to Benjamin Huntington, 21 October 1788, Thomas C. Bright Autograph Collection, Jervis Library, Rome, N.Y.).

Antifederalists believed that the *Genuine Information* would help them. Arthur Bryan of Charleston, S.C., wrote to his father, George Bryan, that "Mr. Martins speech is now inserting in the State Gazette piece meal which will have a great effect" (9 April, George Bryan Papers, PHi). The Federal Republican Committee of Albany thought that "The Publication of Luther Martins Speech in a Pamphlet would be of great Service, and tend to open the Eyes of our Country more than any Thing yet published" (to the New York Federal Republican Committee, 12 April, Lamb Papers, NHi).

Federalists did not believe that the *Genuine Information* seriously endangered prospects for ratification of the Constitution, even in Maryland. James Madison told Eliza House Trist, who had praised the *Genuine Information*, that, although he had not yet read it, "It is impossible I think that he [Martin] can be a very formidable adversary to the Constitution; though he will certainly be a very noisy one" (27 January, Rutland, *Madison*, X, 434). Tobias Lear wrote from Mount Vernon that "Mr Martin of Maryland has been extremely copious & virulent in his publications, but he is a man whose character is so infamous that anything advanced by him against the constitution, would where he is known, bias the people in favor of it" (to John Langdon, 3 April, Langdon/Elwyn Papers, NhHi). Francis Hopkinson said that "Maryland is infected with a Mr. Martin, but I am told the Constitution will be adopted there" (to Thomas Jefferson, 6 April, CC:665). Rufus King asserted that "Our hopes are great that Maryland will be right Luther Martin notwithstanding; but we are not so confident of Maryland as we once were of

New Hampshire" (to John Langdon, 16 April, CC:686). And George Nicholas of Virginia asked his correspondent to obtain copies of the pamphlet because it would actually help the cause of ratification in Virginia, "particularly those parts where he speaks of the slaves and the advantages which this government gives to the larger states" (to David Stuart, 9 April, C. E. French Collection, MHi).

Newspaper commentaries on Martin's *Genuine Information* were voluminous. Antifederalists, especially in Pennsylvania, praised the *Genuine Information* because it revealed that the Constitutional Convention had been badly divided and because it exposed serious deficiencies in the Constitution. According to "Centinel" XIV, Martin had "laid open the conclave, exposed the dark scene within, developed the mystery of the proceedings, and illustrated the machinations of ambition. His public spirit has drawn upon him the rage of the conspirators, for daring to remove the veil of secrecy, and announcing to the public the meditated, gilded mischief: all their powers are exerting for his destruction; the mint of calumny is aciduously engaged in coining scandal to blacken his character, and thereby to invalidate his testimony; but this illustrious patriot will rise superior to all their low arts, and be the better confirmed in the good opinion and esteem of his fellow-citizens . . ." (CC:501). For Antifederalist commentaries in the *Independent Gazetteer*, see "Centinel" XI, XII, 16, 23 January (CC:453, 470); "One of the Whigs of 1788," 25 January (Mfm:Pa. 369); "Cicero," 30 January (Mfm:Pa. 387); "Candour" and "Junius," 12 February (Mfm:Pa. 420, 422); "Algernon Sidney" II, 13 February (Mfm:Pa. 429); "Extract of a letter from the Eastern Shore of Maryland," 18 February; "Extract of a letter from Queen Ann's county, Maryland," 26 February; "Federal Argument," 26 March (Mfm:Pa. 572); and "Justice," 5 April (Mfm:Pa. 612). In the *Freeman's Journal*, see "A Republican Federalist" and "A correspondent," 16 January (Mfm:Pa. 339, 341); "Democratic," 30 January; "Extract of a Letter from Worcester," 27 February; "James de Caledonia" IV, 12 March (Mfm:Pa. 512); and "Deliberator," 2 April (Mfm:Pa. 594). See also "A Columbian Patriot" (Mercy Warren), *Observations on the New Constitution . . .* (CC:581, Evans 21111–12); and "Aristocrotis" (William Petrikin), *The Government of Nature Delineated . . .* (Evans 21117; Mfm:Pa. 661). No Maryland newspaper appears to have printed a substantial defense of the *Genuine Information*.

Federalists asserted that Martin's narrative of events was replete with lies and distortions, particularly with respect to his own role in the Constitutional Convention. One Federalist commented that "the supercilious fellow has done nothing but puff up his own consequence—there is so much in it of 'I did this, and I did that, and I said t'other,' that you would think there could not have been a convention without him" ("Margery" Letter VIII, *Pennsylvania Mercury*, 20 March, Mfm:Pa. 549). Federalists denied that there had been a conspiracy to destroy the liberties of the people and criticized Martin for his attacks upon Washington and Franklin. They vilified Martin's character and belittled his performance as attorney general of Maryland. The detail given by Martin about "petty dialogues and paltry anecdotes" in the Convention surprised one Federalist who remarked "I blush'd in my own bed-chamber when I read his speech" (John Brown Cutting to Thomas Jefferson, 11 July, Boyd, XIII, 333). Only a few writers seriously answered Martin's positions on the various parts of the Constitution.

For Federalist commentaries in the Baltimore *Maryland Gazette*, see "A Federalist," 1, 11, 18 January; "An American," 22 January; "A Marylander" (Otho Holland Williams), 12 February; "Grateful," 15 February; and "Croaker," 8 April. In the *Pennsylvania Mercury*, see "A Real Patriot" II, 5

February (Mfm:Pa. 401); Anonymous, 9 February; "Detector," 14 February (Mfm:Pa. 431); "Extract of a letter from a gentleman in Baltimore," 26 February; and "A Plain Farmer," 22 April. See also "Extract of a letter from a gentleman in Baltimore county," *Independent Gazetteer*, 2 February; "A correspondent," *Massachusetts Gazette*, 5 February; "A Citizen of the United States," *Pennsylvania Gazette*, 13 February (CC:526); George Lux, *Maryland Journal*, 25 March; "Centinel to L.M.," "A gentleman," and "No Conspirator," *Philadelphia Federal Gazette*, 27 March, 17, 19 April (Mfm:Pa. 576, 635, 641); "A correspondent," *New York Daily Advertiser*, 20 May; and "A Steady and Open Republican," *State Gazette of South Carolina*, 5 May.

Mr. HAYES, It was the wish of many respectable characters both in the House of Assembly, and others, that the information received from the Delegates to the late Convention, should be made public.<sup>2</sup>—I have taken some pains, to collect together, the substance of the information, which was given on that occasion to the House of Delegates by Mr. Martin; by your inserting it in your paper, you will oblige A CUSTOMER.

Mr. MARTIN, when called upon, addressed the House nearly as follows:

Mr. SPEAKER, Since I was notified of the resolve of this Honourable House, that we should attend this day, to give information with regard to the proceedings of the late convention, my time has necessarily been taken up with business, and I have also been obliged to make a journey to the Eastern-Shore: These circumstances have prevented me from being as well prepared as I could wish, to give the information required—However, the few leisure moments I could spare, I have devoted to refreshing my memory, by looking over the papers and notes in my possession; and shall with pleasure, to the best of my abilities, render an account of my conduct.

It was not in my power to attend the convention immediately on my appointment—I took my seat, I believe, about the eighth or ninth of June. I found that Governor Randolph, of Virginia, had laid before the convention certain propositions for their consideration, which have been read to this House by my Honourable colleague, and I believe, he has very faithfully detailed the substance of the speech with which the business of the convention was opened, for though I was not there at the time, I saw notes which had been taken of it.<sup>3</sup>—The members of the convention from the States, came there under different powers.

The greatest number, I believe under powers, nearly the same as those of the delegates of this State<sup>4</sup>—Some came to the convention under the former appointment, authorising the meeting of delegates merely to regulate trade.—Those of Delaware were *expressly instructed to agree to no system which should take away from the States, that equality of suffrage secured by the original articles of confederation*. Before I arrived, a number of rules had been adopted to regulate the proceedings of the convention, by one of

which, seven States might proceed to business, and consequently four States, the majority of that number, might eventually have agreed upon a system which was to effect the whole Union. By another, *the doors were to be shut, and the whole proceedings were to be kept secret*; and so far did this rule extend, that we were thereby prevented from corresponding with gentlemen in the different States upon the subjects under our discussion—a circumstance, Sir, which I confess, I greatly regretted—I had no idea that all the wisdom, integrity, and virtue of this State, or of the others, were centered in the convention—I wished to have corresponded freely, and confidentially, with eminent political characters in my own, and other States, not implicitly to be dictated to by them, but to give their sentiments due weight and consideration. So *extremely solicitous* were they, that their proceedings should not transpire, that *the members were prohibited even from taking copies of resolutions, on which the convention were deliberating, or extracts of any kind from the journals without formally moving for, and obtaining permission, by a vote of the convention for that purpose.*

You have heard, Sir, the resolutions which were brought forward by the honourable member from Virginia—let me call the attention of this House, to the conduct of Virginia, when our confederation was entered into—That State then proposed, and obstinately contended, *contrary to the sense of, and unsupported by the other States, for an inequality of suffrage founded on numbers, or some such scale, which should give her, and certain other States, influence in the Union over the rest*—pursuant to that spirit which then characterized her, and uniform in her conduct, the very second resolve, is calculated expressly for that purpose *to give her a representation proportioned to her numbers, as if the want of that was the principle defect in our original system, and this alteration the great means of remedying the evils we had experienced under our present government.*

The object of *Virginia and other large States, to increase their power and influence over the others*, did not escape observation—The subject, however, was discussed with great coolness in the committee of the whole House (for the convention had resolved itself into a committee of the whole to deliberate upon the propositions delivered in by the honourable member from Virginia). Hopes were formed, that the farther we proceeded in the examination of the resolutions, the better the House might be satisfied of the impropriety of adopting them, and that they would finally be rejected by a majority of the committee—If on the contrary, a majority should report in their favour, it was considered that it would not preclude the members from bringing forward and submitting any other system to the consideration of the convention; and accordingly, while those resolves were the subject of discussion in the committee of the whole House, a number of the members who disapproved them, were preparing *another system, such as they thought more conducive to the happiness*

*and welfare of the States*—The propositions originally submitted to the convention having been debated, and undergone a variety of alterations in the course of our proceedings, the committee of the whole House by a *small majority* agreed to a *report*, which I am happy, Sir, to have in my power to lay before you<sup>5</sup>—It was as follow:

1. *Resolved*, That it is the opinion of this committee, that a *national* government ought to be established, consisting of a supreme, legislative, judiciary and executive.

2. That the legislative ought to consist of *two branches*.

3. That the members of the first branch of the national legislature ought to be elected by the people of the several States, for the term of three years, to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury, to be ineligible to any office established by a particular State, or under the authority of the United States, except those particularly belonging to the functions of the first branch, during the term of service, and under the national government, for the space of one year after its expiration.

4. That the members of the second branch of the legislature ought to be chosen by the individual legislatures, to be of the age of thirty years at least, to hold their offices for a term sufficient to ensure their independency, namely, seven years, one third to go out biennially, to receive fixed stipends, by which they may be compensated for the devotion of their time to public service, to be paid out of the national treasury, to be ineligible to any office by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of the second branch, during the term of service, and under the national government, for the space of one year after its expiration.

5. That each branch ought to possess the right of originating acts.

6. That the national legislature ought to be empowered to enjoy the legislative rights vested in Congress by the confederation, and *moreover*, to *legislate in all cases to which the separate States are incompetent*, or in which the *harmony of the United States may be interrupted, by the exercise of individual legislation*; to *negative* all laws passed by the *several States*, contravening, in the *opinion* of the *legislature of the United States*, the articles of union, or any treaties subsisting under the authority of the Union.

7. That the *right of suffrage* in the *first branch* of the national legislature, *ought not to be according to the rule established in the articles of confederation*, but according to some equitable rate of representation, namely, *in proportion to the whole number of white, and other free citizens and inhabitants of every age, sex and condition, including those bound to servitude for*

a term of years, and three fifths of all other persons, not comprehended in the foregoing description, except Indians not paying taxes in each State.

8. That the *right of suffrage* in the *second branch* of the national legislature, *ought to be according to the rule established in the first.*

9. That a national executive be instituted to consist of a single person, *to be chosen by the national legislature* for the term of seven years, with power to carry into execution the national laws, *to appoint to offices* in cases not otherwise provided for, to be ineligible a second time, and to be removable on impeachment and conviction of malpractice or neglect of duty, to receive a fixed stipend, by which he may be compensated for the devotion of his time to public service—to be paid out of the national treasury.

10. That the national executive shall have a right to *negative any legislative act which shall not afterwards be passed, unless by two third parts of each branch of the national legislature.*

11. That a national judiciary be established, to consist of one supreme tribunal, the judges of which, to be appointed *by the second branch* of the national legislature, to hold their offices during good behaviour, and to receive punctually, at stated times, a fixed compensation for their services, in which no increase or diminution shall be made, so as to affect the persons actually in office at the time of such increase or diminution.

12. That the *national legislature* be empowered to *appoint inferior tribunals.*

13. That the jurisdiction of the *national judiciary* shall extend to cases which respect the collection of the national revenue; cases arising under the laws of the United States—impeachments of any national officer, *and questions which involve the national peace and harmony.*

14. *Resolved*, That provision ought to be made for the admission of States lawfully arising within the limits of the United States whether from a voluntary junction of government, territory, or otherwise, with the consent of a number of voices in the national legislature less than the whole.

15. *Resolved*, That provision ought to be made for the continuance of Congress, and their authority and privileges, until a given day after the reform of the articles of union shall be adopted, and for the completion of all their engagements.

16. That a republican constitution and its existing laws ought to be guaranteed to each State by the United States.

17. That provision ought to be made for the amendment of the articles of union, whensoever it shall seem necessary.

18. That the legislative, executive and judiciary powers, within the several States, ought to be bound by oath to support the articles of the union.



19. That the amendments which shall be offered to the confederation by this convention, ought, at a proper time or times, after the approbation of Congress, to be submitted to an assembly or assemblies, recommended by the legislatures, to be expressly chosen by the people to consider and decide thereon.

*These propositions, Sir, were acceded to by a majority of the members of the committee—a system by which the large States were to have not only an inequality of suffrage in the first branch, but also the same inequality in the second branch, or senate; however, it was not designed the second branch should consist of the same number as the first. It was proposed that the senate should consist of twenty-eight members, formed on the following scale—Virginia to send five, Pennsylvania and Massachusetts each four, South-Carolina, North-Carolina, Maryland, New-York, and Connecticut two each, and the States of New-Hampshire, Rhode-Island, Jersey, Delaware, and Georgia each of them one;*<sup>6</sup> upon this plan, the three large States, Virginia, Pennsylvania, and Massachusetts, would have thirteen senators out of twenty-eight, almost one half of the whole number—Fifteen senators were to be a quorum to proceed to business; those three States would, therefore, have thirteen out of that quorum. Having this inequality in each branch of the legislature, it must be evident, Sir, that they would make what laws they pleased, however disagreeable or injurious to the other States, and that they would always prevent the other States from making any laws, however necessary and proper, if not agreeable to the views of those three States—They were not only, Sir, by this system, to have such an undue superiority in making laws and regulations for the Union, but to have the same superiority in the appointment of the president, the judges, and all other officers of government. Hence, those three States would in reality have the appointment of the president, judges, and all the other officers. This president, and these judges, so appointed, we may be morally certain would be citizens of one of those three States; and the president, as appointed by them, and a citizen of one of them, would espouse their interests and their views, when they came in competition with the views and interests of the other States. This president, so appointed by the three large States, and so unduly under their influence, was to have a negative upon every law that should be passed, which, if negated by him, was not to take effect, unless assented to by two thirds of each branch of the legislatures, a provision which deprived ten States of even the faintest shadow of liberty; for if they, by a miraculous unanimity, having all their members present, should outvote the other three, and pass a law contrary to their wishes, those three large States need only procure the president to negative it, and thereby prevent a possibility of its ever taking effect, because the representatives of those three States would amount to much more than one third (almost one half) of the representatives in each branch. And, Sir, this government, so

organized with all this undue superiority in those three large States, was as you see to have a power of negating the laws passed by every State legislature in the Union. Whether, therefore, laws passed by the legislature of Maryland, New-York, Connecticut, Georgia, or of any other of the ten States, for the regulation of their internal police, should take effect, and be carried into execution, was to depend on the good pleasure of the representatives of Virginia, Pennsylvania and Massachusetts.

This system of slavery, which bound hand and foot ten States in the Union, and placed them at the mercy of the other three, and under the most abject and servile subjection to them, was approved by a majority of the members of the convention, and reported by the committee.

On this occasion, the House will recollect, that the convention was resolved into a committee of the whole—of this committee Mr. Gorham was chairman—The honorable Mr. Washington was then on the floor, in the same situation with any other member of the convention at large, to oppose any system he thought injurious, or to propose any alterations or amendments he thought beneficial, to these propositions so reported by the committee, no opposition was given by that illustrious personage, or by the president of the State of Pennsylvania.<sup>7</sup> They both appeared cordially to approve them, and to give them their hearty concurrence; yet this system, I am confident, Mr. Speaker, there is not a member in this house would advocate, or who would hesitate one moment in saying it ought to be rejected. I mention this circumstance in compliance with the duty I owe this honorable body, not with a view to lessen those exalted characters, but to shew how far the greatest and best of men may be led to adopt very improper measures, through error in judgment, State influence, or by other causes, and to shew that it is our duty not to suffer our eyes to be so far dazzled by the splendor of names, as to run blindfolded into what may be our destruction.

Mr. Speaker, I revere those illustrious personages as much as any man here. No man has a higher sense of the important services they have rendered this country. No member of the convention went there more disposed to pay a deference to their opinions; but I should little have deserved the trust this State reposed in me, if I could have sacrificed its dearest interests to my complaisance for their sentiments.

*(To be continued.)*

1. Reprinted: *Pennsylvania Packet*, 5 January 1788; *New York Journal*, 15–16 January; *Pennsylvania Herald*, 16 January; *Philadelphia Independent Gazetteer*, 17 January; *Boston American Herald*, 4 February; *State Gazette of South Carolina*, 10 April. Lengthy excerpts were reprinted in "A Republican Federalist," *Philadelphia Freeman's Journal*, 16 January (Mfm:Pa. 339).

2. An extract of a letter from the Eastern Shore, dated 29 January, said that Martin, "at the instance of a great number of his constituents, was called upon to declare his objections in the public prints, to the new federal government, in order to enable them

to form some opinion of the merits or demerits, ascribed to it, as well by its numerous advocates, as opposers" (*Philadelphia Independent Gazetteer*, 8 February, CC:515).

3. For the Virginia Resolutions of 29 May which were read to the Maryland House of Delegates by James McHenry on 29 November, see CDR, 243–45; Farrand, I, 20–22, 27–28; and CC:304–A. For James McHenry's notes of Edmund Randolph's speech of 29 May, see Farrand, I, 24–27.

4. For the appointments of and instructions to the delegates of the Convention, see CDR, 192–225.

5. For the Amended Virginia Resolutions which were reported on 19 June, see CDR, 247–50.

6. This proposal has not been located. However, on 14 July Charles Pinckney of South Carolina moved that the Senate should consist of thirty-six members: N.H. (2), Mass. (4), R.I. (1), Conn. (3), N.Y. (3), N.J. (2), Pa. (4), Del. (1), Md. (3), Va. (5), N.C. (3), S.C. (3), Ga. (2). Four states, including Maryland, voted for the motion; six against (Farrand, II, 1–2, 5, 11, 12). On 23 July the Convention agreed unanimously that each state should have two senators (*ibid.*, 85, 94).

7. Benjamin Franklin.

### 390 A–I. The Circulation of the Letters from the Federal Farmer in Massachusetts, 28 December 1787–7 January 1788

In early November a forty-page Antifederalist pamphlet—*Letters from the Federal Farmer*—was published in New York City and by mid-December hundreds, perhaps thousands, of copies were distributed or sold in New York, Pennsylvania, and Connecticut (CC:242). The *Letters* aroused Federalist hostility. The most vociferous response came from "New England" in the *Connecticut Courant* on 24 December (CC:372). Among other things, "New England" accused Richard Henry Lee of writing the pamphlet and charged that John Lamb and other New York Antifederalists distributed the *Letters* in New York and other states.

On 28 December a correspondent reported in the *Massachusetts Gazette* that the *Letters* would soon appear in Boston and hinted that Samuel Adams would help distribute the pamphlet throughout Massachusetts (CC:390–A). Three days later Edward E. Powars of the Boston *American Herald* announced that the *Letters* would be sold at his office on 2 January (CC:390–B).

Adams and Powars were attacked in the *Massachusetts Gazette* for their alleged relationship to the *Letters* (CC:390 C–F). The attack upon Adams was also part of the campaign to lessen the impact of his expected opposition to the Constitution in the Massachusetts Convention, scheduled to convene on 9 January (CC:388). According to Christopher Gore, Adams's objections to the Constitution "were supported by such arguments & such only as appear in the pieces of Brutus & federal farmer" (to Rufus King, 6 January, CC:424–A).

Richard Henry Lee was criticized by the *Massachusetts Gazette* (CC:390 E–F). The *Centinel* also reprinted "New England" on 5 January (CC:372, 390–G). Only the *American Herald* defended Lee (CC:390–H). The attribution of the *Letters* to Lee by these newspapers was apparently based upon "New England's" earlier assertion.

Powars advertised the sale of the *Letters* in the *American Herald* on 7, 21, and 28 January, and on the back cover of his pamphlet edition of the "Dissent of the Minority of the Pennsylvania Convention" in late January or early February (CC:390–I; Evans 20619). Excerpts from the *Letters* also appeared in the *Massachusetts Gazette* on 1 February (CC:242, notes 3 and 23). For more on Powars and the *American Herald*, see CC:Vol. 1, xxxii–xxxiii.

390—A. *Massachusetts Gazette, 28 December*<sup>1</sup>

A flaming anti-federal pamphlet, says a correspondent, is soon to make its appearance in this metropolis, and is also to be circulated throughout the state, in order to prejudice the minds of the people against the proposed plan of federal government. This pamphlet will no doubt contain the quintessence of all the falshoods, absurdities and improbabilities with which the productions of the scribbling sons of anarchy and anti-federalism abound. *Adam*, it is said, is to mount the nag on which he some years since rode about the country to distribute votes for chief magistrate, and proceed southward, with a groce or two of the aforementioned pamphlets; and a considerable quantity it is also said is to be forwarded to the *quondam librarian* and his *brother in iniquity*,<sup>2</sup> whose emissaries are to proceed westward, for the purpose of distributing the poison of antifederalism, and the hydrophobia of sedition. It is hoped that the good people of Massachusetts will deliberately consider and judge for themselves, and not pin their faith upon the *opinions* of men who are labouring with unwearied zeal to effect the prostration of all law and government in the dust.

390—B. *Boston American Herald, 31 December*

☞ At this office will be for sale, On Wednesday next, a Pamphlet, entitled,—“*Observations, leading to a fair Examination of the System of Government proposed by the late Convention; and to several essential and necessary Alterations in it. In a number of Letters from the Federal Farmer to the Republican.*”

∴ As a FEEBLE attempt has been made (by a LARGE, *over-grown Boy, or Calf*) in brother Allen’s last paper,<sup>3</sup> to prejudice the publick against the said performance—the Printer of the Herald, presuming that a free and impartial discussion of this important subject cannot be disagreeable to the HONEST part of the community, hopes that this ingenious production will be generally purchased by his fellow-citizens, in order, if it be *false*, that its errors may be the more easily detected; and if *true*, and in point to the question before the people, that it may have the weight that TRUTH and SOUND REASONING ought to have.—

(☞ *Price One Shilling and Six Pence single—much under by the Grist.*)

390—C. *Massachusetts Gazette, 1 January*

A vain and paltry attempt was made in yesterday’s HERALD, by its no less vain and paltry Editor, to wipe off the stigma already indelibly stamped upon his anti-federal BRAT (though yet in embryo) and fix the attention of the publick upon an object who has nothing to do either with

him or his anti-federalism, and who thinks him (the said editor) too far below the common level of contempt to merit his serious notice. In the opinion of the author of this paragraph, the specimen exhibited by the anti-federal editor, of his Billingsgate talents, will be of little avail in inducing the wise and honest part of the community to encourage the spreading of sedition so far as to become purchasers of his anti-federal farrago.

390—D. *Massachusetts Gazette, 1 January*

*From a correspondent.*

*Eveleth* and *Adam* have both miss'd their cue; the former in his "overgrown" Billingsgate, and the latter in his misapplied scurrility. A fault, however, which proceeds from ignorance, the generous mind can easily forgive. Ha, ha, ha.

*Adam*, by the last accounts, says a correspondent, was completely booted and spurred, and ready to set off on his pamphleteering expedition at a moment's warning. It is supposed that Wednesday morning is the time fixed on for his departure, as the editor of the pamphlets has, in an "overgrown" manner, and, with an *unparalleled* display of "overgrown" *WIT*, informed the *expecting* publick, that the *wonderful phenomenon* is, on Wednesday, to be re-ushered into existance. As *Adam* will, without doubt, have something for every dozen he disposes of (the editor having informed the publick that allowances will be made to them who *purchase by the grist*) most probably he will lay out his profits in the purchase of SALT; and as he is well acquainted with the road to H—g—m,<sup>4</sup> (having been that way before, to distribute votes) he will most probably proceed in that course first; and *pails* being very convenient for containing salt, he will without doubt make an exchange of some pamphlets for *pails*, as pail-makers, as well as other people, have a *variety of uses* for waste-paper.

390—E. *Massachusetts Gazette, 1 January*<sup>5</sup>

*Extract of a letter from Cambridge.*

"You inform me that the hon. mr. A—— had been very much upon the reserve, as to his sentiments upon the new plan, till the choice of delegates for convention was made; and since that time has dipped his pen in venom and gall against the constitution. He may have good reasons for his conduct; but for my part I cannot reconcile it with that consistency of character which ought ever to distinguish every good man: it savours more of the *politician* than the patriot. But what surprises me most is, that he should attempt to divide and distract our councils, by encouraging the *republication* of RICHARD H. LEE's hacknied trumpetry, in

a pamphlet, circulated in *Connecticut*, and lately brought *here*, as if there was not a man among *us* capable of dissecting the constitution.”

390—F. *Massachusetts Gazette*, 1 January

**The wonder of wonders, or anti-federalism concentered in a body.**

To-morrow morning will be exhibited, the CREAM OF ANTI-FEDERALISM, for the first time, in this state. This wonderful performance is decorated in an “overgrown” manner, and is said to be nearly *equal* to the celebrated *Aggriphanian harrangues*<sup>6</sup> in the *Mass. Gazette*. This phenomenon of all phenomenons; will to be seen in court-street; the price will be 1s. & 6d. if viewed singly, but if viewed “*by the grist*” the price will be less. What in fact will be exhibited is, the *flimsey* and well-known objections of mr. R. H. L. to the federal constitution. Amazing sight this, indeed!!

390—G. *Massachusetts Centinel*, 2 January

☞ As the publick have been advertised, that this day an antifederal pamphlet will be published, called “*Letters from the Federal Farmer to the Republican*,” said to be written by Richard Henry Lee, Esq. of Virginia—the Printer of the *Centinel* would inform that publick that he has received a *damp*<sup>7</sup> for said pamphlet, which will be inserted in his next paper.

390—H. *Boston American Herald*, 7 January

The Aristocratic Junto, and their Tools, being unable to answer the sound reasoning and weighty objections to the New System of Government, which is contained in the pamphlet entitled, “*Observations, &c.*” have been reduced to their usual resort, *personal detraction*.—A Correspondent wishes to know of what consequence it can possibly be to the public, whether RICHARD HENRY LEE doubted of the military abilities of General Washington in 1775, or not?—If the above mentioned pamphlet contains unanswerable objections, as it undoubtedly does, it is not any thing that the *hireling*, who so mal’apropos signs himself *New-England*, can possibly say against its respectable author, that will tend, in any manner, to prejudice the minds of the people, or prevent a free circulation of his performance.—We shall pass over, in silence, other parts of this “DAMPER,” as a brother Printer is pleased to stile it—His inflammatory threat against a sister State, which undoubtedly originated from the very Demon of Discord, and which appears to be better calculated for the meridian of Connecticut than for our enlightened Commonwealth.<sup>8</sup>

390—I. *Boston American Herald*, 7 January

•• THAT! reprobated, execrated, ANTI—PAMPHLET!—Yes, my “dear Countrymen,” *that!* ‘wicked,’ ‘un-Christian.’ “anti — Volume !!!

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(☞ *Price One Shilling & 6 Pence.*)

‘Tis finished,’ ’tis done! And may be ☞ PURCHASED. ☞ Of EDW. E. POWARS, *Opposite the New Court House*, Boston, A Pamphlet, entitled, “OBSERVATIONS, LEADING TO A FAIR EXAMINATION OF THE SYSTEM OF GOVERNMENT PROPOSED BY THE LATE CONVENTION: AND TO SEVERAL ESSENTIAL AND NECESSARY ALTERATIONS IN IT.—IN A NUMBER OF *LETTERS FROM THE FEDERAL FARMER TO THE REPUBLICAN.*”

☞ *Although the above Pamphlet is not bulky, nor yet over “wordy,” it breathes the pure, uncontaminated air of Republicanism, as well as the celebrated spirit of the year 1775. It is written coolly and dispassionately, taking Reason for its guide, and solid argument for its basis.—It gives “a sea” of sentiment in “40 pages of octave.”—But it is needless to speak its praises in an advertisement—Purchase, and read for yourselves, ye Patriots of Columbia!*

1. Reprinted: *Hartford American Mercury* and *New York Journal*, 7 January 1788; *Pennsylvania Packet*, 10 January; *State Gazette of South Carolina*, 11 February.

2. The “*quondum librarian*” was James Winthrop of Cambridge who was eased out as librarian of Harvard College earlier in the year. Federalists charged him with writing the Antifederalist “Agrippa” articles (CC:358, note 6). His “*brother in iniquity*” was probably his fellow townsman—Elbridge Gerry. Neither man was elected to the state Convention.

3. See CC:390—A. John W. Allen was the publisher of the *Massachusetts Gazette*.

4. Hingham is southeast of Boston.

5. Reprinted: *New York Packet* and *New York Morning Post*, 11 January; *Pennsylvania Packet*, 15 January; *Pennsylvania Gazette*, 16 January.

6. See CC:358, note 6.

7. The “*dampier*” was “New England” (CC:372) which was reprinted in the *Centinel* on 5 January.

8. Probably a reference to “New England’s” attack on New York’s commercial dominance over Connecticut.

### 391. Publius: The Federalist 30

*New York Packet*, 28 December

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser* and *New York Independent Journal* on 29 December and *New York Journal* on 2 and 4 January 1788. It was number 30 in the M’Lean edition and number 29 in the newspapers.

For a general discussion of the authorship, circulation, impact, and differences in the numbering of the essays in the M’Lean edition and the newspapers, see CC:201.

The FEDERALIST, No. 29.

*To the People of the State of New-York.*

It has been already observed, that the Fœderal Government ought to possess the power of providing for the support of the national forces;

in which proposition was intended to be included the expence of raising troops, of building and equipping fleets, and all other expences in any wise connected with military arrangements and operations. But these are not the only objects to which the jurisdiction of the Union, in respect to revenue, must necessarily be empowered to extend—It must embrace a provision for the support of the national civil list—for the payment of the national debts contracted, or that may be contracted—and in general for all those matters which will call for disbursements out of the national treasury. The conclusion is, that there must be interwoven in the frame of the government, a general power of taxation in one shape or another.

Money is with propriety considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions. A complete power therefore to procure a regular and adequate supply of it, as far as the resources of the community will permit, may be regarded as an indispensable ingredient in every constitution. From a deficiency in this particular, one of two evils must ensue; either the people must be subjected to continual plunder as a substitute for a more eligible mode of supplying the public wants, or the government must sink into a fatal atrophy, and in a short course of time perish.

In the Ottoman or Turkish empire, the sovereign, though in other respects absolute master of the lives and fortunes of his subjects, has no right to impose a new tax. The consequence is, that he permits the Bashaws or Governors of provinces to pillage the people without mercy; and in turn squeezes out of them the sums of which he stands in need to satisfy his own exigencies and those of the State. In America, from a like cause, the government of the Union has gradually dwindled into a state of decay, approaching nearly to annihilation. Who can doubt that the happiness of the people in both countries would be promoted by competent authorities in the proper hands, to provide the revenues which the necessities of the public might require?

The present confederation, feeble as it is, intended to repose in the United States, an unlimited power of providing for the pecuniary wants of the Union. But proceeding upon an erroneous principle, it has been done in such a manner as entirely to have frustrated the intention. Congress by the articles which compose that compact (as has been already stated) are authorised to ascertain and call for any sums of money necessary, in their judgment, to the service of the United States; and their requisitions, if conformable to the rule of apportionment, are in every constitutional sense obligatory upon the States. These have no right to question the propriety of the demand—no discretion beyond that of devising the ways and means of furnishing the sums demanded. But though this be strictly and truly the case; though the assumption of such a right be an infringement of the articles of Union; though it may



seldom or never have been avowedly claimed; yet in practice it has been constantly exercised; and would continue to be so, as long as the revenues of the confederacy should remain dependant on the intermediate agency of its members. What the consequences of this system have been, is within the knowledge of every man, the least conversant in our public affairs, and has been amply unfolded in different parts of these inquiries. It is this which has chiefly contributed to reduce us to a situation which affords ample cause, both of mortification to ourselves, and of triumph to our enemies.

What remedy can there be for this situation but, in a change of the system, which has produced it? In a change of the fallacious and delusive system of quotas and requisitions? What substitute can there be imagined for this *ignis fatuus* in finance, but that of permitting the national government to raise its own revenues by the ordinary methods of taxation, authorised in every well ordered constitution of civil government? Ingenious men may declaim with plausibility on any subject; but no human ingenuity can point out any other expedient to rescue us from the inconveniencies and embarrassments, naturally resulting from defective supplies of the public treasury.

The more intelligent adversaries of the new constitution admit the force of this reasoning; but they qualify their admission by a distinction between what they call *internal* and *external* taxation. The former they would reserve to the State governments; the latter, which they explain into commercial imposts, or rather duties on imported articles, they declare themselves willing to concede to the Fœderal Head. This distinction, however, would violate that fundamental maxim of good sense and sound policy, which dictates that every POWER ought to be proportionate to its OBJECT; and would still leave the General Government in a kind of tutelage to the State governments, inconsistent with every idea of vigor or efficiency. Who can pretend that commercial imposts are or would be alone equal to the present and future exigencies of the Union?<sup>1</sup> Taking into the account the existing debt, foreign and domestic, upon any plan of extinguishment, which a man moderately impressed with the importance of public justice and public credit could approve, in addition to the establishments, which all parties will acknowledge to be necessary, we could not reasonably flatter ourselves, that this resource alone, upon the most improved scale, would even suffice for its present necessities. Its future necessities admit not of calculation or limitation; and upon the principle, more than once adverted to, the power of making provision for them as they arise, ought to be equally unconfined. I believe it may be regarded as a position, warranted by the history of mankind, that *in the usual progress of things, the necessities of a nation in every stage of its existence will be found at least equal to its resources.*

To say that deficiencies may be provided for by requisitions upon the States, is on the one hand, to acknowledge that this system cannot be depended upon; and on the other hand, to depend upon it for every thing beyond a certain limit. Those who have carefully attended to its vices and deformities as they have been exhibited by experience, or delineated in the course of these papers, must feel an invincible repugnancy to trusting the national interests, in any degree, to its operation. Its inevitable tendency, whenever it is brought into activity, must be to enfeeble the Union and sow the seeds of discord and contention between the Fœderal Head and its members, and between the members themselves. Can it be expected that the deficiencies would be better supplied in this mode, than the total wants of the Union have heretofore been supplied, in the same mode? It ought to be recollected, that if less will be required from the States, they will have proportionably less means to answer the demand. If the opinions of those who contend for the distinction which has been mentioned, were to be received as evidence of truth, one would be led to conclude that there was some known point in the œconomy of national affairs, at which it would be safe to stop, and say, thus far the ends of public happiness will be promoted by supplying the wants of government, and all beyond this is unworthy of our care or anxiety. How is it possible that a government half supplied and always necessitous, can fulfil the purposes of its institution—can provide for the security of—advance the prosperity—or support the reputation of the commonwealth? How can it ever possess either energy or stability, dignity or credit, confidence at home or respectability abroad? How can its administration be any thing else than a succession of expedients temporising, impotent, disgraceful? How will it be able to avoid a frequent sacrifice of its engagements to immediate necessity? How can it undertake or execute any liberal or enlarged plans of public good?

Let us attend to what would be the effects of this situation in the very first war in which we should happen to be engaged. We will presume for argument sake, that the revenue arising from the impost-duties answer the purposes of a provision for the public debt, and of a peace establishment for the Union. Thus circumstanced, a war breaks out. What would be the probable conduct of the government in such an emergency? Taught by experience that proper dependence could not be placed on the success of requisitions; unable by its own authority to lay hold of fresh resources, and urged by considerations of national danger, would it not be driven to the expedient of diverting the funds already appropriated from their proper objects to the defence of the State? It is not easy to see how a step of this kind could be avoided; and if it should be taken, it is evident that it would prove the destruction of public credit at the very moment that it was become essential to the

public safety. To imagine that at such a crisis credit might be dispensed with, would be the extreme of infatuation. In the modern system of war, nations the most wealthy are obliged to have recourse to large loans. A country so little opulent as ours, must feel this necessity in a much stronger degree. But who would lend to a government that prefaced its overtures for borrowing, by an act which demonstrated that no reliance could be placed on the steadiness of its measures for paying? The loans it might be able to procure, would be as limited in their extent as burthensome in their conditions. They would be made upon the same principles that usurers commonly lend to bankrupt and fraudulent debtors; with a sparing hand, and at enormous premiums.

It may perhaps be imagined, that from the scantiness of the resources of the country, the necessity of diverting the established funds in the case supposed, would exist; though the national government should possess an unrestrained power of taxation. But two considerations will serve to quiet all apprehension on this head; one is, that we are sure the resources of the community in their full extent, will be brought into activity for the benefit of the Union; the other is, that whatever deficiencies there may be, can without difficulty be supplied by loans.

The power of creating new funds upon new objects of taxation by its own authority, would enable the national government to borrow, as far as its necessities might require. Foreigners as well as the citizens of America, could then reasonably repose confidence in its engagements; but to depend upon a government, that must itself depend upon thirteen other governments for the means of fulfilling its contracts, when once its situation is clearly understood, would require a degree of credulity, not often to be met with in the pecuniary transactions of mankind, and little reconcilable with the usual sharp-sightedness of avarice.

Reflections of this kind, may have trifling weight with men, who hope to see realized in America, the halcyon scenes of the poetic or fabulous age; but to those who believe we are likely to experience a common portion of the vicissitudes and calamities, which have fallen to the lot of other nations, they must appear entitled to serious attention. Such men must behold the actual situation of their country with painful solicitude, and deprecate the evils which ambition or revenge might, with too much facility, inflict upon it.

1. Federalists often used the argument that the Constitution would reduce the tax burden on the public because the revenue collected from commercial duties would be sufficient to meet the regular expenses of the central government. (See CC:292, note 2.) In *The Federalist* 45, James Madison disagreed with Hamilton's position on the frequency with which the federal government would have to levy internal taxes (CC:478).

**392 A–D. An American: To Richard Henry Lee**  
**28 December 1787–3 January 1788**

This essay, written by Tench Coxe of Philadelphia, answered Richard Henry Lee's objection to the Constitution's provision requiring only a majority vote in Congress to pass commercial acts. This objection appeared in Lee's 16 October letter to Governor Edmund Randolph, which was first published in the Petersburg *Virginia Gazette* on 6 December (CC:325). Lee's letter was reprinted in Philadelphia in the *Pennsylvania Packet* on 20 December. A week later the *Independent Gazetteer* announced that "The Honorable Richard Henry Lee's Letter to Governor Randolph on the subject of the New Constitution, and a reply thereto by 'An American,' will appear in our next. . . ." Lee's letter and Coxe's response were published together in the *Gazetteer* on 28 December.

On 28 December Coxe transmitted "An American" to James Madison in New York, asking that it be reprinted in South Carolina, Georgia, and in the country newspapers of New York and New England, and that it be sent to the members of the Connecticut Convention (CC:392–B). On the same day Coxe also forwarded the essay to James R. Reid, a Pennsylvania delegate to Congress (Reid to Coxe, 15 January 1788, CC:450). In mid-January Coxe informed Mathew Carey of the Philadelphia *American Museum* that Carey could find "a correct copy" of the essay in the *Pennsylvania Gazette*. This copy could be used to set type for the *Museum's* reprint (16 [17] January, Lea and Febiger Collection, PHi).

"An American" was reprinted in the *Pennsylvania Herald*, 29 December; *Pennsylvania Packet*, 2 January; *Pennsylvania Gazette*, 16 January; Philadelphia *American Museum*, January issue; Baltimore *Maryland Gazette*, 8, 12 February; *Worcester Magazine*, third week in February; Charleston *Columbian Herald*, 6, 10 March; and *New Hampshire Recorder*, 15, 22 April. On 15 April the *Recorder* noted that "An American" "would have appeared several weeks past, but the size of our late papers would not permit." Publication in the *Worcester Magazine* had also been delayed. The *Magazine* had first announced that it intended to reprint the essay in its issue of the fourth week in January.

Coxe wrote a second essay signed "An American" answering more of Lee's objections, but this essay apparently was never published (CC:392–D).

*392–A. An American: To Richard Henry Lee*  
*Philadelphia Independent Gazetteer, 28 December*

TO THE HONORABLE RICHARD HENRY LEE, Esquire.

SIR, Your name has been given to the people of America, in a letter to the governor of Virginia, with a number of observations of the utmost importance to the public happiness. Authorized by this circumstance and the privileges of an American citizen, I have undertaken to address you. Though my want of information and the necessary talents may prevent my doing complete justice to the particular point which I mean to investigate, I promise you the respect due to your character, and to the honorable employments you have held in the service of our common country. Should I suggest to you or any other fellow-citizen, facts and considerations sufficient to remove this objection to the federal constitution, my wishes will be fulfilled. At all events however, I shall avail myself of the attention which your name

will ensure to my address, and will carry it by that advantage, to the minds of our countrymen.

*The power of enacting commercial laws by "a bare majority" of the congressional legislature*, appears to be a principal objection in your view of the subject, and, if I am rightly informed, it is considered in the same light by the two honorable Virginians, who with-held their names from the act of the federal convention.<sup>1</sup> Such names, sir, and objections upon so grand a point it is not my intention to treat lightly, yet your remarks must be dispassionately canvassed without any undue respect to the eminent characters that suggest or support them.

In order to ascertain in what manner the legislative powers of the United States will be exercised on the commercial subject, it will be necessary to trace the federal legislature up to its several sources. You speak of the supposed danger from this power of Congress as an object of peculiar apprehension to the five southern states, from whence I presume, and I hope not unfairly, that you concur with me in considering their true interests as decidedly agricultural—and in believing that the powers of the federal legislature, whether in the one branch or in the other, so far as they shall be derived from them, will be duly attentive to the landed interests of America, and cautious against any injurious measures which may be attempted by our mercantile representatives. Your candor will readily grant, that to those five southern states we may add *Delaware* and *New-Jersey*, two states the most absolutely agricultural of any in the union by reason of the adjacent situations of Philadelphia and New-York.

Before we proceed to consider the true leading interests and views of the six remaining members of our confederacy, let us remember, that upon your own statement and the evidence of facts it is clearly established, that in the senate of America, we shall always be certain of a majority of two devoted to her landed interests, and in the house of representatives of a majority of three, for Georgia, the Carolinas, Virginia, Maryland, Delaware, and Jersey are to send fourteen votes to the senate, and thirty four to the federal house of representatives, whose whole number is sixty five. The erection of Kentucke and Vermont, which appear certain, into independent governments, the encreasing population of the western parts of the atlantic states, and the establishment of new members of the union on the lands of Congress will all operate to lessen the weight of the six states, in regard to which the apprehension exists, and will encrease that preponderancy which we see the other seven already possess.

Let us now turn our cool, but close attention to those six states from whose supposed views and interests these apprehensions arise. As Pennsylvania enjoys as great a share of foreign commerce as any of the number, and as her true situation is the most minutely known to me, I will begin there. The city of Philadelphia, the centre of our commerce,

or rather its only mart, sends five members to our state legislature; the district of Southwark has always weight enough to nominate one member of the county of Philadelphia, and that part of the Northern liberties, which joins Philadelphia, has always the opportunity of nominating another county member.<sup>2</sup> These form the whole commercial representation in our assembly, upon the most exaggerated statement. Seven persons only in a house which consists of sixty nine members: a little more than one tenth of the body. There is not in this commonwealth, nor can there ever be, another sea port. Residing out of Philadelphia and its above appurtenances there is not one merchant. But the tree is ever best known by its fruits. The majority of the Pennsylvania members of Congress elected by the ballots of our legislature, are not commercial men. Of our delegates for last year, and of our delegates for the current year, four out of five in each appointment have not the smallest interest in trade.<sup>3</sup> The fifth in each year we find to be the prior of a respectable mercantile house; but though his property in trade must be very considerable, and his commercial connexions are certainly extensive, it is equally certain that his landed estate and his monies in our public funds are, *each*, greater in amount than his capital in trade. It is also a well known fact, that the most influential merchants of Pennsylvania are very capital landholders in the various counties of this state and of those adjacent, from Virginia to New-York, inclusive. To such a degree are they connected with the agricultural interest, that I will venture to assert in this paper, which is to be published under their eyes, that the property employed by them (taken collectively) in every species of commerce is very far short of the value of their landed estates. How differently from these are the circumstances of the merchants of Holland, France, or even of Great Britain, yet how unavailing is the influence of the representatives of the trading and manufacturing towns in that commercial country, when the landed gentlemen unite against them—We know that on those occasions, when contests arise in our legislature between the agricultural and commercial members, the latter are ever obliged to yield to the irresistible power of the landed interest: and from the construction of the house, which is truly stated in this letter, as well as from the unalterable nature of things in Pennsylvania, this must ever be the case. The importance of our commerce is well understood, but its most sincere and powerful friends admit, and even assert the superior importance of agriculture.

Omitting at this time to say any thing of Connecticut, Rhode Island and New-Hampshire, as less extensive in commerce than New-York and Massachusetts, I will venture to affirm, without detailing the situation of the two latter states, that the comparative weight of their merchants is very much the same, when opposed to their country gentlemen, as has been stated in respect to Pennsylvania. A little more

or less it must necessarily be, but the difference is very greatly in favor of their farmers—If a doubt can exist in regard to either of them, it must be with respect to Massachusetts, but that will vanish when we remember their great superiority over this state in the number of *free white* inhabitants.

By way of a general review of this subject, I shall give you the substance and nearly the words of a late publication on “the principles of a commercial system for the United States,” addressed to the federal convention, during their late sitting, by a *merchant* (not a landholder) of Philadelphia.<sup>4</sup>

Just opinions (says this writer) on our general affairs, must necessarily precede such a wise system of commercial regulations, as will extend our trade as far as it can be carried without affecting unfavorably our other weighty interests. It may therefore be useful to take a comparative view of the two most important objects in the United States: our *agriculture* and *commerce*.

In a country blest with a fertile soil and a climate admitting steady labor, where the cheapness of land tempts the European from his home, and the manufacturer from his trade, we are led by a few moments of reflexion to fix on *agriculture*, as *the great leading interest*. From this we shall find most of our other advantages result, so far as they arise from the nature of our affairs, and where they are not produced by the coercion of laws: the fisheries are the principal exception. In order to make a true estimate of the magnitude of agriculture, we must remember, that it is encouraged by few or no duties on the importation of rival produce—that, with a small exception in favor of our fisheries, it furnishes outward cargoes not only for all our own ships, but those also which foreign nations send to our ports, or in other words that it pays for all our importations—that it supplies a part of the cloathing of our people, and the food of them and their cattle—that what is consumed at home, including the materials for manufacturing, is four or five times the value of what is exported, that the number of people employed in agriculture, is at least *nine parts in ten* of the inhabitants of America, that therefore the planters and farmers form the body of the militia, the bulwark of the nation—that the value of property occupied by agriculture, is manifold greater than that of the property employed in every other way—that the settlement of our waste lands, and subdividing our improved farms is every year encreasing the pre-eminence of the agricultural interest, that the resources we derive from it are at all times certain and indispensibly necessary—and lastly, that the rural life promotes health and morality by its active nature, and by keeping our people from the luxuries and vices of the towns. In short, agriculture appears to be the spring of our commerce, and the parent of our manufactures.

The commerce of America, including our exports, imports, shipping, manufactures, and fisheries may be properly considered as forming one interest. So uninformed and mistaken have many of us been, that it has been stated as the greatest object in our affairs, and I fear it is yet believed by some to be the most important interest of New-England. But from the best calculations, I have been able to make, I cannot raise the proportion of property or the number of men employed in manufactures, fisheries, navigation and trade to one eighth of the property and people occupied by agriculture, *even in that commercial quarter of the union*. In making this estimate I have deducted something from the value and population of the large towns for the idle and dissipated, for those who live upon their incomes, and for supernumerary domestic servants. But the disproportion is much greater, taking the union at large, for several of the states, have little commerce, and no manufactures—others have no commerce, and scarcely manufacture any thing. The timber, iron, cordage, and many other articles necessary for building ships to fish or trade—nine parts in ten of their cargoes—the subsistence of the manufacturers, and much of their raw materials are the produce of our lands. In almost all of the countries of Europe, judicious writers have considered commerce as the handmaid of agriculture. If true there, with us it must be unquestionable, for we have few manufactories to throw into the scale against the landed interest, and we have in our lands full employment for our present inhabitants. Instead of sending colonies to new-discovered islands, we have adjoining townships and counties, whose vacant fields await the future encrease of our people.

As a comparative view of the importance of our various interests thus terminates in a decided and great superiority of agriculture over all the rest combined, as emigration and natural encrease are daily adding to the number of our planters and farmers, as the states are possessed of millions of vacant acres, that court the cultivator's hand—as the settlement of these immense tracts will greatly and steadily encrease the objects of taxation, the resources, the powers of the country—as they will prove an inherent treasure of which neither folly nor chance can deprive us, we shall be careful to do nothing that can interrupt this happy progress of our affairs. But should we from a misconception of our true interests, or from any other cause, form a system of commercial regulations, prejudicial to this great mass of property, to this great body of the people, we shall injure our country during the continuance of the error, and must finally return to that plan which will promote that evident, most important and essential interest—THE AGRICULTURE OF THE UNITED STATES.

Here, sir, let us pause a moment. Let us consider with that candor, which I am sure you love, and which the interesting nature of the



subject requires, the foregoing facts and observations. Two conclusions, it appears to me, will inevitably result from them in a mind as just and enlightened as yours. 1st that, since there is no state-legislature in our confederacy, wherein the landed gentlemen will not at all times form a great and commanding majority, and as there are some in which a commercial interest is entirely unknown, so there is an unquestionable certainty that much the greater part of the federal senate, whom they are to depute, will be always attached to the agricultural interest; and 2dly, as there is no state in this union in which the planters or farmers do not form an irresistible majority of the people at large, and as there are some in which a *permanent mercantile house* is not to be found, so there is also an indubitable certainty, that much the greater part of the federal representatives will be always devoted to the landed interest of the United States.

But, sir, let us proceed to your next difficulty on this point. You ask how are you to build ships in your commonwealth and from whence are you to procure seamen? I will venture to promise you as many Virginia-built ships as you can *profitably* employ, on as low terms as they can be built in Philadelphia or New-York. There is nothing in our commerce more certain; and the merchants of this city know it from the experience of real facts. The port of Philadelphia has ever had among the vessels belonging to it great numbers built in the other states, the southern as well as the northern. In regard to seamen, Pennsylvania has few natives in that line. Certain employment and a little higher wages, will draw them to Virginia from New-England, the West-Indies, and Europe, as they have always drawn them to Philadelphia.

With respect to the shipping of America, I am very doubt[ful] whether the merchants of those states, that have not large and valuable *exports* will continue to *own* them in any great number. Many will no doubt be built there, but when our country and our commerce is once more brought to order, the merchant residing at the great scenes of *export* will find it profitable and convenient to purchase or build ships, by which the northern *owner* will be so far interfered with. I will venture to predict, that however cheap vessels may hereafter be in New-England, their will be many built on the waters of Chesapeake, and very many owned by the merchants residing on them. Already is the matter arrived to such a point, that few men desire to be permanent owners of vessels in the New-England states. That country has been much deceived by looking to the example of Holland, to produce whose commercial aggrandizement, many circumstances conspired, that do not exist at this time and which can never take place in America. That province was an assylum of religious liberty, or at least of toleration, for the oppressed people of the surrounding nations, a point on which all

our states must be happy and *equal*, as long as no religious test is necessary to a share in our federal government. Holland was also an assylum of political liberty, in regard to which the southern states will be on a footing with the northern. The Dutch lived among surrounding nations, who in the early days of their republic, paid no regard to commerce, whereas every state in America views it with an eager, desiring eye and pursues it to the utmost of her power: and lastly the Dutch Provinces had, by various means, amassed so large a monied capital, and obtained such a footing in regard to foreign colonies necessary in the European trade, before the importance of commerce was discovered by their neighbours, that it was impossible to contend with the mighty force of the first or to deprive them of their firm hold upon the last. This you know, sir, was the situation of Holland, but in the affairs of the United States, foreign colonies subservient to commerce, must for a long time remain not even a matter of expectation or desire, and if ever the time shall arrive when the American confederacy will possess such dependencies, they must be equally accessible to the vessels of the southern states, and to those of the northern. With respect to a powerful monied capital, the value of their productions must, *with the same republican habits and manners*, give our southern citizens a decided superiority over their northern bretheren.

The apprehensions you entertain concerning the interference of the commercial with the agricultural interests of the United States ought not to have been reserved. I rejoice at your explicit declaration of them, because I hope it may lead those, whose particular duty it is, to give the subject a thorough investigation, which I confidently trust will terminate in the total dissipation of their fears.

I have the honor to be, With very great respect, Sir, your most obedient servant, AN AMERICAN.

392—B. Tench Coxe to James Madison  
Philadelphia, 28 December<sup>5</sup>

I trouble you once more with an Attempt of mine to explain a point connected wth. the new federal constitution. Finding from a conversation with Mr. Wilson & Dr. Rush that an Idea in Mr. R. H Lee's letter to your Governor concerning the commercial powers of Congress was doing mischief in Virginia I devoted last Sunday to an investigation of it. I take the liberty of enclosing a couple of copies of it, under the signature of *an American*. I shall take some pains to have it republished to the *Southward*,<sup>6</sup> and wish it could be inserted in some of the country News papers of New York and New England, or that it might be put into the hands of some proper person in the Connecticut Convention to be made use of, if *occasion* should appear. I do not think it can answer

any good purpose in their Seaports, tho from the decided approbation of the System along the Coast I do not think any thing is to be feared from its consequences among the Merchants there. It is likely you may have some earlier opty than we for S. Carolina, or Georgia.—I have pursued the advice of the proverb that *fair Words* go the furthest, for as I meant it principally for the *gentlemen* of Virga. and for Mr. Lee's friends I think it more likely to have a good effect from treating him with all the Respect they can claim for him<sup>7</sup>—Col. Hamilton will be able to give you an Opinion on its usefulness in the interior parts of the State of new york, and will also be a good Judge of New England.

Our advices from Georgia recd. on Thursday are very agreeable. From them I should not be surprized at an Unanimous adoption there. The political Society of Richmond (whose respectability I know not) have approved of it after a formal discussion by a great Majority—<sup>8</sup>

392—C. *James Madison to Tench Coxe*  
New York, 3 January<sup>9</sup>

I have been favored with yours of the 28 Ult: and thank you for ye paper which it inclosed. Your arguments appear to me to place the subject to which they relate in its true light, and must be satisfactory to the writer himself whom they oppose, if he can suspend for a moment his preconceived opinions. But whether they should have any effect or not on him, they will unquestionably be of service in Virginia, and probably in the other Southern States. Col. Hamilton has read the paper with equal pleasure & approbation with myself. He seems to think that the Farmers of New York are in no danger of being infected with an improper jealousy of a sacrifice of their interests to a partiality for commerce or navigation. Connecticut is more likely perhaps to be awake to suspicions of that sort; and it will be well to counteract them every where by candid and judicious explanations. I propose to send a copy of yours to S. Carolina by the first conveyance; and to put another into the hands of some Gentleman who corresponds with Georgia if I can find one. I have no correspondent in that State.

I never till very lately received an answer from Virga. on the subject of your former observations in support of the foedl Constitution. I find now that the three first letters were published at Richmond in a pamphlet with one or two other little pieces, and that they had a very valuable effect. The 4th. was circulated in the Newspapers, not having arrived in time to be put into the pamphlet.<sup>10</sup>

We have received no information of very late date or of a satisfactory nature from Europe. The London Head in the paper of this morning which I inclose, mentions a circumstance which leads to some new reflections on the situation of the Dutch.

I have no intelligence from the States Eastward of this worth adding. The elections in Massts. must by this time authorise a pretty good estimate of the two parties with regard to the plan of the Convention, but I am not yet possessed of the conjectures on the subject. It seems that both Mr. Gerry who opposed the plan in Convention,<sup>11</sup> and Mr. Dane who followed the example in Congs. are left out of the returns from their respective districts.<sup>12</sup> Perhaps the enmity of the former may not only be embittered, but rendered more active and successful by this disappointment. On the floor of the Convention he could only have urged bad arguments, which might be answered & exposed by good ones. Without doors he will be able not only to urge them without opposition, but to insinuate that he could say much more, had he not been deprived of a hearing by the machinations of those who were afraid of being confronted.

The post from the South being not yet come in I can not give you any Richmond News. The last I received was a continuation of the evidences of an increasing opposition to the new Government. The Characters which head it account fully for the change of opinions.

392—D. *An American: To Richard Henry Lee*<sup>13</sup>

No. II

To the honorable Richard Henry Lee Esquire

Sir The last letter in which I had the honor to address you was confined to the sole object of removing your objections against the powers of the federal ~~new Constitution~~ Legislature, as you conceived they might be applied to the regulation of Commerce. Before I proceed to observe on any other part of your ~~letter~~ address to the Governor of Virginia, permit me to remark that in this free and enlightened Country, we did not expect to find one of her most zealous and ~~useful~~ patriotic Citizens ~~openly~~ objecting to a possible act of our Government because it might be effected by a Majority. That the evils you apprehend on this head will not take place I will indulge myself so far as to believe, but that objections [scant?] with justice & patriotism should have faln from your pen, even from inadvertency, I scarcely credit at this hour.

You think, Sir, a convention of the states has been easily obtained. About ~~twenty Months~~ near two years ago the legislature of Virginia first moved in this Business. ~~A fruitless~~ An abortive attempt was made to call a Convention, in which a great part of the Union did not concur, and of them a few only assembled, tho the business was solely to promote an object of universal desire, *our deranged Commerce*.<sup>14</sup> A Nation less persevering than ours would have [been] discouraged by such supineness on a subject of importance so acknowledged—and rather of the first Necessity. Another attempt however was made, and twelve States only

came into the measure. A *general* convention then has never yet been obtained and yet you trust there would be no difficulty in procuring one. Notwithstanding the respect I ~~may~~ feel for your Judgment I take the great Teacher, *Experience*, on this occasion in preference to you.

When I notice your observations on the preference of a bad Government to Anarchy I will not consider it as a concession on my part that the proposed System is not a good one. For [I] sincerely believe that the ~~proposed~~ federal Constitution, taken in Connexion with & as it is supported by the several State constitutions, is the best that human Wisdom has ever devised, or that providence has given to Mankind. After thus explicitly giving you my political Creed, suffer me to ask you if it is only by *the fear* of Anarchy that the friends of Liberty [in?] America ought to be influenced at this Crisis. Have not emissions of paper money taken place since the peace in seven of the States, and have not four others been alarmed by attempts to do the same—? Have not the rights of property been violated & religion & morality trampled under foot by instalment & suspension Laws, by a paper legal tender (in case of suit) in six states, by ~~pine barren~~ laws to discharge specific & pecuniary contracts in every species of property however worthless in itself or useless and inconvenient to the creditor. Have not the members of our ~~confederacy~~ Union, forgetting ~~all national principles & insensible~~ of those feelings and ~~national~~ common interests which gave rise to our confederacy, passed laws [— —] their Sister States as narrowing their principles & as injurious in their Operation, as those of the most ~~narrow minded & hostile~~ rigid & unfriendly Nations of Europe, thereby commencing a legislative civil War. Are not our finances in the most disordered & ~~disgraceful~~ State unsupportable Condition. Are not ~~monstrous~~ great balances due from many of the States, and does not every year add largely to them. Do not the creditors on loans made in America include Characters & Classes of people ~~to~~ whom we are bound to ~~be faithful~~ pay by every principle of policy, & virtue public & private. Do not all their certificates shew an arrear and many a total default of Interest—Have not their New Circumstances & ~~the Anarchy generally fear~~ Sir reduced their principal to a wretched point of Depreciation, scarcely leaving more than the Name of property. Were not the European loans furnished in hours of the most extreme necessity, and under every circumstance that can entitle the lenders to Justice & Gratitude. Do not these disgraceful & alarming facts trumpeted throughout Europe, arrest the tide of Emigration & must they not ere long subject us to the hatred & Hostility of once friendly Nations, whom we thus neglect & defraud. Have not to[o] many of our unfortunate Merchants been ruined by their once lucrative profession, and do not foreign Nations partake even of those advantages, which we might confine to our Citizens

consistently with our [true?] interests, And are not the promising Seeds of manufactures, which are even now sown in America, prevented from spring[ing] up & bearing the most salutary fruits, to the lessening of the inducements to emigration & the injury of those valuable ~~class of city~~ people who have been heretofore employed in them. ~~In short Sir when in the wide extended Scene which we inhabit Nothing is in order.~~ And lastly, have not the leaders of powerful insurrections, pressing on our distractions & the weakness of our governments, first opposed the Execution of [laws?] & finally attempted to seize the powers of the State. Trust me, Sir we have more than *the fear* of Anarchy before us and tho I readily admit that the most serious Convulsions of our Empire Should not induce us to sacrifice the essential requisites of Liberty & Happiness, yet they should prevent us from contending, too much for unimportant matters & should inspire us with the greatest Moderation & Candor a lamentable want of which has been too evident in the public Observations on the proposed Constitution.

You tell us the president & Senate have all the executive & two thirds of the legislative powers in their hands. Surely, Sir, this is very wrong in the degree for as the Senate cannot originate bills to raise a revenue (a most important matter) they do not hold so great a share of legislative power as the house of representatives, nor can they subject to a public investigation the Conduct of an officer who does not please them, for they have no power of impeachment. But your assertion is still more erroneous in the Case of the president for, he possesses no right of impeachment, as he cannot originate either bills for raising a revenue nor for any other purpose, as he cannot adjourn nor prorogue the legislature unless they give him the opportunity by disagreeing among themselves, & lastly as his assent is not necessary to any bill whatever, his legislative power is much less than that of the Senate, & still more inferior to that of the house of representatives. He can only use it when the other servants of the people are divided, and then it will be little more than a power to procure a reconsideration. On this review of the Matter, I trust, you will think with me that the president & Senate will not possess two thirds of the legislative powers. An error equally ~~evident~~ [important?] is contained in your statement of the executive powers of the senate. You say they & the president hold all the executive powers of the Union. The Senate as a body & the Senators as individuals can hold or execute no office whatever. They cannot be Ambassadors Generals, Admirals, ~~Judges~~, Secretaries of War, or Finance, nor perform any other National duty, but that of Senators, nor can they even nominate a person for any post or employment. In short they can execute no offices themselves, nor can they declare who shall—Their power is merely to declare who shall not. You will pardon me, Sir, for applying the term to so elegant a Scholar as you are, but

really to say as you do that the power of declaring who shall not hold an office is to hold it oneself appears to me an absolute Solecism. If then I have not taken an erroneous view of the concern which the Senate have in the executive department instead of your speaking of them & the President as holding the executive powers it would have been more accurate to say the Senate holds a check on the unwise or dangerous appointments. But in this combined government of ours many of the officers of the Nation will not lie with the federal executive. The state Governors, Judges Treasurers Militia officers, Sherriffs and very many other powerful officers will owe their appointment to the people, the legislatures, or executives of their respective states. How differently does this matter stand under the Constitution of England, where the king holds the sole power of Appointment.

1. George Mason and Edmund Randolph.

2. The county of Philadelphia sent a total of five delegates to the state legislature.

3. The delegates appointed in October 1786 for the federal year 1787 were William Bingham, William Irvine, Samuel Meredith, Charles Pettit, and Arthur St. Clair. Those for the federal year 1788 were John Armstrong, Jr., Bingham, Irvine, Meredith, and James R. Reid. Bingham, Meredith, and Pettit were or had recently been merchants.

4. The next four paragraphs are taken, with minor variations, from pages 6 to 12 of Coxe's pamphlet—*An Enquiry into the Principles on Which a Commercial System for the United States of America Should be Founded* . . . (CC:23, Evans 20306). The pamphlet, inscribed to the members of the Constitutional Convention, originally had been an address by Coxe delivered before the Society for Political Enquiries in Philadelphia on 11 May 1787. Coxe had the address published at his own expense. It was first advertised for sale in the *Pennsylvania Packet* on 19 May.

5. RC, Madison Papers, DLC.

6. Alluding perhaps to "An American," Alexander Contee Hanson of Annapolis, Md., replied to Coxe: "I this moment, received the packet you did me the honor of directing to my care. I shall be careful in distributing the hand-bills properly, and will have the address inserted in the Annapolis paper so soon as the printer shall have gotten a supply of paper . . ." (6 February 1788, Tench Coxe Papers, Series II, Correspondence and General Papers, PHi). Neither "An American," nor any of Coxe's other essays written at this time, was published in the Annapolis *Maryland Gazette* from February to June 1788 (see CC:490, note 23). "An American," however, was reprinted in the Baltimore *Maryland Gazette* on 8 and 12 February.

7. In response to Coxe's letter of 28 December 1787, James R. Reid said that he was "pleased with the stile which R.H. Lee is addressed, as decency is certainly the only medium through which we may expect to produce conviction in a mind so enlightened as his" (15 January, CC:450).

8. See The Political Society of Richmond, Virginia (Appendix I).

9. RC, Madison Papers, DLC.

10. Madison refers to Coxe's "An American Citizen" I–IV (CC:100, 109, 112, 183). The first three essays had been reprinted in a Richmond pamphlet anthology by 9 November 1787 (CC:350). "An American Citizen" IV had been reprinted in the *Virginia Independent Chronicle* on 21 November. Still unknown to Madison, all four essays also had been reprinted in another Richmond pamphlet anthology by 15 December (CC:350).

11. For Gerry's objections to the Constitution, see CC:227.

12. For Dane's opposition to the Constitution in Congress in September 1787, see CC:95. On 17 December the town of Beverly elected George Cabot, Joseph Wood, and Israel Thorndike, all of whom voted to ratify the Constitution in the state Convention in February 1788. On 23 December Christopher Gore wrote: "Dane is silent on the subject [the Constitution], and I believe, mortified that all those he respects in this quarter differ from him on this great question—and this circumstance induces him to hold his peace" (to Rufus King, King Papers, NHi). In July 1788 Dane himself said that "Even when a few states had adopted without any alterations, the ground was materially changed; and now it is totally shifted—tho I retain my opinion respecting the feeble features, the extensive powers, and defective parts of the System, yet circumstanced as we are, I confess, I feel no impropriety in urging the three States [New York, North Carolina, and Rhode Island] to accede—men in all the States who wish to establish a free, equal, and efficient government, to the exclusion of anarchy, corruption, faction, and oppression ought in my opinion to unite in their exertions in making the best of the Constitution now established" (to Melancton Smith, 3 July, John Wingate Thornton Collection, New England Historic Genealogical Society).

13. Dft, Tench Coxe Papers, Series III, Essays, Addresses, and Resource Materials: Writings on Political Subjects, PHi.

14. For Virginia's call of and the meeting of the Annapolis Convention, see CDR, 176–85.

### 393. Timothy Pickering to John Pickering Philadelphia, 29 December (excerpt)<sup>1</sup>

. . . You will have seen by the News-papers that the Delaware & Jersey States have *unanimously* adopted the New federal constitution; & Pennsylvania by a majority of 46 to 23: The convention consisting of 69 members. The *minority* were of that party in this state who are called *Constitutionalists*, from which party *alone* all the opposition has proceeded but many of the wisest & best of the *Constitutionalists* have on this occasion joined the *Republicans* in this state, who to a man are *federalists*.

Much opposition is expected in New-York. That state has long been acting a disingenuous part. They refused the impost to Congress<sup>2</sup>—because half of New-Jersey, a great part of Connecticut, the western part of Massachusetts, & Vermont, received their imported goods thro' New-York, who put into her *own* treasury all the duties arising on the goods consumed in the states above enumerated: and the same selfish spirit seems still to actuate too many in that state: but the federalists in it appear pretty confident that the new constitution will be adopted, tho' not without a severe struggle. We here entertain no doubt of Connecticut, Massachusetts & New-Hampshire. One thing I will say, because so far as my knowledge and information reaches it is true—that the most enlightened and the worthiest characters, are patrons of the new constitution. . . .

1. RC, Timothy Pickering Papers, MHi. John Pickering of Salem (1740–1811), elder brother of Timothy, was justice of the peace, justice of the Common Pleas, and register of deeds for Essex County, Mass.

2. For New York and the Impost of 1783, see CDR, 146–48; CC:Vol. 1, p. 37.



**394. Centinel VII****Philadelphia Independent Gazetteer, 29 December<sup>1</sup>**

To the PEOPLE OF PENNSYLVANIA.

Friends and Fellow-Citizens! The admiring world lately beheld the sun of liberty risen to meridian splendour in this western hemisphere, whose cheering rays began to dispel the glooms of even trans-atlantic despotism: the patriotic mind, enraptured with the glowing scene, fondly anticipated an universal and eternal day to the orb of freedom; but the horizon is already darkened and the glooms of slavery threaten to fix their empire. How transitory are the blessings of this life! Scarcely have four years elapsed since these United States, rescued from the domination of foreign despots by the unexampled heroism and perseverance of its citizens, at such great expence of blood and treasure, when they are about to fall a prey to the machinations of a profligate junto at home, who seizing the favorable moment, when the temporary and extraordinary difficulties of the people have thrown them off their guard, and lulled that jealousy of power so essential to the preservation of freedom, have been too successful in the sacrilegious attempt; however I am confident that this formidable conspiracy will end in the confusion and infamy of its authors; that if necessary, the avenging sword of an abused people will humble these aspiring despots to the dust, and that their fate, like that of Charles the First of England, will deter such attempts in future, and prove the confirmation of the liberties of America until time shall be no more.

One would imagine by the insolent conduct of these harpies of power, that they had already triumphed over the liberties of the people, that the chains were rivetted and tyranny established. They tell us all further opposition will be in vain, as this state has passed the rubicon. Do they imagine the freemen of Pennsylvania will be thus trepaned out of their liberties; that they will submit without a struggle? They must indeed be inebriated with the lust of dominion to indulge such chimerical ideas. Will the act of one sixth of the people,<sup>2</sup> and this too founded on deception and surprise, bind the community? Is it thus that the altar of liberty, so recently crimsoned with the blood of our worthies, is to be prostrated and despotism reared on its ruins? Certainly not. The solemn mumery that has been acting in the name of the people of Pennsylvania will be treated with the deserved contempt; it has served indeed to expose the principles of the men concerned, and to draw a line of discrimination between the real and affected patriots.

Impressed with an high opinion of the understanding and spirit of my fellow citizens, I have in no stage of this business entertained a doubt of its eventual defeat; the momentary delusion, arising from an unreserved confidence placed in some of the characters whose names sanctioned this scheme of power, did not discourage me: I foresaw that

this blind admiration would soon be succeeded by rational investigation, which, stripping the monster of its gilded covering, would discover its native deformity.

Already the enlightened pen of patriotism, aided by an able public discussion, has dispelled the mist of deception, and the great body of the people are awakened to a due sense of their danger, and are determined to assert their liberty, if necessary by the sword,<sup>3</sup> but this mean need not be recurred to, for who are their enemies? A junto composed of the lordly and high minded gentry, of the profligate and the needy office-hunters; of men principally who in the late war skulked from the common danger. Would such characters dare to face the majesty of a free people? No.—All the conflict would be between the offended justice and generosity of the people, whether these sacrilegious invaders of their dearest rights should suffer the merited punishment, or escape with an infamous contempt?

However, as additional powers are necessary to Congress, the people will no doubt see the expediency of calling a convention for this purpose as soon as may be, by applying to their representatives in assembly, at their next session, to appoint a suitable day for the election of such Convention.

Philadelphia, December 27, 1787.

1. Reprinted: Philadelphia *Freeman's Journal*, 2 January 1788 (errata, 9 January); *New York Morning Post*, 5 January; *New York Journal*, 7 January; *Providence Gazette*, 2 February; *Carlisle Gazette*, 6 February. It was also reprinted in a New York Antifederalist pamphlet anthology distributed in April (CC:666). For the authorship, circulation, and impact of "Centinel," see CC:133.

2. For other reports that only a fraction of the people voted for delegates to the state Convention, see "Dissent of the Minority of the Pennsylvania Convention" (CC:353, note 16).

3. On 1 January 1788 a correspondent for the *Pennsylvania Mercury* said that "the seditious publication, *the Centinel*, would in any other country draw on its author the just punishment of an injured and offended community. In the last number (viz. VII.) there is a plain exhortation to rebellion and civil war,—as the people are said to be determined (or rather, in plain English, advised) 'to assert their liberty, if necessary, BY THE SWORD.' !!!"

### 395. The New Roof Pennsylvania Packet, 29 December

This allegory was written by Francis Hopkinson, whose authorship was immediately apparent. On 2 January 1788 the Philadelphia *Freeman's Journal* printed "Hum-Strum" (Mfm:Pa. 300) who addressed the author of "The New Roof" as "Franciani Tweedle-dum-tweedle" and as a judge of the state admiralty court—a position then held by Hopkinson. "The New Roof" responded to "Hum-Strum" in such a way as to divulge his identity (*Pennsylvania Herald*, 12 January, Mfm:Pa. 329). Subsequent newspaper items referred to the author of the "The New Roof" as "Franky" and "a staring, little, crank, crabbit fellow, famous for making ballads and riddles" ("Extract of a letter from the Eastern Shore of Maryland," Philadelphia *Independent*

*Gazetteer*, 8 February, CC:515; and "James De Caledonia," *Independent Gazetteer*, 4 March, Mfm:Pa. 481). Hopkinson admitted authorship privately in letters to Robert Morris and Thomas Jefferson and publicly in the August 1788 issue of the *Philadelphia American Museum* that reprinted the "The New Roof" (see Morris to Hopkinson, 21 January 1788, Redwood Collection, Maryland Historical Society; Hopkinson to Jefferson, 6 April, CC:665). In 1792 "The New Roof" appeared among *The Miscellaneous Essays and Occasional Writings of Francis Hopkinson, Esq.* (3 vols., Philadelphia), II, 282–312 (Evans 24407).

Francis Hopkinson (1737–1791) was a lawyer, poet, musician, and composer. He represented New Jersey in Congress in 1776 and signed the Declaration of Independence. He was chairman of the Continental Navy Board, Middle Department, 1776–78; Continental treasurer of loans, 1778–81; judge of the Admiralty Court of Pennsylvania, 1779–89; and judge of the U.S. District Court for the Eastern District of Pennsylvania, 1789–91. In 1787 and 1788 he was one of the more active Federalist propagandists. (For more on his writings, see *Miscellaneous Essays*, II; and George Everett Hastings, *The Life and Works of Francis Hopkinson* [Chicago, 1926].)

More than three months after "The New Roof" was published, Hopkinson wrote Thomas Jefferson that the essay "had a great Run. . . . You will probably see it in some of the Papers as it was reprinted in I believe every state" (6 April, CC:665). Reprints have been located in fourteen newspapers printed by 28 April 1788: Vt. (1), N.H. (1), Mass. (1), Conn. (2), N.Y. (2), N.J. (1), Pa. (4), Md. (1), S.C. (1). On 15 January the Baltimore *Maryland Gazette* reprint of "The New Roof" was prefaced with this statement by "ANOTHER CUSTOMER": "Mr. HAYES, If it will be no inconvenience to Mr. M. [Luther Martin] to suspend for one day, his history of *imaginary* treasons and *unexecuted* plots, you will be pleased to insert in its place the enclosed original performance, entitled, *THE NEW ROOF*.—As this is a work of real wit and humour, there can be no doubt but it will give general pleasure to the readers of your paper. Those who are fond of Convention news, will find in it their favourite subject, while it happily exposes the effect of politics on *certain minds*, and furnishes reason to be thankful that we have no such characters in Maryland as the poor crazy fellow it describes."

"The New Roof" was also reprinted in the August 1788 issue of the *American Museum* and, except for the last three paragraphs, in the *Philadelphia Federal Gazette* on 1 January 1789. (The *Gazette* also omitted the eleventh paragraph. See note 2 below.) Both reprints contain this note: "European readers may require to be informed that the *NEW ROOF* is allegorical of the new federal constitution; the thirteen rafters, of the thirteen states, &c. &c." "The New Roof" was probably reprinted in the *Museum* at the request of subscribers. Postmaster General Ebenezer Hazard wrote Mathew Carey, the *Museum's* publisher, on 15 July: "I have heard it particularly remarked that the *new Roof*, & the Form of the Ratification of the new Constitution by *New Jersey*, have not been inserted in the *Musæum*:—as to the first, I observed that it probably was omitted as it contained some *Personalities*, & it was undoubtedly your wish to avoid giving Offence" (Lea and Febiger Collection, PHi). Thomas Allen, a New York City bookseller, also wrote Carey that "Some of the Subrs. wants to know why the *New Roof* is not publish'd in the *Museum*" (28 July, *ibid.*).

Most reprints included explanatory footnotes for some of Hopkinson's allegorical allusions. All of these explanatory footnotes, taken from the first source that printed them, are listed in the "Notes from Reprints" immediately

following the text. The explanatory footnotes are supplied from the Philadelphia *Independent Gazetteer*, 4 January 1788; New York *Daily Advertiser*, 9 January; *Vermont Gazette*, 28 January; *American Museum*, August; *Federal Gazette*, 1 January 1789; and the *Miscellaneous Essays*.

Antifederalists reacted sharply to "The New Roof." The three critics mentioned above attacked Hopkinson for holding a sinecure under the state government and charged or implied that he and other supporters of the Constitution sought offices under the new government. (For other criticisms, see notes 1 and 2 below.)

Federalists were delighted with "The New Roof." Robert Morris, who along with Gouverneur Morris was visiting in Virginia, wrote Hopkinson from Williamsburg that "I received your obliging letter before my departure from Richmond and had much pleasure not only in reading the 'New Roof' but also in communicating it to others, it is greatly admired, and I tell them if they could but enter into the Dramatis Personæ as we do they would find it still more excellent. The character of Margery is well hit off, how does the old Lady like it? I am not surprised they should baste you in the Freemans Journal, it is what you must expect so long as they have any body to Wield a Pen. I observe they will not let me alone, although no Author. . . . Mr. Wythe, yesterday at dinner introduced the New Roof as a subject and after expressing his approbation, very modestly supposed it to be one of your productions, Mr. G. Morris and myself joined in that Opinion, thus you see, that whether you intend it or not, there always appear some Characteristic Marks in your writings that disclose the Fountain from whence they Spring" (21 January, Redwood Collection, Maryland Historical Society). A spurious copy of a letter to "Centinel" claimed that "One *infernal piece*, called THE NEW ROOF," had so "poisoned" the minds of people that they now supported the Constitution (*Pennsylvania Mercury*, 29 January, Mfm:Pa. 378). And a gentleman from Baltimore County, Md., asserted that "The Baltimore people and those in my neighbourhood are highly pleased with the New Roof. Nothing has so satisfactorily illustrated the absurdity that the federal government can exist independently of the state governments as the idea of the Roof remaining suspended in the air after the walls have fallen away" ("Extract of a letter from a gentleman in Baltimore county," *Independent Gazetteer*, 2 February).

On 6 February Francis Hopkinson, writing as "A.B." in the *Pennsylvania Gazette*, built upon "The New Roof" and published a song: "THE RAISING: A NEW SONG FOR FEDERAL MECHANICS" (CC:504). By 14 August this song was reprinted sixteen times: N.H. (2), Mass. (3), R.I. (1), Conn. (2), N.Y. (2), Pa. (1), Md. (1), Va. (2), S.C. (1), Ga. (1). Four of these newspapers and the *Pennsylvania Gazette* had reprinted "The New Roof." "THE RAISING" was also reprinted in the July issue of the *American Museum* and in the *Federal Gazette* on 1 January 1789—both of which identified Hopkinson as the composer. (See also *Miscellaneous Essays*, II, 320–22.)

The roof of a certain mansion house was observed to be in a very bad condition,<sup>(a)</sup> and insufficient for the purpose of protection from the inclemencies of the weather. This was matter of surprize and speculation, as it was well known the roof was not more than 12 years old, and therefore, its defects could not be ascribed to a natural decay by time. Altho' there were many different opinions as to the cause of this deficiency, yet all agreed that the family could not sleep in comfort or safety under it. It was at last determined to appoint some skilful

architects to survey and examine the defective roof, to make report of its condition, and to point out such alterations and repairs as might be found necessary. These skilful architects, accordingly went into a thorough examination of the faulty roof, and found

1st. That the whole frame was too weak.<sup>(b)</sup>

2d. That there were indeed 13 rafters,<sup>(c)</sup> but that these rafters were not connected by any braces or ties, so as to form a union of strength.

3d. That some of these rafters were thick and heavy, and others very slight,<sup>(d)</sup> and as the whole had been put together whilst the timber was yet green, some had warped outwards, and of course sustained an undue weight, whilst others warping inwards, had shrunk from bearing any weight at all.

4th. That the lathing and shingling had not been secured with iron nails, but only wooden pegs,<sup>(e)</sup> which, shrinking and swelling by successions of wet and dry weather,<sup>(f)</sup> had left the shingles so loose, that many of them had been blown away by the winds, and that before long, the whole would probably, in like manner, be blown away.

5th. That the cornice was so ill proportioned,<sup>(g)</sup> and so badly put up, as to be neither of use, nor an ornament. And

6th. That the roof was so flat as to admit the most idle servants in the family,<sup>(h)</sup> their playmates and acquaintance to trample on and abuse it.<sup>(i)</sup>

Having made these observations, these judicious architects gave it as their opinion, that it would be altogether vain and fruitless to attempt any alterations or amendments in a roof so defective in all points; and therefore proposed to have it entirely removed, and that a new roof of a better construction should be erected over the mansion house. And they also prepared and offered a drawing or plan of a new roof, such as they thought most excellent for security, duration, and ornament. In forming this plan they consulted the most celebrated authors in ancient and modern architecture, and brought into their plan the most approved parts, according to their judgments, selected from the models before them; and finally endeavoured to proportion the whole to the size of the building, and strength of the walls.<sup>1</sup>

This proposal of a new roof, it may well be supposed, became the principal subject of conversation in the family, and the opinions upon it were various according to the judgment, interest, or ignorance of the disputants.

On a certain day, the servants of the family had assembled<sup>(j)</sup> in the great hall to discuss this important point; amongst these was James<sup>(k)</sup> the architect, who had been one of the surveyors of the old roof, and had a principal hand in forming the plan of a new one. A great number of the tenants had also gathered out of doors and crowded the windows and avenues to the hall, which were left open that they might hear the arguments for and against the new roof.

Now there was an old woman, known by the name of Margery,<sup>(l)</sup> who had got a comfortable apartment in the mansion house. This woman was of an intriguing spirit, of a restless and inveterate temper, fond of tattle, and a great mischief maker. In this situation, and with these talents, she unavoidably acquired an influence in the family, by the exercise of which, according to her natural propensity, she had long kept the house in confusion, and sown discord and discontent amongst the servants. Margery, was, for many reasons, an irreconcilable enemy to the new roof, and to the architects who had planned it; amongst these, two reasons were very obvious—1st, The mantle piece on which her cups and platters were placed, was made of a portion of the great cornice, and she boiled her pot with the shingles that blew off from the defective roof: And 2dly, It so happened that in the construction of the new roof, her apartment would be considerably lessened. No sooner, therefore, did she hear of the plan proposed by the architects, but she put on her old red cloak, and was day and night trudging amongst the tenants and servants, and crying out against the new roof and the framers of it. Amongst these she had selected William, Jack, and Robert,<sup>(m)</sup> three of the tenants, and instigated them to oppose the plan in agitation—she caused them to be sent to the great hall on the day of debate, and furnished them with innumerable alarms and fears, cunning arguments, and specious objections.

Now the principal arguments and objections with which Margery had instructed William, Jack, and Robert, were,

1st. That the architects had not exhibited a bill of scantling<sup>(n)</sup> for the new roof, as they ought to have done; and therefore the carpenters, under pretence of providing timber for it, might lay waste whole forests, to the ruin of the farm.

2nd. That no provision was made in the plan for a trap door<sup>(o)</sup> for the servants to pass through with water, if the chimney should take fire; and that, in case of such an accident, it might hereafter be deemed penal to break a hole in the roof for access to save the whole building from destruction.<sup>(p)</sup>

3d. That this roof was to be guarded by battlements,<sup>(q)</sup> which, in stormy seasons would prove dangerous to the family, as the bricks might be blown down and fall on their heads.

4th. It was observed that the old roof was ornamented with 12 pedestals<sup>(r)</sup> ranged along the ridge, which were objects of universal admiration;<sup>(s)</sup> whereas, according to the new plan, these pedestals were only to be placed along the eaves of the roof, over the walls; and that a cupola<sup>(t)</sup> was to supply their place on the ridge or summit of the new roof.—As to the cupola itself, some of the objecters said it was too heavy and would become a dangerous burthen to the building, whilst others alledged that it was too light and would certainly be blown away by the wind.

5th. It was insisted that the 13 rafters being so strongly braced together, the individual and separate strength of each<sup>(u)</sup> rafter would be lost in the compounded and united strength of the whole; and so the roof might be considered as one solid mass of timber, and not as composed of distinct rafters, like the old roof.

6th. That according to the proposed plan, the several parts of the roof were so framed as to mutually strengthen and support each other, and therefore, there was great reason to fear that the whole might stand independent of the walls;<sup>(v)</sup> and that in time the walls might crumble away, and the roof remain suspended in air, threatening destruction to all that should come under it.<sup>(w)</sup>

To these objections, James the architect, in substance, replied,

1st. As to the want of a bill of scantling, he observed, that if the timber for this roof was to be purchased from a stranger, it would have been quite necessary to have such a bill, lest the stranger should charge in account more than he was entitled to; but as the timber was to be cut from our own lands, a bill of scantling was both useless and improper—of no use, because the wood always was and always would be the property of the family, whether growing in the forest, or fabricated into a roof for the mansion house—and improper, because the carpenters would be bound by the bill of scantling, which, if it should not be perfectly accurate, a circumstance hardly to be expected, either the roof would be defective for want of sufficient materials, or the carpenters must cut from the forest without authority, which is penal by the laws of the house.

To the second objection he said, that a trap door was not properly a part in the frame of a roof; but there could be no doubt but that the carpenters would take care to have such a door through the shingling, for the family to carry water through, dirty or clean, to extinguish fire either in the chimney or on the roof; and that this was the only proper way of making such a door.

3d. As to the battlements, he insisted that they were absolutely necessary for the protection of the whole house.—1st. In case of an attack by robbers, the family would defend themselves behind these battlements, and annoy and disperse the enemy.—2dly. If any of the adjoining buildings should take fire, the battlements would screen the roof from the destructive flames: and 3dly. They would retain the rafters in their respective places in case any of them should from rottenness or warping be in danger of falling from the general union, and injuring other parts of the roof; observing that the battlements should always be ready for these purposes, as there would be neither time or opportunity for building them after an assault was actually made, or a conflagration begun. As to the bricks being blown down, he said the whole was in the power of the family to repair or remove any

loose or dangerous parts, and there could be no doubt but that their vigilance would at all times be sufficient to prevent accidents of this kind.

4th. With respect to the 12 pedestals he acknowledged their use and elegance; but observed that these, like all other things, were only so in their proper places, and under circumstances suited to their nature and design, and insisted that the ridge of a roof was not the place for pedestals, which, should rest on the solid wall, being made of the same materials and ought in propriety to be considered as so many projections or continuations of the wall itself, and not as component parts of the wooden roof. As to the cupola, he said that all agreed there should be one of some kind or other, as well for a proper finish to the building, as for the purposes of indicating the winds and containing a bell to sound an alarm in cases of necessity. The objections to the present cupola, he said, were too contradictory to merit a reply.

To the 5th objection he answered, That the intention really was to make a firm and substantial roof by uniting the strength of the 13 rafters; and that this was so far from annihilating the several rafters and rendering them of no use individually, that it was manifest from a bare inspection of the plan, that the strength of each contributed to the strength of the whole, and that the existence of each and all were essentially necessary to the existence of the whole fabric as a roof.

Lastly. He said, that the roof was indeed so framed that the parts should mutually support and check each other, but it was most absurd and contrary to the known laws of nature, to infer from thence that the whole frame should stand self supported in air, for however its component parts might be combined with respect to each other, the whole must necessarily rest upon and be supported by the walls. That the walls might indeed stand for a few years in a ruinous and uninhabitable condition without any roof, but the roof could not for a moment stand without the support of the walls; and finally, that of all dangers and apprehensions this of the roof's remaining when the walls are gone was the most absurd and impossible.

It was mentioned before, that, whilst this debate was carrying on in the great hall, the windows and doors were crowded with attendants. Amongst these was a half crazy fellow<sup>(x)</sup> who was suffered to go at large because he was a harmless lunatic.<sup>(y)</sup> Margery, however, thought he might be a serviceable engine in promoting opposition to the new roof. As people of deranged understandings are easily irritated, she exasperated this poor fellow against the architects, and fill'd him with the most terrible apprehensions from the new roof; making him believe that the architects had provided a dark hole in the garret, where he was to be chained for life. Having by these suggestions filled him with rage and terror, she let him loose among the crowd, where he roar'd and



bawl'd to the annoyance of all bye-standers. This circumstance would not have been mentioned but for the opportunity of exhibiting the stile and manner in which a deranged and irritated mind will express itself—one of his rhapsodies shall conclude this narrative.—

“The new Roof!<sup>(2)</sup> the new Roof! Oh! the new Roof!—Shall demagogues, despising every sense of order and decency, frame a new roof?—If such bare-faced presumption, arrogance and tyrannical proceeding will not rouse you, the goad and the whip—the goad and the whip should do it—but you are careless and insecure sinners, whom neither admonitions, entreaties and threatnings can reclaim—sinners consigned to unutterable and endless woe—Where is that pusillanimous wretch who can submit to such contumely—oh the *ultima Ratio Regium*:<sup>3</sup> (He got these three Latin words from Margery.) oh the *ultima Ratio Regium*—oh! the days of Nero! ah! the days of Caligula! ah! the British tyrant and his infernal junto—glorious revolution—awful crisis—self-important nabobs—diabolical plots and secret machinations—oh the architects! the architects—they have seized the government, secured power, brow beat with insolence and assume majesty—oh the architects! they will treat you as conquered slaves—they will make you pass under the yoke, and leave their gluttony and riot to attend the pleasing sport—oh that the glory of the Lord may be made perfect—that he would shew strength with his arm and scatter the proud in the imaginations of their hearts—blow the trumpet—sound an alarm—I will cry day and night—behold is not this my number five—attend to my words ye women labouring of child—ye sick persons and young children—behold—behold the lurking places, the despots, the infernal designs—lust of dominion and conspiracies—from battle and murder and from sudden death—good Lord deliver us.

Figure to yourselves, my good fellows, a man with a cow and a horse—oh the battlements, the battlements, they will fall upon his cow, they will fall upon his horse, and wound them, and bruise them and kill them, and the poor man will perish with hunger. Do I exaggerate?—no truly—Europe and Asia and Indostan deny it if you can—oh God! what a monster is man!—A being possessed of knowledge, reason, judgment and an immortal soul—what a monster is man! But the architects are said to be men of skill—then the more their shame—curse on the villains!—they are despots, sycophants, Jesuits, tories, lawyers—curse on the villains! We beseech thee to hear us—Lord have mercy on us—Oh!—Ah!—Ah!—Oh!”—

[Notes from Reprints]

(a) The old Confederation. [*Misc. Essays*, II, 282]

(b) No coercive power in the confederation. [*Federal Gazette*, 1 January 1789]

(c) Separate sovereignties. [*ibid.*]

- (d) The states bearing unequal proportions of the public burthens, yet all equally represented in Congress, and having equal votes in forwarding or retarding public measures. [*ibid.*]
- (e) Paper Currency. [*Misc. Essays*, II, 283]
- (f) Miserable state of finance, and the fluctuating value of paper money. [*Federal Gazette*, 1 January 1789]
- (g) Our situation, *as a nation*, neither respectable nor efficient. [*ibid.*]
- (h) The federal government became contemptible. [*ibid.*]
- (i) Want of dignity in government. [*Misc. Essays*, II, 284]
- (j) Meeting of the citizens of Philadelphia, at the state house, October 6, 1787.<sup>4</sup> [*American Museum*, August 1788]
- (k) J\*\*\*s W\*!\*\*\*n, Esq [New York *Daily Advertiser*, 9 January 1788]
- (l) George Bryan, the 4th Judge [*Independent Gazetteer*, 4 January 1788]; the reputed author of the pieces signed "CENTINEL." [*American Museum*, August 1788]
- (m) William Findley, John Smilie and Robert Whitehill [*Independent Gazetteer*, 4 January 1788]; three members of the convention of the state of Pennsylvania, appointed to examine and decide upon the new constitution. [*American Museum*, August 1788]
- (n) Bill of Rights. [*Vermont Gazette*, 28 January 1788]
- (o) Liberty of the press. [*Misc. Essays*, II, 287]
- (p) No provision being made to secure the Liberty of the Press. [*Vermont Gazette*, 28 January 1788]
- (q) The standing army. [*ibid.*]
- (r) Trial by jury. [*Federal Gazette*, 1 January 1789]
- (s) Juries. [*Vermont Gazette*, 28 January 1788]
- (t) The presidentship of the United States. [*Federal Gazette*, 1 January 1789]
- (u) That the separate sovereignties of the states would be absorbed by the general union. [*ibid.*]
- (v) That this would be a consolidated government, and might exist independent of the people. [*ibid.*]
- (w) That it would be a consolidated government, and might exist independent of the people or the states. [*Misc. Essays*, II, 305]
- (x) Philadelphiensis. [*Independent Gazetteer*, 4 January 1788]
- (y) A furious writer under the signature of *Philadelphiensis*. [*Misc. Essays*, II, 309]
- (z) This fustian is a burlesque of a paper published under the signature of PHILADELPHIENSIS; the original is subjoined,

taken from the *Independent Gazetteer* of Dec. 19, 1787.<sup>5</sup> I had it in my power afterwards to detect and expose the real name of the author of these inflammatory publications, which put a stop to the productions of PHILADELPHIENSIS.<sup>6</sup> He was an Irish schoolmaster, who had not been more than two years in the country, and who, without either property or reputation in America, endeavoured, under the cover of a fictitious signature, not only to enflame people against the plan of government proposed by America's best patriot's and most able statesmen; but even ventured to abuse and vilify such characters as GENERAL WASHINGTON, Dr. Franklin, and the gentlemen who composed the general convention, calling them in the public papers, *villains* and *conspirators*. [*Misc. Essays*, II, 309–10]

1. On 9 January the *Pennsylvania Herald* printed this "ANECDOTE" on the "architects" of the new Constitution: "A gentleman was lately asked his opinion of the piece entitled *The New Roof*; why, said he, I wonder the author has passed such encomiums on the skill of the *architects*, for it is well known that there was but one MASON [George Mason] among them, a workman of indisputable abilities, as he himself had built the largest of the thirteen columns, who seeing the plan of the *New Roof*, drawn by the modern PALLADIOS of the western world, refused to put his hand to it, declaring that it was by much too heavy and unwieldy for the under-work, and that it would inevitably crush down the columns, and bury the whole family under their ruins" (Mfm:Pa. 317). This item was reprinted five times by 30 January: N.Y. (1), Pa. (3), Md. (1).

2. On 4 January the *Independent Gazetteer* expanded the allusion to "Margery the midwife," and identified "Margery" as "George Bryan, the 4th Judge." Five newspapers reprinted the *Gazetteer's* version; while the *Federal Gazette* dropped the paragraph. On 23 January the *Independent Gazetteer* published two items complaining sarcastically about the "Margery" image. "An Old Woman" was "highly insulted by your endeavouring to make the world believe that a creature whose character is too contemptible to be considered as a *man*, must of course be regarded as a *woman*" (Mfm:Pa. 362). "Deborah Woodcock," herself a midwife, was "exceedingly hurt" by the description of "Margery" as a midwife. Midwives were "respected in every part of the world" (Mfm:Pa. 361). "Amicus" accused the author of "The New Roof" of writing both of these items in order to publicize the original essay (*Independent Gazetteer*, 26 January).

3. On 31 December the *Pennsylvania Packet* stated that for "Regium" read "Regum."

4. For James Wilson's 6 October speech in the State House Yard, see CC:134.

5. See "Philadelphiensis" V (CC:356).

6. Writing as "A.B.," Hopkinson identified Benjamin Workman, a tutor in mathematics at the University of Pennsylvania, as "Philadelphiensis" (*Independent Gazetteer*, 11 March 1788, CC:612). For more on "Philadelphiensis," see CC:237.

### 396. Roger Alden to Samuel William Johnson

New York, 31 December<sup>1</sup>

I thank You for the letter of 30th Sept. and in return will give a general Statement of the politics on the Continent—the report of the Convention affords a fruitful subject for wits, politicians and

Law-makers—the presses, which conceived by the incubation of the Convention are delivered from the pangs of travail, & have become prolific indeed—the offspring is so numerous, that the public ear has become deaf to the cries of the distressed, and grow impatient for the christning of the first born—

The opposition have many Characters of extensive knowledge and great influence—but their efforts have failed in some of the States, particularly in Philadelphia—the Question was carried in the State Convention, 46 against 23—in Delaware and New Jersey by an unanimous vote—Connecticut is the next on the list of dates—the Convention meets next Thursday—of 175 the whole number, 112 are decidedly for the measure—among the remaining 63 some are undetermined—the good sense and influence of the majority may make some converts among them—Massachusetts assemble the wednesday following—the event there is very uncertain—but appearances from the eastern & southern part of the state are favorable—the western counties feel the effects of the late insurrection<sup>2</sup>—& tho they have been treated with uncommon lenity, they are not disposed to hear law and reason—New Hampshire meet in Feby—there is not a doubt but they will adopt it, if it is accepted by Massachusetts—Rhode Island has done nothing—the people are left to do as they please—It is not expected that New York will be among the number of the federalists—the Assembly meets in a few days—we shall be able to form a more accurate Judgment, when the Sentiments of the Legislature are known—Maryland has appointed their Convention in April—Parties are very high in Virginia, headed by the first Characters of sense and property—they are very much divided and it is not probable that they will subscribe to the measure—reports from the three southern States are not so favorable as could be wished, but the plan so well accords with the present politics of South Carolina, that it is the prevailing opinion that they will be on the right side—Georgia will follow the majority—If three solid Columns can be formed, consisting of the Eastern Phalanx, the southern Light Infantry, & the brave fellows on the banks of the Delaware, no European intrigue or State division can resist the attack or disconcert the movements of so powerful a body—but if success, equal to the most sanguine wishes attends the present plan, the whole body cannot appear in battle array with the President General at the head, till this time 12 Months—we must wait with patience—& I sincerely hope that we may see it accomplished—

The Patriots in Holland are suffering for their ill timed & ill managed opposition—the french Men have behaved in Character—their conduct towards America, did them honor for they persevered to the last—but they have finessed the poor dutchmen out of their liberty—

[P.S.] You will receive with this some of the papers of this city—I have not been able to procure all which contain the pieces against the

constitution—a writer under the signature of Publius takes up the matter upon the best grounds—and is a very fair candid, sensible advocate upon the federal side—there is nothing personal or scurrilous in his writings—he only means to convince by plain reasoning—by arguments drawn from facts & experience—

You will hear from Your friends here, respecting the family—I have confined myself to politics, & have said nothing about myself or those I esteem—but believe when I assure You that You are sincerely loved & esteemed by Yours Affy—

1. RC, William Samuel Johnson Papers, DLC. Alden was Johnson's brother-in-law. On a separate sheet of paper, Alden wrote a postscript which Johnson docketed: "Major Alden Decr. 31st. 87."

2. Shays's Rebellion.

### 397. A Landholder IX

Connecticut Courant, 31 December<sup>1</sup>

To the Hon. GENTLEMEN chosen to serve  
in the STATE CONVENTION.

GENTLEMEN, When the deputies of a free people are met to deliberate on a Constitution for their country, they must find themselves in a solemn situation. Few persons realize the greatness of this business, and none can certainly determine how it will terminate. A love of liberty in which we have all been educated, and which your country expects on you to preserve sacred, will doubtless make you careful not to lay such foundations as will terminate in despotism. Oppression and a loss of liberty arises from very different causes, and which at first blush appear totally different from another. If you had only to guard against vesting an undue power in certain great officers of state your work would be comparatively easy. This some times occasions a loss of liberty, but the history of nations teacheth us that for one instance from this cause, there are ten from the contrary; a want of necessary power in some public department to protect and to preserve the true interests of the people. America is at this moment in tenfold greater danger of slavery than ever she was from the councils of a British monarchy, or the triumph of British arms. She is in danger from herself and her own citizens, not from giving too much, but from denying all power to her rulers—not from a constitution on despotic principles, but from having no constitution at all. Should this great effort to organize the empire prove abortive, heaven only knows the situation in which we shall find ourselves; but there is reason to fear it will be troublesome enough. It is awful to meet the passions of a people who not only believe but feel themselves uncontrouled—who not finding from government, the expected protection of their interests, tho' otherwise honest, become desperate, each man determining to share by the spoils of anarchy, what he would wish to acquire by industry under

an efficient national protection. It becomes the deputies of the people to consider what will be the consequence of a miscarriage in this business. Ardent expectation is waiting for its issue—all allow something is necessary—thousands of sufferers have stifled their sighs in reverence to the public effort—the industrious classes of men are waiting with patience for better times, and should that be rejected on which they make dependance, will not the public convulsion be great. Or if the civil state should survive the first effects of disappointment, what will be the consequences of slower operations. The men who have done their best to give relief, will despair of success, and gloomily determine that greater sufferings must open the eyes of the deluded—the men who oppose, tho' they may claim a temporary triumph will find themselves totally unable to propose, and much less to adopt a better system—the narrowness of policy that they have pursued will instantly appear more ridiculous than at present, and the triumph will spoil that importance, which nature designed them to receive not by succeeding, but by impeding national councils. These men cannot therefore be the saviours of their country. While those who have been foremost in the political contention disappear either thro' despondence or neglect, every man will do what is right in his own eyes and his hand will be against his neighbour—industry will cease—the states will be filled with jealousy—some opposing and others endeavouring to retaliate—a thousand existing factions, and acts of public injustice, thro' the temporary influence of parties, will prepare the way for chance to erect a government, which might now be established by deliberate wisdom.—When government thus arises it carries an iron hand. Should the states reject a union upon solid and efficient principles, there needs but some daring genius to step forth, and impose an authority which future deliberation never can correct. Anarchy, or a want of such government as can protect the interests of the subjects, against foreign and domestic injustice, is the worst of all conditions. It is a condition which mankind will not long endure. To avoid its distress they will resort to any standard which is erected, and bless the ambitious usurper as a messenger sent by heaven to save a miserable people. We must not depend too much on the enlightened state of the country, in deliberation this may preserve us; but when deliberation proves abortive, we are immediately to calculate on other principles, and enquire to what may the passions of men lead them, when they have deliberated to the utmost extent of patience, and been foiled in every measure, by a set of men who think their own emoluments more safe upon a partial system, than upon one which regards the national good.

Politics ought to be free from passion—we ought to have patience for a certain time with those who oppose a federal system. But have they not been indulged until the state is on the brink of ruin and they appear stubborn in error? Have they not been our scourge and the

perplexers of our councils for many years? Is it not thro' their policy that the state of New-York draws an annual tribute of forty thousand pounds from the citizens of Connecticut? Is it not by their means that our foreign trade is ruined, and the farmer unable to command a just price for his commodities? The enlightened part of the people have long seen their measures to be destructive, and it is only the ignorant and jealous who give them support. The men who oppose this constitution are the same who have been unfederal from the beginning. They were as unfriendly to the old confederation, as to the system now proposed, but bore it with more patience because it was wholly inefficacious. They talk of amendments—of dangerous articles which must be corrected—that they will heartily join in a safe plan of federal government; but when we look on their past conduct can we think them sincere—doubtless their design is to procrastinate, and by this carry their own measures; but the artifice must not succeed. The people are now ripe for a government which will do justice to their interests, and if the honourable Convention deny them, they will despair of help. They have shown a noble spirit in appointing their first citizens for this business—when convened you will constitute the most august assembly that were ever collected in the State, and your duty is the greatest that can be expected from men, the salvation of your country. If coolness and magnanimity of mind attend your deliberations, all little objections will vanish, and the world will be more astonished by your political wisdom than they were by the victory of our arms.

1. This essay—addressed to the Connecticut Convention scheduled to met on 3 January 1788—was also printed in the *Hartford American Mercury* on 31 December. Reprinted fewer times than any other number of “Landholder,” this essay appeared only in the *Massachusetts Gazette*, 8 January; *Norwich Packet*, 10 January; and *Connecticut Gazette*, 11 January.

For the authorship, circulation, and impact of “Landholder,” see CC:230.

### **398. Isaac Stearns to Samuel Adams Billerica, 31 December<sup>1</sup>**

I am not a little pleased to see such a List of sensible & Judicious Men, as the Town of Boston have selected out for Convention members.<sup>2</sup> I know not your sentiments respecting the Constitution: but I will venter to say, I think this the most important Aera that I have ever lived in, and that we may date the Rise or fall of these States, from the Day that we adopt or Reject it I am truly sorry to find so many among us, & even those that my reason dictates to be sensible Men against it And that in some Towns this is the criterion, & no other quallification thought necessary for a Member than to be able to Harangue against it. I have given the Constitution six Readings & with as much attention as I am Master of and I find that the leaving out those things that I [am] most scared at wou'd annihilate it when apply'd

to the whole as a Nation. I can't but wonder that any that are acquainted with the Constitution of this Commonwealth & like it do not like that also since they are as similar as the nature of things will admit Every wise man will allow that something must be done, and why not now as well as heretofore that united we stand but divided we fall? it seems then this is the Question whether this is as good a sement as can be devised & as far as I have attend none among all the scriblers against it have pretended to point out a bettor True indeed it has been proposed that a division into two or more parts shou'd take place. But can any wise man in his sences think this would do? Are we not two much divided already? Wou'd not rivalship soon be an epidemical Disease among us? Did not our forefathers try that experiment on the British Isle? I grant it is prudent and even necessary that when Individuals or a Community have power to intrust or delegate to any others that thay see to it & be prety certain that they shall receive an equivolent and is not here at least the same rationally to give up a part to secure the rest that is in a wise Merchant, who in a time of eminent danger gives large Insurance to secure the remaining part I am sorry to find so large a number wishing [to see another?] George the third again<sup>3</sup> which I think is not the best we might do tho I did not run with the foremost in shaking off the yoke and is it not probable that some of those that write against the proposed Constitution conclude (as well they may) that if we reject this we shall have none other alternative left us than either to come under said King or some other Despote But God forbid that when we have purchased our freedom at so dear a rate we should not know how to use it or shou'd mistake licentiousness for liberty sure I am that if I understand the Constitution aright twill never hurt us unless we Hurt that or in other words unless we are Corrupt in our Election. I shall only ask pardon for troubling you with so lengthy and Jejune a peice much more so than was Intended when I first put pen to paper and wish you and all that may meet on that important ocaion that wisdom that is profitable to direct—pure—peacable &c: &c.

1. FC, Stearns Papers, MHi. This letter was docketed in Stearns's handwriting: "No: 1 Letter to Honble. Saml. Adams." Stearns (1722–1808) was a large-scale farmer owning land in his home town of Billerica and also in Ashburnham, Mass., and New Hampshire. Since the 1760s he served as a country solicitor primarily in arbitration and probate cases. He represented Middlesex County in the Massachusetts Senate. Adams was president of that body. For similar sentiments, see Stearns's letter to Nathaniel Gorham, 22 January, Stearns Papers, MHi.

2. On 7 December Boston had elected twelve delegates, one of whom was Adams. All twelve delegates voted to ratify the Constitution in the state Convention in February 1788. William Thompson, Billerica's only delegate, voted against ratification.

3. A few days earlier Nathan Dane of Beverly had said that "I doubt whether it [the Constitution] has monarchy enough in it for some of our Massachusetts men or democracy enough for others" (to Henry Knox, 27, 30 December, Knox Papers, MHi). For monarchical sentiments in Massachusetts before and during the Constitutional Convention, see CC:51.



## 399. America

## New York Daily Advertiser, 31 December

This essay was written by Noah Webster who, according to his diary for 28 December, was "Busy answering the address of the dissenting members of Pennsylvania" (NN). The "Dissent" (CC:353) was reprinted in three New York City newspapers during the last week of December: *New York Morning Post*, *Daily Advertiser*, and *New York Journal*. Webster sent his essay to the editor of the *Daily Advertiser*, thinking that the editors of the *Morning Post* and *Journal* would reprint it. When they did not, Webster had the following item printed in the *Daily Advertiser* on 5 January 1788: "The Writer of the Address, under the signature of AMERICA, expected that the Printers, who published the *Address and Dissent of the Minority in Pennsylvania*, would insert the Answer, without any particular request. He flatters himself that they will still notice it, as soon as possible." Despite this piece, only a part of one paragraph of "America" was ever reprinted. (See note 10 below.) Webster included excerpts (see note 5 below) of this essay in his *A Collection of Essays and Fugitive Writings . . .* (Boston, 1790), 142–50 (Evans 23053). The text in angle brackets was deleted in this later edition.

To the DISSENTING MEMBERS of the  
late CONVENTION of PENNSYLVANIA.

*Gentlemen*, Your long and elaborate publication, assigning the reasons for your refusing to subscribe the ratification of the NEW FEDERAL CONSTITUTION, has made its appearance in the public papers, and, I flatter myself, will be read throughout the United States. It will feed the flame of opposition among the weak, the wicked, the designing, and the factious; but it will make many new converts to the proposed Government, and furnish the old friends of it with new weapons of defence. The very attempt to excite uneasiness and disturbance in a State, about a measure legally and constitutionally adopted, after a long and ample discussion in a Convention of the people's Delegates, (marks a disposition, beyond all conception, obstinate, base, and politically wicked. But *obstinacy* is the leading trait in your public characters, and, as it serves to give *consistency* to your actions, even in error, it cannot fail to procure you that share of respect which is paid to the *firmness* of Satan and his fellow apostates, who, after their expulsion from Heaven, had too much pride to *repent* and *ask for a re-admission*.) My address to you will not be so lengthy as your publication; your arguments are *few*, altho' your harangue is *long* and *insidious*.

You begin with telling the world, that *no defect was discovered in the present Confederation, till after the war*. Why did you not publish the truth? You know, *Gentlemen*, that during six years of the war, we had *no Confederation at all*. You know that the war commenced in April, 1775, and that we had *no Confederation* till March, 1781. You know (for some of you are men of abilities and reading) or ought to know, a principle of *fear*, in time of war, operates more powerfully in binding together the

States which have a common interest, than all the parchment compacts on earth. Could we, then, discover the defects of our present Confederation, with *two years'* experience only, and an enemy in our country? You know we could not.

I will not undertake to detect the falshood of every assertion, or the fallacy of all your reasoning on each article. In the most of them the public will anticipate any thing I could say, and confute your arguments as fast as they read them. But I must tell you, Gentlemen, that your reasoning against the *New Constitution* resembles that of Mr. Hume on miracles.<sup>1</sup> You begin with some *gratis dicta*, which are denied; you assume *premises* which are *totally false*, and then reason on them with great address. Your whole reasoning, and that of all the opposers of the Federal Government, is built on this *false principle*, that the *Federal Legislature* will be a body *distinct from and independent* of the people. Unless your opposition is grounded on *that principle*, it stands on *nothing*; and on any *other* supposition, your arguments are but *declamatory nonsense*.

But the principle is false. The Congress, under the proposed Constitution, will have the *same interest* as the people—they are a *part* of the people—their interest is *inseparable* from that of the people; and this union of interest will eternally remain, while the right of election shall continue in the people. Over this right Congress will have no control: the time and manner of exercising that right are very wisely vested in Congress, otherwise a delinquent State might embarrass the measures of the Union. The safety of the public requires that the Federal body should prevent any particular delinquency;<sup>2</sup> but the *right of election* is above their control: it *must* remain in the people, and be exercised once in two, four or six years. A body thus organized, with thirteen Legislatures watching their measures, and several millions of jealous eyes inspecting their conduct, would not be apt to betray their constituents. Yet this is not the best ground of safety. The first and almost only principle that governs men, is *interest*. *Love of our country* is a powerful auxiliary motive to patriotic actions; but rarely or never operates against *interest*. The only requisite to secure liberty, is to connect the *interest* of the *Governors* with that of the *governed*. Blend these interests—make them inseparable—and both are safe from voluntary invasion. How shall this union be formed? This question is answered. The union is formed by the equal principles on which the people of these States hold their property and their rights. But how shall this union of interests be perpetuated? The answer is easy—bar all perpetuities of estates—prevent any exclusive rights—preserve all preferment dependent on the choice of the people—suffer no power to exist independent of the people or their Representatives. While there exists no power in a State, which is independent on the will of the

electors, the rights of the people are secure. The only barrier against tyranny, that is necessary in any State, is *the election of Legislators* by the yeomanry of that State. Preserve *that*, and every privilege is safe. The Legislators thus chosen to represent the people, should have all the power that the people would have, were they assembled in one body to deliberate upon public measures. The distinction between the powers of the *people* and of their *Representatives* in the Legislature, is as absurd in *theory*, as it proves pernicious in *practice*. A distinction, which has already countenanced and supported *one rebellion* in America; has prevented many *good* measures; has produced many *bad*; has created animosities in many States, and embarrassments in all.<sup>3</sup> It has taught the people a lesson, which, if they continue to practise, will bring laws into contempt, and frequently mark our country with blood.

You object, Gentlemen, to the powers vested in Congress. Permit me, to ask you, where will you limit their powers? What bounds will you prescribe? You will reply, *we will reserve certain rights, which we deem invaluable, and restrain our rulers from abridging them*. But, Gentlemen, let me ask you, how will you define these rights? would you say, *the liberty of the Press shall not be restrained*? Well, what is this liberty of the Press? Is it an unlimited licence to publish *any thing and every thing* with impunity? If so, the Author, and Printer of any treatise, however obscene and blasphemous, will be screened from punishment. You know, Gentlemen, that there are books extant, so shockingly and infamously obscene and so daringly blasphemous, that no society on earth, would be vindicable in suffering the publishers to pass unpunished. You certainly know that such cases *have* happened, and *may* happen again—nay, you know that they are *probable*. Would not that indefinite expression, *the liberty of the Press*, extend to the justification of every *possible publication*? Yes, Gentlemen, you know, that under such a general licence, a man who should publish a treatise to *prove his maker a knave*, must be screened from legal punishment. I shudder at the thought!—But the truth must not be concealed. The Constitutions of several States *guarantee that very licence*.

But if you attempt to define the *liberty of the Press*, and ascertain what cases shall fall within that privilege, during the course of centuries, where will you *begin*? Or rather, where will you *end*? Here, Gentlemen, you will be puzzled. Some publications certainly *may* be a breach of civil law: You will not have the effrontery to deny a truth so obvious and intuitively evident. Admit that principle; and unless you can define precisely the cases, which are, and are not a breach of law, you have no right to say, the liberty of the Press shall not be restrained; for such a license would warrant *any breach of law*. Rather than hazard such an abuse of privilege, is it not better to leave the right altogether with your rulers and your posterity? No attempts have ever been made by a

Legislative body in America, to abridge that privilege; and in this free enlightened country, no attempts could succeed, unless the public should be convinced that an abuse of it would warrant the restriction. Should this ever be the case, you have no right to say, that a future Legislature, or that posterity shall not abridge the privilege, or punish its abuses. (The very attempt to establish a permanent, unalterable Constitution, is an act of consummate arrogance. It is a presumption that we have all possible wisdom—that we can foresee all possible circumstances—and judge for future generations, better than they can for themselves.)

But you will say, that trial by jury, is an unalienable right, that ought not to be trusted with our rulers. Why not? If it is such a darling privilege, will not Congress be as fond of it, as their constituents? An elevation into that Council, does not render a man insensible to his privileges, nor place him beyond the necessity of securing them. A member of Congress is liable to all the operations of law, except during his attendance on public business; and should he consent to a law, annihilating any right whatever, he deprives himself, his family and estate, of the benefit resulting from that right, as well as his constituents. This circumstance alone, is a sufficient security.

But, why this outcry about juries? If the people esteem them so highly, why do they ever neglect them, and suffer the trial by them to go into disuse? In some States, *Courts of Admiralty* have no juries—nor Courts of Chancery at all. In the City-Courts of some States, juries are rarely or never called, altho' the parties may demand them; and one State, at least, has lately passed an act, empowering the parties to submit both *law* and *fact* to the Court. It is found, that the judgment of a Court, gives as much satisfaction, as the verdict of a jury, as the Court are as good judges of fact, as juries, and much better judges of law. I have no desire to abolish trials by jury, although the original design and excellence of them, is in many cases superseded.—While the people remain attached to this mode of deciding causes, I am confident, that no Congress can wrest the privilege from them.

But, Gentlemen, our legal proceedings want a reform. Involved in all the mazes of perplexity, which the chicanery of lawyers could invent, in the course of 500 years,<sup>4</sup> our road to justice and redress is tedious, fatiguing and expensive. Our Judicial proceedings are capable of being simplified, and improved in almost every particular. For God's sake, Gentlemen, do not shut the door against improvement. If the people of America, should ever spurn the shackles of opinion, and venture to leave the road, which is so overgrown with briars and thorns, as to strip a man's cloaths from his back as he passes, I am certain they can devise a more easy, safe, and expeditious mode of administering the laws, than that which harrasses every poor mortal, that is wretched enough

to want *legal* justice. In Pennsylvania, where very respectable merchants, have repeatedly told me, they had rather lose a debt of fifty pounds, than attempt to recover it by a legal process, one would think that men, who value liberty and property, would not restrain any Government from suggesting a remedy for such disorders.

Another right, which you would place beyond the reach of Congress, is the writ of *habeas corpus*. Will you say that this right may not be suspended in *any* case? You dare not. If it may be suspended in any case, and the Congress are to judge of the necessity, what security have you in a declaration in its favor? You had much better say nothing upon the subject.

But you are frightened at a standing army. I beg you, Gentlemen, to define a *standing army*. If you would refuse to give Congress power to raise troops, to guard our frontiers, and garrison forts, or in short, to enlist men for any purpose, then we understand you—you tie the hands of your rulers so that they cannot defend you against any invasion. This is protection indeed! But if Congress can raise a body of troops for a year, they can raise them for a *hundred years*, and your declaration against *standing armies* can have no other effect, than to prevent Congress from denominating their troops, a *standing army*. You would only introduce into this country, the English farce of mechanically passing an annual bill for the support of troops which are never disbanded.

You object to the indefinite power of taxation in Congress. You must then limit the exercise of that power by the sums of money to be raised; or leaving the sums indefinite, must prescribe the *particular mode* in which, and the *articles* on which the money is to be raised. But the sums cannot be ascertained, because the necessities of the States cannot be foreseen nor defined. It is beyond even *your* wisdom and profound knowledge, Gentlemen, to ascertain the public exigencies, and reduce them to the provisions of a Constitution. And if you would prescribe the mode of raising money, you will meet with equal difficulty. The different States have different modes of taxation, and I question much whether even *your* skill, Gentlemen, could invent a uniform system that should sit easy upon every State. It must therefore be left to experiment, with a power that can correct the errors of a system, and suit it to the habits of the people. And if no uniform mode will answer this purpose, it will be in the power of Congress to lay taxes in each State, according to its particular practice. (But you know, Gentlemen, that an efficient Federal Government will render taxes unnecessary—that it will ease the people of their burdens, and remove their complaints, and therefore when you raise a clamor about the right of taxation, you must be guilty of the *basest design*—your hearts must be as *malignant* as your actions have been *insidious*.) You know that

requisitions on the States are ineffectual—That they cannot be rendered effectual, but by a compulsory power in Congress—You know that without an efficient power to raise money, Government cannot secure person, property or justice—Nay, you know further, that such power is as safely lodged in your *Representatives* in Congress, as it is in your *Representatives* in your distinct Legislatures.

You would likewise restrain Congress from requiring *excessive bail*, or imposing *excessive fines* and *unusual punishment*. But unless you can, in every possible instance, previously define the words *excessive* and *unusual*—if you leave the discretion of Congress to define them on occasion, any restriction of their power by a general indefinite expression, is a nullity—mere *formal nonsense*. What consummate arrogance must you possess, to presume you can *now* make *better* provision for the Government of these States, during the course of ages and centuries, than the future Legislatures can, on the spur of the occasion! Yet your whole reasoning on the subject implies this arrogance, and a presumption that you have a right to legislate for posterity!

But to complete the list of unalienable rights, you would insert a clause in your declaration, *that every body shall, in good weather, hunt on his own land, and catch fish in rivers that are public property*. Here, Gentlemen, you must have exerted the whole force of your genius! Not even the *all-important* subject of *legislating for a world* can restrain my laughter at this clause! As a supplement to that article of your bill of rights, I would suggest the following restriction:—“That Congress shall never restrain any inhabitant of America from eating and drinking, *at seasonable times*, or prevent his lying on his *left side*, in a long winter’s night, or even on his back, when he is fatigued by lying on his *right*.”—This article is of just as much consequence as the 8th clause of your proposed bill of rights.

But to be more serious, Gentlemen, you must have had in idea the forest-laws in Europe, when you inserted that article; for no circumstance that ever took place in America, could have suggested the thought of a declaration in favor of hunting and fishing. Will you forever persist in error? Do you not reflect that the state of property in America, is directly the reverse of what it is in Europe? Do you not consider, that the forest-laws in Europe originated in *feudal tyranny*, of which not a trace is to be found in America? Do you not know that in this country almost every farmer is Lord of his own soil? That instead of suffering under the oppression of a Monarch and Nobles, a class of haughty masters, totally independent of the people, almost every man in America is a *Lord himself*—enjoying his property in fee? Where then the necessity of laws to secure hunting and fishing? You may just as well ask for a clause, giving licence for every man to till *his own land*, or milk *his own cows*. The Barons in Europe procured forest-laws to secure the

right of hunting on *their own land*, from the intrusion of those who had no property in lands. But the distribution of land in America, not only supersedes the necessity of any laws upon this subject, but renders them absolutely trifling. The same laws which secure the property in land, secure to the owner the right of using it as he pleases.

But you are frightened at the prospect of a *consolidation of the States*. I differ from you very widely. I am afraid, after all our attempts to unite the States, that contending interests, and the pride of State-Sovereignities, will either prevent our union, or render our Federal Government weak, slow and inefficient. The danger is all on this side. If any thing under Heaven now endangers our liberties and independence, it is that single circumstance.

You harp upon that clause of the New Constitution, which declares, that the laws of the United States, &c. shall be the supreme law of the land; when you know that the powers of the Congress are defined, to extend only to those matters which are in their nature and effects, *general*. You know, the Congress cannot meddle with the internal police of any State, or abridge its Sovereignty. And you know, at the same time, that in all general concerns, the laws of Congress must be *supreme*, or they must be *nothing*.<sup>5</sup>

But the public will ask, who are these men that so violently oppose the New Constitution? I will tell them. You are the heads of that party, Gentlemen, which, on the celebration of a very glorious event in Philadelphia, at the close of the war, collected in a mob, and broke the windows of the Quakers, and committed the most detestable outrages, because their religion would not suffer them to illuminate their windows, and join in the rejoicings.<sup>6</sup> You are the men, Gentlemen, that wrested the Charter from the Bank, without the least justifiable pretence; sporting with a grant which *you* had made, and which had never been forfeited.<sup>7</sup> You are the men, that, without a show of right, took away the Charter of the University, and vested it in the hands of your own tools.<sup>8</sup> Yes, Gentlemen, you are the men, who prescribed a test law and oath of abjuration in Pennsylvania,<sup>9</sup> which excluded more than half the Citizens of the State from all Civil Offices.<sup>10</sup> A law, which, had it not been altered by the efforts of more reasonable men, would have established you, and your adherents, as an Aristocratic junto, in all the offices and emoluments of the State. Could your base designs have been accomplished, *you* would have rioted in all the benefits of Government, and Pennsylvania would now, have been subject to as tyrannical an Aristocracy, as ever cursed Society. Such has been the uniformly infamous conduct of the men, who now oppose the best Constitution of Government, ever devised by human wisdom.

But the most bare-faced act of tyranny and wickedness, which has distinguished your political characters, remains to be mentioned. You

are the men, Gentlemen, who have abandoned your parts of duty, and betrayed the constitutional rights of the State of Pennsylvania, by *seceding from the Legislature*, with the design of defeating the measures of a constitutional quorum of the House.<sup>11</sup> Yes, Gentlemen, and to add to the infamy of your conduct, you have the audacity to *avow the intention*. Will you then attempt to palliate the crime, by saying it was *necessary*? Good Heavens! *necessary* that a State should be *ruled by a minority*! *necessary* that the sense of a legislature should be defeated by a *junto*, which had labored incessantly, for four years, to establish an *Aristocracy* in the State! The same principle which will vindicate you, will justify any *one* man in defeating the sense of the *whole* State. If a minority may prevent a law, one man may do it; but is this liberty? Is this your concern for the rights of the State? Dare you talk of rights, which you have so flagrantly invaded? Will the world expect *you* to be the guardians of privileges? No, Gentlemen, they will sooner expect lessons of morality from the wheel-barrowed criminals, that clank their chains along your streets.<sup>12</sup>

Do you know, Gentlemen, that you are treading in the steps of the Governors before the revolution? Do you know that from the first settlement of Pennsylvania, there was a contest between the people and the deputies of the proprietaries? And that when a Governor could not bring the Assembly to resign their rights, he would *prevail on certain members to leave the House*, and prevent their measures. Yes, Gentlemen, you are but following the precedents of your tyrannical Governors.<sup>(a)</sup> You have begun, and pursued, with unwearied perseverance, the same plan of Despotism which wrought the late revolution; and, with a calm, hypocritical phiz, pretend to be *anxious for the liberties of the people*.

These facts stare you in the face! They are *felt* in Pennsylvania—and *known* to the world! There is not a spot in the United States, where the solemnity of contracts and grants, has been so sacrilegiously violated—and the rights of men so wantonly and perseveringly abused, as by you and your *junto* in Pennsylvania<sup>13</sup>—except only, in the little detestable corner of the Continent, called *Rhode-Island*. Thanks be to the Sovereign Ruler of events, you are checked in your career of tyranny—your power is dwindling into impotence—and your abuse of the respectable Convention, and of the friends of our Federal Union, will shroud you in oblivion, or accelerate your progress to merited contempt.

(a) See, a *Review of the Constitution and Government of Pennsylvania*, Page 24.<sup>14</sup>

1. David Hume believed that no reasonable man could accept the miracles of the New Testament because miracles were contrary to the laws of nature and could not be proven. See L. A. Selby-Bigge, ed., *Enquiries Concerning the Human Understanding and Concerning the Principles of Morals by David Hume* . . . (Second ed., 1902; reprint



ed., London, 1966), 109–31. The *Enquiry Concerning Human Understanding* was first published in London in 1748 as *Philosophical Essays Concerning Human Understanding*.

2. In an earlier pamphlet, Webster objected to Congress' power over the election of its own members: "I see no occasion for any power in Congress to interfere with the choice of their own body. . . . [it] gives *needless and dangerous powers*" ("A Citizen of America," *Examination into the Leading Principles of the Federal Constitution . . .*, 17 October, CC:173; Mfm:Pa. 142, p. 26).

3. When he reprinted "America" in *A Collection of Essays and Fugitiv Writings . . .* in 1790, Webster added this footnote here: "Some of the bills of rights in America declare, that the people have a right to meet together, and consult for the public safety; that their legislators are responsible to them; that they are servants, &c. Such declarations give people an idea, that as individuals, or in town meetings, they have a power paramount to that of the Legislature. No wonder, that with such ideas, they attempt to resist law."

4. This number was changed to "five thousand" years in *A Collection of Essays and Fugitiv Writings . . .*

5. The reprint of "America" in *A Collection of Essays and Fugitiv Writings . . .* ends at this point.

6. In 1777 the Constitutionalist-dominated Supreme Executive Council tried to protect Quakers who would not illuminate their houses during the celebrations of important events. Magistrates were ordered to terminate festivities by eleven o'clock at night and soldiers were ordered to patrol the streets. Despite these efforts, some people still damaged the houses of Quakers.

7. The Republican-controlled Bank of North America was chartered by Congress on 31 December 1781 and by the Pennsylvania legislature in early 1782. Constitutionlists tried unsuccessfully to limit the Bank's powers. In September 1785 the Constitutionalist-controlled Assembly revoked the Bank's charter, but in March 1787 a Republican Assembly restored it.

8. In November 1779 a Constitutionalist legislature reorganized the College of Philadelphia under the name of the University of the State of Pennsylvania and placed Constitutionlists in the important offices. John Ewing was elected provost, David Rittenhouse vice provost, and George Bryan treasurer. After a long and bitter fight, Republicans restored the old college in 1789.

9. In September 1776 the Pennsylvania Convention, which had adopted a new constitution, required voters to take oaths upholding the constitution and required officeholders to declare their belief in one God and in the divine inspiration of the Scriptures. In June 1777 the legislature ordered that all white male inhabitants take an oath of allegiance to the state. In April 1778 a man in a profession or a trade was not permitted to carry on business unless he took the oath of allegiance, and in September 1778 no one could vote in an election unless he produced a certificate stating that he had taken the oath of allegiance before 1 June 1778. After much effort, Republicans managed to get all of these laws repealed by 1789.

10. This paragraph, with minor variations, was reprinted in the *New Haven Gazette* on 10 January 1788.

11. For the secession of Pennsylvania assemblymen in September 1787, see CC:125.

12. Prisoners, who were required to work on public improvements, were given wheelbarrows to use.

13. Possibly a reference to Pennsylvania's paper money policies enacted during the spring of 1785 that established a loan office and funded the interest due on state and federal securities owned by Pennsylvanians. By mid-1787 Pennsylvania currency had depreciated to two-thirds of its face value.

14. In 1688 the deputy governor of Pennsylvania, acting for proprietor William Penn, dismissed the Provincial Council because of "Animosities and Dissentions"

among the members. The Provincial Assembly answered: "As for the Charge of Animosities and Dissentions amongst us before thy coming here, it is so general, that we can make no other Answer than that in Matters of Government, our Apprehensions were otherwise, the End of good Government being answered, in that Power was supported in Reverence with the People, and the People were secured from the Abuse of Power; but for what thou mentions to have been renewed since amongst the Members of Council, we leave them to answer" ([Richard Jackson], *An Historical Review of the Constitution and Government of Pennsylvania, From Its Origin . . .* [London, 1759], 22, 24).

#### **400. George Washington to Thomas Jefferson Mount Vernon, 1 January 1788 (excerpts)<sup>1</sup>**

. . . I did myself the honor to forward to you the plan of Government formed by the Convention, the day after that body rose; but was not a little disappointed, and mortified indeed (as I wished to make the first offering of it to you) to find by a letter from Commode. Jones, dated in New York the 9th. of Novr. that it was, at that time, in his possession.<sup>2</sup>—You have, undoubtedly recd it, or some other 'ere now, and formed an opinion upon it.—The public attention is, at present, wholly engrossed by this important subject. The Legislatures of those States (Rhode Island excepted)<sup>3</sup> which have met since the Constitution has been formed, have readily assented to its being submitted to a Convention chosen by the People.—Pennsylvania, New Jersey, & Delaware are the only States whose Conventions have as yet decided upon it.—In the former it was adopted by 46 to 23 and in the two latter unanimously.—Connecticut and Massachusetts are to hold their Conventions on the 1st. & 2d. tuesdays of this Month—Maryland in April, Virginia in June, and upon the whole, it appears, so far as I have had an opportunity of learning the opinions of the people in the several States, that it will be received. There will, undoubtedly, be more or less opposition to its adoption in most of the States; and in none a more formidable one than in this; as many influential characters here have taken a decided part against it, among whom are Mr. Henry, Colo Mason, Govr. Randolph and Colo R. H. Lee; but from every information which I have been able to obtain, I think there will be a majority in its favor notwithstanding their dissent.—In New York a considerable opposition will also be given.—

. . . from appearances (as given to us) it is not improbable but that a pretty general war will be kindled in Europe. should this be the case, we shall feel more than ever the want of an efficient general Government to regulate our Commercial concerns, to give us a national respectability, and to connect the political views and interests of the several States under one head in such a manner as will effectually prevent them from forming seperate, improper, or indeed any connection, with the European powers which can involve them in their

political disputes.—For our situation is such as makes it not only unnecessary, but extremely imprudent for us to take a part in their quarrels; and whenever a contest happens among them, if we wisely & properly improve the advantages which nature has given us, we may be benefitted by their folly—provided we conduct ourselves with circumspection, & under proper restrictions; for I perfectly agree with you, that an extensive Speculation,—a spirit of gambling,—or the introduction of any thing which will divert our attention from Agriculture, must be extremely prejudicial, if not ruinous to us. but I conceive under an energetic general Government such regulations might be made, and such measures taken, as would render this Country the asylum of pacific and industrious characters from all parts of Europe—would encourage the cultivation of the Earth by the high price which its products would command—and would draw the wealth, and wealthy men of other Nations, into our own bosom, by giving security to property, and liberty to its holders.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XII, 488–91. The date on the recipient's copy was evidently torn off, but it appears in the letterbook copy (Washington Papers, DLC). Jefferson incorrectly endorsed the letter "May 30. 87"—the date of an earlier Washington letter.

2. Upon leaving Philadelphia on 18 September, Washington wrote Jefferson and entrusted the letter to someone who would carry it to New York City, from whence it would be forwarded to Paris. When the carrier arrived in New York City, he gave the letter to John Paul Jones, who was planning to leave for Paris shortly. Jones, however, did not depart until 10 November. Jefferson received Washington's letter in Paris on 19 December (Fitzpatrick, XXIX, 276; Boyd, XII, 460n–61n; Jones to Washington, 9 November, Washington Papers, DLC).

3. On 3 November 1787 the Rhode Island legislature refused to call a state convention to consider the Constitution.

#### **401. Luther Martin: Genuine Information II Baltimore Maryland Gazette, 1 January<sup>1</sup>**

*Mr. MARTIN's Information to the House of Assembly, continued.*

When contrary to our hopes it was found, that a majority of the members of the convention had in the committee agreed to the system, I have laid before you, we then thought it necessary to bring forward the propositions, which such of us who disapproved the plan before had prepared—The members who had prepared these resolutions were principally of the Connecticut, New-York, Jersey, Delaware and Maryland delegations.—The honorable Mr. Patterson, of the Jerseys, laid them before the convention—of these propositions<sup>(a)</sup> I am in possession of a copy, which I shall beg leave to read to you.<sup>2</sup>

These propositions were referred to a committee of the whole house.—Unfortunately the New-Hampshire delegation had not yet arrived, and the sickness of a relation of the honorable Mr. M'Henry,

obliged him still to be absent, a circumstance, Sir, which I considered much to be regretted, as Maryland thereby was represented by only two delegates, and they unhappily differed very widely in their sentiments.<sup>3</sup>

The result of the referrence of these last propositions to a committee, was a speedy and hasty determination to reject them<sup>4</sup>—I doubt not, Sir, to those who consider them with attention, so sudden a rejection will appear surprising; but it may be proper to inform you, that on our meeting in convention, it was soon found there were among us three parties of very different sentiments and views.

One party, whose object and wish it was to abolish and annihilate all State governments, and to bring forward one general government over this extensive continent of a monarchical nature, under certain restrictions and limitations:—Those who openly avowed this sentiment were, it is true, but few, yet it is equally true, Sir, that there was a considerable number who did not openly avow it, who were by myself, and many others of the convention, considered as being in reality favourers of that sentiment, and acting upon those principles, covertly endeavouring to carry into effect what they well knew openly and avowedly could not be accomplished.<sup>5</sup>

The second party was not for the abolition of the State governments, nor for the introduction of a monarchical government under any form; but they wished to establish such a system as would give their own States undue power and influence in the government over the other States.—A third party was what I considered truly federal and republican—This party was nearly equal in number with the other two, and were composed of the delegations from Connecticut, New-York, New-Jersey, Delaware, and in part from Maryland; also of some individuals from other representations.—This party, Sir, were for proceeding upon terms of *federal equality*; they were for taking our present *federal system* as the basis of their proceedings, and as far as experience had shewn us that there were defects, to remedy those defects, as far as experience had shewn that other powers were necessary to the federal government, to give those powers—They considered this, the object for which they were sent by their State, and what their States expected from them—They urged, that if after doing this, experience should shew that there still were defects in the system (as no doubt there would be) the same good sense that induced this convention to be called, would cause the States when they found it necessary to call another; and if that convention should act with the same moderation, the members of it would proceed to correct such errors and defects as experience should have brought to light—That by proceeding in this train, we should have a prospect at length of obtaining as perfect a system of federal government, as the nature of things would admit. On the other hand, if we, contrary to the purpose

for which we were intrusted, considering ourselves as master-builders, too proud to amend our original government, should demolish it entirely, and erect a new system of our own, a short time might shew the new system as defective as the old, perhaps more so—Should a convention be found necessary again, if the members thereof acting upon the same principles, instead of amending and correcting its defects, should demolish that entirely, and bring forward a third system, that also might soon be found no better than either of the former, and thus we might always remain young in government, and always suffering the inconveniences of an incorrect, imperfect system.

But, Sir, the favourers of monarchy, and those who wished the total abolition of State governments, well knowing that a government founded on *truly federal principles*, the basis of which were the *Thirteen State governments, preserved in full force and energy*, would be destructive of their views; and knowing they were too weak in numbers, openly to bring forward their system, conscious also that the people of America would reject it if proposed to them, joined their interest with that party, who wished a system, giving *particular States the power and influence over the others*, procuring in return mutual sacrifices from them, in giving the government *great and undefined powers* as to its *legislative and executive*, well knowing that by *departing from a federal system*, they paved the way for their favourite object, the *destruction of the State governments*, and the *introduction of monarchy*—And hence, Mr. Speaker, I apprehend, in a great measure, arose the objections of those honorable members Mr. Mason and Mr. Gerry.<sup>6</sup> In every thing that tended to give the *large States power* over the *smaller*, the *first* of those gentlemen could not forget he belonged to the *ancient dominion*, nor could the *latter* forget that he represented Old Massachusetts; that part of the system which tended to give those States power over the others, met with their *perfect approbation*; but when they viewed it charged with *such powers* as would *destroy all State governments*, their *own* as well as the *rest*—when they saw a president so constituted as to differ from a monarch, scarcely but in name, and having it in his power to become such in reality when he pleased; they being *republicans* and *federalists* as far as an attachment to their own States would permit them, they warmly and zealously opposed those parts of the system. From these different sentiments, and from this combination of interest, *I apprehend*, Sir, proceeded the fate of what was called the Jersey resolutions, and the report made by the committee of the whole house.

The Jersey propositions being thus rejected, the convention took up those reported by the committee, and proceeded to debate them by paragraphs<sup>7</sup>—It was now that they who disapproved the report found it necessary to make a *warm and decided opposition*, which took place upon the discussion of the seventh resolution, which related to the *inequality*

of representation in the *first* branch.—Those who advocated this inequality, urged, that when the articles of confederation were formed, it was *only* from *necessity* and *expediency* that the States were admitted *each* to have an *equal vote*; but that our situation was *now altered*, and therefore those States who considered it contrary to their interest, would *no longer abide* by it. They said no State ought to wish to have influence in government, except in proportion to what it contributes to it; that if it contributes but little, it ought to have but a small vote; that taxation and representation ought always to go together; that if one State had *sixteen times as many inhabitants* as another, or was *sixteen times as wealthy*, it ought to have *sixteen times as many votes*; that an inhabitant of Pennsylvania ought to have as much weight and consequence as an inhabitant of Jersey or Delaware; that it was contrary to the feelings of the human mind—what the *large States* would *never* submit to; that the *large States* would have *great objects* in view, in which they would never permit the *smaller States* to thwart them; that *equality of suffrage* was the rotten part of the constitution, and that this was a happy time to get clear of it. In fine, that it was the poison which contaminated our whole system, and the source of all the evils we experienced.<sup>8</sup>

This, Sir, is the substance of the arguments, if arguments they can be called, which were used in favour of *inequality of suffrage*.—Those, who advocated the *equality of suffrage*, took the matter up on the original principles of government—They urged that all men considered in a state of nature, before any government formed, are equally free and independent, no one having any right or authority to exercise power over another, and this *without any regard to difference in personal strength, understanding, or wealth*—That when such individuals enter into government, they have *each* a right to an *equal voice* in its first formation, and afterwards have *each* a right to an *equal vote* in every matter which relates to their government—That if it could be done conveniently, they have a right to exercise it in person—Where it cannot be done in person but for convenience, representatives are appointed to act for them, *every person* has a right to an *equal vote* in choosing that representative who is entrusted to do for the whole, that which the whole, if they could assemble, might do in person, and in the transacting of which each would have an equal voice—That if we were to admit, because a man was *more wise, more strong, or more wealthy*, he should be entitled to *more votes* than another, it would be *inconsistent with the freedom and liberty* of that other, and would reduce him to *slavery*—Suppose, for instance, ten individuals in a state of nature, about to enter into government, *nine* of whom are *equally wise, equally strong, and equally wealthy*, the *tenth* is *ten times as wise, ten times as strong or ten times as rich*; if for this reason he is to have *ten votes* for *each vote of either of the others*, the *nine* might as well have *no vote at all*, since though the

*whole nine* might assent to a measure, yet the *vote of the tenth* would *countervail*, and *set aside all their votes*—If this *tenth* approved of what they wished to adopt, it would be well, but if he disapproved, he could prevent it, and in the same manner he could carry into execution *any measure he wished contrary to the opinion of all the others, he having ten votes*, and the *other* all together but *nine*—It is evident, that on these principles, *the nine* would have *no will nor discretion of their own*, but must be *totally dependent* on the *will and discretion of the tenth*, to *him* they would be as *absolutely slaves* as any *negro* is to his *master*.—If he did not attempt to carry into execution any measures injurious to the *other nine*, it could only be said that they had a *good master*, they would not be the *less slaves*, because they would be *totally dependent on the will of another*, and not on *their own will*—They might not *feel their chains*, but they would notwithstanding *wear them*, and whenever their *master* pleased he might draw them so tight as to gall them to the bone. Hence it was urged the *inequality of representation*, or giving to one man more votes than another on account of his wealth, &c. was *altogether inconsistent with the principles of liberty*, and in the *same proportion as it should be adopted*, in favour of *one or more*, in that *proportion are the others enslaved*—It was urged that though every individual should have an equal voice in the government, yet, even then superior wealth, strength or understanding, would give great and undue advantages to those who possessed them. That wealth attracts respect and attention; superior strength would cause the weaker and more feeble to be cautious how they offended, and to put up with small injuries rather than to engage in an unequal contest—In like manner superior understanding would give its possessor many opportunities of profiting at the expence of the more ignorant.—Having thus established these principles with respect to the *rights of individuals in a state of nature*, and what is due to *each* on entering into government, principles established by every writer on liberty, they proceeded to shew that *States*, when *once formed*, are considered *with respect to each other as individuals* in a state of nature—That, like individuals, each *State* is considered *equally free and equally independent*, the *one* having no right to exercise authority over the *other*, though more *strong, more wealthy, or abounding with more inhabitants*—That when a number of *States* unite themselves under a *federal government*, the *same principles apply to them* as when a number of *individual men* unite themselves under a *State government*—That every argument which shews *one man* ought not to have *more votes than another*, because he is *wiser, stronger or wealthier*, proves that *one State* ought not to have *more votes than another*, because it is *stronger, richer, or more populous*—And that by *giving one State, or one or two States more votes than the others*, the *others* thereby are *enslaved* to such *State or States*, having the *greater number of votes*, in the *same manner* as in the case before put of *individuals* where *one* has *more votes than the*

*others*—That the reason why each individual man in forming a State government should have an equal vote is, because each individual before he enters into government is *equally free* and *independent*—So *each State*, when *States enter* into a *federal government*, are entitled to an *equal vote*, because before they entered into such federal government, *each State* was *equally free* and *equally independent*—That *adequate representation of men formed into a State government*, consists in *each man* having an *equal voice* either personally, or if by representatives, that he should have an equal voice in choosing the representative—So *adequate representation of States in a federal government*, consists in *each State* having an *equal voice* either in person or by its representative in every thing which relates to the federal government—That this *adequacy of representation* is *more important* in a *federal*, than in a *State* government, because the members of a State government, the *district* of which is *not very large*, have generally such a *common interest*, that laws can scarcely be made by *one part* *oppressive* to the *others*, without *their suffering in common*; but the *different States* composing an *extensive federal empire*, widely distant, *one* from the *other*, may have *interests so totally distinct*, that the *one part* might be greatly *benefited* by what would be *destructive* to the *other*.

They were not satisfied by resting it on principles; they also appealed to history—They shewed that in the amphycyonic confederation of the Grecian cities, *each city* however *different in wealth, strength, and other circumstances*, sent the same *number* of deputies, and had *each* an *equal voice* in every thing that related to the common concerns of Greece. It was shewn that in the seven provinces of the United Netherlands, and the confederated Cantons of Switzerland, *each Canton* and *each province* have an *equal vote*, although there are as great distinctions of wealth, strength, population, and extent of territory among those provinces and *those Cantons*, as among *these States*. It was said, that the maxim that taxation and representation ought to go together, was true so far, that no person ought to be *taxed* who is not *represented*, but not in the extent insisted upon, to wit, that the *quantum* of *taxation* and *representation* ought to be the *same*; on the contrary, the *quantum* of *representation* depends upon the *quantum* of *freedom*, and therefore *all*, whether *individual States*, or *individual men*, who are *equally free*, have a right to *equal representation*—That to those who insist that he who pays the greatest share of taxes, ought to have the greatest number of votes; it is a sufficient answer to say, that *this rule* would be *destructive* of the *liberty* of the *others*, and would render *them slaves* to the *more rich and wealthy*—That if one man pays *more taxes* than another, it is because he has *more wealth* to be protected by government, and he receives greater benefits from the government—So if one State pays more to the federal government, it is because as a State, she enjoys greater blessings from



it; she has more wealth protected by it, or a greater number of inhabitants, whose rights are secured, and who share its advantages.

(*To be continued.*)

(a) These will be inserted in some future number, with some remarks on them.<sup>9</sup>

1. Reprinted: *Pennsylvania Packet*, 12 January; *New York Journal*, 18 January; *Pennsylvania Herald*, 19 January; *Philadelphia Independent Gazetteer*, 21 January; *Boston American Herald*, 11 February; *State Gazette of South Carolina*, 14, 17, 21 April. Lengthy excerpts appeared in an Antifederalist essay by "A Republican Federalist," *Philadelphia Freeman's Journal*, 16 January (Mfm:Pa. 339). For a general discussion of the *Genuine Information*, see CC:389.

2. For the resolutions, see the New Jersey Amendments to the Articles of Confederation, 15 June (CDR, 250–53; Farrand, I, 242–47).

3. New Hampshire's delegates, John Langdon and Nicholas Gilman, first attended the Convention on 23 July. Maryland's two delegates were Martin and Daniel of St. Thomas Jenifer.

4. The New Jersey Amendments were rejected on 19 June.

5. For additional charges that a monarchical party existed in the Convention, see CC:51.

6. For Mason's objections, see CC:75, 138, 276. For Gerry's objections, see CC:75, 227.

7. On 19 June the Committee of the Whole reported the Amended Virginia Resolutions. For the Virginia Resolutions, see CC:389, notes 3 and 5.

8. On 9 June James Wilson stated "that as all authority was derived from the people, equal numbers of people ought to have an equal no. of representatives, and different numbers of people different numbers of representatives. This principle had been improperly violated in the Confederation, owing to the urgent circumstances of the time." William Paterson, speaking in defense of the New Jersey Amendments, replied to Wilson on 16 June (Farrand, I, 179–80, 250–52, 258–60, 274–76).

9. Martin did not include the New Jersey Amendments in his *Genuine Information*, but on 12 February, four days after his last installment was printed, the *Baltimore Maryland Gazette* announced: "The propositions, laid before the Convention, by the Hon. Mr. Patterson, of the Jerseys, as mentioned in Mr. Martin's Information of the 1st of January, with some remarks thereon, will be inserted in our next." On 15 February the *Gazette* published the amendments, which were reprinted in the *Philadelphia Independent Gazetteer* on 23 February and in the April issue of the *Philadelphia American Museum*. The *Museum* printed them without mention of Martin's *Genuine Information*.

## 402. New Hampshire Spy, 1 January<sup>1</sup>

### POLITICAL SCRAPS.

The federal plan, like the globe of the moon, will appear perfect from a true observation—though both may seem covered with inferior spots.

He that can find how the Constitution affects the interests of individuals, may begin to count the votes.

Nothing is more pernicious to civil government than to make laws without power to enforce them:—and therefore, Legislatures ought to

keep in view the probability of their being obeyed as much as the utility of the laws themselves.

The increase of civil happiness will always be in proportion to the uniformity and energy of the government.

'Tis of more consequence to increase the value of our exports by proper inspection laws, than to call for hard money taxes—when the law says no one shall *command* it.

The conduct and manners of men in common life are surer marks for others to determine their abilities or virtues by, than any *test* that can be imposed on them for the discovery.

Never expect to proselite an antifederal officer who is afraid of a new arrangement.

Let him that rejects the proposed plan of government merely because he does not understand it, be careful never to take any more medicine be his case what it will, lest it should be poison, though he sees the Doctor take part himself.

1. Reprinted thirteen times by 29 May: Vt. (1), Mass. (4), R.I. (1), Conn. (2), N.Y. (1), N.J. (2), Pa. (2).

#### **403. Publius: The Federalist 31** **New York Packet, 1 January**

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser* and the *New York Independent Journal* on 2 January, and in the *New York Journal* on 5 January. It was number 31 in the M'Lean edition and number 30 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FEDERALIST, No. 30.

*To the People of the State of New-York.*

In disquisitions of every kind there are certain primary truths or first principles upon which all subsequent reasonings must depend. These contain an internal evidence, which antecedent to all reflection or combination command the assent of the mind. Where it produces not this effect, it must proceed either from some defect or disorder in the organs of perception, or from the influence of some strong interest, or passion, or prejudice.<sup>1</sup> Of this nature are the maxims in geometry that “The whole is greater than its parts; that things equal to the same are equal to one another; that two straight lines cannot inclose a space; and that all right angles are equal to each other.” Of the same nature are these other maxims in ethics and politics, that there cannot be an effect without a cause; that the means ought to be proportioned to the end; that every power ought to be commensurate with its object; that there ought to be no limitation of a power destined to effect a purpose, which is itself incapable of limitation. And there are other truths in the two

latter sciences, which if they cannot pretend to rank in the class of axioms, are yet such direct inferences from them, and so obvious in themselves, and so agreeable to the natural and unsophisticated dictates of common sense, that they challenge the assent of a sound and unbiassed mind, with a degree of force and conviction almost equally irresistible.

The objects of geometrical enquiry are so intirely abstracted from those pursuits which stir up and put in motion the unruly passions of the human heart, that mankind without difficulty adopt not only the more simple theorems of the science, but even those abstruse paradoxes, which however they may appear susceptible of demonstration, are at variance with the natural conceptions which the mind, without the aid of philosophy, would be led to entertain upon the subject. The INFINITE DIVISIBILITY of matter, or in other words, the INFINITE divisibility of a FINITE thing, extending even to the minutest atom, is a point agreed among geometricians; though not less incomprehensible to common sense, than any of those mysteries in religion, against which the batteries of infidelity have been so industriously levelled.

But in the sciences of morals and politics men are found far less tractable. To a certain degree it is right and useful, that this should be the case. Caution and investigation are a necessary armour against error and imposition. But this untractableness may be carried too far, and may degenerate into obstinacy, perverseness or disingenuity. Though it cannot be pretended that the principles of moral and political knowledge have in general the same degree of certainty with those of the mathematics; yet they have much better claims in this respect, than to judge from the conduct of men in particular situations, we should be disposed to allow them. The obscurity is much oftener in the passions and prejudices of the reasoner than in the subject. Men upon too many occasions do not give their own understandings fair play; but yielding to some untoward bias they entangle themselves in words and confound themselves in subtleties.

How else could it happen (if we admit the objectors to be sincere in their opposition) that positions so clear as those which manifest the necessity of a general power of taxation in the government of the union, should have to encounter any adversaries among men of discernment? Though these positions have been elsewhere fully stated,<sup>2</sup> they will perhaps not be improperly recapitulated in this place, as introductory to an examination of what may have been offered by way of objection to them—They are in substance as follow:

A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible; free from

every other control, but a regard to the public good and to the sense of the people.

As the duties of superintending the national defence and of securing the public peace against foreign or domestic violence, involve a provision for casualties and dangers, to which no possible limits can be assigned, the power of making that provision ought to know no other bounds than the exigencies of the nation and the resources of the community.

As revenue is the essential engine by which the means of answering the national exigencies must be procured, the power of procuring that article in its full extent, must necessarily be comprehended in that of providing for those exigencies.

As theory and practice conspire to prove that the power of procuring revenue is unavailing, when exercised over the States in their collective capacities, the Federal government must of necessity be invested with an unqualified power of taxation in the ordinary modes.

Did not experience evince the contrary, it would be natural to conclude that the propriety of a general power of taxation in the national government might safely be permitted to rest on the evidence of these propositions, unassisted by any additional arguments or illustrations. But we find in fact, that the antagonists of the proposed constitution, so far from acquiescing in their justness or truth, seem to make their principal and most zealous effort against this part of the plan. It may therefore be satisfactory to analyze the arguments with which they combat it.

Those of them, which have been most labored with that view, seem in substance to amount to this: "It is not true, because the exigencies of the Union may not be susceptible of limitation, that its power of laying taxes ought to be unconfined. Revenue is as requisite to the purposes of the local administrations as to those of the Union; and the former are at least of equal importance with the latter to the happiness of the people. It is therefore as necessary, that the State Governments should be able to command the means of supplying their wants, as, that the National Government should possess the like faculty, in respect to the wants of the Union. But an indefinite power of taxation in the *latter* might, and probably would in time deprive the former of the means of providing for their own necessities; and would subject them entirely to the mercy of the national Legislature. As the laws of the Union are to become the supreme law of the land; as it is to have power to pass all laws that may be NECESSARY for carrying into execution, the authorities with which it is proposed to vest it; the national government might at any time abolish the taxes imposed for State objects, upon the pretence of an interference with its own. It might alledge a necessity of doing this, in order to give efficacy to the national revenues: And thus all the

resources of taxation might by degrees, become the subjects of fœderal monopoly, to the intire exclusion and destruction of the State Governments.”

This mode of reasoning appears sometimes to turn upon the supposition of usurpation in the national government; at other times it seems to be designed only as a deduction from the constitutional operation of its intended powers. It is only in the latter light, that it can be admitted to have any pretensions to fairness. The moment we launch into conjectures about the usurpations of the Fœderal Government, we get into an unfathomable abyss, and fairly put ourselves out of the reach of all reasoning. Imagination may range at pleasure, till it gets bewildered amidst the labyrinths of an enchanted castle, and knows not on which side to turn to extricate itself from the perplexities into which it has so rashly adventured. Whatever may be the limits or modifications of the powers of the Union, it is easy to imagine an endless train of possible dangers; and by indulging an excess of jealousy and timidity, we may bring ourselves to a state of absolute scepticism and irresolution. I repeat here what I have observed in substance in another place, that all observations founded upon the danger of usurpation, ought to be referred to the composition and structure of the government, not to the nature or extent of its powers.<sup>3</sup> The State governments, by their original constitutions, are invested with complete sovereignty. In what does our security consist against usurpations from that quarter? Doubtless in the manner of their formation, and in a due dependence of those who are to administer them upon the people. If the proposed construction of the Fœderal Government, be found upon an impartial examination of it, to be such as to afford, to a proper extent, the same species of security, all apprehensions on the score of usurpation ought to be discarded.

It should not be forgotten, that a disposition in the State governments to encroach upon the rights of the Union, is quite as probable, as a disposition in the Union to encroach upon the rights of the State Governments. What side would be likely to prevail in such a conflict, must depend on the means which the contending parties could employ towards ensuring success. As in republics, strength is always on the side of the people; and as there are weighty reasons to induce a belief, that the State governments will commonly possess most influence over them, the natural conclusion is, that such contests will be most apt to end to the disadvantage of the Union; and that there is greater probability of encroachments by the members upon the Fœderal Head, than by the Fœderal Head upon the members. But it is evident, that all conjectures of this kind, must be extremely vague and fallible, and that it is by far the safest course to lay them altogether

aside; and to confine our attention wholly to the nature and extent of the powers as they are delineated in the constitution. Every thing beyond this, must be left to the prudence and firmness of the people; who, as they will hold the scales in their own hands, it is to be hoped, will always take care to preserve the constitutional equilibrium between the General and the State Governments. Upon this ground, which is evidently the true one, it will not be difficult to obviate the objections, which have been made to an indefinite power of taxation in the United States.<sup>4</sup>

1. These first three sentences were used by "Americanus" to introduce his address to the Antifederalist majority of the North Carolina Convention (North Carolina *Wilmington Centinel*, 3 December 1788).

2. See *The Federalist* 30 (CC:391).

3. See *The Federalist* 23 (CC:352).

4. At the end of the essay the *New York Packet* noted: "We are obliged to omit the subsequent part of this No. until our next, for want of room." No "subsequent part" was printed.

#### 404. Samuel A. Otis to Elbridge Gerry New York, 2 January<sup>1</sup>

It was my intention to have done myself the honor to have called upon you, previous to my leaving Massachusetts, but partly from chagrin at undertaking an employment in which I could render but little service to myself, or my Country, And in part from a hurry of business inseperable from my *then* Situation I was deprived of the honor—I do not now address you upon the great *Subject* of contemplation, because everything worth your attention (& many things beneath it) has been said, & better said, than is in my power—Much less do I mean to dragg you into Convention; to hiss you for speaking contrary to what I might dictate, Or compell you to vote with me—For besides other objections to the measure, the being run thro the body,<sup>2</sup> for which at the present moment I have no great propensity, seems a natural one; And I am not sure but if I could effect this, as the redoubted Capt Barry did at Philadelphia in regard to a member of their Assembly<sup>3</sup> that you would not turn the hiss upon myself; But my principal design in writing is to evince that esteem, which a series of kind offices on your part have inspired—

And altho without reserve I confess myself a fœderalist, I have so much charity for unbelievers, as most sincerely to tender *you* my services, in any way that you may think proper to command them, feeling perfectly secure in your well known delicacy, & nice sense of honor.—

I am not by any means of opinion, if your dissent<sup>4</sup> & influence, should stop the progress of the new system, that all would be lost, and no Government adopted; altho I am in doubt whether we shall do better;

And think there is great danger whilst we are contending for perfection in Government, which no human Legislators are competent, to we shall be left without, any; And there will be a kind of necessity for some of your great Spirits, to come forward and call us to order, in your own right.

There seems at present to be a pause in the Govt of the United States—I suppose in their eager attention to the New confederation, the old is forgotten, And therefor only five States (but one from N England) are represented; It is hoped however there will be a meeting of at least seven States in all this month.

Mr A Lee is gone down to Verginia (where tis said the *opposition* gains ground) full of zeal, a Candidate for Convention; Gr: Clinton sets off [f] for Poughkepsie this morning to put his machinery in motion—<sup>5</sup>

I understand all the States South of *this*, Virginia excepted, either have, or will accede—If the E States had a propensity to be jealous, the eagerness, avidity, & illiberality of some of the States, in their mode of adoption, would have inspired it; However I hope nothing will prevent them, & especially Massachusetts, from discussing & determining the question, with that decorum, & dignity of debate which have marked her public Councils; And that a fair majority will be submitted to, let the question be determined as it may.

I should feel myself honored by a line from you as leisure permits,

1. RC, Lilly Library, Indiana University, Bloomington, Indiana. The letter was docketed: "2d Jany ansd/27 1788." Otis was a Massachusetts delegate to Congress.

2. A reference to the debates in Congress between 26 and 28 September 1787 on the transmittal of the Constitution to the states (CC:95). For other criticisms of Congress' precipitate actions and its refusal to approve or disapprove the Constitution, see CC:117, 144, 190.

3. On 29 September 1787 Captain John Barry led a mob that forcibly returned two Antifederalist assemblymen to the Pennsylvania Assembly in order to attain a quorum. The Assembly then called a state convention. (See CC:125; RCS:Pa., 99–120. For more on Barry, see CC:477.)

4. For Gerry's objections to the Constitution, see his letter of 18 October 1787 to the Massachusetts General Court (CC:227–A).

5. Governor George Clinton left New York City to address the state legislature which had been scheduled to meet in Poughkeepsie on 1 January. For his speech to the legislature on 11 January, see CC:439.

#### 405. Publius: The Federalist 32–33

##### New York Independent Journal, 2 January

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser*, 3 January; *New York Packet*, 4 January; and *New York Journal*, 8 January. The original essay was number 31 in the newspapers, but was divided into two parts and became numbers 32 and 33 in the M'Lean edition.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

## The FÆDERALIST. No. XXXI.

To the People of the State of New-York.

Although I am of opinion that there would be no real danger of the consequences, which seem to be apprehended to the State Governments, from a power in the Union to controul them in the levies of money; because I am persuaded that the sense of the people, the extreme hazard of provoking the resentments of the State Governments, and a conviction of the utility and necessity of local administrations, for local purposes, would be a complete barrier against the oppressive use of such a power: Yet I am willing here to allow in its full extent the justness of the reasoning, which requires that the individual States should possess an independent and uncontrolable authority to raise their own revenues for the supply of their own wants. And making this concession I affirm that (with the sole exception of duties on imports and exports) they would under the plan of the Convention retain that authority in the most absolute and unqualified sense; and that an attempt on the part of the national Government to abridge them in the exercise of it would be a violent assumption of power unwarranted by any article or clause of its Constitution.

An intire consolidation of the States into one complete national sovereignty would imply an intire subordination of the parts; and whatever powers might remain in them would be altogether dependent on the general will. But as the plan of the Convention aims only at a partial Union or consolidation, the State Governments would clearly retain all the rights of sovereignty which they before had and which were not by that act *exclusively* delegated to the United States. This exclusive delegation or rather this alienation of State sovereignty would only exist in three cases; where the Constitution in express terms granted an exclusive authority to the Union; where it granted in one instance an authority to the Union and in another prohibited the States from exercising the like authority; and where it granted an authority to the Union, to which a similar authority in the States would be absolutely and totally *contradictory* and *repugnant*. I use these terms to distinguish this last case from another which might appear to resemble it; but which would in fact be essentially different; I mean where the exercise of a concurrent jurisdiction might be productive of occasional interferences in the *policy* of any branch of administration, but would not imply any direct contradiction or repugnancy in point of constitutional authority. These three cases of exclusive jurisdiction in the Fæderal Government may be exemplified by the following instances: The last clause but one in the 8th. section of the 1st. article provides expressly that Congress shall exercise "*exclusive legislation*" over the district to be appropriated as the seat of government. This answers to the first case. The first clause of the same section impowers



Congress "to lay and collect taxes, duties, imposts and excises" and the 2d. clause of the 10th. section of the same article declares that "no State shall without the consent of Congress, lay any imposts or duties on imports or exports except for the purpose of executing its inspection laws." Hence would result an exclusive power in the Union to lay duties on imports and exports with the particular exception mentioned; but this power is abridged by another clause which declares that no tax or duty shall be laid on articles exported from any State; in consequence of which qualification it now only extends to the *duties on imports*. This answers to the second case. The third will be found in that clause, which declares that Congress shall have power "to establish an UNIFORM RULE of naturalization throughout the United States." This must necessarily be exclusive; because if each State had power to prescribe a DISTINCT RULE there could not be NO UNIFORM RULE.

A case which may perhaps be thought to resemble the latter, but which is in fact widely different, affects the question immediately under consideration. I mean the power of imposing taxes on all articles other than exports and imports. This, I contend, is manifestly a concurrent and coequal authority in the United States and in the individual States. There is plainly no expression in the granting clause which makes that power *exclusive* in the Union. There is no independent clause or sentence which prohibits the States from exercising it. So far is this from being the case, that a plain and conclusive argument to the contrary is to be deduced from the restraint laid upon the States in relation to duties on imports and exports. This restriction implies an admission, that if it were not inserted the States would possess the power it excludes, and it implies a further admission, that as to all other taxes the authority of the States remains undiminished. In any other view it would be both unnecessary and dangerous; it would be unnecessary because if the grant to the Union of the power of laying such duties implied the exclusion of the States, or even their subordination in this particular there could be no need of such a restriction; it would be dangerous because the introduction of it leads directly to the conclusion which has been mentioned and which if the reasoning of the objections be just, could not have been intended; I mean that the States in all cases to which the restriction did not apply would have a concurrent power of taxation with the Union. The restriction in question amounts to what lawyers call a NEGATIVE PREGNANT; that is a *negation* of one thing and an *affirmance* of another; a negation of the authority of the States to impose taxes on imports and exports, and an affirmance of their authority to impose them on all other articles. It would be mere sophistry to argue that it was meant to exclude them *absolutely* from the imposition of taxes of the former kind, and to leave them at liberty to lay others *subject to the controul* of the

national Legislature. The restraining or prohibitory clause only says, that they shall not *without the consent of Congress* lay such duties; and if we are to understand this in the sense last mentioned, the Constitution would then be made to introduce a formal provision for the sake of a very absurd conclusion; which is that the States *with the consent* of the national Legislature might tax imports and exports; and that they might tax every other article *unless controuled* by the same body. If this was the intention why not leave it in the first instance to what is alleged to be the natural operation of the original clause conferring a general power of taxation upon the Union? It is evident that this could not have been the intention and that it will not bear a construction of the kind.

As to a supposition of repugnancy between the power of taxation in the States and in the Union, it cannot be supported in that sense which would be requisite to work an exclusion of the States. It is indeed possible that a tax might be laid on a particular article by a State which might render it *inexpedient* that thus a further tax should be laid on the same article by the Union; but it would not imply a constitutional inability to impose a farther tax. The quantity of the imposition, the expediency or inexpediency of an increase on either side, would be mutually questions of prudence; but there would be involved no direct contradiction of power. The particular policy of the national and of the State systems of finance might now and then not exactly coincide, and might require reciprocal forbearances. It is not however a mere possibility of inconvenience in the exercise of powers, but an immediate constitutional repugnancy, that can by implication alienate and extinguish a pre-existing right of sovereignty.

The necessity of a concurrent jurisdiction in certain cases results from the division of the sovereign power; and the rule that all authorities of which the States are not explicitly divested in favour of the Union remain with them in full vigour, is not only a theoretical consequence of that division, but is clearly admitted by the whole tenor of the instrument which contains the articles of the proposed constitution. We there find that notwithstanding the affirmative grants of general authorities, there has been the most pointed care in those cases where it was deemed improper that the like authorities should reside in the States, to insert negative clauses prohibiting the exercise of them by the States. The tenth section of the first article consists altogether of such provisions. This circumstance is a clear indication of the sense of the Convention, and furnishes a rule of interpretation out of the body of the act which justifies the position I have advanced, and refutes every hypothesis to the contrary.<sup>1</sup>

The last clause of the eighth section of the first article of the plan under consideration, authorises the national legislature "to make all laws which shall be *necessary* and *proper*, for carrying into execution *the*

*powers* by that Constitution vested in the government of the United States, or in any department or officer thereof;" and the second clause of the sixth article declares, that "the Constitution and the Laws of the United States made *in pursuance thereof*, and the treaties made by their authority shall be the *supreme law* of the land; any thing in the constitution or laws of any State to the contrary notwithstanding."

These two clauses have been the sources of much virulent invective and petulant declamation against the proposed constitution, they have been held up to the people, in all the exaggerated colours of misrepresentation, as the pernicious engines by which their local governments were to be destroyed and their liberties exterminated—as the hideous monster whose devouring jaws would spare neither sex nor age, nor high nor low, nor sacred nor profane; and yet strange as it may appear, after all this clamour, to those who may not [have] happened to contemplate them in the same light, it may be affirmed with perfect confidence, that the constitutional operation of the intended government would be precisely the same, if these clauses were entirely obliterated, as if they were repeated in every article. They are only declaratory of a truth, which would have resulted by necessary and unavoidable implication from the very act of constituting a Fœderal Government, and vesting it with certain specified powers. This is so clear a proposition, that moderation itself can scarcely listen to the railings which have been so copiously vented against this part of the plan, without emotions that disturb its equanimity.

What is a power, but the ability or faculty of doing a thing? What is the ability to do a thing but the power of employing the *means* necessary to its execution? What is a LEGISLATIVE power but a power of making LAWS? What are the *means* to execute a LEGISLATIVE power but LAWS? What is the power of laying and collecting taxes but a *legislative power*, or a power of *making laws*, to lay and collect taxes? What are the proper means of executing such a power but *necessary* and *proper* laws?

This simple train of enquiry furnishes us at once with a test by which to judge of the true nature of the clause complained of. It conducts us to this palpable truth, that a power to lay and collect taxes must be a power to pass all laws *necessary* and *proper* for the execution of that power; and what does the unfortunate and calum[n]iated provision in question do more than declare the same truth; to wit, that the national legislature to whom the power of laying and collecting taxes had been previously given, might in the execution of that power pass all laws *necessary* and *proper* to carry it into effect? I have applied these observations thus particularly to the power of taxation, because it is the immediate subject under consideration, and because it is the most important of the authorities proposed to be conferred upon the Union.

But the same process will lead to the same result in relation to all other powers declared in the constitution. And it is *expressly* to execute these powers, that the sweeping clause, as it has been affectedly called, authorises the national legislature to pass all *necessary* and *proper* laws. If there is any thing exceptionable, it must be sought for in the specific powers, upon which this general declaration is predicated. The declaration itself, though it may be chargeable with tautology or redundancy, is at least perfectly harmless.

But SUSPICION may ask why then was [it] introduced? The answer is, that it could only have been done for greater caution, and to guard against all cavilling refinements in those who might hereafter feel a disposition to curtail and evade the legitimate authorities of the Union. The Convention probably foresaw that it has been a principal aim of these papers to inculcate that the danger which most threatens our political welfare, is, that the State Governments will finally sap the foundations of the Union; and might therefore think it necessary, in so cardinal a point, to leave nothing to construction. Whatever may have been the inducement to it, the wisdom of the precaution is evident from the cry which has been raised against it; as that very cry betrays a disposition to question the great and essential truth which it is manifestly the object of that provision to declare.

But it may be again asked, who is to judge of the *necessity* and *propriety* of the laws to be passed for executing the powers of the Union? I answer first that this question arises as well and as fully upon the simple grant of those powers, as upon the declaratory clause: And I answer in the second place, that the national government, like every other, must judge in the first instance of the proper exercise of its powers; and its constituents in the last. If the Fœderal Government should overpass the just bounds of its authority, and make a tyrannical use of its powers; the people whose creature it is must appeal to the standard they have formed, and take such measures to redress the injury done to the constitution, as the exigency may suggest and prudence justify. The propriety of a law in a constitutional light, must always be determined by the nature of the powers upon which it is founded. Suppose by some forced constructions of its authority (which indeed cannot easily be imagined) the Fœderal Legislature should attempt to vary the law of descent in any State; would it not be evident that in making such an attempt it had exceeded its jurisdiction and infringed upon that of the State? Suppose again that upon the pretence of an interference with its revenues, it should undertake to abrogate a land tax imposed by the authority of a State, would it not be equally evident that this was an invasion of that concurrent jurisdiction in respect to this species of tax which its constitution plainly supposes to

exist in the State governments? If there ever should be a doubt on this head the credit of it will be intirely due to those reasoners, who, in the imprudent zeal of their animosity to the plan of the Convention, have laboured to invelope it in a cloud calculated to obscure the plainest and simplest truths.

But it is said, that the laws of the Union are to be the *supreme law* of the land. But what inference can be drawn from this or what would they amount to, if they were not to be supreme? It is evident they would amount to nothing. A LAW by the very meaning of the term includes supremacy. It is a rule which those to whom it is prescribed are bound to observe. This results from every political association. If individuals enter into a state of society the laws of that society must be the supreme regulator of their conduct. If a number of political societies enter into a larger political society, the laws which the latter may enact, pursuant to the powers entrusted to it by its constitution, must necessarily be supreme over those societies, and the individuals of whom they are composed. It would otherwise be a mere treaty, dependent on the good faith of the parties, and not a government; which is only another word for POLITICAL POWER AND SUPREMACY. But it will not follow from this doctrine that acts of the larger society which are *not pursuant* to its constitutional powers but which are invasions of the residuary authorities of the smaller societies will become the supreme law of the land. These will be merely acts of usurpation and will deserve to be treated as such. Hence we perceive that the clause which declares the supremacy of the laws of the Union, like the one we have just before considered, only declares a truth, which flows immediately and necessarily from the institution of a Fœderal Government. It will not, I presume, have escaped observation that it *expressly* confines this supremacy to laws made *pursuant to the Constitution*; which I mention merely as an instance of caution in the Convention; since that limitation would have been to be understood though it had not been expressed.

Though a law therefore for laying a tax for the use of the United States would be supreme in its nature, and could not legally be opposed or controuled; yet a law for abrogating or preventing the collection of a tax laid by the authority of a State (unless upon imports and exports) would not be the supreme law of the land, but an usurpation of power not granted by the constitution. As far as an improper accumulation of taxes on the same object might tend to render the collection difficult or precarious, this would be a mutual inconvenience not arising from a superiority or defect of power on either side, but from an injudicious exercise of power by one or the other, in a manner equally disadvantageous to both. It is to be hoped and presumed however that mutual interest would dictate a concert in this respect which would

avoid any material inconvenience. The inference from the whole is—that the individual States would, under the proposed constitution, retain an independent and uncontrollable authority to raise revenue to any extent of which they may stand in need by every kind of taxation except duties on imports and exports. It will be shewn in the next paper<sup>2</sup> that this CONCURRENT JURISDICTION in the article of taxation was the only admissible substitute for an intire subordination, in respect to this branch of power, of the State authority to that of the Union.

1. At this point in the M'Lean edition, essay 32 ends, and essay 33 is introduced with the phrase: "The residue of the argument against the provisions in the Constitution, in respect to taxation, is ingrafted upon the following clauses."

2. See *The Federalist* 34 (CC:416).

#### 406. Advertisement for the Pamphlet Edition of *The Federalist* New York Independent Journal, 2 January

*The Federalist* was so popular that about five weeks after its inception a New York committee decided to print the essays in a pamphlet edition (James Madison to Edmund Randolph, 2 December, Rutland, *Madison*, X, 290. Even before he knew of these publication plans, Jeremiah Wadsworth of Hartford, Conn., requested two dozen copies of such a pamphlet should one be printed [to Rufus King, 16 December, RCS:Conn., 497]). New York printers John and Archibald M'Lean were commissioned to produce 500 copies of the volume. (John M'Lean was the printer of the *Independent Journal*.) The M'Leans were told that twenty to twenty-five of the essays would be included in the pamphlet (Archibald M'Lean to Robert Troup, 14 October 1788, Hamilton-McLane Papers, DLC). However, by 2 January, when the M'Leans first announced their plan to publish the pamphlet, thirty-one essays had already been printed in the newspapers.

The M'Leans, adopting a common practice, obtained subscribers to the volume before it was published. They promised advance subscribers a price of five shillings for a 200-page pamphlet or six shillings for anything of 250 pages or more. Newspaper printers and booksellers throughout America were authorized to take subscriptions, but no money was due until the pamphlets were delivered. When the first volume appeared on 22 March (CC:639), the printers asked those holding subscription lists to return them. Some individuals requested the volume directly from the M'Leans (see, for example, Tench Coxe to James Madison, 16 January, Rutland, *Madison*, X, 375).

The M'Leans' advertisement printed below was published in the *Independent Journal* on 2, 5, 9, 16, 19, and 23 January. It was reprinted in the *New York Packet* ten times between 8 January and 8 February. The advertisement, without the first four paragraphs, was reprinted in the *New York Daily Advertiser* on 3 January and in the *Poughkeepsie Country Journal* on 19 February. The *Norfolk and Portsmouth Journal*, also published by John M'Lean, printed an almost identical advertisement, dated 16 January, on 30 January. (The *Journal* issues of 16 and 23 January are not extant.) This version was reprinted, without the first four paragraphs, in the *Virginia Independent Chronicle* on 6 February and 12 March (extra).

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

*To the People of America.*

Amongst the numerous publications that have issued from the press, on the subject of Federal Government, none have attracted the public attention more than that intitled the FEDERALIST, under the signature of PUBLIUS:—The justness of the reasoning, the force of the arguments, and the beauty of the language, which distinguish this performance, have justly recommended it to general applause.

To attain a competent knowledge of the advantages to be derived from adopting the proposed Federal Constitution, is no doubt the sincere wish of every true friend to his country:—This performance being entirely free from party spirit and personal invective, is therefore well calculated to accomplish so desirable an end.

The avidity with which this writer's pieces have been sought after by politicians and persons of every description, and the particular attention the different printers throughout the United States have shewn them by regular insertions in their papers, are conclusive proofs of the superior excellence of this elegant political production. The manner in which the author treats and discusses the controverted parts of the Constitution, displays much information, patriotism and candour, and can hardly fail of meeting with a favourable reception from the opposers, as well as the advocates of the new system of Government.

Under this persuasion the Publishers flatter themselves with the countenance and support of the Citizens of America, to a publication evidently written to promote their Welfare, Happiness and prosperity.

*In the Press and speedily will be published,*

**The FEDERALIST,**

A Collection of Essays, written in favour  
of the New Constitution,

*By a Citizen of New-York,*

Corrected by the Author, with Additions and Alterations.

CONDITIONS.

This Work will be printed on a fine Paper and good Type, in one handsome Volume *duodecimo*.

The number of Pages the Volume will contain, cannot rightly be ascertained, as the Author has not yet done publishing, but the Printers engage to deliver them to Subscribers at the very reasonable Rate of *Five Shillings* for 200 Pages, *Six Shillings* if 250, and all above *gratis*.—(The Numbers already published will make more than 200 Pages, and the Author does not seem to be nigh a close.)

*To render this Work more complete, will be added,  
without any additional expence,*

PHILO-PUBLIUS,<sup>1</sup> and the ARTICLES OF THE CONVENTION, as agreed upon at Philadelphia, September 17th, 1787.

☞ A few Copies will be printed on superfine Royal Writing Paper, Price *Ten Shillings*.

∴ No Money required till Delivery.

SUBSCRIPTIONS are taken in by J. M'LEAN, and Co. No. 41, Hanover-Square, by the several Booksellers of the City, and by all others intrusted with Proposals.

*New-York, January 1, 1788.*

1. The essays by "Philo-Publius" (William Duer)—*New York Daily Advertiser*, 30 October, 1 December; *New York Packet*, 16 November; and *New York Independent Journal*, 28 November—were not reprinted in the M'Lean edition of *The Federalist*. For more on William Duer, see CC:201.

#### **407. An Old Man Carlisle Gazette, 2 January**

On 12 December 1787 the Pennsylvania Convention ratified the Constitution by a vote of 46 to 23. During the next few weeks Federalists held celebrations throughout Pennsylvania. On the night of 24 December Antifederalists assembled in Carlisle "to draw up Letters of Thanks to the Minority of the Convention, & . . . the Speakers exhorted the People to take up Arms in Defence of their Rights" (CC:374). Possibly in response to this exhortation, a club-wielding Antifederalist mob broke up a Federalist celebration in Carlisle on 26 December, and after dispersing the celebrants the mob ceremoniously burned a copy of the Constitution. The next day armed Federalists held another celebration and adjourned peacefully. Antifederalists then assembled and burned effigies of James Wilson and Thomas McKean, the two principal Federalist speakers in the state Convention.

Many accounts of the Carlisle riot circulated throughout the United States. The *Federalist* account by "An Old Man" (below) was reprinted in whole or in part thirty-seven times by 10 March 1788: Vt. (1), N.H. (2), Mass. (7), R.I. (2), Conn. (7), N.Y. (4), N.J. (2), Pa. (6), Md. (1), Va. (2), S.C. (2), Ga. (1). It was unsigned, but the writer describes himself as "an old man," as do those who reply to him. An Antifederalist charged that the account was written by a lawyer "who durst not father it himself; therefore procured the old sage to act as sponsor" ("One of the People," *Carlisle Gazette*, 9 January, RCS:Pa., 675). A Federalist identified the author as "Mr. Duncan"—perhaps Thomas Duncan, a prominent Carlisle lawyer (John Montgomery to William Irvine, 9 January, RCS:Pa., 678).

For responses to "An Old Man," written by Carlisle Antifederalist William Petriken, see "One of the People" and "The Scourge," and for a defense, see "Another of the People" (*Carlisle Gazette*, 9, 16, 23 January, RCS:Pa., 674–78, 679–84, 685–92).

The Carlisle riot remained an active issue. Depositions were submitted to the state Supreme Court which, on 23 January, issued a warrant for the apprehension of twenty-one men. The accused men appeared before the county court on 25 February. Seven of the defendants were jailed after they refused an



offer of parole until their cases could be heard. News of the incarceration spread rapidly throughout Cumberland, Dauphin, and York counties. On 1 March hundreds of militiamen descended on Carlisle planning to release the prisoners forcibly. An "accommodation" was reached that day as Carlisle Federalists agreed to petition the state Supreme Executive Council to end the prosecution against the twenty-one defendants. The seven prisoners then consented to leave jail, and the militiamen left town. On 20 March the Council instructed the state attorney general to drop the prosecution. (See RCS:Pa., 670-708.)

As the riot on Wednesday last, and the burning of the effigies of two of the most distinguished characters in the state, in the public streets of Carlisle, by a mob on Thursday, has already made a considerable noise in the county, an impartial spectator desirous of furnishing the public with a just and true state of facts, to enable them to form a proper judgment of the conduct of the parties concerned—begs leave to lay before them the following representation, for the truth of which he pledges himself, and which will appear by the depositions of a cloud of reputable and respectable witnesses, in the possession of John Agnew, Esquire.<sup>1</sup>

About five o'clock on Wednesday afternoon, public notice being given by ringing the bell and beating the drum, a number of persons met at the public square, to testify their approbation of the proceedings of the late Convention, in the most decent and orderly manner. A piece of Artillery having been brought to the ground, and materials collected for a bonfire; a number of men armed with bludgeons, came in regular order from one quarter of the town, while others sallied forth from different streets armed in the same manner. Major James A. Wilson,<sup>2</sup> (having been appointed with two other gentlemen, to make the necessary arrangements for the occasion) was preparing to have the gun loaded, when he was ordered by many of the armed party to disist, and many threats thrown out against any person who would attempt to kindle the bonfire; to which the Major replied, that those who were not disposed to rejoice, might withdraw; and that he hoped, people so pregnant with liberty as they appeared to be, would not wish to hinder their neighbours to shew marks of joy, when they were pleased.—Immediately after a number of barrels and staves were thrown at him, one of which struck him on the breast, he then sprung forward to the persons who threw at him, and struck one of them with a small pine stick, to which a piece of match rope was fixed; he was then beat down by a number of blows from six or seven persons with bludgeons, who continued beating him after he fell. They would have taken his life had not a trusty old soldier thrown himself on the Major, and received the blows aimed at him; a general confusion took place. Mr. Robert Miller, jun. was attacked by a person, who with both hands wielded a massy bludgeon, and while he was engaged with the first, received several blows from one who stood behind him. The persons met for the purpose of the celebration, altogether unprepared for such an assault (being even without walking canes), were

forced to return. The armed party having accomplished their premeditated designs of preventing the public rejoicing, proceeded to spike the cannon, and having made a large fire, committed to the flames the cannon and its carriage, together with a sledge on which it had been drawn to the ground. They then sent for an almanack, containing the federal constitution, which was formally burned. Loud huzzas were repeated, with damnation to the 46 members, and long live the virtuous 23.

On Thursday at 12 o'clock, I understood that the friends to government intended to carry into execution their resolution of the celebration of the event from which, the evening before they had been so violently prevented. I went to the place, found them at the court-house armed chiefly with muskets and bayonets; they discovered every pacific disposition, but at the same time the most determined resolution to repel, at the risque of their lives any attack which might be made on them. A bonfire was made, and the ratification of the Constitution by this state was read, accompanied by the acclamations of all the people present, repeated volleys of musketry and firing of cannon.

I cannot help giving my praise to the good order and coolness and determined spirit with which the business was conducted, although the mob made their appearance in several places, armed with guns and bludgeons, and even came close to where the Federalists were firing the cannon, and used threatenng language, which was treated with every possible contempt, and no violence offered to them. The Federalists remained 2 hours on the ground, testified their joy, with every appearance of harmony and good humour, and returned without any disturbance to their homes. Immediately after a drum beat—the mob gathered—collected barrels, and proceeded to the court-house with noise and tumult, when there was brought from an adjacent lot two effigies with labels on their breasts, THOMAS M'KEAN, Chief Justice, and JAMES WILSON the Caledonian.—They formed in order, had the effigies carried in front, preceded only by a noted Captain of militia, who declared he was inspired from Heaven, paraded the streets, and with shouts and most dreadful execrations committed them to the flames—It is remarkable that some of the most active people in the riot of Wednesday evening, and the mob of Thursday, have come to this country within these two years—men perfectly unknown, and whose characters were too obscure to attract the notice of the inhabitants of this place, and others who but lately have stripped off the garb of British soldiers.<sup>3</sup> I think it improper to prejudice the public by naming the persons concerned in these atrocious riots, as prosecutions are about to be commenced in the name of the state against them. Every lover of good order must lament the wound the dignity of the state has received in burning in the public street, in one of the largest towns in open day, the effigy of the first magistrate of the commonwealth. Proceedings of this kind are really

alarming, directly tend to the dissolution of all governments, and must receive the reprobation of every honest citizen.

I was invited, being an old man, to spend the evening with the Federalists, at Mr. Joseph Postlethwait's tavern, where an elegant supper had been prepared—a number of the respectable inhabitants of Carlisle, convened there and spent the evening with the most perfect harmony, good humour and conviviality. After supper, the following toasts were drank.

1. The Federal Constitution.
2. General Washington, and the Federal Convention.
3. The States who acceded to the Federal Constitution.
4. A speedy accession and ratification of the Constitution by all the states.
5. The patriotic forty-six.
6. The president of the state.
7. The chief justice of Pennsylvania, and member of the late Convention.
8. The hon. James Wilson, Esqr. of Philadelphia.
9. Major James Armstrong Wilson.
10. An increase of the agriculture, manufactures and commerce of America.
11. May the flag of United States fly triumphant in all the ports of the world.
12. Our friends in Europe.

1. Agnew was one of the judges of the Court of Common Pleas for Cumberland County.

2. According to the *Carlisle Gazette*, 19 March, James Armstrong Wilson (1752–1788), a lawyer, died at his home near Carlisle on 17 March “after a short illness.”

3. “The Scourge” said that this statement was “pointed to a certain gentleman who belonged to a Volunteer Company in Ireland. (Men who bravely espoused the cause of liberty in their own country; nor will they desert it here)” (*Carlisle Gazette*, 23 January, RCS:Pa., 688–89).

#### **408. An Address to the Minority of the Pennsylvania Convention Carlisle Gazette, 2 January<sup>1</sup>**

Messieurs PRINTERS. By inserting the following in your useful gazette, you will oblige a number of your constant readers.

##### **An Address to the Minority of the State Convention of Pennsylvania.**

The history of mankind is pregnant with frequent, bloody and almost imperceptible transitions from freedom to slavery. Rome, after she had been long distracted by the fury of the patrician and plebeian parties, at length found herself reduced to the most abject slavery under a Nero, a Caligula, &c. The successive convulsions, which

happened at Rome, were the immediate consequence of the aspiring ambition of a few great men, and the very organization and construction of the government itself. The republic of Venice, by the progressive and almost imperceptible encroachments of the nobles, has at length degenerated into an odious and permanent aristocracy. This we are convinced by indubitable demonstration, will be the final consequence of the proposed Federal Constitution; and because we prize the felicity and freedom of our posterity equally with our own, we esteem it our indispensable duty to oppose it with that determined resolution and spirit that becomes freemen. That fire for liberty which was kindled in every patriotic breast during the late glorious contention, though in a latent state, will be easily rekindled; and upon the contact of a very spark will devour by its direful explosion, not only the enemies of liberty, but both parties promiscuously. Discontent, indignation and revenge already begins to be visible in every patriotic countenance; and civil discord already raises her sneaky head: And we are well convinced that nothing less than a total recantation and annihilation of the proposed aristocratic delusion will appease the insulted and enraged defenders of liberty. If the lazy and great wish to ride, they may lay it down as an indubitable position or axiom, that the people of America will make very refractory and restiff hackneys. Although the designing and artful Federalists have effected their scheme so far as to have the constitution adopted in this state by surprize, notwithstanding the people are pretty generally convinced of their delusion, and little less than the lives of their betrayers will satiate their revenge. Not even the authority of the clergy, who seem generally to have been a set of men decidedly opposed to popular freedom, can give sanction to such a government. The people of America understand their rights better than, by adopting such a constitution, to rivet the fetters of slavery; or to sacrifice their liberty at the shrine of aristocracy or arbitrary government. We, the subscribers, are a society united for the express purpose of reciprocal or mutual improvement; we meet once a week, and political matters are frequently the subjects of litigation and debate. We have read and endeavoured fully to comprehend the proposed federal constitution; and also the arguments for and against it; and after mature deliberation, we unanimously acquiesce with, and cordially thank you the Minority in the late State Convention:—First, for your patriotic and spirited endeavours to support the drooping cause of liberty, and rights of your constituents: Secondly, for your integrity and firmness in stemming the torrent of popular clamour, insult and flattery: Thirdly, for your unanswerable, solid, and well-founded arguments and reason of dissent: Lastly, we rejoice to think that your names will shine illustriously in the page of history, and will be read with honour and grateful remembrance in the

annals of fame; while the names of the majority, and their ignorant tools will be spurned and execrated by the succeeding generations as the pillars of slavery, tyranny and despotism.

James M'Cormick,  
David Boyd,  
William Gelson,  
James Irvin,  
Andrew Irvin,  
Wm. Carothers sen.  
William Addams,  
Wm Carothers jun.  
John Douglass,  
Arch. Hamilton,  
Joseph Junkin,  
John Clandinen,  
Thomas Henderson,  
Robert Bell,  
John Junkin,

James Bell,  
Thomas Atchley,  
William Irvin,  
William Douglass,  
John Walker,  
William Greason,  
David Walker,  
Jonathan Walker,  
John Buchanan,  
Francis M'Guire,  
John Armstrong,  
Benj. Junkin,  
John Carothers jun.  
James Fleming,  
Thomas Carothers.

1. Reprinted: Philadelphia *Independent Gazetteer*, 9 January; *Maryland Journal*, 11 January; *New York Journal*, 15 January; *Boston American Herald*, 28 January; *Newport Mercury*, 4 February; *Providence Gazette*, 1 March. For the "Dissent of the Minority of the Pennsylvania Convention," see CC:353. For an address to the minority of the Convention by the Union Society, see *Carlisle Gazette*, 13 February (Mfm:Pa. 427).

#### 409. Philadelphia Freeman's Journal, 2 January<sup>1</sup>

By a gentleman of veracity and information, who arrived in this city yesterday from New York, we are assured, that there is not the smallest probability of the new constitution being adopted in that State. He says, that the Address and Dissent of the minority of the Convention of Pennsylvania<sup>2</sup> has done great execution there, but the last numbers of *Publius*<sup>3</sup> have done still more; as that writer's attempts to prove the expediency of supporting a *standing army* in time of peace have been so futile, that even the friends of the new plan are offended with them. His barefaced assertions, that our existence as a nation depends upon our keeping up a large military, to defend us on the north from the British, on the west from the Indians, on the south from the Spaniards, and on the Atlantic side from the invasions of a maritime enemy, have alarmed the people exceedingly. The common talk is, *Well, what do you think of being surrounded with a standing army?*

1. Reprinted: *New York Daily Advertiser* and *New York Morning Post*, 4 January; *New York Journal*, 5 January; *Albany Gazette*, 10 January; *Newburyport Essex Journal*, 16 January (excerpt); *Boston American Herald*, 28 January; *Newport Mercury*, 4 February.

2. See CC:353.

3. See *The Federalist* 24–28 (CC:355, 364, 366, 378, 381).

## 410. Centinel VIII

Philadelphia Independent Gazetteer, 2 January<sup>1</sup>

TO THE PEOPLE OF PENNSYLVANIA.

*Fellow Citizens*, Under the benign influence of liberty, this country, so recently a rugged wilderness and the abode of savages and wild beasts, has attained to a degree of improvement and greatness, in less than two ages, of which history furnishes no parallel: It is here that human nature may be viewed in all its glory; man assumes the station designed him by the creation; a happy equality and independency pervades the community; it is here the human mind, untrammelled by the restraints of arbitrary power, expands every faculty: as the field to fame and riches is open to all, it stimulates universal exertion, and exhibits a lively picture of emulation, industry and happiness. The unfortunate and oppressed of all nations, fly to this grand asylum, where liberty is ever protected, and industry crowned with success.

But as it is by comparison only that men estimate the value of any good, they are not sensible of the worth of those blessings they enjoy, until they are deprived of them; hence from ignorance of the horrors of slavery, nations, that have been in possession of that rarest of blessings, liberty, have so easily parted with it: when groaning under the yoke of tyranny what perils would they not encounter, what consideration would they not give to regain the inestimable jewel they had lost; but the jealousy of despotism guards every avenue to freedom, and confirms its empire at the expence of the devoted people, whose property is made instrumental to their misery, for the rapacious hand of power seizes upon every thing; despair presently succeeds, and every noble faculty of the mind being depressed, and all motive to industry and exertion being removed, the people are adapted to the nature of the government, and drag out a listless existence.

If ever America should be enslaved it will be from this cause, that they are not sensible of their peculiar felicity, that they are not aware of the value of the heavenly boon, committed to their care and protection, and if the present conspiracy fails, as I have no doubt will be the case, it will be the triumph of reason and philosophy, as these United States have never felt the iron hand of power, or experienced the wretchedness of slavery.

The conspirators against our liberties have presumed too much on the maxim that nations do not take the alarm, until they feel oppression: the enlightened citizens of America have on two memorable occasions convinced the tyrants of Europe that they are endued with the faculty of foresight, that they will jealously guard against the first introduction of tyranny, however speciously glossed over, or whatever appearance it may assume: It was not the mere amount of *the duty on stamps*, or *tea* that America opposed, they were

considered as signals of approaching despotism, as precedents whereon the superstructure of arbitrary sway was to be reared.

Notwithstanding such illustrious evidence of the good sense and spirit of the people of these United States, and contrary to all former experience of mankind, which demonstrates that it is only by gradual and imperceptible degrees that nations have hitherto been enslaved, except in case of conquest by the sword; the authors of the present conspiracy are attempting to seize upon absolute power at one grasp, impatient of dominion they have adopted a decisive line of conduct, which, if successful, would obliterate every trace of liberty. I congratulate my fellow citizens that the infatuated confidence of their enemies has so blinded their ambition, that their defeat must be certain and easy, if imitating the refined policy of successful despots, they had attacked the citadel of liberty by sap, and gradually undermined its outworks, they would have stood a fairer chance of effecting their design; but in this enlightened age thus rashly to attempt to carry the fortress by storm, is folly indeed. They have even exposed some of their batteries prematurely, and thereby unfolded every latent view, for the unlimited power of taxation would alone have been amply sufficient for every purpose; by a proper application of this, the will and pleasure of the rulers would of course have become the supreme law of the land; therefore there was no use in portraying the ultimate object, by superadding the form to reality of supremacy in the following clause, viz. that which empowers the new congress to make all laws that may be necessary and proper for carrying into execution any of their powers, by virtue of which every possible law will be constitutional, as they are to be the sole judges of the propriety of such laws, that which ordains that their acts shall be the supreme law of the land, any thing in the laws or constitution of any state to the contrary notwithstanding; that which gives Congress the absolute controul over the time and mode of its appointment and election, whereby, independent of any other means, they may establish hereditary despotism; that which authorizes them to keep on foot at all times a standing army; and that which subjects the militia to absolute command—and to accelerate the subjugation of the people, trial by jury in civil cases and the liberty of the press are abolished.

So flagrant, so audacious a conspiracy against the liberties of a free people is without precedent. Mankind in the darkest ages have never been so insulted; even then, tyrants found it necessary to pay some respect to the habits and feelings of the people, and nothing but the name of a Washington could have occasioned a moment's hesitation about the nature of the new plan, or saved its authors from the execration and vengeance of the people, which eventually will prove an aggravation of their treason; for America will resent the imposition

practised upon the unsuspecting zeal of her *illustrious deliverer*, and vindicate her character from the aspersions of these enemies of her happiness and fame.

The advocates of this plan have artfully attempted to veil over the true nature and principles of it with the names of those respectable characters that by consummate cunning and address they have prevailed upon to sign it, and what ought to convince the people of the deception and excite their apprehensions, is that with every advantage which education, the science of government and of law, the knowledge of history and superior talents and endowments, furnish the authors and advocates of this plan with, they have from its publication exerted all their power and influence to prevent all discussion of the subject, and when this could not be prevented they have constantly avoided the ground of argument and recurred to declamation, sophistry and personal abuse, but principally relied upon the magic of names. Would this have been their conduct, if their cause had been a good one? No, they would have invited investigation and convinced the understandings of the people.

But such policy indicates great ignorance of the good sense and spirit of the people, for if the sanction of every convention throughout the union was obtained by the means these men are practising; yet their triumph would be momentary, the favorite object would still elude their grasp; for a government founded on fraud and deception could not be maintained without an army sufficiently powerful to compel submission, which the *well born* of America could not speedily accomplish. However the complexion of several of the more considerable states does not promise even this point of success. The Carolinas, Virginia, Maryland, New-York and New-Hampshire have by their wisdom in taking a longer time to deliberate, in all probability saved themselves from the disgrace of becoming the dupes of this gilded bait, as experience will evince that it need only be properly examined to be execrated and repulsed.

The merchant, immersed in schemes of wealth, seldom extends his views beyond the immediate object of gain; he blindly pursues his seeming interest, and sees not the latent mischief; therefore it is, that he is the last to take the alarm when public liberty is threatened. This may account for the infatuation of some of our merchants, who, elated with the imaginary prospect of an improved commerce under the new government, overlook all danger: they do not consider that commerce is the hand-maid of liberty, a plant of free growth that withers under the hand of despotism, that every concern of individuals will be sacrificed to the gratification of the men in power, who will institute injurious monopolies and shackle commerce with every device of avarice; and that property of every species will be held at the will and pleasure of rulers.



If the nature of the case did not give birth to these well-founded apprehensions, the principles and characters of the authors and advocates of the measure ought. View the monopolising spirit of the principal of them. See him converting a bank, instituted for common benefit, to his own and creatures emolument, and by the aid thereof, controuling the credit of the state, and dictating the measures of government.<sup>2</sup> View the vassalage of our merchants, the thralldom of the city of Philadelphia, and the extinction of that spirit of independency in most of its citizens so essential to freedom. View this Collosus attempting to grasp the commerce of America and meeting with a sudden repulse, in the midst of his immense career, receiving a shock that threatens his very existence. View the desperate fortunes of many of his co-adjutors and dependants, particularly the bankrupt situation of the principal instrument under the *great man* in promoting the new government, whose superlative arrogance, ambition and repacity, would need the spoils of thousands to gratify; view his towering aspect, he would have no bowels of compassion for the oppressed, he would *overlook* all their sufferings.<sup>3</sup> Recollect the strenuous and unremitting exertions of these men, for years past, to destroy our admirable constitution, whose object is to secure equal liberty and advantages to all, and the great obstacle in the way of their ambitious schemes, and then answer, whether these apprehensions are chimerical, whether such characters will be less ambitious, less avaritious, more moderate, when the privileges, property, and every concern of the people of the United States shall lie at their mercy, when they shall be in possession of absolute sway?

Philadelphia; December 29, 1787.

1. This item, also printed in the *Philadelphia Freeman's Journal* on 2 January, was reprinted in the *New York Morning Post*, 5 January, in the *New York Journal*, 7 January, and in a New York Antifederalist pamphlet anthology distributed in April (CC:666). For the authorship, circulation, and impact of "Centinel," see CC:133.

2. A reference to Robert Morris and the Bank of North America.

3. A reference to James Wilson.

#### 411. Brutus VII

*New York Journal*, 3 January<sup>1</sup>

The result of our reasoning in the two preceeding numbers<sup>2</sup> is this, that in a confederated government, where the powers are divided between the general and the state government, it is essential to its existence, that the revenues of the country, without which no government can exist, should be divided between them, and so apportioned to each, as to answer their respective exigencies, as far as human wisdom can effect such a division and apportionment.

It has been shewn, that no such allotment is made in this constitution, but that every source of revenue is under the controul of

the Congress; it therefore follows, that if this system is intended to be a complex and not a simple, a confederate and not an entire consolidated government, it contains in it the sure seeds of its own dissolution.—One of two things must happen—Either the new constitution will become a mere *nudum pactum*, and all the authority of the rulers under it be cried down, as has happened to the present confederation—Or the authority of the individual states will be totally supplanted, and they will retain the mere form without any of the powers of government.—To one or the other of these issues, I think, this new government, if it is adopted, will advance with great celerity.

It is said, I know, that such a separation of the sources of revenue, cannot be made without endangering the public safety—"unless (says a writer) it can be shewn that the circumstances which may affect the public safety are reducible within certain determinate limits; unless the contrary of this position can be fairly and rationally disputed; it must be admitted as a necessary consequence, that there can be no limitation of that authority which is to provide for the defence and protection of the community, &c."<sup>(a)</sup>

The pretended demonstration of this writer will instantly vanish, when it is considered, that the *protection and defence* of the community is not intended to be entrusted *solely* into the hands of the general government, and by his own confession it ought not to be. It is true this system commits to the general government the protection and defence of the community against foreign force and invasion, against piracies and felonies on the high seas, and against insurrection among ourselves. They are also authorised to provide for the administration of justice in certain matters of a general concern, and in some that I think are not so. But it ought to be left to the state governments to provide for the protection and defence of the citizen against the hand of private violence, and the wrongs done or attempted by individuals to each other—Protection and defence against the murderer, the robber, the thief, the cheat, and the unjust person, is to be derived from the respective state governments.—The just way of reasoning therefore on this subject is this, the general government is to provide for the protection and defence of the community against foreign attacks, &c. they therefore ought to have authority sufficient to effect this, so far as is consistent with the providing for our internal protection and defence. The state governments are entrusted with the care of administering justice among its citizens, and the management of other internal concerns, they ought therefore to retain power adequate to the end. The preservation of internal peace and good order, and the due administration of law and justice, ought to be the first care of every government.—The happiness of a people depends infinitely more on this than it does upon all that glory and respect which nations acquire by the most brilliant martial achievements—and I believe history will

furnish but few examples of nations who have duly attended to these, who have been subdued by foreign invaders. If a proper respect and submission to the laws prevailed over all orders of men in our country; and if a spirit of public and private justice, oeconomy and industry influenced the people, we need not be under any apprehensions but what they would be ready to repel any invasion that might be made on the country. And more than this, I would not wish from them—A defensive war is the only one I think justifiable—I do not make these observations to prove, that a government ought not to be authorised to provide for the protection and defence of a country against external enemies, but to shew that this is not the most important, much less the only object of their care.

The European governments are almost all of them framed, and administered with a view to arms, and war, as that in which their chief glory consists; they mistake the end of government—it was designed to save mens lives, not to destroy them. We ought to furnish the world with an example of a great people, who in their civil institutions hold chiefly in view, the attainment of virtue, and happiness among ourselves. Let the monarchs in Europe, share among them the glory of depopulating countries, and butchering thousands of their innocent citizens, to revenge private quarrels, or to punish an insult offered to a wife, a mistress, or a favorite: I envy them not the honor, and I pray heaven this country may never be ambitious of it. The czar Peter the great, acquired great glory by his arms; but all this was nothing, compared with the true glory which he obtained, by civilizing his rude and barbarous subjects, diffusing among them knowledge, and establishing, and cultivating the arts of life: by the former he desolated countries, and drenched the earth with human blood: by the latter he softened the ferocious nature of his people, and pointed them to the means of human happiness. The most important end of government then, is the proper direction of its internal police, and œconomy; this is the province of the state governments, and it is evident, and is indeed admitted, that these ought to be under their controul. Is it not then preposterous, and in the highest degree absurd, when the state governments are vested with powers so essential to the peace and good order of society, to take from them the means of their own preservation?

The idea, that the powers of congress in respect to revenue ought to be unlimited, “because the circumstances which may affect the public safety are not reducible to certain determinate limits,” is novel, as it relates to the government of the united states. The inconveniencies which resulted from the feebleness of the present confederation was discerned, and felt soon after its adoption. It was soon discovered, that a power to require money, without either the authority or means to enforce a collection of it, could not be relied upon either to provide for

the common defence, the discharge of the national debt, or for support of government. Congress therefore, so early as February 1781, recommended to the states to invest them with a power to levy an impost of five per cent ad valorem, on all imported goods, as a fund to be appropriated to discharge the debts already contracted, or which should hereafter be contracted for the support of the war, to be continued until the debts should be fully and finally discharged.<sup>3</sup> There is not the most distant idea held out in this act, that an unlimited power to collect taxes, duties and excises was necessary to be vested in the united states, and yet this was a time of the most pressing danger and distress. The idea then was, that if certain definite funds were assigned to the union, which were certain in their natures, productive, and easy of collection, it would enable them to answer their engagements, and provide for their defence, and the impost of five per cent was fixed upon for the purpose.

This same subject was revived in the winter and spring of 1783, and after a long consideration of the subject, and many schemes were proposed; the result was, a recommendation of the revenue system of April 1783;<sup>4</sup> this system does not suggest an idea that it was necessary to grant the United States unlimited authority in matters of revenue. A variety of amendments were proposed to this system, some of which are upon the journals of Congress, but it does not appear that any of them proposed to invest the general government with discretionary power to raise money. On the contrary, all of them limit them to certain definite objects, and fix the bounds over which they could not pass. This recommendation was passed at the conclusion of the war, and was founded on an estimate of the whole national debt. It was computed, that one million and an half of dollars, in addition to the impost, was a sufficient sum to pay the annual interest of the debt, and gradually to abolish the principal.—Events have proved that their estimate was sufficiently liberal, as the domestic debt appears upon its being adjusted to be less than it was computed, and since this period a considerable portion of the principal of the domestic debt has been discharged by the sale of the western lands. It has been constantly urged by Congress, and by individuals, ever since, until lately, that had this revenue been appropriated by the states, as it was recommended, it would have been adequate to every exigency of the union. Now indeed it is insisted, that all the treasures of the country are to be under the controul of that body, whom we are to appoint to provide for our protection and defence against foreign enemies. The debts of the several states, and the support of the governments of them are to trust to fortune and accident. If the union should not have occasion for all the money they can raise, they will leave a portion for the state, but this must be a matter of mere grace and favor. Doctrines like these would not have been listened to by any state in the union, at a time when we were

pressed on every side by a powerful enemy, and were called upon to make greater exertions than we have any reason to expect we shall ever be again. The ability and character of the convention, who framed the proffered constitution, is sounded forth and reiterated by every declaimer and writer in its favor, as a powerful argument to induce its adoption. But are not the patriots who guided our councils in the perilous times of the war, entitled to equal respect. How has it happened, that none of these perceived a truth, which it is pretended is capable of such clear demonstration, that the power to raise a revenue should be deposited in the general government without limitation? Were the men so dull of apprehension, so incapable of reasoning as not to be able to draw the inference? The truth is, no such necessity exists. It is a thing practicable, and by no means so difficult as is pretended, to limit the powers of the general government in respect to revenue, while yet they may retain reasonable means to provide for the common defence.

It is admitted, that human wisdom cannot foresee all the variety of circumstances that may arise to endanger the safety of nations—and it may with equal truth be added, that the power of a nation, exerted with its utmost vigour, may not be equal to repel a force with which it may be assailed, much less may it be able, with its ordinary resources and power, to oppose an extraordinary and unexpected attack;—but yet every nation may form a rational judgment, what force will be competent to protect and defend it, against any enemy with which it is probable it may have to contend. In extraordinary attacks, every country must rely upon the spirit and special exertions of its inhabitants—and these extraordinary efforts will always very much depend upon the happiness and good order the people experience from a wise and prudent administration of their internal government. The states are as capable of making a just estimate on this head, as perhaps any nation in the world.—We have no powerful nation in our neighbourhood; if we are to go to war, it must either be with the Aboriginal natives, or with European nations. The first are so unequal to a contest with this whole continent, that they are rather to be dreaded for the depredations they may make on our frontiers, than for any impression they will ever be able to make on the body of the country. Some of the European nations, it is true, have provinces bordering upon us, but from these, unsupported by their European forces, we have nothing to apprehend; if any of them should attack us, they will have to transport their armies across the atlantic, at immense expence, while we should defend ourselves in our own country, which abounds with every necessary of life. For defence against any assault, which there is any probability will be made upon us, we may easily form an estimate.

I may be asked to point out the sources, from which the general government could derive a sufficient revenue, to answer the demands of the union. Many might be suggested, and for my part, I am not disposed to be tenacious of my own opinion on the subject. If the object be defined with precision, and will operate to make the burden fall any thing nearly equal on the different parts of the union, I shall be satisfied.

There is one source of revenue, which it is agreed, the general government ought to have the sole controul of. This is an impost upon all goods imported from foreign countries. This would, of itself, be very productive, and would be collected with ease and certainty.—It will be a fund too, constantly increasing—for our commerce will grow, with the productions of the country; and these, together with our consumption of foreign goods, will encrease with our population. It is said, that the impost will not produce a sufficient sum to satisfy the demands of the general government; perhaps it would not. Let some other then, equally well defined, be assigned them:—that this is practicable is certain, because such particular objects were proposed by some members of Congress when the revenue system of April 1783, was agitated in that body. It was then moved, that a tax at the rate of —ninetieths of a dollar on surveyed land, and a house tax of half a dollar on a house, should be granted to the United States.<sup>5</sup> I do not mention this, because I approve of raising a revenue in this mode. I believe such a tax would be difficult in its collection, and inconvenient in its operation. But it shews, that it has heretofore been the sense of some of those, who now contend, that the general government should have unlimited authority in matters of revenue, that their authority should be definite and limited on that head.—My own opinion is, that the objects from which the general government should have authority to raise a revenue, should be of such a nature, that the tax should be raised by simple laws, with few officers, with certainty and expedition, and with the least interference with the internal police of the states.—Of this nature is the impost on imported goods—and it appears to me that a duty on exports, would also be of this nature—and therefore, for ought I can discover, this would be the best source of revenue to grant the general government. I know neither the Congress nor the state legislatures will have authority under the new constitution to raise a revenue in this way. But I cannot perceive the reason of the restriction. It appears to me evident, that a tax on articles exported, would be as nearly equal as any that we can expect to lay, and it certainly would be collected with more ease and less expence than any direct tax. I do not however, contend for this mode, it may be liable to well founded objections that have not occurred to me. But this I do contend for, that some mode is practicable, and that limits must be marked between the

general government, and the states on this head, or if they be not, either the Congress in the exercise of this power, will deprive the state legislatures of the means of their existence, or the states by resisting the constitutional authority of the general government, will render it nugatory.

(a) *Federalist*, No. 23.<sup>6</sup>

1. "Brutus" VII was not reprinted. For the authorship, circulation, and impact of "Brutus," see CC:178.

2. See "Brutus" V–VI, 13, 27 December (CC:343, 384).

3. For the Impost of 1781, see CDR, 140–41.

4. For the Impost of 1783 and the request for supplementary funds to discharge the interest and principal of the debt, see CDR, 146–48.

5. Such taxes were embodied in a plan proposed in Congress by Alexander Hamilton and James Wilson on 20 March 1783. The plan was rejected seven states to four with one state divided (JCC, XXIV, 198–202).

6. CC:352.

## 412. Cato VII

*New York Journal*, 3 January<sup>1</sup>

To the CITIZENS of the State of NEW-YORK.

That the senate and president are further improperly connected, will appear, if it is considered, that their dependence on each other will prevent either from being a check upon the other; they must act in concert, and whether the power and influence of the one or the other is to prevail, will depend on the character and abilities of the men who hold those offices at the time. The senate is vested with such a proportion of the executive, that it would be found necessary that they should be constantly sitting. This circumstance did not escape the convention, and they have provided for the event, in the 2d article, which declares, that the executive may, on extraordinary occasions, *convene both houses or either of them*. No occasion can exist for calling the assembly without the senate; the words *or either of them*, must have been intended to apply only to the senate. Their wages are already provided for; and it will be therefore readily observed, that the partition between a perpetuation of their sessions and a perpetuation of their offices, in the progress of the government, will be found to be but thin and feeble. Besides, the senate, who have the sole power to try all impeachments, in case of the impeachment of the president, are to determine, as judges, the propriety of the advice they gave him, as senators. Can the senate in this, therefore, be an impartial judicature? And will they not rather serve as a screen to great public defaulters?

Among the many evils that are incorporated in this new system of government, is that of congress having the power of making or altering the regulations prescribed by the different legislatures, respecting the time, place, and manner of holding elections for representatives, and the time, and manner of choosing senators. If it is enquired, in what

manner this regulation may be exercised to your injury—the answer is easy.

By the first article the house of representatives shall consist of members, chosen every second year by the people of the several states, who are qualified to vote for members of their several state assemblies; it can therefore readily be believed, that the different state legislatures, provided such can exist after the adoption of this government, will continue those easy and convenient modes for the election of representatives for the national legislature, that are in use, for the election of members of assembly for their own states; but the congress have, by the constitution, a power to make other regulations, or alter those in practice, prescribed by your own state legislatures; hence, instead of having the places of elections in the precincts, and brought home almost to your own doors, Congress may establish a place, or places, at either the extremes, center, or outer parts of the states; at a time and season too, when it may be very inconvenient to attend; and by these means destroy the rights of election; but in opposition to this reasoning, it is asserted, that it is a necessary power because the states might omit making rules for the purpose, and thereby defeat the existence of that branch of the government; this is what logicians call *argumentum absurdum*, for the different states, if they will have any security at all in this government, will find it in the house of representatives, and they, therefore, would not be very ready to eradicate a principle in which it dwells, or involve their country in an instantaneous revolution. Besides, if this was the apprehension of the framers, and the ground of that provision, why did not they extend this controuling power to the other duties of the several state legislatures. To exemplify this the states are to appoint senators, and electors for choosing of a president; but the time is to be under the direction of congress. Now, suppose they were to omit the appointment of senators and electors, though congress was to appoint the time, which might well be apprehended as the omission of regulations for the election of members of the house of representatives, provided they had that power; or suppose they were not to meet at all: of course, the government cannot proceed in its exercise. And from this motive, or apprehension, congress ought to have taken these duties entirely in their own hands, and, by a decisive declaration, annihilated them, which they in fact have done by leaving them without the means of support, or at least resting on their bounty. To this, the advocates for this system oppose the common, empty declamation, that there is no danger that congress will abuse this power; but such language, as relative to so important a subject, is mere vapour and sound without sense. Is it not in their power, however, to make such regulations as may be inconvenient to you? It must be admitted, because the words are unlimited in their sense. It is a good rule, in the construction of a



contract, to suppose, that what may be done will be; therefore, in considering this subject, you are to suppose, that in the exercise of this government, a regulation of congress will be made, for holding an election for the whole state at Poughkeepsie, at New-York, or, perhaps, at Fort-Stanwix: who will then be the actual electors for the house of representatives? Very few more than those who may live in the vicinity of these places. Could any others afford the expence and time of attending? And would not the government by this means have it in their power to put whom they pleased in the house of representatives? You ought certainly to have as much or more distrust with respect to the exercise of these powers by congress, than congress ought to have with respect to the exercise of those duties which ought to be entrusted to the several states, because over them congress can have a legislative controuling power.

Hitherto we have tied up our rulers in the exercise of their duties by positive restrictions—if the cord has been drawn too tight, loosen it to the necessary extent, but do not entirely unbind them.—I am no enemy to placing a reasonable confidence in them; but such an unbounded one as the advocates and framers of this new system advise you to, would be dangerous to your liberties; it has been the ruin of other governments, and will be yours, if you adopt with all its latitudinal powers—unlimited confidence in governors as well as individuals is frequently the parent of deception.—What facilitated the corrupt designs of Philip of Macedon, and caused the ruin of Athens, but the unbounded confidence in their statesmen and rulers? Such improper confidence Demosthenes was so well convinced had ruined his country, that in his second Phillipic oration he remarks—“that there is one common bulwark with which men of prudence are naturally provided, the guard and security of all people, particularly of free states, against the assaults of tyrants—What is this? Distrust. Of this be mindful; to this adhere; preserve this carefully, and no calamity can affect you.”<sup>2</sup>—Montesquieu observes, that “the course of government is attended with an insensible descent to evil, and there is no reascending to good without very great efforts.”<sup>3</sup> The plain inference from this doctrine is, that rulers in all governments will erect an interest separate from the ruled, which will have a tendency to enslave them. There is therefore no other way of interrupting this insensible descent and warding off the evil as long as possible, than by establishing principles of distrust in your constituents, and cultivating the sentiment among yourselves. But let me enquire of you, my countrymen, whether the freedom and independence of elections is a point of magnitude? If it is, what kind of a spirit of amity, deference and concession, is that which has put it in the power of Congress at one stroke to prevent your interference in government, and do away your liberties for ever? Does either the situation or circumstances of things warrant it?

1. Reprinted: New York *Daily Advertiser*, 5 January. For the authorship, circulation, and impact of "Cato," see CC:103.

2. J. H. Vince, trans., *Demosthenes* . . . (London and New York, 1930), Second Philippic, Section 24, pp. 136–37.

3. "In the course of a long administration, the descent to vice is insensible; but there is no re-ascending to virtue, without making the most generous efforts" (*Spirit of Laws*, I, Book V, chapter VII, 69).

### 413. Oliver Ellsworth and William Samuel Johnson Speeches in the Connecticut Convention, 4 January

The Connecticut Convention met at Hartford from 3 to 9 January 1788. When the delegates assembled, they knew that three states—Delaware, Pennsylvania, and New Jersey—had ratified the Constitution. Because the Connecticut Convention was the first to meet in New England, it was closely watched in other states, especially in Massachusetts whose Convention was scheduled to convene on 9 January.

The Convention delegates met at the State House, meeting place of the legislature, and then moved to the First Church (North Meeting House) where the public was permitted to sit in the gallery. Reports of six Federalist speeches, delivered on 4, 7, and 9 January, have survived—two by Oliver Ellsworth and one each by William Samuel Johnson, Governor Samuel Huntington, Lieutenant Governor Oliver Wolcott, Sr., and Chief Judge Richard Law. Ellsworth and Johnson had been delegates to the Constitutional Convention. A summary of a speech delivered on 7 January by Antifederalist James Wadsworth, the state comptroller, has also survived. The reports of these speeches were written by Enoch Perkins, a Hartford lawyer, at the request of the Hartford printers (Perkins to Simeon Baldwin, 15 January, RCS:Conn., 583–84). On 9 January the Convention ratified the Constitution by a vote of 128 to 40.

The texts of Ellsworth's and Johnson's 4 January speeches (printed below) are taken from the Hartford *Connecticut Courant* of 7 January. Both speeches were also printed in the Hartford *American Mercury* on the same day. Ellsworth's speech was reprinted in the April issue of the Philadelphia *American Museum* and in twenty newspapers by 13 February: N.H. (1), Mass. (2), R.I. (2), Conn. (6), N.Y. (1), N.J. (1), Pa. (6), Md. (1). Johnson's speech was reprinted sixteen times by the same date: R.I. (2), Conn. (6), N.Y. (3), Pa. (4), Md. (1). Thirteen newspapers reprinted both speeches: R.I. (1), Conn. (6), N.Y. (1), Pa. (4), Md. (1). (See also note 2 below.)

Both speeches were well received. The *Massachusetts Centinel*, 16 January, and the *New Hampshire Gazette*, 23 January, reprinted Ellsworth's speech under the heading: "Mr. ELLSWORTH'S excellent speech." The speech was prefaced: "As it conveys the most important information, and the fairest reasoning, in the plainest language—we with pleasure embrace the opportunity of inserting the following Speech, made at the opening of the deliberations of the CONVENTION of CONNECTICUT, Jan. 4, 1788." Enoch Perkins wrote that "Mr. Ellsworth was a complete master of the subject; he was armed at all points; he took a very active part in defending the constitution; scarcely a single objection was made but what he answered; his energetic reasoning bore down all before it. . . . Dr. Johnson reasoned well on the subject; his eloquence was musick to the ear" (to Simeon Baldwin, 15 January, RCS:Conn., 584).

Ellsworth was not pleased with the accuracy or propriety of the newspaper version of his speech. On 14 January the *Connecticut Courant* and the *American Mercury* printed nearly identical letters from Ellsworth: "The few cursory

observations made by me at the opening of the convention were not designed for a news-paper; and what you have published as the substance of them, from some persons minutes I suppose, is less proper for one than the observations themselves were. It is particularly erroneous with regard to some of the historick facts alluded to which are stated in a manner that neither the observations or history will fully justify;—tho' the deviations do not go to circumstances very material to the argument itself." This letter was reprinted four times in Connecticut, twice in Pennsylvania, and once each in New York and Maryland by 1 February. "A Plain Farmer" responded that his town's delegates to the Convention asserted that the newspaper report was "almost word for word the same as were spoken" (*Connecticut Courant*, 28 January, RCS:Conn., 587).

For the speeches delivered on 7 and 9 January, see CC:420, 428; and for a full discussion of the Connecticut Convention, see RCS:Conn., 535–601.

Mr. Ellsworth opened the Debates of the day, in a  
Speech the substance of which is as follows.

Mr. President. It is observable, that there is no preface to the proposed Constitution; but it evidently presupposes two things; one is the necessity of a federal government, the other is the inefficiency of the old articles of confederation. A Union is necessary for the purposes of national defence. United, we are strong; divided we are weak. It is easy for hostile nations to sweep off a number of separate states one after another. Witness the states in the neighbourhood of ancient Rome. They were successively subdued by that ambitious city; which they might have conquered with the utmost ease, if they had been United. Witness the Canaanitish nations, whose divided situation rendered them an easy prey. Witness England, which, when divided into a number of separate states, was twice conquered by an inferior force. Thus it always happens to small states, and to great ones, if divided. Or if to avoid this, they connect themselves with some powerful state, their situation is not much better. This shows us the necessity of our combining our whole force; and, as to national purposes, becoming one state.

A Union, Sir, is likewise necessary considered with relation to œconomy. Small States have enemies as well as great ones. They must provide for their defence. The expense of it, which would be moderate for a large kingdom, would be intollerable to a petty State. The Dutch are wealthy, but they are one of the smallest of the European nations, and their taxes are higher than in any other country of Europe. Their taxes amount to forty shillings per head, when those of England do not exceed half that sum.

We must unite, in order to preserve peace among ourselves. If we are divided, what is to hinder wars from breaking out among the states? States, as well as individuals, are subject to ambition, to avarice, to those jarring passions which disturb the peace of society. What is to check these? If there is a parental hand over the whole, this, and nothing else, can restrain the unruly conduct of the members.

Union is necessary to preserve commutative justice between the states. If divided, what is to hinder the large states from oppressing the small? What is to defend us from the ambition and rapacity of New-York, when she has spread over that vast territory, which she claims and holds? Do we not already see in her the seeds of an overbearing ambition? On our other side there is a large and powerful State. Have we not already begun to be tributaries? If we do not improve the present critical time, if we do not unite, shall we not be like Issachar of old, a strong ass crouching down between two burdens?<sup>1</sup> New-Jersey and Delaware have seen this, and have adopted the constitution unanimously.

A more energetic system is necessary. The present is merely advisory. It has no coercive power. Without this, government is ineffectual, or rather is no government at all. But it is said, such a power is not necessary. States will not do wrong. They need only to be told their duty, and they will do it. I ask, Sir, what warrant is there for this assertion? Do not States do wrong? Whence come wars? One of two hostile nations must be in the wrong. But it is said, among sister States this can never be presumed. But do we not know, that when friends become enemies, their enmity is the most virulent? The seventeen provinces of the Netherlands were once confederated; they fought under the same banner. Antwerp, hard pressed by Philip, applied to the other states for relief. Holland, a rival in trade, opposed, and prevented the needed succours. Antwerp was made a sacrifice. I wish I could say, there were no seeds of similar injustice springing up among us. Is there not in one of our states injustice too barefaced for eastern despotism? That state is small; it does little hurt to any but itself. But it has a spirit, which would make a tophet of the universe.<sup>2</sup> But some will say, we formerly did well, without any union. I answer, our situation is materially changed. While Great Britain held her authority, she awed us. She appointed governors and councils for the American provinces. She had a negative upon our laws. But now, our circumstances are so altered, that there is no arguing what we shall be from what we have been.

It is said, that other confederacies have not had the principle of coercion. Is this so? Let us attend to those confederacies which have resembled our own. Sometime before Alexander, the Grecian States confederated together. The Amphycyonic council, consisting of Deputies from these States, met at Delphos; and had authority to regulate the general interests of Greece. This Council did enforce its decrees by coercion. The Beotians once infringed upon a decree of the Amphycyons. A heavy mulct was laid upon them. They refused to pay it. Upon that, their whole territory was confiscated. They were then glad to compound the matter. After the death of Alexander, the Achean League was formed. The decrees of this confederacy were

enforced by dint of arms. The Ætolian league was formed by some other Grecian cities in opposition to the Achean; and there was no peace between them, till they were conquered, and reduced to a Roman province. They were then all obliged to sit down in peace under the same yoke of despotism.

How is it with respect to the principle of coercion in the Germanic body? In Germany there are about three hundred principalities and republics; deputies from these meet annually in the general Diet to make regulations for the empire. But the execution of those is not left voluntarily with the members. The empire is divided into ten circles; over each of which a superintendant is appointed, with the rank of a major-general. It is his duty to execute the decrees of the empire with a military force.

The confederation of the Swiss Cantons has been considered as an example. But their circumstances are far different from ours. They are small republics, about twenty miles square, situated among the Alps, and inaccessible to hostile attacks. They have nothing to tempt an invasion. Till lately, they had neither commerce, nor manufactures. They were merely a set of herdsmen. Their inaccessibility has availed them. Four hundred of those mountainers defeated 15,000 Austrians, who were marching to subdue them. They spend the ardour of youth in foreign service; they return old, and disposed for tranquility. Between some of the Cantons and France, there has long subsisted a defensive treaty. By this treaty, France is to be a mediator to settle differences between the Cantons. If any one is obstinate, France is to compel a submission to reasonable terms.

The Dutch Republic is an example that merits attention. The form of their constitution, as it is on paper, admits not of coercion. But necessity has introduced it in practice. This coercive power is the influence of the stadtholder, an officer originally unknown to their constitution. But they have been necessitated to appoint him, in order to set their unwieldy machine of government in motion. He is commander in chief of their navy, and of their army consisting of 40, or 50 regiments. He appoints the officers of the land and naval forces. He resides in the states general, and in the states of every province; and by means of this, he has a great opportunity to influence the elections and decisions. The province of Holland have ever been opposed to the appointment of a stadtholder; because, by their wealth and power, being equal to all the other provinces, they possess the weight and influence of the stadtholder, when that office is vacant. Without such an influence, their machine of government would no more move, than a ship without wind, or a clock without weights.

But to come nearer home, Mr. President, have we not seen and felt the necessity of such a coercive power? What was the consequence of

the want of it during the late war, particularly towards the close? A few states bore the burden of the war. While we, and one or two more of the states, were paying 80 or 100 dollars per man to recruit the continental army, the regiments of some states had scarcely men enough to wait on their officers. Since the close of the war, some of the states have done nothing towards complying with the requisitions of Congress; others, who did something at first, seeing that they were left to bear the whole burden, have become equally remiss. What is the consequence? To what shifts have we been driven? We have been driven to the wretched expedient of negotiating new loans in Europe to pay the interest of the foreign debt. And what is still worse, we have even been obliged to apply these new loans to the support of our own civil government at home.

Another ill consequence of this want of energy is that treaties are not performed. The treaty of peace with Great-Britain was a very favourable one for us. But it did not happen perfectly to please some of the states: and they would not comply with it. The consequence is, Britain charges us with the breach, and refuses to deliver up the forts on our northern quarter.

Our being tributaries to our sister states is a consequence of the want of a federal system. The state of New-York raises 60 or 80,000 l. a year by impost. Connecticut consumes about one third of the goods upon which this impost is laid; and consequently pays one third of this sum to New-York. If we import by the medium of Massachusetts, she has an impost, and to her we pay a tribute. If this is done, when we have the shadow of a national government, what shall we not suffer, when even that shadow is gone?

If we go on as we have done, what is to become of the foreign debts? Will foreign nations forgive us this debt, because we neglect to pay? or will they levy it by reprisals as the laws of nations authorize them? Will our weakness induce Spain to relinquish the exclusive navigation of the Mississippi, or the territory which she claims on the east side of that river? Will our weakness induce the British to give up the Northern posts? If a war breaks out, and our situation invites our enemies to make war, how are we to defend ourselves? Has Government the means to enlist a man, or buy an ox? or shall we rally the remainder of our old army? The European nations, I believe to be not friendly to us. They were pleased to see us disconnected from Great-Britain; they are pleased to see us disunited among ourselves. If we continue so, how easy it is for them to canton us out among them, as they did the Kingdom of Poland? But supposing this is not done, if we suffer the union to expire, the least that can be expected is that the European powers will form alliances, some with one State and some with another, and play the States off one against another, and that we shall be

involved in all the labyrinths of European politics. But I do not wish to continue the painful recital: enough has been said to shew, that a power in the general government to enforce the decrees of the union, is absolutely necessary.

The Constitution before us is a complete system of legislative, judicial, and executive power. It was designed to supply the defects of the former system; and I believe, upon a full discussion, it will be found calculated to answer the purposes for which it was designed.

Dr. Johnson rose after Mr. Ellsworth and expressed himself to the following purpose.

My Honourable Friend has represented to us the miserable State, which we are in with respect to our public affairs. It is a melancholy picture; but not too highly drawn. Our commerce is annihilated; our national honour, once in so high esteem, is no more. We have got to the very brink of ruin; we must turn back, and adopt a new system. The gentleman's arguments have demonstrated that a principle of coercion is absolutely necessary, if we would have a union to answer any beneficial purposes. All ancient leagues have had this principle. Holland has in fact had it. When a Dutch province has neglected to furnish her quota for the national expense, taxes have been levied by an army. It was necessary that each province should be compelled to pay her part. But how was this effected? There was no other way but by force of arms, a method most dangerous to the public tranquility.

Under our old confederation, each State was bound by the most solemn obligations to pay its proportion of the national expense. If any State did not perform what it had so solemnly promised, it became a transgressor. It did an injury to the other States, to which it had plighted its faith for the performance of what it had stipulated in the articles of confederation. The other States have a right to redress; they have a right by the law of nature and nations to insist upon, and compel a performance. How shall this be done? There is no other way but by force of arms. What is the consequence? This way of enforcing federal decrees leads directly to civil war and national ruin. This was the case with the ancient leagues. The States in confederacy were bound by compact, to bear certain proportions of the public burdens. Some of the States were delinquent; they failed in performing their stipulations. This injurious conduct provoked the others; they had recourse to arms for redress. While they were thus involved in civil war, neighbouring powers took advantage of it, and availed themselves of the forces of a part to subdue the rest. Such is the nature of this kind of confederacies, that the general decrees must either remain without efficacy, or be put in execution by a military force.

The Convention saw this imperfection in attempting to legislate for States, in their political capacity; that the coercion of Law can be exercised by nothing but a military force. They have therefore gone upon entirely new ground. They have formed one new nation out of the individual States. The constitution, vests in the general legislature a power to make laws in matters of national concern; to appoint Judges to decide upon these Laws; and to appoint officers to carry them into execution. This excludes the idea of an armed force. The power, which is to enforce these Laws, is to be a legal power vested in proper magistrates. The force, which is to be employed, is the energy of Law; and this force is to operate only upon individuals, who fail in their duty to their country. This is the peculiar glory of the constitution, that it depends upon the mild and equal energy of the magistracy for the execution of the Laws. The convention have framed a system of government, and now submit it to the wisdom of their country. We address ourselves, not to your passions, but to your reason; we speak as to wise men. Judge ye what we say. As to the old system, we can go no further with it; experience has shewn it to be utterly inefficient. The States were sensible of this, to remedy the evil they appointed the convention. Though no enthusiast, I cannot but impute it to a signal intervention of divine providence, that a convention from States differing in circumstances, interests, and manners, should be so harmonious in adopting one grand system. If we reject a plan of government, which with such favourable circumstances is offered for our acceptance, I fear our national existance must come to a final end.

1. Genesis 49:14–15.

2. A reference to Rhode Island's paper money policies. This three-sentence excerpt was reprinted in the *Salem Mercury*, 15 January, and the *New Hampshire Spy*, 18 January.

#### 414. Luther Martin: Genuine Information III Baltimore Maryland Gazette, 4 January<sup>1</sup>

*Mr. MARTIN's Information to the House of Assembly, continued.*

It was urged, that upon this system, the Pennsylvanian or inhabitant of a large State, was of as much consequence as the inhabitant of Jersey, Delaware, Maryland, or any other State—That *his consequence* was to be decided by *his situation* in his *own State*; that if he was *there as free*, if he had as great share in the forming of his own government, and in the making and executing its laws, as the inhabitants of those other States, then was he equally important and of equal consequence—Suppose a confederation of States had never been adopted, but every State had remained absolutely in its independent situation, no person could, with



propriety, say that the citizen of the large State was not as important as the citizen of the smaller, the confederation of the States cannot alter the case. It was said that in all transactions *between State and State*, the freedom, independence, importance and consequence, even the individuality of each citizen of the different States, might with propriety be said to be swallowed up, or concentrated in the independence, the freedom and the individuality of the State of which they are citizens—That the *Thirteen States* are *thirteen distinct political individual existences* as to each other; that the *federal government* is or ought to be a government over these *thirteen political individual existences*, which form the members of that government—and that as the *largest State* is only a *single individual* of this government, it ought to have only *one vote*—the *smallest State* also being *one individual member* of this government, ought also to have *one vote*—To those who urged that the States having equal suffrage, was contrary to the feelings of the human heart, it was answered, that it was admitted to be contrary to the feelings of *pride* and *ambition*; but those were feelings which ought not to be gratified at the expence of *freedom*.

It was urged, that the position that great States would have great objects in view, in which they would not suffer the less States to thwart them, was one of the strongest reasons why inequality of representation ought not to be admitted—If those great objects were not *inconsistent* with the *interest* of the *less States*, they would readily concur in them, but if they were *inconsistent* with the *interest* of a *majority of the States* composing the government, in that case *two or three States* ought not to have it in their power to *aggrandize themselves* at the *expence of all the rest*—To those who alledged that equality of suffrage in our federal government, was the poisonous source from which all our misfortunes flowed, it was answered, that the allegation was not founded in fact—That *equality of suffrage* had *never been complained of by the States* as a *defect* in our federal system—That among the eminent writers, foreigners and others, who had treated of the defects of our confederation, and proposed alterations, *none had proposed an alteration in this part of the system*: And members of the convention both in and out of Congress, who advocated the equality of suffrage, called upon their opponents both in and out of Congress, and challenged them to produce *one single instance* where a *bad measure* had been adopted, or a *good measure* had failed of adoption in consequence of the States having an *equal vote*; on the contrary, they urged, that all our evils flowed from the *want of power* in the federal head, and that let the *right of suffrage* in the States be *altered in any manner* whatever, if no *greater powers* were given to the government, the *same inconveniences* would continue.

It was denied that the *equality of suffrage* was *originally* agreed to on principles of *necessity* or *expediency*, on the contrary, that it was adopted

on the principles of the *rights of men* and the *rights of States* which were *then* well known, and which *then* influenced our conduct although *now* they seem to be *forgotten*—For this the journals of Congress were appealed to; it was from them shewn, that when the committee of Congress reported to that body the articles of confederation, the very first article which became the subject of discussion, was that respecting the equality of suffrage—That Virginia proposed divers modes of suffrage, all on the principle of inequality, which were *almost unanimously* rejected—That on the question for adopting the article, it passed, Virginia being the *only* State which voted in the *negative*—That after the articles of confederation were submitted to the States by them to be ratified, almost every State proposed certain amendments, which they instructed their delegates to endeavour to obtain before ratification, and that among all the amendments proposed, *not one State*, not even Virginia, proposed an amendment of that *article, securing the equality of suffrage*—the most convincing proof it was agreed to and adopted, *not from necessity*, but *upon a full conviction*, that according to the *principles of free governments*, the States had a *right to that equality of suffrage*.

But, Sir, it was to no purpose that the futility of their objections were shewn—when driven from the *pretence* that the *equality of suffrage* had been originally agreed to on principles of *expediency* and *necessity*, the representatives of the *large States* persisted in a declaration, that they would never agree to admit the *smaller States* to an *equality of suffrage*—In answer to this, they were informed, and informed in terms the *most strong* and *energetic* that could *possibly be used*, that *we never would agree* to a system giving them the *undue influence* and *superiority* they proposed—That we would *risque every possible consequence*—That from anarchy and confusion *order might arise*—That *slavery* was the *worst* that could ensue, and we considered the *system proposed* to be the *most complete, most abject* system of *slavery* that the wit of man ever devised, under the *pretence* of forming a government for free States—That we never would submit tamely and servilely to a *present certain evil* in dread of a *future*, which might be *imaginary*—That we were sensible the eyes of our country and of the world were upon us—That we would not labour under the *imputation* of being *unwilling to form a strong and energetic federal government*; but we would publish the system which we *approved*, and also that which we *opposed*, and leave it to our country and the world at large to judge between us, who *best understood* the rights of *free men and free States*, and who *best advocated them*—and to the same tribunal we would submit who ought to be answerable for all the consequences which might arise to the union from the convention breaking up without proposing any system to their constituents.—During this debate we were *threatened*, that if we did not

agree to the system proposed, we *never* should have an *opportunity* of *meeting in convention* to deliberate on *another*, and this was frequently urged—In answer, we called upon them to shew *what was to prevent it*, and from what quarter was our danger to proceed—was it from a *foreign enemy*? Our *distance* from Europe, and the *political situation* of that country, left us but little to fear—Was there any *ambitious State* or *States*, who in *violation of every sacred obligation* was preparing to *enslave the other States*, and raise *itself to consequence* on the *ruin of the others*? Or was there any such *ambitious individual*? We did not apprehend it to be the case—But suppose it to be true, it rendered it the *more necessary* that we should *sacredly guard against a system* which might enable *all those ambitious views to be carried into effect*, even under the sanction of the constitution and government—in fine, Sir, *all these threats* were treated with *contempt*, and they were told that we apprehended but *one reason* to prevent the States meeting again in convention—that when they discovered the part *this convention* had acted, and how much its members were *abusing the trust* reposed in them, the States would never trust *another convention*.—At length, Sir, after every argument had been exhausted by the advocates of equality of representation, the question was called, when a majority decided in favour of the inequality—Massachusetts, Pennsylvania, Virginia, North-Carolina, South-Carolina and Georgia voting for it—Connecticut, New-York, Jersey, Delaware against it—Maryland divided.<sup>2</sup>—It may be thought surprising, Sir, that Georgia, a State *now small* and comparatively *trifling* in the union, should advocate this system of *unequal representation*, giving up her *present equality* in the federal government, and sinking herself almost to total insignificance in the scale; but, Sir, it must be considered that Georgia has the *most extensive territory* in the union, being *larger than the whole island of Great-Britain*, and *thirty times as large as Connecticut*. This system being designed to *preserve to the States their whole territory unbroken*, and to prevent the erection of new States within the territory of any of them—Georgia looked forward *when her population*, being increased in some measure *proportioned to her territory*, she should *rise in the scale* and *give law to the other States*, and hence we found the delegation of Georgia warmly advocating the proposition of giving the States unequal representation. Next day the question came on with respect to the *inequality* of representation in the *second branch*, but little debate took place; the subject had been exhausted on the former question. On the votes being taken, Massachusetts, Pennsylvania, Virginia, North-Carolina and South-Carolina voted for the inequality. Connecticut, New-York, Jersey, Delaware and Maryland<sup>(a)</sup> were in the negative. Georgia had only *two representatives* on the floor, *one* of whom (not I believe because he was against the measure, but from a conviction that we would go home, and thereby

dissolve the convention before we would give up the question) voted also in the negative, by which that State was divided.<sup>3</sup> Thus, Sir, on this *great and important* part of the system, the convention being equally divided, five States for the measure, five against, and one divided, there was a total stand, and we did not seem very likely to proceed any further. At length it was proposed, that a select committee should be ballotted for, composed of a member from each State, which committee should endeavour to devise some mode of *conciliation* or *compromise*; I had the honor to be on that committee; we met and discussed the subject of difference; the *one side* insisted on the *inequality* of suffrage in *both branches*, the *other* insisted on the *equality* in both; each party was tenacious of their sentiments, when it was found that nothing could induce us to yield the inequality in both branches; they at length proposed by way of compromise, if *we* would *accede* to their wishes as to the *first branch*, *they* would *agree* to the equal representation in the *second branch*. To this it was answered, that there was no merit in the proposal; it was only consenting, after they had struggled, to put *both their feet on our necks*, to take *one of them off*, provided we would consent to let them *keep the other on*, when they knew at the same time, that they could not put *one foot on our necks*, unless *we would consent to it*, and that by being permitted to keep on that one foot, they should *afterwards be able to place the other foot on whenever they pleased*.

They were also called on to inform us what *security* they could give us should we agree to this compromise, that they would *abide* by the plan of government formed upon it, *any longer* than it *suit*ed their interest, or they found it *expedient*.—"The States have a *right* to an equality of representation. This *is secured* to us by our *present* articles of confederation, *we are in possession* of this privilege—*It is now* to be *torn from us*.—What security can you give us, that, when you get the *power* the *proposed system* will give you, when you have *men and money*, that you will not *force from* the States that *equality* of suffrage in the *second branch*, which you *now deny* to be their right, and *only give up* from *absolute necessity*? Will you tell us we ought to trust you because you *now enter into a solemn compact with us*? This you have done *before*, and *now* treat it with the *utmost contempt*.—Will you *now* make an appeal to the Supreme Being, and call on him to guarantee your observance of the compact? The *same* you have *formerly done* for your observance of the articles of confederation, which you are *now violating* in the most *wanton* manner!

"The same reasons which you *now urge* for destroying our *present* federal government, may be urged for *abolishing the system* which you now propose to adopt; and as the *method prescribed* by the *articles of confederation* is *now totally disregarded* by you, as *little regard* may be shewn by you to the *rules prescribed* for the amendment of the *new system*, whenever having obtained power by the government, you shall *hereafter*

be pleased either to *discard it entirely*, or so to *alter it* as to give yourselves all that *superiority* which you have now contended for, and to obtain which you have shewn yourselves disposed to hazard the union."—Such, Sir, was the language used on that occasion, and they were told that as we could not possibly have a *greater tie* on them for their observance of the new system than we had for their observance of the articles of confederation, which had proved *totally insufficient*, it would be *wrong* and *imprudent* to confide in them.—It was further observed, that the inequality of the representation would be *daily increasing*—That many of the States whose territory was confined and whose population was at this time large in proportion to their territory would probably twenty, thirty, or forty years hence, have no more representatives than at the introduction of the government, whereas the States having extensive territory, where lands are to be procured cheap, would be daily increasing in the number of their inhabitants not only from propagation but from the *emigration* of the inhabitants of the *other States*, and would have soon double, or perhaps treble the number of representatives that they are to have at first, and thereby enormously *increase* their *influence* in the national councils. However, the *majority* of the select committee at length agreed to a series of propositions by way of compromise, part of which related to the representation in the first branch nearly as the system is now published: And part of them to the second branch securing in that equal representation, and reported them as a compromise upon the *express terms* that they were *wholly* to be *adopted* or *wholly* to be *rejected*; upon this compromise, a great number of the members so far engaged themselves, that if the system was progressed upon agreeable to the terms of the compromise, they would lend it their names, by signing it, and would not actively oppose it, if their States should appear inclined to adopt it—Some, however, in which number was myself, who joined in the report and agreed to proceed upon those principles and see *what kind of a system* would *ultimately* be formed upon it, yet reserved to themselves in the most *explicit manner* the right of *finally* giving a *solemn dissent* to the system, if it was thought by them *inconsistent* with the *freedom* and *happiness* of their country—This, Sir, will account why the members of the convention so *generally* signed their names to the system; not because they thought it a *proper one*—not because they *thoroughly approved*, or were *unanimous* for it; but because they thought it *better* than the system attempted to be forced upon them—This, report of the select committee was after long dissension adopted by a majority of the convention, and the system was proceeded in accordingly—I believe near a fortnight, perhaps more, was spent in the discussion of this business,<sup>4</sup> during which, we were on the verge of dissolution, scarce held together by the strength of an hair, though the public papers were announcing our extreme unanimity.<sup>5</sup>

Mr. Speaker, I think it my duty to observe, that during this *struggle* to prevent the *large States* from having *all power* in their hands, which had nearly terminated in a dissolution of the convention, it did not appear to me that either of those illustrious characters the Honorable Mr. *Washington*, or the President of the State of Pennsylvania,<sup>6</sup> were disposed to favour the claims of the *smaller States* against the *undue superiority* attempted by the *large States*; on the contrary, the Honourable President of Pennsylvania was a *member of the committee of compromise*, and there *advocated the right of the large States to an inequality in both branches and only ultimately conceded it in the second branch on the principle of conciliation*, when it was found that no other terms would be accepted—This, Sir, I think it my duty to mention, for the *consideration of those who endeavour to prop up a dangerous and defective system by great names*; soon after this period, the Honourable Mr. *Yates* and Mr. *Lansing* of New-York left us—They had uniformly opposed the system, and I *believe*, despairing of getting a *proper one* brought forward, or of *rendering any real service*, they returned no more<sup>7</sup>—The *propositions* reported by the committee of the *whole house*, having been fully discussed by the convention, and with many alterations having been agreed to by a *majority*, a committee of five, were appointed to *detail* the system according to the principles contained in what had been agreed to by that majority—This was likely to require some time, and the convention adjourned for eight or ten days.—Before the adjournment, I moved for liberty to be given to the different members to take *correct copies* of the *propositions*, to which the convention had then agreed, in order that during the recess of the convention, we might have an opportunity of *considering* them, and if it should be thought that any *alterations or amendments* were *necessary*, that we might be *prepared* against the convention met to bring them forward for discussion. But, Sir, the *same spirit* which caused *our doors to be shut—our proceedings to be kept secret—our journals to be locked up—and every avenue, as far as possible, to be shut to public information*, prevailed also in this case, and the proposal so *reasonable and necessary* was *rejected* by a *majority* of the convention, thereby *precluding even the members themselves, from the necessary means of information and deliberation on the important business in which they were engaged*.<sup>8</sup>

(To be continued.)

(a) On this question, Mr. Martin was the only delegate for Maryland present, which circumstance secured the State a negative. Immediately after the question had been taken, and the president had declared the votes, Mr. Jenifer came into the Convention, when Mr. King, from Massachusetts, valuing himself on Mr. Jenifer to divide the State of Maryland on this question, as he had on the former,

requested of the president that the question might be put again—however the motion was *too extraordinary* in its nature to meet with success!

1. Reprinted: *Pennsylvania Packet*, 14 January; *Philadelphia Independent Gazetteer*, 22 January; *Pennsylvania Herald*, 23 January; *New York Journal*, 18, 19, 20 February; *State Gazette of South Carolina*, 21, 24, 28 April. For a general discussion of the *Genuine Information*, see CC:389.

2. The vote was taken on 29 June 1787 (Farrand, I, 468).

3. The Georgia delegate who voted in the negative was William Houstoun. The vote was taken on 2 July (Farrand, I, 510).

4. The committee was appointed on 2 July and reported three days later. The compromise was adopted on 16 July (Farrand, I, 509, 524–25; II, 13–14, 15).

5. See *Philadelphia Independent Gazetteer*, 16 July; *Pennsylvania Gazette*, 18 July (CC:30 E–F).

6. Benjamin Franklin was president of the Pennsylvania Supreme Executive Council.

7. Robert Yates and John Lansing, Jr., left the Convention on 10 July. In late November Martin reported to the Maryland House of Delegates (CC:304–B). During his address, Martin referred to the departure of Yates and Lansing, and he was interrupted by fellow delegate Daniel of St. Thomas Jenifer who charged that Martin was not being candid. On 22 January the *Maryland Journal* reprinted Yates and Lansing's letter giving their reasons for opposing the Constitution (CC:447). Martin used their letter to prove the accuracy of his statement. (See Martin to the Speaker of the House, Thomas Cockey Deye, 27 January, *Baltimore Maryland Gazette*, 29 January.) The episode was described in an "Extract of a letter from Annapolis": ". . . Mr. Martin observed, that two deputies from New-York, Mr. Yates and Mr. Lansing, had left the Convention in disgust, and with the fixed intention not to return. Upon this being often repeated [in the Maryland House of Delegates], Mr. Jenifer rose up, and begged leave to inform the house, that Mr. Martin had told him repeatedly, that these gentlemen would return. As Mr. Martin did not contradict this assertion, it was believed by all who heard it: and as he has not contradicted it in his public letter, it is a further proof of Mr. Jenifer's veracity" (*Pennsylvania Packet*, 14 February).

8. On 25 July a motion that the delegates might "take copies of the resolutions which have been agreed to" by the Convention, was defeated six states to five. Maryland voted against the motion (Farrand, II, 107, 108, 115).

#### 415. An Old Soldier

##### **Connecticut Gazette, 4 January**

On 12 November 1787 town meetings were held in Connecticut to elect delegates to the state Convention. The town of Stonington elected Major Charles Phelps and Nathaniel Minor, both of whom voted to ratify the Constitution (RCS:Conn., 444, 538, 561). No corroborating evidence has been found that the speech below was delivered in Stonington on 12 November.

*Observations on the Fæderal Constitution, spoke in the Town Meeting of Stonington, by one of the Inhabitants. Published by desire.*

May it please the Moderator, the Gentlemen of Authority, and my Brother Farmers—Upon no occasion since America, or the thirteen United States had an existence, did you ever meet upon a more interesting subject, than the present now before you. I have carefully,

and with the greatest attention read the doings of the very honourable Continental Convention. But before I enter upon that important subject, suffer me for a moment to take a retrospective view of a few years past.—When American blood was first shed by the British Janisaries, the whole continent was in a ferment: some of the most timid almost lost their senses, and were for kissing the rod that was thus cruelly, wickedly, and wantonly lifted up against us; and some there were that ought to have been the protectors of our country, and exposed their persons to the arduous conflict, resigned their commissions; whilst others, with a noble ardour and patriotic glow, flew to arms: after a struggle of eight long years conflict, with many severe battles well fought on both sides, with various vicissitudes of fortune, under the command of that wonderful man, his excellency General *Washington*, the Cyrus of the present age, the Americans were crowned with success; and to use his excellency's own expression, though made use of by him upon another occasion, he has with the prowess of many a brave officer, as well as soldier, with the kind and most indulgent permission of heaven, landed us UPON THE BROAD BASIS OF INDEPENDENCE.

It was found necessary to have a national council, and that produced the articles of confederation; which proved amply sufficient, during the late war, for successfully carrying it on: for the recommendations of Congress, like a decree from above, were implicitly obeyed, and strengthened by very powerful contending foes, and some domestic incendiaries.—But peace, all-smiling and indulgent peace, brought to our doors, has made us fat, and we have waxed wanton. Some of the states have paid little or no attention to the wise and absolutely necessary recommendations of Congress; who upon repeated trials, found that they had not that authority that was requisite for a peace administration; this brought forth the Convention composed of the ablest heads, and I firmly believe the best hearts, full of zeal for the good of their country, as any men we could have elected. Their doings I have now in my hands, and with your permission, I beg leave to read them.—After they were read, the gentleman proceeded.—

The new constitution consists of a President, a Senate, and House of Representatives. The lower house are chosen by the people at large in each state, the senate by the thirteen assemblies; which very assemblies are chosen by the people who you have in Connecticut delegated your power to for the great purposes of legislation, and that most delicate of all points, taxation; and the dernier resort, in all civil causes, as a court of chauncery; and the assembly has authority in all criminal actions to relieve.—You have experienced great benefit under their wise administration, for almost two centuries. The assembly has authority to appoint the judges of the supperior court—Here suffer me to



pause—and say, they are a court of the highest respectability, such as are mentioned in holy writ, men fearing God, and hating covetousness. They appoint likewise the judges of the county courts, the generals and field officers of the militia, and all executive officers of consequence. The president is elected by a certain number of men chosen by the thirteen legislatures, equal to the number of persons that represents each state upon the proposed foederal mode of government.—I could, for many reasons which to me appear very important, have wished they, i.e. the Convention, had recommended that the president and senate were chosen by the people at large. Then I might with propriety say, the new constitution had extremely well guarded the liberties of the people; for whose emolument all governments, whether monarchical, aristocratical, democratical or foederal, ought to be instituted; that is, all governments ought to be for the benefit of the people, *salus populi, est suprema lex*—that is in English—the safety of the people is the supreme or greatest law. I could have wished still further, that the various branches composing the foederal compact, were chosen annually. Look into the history of that great republic the Roman commonwealth, you'll find their consuls, prætors, censors, all the curule officers were chosen annually, and a law, that no citizen, whether patrician or plebian, should be chosen a second time, till ten years had elapsed. There are but two instances of the supreme magistrate of the city of London ever being chosen Lord Mayor a second time; one is an antient one, and the other a recent one, in the person of alderman Beckard, more known by that name, than his two mayoralties.—I am perfectly willing to submit it to the wisdom of the thirteen assemblies, whether the people shall choose the president and senators, or let it be as the very respectable convention has recommended, provided all three branches of the foederal constitution are chosen annually: those that suit the people, will doubtless be re-elected. A bill of rights, or a magna charta, similar to that obtained by the barons of England, would be very pleasing to the people, never to be infringed or altered.

#### **416. Publius: The Federalist 34 New York Packet, 4 January**

This essay, number 34 in the M'Lean edition and number 32 in the newspapers, was written by Alexander Hamilton. The *New York Packet* announced that "As it appears to be the wish of a respectable number of our customers, that we continue regularly the Papers signed *Publius*, without mutilation—we have been obliged to omit a number of advertisements and articles of intelligence; which shall be attentively attended to in our next."

*The Federalist* 34 was reprinted in the *New York Daily Advertiser* and *New York Independent Journal* on 5 January, and the *New York Journal* on 8 January. The printings in the *New York Packet* and the *Daily Advertiser* contained several errors. On 8 January the *Packet* published an errata (see below).

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

## The FEDERALIST, No. 32.

*To the People of the State of New-York.*

I flatter myself it has been clearly shewn in my last number,<sup>1</sup> that the particular States, under the proposed Constitution, would have CO-EQUAL authority with the Union in the article of revenue, except as to duties on imports. As this leaves open to the States far the greatest part of the resources of the community, there can be no color for the assertion, that they would not possess means as abundant as could be desired for the supply of their own wants, independent of all external control. That the field is sufficiently wide will more fully appear when we come to advert to the inconsiderable share of the public expences, for which it will fall to the lot of the State governments to provide.

To argue upon abstract principles that this co-ordinate authority cannot exist, is to set up supposition and theory against fact and reality. However proper such reasonings might be to show that a thing *ought not to exist*, they are wholly to be rejected, when they are made use of to prove that it does not exist, contrary to the evidence of the fact itself. It is well known that in the Roman republic, the legislative authority in the last resort, resided for ages in two different political bodies; not as branches of the same legislature, but as distinct and independent legislatures; in each of which an opposite interest prevailed; in one the Patrician—in the other the Plebian. Many arguments might have been adduced to prove the unfitness of two such seemingly contradictory authorities, each having power to *annul* or *repeal* the acts of the other. But a man would have been regarded as frantic, who should have attempted at Rome to disprove their existence. It will readily be understood, that I allude to the COMITIA TRIBUTA and the COMITIA CENTURIATA.<sup>(a)</sup> The former, in which the people voted by tribes,<sup>(b)</sup> was so arranged as to give a superiority to the Patrician interest: In the latter, in which numbers prevailed, the Plebian interest had an entire predominancy. And yet these two legislatures co-existed for ages, and the Roman republic attained to the utmost height of human greatness.

In the case particularly under consideration there is no such contradiction as appears in the example cited; there is no power on either side to annul the acts of the other. And in practice there is little reason to apprehend any inconvenience; because in a short course of time the wants of the States will naturally reduce themselves within *a very narrow compass*; and in the interim the United States will, in all probability, find it convenient to abstain wholly from those objects to which the particular states would be inclined to resort.

To form a more precise judgment of the true merits of this question, it will be well to advert to the proportion between the objects that will require a federal provision in respect to revenue; and those which will require a state provision. We shall discover that the former are altogether unlimited; and that the latter are circumscribed within very

moderate bounds. In pursuing this inquiry, we must bear in mind, that we are not to confine our view to the present period, but to look forward to remote futurity. Constitutions of civil government are not to be framed upon a calculation of existing exigencies; but upon a combination of these, with the probable exigencies of ages, according to the natural and tried course of human affairs. Nothing therefore can be more fallacious, than to infer the extent of any power, proper to be lodged in the national government, from an estimate of its immediate necessities. There ought to be a CAPACITY to provide for future contingencies, as they may happen; and as these are illimitable in their nature, it is impossible safely to limit that capacity. It is true perhaps that a computation might be made, with sufficient accuracy to answer the purposes of the quantity of revenue requisite to discharge the subsisting engagements of the Union, and to maintain those establishments, which for some time to come, would suffice in time of peace. But would it be wise, or would it not rather be the extreme of folly to stop at this point, and to leave the government intrusted with the care of the national defence, in a state of absolute incapacity to provide for the protection of the community, against future invasions of the public peace by foreign war or domestic convulsions? If on the contrary, we ought to exceed this point, where can we stop short of an indefinite power of providing for emergencies as they may arise? Though it is easy to assert, in general terms, the possibility of forming a rational judgment of a due provision against probable dangers; yet we may safely challenge those who make the assertion to bring forward their data, and may affirm that they would be found as vague and uncertain as any that could be produced to establish the probable duration of the world. Observations confined to the mere prospects of internal attacks can deserve no weight, though even these will admit of no satisfactory calculation: but if we mean to be a commercial people, it must form a part of our policy to be able one day to defend that commerce. The support of a navy,<sup>(c)</sup> admitting that we ought to try the novel and absurd experiment in politics of tying up the hands of government from offensive war founded upon reasons of state: Yet, certainly we ought not to disable it from guarding the community against the ambition or enmity of other nations. A cloud has been for some time hanging over the European world. If it should break forth into a storm, who can insure us that in its progress a part of its fury would not be spent upon us? No reasonable man would hastily pronounce that we are entirely out of its reach. Or if the combustible materials that now seem to be collecting, should be dissipated without coming to maturity; or if a flame should be kindled without extending to us, what security can we have, that our tranquility will long remain undisturbed from some other cause, or from some other quarter? Let

us recollect that peace or war will not always be left to our option; that however moderate or unambitious we may be, we cannot count upon the moderation, or hope to extinguish the ambition of others. Who could have imagined, at the conclusion of the last war, that France and Britain, wearied and exhausted as they both were, would so soon have looked with so hostile an aspect upon each other? To judge from the history of mankind we shall be compelled to conclude, that the fiery and destructive passions of war reign in the human breast with much more powerful sway than the mild and beneficent sentiments of peace; and that to model our political systems upon speculations of lasting tranquility is to calculate on the weaker springs of the human character.

What are the chief sources of expence in every government? What has occasioned that enormous accumulation of debts with which several of the European nations are oppressed? The answer plainly is, wars and rebellions—the support of those institutions which are necessary to guard the body politic against these two most mortal diseases of society. The expences arising from those institutions which are relative to the mere domestic police of a State—to the support of its legislative, executive and judicial departments, with their different appendages, and to the internal encouragement of agriculture and manufactures, (which will comprehend almost all the objects of state expenditure) are insignificant in comparison with those which relate to the national defence.

In the kingdom of Great-Britain, where all the ostentatious apparatus of monarchy is to be provided for, not above a fifteenth part of the annual income of the nation is appropriated to the class of expences last mentioned; the other fourteen fifteenths are absorbed in the payment of the interest of debts, contracted for carrying on the wars in which that country has been engaged, and in the maintenance of fleets and armies. If on the one hand it should be observed, that the expences incurred in the prosecution of the ambitious enterprizes and vain-glorious pursuits of a monarchy, are not a proper standard by which to judge of those which might be necessary in a republic; it ought on the other hand, to be remarked that there should be as great a disproportion, between the profusion and extravagance of a wealthy kingdom in its domestic administration, and the frugality and œconomy, which, in that particular, become the modest simplicity of republican government. If we balance a proper deduction from one side against that which it is supposed ought to be made from the other, the proportion may still be considered as holding good.

But let us advert to the large debt which we have ourselves contracted in a single war, and let us only calculate on a common share of the events which disturb the peace of nations, and we shall instantly perceive without the aid of any elaborate illustration, that there must

always be an immense disproportion between the objects of Fœderal and State expenditures. It is true that several of the States separately are incumbered with considerable debts, which are an excrescence of the late war. But when these are discharged, the only call for revenue of any consequence, which the State Governments will continue to experience, will be for the mere support of their respective civil lists; to which, if we add all contingencies, the total amount in every State, ought not to exceed one hundred thousand pounds.

In framing a government for posterity as well as ourselves, we ought in those provisions which are designed to be permanent, to calculate not on temporary, but on permanent causes of expence. If this principle be a just one, our attention would be directed to a provision in favor of the State Governments for an annual sum of about 100,000<sup>(d)</sup> pounds; while the exigencies of the Union could be susceptible of no limits, even in imagination. In this view of the subject by what logic can it be maintained, that the local governments ought to command in perpetuity, an EXCLUSIVE source of revenue for any sum beyond the extent of 100,000<sup>(d)</sup> pounds? To extend its power further, in *exclusion* of the authority of the Union, would be to take the resources of the community out of those hands which stood in need of them for the public welfare, in order to put them in other hands, which could have no just or proper occasion for them.

Suppose then the Convention had been inclined to proceed upon the principle of a repartition of the objects of revenue between the Union and its members, in *proportion* to their comparative necessities; what particular fund could have been selected for the use of the States, that would not either have been too much or too little; too little for their present, and too much for the future wants. As to the line of separation between external and internal taxes, this would leave to the States at a rough computation, the command of two thirds of the resources of the community, to defray from a tenth to a twentieth part of its expences; and to the Union, one third of the resources of the community, to defray from nine tenths to nineteen twentieths of its expences. If we desert this boundary, and content ourselves with leaving to the States an exclusive power of taxing houses and lands, there would still be a great disproportion between the *means* and the *end*; the possession of one third of the resources of the community, to supply at most one tenth of its wants. If any fund could have been selected and appropriated equal to and not greater than the object, it would have been inadequate to the discharge of the existing debts of the particular States, and would have left them dependent on the union for a provision for this purpose.

The preceding train of observations will justify the position which has been elsewhere laid down, that, "A CONCURRENT JURISDICTION in the article of taxation, was the only admissible substitute for an entire

subordination, in respect to this branch of power, of the State authority to that of the Union.”<sup>2</sup> Any separation of the objects of revenue, that could have been fallen upon, would have amounted to a sacrifice of the great INTERESTS of the Union to the POWER of the individual States. The Convention thought the concurrent jurisdiction preferable to that subordination; and it is evident that it has at least the merit of reconciling an indefinite constitutional power of taxation in the Fœderal Government, with an adequate and independent power in the States to provide for their own necessities. There remain a few other lights, in which this important subject of taxation will claim a further consideration.

[Errata, *New York Packet*, 8 January]

“These errors happened partly by the hurry of the Writer, and partly by that of the Printer.”

(a) “In the second paragraph for COMITIA TRIBUTA and COMITIA CENTURIATA read COMITIA CENTURIATA and COMITIA TRIBUTA.”

(b) “For *tribes* in the same paragraph read *Centuries*.”

(c) “At the end of these words in the fourth paragraph ‘The support of a navy’ add ‘and of naval wars must baffle all the efforts of political arithmetic.’”<sup>3</sup>

(d) “For *100,000* wherever it occurs read *200,000*.”

1. *The Federalist* 32–33 (CC:405).

2. *The Federalist* 33 (CC:405).

3. The *Independent Journal*, *New York Journal*, and M’Lean edition added another clause so that the sentence reads: “The support of a navy, and of naval wars, would involve contingencies that must baffle all the efforts of political arithmetic.” The next sentence then starts a paragraph.

#### 417. Samuel Osgood to Samuel Adams New York, 5 January<sup>1</sup>

I recd. your favor duely with its Enclosure which I forwarded by that worthy Gentlemans Brother.<sup>2</sup>

you honor me, Sir, by requesting my Sentiments at this critical Moment—I will readily acknowledge, that I long labored to convince myself that the proposed System, would answer, for a Plan of general Government—That the extreme Necessity of a more efficient federal Government than the present—The Uncertainty of obtaining Amendments as well as the Delay, if they should be obtained, had some Weight on my Mind—The all important Reason with many for adopting the Plan without Amendments—is, that if we don’t accept of the one proposed, we shall have none. This seems to allow that the Objections made against it, are good; the Plain Meaning of it, is then, that Despotism is better for us, than to remain as we are.

It would take me much Time, as well as Paper to arrange all my Ideas on this important Plan—It has scarcely been out of my Mind since it first made its Appearance—In combining, & comparing its various Parts, new Ideas are constantly occurring—And I am more & more perswaded, that it is a Plan, that the common People can never understand—That if adopted—the Scribes & Pharisees only will be able to interpret, & give it a Meaning.—

Mr. Wilsons Observation, so often repeated is true, “That what ever is not given is reserved.”<sup>3</sup>—But the great Question upon this is what is there of Consequence to the People that is not given.

The general Government will have the unlimited Power [of?] collecting Money immediately from the People—The most important Objects of this Government are to prevent foreign Wars, & to regulate the Commerce of the United States with foreign Nations—for these Objects, alone, the People cannot & ought not to appropriate all their Revenue—It is said the State Legislatures are to [operate in?] that [particular?] [— — —] [— — —] the internal Police of the State will be a Duty incumbent on them—It is undoubtedly true, that the Happiness of the People, in this View, will depend as much (if not more) on the State Legislatures, as on the general Government; & [yet?] as they have no exclusive Revenue left them; it may [further?] be said they have no Revenue at all—No good Reason in my Opinion has, or can be assigned for placing the Legislatures in this absurd Situation; provided the Intent is, that they shall continue for the Objects of internal Police—The Absurdity in this Instance, made such an Impression on me, that I examined the Plan, to see if the general Government was not furnished expressly with Powers to legislate in all possible Cases, & there[fore?] to relieve the State Legislatures from the Necessity of meeting at all for any Purposes of Legislation; & I am satisfied that this is a Fact.—The Plan of complete consolidation by the proposed Instrument could not be eff[ected?] if the States retained exclusively a Part of their Revenue. But as they Do not—it may be brot about; & in a Way [that?] has not been handed to the public yet.—

The unlimited Power of exclusive Legislation is expressly given to Congress, over a Place not exceeding ten Miles Square—Here every Species of Legislation must be gone into.—The Laws thus made, will be made in Pursuance of the Constitution; & if so, they will be the supreme Law of the Land, & the Judges in every State will be sworn to obey them. It will not be in the Power of the Judge to discriminate, & say, that one Law is confined to the Limits of ten Miles Square, & that another Law pervades all the States: every Law must be considered as a Law of the United States made in Pursuance of the Constitution.—

The Judicial Power extends to all Cases of Law & Equity arising under the Constitution &ca—The Extent of the Judicial Power is

therefore, as indefinite & unlimited as Words can make it—Where the united States are a Party against a State the supreme Judicial Court have expressly original Jurisdiction—suppose then, any State should object to the exercise of Power by Congress as infringing the Constitution of the State, the legal Remedy is to try the Question before the supreme Judicial Court—& they have Power, not confining themselves to the Letter of the general or State Constitutions, to consider & determine upon it, in Equity—This is in Fact leaving the Matter to the Judges of the supreme Judicial Court—They may by a Number of legal Decisions, make what Constitution they Please for the united States.—I am doubtful whether any Instance can be found, where a free People have voluntarily established, so great & so important, a supreme Judicial Court.—

A Legislature without corresponding Judicial Courts is of no Consequence to the People—That this must result from the System; that the State Legislatures will have no Judicial Courts, is not difficult to make apparent—The continental Judicial is to decide on Controversies between Citizens of different States—A Citizen of Masstts. commences Process against a fellow Citizen—Altho the Plaintiff is not in fact a Citizen of New hampshire, yet in Law he is so, & entitled to all the Priviledges & Immunities of a Citizen of New hampshire, one of which is to try a Massachusetts Man before a continental Court.—Therefore the ingenious Lawyer, will always make one appear before the Court as a Citizen in Law, & the other as a Citizen in fact—which will give the continental Court Cognizance of Controversies between two Citizens of the same State—What Use then for a State Judicial? of what Consequence will be the State Bill of Rights—The continental Judicial are not bound by it. I think, Sir, that the Judicial Net is spread; & it will not hereafter be said, we have toiled all Day and caught nothing.—We have traced the State Legislatures to a Situation, where they have neither Money at command, & their Judicial Courts striped of all Business—Suppose then it should be made a Question before the supreme Judicial Court of the united States, whether, in Equity, a State Legislature should be kept in Existence, for any other Purpose than mere Elections, which has neither Money, nor Judicial Courts—I believe no one can doubt what the Decision would be. The Framers of the Plan seem to have had this in View; for the Congress have expressly the Power of making or altering the Times & Manner of choosing the Senators. How far the Word “Manner” extends I know not—But I suppose, if Congress should determine, that the People at large, or a certain Description of them, should vote on the Senators, it would only be altering the Manner of choosing them—If this be true, Congress will have the exclusive Right of pointing out the Qualification of the Voters for Senators, which will undoubtedly limit the States, to a small



Number of Voters.—The Electors for a President stand upon the same precarious Ground—Whether they are to continue Electors for Life, or for one Choice, only, does not appear. It is apparent by attending to the 2d. Clause of the 2d. Article, that the Existence of the State Legislature is not necessary for the Purpose of choosing Electors.

The Supporters of the Plan have asserted that the Existence of the State Legislatures is secured, because they must meet for the Purpose of Organizing, from Time to Time, the general Government; that their Existence must necessarily be co extensive. But this I doubt of very much—Surely, in Equity, without the Existence of the State Legislatures, the continental Government must exist.—And not merely in Consequence of the Purse & the Sword, but in Consequence of the Equitable Powers of the Compact. But, Sir, if the above Reasoning is not fair, & well founded, tho' I do not see but it is—yet let us give the Supporters the Sum total of their Argument, the State Legislatures must exist, for the Purpose of Elections.—& is this all?—Then let us give them another Name—It is not fit that a Board of Electors Should be called a Legislature. I am, Sir, for a fair, explicit & efficient general Government—But I cannot consent, in this Way, to be conclave'd out of a Bill of Rights.—This Government is expressly, by its admiring Advocates, to reach the Life Liberty & Property of the Individual Person of every one in the united States, capable of feeling the Government—Man is a weak, foolish Creature of Habit; governed by Instinct as other Animals; tame & docile; without Sagacity: therefore, tho' he dislikes it at first, Time will meliorate & soften his Savage Manners & Disposition; he will then bear the Chains quietly.—But, Sir, this is not true.—This mighty fabric will not give us an efficient Government for many years; the Supporters of it allow it; what will it do? It will be shut up in the ten Miles Square with very little Knowledge of its Operations, until by Bribery and Corruption, & an undue Use of the public Monies, Nabobs are created in each State; & then the Scenery will be changed; the Mask will be laid aside.—It has cost me many a Sleepless Night to find out the most obnoxious Part of the proposed Plan.—And I have finally fixed upon the exclusive Legislation in the Ten Miles Square.—This space is capable of holding two Millions of People—Here will the Wealth and Riches of every State center—And shall there be in the Bowels of the united States such a Number of People, brot up under the Hand of Despotism, without one Priviledge of Humanity, that they can claim; all must be Grace & favor to them.—Shall the supreme Legislature of the most enlightened People on the Face of the Earth; a People who have recently offered up,—upon the Altar of Freedom, near sixty thousand of their bravest Men, & near two hundred Millions of specie Dollars—be secluded from the World of Freemen; & seated down among Slaves & Tenants at Will?—And have

not this supreme Legislature a Right to naturalize me there; whether I will or not? What means the establishing of an uniform Rule of Naturalization?—What does it mean in Equity? May not the sovereign of the Country, Grant exclusive Priviledges to all that are willing to be naturalized in that hallowed Spot?—What an inexhaustable Fountain of Corruption are we opening? The Revenue there collected will not belong to the united States.

Upon proper Principles, I wish the Legislature of the united States to have Ten Miles Square—But let the People settled there, have a Bill of Rights. Let them know that they are Freemen—Let them have the Liberty of Speech, of the Press, of Religion, &c Let them when numerous enough be represented in the lower House.—Let the Revenue there collected be accounted for to the united States as other Revenue—Let the Laws made for the internal Police, have a partial & not a general Stile.—Mankind are too much disposed to barter away their Freedom for the Sake of Interest.—The deluded Philadelphians have however egregiously miscalculated. If the Ten Miles Square should be taken agreeably to their offer, one Mile above the no[r]thern Liberties of their City—a very few years will empty the City of Philadelphia<sup>4</sup>—They will be naturally dazzled with the Splendor of the New Government & Insect like, be drawn to it.—

I have said, & I beleive if the new Government should take Place, it would prove true, that the first Rebellion against it, would break out in the Town of Boston.—Massts. has about 400.000 Inhabitants—There is therefore now, one Representative [for?] 50.000—Boston has about 15. or 16.000 Inhabitants she has little Chance of sending one Representative to a Body, who are to regulate all their commercial Concerns.—

1. RC, Adams Papers, NN. Osgood (1748–1813), a native of Andover, Mass., was graduated from Harvard College in 1770. In July 1775 he was appointed an aide-de-camp to General Artemas Ward. Osgood resigned from the army in February 1776 after attaining the rank of colonel. He was a Massachusetts delegate to Congress from 1781 to 1784. In 1785 he was appointed to the Confederation Board of Treasury, a position he held until the board ceased to function in September 1789.

2. The enclosure was Adams's letter of 3 December 1787 to Richard Henry Lee. (See CC:315, note 1.) Lee's brother, Arthur, served with Osgood on the Board of Treasury.

3. For James Wilson's speech of 6 October, see CC:134.

4. On 15 December 1787 the Pennsylvania Convention voted to cede a tract of land not exceeding ten miles square to the new Congress under the Constitution. The land was to be located anywhere within Pennsylvania except "the city of Philadelphia, the district of Southwark, and that part of the Northern Liberties included within a line running parallel with Vine-street, at the distance of one mile northward thereof, from the river Schuylkill to the southern side of the main branch of Cohockshink creek thence down the said creek to its junction with the river Delaware . . ." (RCS:Pa., 611–13).

**418. Publius: The Federalist 35**  
**New York Independent Journal, 5 January**

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser*, 7 January; *New York Packet*, 8 January; and *New York Journal*, 9 January. It was number 35 in the M'Lean edition and number 33 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST. No. XXXIII.

To the People of the State of New-York.

Before we proceed to examine any other objections to an indefinite power of taxation in the Union, I shall make one general remark; which is, that if the jurisdiction of the national government in the article of revenue should be restricted to particular objects, it will naturally occasion an undue proportion of the public burthens to fall upon those objects. Two evils would spring from this source, the oppression of particular branches of industry, and an unequal distribution of the taxes, as well among the several States as among the citizens of the same State.

Suppose, as has been contended for, the fœderal power of taxation were to be confined to duties on imports, it is evident that the government, for want of being able to command other resources, would frequently be tempted to extend these duties to an injurious excess. There are persons who imagine that they can never be carried to too great a length; since the higher they are, the more it is alleged they will tend to discourage an extravagant consumption, to produce a favourable balance of trade, and to promote domestic manufactures. But all extremes are pernicious in various ways. Exorbitant duties on imported articles would beget a general spirit of smuggling; which is always prejudicial to the fair trader, and eventually to the revenue itself: They tend to render other classes of the community tributary in an improper degree to the manufacturing classes to whom they give a premature monopoly of the markets: They sometimes force industry out of its more natural channels into others in which it flows with less advantage. And in the last place they oppress the merchant, who is often obliged to pay them himself without any retribution from the consumer. When the demand is equal to the quantity of goods at market, the consumer generally pays the duty; but when the markets happen to be overstocked, a great proportion falls upon the merchant, and sometimes not only exhausts his profits, but breaks in upon his capital. I am apt to think that a division of the duty between the seller and the buyer more often happens than is commonly imagined. It is not always possible to raise the price of a commodity, in exact proportion to every additional imposition laid upon it. The merchant

especially, in a country of small commercial capital, is often under a necessity of keeping prices down, in order to a more expeditious sale.

The maxim that the consumer is the payer, is so much oftener true than the reverse of the proposition, that it is far more equitable the duties on imports should go into a common stock, than that they should redound to the exclusive benefit of the importing States. But it is not so generally true as to render it equitable that those duties should form the only national fund. When they are paid by the merchant, they operate as an additional tax upon the importing State; whose citizens pay their proportion of them in the character of consumers. In this view they are productive of inequality among the States; which inequality would be increased with the increased extent of the duties. The confinement of the national revenues to this species of imposts, would be attended with inequality, from a different cause between the manufacturing and the non-manufacturing States. The States which can go furthest towards the supply of their own wants, by their own manufactures, will not, according to their numbers or wealth, consume so great a proportion of imported articles, as those States which are not in the same favourable situation; they would not therefore in this mode alone contribute to the public treasury in a ratio to their abilities. To make them do this, it is necessary that recourse be had to excises; the proper objects of which are particular kinds of manufactures. New-York is more deeply interested in these considerations than such of her citizens as contend for limiting the power of the Union to external taxation can be aware of—New-York is an importing State, (and is not likely speedily to be to any great extent a manufacturing State.)<sup>1</sup> She would of course suffer in a double light from restraining the jurisdiction of the Union to commercial imposts.

So far as these observations tend to inculcate a danger of the import duties being extended to an injurious extreme it may be observed, conformably to a remark made in another part of these papers,<sup>2</sup> that the interest of the revenue itself would be a sufficient guard against such an extreme. I readily admit that this would be the case as long as other resources were open; but if the avenues to them were closed HOPE stimulated by necessity would beget experiments fortified by rigorous precautions and additional penalties; which for a time would have the intended effect, till there had been leisure to contrive expedients to elude these new precautions. The first success would be apt to inspire false opinions; which it might require a long course of subsequent experience to correct. Necessity, especially in politics, often occasions false hopes, false reasonings and a system of measures, correspondently erroneous. But even if this supposed excess should not be a consequence of the limitation of the fœderal power of taxation the unequalities spoken of would still ensue, though not in the same

degree, from the other causes that have been noticed. Let us now return to the examination of objections—

One, which if we may judge from the frequency of its repetition seems most to be relied on, is that the house of representatives is not sufficiently numerous for the reception of all the different classes of citizens; in order to combine the interests and feelings of every part of the community, and to produce a due sympathy between the representative body and its constituents. This argument presents itself under a very specious and seducing form; and is well calculated to lay hold of the prejudices of those to whom it is addressed. But when we come to dissect it with attention it will appear to be made up of nothing but fair sounding words. The object it seems to aim at is in the first place impracticable, and in the sense in which it is contended for is unnecessary. I reserve for another place the discussion of the question which relates to the sufficiency of the representative body in respect to numbers;<sup>3</sup> and shall content myself with examining here the particular use which has been made of a contrary supposition in reference to the immediate subject of our inquiries.

The idea of an actual representation of all classes of the people by persons of each class is altogether visionary. Unless it were expressly provided in the Constitution that each different occupation should send one or more members the thing would never take place in practice. Mechanics and manufacturers will always be inclined with few exceptions to give their votes to merchants in preference to persons of their own professions or trades. Those discerning citizens are well aware that the mechanic and manufacturing arts furnish the materials of mercantile enterprise and industry. Many of them indeed are immediately connected with the operations of commerce. They know that the merchant is their natural patron and friend; and they are aware that however great the confidence they may justly feel in their own good sense, their interests can be more effectually promoted by the merchant than by themselves. They are sensible that their habits in life have not been such as to give them those acquired endowments, without which in a deliberative assembly the greatest natural abilities are for the most part useless; and that the influence and weight and superior acquirements of the merchants render them more equal to a contest with any spirit which might happen to infuse itself into the public councils unfriendly to the manufacturing and trading interests. These considerations and many others that might be mentioned prove, and experience confirms it, that artisans and manufacturers will commonly be disposed to bestow their votes upon merchants and those whom they recommend. We must therefore consider merchants as the natural representatives of all these classes of the community.

With regard to the learned professions, little need be observed; they truly form no distinct interest in society; and according to their

situation and talents will be indiscriminately the objects of the confidence and choice of each other and of other parts of the community.

Nothing remains but the landed interest; and this in a political view and particularly in relation to taxes I take to be perfectly united from the wealthiest landlord to the poorest tenant. No tax can be laid on land which will not affect the proprietor of millions of acres as well as the proprietor of a single acre. Every land-holder will therefore have a common interest to keep the taxes on land as low as possible; and common interest may always be reckoned upon as the surest bond of sympathy. But if we even could suppose a distinction of interest between the opulent land-holder and middling farmer, what reason is there to conclude that the first would stand a better chance of being deputed to the national legislature than the last? If we take fact as our guide and look into our own senate and assembly we shall find that moderate proprietors of land prevail in both; nor is this less the case in the senate which consists of a smaller number than in the Assembly, which is composed of a greater number. Where the qualifications of the electors are the same, whether they have to choose a small or a large number their votes will fall upon those in whom they have most confidence; whether these happen to be men of large fortunes or of moderate property or of no property at all.

It is said to be necessary that all classes of citizens should have some of their own number in the representative body, in order that their feelings and interests may be the better understood and attended to. But we have seen that this will never happen under any arrangement that leaves the votes of the people free. Where this is the case, the representative body, with too few exceptions to have any influence on the spirit of the government, will be composed of land-holders, merchants, and men of the learned professions. But where is the danger that the interests and feelings of the different classes of citizens will not be understood or attended to by these three descriptions of men? Will not the landholder know and feel whatever will promote or injure the interests of landed property? and will he not from his own interest in that species of property be sufficiently prone to resist every attempt to prejudice or incumber it? Will not the merchant understand and be disposed to cultivate as far as may be proper the interests of the mechanic and manufacturing arts to which his commerce is so nearly allied? Will not the man of the learned profession, who will feel a neutrality to the rivalships between the different branches of industry, be likely to prove an impartial arbiter between them, ready to promote either, so far as it shall appear to him conducive to the general interests of the society?

If we take into the account the momentary humors or dispositions which may happen to prevail in particular parts of the society, and to

which a wise administration will never be inattentive, is the man whose situation leads to extensive inquiry and information less likely to be a competent judge of their nature, extent and foundation than one whose observation does not travel beyond the circle of his neighbours and acquaintances? Is it not natural that a man who is a candidate for the favour of the people and who is dependent on the suffrages of his fellow-citizens for the continuance of his public honors should take care to inform himself of their dispositions and inclinations and should be willing to allow them their proper degree of influence upon his conduct. This dependence, and the necessity of being bound himself and his posterity by the laws to which he gives his assent are the true, and they are strong chords of sympathy between the representative and the constituent.

There is no part of the administration of government that requires extensive information and a thorough knowledge of the principles of political economy so much as the business of taxation. The man who understands those principles best will be least likely to resort to oppressive expedients, or to sacrifice any particular class of citizens to the procurement of revenue. It might be demonstrated that the most productive system of finance will always be the least burthensome. There can be no doubt that in order to a judicious exercise of the power of taxation it is necessary that the person in whose hands it is should be acquainted with the general genius, habits and modes of thinking of the people at large and with the resources of the country. And this is all that can be reasonably meant by a knowledge of the interests and feelings of the people. In any other sense the proposition has either no meaning, or an absurd one. And in that sense let every considerate citizen judge for himself where the requisite qualification is most likely to be found.

1. The text in angle brackets was changed in the M'Lean edition to read: "And from a greater disproportion between her population and territory, is less likely, than some other states, speedily to become in any considerable degree a manufacturing state."

2. *The Federalist* 21, *New York Independent Journal*, 12 December (CC:341).

3. *The Federalist* 54, *New York Packet*, 12 February (CC:524).

#### **419. Elbridge Gerry: Defense of Conduct in Constitutional Convention, Massachusetts Centinel, 5 January**

On 24 December "Landholder" VIII (Oliver Ellsworth) charged that Elbridge Gerry opposed the Constitution because the Constitutional Convention had refused to approve Gerry's proposal to redeem old continental paper money. "Landholder" said that "Gerry was supposed to be possessed of large quantities of this species of paper" (CC:371, note 3).

Gerry's defense was reprinted in the Providence *United States Chronicle* and the *New York Daily Advertiser*, 17 January; *Salem Mercury*, 22 January; *New York Journal*, 28 January; and *Pennsylvania Packet*, 6 February.

Mr. RUSSELL.

You are desired to inform the publick from good authority, That Mr. GERRY, by giving his dissent to the proposed constitution, could have no motive for preserving an office, for he holds none under the United States, or any of them;—that he has not, as has been asserted, exchanged continental for State securities: and if he had, it would have been for his interest to have supported the new system, because thereby the States are restrained from impairing the obligation of contracts, and by a transfer of such securities, they may be recovered in the new federal court:—That he never heard in the Convention a motion made, much less did he make any for “the redemption of the old continental money,” but that he proposed, the publick debt should be made neither better or worse by the new system, but stand precisely on the same ground as it now does by the articles of confederation—that had there been such a motion, he was not interested in it, as he did not then, neither does he now own the value of ten pounds in old continental money;—that he never was called on for his reasons for not signing, but stated them fully in the progress of the business:<sup>1</sup> His objections are principally contained in his letter to the legislature:<sup>2</sup>—that he believes his colleagues men of too much honour to assert what is not truth, that his reasons in the convention “were totally different from those which he has published:”—that his only motive for dissenting from the new constitution, was a firm persuasion that it would endanger the liberties of America:—that if the people are of a different opinion, they have a right to adopt it; but he was not authorised to an act which appeared to him a surrender of their liberties:—that as a representative of a *free State*, he thought he was bound in honour, to vote according to his idea of her true interest, and that he should do the same in similar circumstances.

*Cambridge, Jan. 3, 1788.*

1. For Gerry's objections to the Constitution in the Constitutional Convention, see CC:75 and Farrand, I-II, *passim*.

2. For Gerry's letter to the Massachusetts legislature, 18 October 1787, see CC:227-A.

#### **420. James Wadsworth and Oliver Ellsworth Speeches in the Connecticut Convention, 7 January<sup>1</sup>**

The paragraph which respects taxes, imposts and excises, was largely debated, by several Gentlemen.

Gen. Wadsworth objected against it, because it gave the power of the purse to the general Legislature; another paragraph gave the power of the sword; and that authority, which has the power of the sword and purse, is despotic. He objected against imposts and excises, because their operation would be partial and in favour of the southern States.



Some other objections were likewise made against this Paragraph. In answer to them Mr. Ellsworth expressed himself nearly to the following effect.

Mr. President, This is a most important clause in the constitution; and the Gentlemen do well to offer all the objections which they have against it. Through the whole of this debate, I have attended to the objections which have been made against this clause; and I think them all to be unfounded. The clause is general; it gives the general Legislature "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." There are three objections against this clause. *First*, that it is too extensive, it extends to all the objects of taxation; *secondly*, that it is partial; *thirdly*, that Congress ought not to have power to lay taxes at all.

The first objection is that this clause extends to all the objects of taxation. But, though it does extend to all, it does not extend to them exclusively. It does not say that Congress shall have all these sources of revenue, and the States none. All, excepting the impost, still lie open to the States. This State owes a debt, it must provide for the payment of it. So do all the other States. This will not escape the attention of Congress. When making calculations to raise a revenue, they will bear this in mind. They will not take away that which is necessary for the States. They are the head, and will take care that the members do not perish. The State debt, which now lies heavy upon us arose, from the want of powers in the federal system. Give the necessary powers to the national government, and the State will not be again necessitated to involve itself in debt for its defence in war. It will lie upon the national government to defend all the States, to defend all its members, from hostile attacks. The United States will bear the whole burden of war. It is necessary, that the power of the general Legislature should extend to all the objects of taxation, that Government should be able to command all the resources of the country; because no man can tell what our exigencies may be. Wars have now become rather war of the purse, than of the sword. Government must therefore be able to command the whole power of the purse; otherwise a hostile nation may look into our constitution, see what resources are in the power of Government, and calculate to go a little beyond us; then they may obtain a decided superiority over us, and reduce us to the utmost distress. A government, which can command but half its resources, is like a man with but one arm to defend himself.

The second objection is that the impost is not a proper mode of taxation; that it is partial to the southern States. I confess I am mortified, when I find gentlemen supposing that their delegates in convention were inattentive to their duty, and made a sacrifice of the

interests of their constituents. If however the impost be a partial mode, this circumstance, high as my opinion of it is, would stagger my belief in it; for I abhor partiality. But I think there are three special reasons, why an impost is the best way of raising a national revenue.

The first is, it is the most fruitful and easy way. All nations have found it to be so. Direct taxation can go but little way towards raising a revenue. To raise money in this way, people must be provident; they must be constantly laying up money to answer the demands of the collector. But you cannot make people thus provident; if you would do any thing to purpose, you must come in when they are spending, and take a part with them. This does not take away the tools of a man's business, or the necessary utensils of his family: It only comes in, when he is taking his pleasure, and feels generous, when he is laying out a shilling for superfluities, it takes two-pence of it for public use, and the remainder will do him as much good as the whole. I will instance two facts, which shew how easily and insensibly a revenue is raised by indirect taxation. I suppose people in general are not sensible, that we pay a tax to the State of New-York. Yet it is an uncontrovertible fact, that we the people of Connecticut pay annually into the Treasury of New-York more than fifty Thousand Dollars. Another instance I will mention: One of our common river sloops pays in the West-Indies a Portage Bill of £.60. This is a tax which foreigners lay upon us and we pay it. For a duty laid upon our shipping which transports our produce to foreign markets, sinks the price of our produce, and operates as an effectual tax upon those who till the ground, and bring the fruits of it to market. All nations have seen the necessity and propriety of raising a revenue by indirect taxation, by duties upon articles of consumption. France raises a revenue of 24 Millions Sterling per annum, and it is chiefly in this way. 50 Millions of Livres they raise upon the single article of Salt. The Swiss cantons raise almost the whole of their revenue upon Salt. Those States purchase all the Salt which is to be used in the country; they sell it out to the people at an advanced price; the advance is the revenue of the country. In England the whole public revenue is about 12 Millions Sterling per annum. The land tax amounts to about 2 Millions, the window and some other taxes to about two millions more. The other 8 Millions is raised upon articles of consumption. The whole standing army of Great-Britain could not enforce the collection of this vast sum by direct taxation. In Holland their prodigious taxes amounting to forty shillings for each inhabitant, are levied chiefly upon articles of consumption. They excise every thing, not excepting even their houses of infamy.

The experiments, which have been made in our own country, shew the productive nature of indirect taxes. The imports into the United States amount to a very large sum. They never will be less, but will

continue to increase for ages and centuries to come. As the population of our country increases, the imposts will necessarily increase. They will increase, because our citizens will choose to be farmers living independently on their free holds, rather than to be manufacturers, and work for a groat a day. I find by calculation, that a general impost of 5 per cent would raise the sum of £.245,000 per annum, deducting 8 per cent for the charges of collecting. A further sum might be deducted for smuggling, a business which is understood too well among us, and which is looked upon in too favourable a light. But this loss in the public revenue will be over balanced by the increase of importations. And a further sum may be reckoned upon some articles, which will bear a higher duty than the one recommended by Congress. Rum, instead of 4d. per Gallon, may be set higher, without any detriment to our health or morals. In England it pays a duty of 4s.6d. the Gallon. Now let us compare this source of revenue with our national wants. The interest of the Foreign debt is £.130,000 Lawful Money per annum. The expense of the civil list is £.37,000. There are likewise further expenses, for maintaining the Frontier posts, for the support of those who have been disabled in the service of the Continent, and some other contingencies, amounting together with the civil list to £.130,000. This sum added to the interest of the foreign debt will be £.260,000. The consequence follows, that the avails of the impost will pay the interest of the whole foreign debt, and nearly satisfy these current national expenses. But perhaps it will be said, that these paper calculations are overdone, and that the real avails will fall far short. Let me point out then what has actually been done. In only three of the States, in Massachusetts, New-York, and Pennsylvania, £.160 or 180,000 per annum have been raised by impost. From this fact we may certainly conclude, that, if a general impost should be laid, it would raise a greater sum than I have calculated. It is a strong argument in favor of an impost, that the collection of it will interfere less with the internal police of the States, than any other species of taxation. It does not fill the country with revenue officers, but is confined to the sea coast, and is chiefly a water operation. Another weighty reason in favour of this branch of revenue is, if we do not give it to Congress, the individual States will have it. It will give some States an opportunity of oppressing others, and destroy all harmony between them. If we would have the States friendly to each other, let us take away this bone of contention, and place it, as it ought in justice to be placed, in the hands of the general government.

But says an honourable Gentleman near me, the impost will be a partial tax; the southern States will pay but little in comparison with the Northern. I ask, what reason is there for this assertion? Why says he, we live in a cold climate, and want warming. Do not they live in a hot

climate, and want quenching? Until you get as far south as the Carolinas, there is no material difference in the quantity of cloathing which is worn. In Virginia they have the same course of cloathing, that we have. In Carolina, they have a great deal of cold, raw, chilly weather: even in Georgia, the river Savannah has been crossed upon the ice. And if they do not wear quite so great a quantity of cloathing in those States as with us; yet people of rank wear that which is of a much more expensive kind. In these States, we manufacture one half of our cloathing and all our tools of Husbandry; in those, they manufacture none, nor ever will. They will not manufacture, because they find it much more profitable to cultivate their lands which are exceedingly fertile. Hence they import almost every thing, not excepting the carriages in which they ride, the hoes with which they till the ground, and the Boots which they wear. If we doubt of the extent of their importations, let us look at their exports. So exceedingly fertile and profitable are their Lands, that a hundred large ships are every year loaded with rice and indigo from the single port of Charlestown. The rich returns of these cargoes of immense value will be all subject to the impost. Nothing is omitted, a duty is to be paid upon the blacks which they import. From Virginia their exports are valued at a million sterling per annum; the single article of tobacco amounts to seven or eight hundred thousand. How does this come back? not in money, for the Virginians are poor to a proverb in money. They anticipate their crops; they spend faster than they earn; they are ever in debt. Their rich exports return in eatables, in drinkables, in wearables. All these are subject to the impost. In Maryland their exports are as great in proportion as those in Virginia. The imports and exports of the southern States are quite as great in proportion as those of the northern. Where then exists this partiality, which has been objected? It exists no where but in the uninformed mind.

But there is one objection, Mr. President, which is broad enough to cover the whole subject. Says the objector, Congress ought not to have power to raise any money at all. Why? Because they have the power of the sword, and if we give them the power of the purse, they are despotic. But I ask, Sir, was there ever a government without the power of the sword and the purse? This is not a new coined phrase; but it is misapplied; it belongs to quite another subject. It was brought into use in Great-Britain, where they have a king vested with hereditary power. Here, say they, it is dangerous to place the power of the sword and the purse in the hands of one man, who claims an authority independent of the people. Therefore we will have a parliament. But the king and parliament together, the supreme power of the nation, they have the sword and the purse. And they must have both, else how could the country be defended? For the sword without the purse is of no effect, it

is a sword in the scabbard. But does it follow, because it is dangerous to give the power of the sword and the purse to a hereditary prince, who is independent of the people, that therefore, it is dangerous to give it to the parliament, to congress which is your parliament, to men appointed by yourselves, and dependent upon yourselves? This argument amounts to this, you must cut a man in two in the middle, to prevent his hurting himself.

But says the Honourable objector, if Congress levy money, they must legislate. I admit it. Two Legislative powers, says he, cannot exist together in the same place. I ask, why can they not? It is not enough to say they cannot. I wish for some reason. I grant that both cannot legislate upon the same object, at the same time, and carry into effect Laws which are contrary to each other. But the constitution excludes every thing of this kind. Each Legislature has its province; their limits may be distinguished. If they will run foul of each other, if they will be trying who has the hardest head, it cannot be helped. The road is broad enough, but if two men will jostle each other, the fault is not in the road. Two several Legislatures have in fact existed, and acted at the same time in the same territory. It is in vain to say, they cannot exist, when they actually have done it. In the time of the war we had an army. Who made the laws for the army? By whose authority were offenders tried and executed? Congress was the power. By their authority, a man was taken, tried, condemned and hanged, in this very town. He belonged to the army; he was a proper subject of military law; he deserted to the enemy; he deserved his fate. Wherever the army was, in whatever state, there congress had complete legislative, judicial and executive power. This very spot where we now are, is a city. It has complete legislative, judicial and executive powers. It is a complete state in miniature. Yet it breeds no confusion, it makes no scism. The city has not eat up the state, nor the state the city. But if this is a new city, if it has not had time to unfold its principles, I will instance the city of New-York, which is and long has been an important part of that state, it has been found beneficial, its powers and privileges have not clashed with the state. The city of London contains three or four times as many inhabitants as the whole state of Connecticut. It has extensive powers of government, and yet it makes no interference with the general government of the kingdom. This constitution defines the extent of the powers of the general government. If the general legislature should at any time overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers, if they make a law which the constitution does not authorise, it is void; and the judicial power, the national judges, who to secure their impartiality are to be made independent, will declare it to be void. On the other hand, if the states go beyond their limits, if they make a law

which is an usurpation upon the general government, the law is void, and upright independent judges will declare it to be so. Still however, if the united states and the individual states will quarrel, if they want to fight, they may do it, and no frame of government can possibly prevent it. It is sufficient for this constitution, that, so far from laying them under a necessity of contending, it provides every reasonable check against it. But perhaps at some time or other there will be a contest, the states may rise against the general government. If this does take place, if all the states combine, if all oppose, the whole will not eat up the members, but the measure which is opposed to the sense of the people, will prove abortive. In republics, it is a fundamental principle, that the majority govern, and that the minority comply with the general voice. How contrary then to republican principles, how humiliating is our present situation. A single state can rise up, and put a *veto* upon the most important public measures. We have seen this actually take place, a single state has controuled the general voice of the union, a minority, a very small minority has governed us.<sup>2</sup> So far is this from being consistent with republican principles, that it is in effect the worst species of monarchy.

Hence we see, how necessary for the union is a coercive principle. No man pretends the contrary. We all see and feel this necessity. The only question is, shall it be a coercion of Law, or a coercion of arms: There is no other possible alternative. Where will those who oppose a coercion of Law, come out? where will they end? A necessary consequence of their principles is a war of the States one against another. I am for coercion by Law, that coercion which acts only upon delinquent individuals. This constitution does not attempt to coerce sovereign bodies, States in their political capacity. No coercion is applicable to such bodies, but that of an armed force. If we should attempt to execute the Laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity. But this legal coercion singles out the guilty individual, and punishes him for breaking the Laws of the union. All men will see the reasonableness of this, they will acquiesce, and say, let the guilty suffer. How have the morals of the people been depraved for the want of an efficient government which might establish justice and righteousness. For the want of this, iniquity has come in upon us like an overflowing flood. If we wish to prevent this alarming evil, if we wish to protect the good citizen in his right, we must lift up the standard of justice, we must establish a national government, to be enforced by the equal decisions of Law, and the peaceable arm of the magistrate.

1. The texts of the speeches are taken from the *Connecticut Courant*, 14 January. The speeches were also printed in the *Hartford American Mercury* on 14 January and

were reprinted in thirteen newspapers by 27 February: Conn. (6), N.Y. (1), Pa. (4), Md. (1), S.C. (1). Ellsworth's speech was also reprinted in the April issue of the *Philadelphia American Museum* and excerpted in the *Salem Mercury*, 22 April. For the Connecticut Convention and a description of how the reports of the speeches were made, see CC:413.

2. A reference to Rhode Island's refusal to adopt the Impost of 1781 (CC:Vol. 1, pp. 17–18; CDR, 140–41).

#### **421. A Citizen of New Haven: Observations on the New Federal Constitution, Connecticut Courant, 7 January**

This essay was written by Roger Sherman, a Connecticut delegate to the Constitutional Convention and a New Haven delegate to the Connecticut Convention meeting in Hartford. It contains several passages that also appear in a manuscript in Sherman's handwriting entitled "Observations on the New federal constitution" (Mfm:Conn. 63. Similar passages are also found in other writings by Sherman, CC:192, 331.).

"A Citizen of New Haven" was reprinted a year later in the *New Haven Gazette*, 25 December 1788; *Norwich Packet*, 9 January 1789; *New York Packet*, 20 March; *Pennsylvania Packet*, 4 April; and *Providence Gazette*, 23 May.

##### **OBSERVATIONS on the New Federal CONSTITUTION.**

In order to form a good Constitution of Government, the legislature should be properly organized, and be vested with plenary powers for all the purposes for which the government is instituted, to be exercised for the public good as occasion may require.

The greatest security that a people can have for the enjoyment of their rights and liberties, is, that no laws can be made to bind them nor any taxes be imposed upon them, without their consent by representatives of their own choosing, who will participate with them in the public burthens and benefits; this was the great point contended for in our controversy with Great-Britain, and this will be fully secured to us by the new constitution.—The rights of the people will be secured by a representation in proportion to their numbers in one branch of the legislature, and the rights of the particular states, by their equal representation in the other branch.

The President and Vice-President as well as the members of Congress will be eligible for fixed periods, and may be re-elected as often as the electors shall think fit, which will be a great security for their fidelity in office, and will give greater stability and energy to government than an exclusion by rotation, and will be an operative and effectual security against arbitrary government, either monarchical or aristocratic.

The immediate security of the civil and domestic rights of the people will be in the governments of the particular states. And as the different states have different local interests and customs which can be best regulated by their own laws, it would not be expedient to admit the federal government to interfere with them, any farther than may be necessary for the good of the whole.—The great end of the federal

government is to protect the several states in the enjoyment of those rights, against foreign invasion, and to preserve peace and a beneficial intercourse among themselves; and to regulate and protect their commerce with foreign nations.

These were not sufficiently provided for by the former articles of confederation, which was the occasion of calling the late Convention to make amendments. This they have done by forming a new constitution containing the powers vested in the federal government, under the former, with such additional powers as they deemed necessary to attain the ends the states had in view, in their appointment. And to carry those powers into effect, they thought it necessary to make some alterations in the organization of the government, this they supposed to be warranted by their commission.

The powers vested in the federal government are particularly defined, so that each state still retains its sovereignty in what concerns its own internal government, and a right to exercise every power of a sovereign state not particularly delegated to the government of the United States. The new powers vested in the United States, are, to regulate commerce; provide for a uniform practice respecting naturalization, bankruptcies and organizing, arming and training the militia; and for the punishment of certain crimes against the United States; and for promoting the progress of science in the mode therein pointed out. There are some other matters which Congress has power under the present confederation to require to be done by the particular States, which they will be authorized to carry into effect themselves under the new constitution, these powers appear to be necessary for the common benefit of the states, and could not be effectually provided for by the particular states.

The objects of expenditure will be the same under the new constitution, as under the old; nor need the administration of government be more expensive, the number of members of the Congress will be the same, nor will it be necessary to increase the number of officers in the executive department or their salaries, the supreme executive will be in a single person who must have an honourable support; which perhaps will not exceed the present allowance to the President of Congress, and the expence of supporting a committee of the states in the recess of Congress.

It is not probable that Congress will have occasion to sit longer than two or three months in a year, after the first session which may perhaps be something longer—Nor will it be necessary for the senate, to sit longer than the other branch, the appointment of officers may be made during the session of Congress, and trials on impeachment and making treaties will not often occur and will require but little time of the senate to attend to them.—The security against keeping up armies in time of peace will be greater under the new Constitution than under the



present, because it can't be done without the concurrence of two branches of legislature, nor can any appropriation of money for that purpose be in force for more than two years. Whereas there is no restriction under the present confederation.

The liberty of the Press can be in no danger, because that is not put under the direction of the new government.

If the federal government keeps within its proper jurisdiction it will be the interest of the state legislatures to support it, and they will be a powerful and effectual check, to its interfering with their jurisdictions. But the objects of the federal government will be so obvious that there will be no great danger of any interference.

The principal sources of revenue will be imposts on goods imported, and sale of the western lands, which probably will be sufficient to pay the debts and expences of the United States while peace continues; but if there should be occasion to resort to direct taxation, each states quota will be ascertained according to a rule which has been approved by the legislatures of eleven of the states,<sup>1</sup> and should any state neglect to furnish its quota, Congress may raise it by a tax in the same manner as the state ought to have done; and what remedy more easy and equitable could be devised, to obtain the supplies from a delinquent state?

Some object, that the representation will be too small, but the states have never thought fit to keep half the number of representatives in Congress, that they are intitled to under the present confederation; and of what advantage can it be to have a large Assembly to transact the few general matters that will come under the direction of Congress?—The regulating the time place and manner of elections, seems to be as well secured as possible, the legislature of each state may do it, and if they neglect to do it in the best manner, it may be done by Congress; and what motive can either have to injure the people in the exercise of that right? the qualifications of the electors are to remain as fixed by the constitutions and laws of the several states.

It is by some objected, that the executive, is blended with the legislature, and that these powers ought to be entirely distinct and unconnected, but is not this a gross *error* in politics? The united wisdom and various interests of a nation should be combined in framing the laws. But the execution of them should not be in the whole legislature; that would be too troublesome and expensive, but it will not thence follow that the executive should have no voice or influence in legislation, the supreme executive in Great-Britain is one branch of the legislature, and has a negative on all the laws; perhaps that is an extreme that ought not to be imitated by a republic, but the partial negative vested in the President by the new Constitution on the acts of Congress, and the consequent revision, may be very useful to prevent laws being passed without mature deliberation.

The Vice-President while he acts as President of the Senate, will have nothing to do in the executive department;—his being elected by all the states will incline him to regard the interests of the whole and when the members of the senate are equally divided on any question, who so proper to give a casting vote as one who represents all the states?

The power of the President to grant pardons extends only to offences against the United States, which cant be productive of much mischief, especially as those on Impeachment are excepted, which will exclude offenders from office.

It was thought necessary in order to carry into effect the laws of the Union, to promote justice, and preserve harmony among the states, to extend the judicial powers of the United States to the enumerated cases, under such regulations and with such exceptions as shall be provided by law, which will doubtless reduce them to cases of such magnitude and importance as can not be safely trusted to the final decision, of the courts of the particular states, the constitution does not make it necessary that any inferior tribunals should be instituted, but it may be done if found necessary; 'tis probable that the courts of the particular states will be authorized by Congress to try causes under the laws of the union, as has been heretofore done in cases of Piracy, &c. and the Supreme Court may have a circuit to make trials as convenient, and as little expensive as possible to the parties; nor is there any thing in the constitution to deprive them of trial by jury in cases where that mode of trial has been heretofore used. All cases in the courts of common law between citizens of the same state, except those claiming lands under grants of different states, must be finally decided by the Courts of the state to which they belong, so that it is not probable that more than one citizen to a thousand will ever have a cause that can come before a federal court.

Every department and officer of the federal government will be subject to the regulation and controul of the laws, and therefore the people will have all possible security against oppression. Upon the whole the constitution appears to be well framed to secure the rights and liberties of the people and for preserving the governments of the individual states, and if well administered, to restore and secure public and private credit, and to give respectability to the states both abroad and at home.—Perhaps a more perfect one could not be formed on mere speculation; and if upon experience it shall be found deficient, it provides an easy and peaceable mode to make amendments. Is it not much better to adopt it than to continue in present circumstances? Its being agreed to by all the states that were present in Convention, is a circumstance in its favour, so far as any respect is due to their opinions.

1. A reference to the proposed amendment to the Articles of Confederation to apportion congressional requisitions according to population (see CC:385, note 5).

**422. Thomas B. Wait to George Thatcher  
Portland, Maine, 8 January (excerpts)<sup>1</sup>**

My dear friend—

Your kind letter of the 23d ultimo receiv'd.—

My opposition to the proposed plan of Continental Govt. does not, as you suppose, arise from "*violence of passion*."—

On reception of the Report of the Convention, I perused, and admired it:—Or rather, like many who still *think* they admire it, I loved Geo. Washington—I venerated Benj. Franklin—and therefore concluded that I must love and venerate all the works of their hands:—This, if you please my friend, was "*violence of passion*"—and to this very *violence of passion* will the proposed Constitution owe its adoption—i.e.—should the people ever adopt it. The honest and uninformed *freemen* of America entertain the same opinion of those two gentlemen as do European *slaves* of their Princes,—"*that they can do no wrong*"—

On the unprecedented Conduct of the Pennsylvania Legislature, I found myself disposed to lend an ear to the arguments of the opposition—not with an expectation of being convinced that the new Constitution was defective; but because I thought the minority had been ill used; and I felt a little curious to hear the particulars.

The address of the Seceders<sup>2</sup> was like the Thunder of Sinai—it's lightnings were irresistable; and I was obliged to acknowledge, not only that the conduct of the majority was highly reprehensible, but that the Constitution itself might possibly be defective.—My mind has since been open to conviction—I have read & heard every argument, on either side, with a degree of candour, of which I never, on any other occasion, felt myself possessed—And, after this cool and impartial examination I am constrained—I repeat it, my dear friend—I am constrained to say, that I am dissatisfied with the proposed Constitution.—

Your arguments against the necessity of a Bill of Rights are ingenious; but, pardon me my friend, they are not convincing.—You have traced the origin of a Bill of Rights accurately.—The People of England, as you say, undoubtedly made use of a Bill of Rights to obtain their ~~rights and~~ liberties of their sovereigns; but is this an argument to prove that they ought not now to make use of Bills in defence of those liberties?—shall a man throw away his sword, and refuse to defend a piece of property, for no other reason than that his property was obtained by that very sword?—Bills of Rights have been the happy instruments of wresting the privileges and rights of the people from the hand of Despotism; and I trust God that Bills of Rights will still be made use of by the people of America to defend them against future encroachments of despotism—Bills of Rights, in my opinion, are the grand bulwarks of freedom.

But, say ~~you~~, some however necessary in state Constitutions, there can be no necessity for a Bill of Rights in the Continental plan of

Govt.—because every Right is reserved that is not *expressly* given up—Or, in other words, Congress have no powers but those *expressly* given by that Constitution.—This is the *doctrine of the celebrated Mr. Wilson*;<sup>3</sup> and as you, my friend, have declared it *orthodox*, be so good as to explain the meaning of the following Extracts from the Constitution—Art. I Sect. 9.—“The privilege of the writ of Habeas Corpus shall *not* be suspended &c.”—“*No bill of attainder or ex post facto law shall be passed.*”—“*No money shall be drawn from the treasury*” &c.—“*No title of nobility shall be granted by the United states.*”—Now, how absurd—how grossly absurd is all this, if Congress, in reality, have no powers but those particularly specified in the Constitution!—

It will not do, my friend—for God’s sake let us not deny self-evident propositions—let us not sacrifice the truth, that we may establish a favourite hypothesis;—in the present case, the liberties and happiness of a world may also be sacrificed.—

There is a certain darkness, duplicity and studied ambiguity of expression runing thro’ the whole Constitution which renders a Bill of Rights peculiarly necessary.—As it now stands but very few individuals do, or ever will understand it.—Consequently, Congress will be its own *interpreter*—The article respecting taxation and representation is neither more or less than a *puzling Cap*; and you, my friend, had the pleasure of *wearing* it, at my office, an hour or two—and then pulled it off, *just as wise* as when you put it on.—But you will now perhaps tell me that you can explain it entirely to my satisfaction—possibly you can; but that may not happen completely to satisfy Congress—if it should not, why they will put a different one,—one that may not satisfy *either you or me*—But Some persons have *guessed* the meaning to be this—that *taxation and representation should be in proportion to all the freemen and slaves in each state—counting five of the latter to three of the former*—If these were the ideas of the Convention, what a strange collection of words do we find in the Constitution to express them!—Who, in the name of God, but the *majority* of that honl. body, would ever have tho’t of expressing like ideas in like words!—But bad as may be the *mode of expression*, the *ideas*, in my opinion, are worse—

By this *interpretation* the article in question is an egregious imposition on the northern states—Tell me, if you can, why a southern *negro*, in his present debased condition, is any more intitled to representation, than a northern *Bullock*?—Both are mere pieces of property—and nothing more!—The latter is equally a *free agent* with the former.—

O, for that social Evening you so kindly wish for!—I want prodigiously to see you:—But it grieves me that we do not think alike—You will, my dear Thatcher, I know you will alter your opinion—And I charitably conclude The only reason why you had not done it when you wrote me, was, that owing to the small pox, you had not attended to the arguments of the opposition.—<sup>4</sup>

And now let me beseech you, not obstinately to defend your present notions of the new Constitution tho' they may be all the *ton* in the *great* world, till you have examined every argument that has been used against it—pay particular attention to the Debates of the Pennsylvania Convention;<sup>5</sup> and I am certain that you must acknowledge if the Constitution is good, that it by no means appears so from any arguments made use of by the majority of that body—they are lighter than straws.—

How can you, after *perusing* the arguments of Crazy Jonathan,<sup>6</sup> approve of the abolition of juries in civil causes—If the Genl. Court of this state are insurgents for depriving the subject of that right in 110 actions out of 120—what shall we say to the Constitution that evidently deprives the subject of that right altogether?—O, my good friend, that cursed Small pox has made a crazy Jonathan of you in good earnest.—But your life is spared—and I am happy—

Last Saturday week I did myself the pleasure of visiting your dear wife and family—and tarried till Monday noon—it was a godly season—had you been present, it had been a Paradise.—

Mrs. Thatcher shew'd me your P.S. wherein you charge all who do not think as you do with *sorcery*, *witch craft*, &c.—It pain'd me to the soul—I wanted to shed a tear; and had no one been present, I should certainly have given vent to a dozen—I wish, said I, to Mrs. T. that your good husband and myself could think alike—I wish, replied she, that I had not shewn you the P.—S.—or rather that you had agreed to think alike before you parted—or, added Tempy,<sup>7</sup> that Uncle was now present to settle the difference—We all joined most heartily in the last wish—we almost made a prayer of it; but it was not heard—perhaps we did not ask in faith—Be this as it might—Politicks, from that moment, was consigned over to the wind, and not a soul of us would even lend an ear to its whistling. . . .

We continued as perfectly happy as was possible in the absence of our *friend*, our *Uncle* and our *father*, until sunday noon;—at which time Jeremiah Hill, Esq.<sup>8</sup> made his appearance—from that time till after tea, (which we drank at his house) we eat and drank and talked politicks. The Squire, you must know, is a professed Constitutionalist—Silas<sup>9</sup> and myself were *Anti's*—so we had nothing to do but fall at it *hammer & tongs*,—Had you been within hearing, you would have wished the new Constitution, or its advocate, or both, at the Devil—We *roasted* him—we *basted* him, till he became quite a *crisp*; and, had we tarried the evening, we should certainly have *devoured* him—We took pity upon, and left him directly after tea—returned to your house, and were again happy. . . .

You say nothing of a Post to Pownalboro'—The people at the Eastward are amazingly impatient—It is an important period; and they are almost totally ignorant of every public transaction—Five Delegates in

six, from these three Counties are opposed to the new plan of Cont. Government—Genl. Thompson and your *Brother* Widgery are warm in the opposition, and both are Conventioners—<sup>10</sup>

Mr. Barnard's Contract for the year 1787,—hath expired—The Post-master Genl. has not renewed it for 1788—'tho' applied to by Mr. B.—We therefore have no Post from Portsmouth to this place—Mr. Barnard rides or *letteth it alone*, as he pleaseth.—Mr. Freeman is very uneasy on this account; and joins with me in requesting you to see the P. Mastr Genl. and to enquire into the matter—We are barbarously neglected, my friend.—

Your friend foever—

P.S.—your papers are sent weekly, sealed, directed, &c.—I am surprised that you have not recivd them. . . .

1. RC, Thatcher Papers, Chamberlain Collection, MB. Printed: George F. Goodwin, ed., "The Thatcher Papers," *The Historical Magazine*, VI (1869), 261–63.

2. For the Address of the Pennsylvania Seceding Assemblymen, 2 October, see CC:125.

3. See James Wilson's speech of 6 October, CC:134.

4. On 23 December 1787 Thatcher wrote his wife Sarah informing her of his "compleat Recovery from the Small pox; tho I had it, as I think, pretty severely, I am as well and hearty, if not more so, than before I was inoculated" (Thatcher Papers, MHi).

5. Wait, publisher of the Portland *Cumberland Gazette*, printed some of the Pennsylvania Convention debates in his newspaper on 20 and 27 December and 10 January 1788.

6. "Crazy Jonathan" wrote a series of nine essays that were printed in the *Cumberland Gazette* from 13 September to 15 November 1787. "Crazy Jonathan" IV objected to a Massachusetts law allowing justices "to assess damages . . . in 110 causes out of 120" (*Cumberland Gazette*, 4 October).

7. Temperance Hedge, Thatcher's niece.

8. Hill (1747–1820), a merchant, town clerk, and justice of the peace, represented Biddeford, Maine, in the Massachusetts House of Representatives.

9. Silas Lee (1760–1814), a 1784 Harvard graduate, was studying law with Thatcher in Biddeford. He later married Thatcher's niece Temperance Hedge.

10. Samuel Thompson (1735–1797), a brigadier general in the state militia during the Revolution, was a justice of the peace. He represented Topsham in the state House of Representatives and the state Convention, where he voted against ratification of the Constitution in February 1788. William Widgery (c. 1753–1822), a lawyer, represented New Gloucester in the Massachusetts House of Representatives and in the state Convention, where he voted against the ratification of the Constitution. Both men were leaders of the opposition to the Constitution and spoke often in the Convention.

### 423. George Washington to Edmund Randolph Mount Vernon, 8 January<sup>1</sup>

The letter which you did me the honor of writing to me on the 27th. Ulto., with the enclosure, came duly to hand.<sup>2</sup>—I received them as a fresh instance of your friendship and attention.—For both I thank you.—

The diversity of Sentiments upon the important matter which has been submitted to the People, was as much expected as it is regretted, by me.—The various passions and medium by which men are influenced are concomitants of fallibility—engrafted into our nature for the purposes of unerring wisdom; but had I entertained a latent hope (at the time you moved to have the Constitution submitted to a second Convention)<sup>3</sup> that a more perfect form would be agreed to—in a word that any Constitution would be adopted under the impressions and Instructions of the members, the publications which have taken place since would have eradicated every form of it—How do the sentiments of the influential characters in *this* State who are opposed to the Constitution, and have favoured the public with their opinions, quadrate with each other?—Are they not at variance on some of the most important points?—If the opponants in the *same* State cannot agree in *their* principles what prospect is there of a coalescence with the advocates of the measure when the different views, and jarring interests of so wide and extended an Empire are to be brought forward and combated.—<sup>4</sup>

To my judgement, it is more clear than ever, that an attempt to amend the Constitution which is submitted, would be productive of more heat, & greater confusion than can well be conceived.—There are some things in the new form, I will readily acknowledge wch. never did, and I am persuaded never will, obtain my *cordial* approbation; but I then did conceive, and now do most firmly believe, that, in the aggregate, it is the best Constitution that can be obtained at this Epocha; and that this, or a dissolution of the Union awaits our choice, & are the only alternatives before us—Thus beliving, I had not, nor have I now any hesitation in deciding on which to lean.—

I pray your forgiveness for the expression of these sentiments.—In acknowledging the receipt of your Letter on this subject, it was hardly to be avoided, although I am well disposed to let the matter rest entirely on its own merits—and mens minds to their own workings.—

1. FC, Washington Papers, DLC.

2. With his letter of 27 December, Randolph enclosed a printed copy of his letter to the Virginia House of Delegates (CC:385).

3. On 10 September Randolph made a motion in the Constitutional Convention allowing the state conventions to propose amendments to the Constitution. The amendments would be submitted to a second general convention. The motion was postponed and reconsidered five days later when it was unanimously defeated (Farrand, II, 563–64, 631–33).

4. On 20 December James Madison wrote Washington that “It is a little singular that three of the most distinguished Advocates for amendments [George Mason, Richard Henry Lee, and Edmund Randolph]; and who expect to unite the thirteen States in their project, appear to be pointedly at variance with each other . . .” (CC:359).

**424 A-D. Reports of the Boston Tradesmen Meeting, 8-9 January**

Throughout the debate over the Constitution in Boston, Federalists and Antifederalists were aware of the importance of the town's tradesmen and mechanics, who had long associated together and had wielded considerable political influence. On 14 November, an Antifederalist handbill entitled "Disadvantages of Federalism, Upon the New Plan" was posted and distributed throughout the town. Copies were distributed even in the chambers of the state House of Representatives. The handbill, signed "Truth," listed thirteen possible dangers from the establishment of the Constitution. The first danger was "The *Trade of Boston* transferred to *Philadelphia*; and the Boston Tradesmen *starving*"; the sixth disadvantage predicted the "*Importance of Boston annihilated*" (Evans 45060; *Boston American Herald*, 19 November). The handbill was denounced "as containing a series of falsehoods, and a gross insult upon the citizens of this town, who are almost unanimously in favour of the proposed Constitution" (*Massachusetts Centinel*, 21 November. See also "A Bostonian," *Massachusetts Gazette*, 23 November.). On 24 November Federalists published a list of thirteen "Advantages" to be derived from the Constitution. This list, also signed "Truth," gave as the first advantage "The almost annihilated trade of this town . . . *revived, invigorated* and *expanded* to all quarters of the earth"; the sixth advantage saw "Boston emerging from her present depressed situation—and feeling her former importance in the general scale" (*Massachusetts Centinel*).

Tradesmen and mechanics were urged to vote for Federalist delegates to the state Convention. "An Elector" hoped that Boston's mechanics would "not blindly throw away their votes upon any man who does not EXPLICITLY and OPENLY" support the Constitution. Their "hopes of business, employment and adequate pay" were dependent upon the adoption of the Constitution (*Massachusetts Gazette*, 20 November). On 28 November "An Elector" in the *Massachusetts Centinel* announced that ". . . the forehanded mechanic—the industrious tradesman . . . are uniformly in favour of the proposed Constitution." Another writer expressed confidence that "the TRADESMEN and MECHANICKS of this town, will exercise that wisdom, prudence and caution, they have hitherto been remarked for, in their choice of members, for the ensuing convention" (*Boston Independent Chronicle*, 30 November). As election day approached, "Thomas a Kempis" warned: "Mechanicks mind the watch. You *must* wish for a Federal Government. . . . Names are nothing—one vote may loose the system" (*Massachusetts Centinel*, 1 December). On election day "The Mechanicks of the North-End" advised their "Brethren Mechanicks" to "Act circumspectly—Be united and firm. . . . Federal men, and them only, must be your object.—Beware of amphibious characters—they will prove crocodiles indeed" (*Massachusetts Gazette*, 7 December). An Antifederalist, however, advised the mechanics to be wary of the "Designing men [who] have again called upon you" not to vote for anyone but Federalists—"it is only intended to make *TOOLS* of you" ("Willson's Lane," *Boston American Herald*, 3 December).

Both Federalists and Antifederalists proposed slates of candidates that included an occasional mechanic. Federalists added Major William Bell, "a *worthy MECHANICK*," on one list, and Joseph Clark, a shipwright, on another; and omitted Samuel Adams from both lists (*Massachusetts Centinel*, 1, 5 December). Antifederalists recommended that voters support a slate of candidates that included Sarson Belcher, a hatter (*Boston American Herald*, 3 December). Despite Federalist efforts, Samuel Adams was elected.



On 3 January, about a week before the meeting of the Massachusetts Convention, ten of Boston's twelve delegates held a dinner-caucus. Throughout the afternoon and evening the Constitution was the only topic of conversation, and Adams pointedly announced his opposition and vowed to oppose the Constitution in the Convention (CC:424-B).

Adams's sentiments were quickly passed around Boston. Antifederalist John Winthrop and others spread the rumor that the tradesmen also opposed the Constitution. Leaders of the tradesmen were so alarmed that it was reported that they would hold a caucus on Saturday evening, 5 January, "to consider what was to be done in consequence of Mr Adam[s]'s declaration" (CC:424-B). Two days later an announcement in the *Boston Gazette* alerted the town's "real TRADESMEN" that a meeting would be held that evening at six o'clock at the Green Dragon Tavern "on Business of the first importance." Over 380 tradesmen assembled and unanimously adopted five resolutions expressing their strong support for the Constitution and warning that any vote by Boston's delegates against the Constitution or support for amendments would be "contrary to the best interests, the strongest feelings, and warmest wishes of the Tradesmen of the town of Boston" (CC:424 C-D).

Three slightly different versions of these resolutions were printed in the *Massachusetts Gazette*, 8 January; *Massachusetts Centinel*, 9 January; and *Boston Gazette*, 14 January. The *Massachusetts Gazette's* version of the resolutions (see note 11) and the *Gazette's* concluding paragraph (CC:424-C) were not reprinted. The *Boston Gazette's* version of the resolutions was reprinted in the *Newport Herald* on 17 January. (The *Herald* was printed by Peter Edes, whose father Benjamin printed the *Boston Gazette*.) The *Massachusetts Centinel's* version of the resolutions was reprinted in thirteen newspapers by 13 February: Mass. (3), R.I. (1), N.Y. (2), N.J. (1), Pa. (5), Md. (1). Excerpts from this version were also reprinted in the January issue of the *Philadelphia American Museum* and in two New York newspapers. The *Centinel* prefaced the resolutions with two original paragraphs and followed them with another (CC:424-D). Eight newspapers reprinted the first paragraph; thirteen the second; and twelve the last (see notes 13-15).

Commentary on the resolutions was generally favorable. "A Farmer" wrote that he and his neighbors "were alarmed, upon hearing" rumors that Boston's tradesmen and mechanics opposed the Constitution; but, after reading "the doings of the tradesmen," he "was right pleased to see the manly and explicit resolves of this body of good and worthy citizens" (*Massachusetts Centinel*, 9 January). Boston mechanics were pleased to see that tradesmen agreed with them in supporting the Constitution: "Not confined to the worthy Tradesmen and Artizans of this town, is the spirit breathed in their late patriotick resolutions—it pervades all ranks, and is the constant theme of every one who has the interest, honour and happiness of his country at heart" (*Massachusetts Centinel*, 12 January). Nathaniel Gorham wrote Henry Knox: "You must have been pleased with the resolutions of the Boston Trades Men—I think they will do good every where—do see that they are published in NYork they will convert or at least silence all the Delegates of that Town" ([20 January], Knox Papers, MHi). "Emulous to exhibit a like laudable example" of their Boston "brethren," the mechanics of Newport, R.I., met in late March 1788 and "unanimously agreed that this Constitution was the only probable method of rescuing them and their country from impending ruin" (*Newport Herald*, 27 March, CC:645-B). But at least one newspaper writer thought the tradesmen had not acted wisely. Signing himself "A Farmer," he warned the tradesmen of the danger of an unamended Constitution (*Boston American Herald*, 14 January).

Whether or not the actions of the tradesmen had any effect on Samuel Adams is uncertain. On 9 January Boston delegate Christopher Gore wrote that "Mr. Adams is against it the tradesmen's resolves . . . may have some weight in his mind—they undoubtedly will keep others steady" (to George Thatcher, George F. Goodwin, ed., "The Thatcher Papers," *The Historical Magazine*, VI [1869], 263). On 20 January, in the midst of the Massachusetts Convention, it was reported that "Mr. S. Adams has not yet come out, if he is against it I believe he will say but little, as the meeting of the mechanicks of this Town—& their proceedings must and will have an influence over him . . ." (Henry Jackson to Henry Knox, Knox Papers, MHi). Tench Coxe, in Philadelphia, hoped that "the movements of the tradesmen will have an influence on a principal Character" (to James Madison, 23 January, CC:468). Influenced perhaps by the tradesmen or perhaps by the death of his son on 17 January, Adams remained virtually silent in the Convention until 24 January when he helped defeat an Antifederalist motion to hasten the vote on ratification. On 31 January Adams spoke in behalf of the recommendatory amendments proposed by John Hancock, and on 6 February Adams voted to ratify the Constitution with these amendments.

424—A. *Christopher Gore to Rufus King*  
*Boston, 6 January (excerpt)*<sup>1</sup>

. . . Agreeable to invitation as mention'd in my last<sup>2</sup> all the delegates from this town, din'd on thursday with mr B.<sup>3</sup> (The Govr & Jno Winthrop excepted—) the former is confin'd to his bed with the gout—In the afternoon & Evening the Constitution was the subject of conversation till 10 OClock—Mr Adams was open & decided agt it—That such a Govt. could not pervade the United States—that internal taxes ought not to be given to the Union—that the representation was inadequate—that a govt might be formd from this—but this would never answer and ought not to be adopted, but on condition of such amendments as would totally destroy it—these objections were supported by such arguments & such only as appear in the pieces of Brutus & federal farmer<sup>4</sup>—to close all he told me on our parting that people said they could not find out the sentiments of Mr Adams—it was strange, for he had always been as explicit as he then was, and to Mr King he stated every objection then made—the next day when these observations came to be publickly mention'd—many appeared who declare that Mr A. told them no one did or should know his sentiments on the subject—it is reported that, Mr W. & others have said that the tradesmen of this town were opposed to the constitution—on which they have call'd a meeting, to be held tomorrow night—when there is no doubt they will express their sentiments as highly favourable to the plan, and their great anxiety that it should be adopted—this may possibly have effect on Mr A—if not—it will effect his E—<sup>5</sup> who wavers as I am informd, & one other who is greatly influenc'd by A— & has no fixd sentiments—if I were not confident in hopes that this would not meet you at N. Yrk—I would enclose you ye resolves the tradesmen talk of adopting on this

subject—however if they are not in Wednesday's paper you shall have them from me by that night's post—Mr A. unless affected by some such steps as these will be indefatigable & constant in all ways & means to defeat the adoption of the proposed frame of *Government*—All agree to elect Mr Hancock as prest—and so this step will be taken to conciliate. . . .

424—B. *Nathaniel Gorham to Henry Knox*

*Boston, 6 January (excerpt)*<sup>6</sup>

The Boston Delegates (expting the Govr. & Mr Winthrop who were both unwell) dined with Mr Bowdoin—on Thursday last—at which meeting as one of the company informed me all were right excepting Mr Adams—who opened fully & possitively in oppositon—& declared that he would continue so to do in Convention—

Mr. Chambers Russell<sup>7</sup> cald on me last Evening in his way to Lincoln—he says that Clark Rhodes & Truman three of the greatest Leaders at the North End<sup>8</sup> informed that they intended that Evening to have the most numerous Caucas ever held in Boston to consider what was to be done in consiquence of Mr Adams declaration—I have not yet heard further . . .

424—C. *Massachusetts Gazette, 8 January*

Resolutions of the TRADESMEN of the TOWN of BOSTON.

*Boston, January 7, 1787 [1788].*

AGREEABLE to an advertisement inserted in the papers of this day, the TRADESMEN of this town convened at Mason's-hall, Green Dragon,<sup>9</sup> when John Lucas, Esquire, Paul Revere, Esquire, and Mr. Benjamin Russell, were chosen to draft certain resolutions, expressive of the sense of this body.<sup>10</sup> The committee, after having retired for that purpose, returned, and reported the following—which, being read, was UNANIMOUSLY accepted, and ordered to be printed in the several publick papers—viz.

*WHEREAS some persons, intending to injure the reputation of the tradesmen of this town, have asserted, that they were unfriendly and adverse to the adoption of the constitution of the United States of America, as proposed on the 17th September last, by the Convention of the United States assembled in Philadelphia: Therefore, to manifest the falsehood of such assertions, and to discover to the world our sentiments of the proposed frame of government,*

*Be it RESOLVED,*

1. THAT such assertions are false and groundless; and it is the sense of this body, that all those, who propagate such reports, have no other view than the injury of our reputation, in the attainment of their own wicked purposes, on base and false grounds.

2. THAT, in the judgment of this body, the proposed frame of government, is well calculated to secure the liberties, protect the

property, and guard the rights of the citizens of America; and it is our warmest wish and prayer that the same should be adopted by this commonwealth.

3. THAT, it is our opinion, if said constitution should be adopted by the United States of America, trade and navigation will revive and increase, employ and subsistence will be afforded to many of our townsmen, who are now suffering from want of the necessaries of life; that it will promote industry and morality; render us respectable as a nation; and procure us all the blessings to which we are entitled from the natural wealth of our country; our capacity for improvement, from our industry, our freedom and independence.

4. THAT it is the sense of this body, that if the proposed frame of government should be rejected, the small remains of commerce yet left us, will be annihilated, the various trades and handicrafts dependent thereon, must decay; our poor will be increased, and many of our worthy and skilful mechanicks compelled to seek employ and subsistence in strange lands.

5. THAT, in the late election of delegates to represent this town in Convention, it was our design, and the opinion of this body, the design of every good man in town, to elect such men, and such only, as would exert their utmost ability to promote the adoption of the proposed frame of government in all its parts, without any conditions, pretended amendments, or alterations whatever: and that such, and such only, will truly represent the feelings, wishes, and desires of their constituents: and if any of the delegates of this town should oppose the adoption of said frame of government in gross, or under pretence of making amendments, or alterations of any kind, or of annexing conditions to their acceptance, such delegate or delegates will act contrary to their best interest,<sup>11</sup> the strongest feelings, and warmest wishes of the Tradesmen of the town of Boston.

Per order

JOHN LUCAS.

After the above resolutions were passed, John Lucas, Esq. Mr. Joseph Clark, Paul Revere, Esq. Mr. Rhodes, Mr. William Boardman, Joshua Witherlee, Esq. and Captain David Spear,<sup>12</sup> were appointed a standing-committee, to notify a meeting of the Tradesmen of this town in future. After which the meeting was dissolved.

It was with pleasure, says a correspondent, he observed the perfect order, unanimity, and intelligence, that pervaded the body of respectable Tradesmen which met last evening at the Green-Dragon. Notwithstanding the number exceeded three hundred and eighty, as appeared by an enumeration made at the time of their retiring from the Hall, as much regularity and propriety were discovered throughout all their proceedings, and deliberations, as ever were observed in any legislative body.

424—D. *Massachusetts Centinel*, 9 January

The TRADESMEN and MECHANICKS of the town of Boston, have always manifested their attachment to the principles of the Revolution—with steadiness and perseverance they pursued the prize of Independence—that object obtained, they have patiently, though anxiously, waited for the blessings of good government; that those happy scenes which they were led to anticipate from the success which crowned the arms of America, might be realized:—From the first appointment of the late Continental Convention, they looked up to that honourable Body, as to the *enlightened* and *distinguished patriots* of their country, from whose deliberations and decisions they had EVERY THING to hope—nor have they been disappointed.—The CONSTITUTION which they have proposed to the UNITED STATES, they consider as the result of much wisdom, candour, and those mutual concessions, without which America cannot expect ever to harmonize in any system of COMMERCE or GOVERNMENT.<sup>13</sup>

Proceedings of the TRADESMEN of the town of BOSTON.

The enemies to good government, finding that their flimsy arguments against the new constitution would avail nothing, when opposed by the fair arguments of reason and common sense, adopted a new falacy to injure the system proposed, by asserting that the democrattick part of the community, viz. the Tradesmen of the seaports, and OUR BRETHREN the Yeomen of the country were opposed to its adoption—Certain of the falsity of such reports as far as they respected the Tradesmen of this town, and feeling their reputations hurt thereby, a number of Tradesmen met, and agreed to request a general meeting of their brethren on Monday evening, at the Green-Dragon, in order that their opinions might be had on the subject.—Accordingly advertisements for that purpose were inserted in the papers of Monday last.—At about six o'clock, near four hundred of the most respectable *real* Tradesmen of this town—men who obtain their support from the sweat of their brow, and the labour of their hands—men who are constantly employed in the hive of the Commonwealth for their own subsistence and the dignity of the state, met at the Green-Dragon—when the subsequent spirited and patriotick proceedings took place. Although convened together at a short notice, and forming a large body when met, the whole business was conducted with as much propriety and regularity, we venture to say, as ever marked the proceedings of the best organized and well regulated assembly whatever. The proceedings follow.<sup>14</sup>

*Boston, January 7, 1788.*

AGREEABLY to an advertisement inserted in the papers of this day, the TRADESMEN of this town met at Mason's-Hall, Green-Dragon, at

6 o'clock, P. M. when JOHN LUCAS, Esquire, was chosen Moderator, and after some discussion, The MODERATOR, PAUL REVERE, Esq. and Mr. BENJAMIN RUSSELL, were chosen to draft certain resolutions expressive of the sense of this body. The Committee, after having retired, returned, and reported the following—which, being read, was UNANIMOUSLY accepted, and voted to be printed in the several publick papers, viz.

[The preamble and resolutions of the tradesmen appear here. For the only significant variation from the version in the *Massachusetts Gazette*, 8 January, see note 11.]

The resolves of so respectable a body as were convened on the evening of Monday last, can leave no doubt of their sentiments—and although they do not wish to preclude a fair discussion of the great subject—yet they are convinced that the *unbiased, unprejudiced and truly patriotick* members of the honourable Convention will join with them in determining that the blessings of Independence are suspended on the adoption of the new Federal Constitution.<sup>15</sup>

1. RC, King Papers, NHi. Gore (1758–1827), a Harvard graduate and a Boston lawyer, represented Boston in the state Convention, where he voted to ratify the Constitution in February 1788. He was a member of the state House of Representatives in 1788–1789 and was appointed U.S. Attorney for the District of Massachusetts in 1789.

2. Gore to King, 30 December 1787, King Papers, NHi.

3. James Bowdoin.

4. "Brutus" I–V were reprinted in the Boston *Independent Chronicle* from 22 November to 3 January. "Brutus" V was also reprinted in the Boston *American Herald* on 31 December. Several Federalist writers attacked "Brutus" in the *Independent Chronicle* (CC:178). For the *Letters from the Federal Farmer* and Adams's alleged role in having it reprinted and circulated in Massachusetts, see CC:242, 390.

5. His Excellency John Hancock.

6. RC, Knox Papers, MHi.

7. Chambers Russell, a merchant, was the brother of Thomas Russell, one of Boston's delegates to the state Convention.

8. Joseph Clark was a shipwright, Jacob Rhodes was a shipbuilder, and Thomas and William Truman were caulkers.

9. Before the Revolution the Green Dragon Tavern was purchased by the St. Andrew's Lodge of Freemasons—a group composed chiefly of residents of the North End. The tavern had been a center of revolutionary activities.

10. John Lucas was commissary of pensioners for Massachusetts, Paul Revere was a goldsmith, and Benjamin Russell was the printer of the *Massachusetts Centinel*.

11. In the other versions of the resolutions, "their best interest" reads "the best interests."

12. William Bordman was a hatter, Joshua Witherle was a coppersmith, and David Spear was a cooper.

13. This paragraph was reprinted eight times by 5 February: R.I. (1), N.J. (1), Pa. (4), Md. (2).

14. This paragraph was reprinted thirteen times by 13 February: Mass. (3), R.I. (1), N.Y. (2), N.J. (1), Pa. (5), Md. (1).

15. This paragraph was reprinted twelve times by 13 February: Mass. (2), R.I. (1), N.Y. (2), N.J. (1), Pa. (5), Md. (1).

**425. Luther Martin: Genuine Information IV**  
**Baltimore Maryland Gazette, 8 January<sup>1</sup>**

*Mr. MARTIN'S Information to the House of Assembly, continued.*

It has been observed, Mr. Speaker, by my honorable colleagues, that the debate respecting the mode of representation, was productive of considerable warmth; this observation is true; but, Sir, it is equally true, that if we could have *tamely* and *servilely* consented to be *bound in chains*, and *meanly condescended* to assist in *rivetting them fast*, we might have avoided all that warmth, and have proceeded with as much calmness and coolness as any stoick could have wished.—Having thus, Sir, given the honorable members of this house, a short history of some interesting parts of our proceedings, I shall beg leave to take up the *system published* by the convention, and shall request your indulgence, while I make some observations on different parts of it, and give you such further information as may be in my power. (Here Mr. Martin read the *first section of the first article*, and then proceeded.) With respect to this part of the system, Mr. Speaker, there was a diversity of sentiment; those who were for *two* branches in the legislature, a house of representatives and a senate, urged the necessity of a *second* branch to serve as a *check* upon the *first*, and used all those trite and common place arguments which are proper and just, when applied to the formation of a *State government* over *individuals* variously distinguished in their habits and manners, fortune and rank; where a body chosen in a select manner, respectable for their wealth and dignity, may be necessary, frequently to prevent the hasty and rash measures of a representation more popular; but on the other side it was urged, that none of these arguments could with propriety be *applied* to the formation of a *federal government* over a number of *independent States*—That it is the *State governments* which are to watch over and protect the *rights* of the *individual*, whether *rich* or *poor*, or of *moderate circumstances*, and in which the *democratic* and *aristocratic* influence or principles are to be so *blended*, *modified*, and *checked* as to prevent *oppression* and *injury*—That the *federal government* is to guard and protect the *States* and *their rights*, and to regulate *their common concerns*—That a *federal government* is formed by the *States*, as *States* that is in their *sovereign capacities*, in the same manner as *treaties* and *alliances* are formed—That *sovereignties* considered as such, cannot be said to have jarring interests or principles, the one *aristocratic*, and the other *democratic*; but that the principles of a *sovereignty* considered as a *sovereignty*, are the *same*, whether that *sovereignty* is *monarchical*, *aristocratical*, *democratical*, or *mixed*—That the *history of mankind* doth not furnish an *instance* from its *earliest* period to the *present* time, of a *federal government* constituted of *two distinct branches*—That the *members* of the *federal government*, if appointed by the *States* in their *State capacities*,

that is by their *legislatures*, as they ought, would be *select in their choice*, and coming from *different States*, having *different interests and views*; this *difference* of interests and views, would always be a *sufficient check* over the *whole*; and it was shewn, that even Adams, who, the reviewers have justly observed, appears to be as fond of *checks and balances* as Lord Chesterfield of the *graces*, even *he* declares that a council consisting of *one branch* has always been found *sufficient* in a *federal government*.<sup>2</sup>

It was urged, that the government we were forming was not in reality a *federal* but a *national* government, not founded on the principles of the *preservation*, but the *abolition* or *consolidation* of all *State governments*—That we appeared *totally to have forgot* the business for which we were sent, and the situation of the country for which we were preparing our system—That we had not been sent to form a government over the *inhabitants* of America, considered as *individuals*, that as individuals they were all subject to their respective *State governments*, which governments would still remain, though the federal government was dissolved—That the *system of government* we were *entrusted* to prepare, was a government over *these thirteen States*; but that in our proceedings, we adopted principles which would be right and proper, *only* on the supposition that there were *no State governments at all*, but that *all the inhabitants* of this *extensive continent* were in their *individual capacity*, *without government* and in a *state of nature*—That accordingly the system proposes the legislature to consist of *two branches*, the *one* to be drawn from the *people at large*, immediately in their *individual capacity*—the *other* to be chose in a *more select manner*, as a *check* upon the *first*—It is in its very *introduction* declared to be a compact between the *people* of the United States as *individuals*—and it is to be *ratified* by the *people* at large in their *capacity as individuals*; all which it was said, would be quite right and proper, if there were *no State governments*, if *all the people* of this continent were in a *state of nature*, and we were forming one *national government* for them as *individuals*, and is nearly the same as was done in most of the *States*, when they formed their governments *over the people* who compose them.

Whereas it was urged, that the principles on which a *federal* government over *States* ought to be *constructed* and *ratified* are the *reverse*—that instead of the legislature consisting of *two branches*, *one* branch was sufficient, whether examined by the *dictates* of *reason* or the *experience* of *ages*—That the representation instead of being drawn from the *people* at large, as *individuals*, ought to be drawn from the *States* as *States* in their *sovereign capacity*—That in a *federal government*, the *parties* to the compact are not the *people* as *individuals*, but the *States* as *States*, and that it is by the *States* as *States* in their *sovereign capacity*, that the system of government ought to be *ratified*, and not by the *people* as *individuals*.



It was further said, that in a *federal* government over States *equally* free, sovereign and independent, *every State* ought to have an equal share in *making the federal laws or regulations*—in *deciding* upon them, and in *carrying them into execution*, *neither* of which was the case in *this* system, but the *reverse*, the States not having an *equal voice* in the *legislature*, nor in the *appointment* of the *executive*, the *judges*, and the *other officers of government*—It was insisted, that in the *whole* system there was but *one federal* feature—the *appointment* of the *senators* by the States in their sovereign capacity, that is by their legislatures, and the equality of suffrage in that branch; but it was said that *this feature* was only *federal* in *appearance*.

To prove *this*, and that the Senate *as constituted* could not be a *security* for the *protection* and *preservation* of the *State governments*, and that the *senators* could not be justly considered the *representatives* of the *States as States*, it was observed, that upon *just principles* of *representation*, the *representative* ought to *speak* the sentiments of his *constituents*, and ought to *vote* in the *same manner* that his *constituents* would do (as far as he can judge) provided his constituents were acting in *person*, and had the same knowledge and information with himself; and therefore that the *representative* ought to be *dependant* on his *constituents*, and *answerable* to them—that the connection between the *representative* and the *represented*, ought to be as *near* and as *close* as *possible*; according to these principles, Mr. Speaker, in this State it is provided by *its constitution*, that the representatives in Congress, shall be chosen *annually*, shall be *paid* by the *State*, and shall be subject to *recall* even within the year;<sup>3</sup> so *cautiously* has our *constitution* guarded against an *abuse* of the trust reposed in our representatives in the federal government; whereas by the *third* and *sixth* sections of the *first* article of this new system, the senators are to be chosen for *six* years instead of being chosen *annually*; instead of being paid by *their States* who send them, *they* in conjunction with the other branch, are to *pay themselves* out of the treasury of the United States; and are not liable to be *recalled* during the period for which they are chosen—Thus, Sir, for *six* years the *senators* are rendered totally and absolutely *independent* of *their States*, of *whom* they ought to be the *representatives*, without *any bond* or *tie* between them—During *that time* they may join in measures *ruinous* and *destructive* to *their States*, even such as should *totally annihilate* their *State governments*, and their States *cannot recall* them, *nor exercise any controul* over them. Another consideration, Mr. Speaker, it was thought ought to have *great weight* to prove that the *smaller States* cannot *depend* on the *senate* for the *preservation* of *their rights*, either against *large* and *ambitious States*, or against an *ambitious, aspiring President*.—The senate, Sir, is so constituted, that they are not only to compose one branch of the legislature, but by the second section of the second article, they are to *compose a privy*

*council for the President; hence it will be necessary, that they should be, in a great measure, a permanent body, constantly residing at the seat of government. Seventy years is estimated for the life of a man; it can hardly be supposed, that a senator, especially from the States remote from the seat of empire, will accept of an appointment which must estrange him for six years from his State, without giving up to a great degree his prospects in his own State. If he has a family, he will take his family with him to the place where the government shall be fixed, that will become his home, and there is every reason to expect that his future views and prospects will centre in the favours and emoluments either of the general government, or of the government of that State where the seat of empire is established:—In either case, he is lost to his own State. If he places his future prospects in the favours and emoluments of the general government, he will become the dependant and creature of the President, as the system enables a senator to be appointed to offices, and without the nomination of the President, no appointment can take place; as such, he will favour the wishes of the President, and concur in his measures, who, if he has no ambitious views of his own to gratify, may be too favourable to the ambitious views of the large States, who will have an undue share in his original appointment, and on whom he will be more dependant afterwards than on the States which are smaller. If the senator places his future prospects in that State where the seat of empire is fixed; from that time he will be in every question wherein its particular interest may be concerned the representative of that State, not of his own.*

But even this provision *apparently* for the security of the State governments, *inadequate* as it is, is *entirely left* at the mercy of the general government, for by the fourth section of the first article, it is *expressly provided*, that the Congress shall have a power to *make and alter* all regulations concerning the *time and manner of holding elections for senators*; a provision, *expressly looking forward to*, and *I have no doubt designed for the utter extinction and abolition of all State governments*; nor will this, I believe, be doubted by any person, when I inform you that some of the warm advocates and patrons of the system in convention, *strenuously opposed* the choice of the senators by the State legislatures, *insisting* that the State governments *ought not to be introduced in any manner so as to be component parts of, or instruments for carrying into execution, the general government*—Nay, so far were the friends of the system from pretending that they meant it or considered it as a *federal system*, that on the question being proposed, “that a union of the States, merely federal, out to be the sole object of the exercise of the powers vested in the convention;” it was negatived by a majority of the members, and it was resolved, “that a *national government* ought to be formed”<sup>4</sup>—afterwards the word “*national*” was struck out by them,

because they thought the *word* might tend to *alarm*<sup>5</sup>—and although *now*, they who *advocate* the system, pretend to call themselves *federalists*, in convention the distinction was just the reverse; those who *opposed* the system, were *there* considered and stiled the *federal party*, those who *advocated* it, the *antifederal*.

Viewing it as a *national*, not a *federal* government, as calculated and designed not to *protect* and *preserve*, but to *abolish* and *annihilate* the *State governments*, it was opposed for the following reasons—It was said that this continent was *much too extensive* for *one national* government, which should have sufficient *power* and *energy* to *pervade* and hold in *obedience* and subjection all its *parts*, consistent with the *enjoyment* and *preservation* of *liberty*—That the genius and habits of the people of America, were opposed to such a government—That during their connection with Great-Britain, they had been accustomed to have all their concerns transacted within a narrow circle, their *colonial districts*—they had been accustomed to have their seats of government near them, to which they might have access, without much inconvenience when their business should require it—That at *this time* we find if a *county* is *rather large*, the people complain of the inconvenience, and clamour for a division of their county, or for a removal of the place where their courts are held, so as to render it more central and convenient—That in those States, the territory of which is extensive, as soon as the population increases remote from the seat of government, the inhabitants are urgent for a removal of the seat of their government, or to be erected into a new State—As a proof of this, the inhabitants of the western parts of Virginia and North-Carolina, of Vermont and the province of Main, were instances, even the inhabitants of the western parts of Pennsylvania, who it was said already seriously look forward to the time when they shall either be erected into a new State, or have their seat of government removed to the Susquehannah.—If the inhabitants of the different States consider it as a grievance to attend a *county-court* or the *seat of their own government*, when a little inconvenient, can it be supposed they would ever *submit* to have a *national government* established, the *seat* of which would be *more than a thousand miles removed from some of them*?—It was insisted that governments of a *republican nature*, are those *best* calculated to *preserve* the *freedom* and *happiness* of the citizen—That governments of *this kind*, are *only* calculated for a territory but *small* in its extent—That the *only* method by which an extensive continent like America could be *connected* and *united* together consistent with the principles of freedom, must be by having a *number of strong and energetic State governments* for securing and protecting the rights of the *individuals* forming those governments, and for regulating all *their* concerns; and a strong energetic *federal government over those States* for the protection and preservation, and for regulating the

common concerns of the States.—It was further insisted, that even if it was possible to effect a total abolition of the State governments at this time, and to establish one general government over the people of America, it *could not long subsist*, but in a *little time* would again be broken into a *variety* of governments of a *smaller extent*, similar in some manner to the present situation of this continent; the principal difference in all probability would be that the governments, *so established*, being effected by some *violent convulsion*, might not be formed on principles so *favourable to liberty* as those of our *present* State governments—That *this* ought to be an *important consideration* to such of the States who had *excellent* governments, which was the case with Maryland and most others, whatever it might be to persons who *disapproving* of their particular State government would be willing to *hazard* every thing to *overturn* and *destroy* it.—These reasons, Sir, influenced *me* to *vote* against *two* branches in the legislature, and against *every part* of the system which was *repugnant* to the principles of a *federal* government—Nor was there a single argument urged, or reason assigned, which to my mind was satisfactory, to prove that a good government on *federal* principles was unattainable, the whole of their arguments only proving, what none of us controverted, that our federal government as *originally formed* was *defective* and *wanted amendment*—However, a *majority* of the convention hastily and inconsiderately, without condescending to make a fair trial, in their great wisdom, decided that a kind of government which a Montesquieu and a Price have declared the best calculated of any to preserve internal liberty, and to enjoy external strength and security, and the only one by which a large continent can be connected and united consistent with the principles of liberty was totally impracticable, and they acted accordingly.

(To be continued.)

1. This installment was reprinted in the *Pennsylvania Packet*, 1 February; *Philadelphia Independent Gazetteer*, 9 February; *New York Journal*, 20, 22, 25 February; and *State Gazette of South Carolina*, 28 April, 1 May. On 22 January the printers of the *Pennsylvania Packet* asked their readers for a “loan” of the Baltimore *Maryland Gazette* of 8 January so that this installment, which had not been received “through the usual channel,” could be published. On 1 February the *Packet* reprinted this installment with this preface: “Not having, until yesterday, received the Maryland Gazette containing the following, we take the first opportunity of laying it before our readers.—This continuation should have been published between our papers of the 14th and 18th January.” The *Gazetteer* reprint was prefaced: “The following continuation should have been inserted in our paper between the 22d and the 24th January. The Maryland Gazette not having come regularly to hand, we were prevented from laying it before our readers at an earlier period.” For a general discussion of the *Genuine Information*, see CC:389.

2. A review in the *London Monthly Review* was critical of John Adams’s *Defence of the Constitutions*: “We are indeed repeatedly told, that no government can exist, but

where a balance, consisting of three parts, is preserved. Upon this point, like Lord Chesterfield with the Graces, Dr. Adams dwells for ever" (LXXVI [May 1787], 395. For the *Defence*, see CC:16.).

3. Maryland constitution of 1776, Article XXVII, Thorpe, III, 1695–96.

4. On 29 May Edmund Randolph submitted the Virginia Resolutions for the consideration of the Constitutional Convention. The first resolution provided "that the articles of Confederation ought to be so corrected & enlarged as to accomplish the objects proposed by their institution . . ." (Farrand, I, 20; CDR, 243). The following day Randolph offered three "propositions" as a substitute for the first resolution. The first proposition, "that a Union of the States merely federal will not accomplish the objects proposed by the articles of Confederation . . .," was objected to by some delegates. Pierce Butler moved and the Convention agreed to pass on to the third proposition "that a *national* Government ought to be established. . . ." After some discussion, George Read moved to postpone consideration of the third proposition in order to consider a substitute: "Resolved that in order to carry into execution the Design of the States in forming this Convention, and to accomplish the objects proposed by the Confederation a more effective Government . . . ought to be established." Read's motion was defeated. The Convention then adopted Randolph's third proposition (Farrand, I, 33–35).

5. For the debate over the nature of a federal or national government on 19–20 June, see Farrand, I, 313–52. On 20 June Oliver Ellsworth opened consideration of the Amended Virginia Resolutions. He moved that the Convention "expunge the word *national*, in the first resolve, and to place in the room of it, *government of the United States*." Ellsworth's motion was unanimously adopted (*ibid.*, 344).

#### **426. Publius: The Federalist 36** **New York Packet, 8 January**

This essay, written by Alexander Hamilton, was reprinted in the *New York Independent Journal*, 9 January; *New York Daily Advertiser*, 10 January; and *New York Journal*, 11, 12 January. It was number 36 in the M'Lean edition and number 34 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST, No. 34.

*To the People of the State of New-York.*

We have seen that the result of the observations, to which the foregoing number has been principally devoted, is that from the natural operation of the different interests and views of the various classes of the community, Whether the representation of the people be more or less numerous, it will consist almost entirely of proprietors of land, of merchants and members of the learned professions, who will truly represent all those different interests and views. If it should be objected that we have seen other descriptions of men in the local Legislatures; I answer, that it is admitted there are exceptions to the rule, but not in sufficient number to influence the general complexion or character of the government. There are strong minds in every walk of life that will rise superior to the disadvantages of situation, and will command the tribute due to their merit, not only from the classes to which they particularly belong, but from the society in general. The

door ought to be equally open to all; and I trust, for the credit of human nature, that we shall see examples of such vigorous plants flourishing in the soil of Fœderal, as well as of State Legislation; but occasional instances of this sort, will not render the reasoning founded upon the general course of things less conclusive.

The subject might be placed in several other lights that would lead all to the same result; and in particular it might be asked, what greater affinity or relation of interest can be conceived between the carpenter or blacksmith, and the linen manufacturer or stocking weaver, than between the merchant and either of them? It is notorious, that there are often as great rivalships between different branches of the mechanic or manufacturing arts, as there are between any of the departments of labor and industry; so that unless the representative body were to be far more numerous than would be consistent with any idea of regularity or wisdom in its deliberations, it is impossible that what seems to be the spirit of the objection we have been considering, should ever be realised in practice. But I forbear to dwell any longer on a matter, which has hitherto worn too loose a garb to admit even of an accurate inspection of its real shape or tendency.

There is another objection of a somewhat more precise nature that claims our attention. It has been asserted that a power of internal taxation in the national Legislature could never be exercised with advantage, as well from the want of a sufficient knowledge of local circumstances as from an interference between the revenue laws of the Union and of the particular States. The supposition of a want of proper knowledge, seems to be entirely destitute of foundation. If any question is depending in a State Legislature respecting one of the counties which demands a knowledge of local details, how is [it] acquired? No doubt from the information of the members of the county. Cannot the like knowledge be obtained in the national Legislature from the representatives of each State. And is it not to be presumed that the men who will generally be sent there, will be possessed of the necessary degree of intelligence, to be able to communicate that information? Is the knowledge of local circumstances, as applied to taxation, a minute topographical acquaintance with all the mountains, rivers, streams, high-ways and bye-paths in each State, or is it a general acquaintance with its situation and resources—with the state of its agriculture, commerce, manufactures—with the nature of its products and consumptions—with the different degrees and kinds of its wealth, property and industry?

Nations in general, even under governments of the more popular kind, usually commit the administration of their finances to single men or to boards composed of a few individuals, who digest and prepare, in the first instance, the plans of taxation, which are afterwards passed into laws by the authority of the sovereign or Legislature.

Inquisitive and enlightened Statesmen are deemed every where best qualified to make a judicious selection of the objects proper for revenue; which is a clear indication, as far as the sense of mankind can have weight in the question, of the species of knowledge of local circumstances requisite to the purposes of taxation.

The taxes intended to be comprised under the general denomination of internal taxes, may be subdivided into those of the *direct* and those of the *indirect* kind. Though the objection be made to both, yet the reasoning upon it seems to be confined to the former branch. And indeed, as to the latter, by which must be understood duties and excises on articles of consumption, one is at a loss to conceive what can be the nature of the difficulties apprehended. The knowledge relating to them, must evidently be of a kind that will either be suggested by the nature of the article itself, or can easily be procured from any well informed man, especially of the mercantile class. The circumstances that may distinguish its situation in one State from its situation in another must be few, simple, and easy to be comprehended. The principal thing to be attended to would be to avoid those articles which had been previously appropriated to the use of a particular State; and there could be no difficulty in ascertaining the revenue system of each. This could always be known from the respective codes of laws, as well as from the information of the members of the several States.

The objection when applied to real property, or to houses and lands, appears to have, at first sight, more foundation; but even in this view, it will not bear a close examination. Land taxes are commonly laid in one of two modes, either by *actual* valuations permanent or periodical, or by occasional assessments, at the discretion or according to the best judgment of certain officers, whose duty it is to make them. In either case the EXECUTION of the business, which alone requires the knowledge of local details, must be devolved upon discreet persons in the character of commissioners or assessors, elected by the people or appointed by the government for the purpose. All that the law can do must be to name the persons or to prescribe the manner of their election or appointment, to fix their numbers and qualifications; and to draw the general outlines of their powers and duties. And what is there in all this, that cannot as well be performed by the national Legislature as by a State Legislature? The attention of either can only reach to general principles; local details, as already observed, must be referred to those who are to execute the plan.

But there is a simple point of view in which this matter may be placed, that must be altogether satisfactory. The national Legislature can make use of *the system of each State within that State*. The method of laying and collecting this species of taxes in each State, can, in all its parts, be adopted and employed by the Federal Government.

Let it be recollected, that the proportion of these taxes is not to be left to the discretion of the national Legislature: but is to be determined by the numbers of each State as described in the second section of the first article. An actual census or enumeration of the people must furnish the rule; a circumstance which effectually shuts the door to partiality or oppression. The abuse of this power of taxation seems to have been provided against with guarded circumspection. In addition to the precaution just mentioned, there is a provision that "all duties, imposts and excises, shall be UNIFORM throughout the United States."

It has been very properly observed by different speakers and writers on the side of the Constitution, that if the exercise of the power of internal taxation by the Union, should be discovered on experiment, to be really inconvenient, the Fœderal Government may then forbear the use of it and have recourse to requisitions in its stead. By way of answer to this, it has been triumphantly asked, why not in the first instance omit that ambiguous power and rely upon the latter resource? Two solid answers may be given; the first is, that the exercise of that power, if convenient, will be preferable, because it will be more effectual; and it is impossible to prove in theory or otherwise than by the experiment that it cannot be advantageously exercised. The contrary indeed appears most probable. The second answer is, that the existence of such a power in the Constitution, will have a strong influence in giving efficacy to requisitions. When the States know that the Union can supply itself without their agency, it will be a powerful motive for exertion on their part.

As to the interference of the revenue laws of the Union, and of its members; we have already seen that there can be no clashing or repugnancy of authority. The laws cannot therefore in a legal sense, interfere with each other; and it is far from impossible to avoid an interference even in the policy of their different systems. An effectual expedient for this purpose will be mutually to abstain from those objects, which either side may have first had recourse to. As neither can *controul* the other, each will have an obvious and sensible interest in this reciprocal forbearance. And where there is an *immediate* common interest, we may safely count upon its operation. When the particular debts of the States are done away, and their expences come to be limited within their natural compass, the possibility almost of interference will vanish. A small land tax will answer the purposes of the States, and will be their most simple and most fit resource.

Many spectres have been raised out of this power of internal taxation to excite the apprehensions of the people—double sets of revenue officers—a duplication of their burthens by double taxations, and the frightful forms of odious and oppressive poll taxes, have been played off with all the ingenious dexterity of political legerdemain.

As to the first point, there are two cases, in which there can be no room for double sets of officers; one where the right of imposing the



tax is exclusively vested in the Union, which applies to the duties on imports; and the other, where the object has not fallen under any State regulation or provision, which may be applicable to a variety of objects. In other cases, the probability is, that the United States will either wholly abstain from the objects pre-occupied for local purposes, or will make use of the State officers and State regulations, for collecting the additional imposition. This will best answer the views of revenue, because it will save expence in the collection, and will best avoid any occasion of disgust to the State governments and to the people. At all events, here is a practicable expedient for avoiding such an inconvenience; and nothing more can be required than to show that evils predicted do not necessarily result from the plan.

As to any argument derived from a supposed system of influence, it is a sufficient answer to say, that it ought not to be presumed; but the supposition is susceptible of a more precise answer. If such a spirit should infest the councils of the Union, the most certain road to the accomplishment of its aim would be to employ the State officers as much as possible, and to attach them to the Union by an accumulation of their emoluments. This would serve to turn the tide of State influence into the channels of the national government, instead of making fœderal influence flow in an opposite and adverse current. But all suppositions of this kind are invidious, and ought to be banished from the consideration of the great question before the people. They can answer no other end than to cast a mist over the truth.

As to the suggestion of double taxation, the answer is plain. The wants of the Union are to be supplied in one way or another; if to be done by the authority of the Fœderal Government, it will not be to be done by that of the State government. The quantity of taxes to be paid by the community, must be the same in either case; with this advantage, if the provision is to be made by the Union, that the capital resource of commercial imposts, which is the most convenient branch of revenue, can be prudently improved to a much greater extent under fœderal than under State regulation, and of course will render it less necessary to recur to more inconvenient methods; and with this further advantage, that as far as there may be any real difficulty in the exercise of the power of internal taxation, it will impose a disposition to greater care in the choice and arrangement of the means; and must naturally tend to make it a fixed point of policy in the national administration to go as far as may be practicable in making the luxury of the rich tributary to the public treasury, in order to diminish the necessity of those impositions, which might create dissatisfaction in the poorer and most numerous classes of the society. Happy it is when the interest which the government has in the preservation of its own power, coincides with a proper distribution of the public burthens, and tends to guard the least wealthy part of the community from oppression!

As to poll taxes, I, without scruple, confess my disapprobation of them; and though they have prevailed from an early period in those States<sup>(a)</sup> which have uniformly been the most tenacious of their rights, I should lament to see them introduced into practice under the national government. But does it follow because there is a power to lay them, that they will actually be laid? Every State in the Union has power to impose taxes of this kind; and yet in several of them they are unknown in practice. Are the State governments to be stigmatised as tyrannies because they possess this power? If they are not, with what propriety can the like power justify such a charge against the national government, or even be urged as an obstacle to its adoption? As little friendly as I am to the species of imposition, I still feel a thorough conviction, that the power of having recourse to it ought to exist in the Federal Government. There are certain emergencies of nations, in which expedients that in the ordinary state of things ought to be foreborn, become essential to the public weal. And the government from the possibility of such emergencies ought ever to have the option of making use of them. The real scarcity of objects in this country, which may be considered as productive sources of revenue, is a reason peculiar to itself, for not abridging the discretion of the national councils in this respect. There may exist certain critical and tempestuous conjunctures of the State, in which a poll tax may become an inestimable resource. And as I know nothing to exempt this portion of the globe from the common calamities that have befallen other parts of it, I acknowledge my aversion to every project that is calculated to disarm the government of a single weapon, which in any possible contingency might be usefully employed for the general defence and security.<sup>1</sup>

(a) *The New-England States.*

1. The newspaper version ends at this point. The M'Lean edition contains this additional paragraph:

"I have now gone through the examination of those powers proposed to be conferred upon the federal government; which relate more peculiarly to its energy, and to its efficiency for answering the great and primary objects of union. There are others, which though omitted here, will in order to render the view of the subject more complete, be taken notice of under the next head of our enquiries. I flatter myself the progress already made will have sufficed to satisfy the candid and judicious part of the community, that some of the objections which have been most strenuously urged against the Constitution, and which were most formidable in their first appearance, are not only destitute of substance, but if they had operated in the formation of the plan, would have rendered it incompetent to the great ends of public happiness and national prosperity. I equally flatter myself that a further and more critical investigation of the system will serve to recommend it still more to every sincere and disinterested advocate for good government; and will leave no doubt with men of this character of the propriety and expediency of adopting it. Happy will it be for ourselves, and most honorable for human nature, if we have wisdom and virtue enough, to set so glorious an example to mankind!"

## 427. Centinel IX

## Philadelphia Independent Gazetteer, 8 January

In this essay "Centinel" was one of the first to charge that Federalists used the new policies of the post office to suppress the circulation of Antifederalist newspapers. These new policies, which went into effect on 1 January 1788, allowed the Postmaster General to contract with post riders in addition to stagecoach operators to deliver the mail. Post riders were generally less expensive but they were also less reliable. Antifederalists also decried the new policy of not allowing printers the customary privilege of exchanging their newspapers postage free. Postal officials denied "Centinel's" charges in the *New York Journal* on 23 January. Immediately following this refutation, editor Thomas Greenleaf noted that he had not received the *Pennsylvania Packet*, *Freeman's Journal*, and *Independent Gazetteer* from Philadelphia or the *Boston Gazette* and the *Boston American Herald* via the mail since 1 January 1788. (For more on this dispute, see CC:Vol. 4, Appendix, Mails.)

"Centinel" IX was reprinted in the *Pennsylvania Herald* and *Freeman's Journal* on 9 January, the *New York Journal* on 14 January, and the *Carlisle Gazette* on 5 March. It was also reprinted in a New York Antifederalist pamphlet anthology distributed in April (CC:666). For the authorship, circulation, and impact of "Centinel," see CC:133.

## TO THE PEOPLE OF PENNSYLVANIA.

*Fellow Citizens*, You have the peculiar felicity of living under the most perfect system of local government in the world; prize then this invaluable blessing as it deserves: Suffer it not to be wrested from you, and the scourge of despotic power substituted in its place, under the specious pretence of vesting the general government of the United States with necessary power; that this would be the inevitable consequence of the establishment of the new constitution, the least consideration of its nature and tendency is sufficient to convince every unprejudiced mind. If you were sufficiently impressed with your present favored situation, I should have no doubt of a proper decision of the question in discussion.

The highest illustration of the excellence of the constitution of this commonwealth, is, that from its first establishment, the ambitious and profligate have been united in a constant conspiracy to destroy it; so sensible are they that it is their great enemy, that it is the great palladium of equal liberty, and the property of the people from the rapacious hand of power: The annals of mankind do not furnish a more glorious instance of the triumph of patriotism over the lust of ambition aided by most of the wealth of the state. The few generally prevail over the many by uniformity of council, unremitting and persevering exertion, and superior information and address; but in Pennsylvania the reverse has happened; here the *well-born* have been baffled in all their efforts to prostrate the altar of liberty for the purpose of substituting their own insolent sway that would degrade the

freemen of this state into servile dependence upon the *lordly* and *great*: However, it is not the nature of ambition to be discouraged; it is ever ready to improve the first opportunity to rear its baneful head and with irritated fury to wreak its vengeance on the votaries of liberty. The present conspiracy is a continental exertion of the *well born* of America to obtain that darling domination, which they have not been able to accomplish in their respective states. Of what complexion were the deputies of this state in the general convention? *Six* out of *eight* were the inveterate enemies of our inestimable constitution, and the principals of that faction that for ten years past have kept the people in continual alarm for their liberties.<sup>1</sup> Who are the advocates of the new constitution in this state? They consist of the same faction, with the addition of a few deluded well-meaning men, but whose number is daily lessening.

These conspirators have come forward at a most favorable conjuncture, when the state of public affairs has lulled all jealousy of power: Emboldened by the sanction of the august name of a *Washington*, that they have prostituted to their purpose, they have presumed to overleap the usual gradations to absolute power, and have attempted to seize at once upon the supremacy of dominion. The new instrument of government does indeed make a fallacious parade of some remaining privileges, and insults the understandings of the people with the semblance of liberty in some of its artful and deceptive clauses: which form but a flimsy veil over the reality of tyranny, so weakly endeavored to be concealed from the eye of freedom. For, of what avail are the few inadequate stipulations in favor of the rights of the people, when they may be effectually counteracted and destroyed by virtue of other clauses; when these enable the rulers to renounce all dependence on their constituents, and render the latter tenants at will of every concern? The new constitution is in fact a *carte blanche*, a surrender at discretion to the will and pleasure of our rulers: as this has been demonstrated to be the case, by the investigation and discussion that have taken place, I trust the same good sense and spirit which have hitherto enabled the people to triumph over the wiles of ambition, will be again exerted for their salvation. The accounts from various parts of the country correspond with my warmest hopes, and justify my early predictions of the eventual defeat of this scheme of power and office making.

The genius of liberty has sounded the alarm, and the dormant spirit of her votaries is reviving with enthusiastic ardor; the like unanimity which formerly distinguished them in their conflict with foreign despots, promises to crown their virtuous opposition on the present occasion, with signal success. The structure of despotism that has been reared in this state, upon deception and surprise, will vanish like the baseless fabric of a dream and leave not a trace behind.

The parasites and tools of power in Northampton county ought to take warning from the fate of the Carlisle junto, lest like them, they experience the resentment of an injured people.<sup>2</sup> I would advise them not to repeat the imposition of a set of fallacious resolutions as the sense of that county, when in fact, it was the act of a despicable few, with Alexander Paterson<sup>3</sup> at their head, whose achievements at Wyoming, as the meaner instrument of unfeeling avarice, have rendered infamously notorious; but yet, like the election of a Mr. Sedgwick for the little town of Stockbridge,<sup>4</sup> which has been adduced as evidence of the unanimity of the western counties of Massachusetts state in favor of the new constitution, when the fact is far otherwise, this act of a few individuals will be sounded forth over the continent as a testimony of the zealous attachment of the county of Northampton to the new constitution. By such wretched and momentary deceptions do these harpies of power endeavor to give the complexion of strength to their cause. To prevent the detection of such impositions, to prevent the reflection of the rays of light from state to state, which, producing general illumination, would dissipate the mist of deception, and thereby prove fatal to the new constitution, all intercourse between the patriots of America is as far as possible cut off; whilst on the other hand, the conspirators have the most exact information, a common concert is every where evident, they move in unison. There is so much mystery in the conduct of these men, such systematic deception, and fraud characterises all their measures, such extraordinary solicitude shewn by them to precipitate and surprise the people into a blind and implicit adoption of this government, that it ought to excite the most alarming apprehensions in the minds of all those who think their privileges, property and welfare worth securing.

It is a fact that can be established, that during almost the whole of the time that the late convention of this state were assembled, the newspapers published in New-York, by Mr. Greenleaf, which contains the essays written there against the new government, such as the patriotic ones of Brutus, Cincinnatus, Cato, &c. sent as usual by the printer of that place, to the printers of this city, miscarried in their conveyance, which prevented the republication in this state of many of these pieces, and since that period great irregularity prevails; and I stand informed that the printers in New-York complain that the free and independent newspapers of this city do not come to hand; whilst on the contrary, we find the devoted vehicles of despotism pass uninterrupted. I would ask what is the meaning of the new arrangement at the Post-Office, which abridges the circulation of newspapers at this momentous crisis, when our every concern is dependant upon a proper decision of the subject in discussion—No trivial excuse will be admitted; the Centinel will, as from the first

approach of despotism, warn his countrymen of the insidious and base stratagems that are practising to hoodwink them out of their liberties.

The more I consider the manoeuvres that are practising, the more am I alarmed—foreseeing that the juggle cannot long be concealed, and that the spirit of the people will not brook the imposition, they have guarded as they suppose against any danger arising from the opposition of the people, and rendered their struggles for liberty impotent and ridiculous. What otherwise is the meaning of disarming the militia, for the purpose as it is said, of repairing their musquets at such a particular period?<sup>5</sup> Does not the timing of the measure determine the intention? I was ever jealous of the select militia, consisting of infantry and troops of horse, instituted in this city and in some of the counties, without the sanction of law, and officered principally by the devoted instruments of the *well born*, although the illustrious patriotism of one of them, has not corresponded with the intention of appointing him. Are not these corps provided to suppress the first efforts of freedom, and to check the spirit of the people until a regular and sufficiently powerful military force shall be embodied to rivet the chains of slavery on a deluded nation. What confirms these apprehensions is the declaration of a certain Major, an active instrument in this business, and the echo of the principal conspirators, who has said, he should deem the cutting off of five thousand men, as a small sacrifice, a cheap purchase for the establishment of the new constitution.<sup>6</sup>

Philadelphia, January 5, 1788.

1. The two exceptions were Benjamin Franklin and Jared Ingersoll. For the appointment of Pennsylvania's delegates to the Constitutional Convention, see CC:353, notes 6, 8, and 9; CDR, 199–200; RCS:Pa., 112, 117–19.

2. "Centinel" refers to the Carlisle riot of 26–27 December 1787 and to a 20 December meeting in Northampton County, Pa., which thanked the county's delegates to the Pennsylvania Convention for voting to ratify the Constitution. For the riot, see CC:407; RCS:Pa., 670–708; and for the meeting, see *Pennsylvania Gazette*, 2 January (RCS:Pa., 646–48).

3. In 1783 and 1784 Alexander Patterson, leader of the Pennsylvania claimants in the Wyoming Valley, favored the use of force against the Connecticut claimants. (For this conflict, see CC:364, note 2.) Patterson praised the actions of the respectable and well-attended Northampton meeting; defended himself against "Centinel's" charges; berated him for his anonymity; and offered to duel him, if he wanted satisfaction (*Freeman's Journal*, 30 January, Mfm:Pa. 382). This response was also printed in the *Independent Gazetteer* on 31 January when its printer Eleazer Oswald was out of town. Upon his return Oswald, a reknowned duelist, challenged Patterson who quickly apologized (*Independent Gazetteer*, 6 February and 1 March, Mfm:Pa. 406, 470).

4. "Centinel" probably refers to two items which appeared respectively in the *Worcester Magazine*, second week in December 1787 and in the *Massachusetts Centinel*, 15 December. According to both items, Theodore Sedgwick converted his opponent and a majority of the inhabitants of Stockbridge to the cause of the Constitution. By 2 January Philadelphia newspapers had reprinted the first item twice and the second

item three times. The three western counties of Massachusetts voted 106 to 33 against the Constitution in the Massachusetts Convention in February 1788. (See CC:375, note 4.)

5. On 4 December 1787 the Pennsylvania Supreme Executive Council ordered "That the Lieutenants of the city and several counties within the State, be directed to collect all the public arms within their respective counties, have them repaired," and report the expenses to the Council. For the newspaper debate over this order, see Mfm:Pa. 273.

6. A correspondent disputed the validity of this remark, claiming that the major's statement, "made in the presence of at least twenty citizens," was "that *I would rather see five thousand rascals, who might wish to disturb the peace and happiness of America, perish by the rope, than that the sword of civil war should be drawn*" (*Independent Gazetteer*, 9 January, Mfm:Pa. 313).

#### 428. Samuel Huntington, Oliver Wolcott, Sr., and Richard Law Speeches in the Connecticut Convention, 9 January

These speeches were probably published because Samuel Huntington, Oliver Wolcott, Sr., and Richard Law were the highest-ranking officers in the state. Huntington was governor; Wolcott was lieutenant governor; and Law was chief judge of the Superior Court. They had considerable experience as legislators and as legal and judicial officers. Moreover, each had served in Congress for several years, and Huntington and Wolcott had signed the Declaration of Independence and the Articles of Confederation.

The texts of the speeches are taken from the *Connecticut Courant*, 14 January. The speeches were also printed in the *Hartford American Mercury* on the 14th. All three speeches were reprinted in twelve newspapers by 27 February: Vt. (1), Conn. (6), N.Y. (1), Pa. (3), Md. (1). By 5 February an excerpt from Huntington's speech was reprinted three additional times in New Hampshire, Massachusetts, and Rhode Island; while Law's speech was reprinted once more in Massachusetts and Rhode Island.

The three speeches also appeared in the August issue of the *Philadelphia American Museum* at the instigation of Nathaniel Hazard, a New York City merchant and an agent for the *Museum's* printer Mathew Carey. Hazard recommended to Carey that the speeches should be printed "*for obvious Reasons.*" He urged that Carey "not consider the Debates in the different Conventions, as a mere temporary Business, but *by Degrees* give us all worth the preserving." Publication of these speeches "enlists the aid and ensures the Subscription of those distinguished" (Hazard to Carey, 26 May, Edward Carey Gardiner Collection, Mathew Carey Papers, PHi; and Hazard to Carey, 14 July, 28 July, Lea and Febiger Collection, PHi).

For an account of the Connecticut Convention and a description of how the reports of the speeches were made, see CC:413.

The Convention got through with debating upon the constitution by sections. It was canvassed critically and fully. Every objection was raised against it, which the ingenuity and invention of its opposers could devise. The writer of this account could wish to exhibit to public view, though he is sensible he could do it but imperfectly, the whole of the debates upon this interesting subject; but they would be so exceedingly prolix, that he is obliged to give up any such attempt. Suffice it to say, that all the objections to the constitution vanished, before the learning

and eloquence of a Johnson, the genuine good sense and discernment of a Sherman, and the Demosthenian energy of an Ellsworth.

After the Convention had finished debating upon the constitution by sections, Gen. Parsons,<sup>1</sup> in order to bring up the subject for a general discussion, moved the grand question, "That this convention do assent to, ratify and adopt the Constitution reported by the convention of Delegates in Philadelphia on the 17th day of September A. D. 1787 and referred to the determination of this Convention by an act of General Assembly in October last."

This motion was seconded by Gen. Huntington.<sup>2</sup> Upon the general discussion of the subject, His Excellency Gov. Huntington, expressed himself nearly as follows:<sup>3</sup>

Mr. President, I do not rise to detain this convention for any length of time. The subject has been so fully discussed, that very little can be added to what has been already offered. I have heard, and attended with pleasure to what has been said upon this subject. The importance of it merited a full and ample discussion. It does not give me pain, but pleasure, to hear the sentiments of those gentlemen who differ from me. It is not to be expected from human nature, that we should all have the same opinion. The best way to learn the nature and effects of different systems of government, is not from theoretical dissertations, but from experience, from what has actually taken place among mankind. From this latter source of information it is, that mankind have obtained a more complete knowledge of the nature of government, than they had in ages past. It is an established truth that no nation can exist without a coercive power, a power to enforce the execution of its political regulations. There is such a love of liberty implanted in the human breast, that no nation ever willingly gave up its liberty. If they lose this inestimable birth-right of man, it is from a want not of will, but of the proper means, to support it. If we look into history, we shall find that the common avenue through which tyranny has entered in, and enslaved nations who were once free, has been their not supporting government. The great secret of preserving liberty is to lodge the supreme power so as to be well supported and not abused. If this could only be effected, no nation would ever lose its liberty. The history of mankind clearly shews, that it is dangerous to entrust the supreme power in the hands of one man. The same source of knowledge proves that it is not only inconvenient, but dangerous to liberty, for the people of a large community to attempt to exercise in person the supreme authority. Hence arises the necessity that the people should act by their representatives; but this method, so necessary for the support of civil liberty, is an improvement of modern times.<sup>4</sup> Liberty however is not so well secured as it ought to be, when the supreme power is lodged in one body of representatives. There



ought to be two branches of the legislature, that the one may be a check upon the other. It is difficult for the people at large to know when the supreme power is verging towards abuse, and to apply the proper remedy. But if the government be properly balanced, it will possess a renovating principle, by which it will be able to right itself. The constitution of the British nation affords us great light upon the subject of government. Learned men in other countries have admired it, but they thought it too fine spun to prove beneficial in practice. But a long trial has now shewn its excellence; and the difficulties which that nation now experiences, arise not from their constitution, but from other circumstances.

The author of nature has given to mankind a certain degree of insight into futurity. As far as we can see a probability that certain events will happen, so far we do well to provide and guard. But we may attempt to go too far; it is in vain to think of providing against every possible contingency. The happiness of civil society depends not merely upon their constitution of Government, but upon a variety of circumstances. One constitution may suit one particular nation exceedingly well; when a different one would suit another nation in different circumstances. Even among the American States there is such a difference in sentiments, habits, and customs, that a government, which would be very suitable for one, might not be agreeable to another.

I am fully of opinion, that the great council of the union must have a controuling power with respect to matters of national concern. There is at present an extreme want of power in the national government; and it is my opinion that this constitution does not give too much. As to the subject of representation, at first view it appears small; but upon the whole, the purposes of the union could not be so well answered by a greater number. It is impracticable to have the numbers of the representation as great, and the times of electing as frequent, as they are in our State Governments. Nor is this necessary for the security of liberty. It is sufficient, if the choice of representatives be so frequent, that they must depend upon the people, and that an inseparable connection be kept up between the electors and elected.

The state governments, I think, will not be endangered by the powers vested by this constitution in the general government. While I have attended in Congress, I have observed, that the members were quite as strenuous advocates for the rights of their respective states, as for those of the union. I doubt not but this will continue to be the case, and hence I infer that the general government will not have the disposition to encroach upon the states. But still the people themselves must be the chief support of liberty. While the great body of the freeholders are acquainted with the duties which they owe to their God, to themselves, and to men, they will remain free. But if ignorance and

depravity should prevail, they will inevitably lead to slavery and ruin. Upon the whole view of this constitution, I am in favour of it, and think it bids fair to promote our national prosperity.

This is a new event in the history of mankind.—Heretofore, most governments have been formed by tyrants, and imposed on mankind by force. Never before did a people, in time of peace and tranquility, meet together by their representatives, and with calm deliberation frame for themselves a system of government. This noble attempt does honour to our country. While I express my sentiments in favour of this constitution, I candidly believe that the gentlemen who oppose it, are actuated by principles of regard to the public welfare. If we will exercise mutual candour for each other, and sincerely endeavour to maintain our liberties, we may long continue to be a free and happy people.

Governor Wolcott.<sup>5</sup> Mr. President, I do not expect to throw any new light upon a subject which has been so fully discussed. Yet I cannot content myself without giving my opinion more explicitly than by a silent vote. It is generally agreed, that the present confederation is inadequate to the exigencies of our national affairs. We must therefore adopt this plan of government or some other, or risk the consequences of disunion. As the present articles of confederation are inadequate, we ought to consider whether this constitution be as good as can be agreed on by so many different States, or whether it be a dangerous system; whether it secures the liberties of the people, or whether its tendency be unfavourable to the rights of a free people. I have given it all the consideration in my power; I have a considerable time since made up my mind upon it; and I think it my duty to give my voice in favour of adopting it. It is founded upon the election of the people. If it varies from the former system, or if it is to be altered hereafter, it must be with the consent of the people. This is all the security in favour of liberty, which can be expected. Mankind may become corrupt, and give up the cause of freedom; but I believe, that love of liberty which prevails among the people of this country, will prevent such a direful calamity.

This constitution effectually secures the States in their several rights. It must secure them for its own sake, for they are the pillars which uphold the general system. The Senate, a constituent branch of the general Legislature, without whose assent no public act can be made, are appointed by the States, and will secure the rights of the several States. The other branch of the Legislature, the representatives, are to be elected by the people at large. They will therefore be the guardians of the rights of the great body of the citizens. So well guarded is this constitution throughout, that it seems impossible, that the rights either of the States or of the people should be destroyed.

I do not see the necessity of such a Test as some gentlemen wish for.<sup>6</sup> The constitution enjoins an oath upon all the Officers of the United States. This is a direct appeal to that God who is the avenger of perjury. Such an appeal to him is a full acknowledgment of his being and providence. An acknowledgment of these great truths is all that the gentlemen contend for. For myself, I should be content either with or without that clause in the constitution which excludes Test-Laws. Knowledge and liberty are so prevalent in this country, that I do not believe that the United States would ever be disposed to establish one religious sect, and lay all others under legal disabilities. But as we know not what may take place hereafter, and any such test would be exceedingly injurious to the rights of free citizens, I cannot think it altogether superfluous to add a clause which secures us from the possibility of such oppression. I shall only add, that I give my assent to this constitution; and am happy to see the States in a fair way to adopt a system which will protect their rights, and promote their welfare.

Mr. Law.<sup>7</sup> Mr. President, the important subject before us has been examined so particularly, that I do not expect to add any thing new. As we have been a long time poring upon the defective parts of this constitution, I think it will not be amiss to pay some attention to its excellencies. There is one clause in it which provides a remedy for whatever defects it may have. The clause to which I refer, is that which provides that, whenever two thirds of congress, or a convention to be called at the instance of two thirds of the states, shall propose amendments, and they be agreed to by three fourths of the states, such amendments shall be valid as part of the constitution. This is an easy and peaceable way of amending any parts of the constitution which may be found inconvenient in practice.

As this is a most important question, as it concerns not only present but future generations, we ought to consider it upon its real merits, without suffering our minds to be misled, by examples of other nations whose circumstances are very different from ours. Some have been led into a mistake by comparing a part of this constitution with that of Great-Britain. But this is very different from theirs. Our President is not a King, nor is our Senate a house of Lords. They do not claim an independent hereditary authority. But the whole is elective; all are dependent upon the people. The President, the Senate, the Representatives, are all creatures of the people. Therefore the people will be secure from oppression: though I admit, that, if our President and Senate possessed an independent hereditary authority, the democratical branch would be too weak for the others.

Some suppose that the general government, which extends over the whole, will annihilate the state governments. But we ought to consider that this general government rests upon the State governments for its support. It is like a vast and magnificent bridge built upon thirteen

strong and stately pillars: now the rulers, those who occupy the bridge, cannot be so beside themselves as to knock away the pillars which support the whole fabric. But some say, a free government like this has not energy enough to pervade a country of such vast extent. We are not satisfied with this assertion; we want to try [the] experiment. A free system of government now presents itself for our acceptance: we shall be wanting to ourselves, if, instead of adopting it, we wait for the arm of tyranny to impose upon us a system of despotism. The finger of Providence is evidently to be seen in the political affairs of this country. The old articles of confederation were once the best that we should have been willing to adopt. We have been led on by imperceptible degrees to see that they are defective; and now, if it be the design of providence to make us a great and happy people, I believe, that he who turns the hearts of the children of men, as the rivers of water are turned, will induce the people of the United States to accept of a constitution, which is so well calculated to promote their national welfare.

Several other gentlemen likewise offered their sentiments upon this important question; and after every thing which any member had to offer upon the subject had been heard with that candour and attention, which was becoming in an Assembly convened to decide upon the fate of an empire, the question was put upon the motion of Gen. Parsons; upon which the Yeas and Nays being called for, were as follows.

1. Samuel Holden Parsons (1737–1789), a Middletown lawyer, was appointed one of the judges of the Northwest Territory by Congress in October 1787. He voted to ratify the Constitution.

2. Jedidiah Huntington (1743–1818), a merchant, represented Norwich in the state House of Representatives. He voted to ratify the Constitution.

3. Enoch Perkins, who wrote the reports of these Convention speeches, declared that “Gov. Huntington in his calm placid manner offered his sentiments; & did a great deal toward reconciling the opposition” (to Simeon Baldwin, 15 January, RCS:Conn., 584).

4. “A Farmer” (John Francis Mercer?) reproached Federalists for their statements that government by representation was a modern invention—it “is as old as the history of mankind, and once formed the basis of every European government now existing. . . . Is it not strange to hear the Governor of Connecticut, gravely asserting in their Convention, the novelty of government by representation, and pinning all his hopes of our future happiness, and exemption from evil on this new discovery! And yet the Governor of Connecticut is not only one of the worthiest of our citizens, but rather of uncommon information in a country, where very few are so independent in their fortunes as to afford much time to study” (*Baltimore Maryland Gazette*, 29 February).

5. Enoch Perkins wrote that “You might perceive by what Gov. Wolcott said that he thought well; but he is no speaker” (to Simeon Baldwin, 15 January, RCS:Conn., 584).

6. William Williams (1731–1811), a Lebanon merchant and judge of the Windham County court, advocated a religious test for officeholding. For an exchange between Williams and “Landholder” (Oliver Ellsworth) on this matter, see RCS:Conn., 587–93. Despite his objections, Williams voted to ratify the Constitution.

7. Describing Law’s speech, Enoch Perkins said that “Law spoke two or three times in his usual dry manner” (to Simeon Baldwin, 15 January, RCS:Conn., 584).

**429. Publius: The Federalist 29**  
**New York Independent Journal, 9 January**

This essay, written by Alexander Hamilton, was reprinted in the *New York Daily Advertiser*, 10 January; *New York Packet*, 11 January; and *New York Journal*, 12 January. It was the last newspaper essay included in the first volume of the M'Lean edition where it was number 29. It was number 35 in the newspapers. The M'Lean edition omitted the last paragraph.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST. No. XXXV.

To the People of the State of New-York.

The power of regulating the militia and of commanding its services in times of insurrection and invasion are natural incidents to the duties of superintending the common defence, and of watching over the internal peace of the confederacy.

It requires no skill in the science of war to discern that uniformity in the organization and discipline of the militia would be attended with the most beneficial effects, whenever they were called into service for the public defence. It would enable them to discharge the duties of the camp and of the field with mutual intelligence and concert; an advantage of peculiar moment in the operations of an army: And it would fit them much sooner to acquire the degree of proficiency in military functions, which would be essential to their usefulness. This desirable uniformity can only be accomplished by confiding the regulation of the militia to the direction of the national authority. It is therefore with the most evident propriety that the plan of the Convention proposes to empower the union "to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, *reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.*"

Of the different grounds which have been taken in opposition to the plan of the Convention, there is none that was so little to have been expected, or is so untenable in itself, as the one which from this particular provision has been attacked. If a well regulated militia be the most natural defence of a free country, it ought certainly to be under the regulation and at the disposal of that body which is constituted the guardian of the national security. If standing armies are dangerous to liberty, an efficacious power over the militia, in the body to whose care the protection of the State is committed, ought as far as possible to take away the inducement and the pretext to such unfriendly institutions. If the fœderal government can command the aid of the militia in those emergencies which call for the military arm in support of the civil magistrate, it can the better dispense with the employment of a

different kind of force. If it cannot avail itself of the former, it will be obliged to recur to the latter. To render an army unnecessary will be a more certain method of preventing its existence than a thousand prohibitions upon paper.

In order to cast an odium upon the power of calling forth the militia to execute the laws of the Union, it has been remarked that there is no where any provision in the proposed Constitution for calling out the POSSE COMITATUS to assist the magistrate in the execution of his duty; whence it has been inferred that military force was intended to be his only auxiliary. There is a striking incoherence in the objections which have appeared, and sometimes even from the same quarter, not much calculated to inspire a very favourable opinion of the sincerity or fair dealing of their authors. The same persons who tell us in one breath that the powers of the federal government will be despotic and unlimited, inform us in the next that it has not authority sufficient even to call out the POSSE COMITATUS. The latter fortunately is as much short of the truth as the former exceeds it. It would be as absurd to doubt that a right to pass all laws *necessary* and *proper* to execute its declared powers would include that of requiring the assistance of the citizens to the officers who may be entrusted with the execution of those laws; as it would be to believe that a right to enact laws necessary and proper for the imposition and collection of taxes would involve that of varying the rules of descent and alienation of landed property or of abolishing the trial by jury in cases relating to it. It being therefore evident that the supposition of a want of power to require the aid of the POSSE COMITATUS is entirely destitute of colour, it will follow that the conclusion which has been drawn from it, in its application to the authority of the federal government over the militia is as uncandid as it is illogical. What reason could there be to infer that force was intended to be the sole instrument of authority merely because there is a power to make use of it when necessary? What shall we think of the motives which could induce men of sense to reason in this manner? How shall we prevent a conflict between charity and judgment?

By a curious refinement upon the spirit of republican jealousy, we are even taught to apprehend danger from the militia itself in the hands of the federal government. It is observed that select corps may be formed, composed of the young and ardent, who may be rendered subservient to the views of arbitrary power. What plan for the regulation of the militia may be pursued by the national government is impossible to be foreseen. But so far from viewing the matter in the same light with those who object to select corps as dangerous, were the Constitution ratified, and were I to deliver my sentiments to a member of the federal legislature from this State on the subject of a militia establishment, I should hold to him in substance the following discourse:—

“The project of disciplining all the militia of the United States is as futile as it would be injurious, if it were capable of being carried into execution. A tolerable expertness in military movements is a business that requires time and practice. It is not a day or even a week that will suffice for the attainment of it. To oblige the great body of the yeomanry and of the other classes of the citizens to be under arms for the purpose of going through military exercises and evolutions as often as might be necessary, to acquire the degree of perfection which would intitle them to the character of a well regulated militia, would be a real grievance to the people, and a serious public inconvenience and loss. It would form an annual deduction from the productive labour of the country to an amount which, calculating upon the present numbers of the people, would not fall far short of the whole expence of the civil establishments of all the States. To attempt a thing which would abridge the mass of labour and industry to so considerable an extent would be unwise; and the experiment, if made, could not succeed, because it would not long be endured. Little more can reasonably be aimed at with respect to the people at large than to have them properly armed and equipped; and in order to see that this be not neglected, it will be necessary to assemble them once or twice in the course of a year.

“But though the scheme of disciplining the whole nation must be abandoned as mischievous or impracticable; yet it is a matter of the utmost importance that a well digested plan should as soon as possible be adopted for the proper establishment of the militia. The attention of the government ought particularly to be directed to the formation of a select corps of moderate extent upon such principles as will really fit them for service in case of need. By thus circumscribing the plan it will be possible to have an excellent body of well trained militia ready to take the field whenever the defence of the State shall require it. This will not only lessen the call for military establishments; but if circumstances should at any time oblige the government to form an army of any magnitude, that army can never be formidable to the liberties of the people, while there is a large body of citizens little if at all inferior to them in discipline and the use of arms, who stand ready to defend their own rights and those of their fellow citizens—This appears to me the only substitute that can be devised for a standing army; the best possible security against it, if it should exist.”

Thus differently from the adversaries of the proposed constitution should I reason on the same subject; deducing arguments of safety from the very sources which they represent as fraught with danger and perdition. But how the national Legislature may reason on the point is a thing which neither they nor I can foresee.

There is something so far fetched and so extravagant in the idea of danger to liberty from the militia, that one is at a loss whether to treat it with gravity or with raillery; whether to consider it as a mere trial of

skill, like the paradoxes of rhetoricians, as a disingenuous artifice to instill prejudices at any price or as the serious offspring of political fanaticism. Where in the name of common sense are our fears to end if we may not trust our sons, our brothers, our neighbours, our fellow-citizens? What shadow of danger can there be from men who are daily mingling with the rest of their countrymen; and who participate with them in the same feelings, sentiments, habits and interests? What reasonable cause of apprehension can be inferred from a power in the Union to prescribe regulations for the militia and to command its services when necessary; while the particular States are to have the *sole and exclusive appointment of the officers*? If it were possible seriously to indulge a jealousy of the militia upon any conceivable establishment under the Fœderal Government, the circumstance of the officers being in the appointment of the States ought at once to extinguish it. There can be no doubt that this circumstance will always secure to them a preponderating influence over the militia.

In reading many of the publications against the Constitution, a man is apt to imagine that he is perusing some ill written tale or romance; which instead of natural and agreeable images exhibits to the mind nothing but frightful and distorted shapes—Gorgons, Hydras and Chimeras dire—discoloring and disfiguring whatever it represents and transforming every thing it touches into a monster.

A sample of this is to be observed in the exaggerated and improbable suggestions which have taken place respecting the power of calling for the services of the militia. That of New-Hampshire is to be marched to Georgia, of Georgia to New-Hampshire, of New-York to Kentuke and of Kentuke to Lake Champlain. Nay the debts due to the French and Dutch are to be paid in Militia-men instead of Louis d'ors and ducats. At one moment there is to be a large army to lay prostrate the liberties of the people; at another moment the militia of Virginia are to be dragged from their homes five or six hundred miles to tame the republican contumacy of Massachusetts; and that of Massachusetts is to be transported an equal distance to subdue the refractory haughtiness of the aristocratic Virginians. Do the persons, who rave at this rate, imagine, that their art or their eloquence can impose any concerts or absurdities upon the people of America for infallible truths?

If there should be an army to be made use of as the engine of despotism what need of the militia? If there should be no army, whither would the militia, irritated by being called upon to undertake a distant and hopeless expedition for the purpose of rivitting the chains of slavery upon a part of their countrymen direct their course, but to the fear of the tyrants, who had meditated so foolish as well as so wicked a project; to crush them in their imagined intrenchments of power and to make them an example of the just vengeance of an abused and incensed people? Is this the way in which usurpers stride to dominion



over a numerous and enlightened nation? Do they begin by exciting the destation of the very instruments of their intended usurpations? Do they usually commence their career by wanton and disgusting acts of power calculated to answer no end, but to draw upon themselves universal hatred and execration? Are suppositions of this sort the sober admonitions of discerning patriots to a discerning people? Or are they the inflammatory ravings of chagrined incendiaries or distempered enthusiasts? If we were even to suppose the national rulers actuated by the most ungovernable ambition, it is impossible to believe that they would employ such preposterous means to accomplish their designs.

In times of insurrection or invasion it would be natural and proper that the militia of a neighbouring state should be marched into another to resist a common enemy or to guard the republic against the violences of faction or sedition. This was frequently the case in respect to the first object in the course of the late war; and this mutual succour is indeed a principal end of our political association. If the power of affording it be placed under the direction of the union, there will be no danger of a supine and listless inattention to the dangers of a neighbour, till its near approach had superadded the incitements of self preservation to the too feeble impulses of duty and sympathy.

I have now gone through the examination of such of the powers proposed to be vested in the United States, which may be considered as having an immediate relation to the energy of the government; and have endeavoured to answer the principal objections which have been made to them. I have passed over in silence those minor authorities which are either too inconsiderable to have been thought worthy of the hostilities of the opponents of the Constitution, or of too manifest propriety to admit of controversy. The mass of judiciary power however might have claimed an investigation under this head, had it not been for the consideration that its organization and its extent may be more advantageously considered in connection. This has determined me to refer it to the branch of our enquiries, upon which we shall next enter.

#### 430. Tamony

Virginia Independent Chronicle, 9 January<sup>1</sup>

*To the FREEHOLDERS of AMERICA.*

When important subjects demand discussion, they ought to be treated with coolness and moderation, reason should be alone appealed to, and meet no interruption from passion or prejudice.

Those who contend for the new Constitution without amendment think differently, or must condemn their own assertions, for in place of ascertaining how natural rights are secured, or government prudently restrained, they continually exclaim in a tone that assumes authority,

“rejection must precipitate into the gulphs of destruction,—adoption leads to national happiness and dignity—men whose fortunes are involved may dread an effective administration and join those who under a fœderal system, would lose an importance dearer to them, than the welfare of their country.”

Listen Americans, with caution to declamatory invective, patriotism scorns such language, and recoils from the idea of inflaming prejudice to reduce reflection, the interest of your country requires mental exertion, joined to a manly firmness, that may be compared to the steadiness of time, rises superior to the keenness of death.

Such sentiments exalt human nature, they have acquired one glorious revolution, and must be banished from your breasts, before you can embrace a Constitution, which does not secure a minority of the states, from local oppression, is open to the encroachments of aristocracy, the ambition of an individual.

Happily for America the enlightened wisdom of a Virginia Assembly, has empowered their constituents, to investigate the truth or falsehood of the above assertions, by enacting that their Convention should proceed to a full discussion, and be freed from those fetters artifice wished to impose, under the specious pretence, of confining debate within the compass of absolute rejection or adoption.<sup>2</sup>

The extent thus opened for speculative enquiry, joined to real magnitude in the object, may be styled by enthusiasm or horizon, the eyes of few mens understanding can steadily behold the expression, though poetically just, reduce to common sense, means importance, and instead of superseding the duty incumbent on freeholders to judge for themselves, renders the neglect of doing so, *treason against their country*. What man capable of enjoying that liberty Divine Providence gives a common inheritance to mankind, will at such a crisis restrain his mental faculties from examining a temple built by men equally mortal with himself, for the residence of constitutional freedom, despotism may enjoin a silent reverence, free governments command enquiry, and owe existence to that animation enquiry creates. That citizen who feels and avows such a maxim, need not apologize for collecting the following observations on the fœderal fabric.

Force seems its ruling principle—Forts and garrisons are provided for, a standing army must follow, the celebrated Doctor Price thus addresses Americans, “God forbid that standing armies should ever find an establishment in America, they are every where the grand support of arbitrary power and the chief source of the depression of mankind, no wise people will trust their defence out of their own hands, or consent to hold their rights at the mercy of armed slaves.”<sup>3</sup>

The office of president is treated with levity and intimated to be a machine calculated for state pageantry—Suffer me to view the commander of the fleets and armies of America, with a reverential awe,

inspired by the contemplation of his great prerogatives, though not dignified with the magic name of King, he will possess more supreme power, than Great Britain allows her hereditary monarchs, who derive ability to support an army from annual supplies, and owe the command of one to an annual mutiny law.<sup>4</sup> The American President may be granted supplies for two years, and his command of a standing army is unrestrained by law or limitation.

As to supplies, the term may be shortened; but such a measure implying want of confidence in the first magistrate, will probably be postponed till the hour of danger arrives, and commonwealths be exposed to that hazardous situation, emphatically called death bed repentance. Expectation from such a source may be deemed visionary, and reflection must compel even hope to confess, a mutiny law must owe existence to a general Convention, as the mode prescribed by article the 5th—for the president being by the people made commander of an army, is not subject in that command to a legislative body. Pause America—suspend a final affirmation, till you contemplate what may ensue—Do not contemn the declarations of Locke, Sydney, Montesquieu, Raynal, whose writings are legacies to the present and future ages, they unite in asserting that annual supplies and an annual mutiny law, are the chief dykes man's sagacity can raise against that torrent of despotism, which continually attempts to deluge the rights of individuals. You are told impeachment will stem the flood, a legislative body, sixty five in number, are to march in formidable array, to a tribunal of twenty-six, and summons the commander of an army sworn to obey him—the event can be foreseen without suspicion of second sight, for anticipation may with confidence announce, that the bauble of a mace, hazarded in the mouth of a mortar, would be speedily conveyed, to that “bourn from whence no traveller returns.”<sup>5</sup>

Had the Constitution said, the president can do no wrong, nor shall he be re-elected—corruption in the man, might be guarded against by that rotation, which inculcates the idea of certain dissolution, and a council answerable to the people for consenting to, or advising measures, would cautiously give their sanction to a ruler whose official shield, must inevitably revert to dust.

Virginia, Dec. 20, 1787.

1. The printer of the *Virginia Independent Chronicle* announced on 2 January that “Tamony” was “unavoidably postponed until our next.” The essay was reprinted in the *Philadelphia Independent Gazetteer*, 1 February; *New York Journal*, 8 February; and *Newport Mercury*, 18 February.

2. On 21 October 1787 John Peirce, a member of the House of Delegates, said: “next Thursday [25 October] the question of calling a convention is to be taken. the well wishers hope to obtain this. but their opponents think that the Assembly will not consent to it, unless the convention are allowed expressly, to make such alterations as they may think proper” (to Henry Knox, Knox Papers, MHi). When the Constitution was considered in the House of Delegates on the 25th, Federalist Francis Corbin

proposed a resolution “. . . to this effect:—That a Convention should be called, according to the recommendation of Congress.” Antifederalist Patrick Henry believed that if Corbin’s resolution were adopted “the Convention would only have it in their power to say, that the new plan should *be adopted, or rejected*; and that, however defective it might appear to them, they would not be authorized to propose amendments.” (For a similar concern expressed by Edmund Randolph, see CC:385.) He wanted Corbin’s resolution amended so that it would give the Convention the power to propose amendments. Federalist George Nicholas “warmly reprobated” Henry’s amendment because “it would convey an idea to the people of this state, and to the whole continent, that the Legislature of Virginia thought that amendments might be made to the new government; whereas he believed the truth to be, that there was a decided majority in its favour. At the same time neither he nor mr. Corbin denied the right of the Convention to propose amendments” (Petersburg *Virginia Gazette*, 1 November). A compromise was struck and approved unanimously. The House resolved “that the proceedings of the Fœderal Convention transmitted to the General Assembly through the medium of Congress, be submitted to a Convention of the people for their full and free investigation, discussion, and decision.” The Senate concurred on 31 October.

3. Richard Price, *Observations on the Importance of the American Revolution, and the Means of Making it a Benefit to the World* (Boston, 1784), 15–16 (Evans 18739).

4. This statement was refuted by *The Federalist* 69, *New York Packet*, 14 March (CC:617).

5. *Hamlet*, act 3, scene 1.

#### 431. From Thomas Hutchins

##### New York, 10 January (excerpt)<sup>1</sup>

The very unsettled and fluctuating situation in which I have been almost ever since I had the pleasure of seeing you, together with my having been almost constantly absent from this City I hope you’ll please to admit as my apology for not writing to you sooner.—The Occurrences of my department as well as those of this Country I have only Time but just touch upon as they occur to me without paying any regard to that method and System which I well know to be so congenial to your disposition; permit me therefore to inform you that notwithstanding the political salvation of this Country inevitably depends on the adoption of our new constitution, I am sorry to observe that the States are very tardy in ~~adopting~~ admitting it—none having yet acceded to it, but Pennsylvania, Delaware, and New Jersey—Massachusetts, Connecticut New Hampshire, North & South Carolina and Georgia are hourly expected to adopt it.—Maryland, Rhode Island, New York and Virginia will be last in acceding to it, particularly the two last mentioned States.—The Lees in Virginia lead a very powerful party in opposition to the New constitution.—But General Washington and his party who are both ~~powerful~~ respectable and numerous and friends to it will it is thought prevail but many Months will very probably first elapse.—which will no doubt be the case with such of the other states that now evidence every disposition to prevent its adoption.—Men of the ~~ablest hands~~ soundest Judgements and best hearts amongst Us are

decidedly of opinion that the adoption of the New Constitution will give energy to our Government and security and safety to Person and property, and without its adoption anarchy and confusion will be the consequence.—from this rough statement you will be able in some measure to form an Idea of our present situation and future hopes. . . .

1. FC, Hutchins Papers, PHi. Printed: *Pennsylvania Magazine of History and Biography*, XXXI (1907), 116–18. The addressee is unknown, but the contents of the complete letter indicate that it was probably written to someone in England. Hutchins (1730–1789), a native of New Jersey, had been a captain and engineer in the British army before the Revolution. When the war broke out, he refused to fight his countrymen and later was briefly imprisoned in England for high treason. After his release, Hutchins resigned his commission, visited Benjamin Franklin in France, and returned to America. In May 1781 he was appointed geographer to the southern army. Two months later, his title was changed to geographer to the United States, a position he held until his death.

**432. James Madison to Edmund Randolph**  
**New York, 10 January<sup>1</sup>**

My dear friend

I have put off writing from day to day for some time past, in expectation of being able to give you the news from the packet, which has been looked for every hour. Both the French & English have overstaid their usual time ten or 15 days, and are neither of them yet arrived. We remain wholly in the dark with regard to the posture of things in Europe.

I received two days ago your favor of Decr. 27. inclosing a copy of your letter to the Assembly.<sup>2</sup> I have read it with attention, and I can add with pleasure, because the spirit of it does as much honor to your candour, as the general reasoning does to your abilities. Nor can I believe that in this quarter the opponents to the Constitution will find encouragement in it. You are already aware that your objections are not viewed in the same decisive light by me as they are by you. I must own that I differ still more from your opinion that a prosecution of the experiment of a second Convention will be favorable even in Virginia to the object which I am sure you have at heart. It is to me apparent that had your duty led you to throw your influence into the opposite scale, that it would have given it a decided and unalterable preponderancy; and that Mr. Henry would either have suppressed his enmity, or been baffled in the policy which it has dictated. It appears also that the ground taken by the opponents in different quarters, forbids any hope of concord among them. Nothing can be farther from your views than the principles of different sets of men, who have carried on their opposition under the respectability of your name. In this State the party adverse to the Constitution, notoriously meditate either a dissolution of the Union, or protracting it by patching up the Articles of Confederation. In Connecticut & Massachussetts, the opposition proceeds from that part of the ~~state~~ people who have a

repugnancy in general to good government, to any substantial abridgment of State powers, and a part of whom in Massts. are known to aim at confusion, and are suspected of wishing a reversal of the Revolution. The Minority in Pennsylv. as far as they are governed by any other views than an habitual & factious opposition, to their rivals, are manifestly averse to some essential ingredients in a national Government. You are better acquainted with Mr. Henry's politics than I can be, but I have for some time considered him as driving at a Southern Confederacy and as not farther concurring [in?] the plan of amendments than as he hopes to render it subservient to his real designs.<sup>3</sup> Viewing the matter in this light, the inference with me is unavoidable that were a second trial to be made, the friends of a good constitution for the Union would not only find themselves not a little differing from each other as to the proper amendments; but perplexed & frustrated by men who had objects totally different. A second Convention would of course be formed under the influence, and composed in great measure of the members of opposition in the several States. But were the first difficulties overcome, and the Constitution re-edited with amendments, the event would still be infinitely precarious. Whatever respect may be due to the rights of private judgment, and no man feels more of it than I do, there can be no doubt that there are subjects to which the capacities of the bulk of mankind are unequal and on which they must and will be governed by those with whom they happen to have acquaintance and confidence. The proposed Constitution is of this description. The great body of those who are both for & against it, must follow the judgment of others not their own. Had the Constitution been framed & recommended by an obscure individual, instead of the body possessing public respect & confidence, there can not be a doubt, that altho' it would have stood in the identical words, it would have commanded little attention from most of those who now admire its wisdom. Had yourself, Col. Mason, Col. R. H. L.<sup>4</sup> Mr. Henry & a few others, seen the Constitution in the same light with those who subscribed it, I have no doubt that Virginia would have been as zealous & unanimous as she is now divided on the subject. I infer from these considerations that if a Government be ever adopted in America, it must result from a fortunate coincidence of leading opinions, and a general confidence of the people in those who may recommend it. The very attempt at a second Convention strikes at the confidence in the first; and the existence of a second by opposing influence to influence, would in a manner destroy an effectual confidence in either, and give a loose to human opinions; which must be as various and irreconcilable concerning theories of Government, as doctrines of Religion; and give opportunities to designing men which it might be impossible to counteract.

The Connecticut Convention has probably come to a decision before this; but the event is not known here. It is understood that a great

majority will adopt the Constitution.<sup>5</sup> The accounts from Massts. vary extremely according to the channels through which they come. It is said that S. Adams who has hitherto been reserved, begins to make open declaration of his hostile views.<sup>6</sup> His influence is not great, but this step argues an opinion that he can calculate on a considerable party. It is said here, and I believe on good ground that N. Carolina has postponed her Convention till July, in order to have the previous example of Virga. Should N. Carolina fall into Mr. H—y's politics which does not appear to me improbable, it will endanger the Union more than any other circumstance that could happen. My apprehensions of this danger increase every day. The multiplied inducements at this moment to the local sacrifices necessary to keep the States together, can never be expected to co-incide again, and they are counteracted by so many unpropitious circumstances, that their efficacy can with difficulty be confided in. I have no information from S. Carolina or Georgia, on which any certain opinion can be formed of the temper of those States. The prevailing idea has been that both of them would speedily & generally embrace the Constitution. It is impossible however that the example of Virga. & N. Carolina should not have an influence on their politics. I consider every thing therefore as problematical from Maryland Southward.

I am surprised that Col. H. Lee who is a well-wisher to the Constitution should have furnished Wilkinson with the alarm concerning the Mississippi,<sup>7</sup> but the political connections of the latter in Pena. would account for his bias on the subject.

We have no Congress yet.<sup>8</sup> The number of Sts on the Spot does not exceed five. It is probable that a quorum will now be soon made. A Delegate from N. Hampshire is expected which will make up a representation from that State. The termination of the Connecticut Convention will set her delegates at liberty. And the Meeting of the Assembly of this State, will fill the vacancy which has some time existed in her Delegation.

1. RC, Madison Papers, DLC.

2. See CC:385.

3. For reports that Henry favored separate confederacies, see CC:276, note 4.

4. Richard Henry Lee.

5. News of the Connecticut Convention's ratification of the Constitution on 9 January by a three to one majority appeared in the *New York Daily Advertiser* and the *New York Journal* on Monday, 14 January.

6. For Samuel Adams's views on the Constitution, see CC:315, 388, 424.

7. On 27 December Randolph had written: "General [James] Wilkinson from Kentucke, who is now here, is not to be appeased in his violence against the constitution; and it is presumed that thro his means the vote of Kentucky will have the same direction. He is rivetted by Colo. Harry Lee, declaring to him, that the surrender of the Mississippi would probably be among the early acts of the new congress" (Rutland, *Madison*, X, 346).

8. Congress attained a quorum on 21 January 1788.

**433. From George Plater  
Sotterley, 10 January<sup>1</sup>**

A Friend of mine has lately communicated to me your Intention to offer yourself for the proposed Convention, to adopt the new Plan of federal Government—It is with much Pleasure I hear of Gentlemen of Steadiness & Experience stepping forth on this important Occasion—important it truly is—for, in my Opinion, if this Plan [is?] not adopted, we shall be in a much worse Situation than if it had not been agitated—we shall be an Object of Ridicule at home, & of Contempt abroad—Our present Government is found, by sad Experience, to want Energy & Efficacy; & tho the proposed, formed by the wisest & best Men of the Continent, (who, we may readily see, & must agree, had many difficulties in reconciling the discordant Interests of the different States) may not please eviry Man or Set of Men, yet I believe it must be granted, by eviry dispassionate & disinterested Considerer, to be the wisest & best System under all Circumstances, that cou'd be proposed, & far better perhaps than cou'd now be formed by any Convention—Deeply impressed with these Sentiments, were I a Member of Convention, I shou'd not hesitate, (for the Good of the United States in general, & my native State in particular) to adopt it—trusting, as there is a proper Door open, that the Congress may in future make such Amendments as to render it unexceptionably good & effectual—for Perfection is not to be found in any Work of Men, especially at first—Shou'd the County [think?] proper to send me upon this Business, I shall not, as I never [— —], refuse my Service, tho I foresee & well know, that it is a Subject of more Magnitude, than has been under our Consideration for some Time—A Service in public for upwards of thirty Years (in which Time I flatter myself no one can with truth say I ever [will?]fully, or thro' private Views, did any thing injurious to the true Interest of my Country) will, I hope & trust, at this Day, shield me against the Imputation of any thing sinister, which may be thrown out by the turbulent or malevolent—I take the Liberty to send herewith a few Copies of the Form of Government, & the Proceeding of the general Assembly thereon, which you may distribute among those of your Friends who may not have seen them.<sup>2</sup>

1. RC, Maryland Province Archives, Archives of the Society of Jesus, Baltimore, Md. Plater (1735–1792), a St. Mary's County lawyer, lived at Sotterley, the family estate near Leonardtown, Md. He was a delegate to Congress from 1778 to 1780 and a state senator from 1776 to 1791. In April 1788 he served as president of the Maryland Convention and voted to ratify the Constitution. He was a presidential elector in 1789 and was elected governor in November 1791, dying three months after he took office.

2. Probably the three-page broadside printed by order of the Maryland House of Delegates on 1 December 1787 (Evans 45092).



**434. George Washington to Henry Knox  
Mount Vernon, 10 January (excerpt)<sup>1</sup>**

I beg you to accept of my thanks for your obliging favor of the 11th. Ult;<sup>2</sup> which, owing to the dullness of the season, and want of matter to amuse you, has lain unacknowledged till this time.—

Three States—to wit—Pensylvania New Jersey, and Delaware having adopted the New Constitution in so decisive a manner and those of New Hampshire, Massachusetts & Connecticut having discovered such favourable sentiments of it, places the final success of it, in my judgment, upon unequivocal ground.—Maryland, most unquestionably, will adopt it; from No Carolina (so far as acct. have been received in this quarter) the disposition of the People towards it is favourable; from the States South of it I have no direct intelligence; but in the situation Georgia is, nothing but insanity, or a desire of becoming the Allies of the Spaniards or Savages, can disincline them to a Governmt. which holds out the prospect of relief from its present distresses.—The opposition in this State, tho' headed by very influential characters; is not, in my opinion (tho' I may be an incompetent judge, never going from home, & seeing no body except those who call upon me) much to be apprehended.—My opinion of the matter is, that the New form on the final decision in our Convention, will be acceded to by a large majority.—The determination of New York, of all others, seems most problematical; and yet, I can hardly entertain an idea that she will be disposed to stand alone, or with one or two others, if the States bordering on her should Confederat.—

Whether War or Peace will be the issue of the dispute between France and England, seems as yet undecided. If the former, we shall certainly get involved, unless there is energy enough in Government to restrain our People within proper bounds; and that the power of the present Government is inadequate to accomplish this, I believe none will deny. . . .

1. RC, Knox Papers, MHi. Endorsed: "answered on the 10 Feby. and informd of the state of affairs in Massachusetts." Printed: Fitzpatrick, XXIX, 377–78.

2. See CC:337.

**435. George Washington to Marquis de Lafayette  
Mount Vernon, 10 January (excerpts)<sup>1</sup>**

I fear my dear marqs., you will believe me to have been remiss in attentions to you. my last letters, I find, have been unaccountably centered in the same hands and unreasonably delayed; entirely contrary to my expectation. when you shall have received them by the Chevalier Paul Jones, you will acquit me of any intended or real neglect. one of these letters containing the form of Government which

has been submitted by the foederal Convention to the People of these States I wished to have got to your hands by the first conveyance as it was my intention that you should have been among the first to be informed of the proceedings of that body.<sup>2</sup> . . .

At this moment, however, it appears by the current of intelligence from your side of the Atlantic, that but too many motives & occasions exist for interrupting the public tranquillity. A war between the Russians and Turks, we learn, has broken out. How far, or in what manner this may involve other nations seems to us, at this distance, uncertain. Extraordinary speculations and expectations arise from the conduct of the King of Prusia in the Dutch and the Emperor of Germany in the Austrian Netherlands. Nothing as yet, has come to our knowledge, which indicates with certainty, whether hostilities will take place between France & England, or, in that event, how extensively the flames of war will spread. we are apprehensive we have but too much reason to bewail the fate of the Dutch Patriots.

To guard against the similar calamities of domestic discord or foreign interposition, and effectually to secure our liberties, with all the benefits of an efficient Government, is now the important subject that engrosses the attention of all our part America. you will doubtless have seen, in the public papers, in what manner the new Constitution has been attacked and defended. There have been some compositions published in its defence, which I think will, at least, do credit to American genius. I dare say its principles and tendencies have, also, before this time been amply discussed in Europe. Here, that is in United America, it is strongly advocated by a very a great and decided majority.—The Conventions, in the States of Jersey and Delaware, have *unanimously* adopted it: and that of Pennsylvania by a majority of two to one. no other State has yet had an opportunity of deciding. New England (with the exception of Rhode Island, which seems itself, politically speaking, to be an exception from all that is good) it is believed will cheerfully and fully accept it: and there is little doubt but that the three Southern States will do the same. In Virginia and new york its fate is somewhat more questionable: though, in my private opinion, I have no hisitation to believe there will be a Clear majority in its favor, in the former: of the latter, I can say nothing from my own knowledge, its advocates, there, generally conclude that they shall carry it.

Upon this summary view, you will perceive, my dear Marquis, the highest probability exists that the proposed Constitution will be adopted by more than nine States, by some period early in the coming summer. . . .

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 373–77.

2. Washington had sent Lafayette a copy of the Constitution on 18 September, but Lafayette did not receive it from John Paul Jones until just before Christmas (*ibid.*, 276–77; Boyd, XII, 460n–61n).

### 436. Helvidius Priscus II Boston Independent Chronicle, 10 January

This is the second of four unnumbered essays written by "Helvidius Priscus." The first was printed in the *Independent Chronicle* on 27 December 1787 and the third and fourth were published in the *Massachusetts Gazette* on 22 January and 5 February. In the first essay, "Helvidius Priscus" attacked both the Constitutional Convention and James Wilson, the former for violating "the principles of the late glorious revolution" and the latter for his "insidious" speech of 24 November 1787 to the Pennsylvania Convention (RCS:Pa., 340–50; CC:289). "Helvidius Priscus" called upon "the youth of America," who were still unfamiliar with the characters and causes of the Revolution, to "read for themselves the many excellent publications, on the origin of government, and the rights of human nature, that appeared between the years 1763 and 1775." "Let the old Patriots," he concluded, "come forward, and instead of secretly wrapping up their opinions within their own breasts, let them lift up the voice like a trumpet, and shew this people their folly, and the trembling *Columbia*, her impending danger."

This emphasis upon the American Revolution possibly led Christopher Gore to assert that "there is ev'ry reason to conclude" that Samuel Adams was "the author of Helvidius Priscus" (to Rufus King, 30 December, King Papers, NH). Another Federalist, writing as "Honorius," did not name Adams, but strongly implied that "Helvidius Priscus" was an old revolutionary, referring to him as "this *Nestor*," a wise old man. Both descriptions fit Adams. "Honorius" concluded his essay: "'Let the *old Patriots* come forward,' (the day of election is over)" (*Independent Chronicle*, 3 January). Adams had been elected on 7 December to represent Boston in the state Convention and had been silent on the Constitution until about that time (CC:388). Adams's authorship was implied again in an unsigned piece in the *Massachusetts Gazette* of 4 January: "'Helvidius Priscus' makes his appearance next Thursday, but it is supposed his sentiments will go off 'by the grist.'" This statement probably refers to the earlier charge that Adams would make a profit through the distribution, "by the grist," of the Antifederalist pamphlet, *Letters from the Federal Farmer* (*Massachusetts Gazette*, 1 January, CC:390–D).

Historian Charles Warren asserted that "Helvidius Priscus" was another old revolutionary, James Warren of Milton, a close friend of Adams. His attribution is based on an article by "Federalissimo" who charged that "A Republican Federalist" and "Helvidius Priscus" (among others) were written by the same person (*Massachusetts Gazette*, 14 March). Since Charles Warren believed that James Warren was "A Republican Federalist," he concluded that James Warren was also "Helvidius Priscus." It should be added that James Warren's wife, Mercy, sent copies of "Helvidius Priscus" to one of her correspondents (Charles Warren, "Elbridge Gerry, James Warren, Mercy Warren and the Ratification of the Federal Constitution in Massachusetts," *Massachusetts Historical Society Proceedings*, LXIV [1930–32], 155–59).

The printers of the *Independent Chronicle* received "Helvidius Priscus" II before their 3 January issue, but were "obliged to omit this week, for want of time and room." "Helvidius Priscus" II was reprinted in the *New York Morning Post*, 18 January, and *New York Journal*, 21 January.

#### To the PUBLIC

The three pillars lately erected at the southward,<sup>1</sup> are like the hanging towers of Pisa, to be propped up and cemented by the blood of posterity, if ever they stand at all; for the present generation have too strong a

sense of the rights of nature, of the sufferings experienced for their re-establishment, to set down passively under a tottering pile, erected on pillars of porcelain—and if half a dozen others should yet be added to the gilded dome, it will still be astonishingly defective; as the artificers have hurried it through for their own present accommodation, without one solid heart of oak to support an edifice, whose wings extend to embrace the territory from the Mississippi, to the chain of lakes, and from the inland seas to the eastern shore.—An ancient historian has left it on record, that the first monarch after the Achæan league, who gained an entire influence over their councils, was possessed of all the virtues that endear a king—“A lively genius, an uncommon understanding, an happy memory, an agreeable utterance, an unaffected grace in all his actions—He possessed a beautiful aspect, heightened by a majestic air, which bespoke the greatness of his mind, but his brightest virtues were the sweetness of his temper, his affability and great desire to please and content all who were under his government.”—But alas! he was a man—he was a king—and let America be admonished, that in the plentitude of uncontroled power, the same historian adds, that he forfeited this great character, and from a glorious king became an inhuman tyrant. Mankind have always been lulled by sounds into a fatal security, without giving themselves the trouble of investigation. Yet it is not probable the metaphisical disquisitions of a *southern doctor*,<sup>2</sup> will persuade the world that the majority of the late CONVENTION were so much the peculiar favourites of heaven as to receive an immediate inspiration for the model of a government, that should subjugate a country which appears to those who are really religious, and who believe in a providential direction, to have been remarkably under divine protection in the various steps that led to its independence. But why was the small minority (who could not in conscience accede) denied their share in this heavenly illumination?—and why was the aged *Dr. Franklin*, so darkened in his councils, as to make a motion that the President should have no sallary?<sup>3</sup> and to oppose almost every article in the system till the last, when he lent his signature in tears? or were those tears the result of a late revelation, that the system was fairly deduced from heaven; though it might involve America, first in anarchy, and then in despotism.<sup>4</sup> But the men who have denied the authenticity of the decalogue, and perhaps the divine origin of the gospel, may sport with the credulity of mankind—and droll on the miraculous interpositions of heaven, under an appearance of an enthusiasm for truth, if it will operate to the completion of a favourite system, while yet the honour of the gentleman is secure from falshood, when he asserts that he believes “the finger of God was as much employed in fabricating the fœderal republic as in dictating the ten commandments; and that the divine origin of the new system is as much the object of his faith, as the division of the red sea, or the fulmination of the law from Mount Sina.”<sup>5</sup> But as the gentle-

men of the medical faculty have not all of them been the most remarkable advocates for divine inspiration; or the most distinguished in vindicating the sacred oracles of religion, we are glad if the learned *Doctor Rush* is an exception.

If he has really a sober sense of divine dispensation, it is to be regretted that a man of understanding should suffer his language to wear the guise of enthusiastic rant; But if he is one of the fashionable sceptical race, it is not strange when a darling point was to be urged, that he should indulge such epithets of impious affectation to fall from his lip, as shocks the feelings of those who revere the code of the supreme lawgiver. While the Roman usurper was ravaging Gaul, whenever it was convenient for their purposes, his commissioners consulted the Pagan oracles, and when the people were prepared by their love of pleasure, and prostration of principle, to bow to the yoke of servitude, he was pronounced from the lip of the Cybels, the destined master of the world; yet we do not find that *Cæsar*, though *Pontifex Maximus* or *Curio*, who was purchased by his gold, had either of them much religion, and when it became necessary for the purposes of the tyrant, a *Claudius* was found to get a law enacted that no regard should be paid to the denunciations of the augurs. But the augurs who profess a more perfect religion, without pretending to immediate inspiration, will venture to predict, that the characters of the respected minority in the grand convention, and the names of FINDLEY, SMILIE,<sup>6</sup> and others in *Pennsylvania*, and a much longer list in the *Massachusetts*,<sup>7</sup> instead of sinking into contempt, will stand distinguished in the annals of fame, for opposing with the magnanimity of genuine patriotism, a combination of ambitious spirits, exorbitant wealth or squandered fortune, of men of licentious principles, and heated imaginations, and of a few of more conscientious opinion, who from the early rudiments of education and manners, have always had a predilection in favour of arbitrary government. But in the exultation of party, let them not again in the convivial hour, toast the memory of *the heroes who sacrificed their lives in defence of the liberties of America*—least the pale spectres should appear as the evil genius of Brutus, and summon them to the shades, though not to die like the Phillippian Hero, in the last glorious struggle for freedom, but in the ignoble effort to consign posterity to the manacles of slavery.

1. A reference to the ratification of the Constitution by Delaware, Pennsylvania, and New Jersey.

2. A reference to Benjamin Rush's speech of 12 December to the Pennsylvania Convention, CC:357.

3. On 2 June 1787 Benjamin Franklin had moved that the President's expenses should be paid, but that he should receive no salary, stipend, fee, or reward for his

public services. Franklin believed that "there are two passions which have a powerful influence on the affairs of men. These are ambition and avarice; the love of power, and the love of money" (Farrand, I, 81–82).

4. On Benjamin Franklin's shedding of tears, see CC:Vol. 2, Appendix I, 19–21 November.

5. See note 2 above.

6. William Findley and John Smilie, along with Robert Whitehill, led the Antifederalists in the Pennsylvania Convention (see RCS:Pa., *passim*).

7. The Massachusetts Convention convened the day before "Helvidius Priscus" II was published.

### 437. Brutus VIII

#### New York Journal, 10 January<sup>1</sup>

The next powers vested by this constitution in the general government, which we shall consider, are those, which authorise them to "borrow money on the credit of the United States, and to raise and support armies." I take these two together and connect them with the power to lay and collect taxes, duties, imposts and excises, because their extent, and the danger that will arise from the exercise of these powers, cannot be fully understood, unless they are viewed in relation to each other.

The power to borrow money is general and unlimited, and the clause so often before referred to, authorises the passing any laws proper and necessary to carry this into execution. Under this authority, the Congress may mortgage any or all the revenues of the union, as a fund to loan money upon, and it is probable, in this way, they may borrow of foreign nations, a principal sum, the interest of which will be equal to the annual revenues of the country.—By this means, they may create a national debt, so large, as to exceed the ability of the country ever to sink. I can scarcely contemplate a greater calamity that could befall this country, than to be loaded with a debt exceeding their ability ever to discharge. If this be a just remark, it is unwise and improvident to vest in the general government, a power to borrow at discretion, without any limitation or restriction.

It may possibly happen that the safety and welfare of the country may require, that money be borrowed, and it is proper when such a necessity arises that the power should be exercised by the general government.—But it certainly ought never to be exercised, but on the most urgent occasions, and then we should not borrow of foreigners if we could possibly avoid it.

The constitution should therefore have so restricted, the exercise of this power as to have rendered it very difficult for the government to practise it. The present confederation requires the assent of nine states to exercise this, and a number of the other important powers of the confederacy—and it would certainly have been a wise provision in this constitution, to have made it necessary that two thirds of the members

should assent to borrowing money—when the necessity was indispensable, this assent would always be given, and in no other cause ought it to be.

The power to raise armies, is indefinite and unlimited, and authorises the raising forces, as well in peace as in war. Whether the clause which impowers the Congress to pass all laws which are proper and necessary, to carry this into execution, will not authorise them to impress men for the army, is a question well worthy consideration? If the general legislature deem it for the general welfare to raise a body of troops, and they cannot be procured by voluntary enlistments, it seems evident, that it will be proper and necessary to effect it, that men be impressed from the militia to make up the deficiency.

These powers taken in connection, amount [to] this: that the general government have unlimited authority and controul over all the wealth and all the force of the union. The advocates for this scheme, would favor the world with a new discovery, if they would shew, what kind of freedom or independency is left to the state governments, when they cannot command any part of the property or of the force of the country, but at the will of the Congress. It seems to me as absurd, as it would be to say, that I was free and independent, when I had conveyed all my property to another, and was tenant to will to him, and had beside, given an indenture of myself to serve him during life.—The power to keep up standing armies in time of peace, has been justly objected, to this system, as dangerous and improvident. The advocates who have wrote in its favor, have some of them ridiculed the objection, as though it originated in the distempered brain of its opponents, and others have taken pains to shew, that it is a power that was proper to be granted to the rulers in this constitution. That you may be enabled to form a just opinion on this subject, I shall first make some remarks, tending to prove, that this power ought to be restricted, and then animadvert on the arguments which have been adduced to justify it.

I take it for granted, as an axiom in politic, that the people should never authorise their rulers to do any thing, which if done, would operate to their injury.

It seems equally clear, that in a case where a power, if given and exercised, will generally produce evil to the community, and seldom good—and which, experience has proved, has most frequently been exercised to the great injury, and very often to the total destruction of the government; in such a case, I say, this power, if given at all, should if possible be so restricted, as to prevent the ill effect of its operation.

Let us then enquire, whether standing armies in time of peace, would be ever beneficial to our country—or if in some extraordinary cases, they might be necessary; whether it is not true, that they have generally proved a scourge to a country, and destructive of their liberty.

I shall not take up much of your time in proving a point, in which the friends of liberty, in all countries, have so universally agreed. The following extract from Mr. Pultney's speech,<sup>2</sup> delivered in the house of commons of Great-Britain, on a motion for reducing the army, is so full to the point, and so much better than any thing I can say, that I shall be excused for inserting it. He says, "I have always been, and always shall be against a standing army of any kind; to me it is a terrible thing, whether under that of a parliamentary, or any other designation; a standing army is still a standing army by whatever name it is called; they are a body of men distinct from the body of the people; they are governed by different laws, and blind obedience, and an entire submission to the orders of their commanding officer, is their only principle; the nations around us, sir, are already enslaved, and have been enslaved by those very means; by means of their standing armies they have every one lost their liberties; it is indeed impossible that the liberties of the people in any country can be preserved where a numerous standing army is kept up. Shall we then take our measures from the example of our neighbours? No, sir, on the contrary, from their misfortunes we ought to learn to avoid those rocks upon which they have split.

"It signifies nothing to tell me that our army is commanded by such gentlemen as cannot be supposed to join in any measures for enslaving their country; it may be so; I have a very good opinion of many gentlemen now in the army; I believe they would not join in any such measures; but their lives are uncertain, nor can we be sure how long they will be kept in command, they may all be dismissed in a moment, and proper tools of power put in their room. Besides, sir, we know the passions of men, we know how dangerous it is to trust the best of men with too much power. Where was a braver army than that under Jul. Cæsar? Where was there ever an army that had served their country more faithfully? That army was commanded generally by the best citizens of Rome, by men of great fortune and figure in their country, yet that army enslaved their country. The affections of the soldiers towards their country, the honor and integrity of the under officers, are not to be depended on. By the military law the administration of justice is so quick, and the punishment so severe, that neither the officer nor soldier dare dispute the orders of his supreme commander; he must not consult his own inclination. If an officer were commanded to pull his own father out of his house, he must do it; he dares not disobey; immediate death would be the sure consequence of the least grumbling; and if an officer were sent into the court of request, accompanied by a body of musketeers with screwed bayonets, and with orders to tell us what we ought to do, and how we were to vote: I know what would be the duty of this house; I know it would be our duty to order the officer to be hanged at the door of the lobby: but I doubt, sir,



I doubt much, if such a spirit could be found in the house, or in any house of commons that will ever be in England.

“Sir, I talk not of imaginary things? I talk of what has happened to an English house of commons, from an English army; not only from an English army, but an army that was raised by that very house of commons, an army that was paid by them, and an army that was commanded by generals appointed by them; therefore do not let us vainly imagine, that an army, raised and maintained by authority of parliament, will always be submissive to them. If an army be so numerous as to have it in their power to overawe the parliament, they will be submissive as long as the parliament does nothing to disoblige their favourite general; but when that case happens I am afraid, that in place of the parliament’s dismissing the army, the army will dismiss the parliament.”—If this great man’s reasoning be just, it follows, that keeping up a standing army, would be the highest degree dangerous to the liberty and happiness of the community—and if so, the general government ought not to have authority to do it; for no government should be empowered to do that which if done, would tend to destroy public liberty.

1. On 8 January the printer of the *Journal* announced: “APOLOGY—Neither BRUTUS nor a COUNTRYMAN can possibly appear before the day after to-morrow.” The last four paragraphs of “Brutus” VIII were reprinted in the *Philadelphia Freeman’s Journal*, 23 January, and the *Boston American Herald*, 28 February.

2. William Pulteney (1684–1764) delivered this speech at the session which began in January 1732 (John Torbuck, *A Collection of the Parliamentary Debates in England* . . . [21 vols., London, 1741–1742], X, 78–80).

### 438. Philadelphiensis VII

#### Philadelphia Independent Gazetteer, 10 January

Common sense said, that, in case America became an independent nation, *neutrality* would be a safer convoy than a *man of war*: Probably Mr. Paine thought so, when he wrote; but if he did he thought wrong: For the position ought to be reversed.—A *man of war* is a safer convoy than *neutrality*; or at least, without a naval convoy there is no safety in neutrality. If America is to be a commercial neutral power, she ought to have some naval strength to intitle her to the appellation. We all know that the *armed neutrality* of the northern European powers injured the trade of Britain more, during the late war, than the combined fleets of her open enemies. If a war should now commence between Britain and France or any of the nations who have possessions in America; can America remain a neutral *power*, or join in an armed neutrality for the protection of her commerce? No. Neutral she may be, and neutral she must be, and nothing else; and as for her being called a *power* it is a mere solecism, as long as she has no navy: Her trade may be destroyed

with impunity; her seamen taken to man the fleets of her enemies, without the possibility of redress; and her government insulted and her cities laid in ashes by her enemies ships riding triumphant in her rivers and harbours, without being able to help herself, or retaliate.

But however necessary a fleet may be for the protection of our *seamen, commerce, and national honor*, it is pretty plain, that as long as the proposed government would exist, (if ever it should be established) we must do without one; That government must at least for some years be administred by a standing army. Nothing short of despotism can reduce the disaffected part of the people to submit to it, who are the friends to liberty and the rights of human nature. Those who say that its enemies are a few insignificant individuals, talk something like the British ministry at the commencement of the war, who represented the American discontents, as a parcel of cowardly paltroons, whom they would soon bring to obedience, by a handful of military; but a short time convinced them of their mistake.

As the spirit of the new constitution admits of a standing army, and the opposition absolutely must be crushed by strength, every nerve of power must be strained, and every way and means of collecting money devised, for raising an *efficient army* for this purpose, in the first instance. This is a system of procedure that the despots must pursue, if they have any hopes of success. Either moderation or delay would effectually defeat them.

I question whether all the *hard money*, that the well born can procure at this juncture, will be sufficient to support their government and army for six months; without expending a single shilling on building a federal navy. The greater part of that junto are extremely poor; and have their hopes of agrandizement on the new government; now if a part of the people refuse to pay taxes to that government, as they certainly will, how will they provide for the national debt; how will these poor gentlemen make their fortunes; how will they pay their *standing army*, to whom they owe their existence; a few interogatives of this sort must shew clearly, that a single ship of war will never be built while this great government is in operation.

It is generally said, that the present distresses of America are in consequence of the want of the states delegating sufficient powers to congress: This is right in part, for the powers of congress were certainly too limited to promote the general good of the union; but little power as that body had, they have not managed it well; indeed if they had had any more and the number of members so small, we would have had a tyrannical aristocracy established long ago; and the country involved in more misery. That body never attempted to build a navy; but, on the contrary, to complete our disgrace, sold the only ship of war we had, the Alliance frigate, for a mere song:<sup>1</sup> They have found money

however, to pay their *well born* ambassadors at the different European courts, and squandered away money on gilded swords, presents to Baron — —,<sup>2</sup> &c. &c. &c. and they have even had credit to negotiate loans lately;<sup>3</sup> but not a farthing could be spared to employ our poor mechanics to build a few frigates, by which a thousand honest families might have been saved from starving, and prevented from emigrating from the country, and our commerce and national respectability preserved. This is a specimen of the plan of our new system of government. When the present peddling and limited congress have taken such arbitrary steps, so diametrically opposite to the interest of the public good, what may we not expect from the friends of the new constitution? The poor working-man is not to be thought of, except his work will add to the character and dignity of the lordling nobility.

1. On 2 August 1785 the Board of Treasury, acting upon orders of Congress, sold the frigate *Alliance* for \$26,000 in public securities (JCC, XXIX, 615n).

2. In April 1784 Congress resolved that Major General Baron von Steuben, late inspector general of the Continental Army, be presented "a gold hilted sword . . . as a mark of the high sense Congress entertain of his character and services" (JCC, XXVI, 227).

3. On 1 June 1787 John Adams signed an agreement for a Dutch loan of one million florins (\$400,000). The loan, which was thought to be "necessary, to prevent the total ruin of our Public Credit . . .," was ratified by Congress on 11 October 1787 (JCC, XXXIII, 412–15, 649; LMCC, VIII, 668n).

### 439. Governor George Clinton: Speech to the New York Legislature Poughkeepsie, 11 January

The New York legislature convened on 1 January but did not attain a quorum until 11 January. "This meeting of the legislature," according to the *New York Journal* of 3 January, "is conceived by every class of people to be the most important one that the state of New-York has ever experienced since the first establishment of its sovereignty and independence, before whom, the momentous subject of the new federal constitution is to be discussed, and before whom, doubtless, its merits will be fully and impartially investigated." There was some speculation about what course of action the legislature would take. Richard Sill, an Albany lawyer, wrote that "Our Legislature have formed a house at Poughkeepsie, and the first object of their attention will be the calling a Convention. This however will meet a warm opposition & 'tis doubted by the best friends to the New Government whether we shall have a Convention called by a Legislative Act, the opposition are determined to make their first stand here—the Complexion of our Senate is unfavourable but the other house will pass a Bill for the purpose" (to Jeremiah Wadsworth, 12 January, Wadsworth Correspondence, Connecticut Historical Society. See also two letters that James Madison wrote to George Washington and Tench Coxe on 20 January, CC:464; Rutland, *Madison*, XII, 480. For a different point of view, see Lansingburgh *Northern Centinel*, 15 January, Appendix I.).

Much seemed to depend upon the actions of Governor George Clinton. Clinton was the leader of a party that generally opposed strengthening the central government. During the summer of 1787 Clinton had been attacked as an enemy of the Constitutional Convention in a widely circulated newspaper

article written by Alexander Hamilton (CC:40). Although Clinton publicly did not comment on the Constitution after its promulgation, Federalists believed him to be an opponent of the new form of government. His failure to call the legislature before its regularly scheduled session was looked upon as an unfriendly act toward the Constitution (CC:290–A).

On 11 January Clinton addressed the legislature and turned over “several official communications,” including the report of the Constitutional Convention (CC:76), the congressional resolution of 28 September (CC:95), and the 21 December letter from Robert Yates and John Lansing, Jr., to the governor explaining why they opposed the Constitution (CC:447). Clinton told the legislature that it would be “improper” for him “to have any other agency in this business.” On 29 January the House of Assembly voted to call a state convention and the Senate concurred two days later.

On 14 January Clinton’s speech was printed in the New York *Daily Advertiser* and the *New York Journal*. The *Journal* said that its copy had “been immediately communicated by a friend, and correspondent.” (The editor of the *Journal* had announced on 3 January that he had “made such an arrangement as he flatters himself will enable him to communicate the earliest, and most important intelligence of the proceedings” of the legislature.) The *Journal* printed the speech again on Thursday, 17 January. (The *Journal’s* Thursday issue “had a *more general Circulation in the Country, than that of any other day in the Week*” [CC:Vol. 1, xxxviii].) The speech was reprinted twenty-two times by 21 February: Mass. (2), R.I. (2), Conn. (5), N.Y. (6), Pa. (3), Va. (1), S.C. (2), Ga. (1). Six other newspapers reprinted the passage on the Constitution by 7 February: Mass. (2), Conn. (3), Md. (1).

The text of Clinton’s speech printed immediately below is taken from the *Daily Advertiser*. The *New York Journal’s* version differs slightly in punctuation, capitalization, and paragraphing. Three other slightly different versions exist: in the House and Senate journals and a manuscript copy signed by George Clinton (Clinton Papers, NH).

*The SPEECH of His Excellency GEORGE CLINTON, Esq. Governor, &c. &c. of the State of New-York, to both Houses of the Legislature, convened at Poughkeepsie, on the 11th day of Jan. 1788.*

*Gentlemen of the Senate and Assembly,* It being essential to the welfare of our Confederacy that a representation in the National Council should be maintained without intermission, and as the term for which the delegates from this State were elected, is expired, you will perceive the necessity of proceeding to an immediate new appointment.

*Gentlemen,* The requisition for the Federal services of the current year also claims your early attention. I have full confidence that the same spirit which has invariably influenced the Legislature of this State, will induce you to a cheerful and effectual compliance with every measure founded on the National Compact, and necessary to the honor and prosperity of the Union.

It will appear from the act of Congress, and other papers on this subject, that the supplies required for the common Treasury are principally to arise from the arrears due on former requisitions.<sup>1</sup> Advantages will therefore result from the punctuality of past payments, as a greater proportion of the resources of the State may now be

applied to the relief of our own citizens. To assist you in making the necessary arrangements, I shall cause to be laid before you estimates of the Public Debt, with the receipts and expenditures since the conclusion of the war, abstracted from the Treasurer's annual audited accounts, by which you will be particularly informed of the present state of our Treasury.

It gives me great pleasure to inform you that the jurisdiction line between the Commonwealth of Massachusetts and this State, which has been so long a subject of controversy, and attended with much inconvenience and distress to the borderers, is at length finally adjusted,<sup>2</sup> and that the boundary line between this State and the Commonwealth of Pennsylvania is also completed.<sup>3</sup> The reports of the Commissioners employed in these respective transactions, accompanied with maps of the line, will be delivered to you, in order that the proper direction may be given for their authentication and deposit, and for the final liquidation and settlement of the expences which have attended their services.

I shall leave with you the several official communications which have been made to me in the recess; with these you will receive the proceedings of the General Convention lately held in the city of Philadelphia, and an act of the United States in Congress, for their transmission to the Legislatures of the different States. From the nature of my office you will easily perceive it would be improper for me to have any other agency in this business, than that of laying the papers respecting it before you for your information.

*Gentlemen,* It must afford the highest satisfaction to observe that, under the blessings of Heaven, tranquility and good order continue to prevail throughout the State; and that by the industry of the citizens, the country is in a great measure recovered from the wastes and injuries of war. The profuse use, however, of luxuries brought from abroad, drains us of our wealth, and is the source from which most of our present difficulties proceed.

I would therefore submit to the wisdom of the Legislature, the propriety of limiting the consumption of foreign articles, by encouraging the manufacture of our own productions, as far as may be consistent with our situation, and a due regard to beneficial commerce.

1. For the congressional requisition of 11 October 1787, see JCC, XXXIII, 649-58. In its letter of 26 January to Clinton, the legislature promised to comply with the requisition, "as far as the abilities of the State will admit."

2. For the settlement of the boundary dispute between Massachusetts and New York in December 1787, see *ibid.*, 617-29.

3. In November 1787 the commissioners from New York and Pennsylvania reported that they had completed the boundary line between the two states at the forty-second parallel. Both states had first appointed commissioners in 1785.

**440. Publius: The Federalist 37**  
**New York Daily Advertiser, 11 January**

The publication of this essay—written by James Madison—was announced in the *Advertiser* on the previous day. The essay was reprinted in the *New York Independent Journal*, 12 January; *New York Packet*, 15 January; and *New York Journal*, 19 January. It was number 37 in the M'Lean edition and number 36 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FEDERALIST, No. XXXVI.

*To the People of the State of New-York.*

In reviewing the defects of the existing Confederation, and shewing that they cannot be supplied by a Government of less energy than that before the public, several of the most important principles of the latter fell of course under consideration. But as the ultimate object of these papers is to determine clearly and fully the merits of this Constitution, and the expediency of adopting it, our plan cannot be completed without taking a more critical and thorough survey of the work of the Convention; without examining it on all its sides; comparing it in all its parts, and calculating its probable effects. That this remaining task may be executed under impressions conducive to a just and fair result, some reflections must in this place be indulged, which candor previously suggests. It is a misfortune, inseparable from human affairs, that public measures are rarely investigated with that spirit of moderation which is essential to a just estimate of their real tendency to advance or obstruct the public good; and that this spirit is more apt to be diminished than prompted, by those occasions which require an unusual exercise of it.—To those who have been led by experience to attend to this consideration, it could not appear surprising, that the act of the Convention which recommends so many important changes and innovations, which may be viewed in so many lights and relations, and which touches the springs of so many passions and interests, should find or excite dispositions unfriendly both on one side, and on the other, to a fair discussion and accurate judgment of its merits. In some, it has been too evident from their own publications, that they have scanned the proposed Constitution, not only with a predisposition to censure; but with a predetermination to condemn; as the language held by others betrays an opposite predetermination or bias, which must render their opinions also of little moment in the question. In placing however, these different characters on a level, with respect to the weight of their opinions, I wish not to insinuate that there may not be a material difference in the purity of their intentions. It is but just to remark in favor of the latter description, that as our situation is

universally admitted to be peculiarly critical, and to require indispensably, that something should be done for our relief, the predetermined patron of what has been actually done, may have taken his bias from the weight of these considerations, as well as from considerations of a sinister nature. The predetermined adversary on the other hand, can have been governed by no venial motive whatever. The intentions of the first may be upright, as they may on the contrary be culpable. The views of the last cannot be upright, and must be culpable. But the truth is, that these papers are not addressed to persons falling under either of these characters. They solicit the attention of those only, who add to a sincere zeal for the happiness of their country, a temper favorable to a just estimate of the means of promoting it.

Persons of this character will proceed to an examination of the plan submitted by the Convention, not only without a disposition to find or to magnify faults; but will see the propriety of reflecting that a faultless plan was not to be expected. Nor will they barely make allowances for the errors which may be chargeable on the fallibility to which the Convention, as a body of men, were liable; but will keep in mind that they themselves also are but men, and ought not to assume an infallibility in rejudging the fallible opinions of others.

With equal readiness will it be perceived, that besides these inducements to candor, many allowances ought to be made for the difficulties inherent in the very nature of the undertaking referred to the Convention.

The novelty of the undertaking immediately strikes us. It has been shewn in the course of these papers, that the existing Confederation is founded on principles which are fallacious;<sup>1</sup> that we must consequently change this first foundation, and with it, the superstructure resting upon it. It has been shewn, that the other confederacies which could be consulted as precedents, have been viciated by the same erroneous principles, and can therefore furnish no other light than that of beacons, which give warning of the course to be shunned, without pointing out that which ought to be pursued.<sup>2</sup> The most that the Convention could do in such a situation, was to avoid the errors suggested by the past experience of other countries, as well as of our own; and to provide a convenient mode of rectifying their own errors, as future experience may unfold them.

Among the difficulties encountered by the Convention, a very important one must have lain, in combining the requisite stability and energy in Government, with the inviolable attention due to liberty, and to the Republican form. Without substantially accomplishing this part of their undertaking, they would have very imperfectly fulfilled the object of their appointment, or the expectation of the public:—Yet, that

it could not be easily accomplished, will be denied by no one, who is unwilling to betray his ignorance of the subject. Energy in Government is essential to that security against external and internal danger, and to that prompt and salutary execution of the laws, which enter into the very definition of good Government. Stability in Government, is essential to national character, and to the advantages annexed to it, as well as to that repose and confidence in the minds of the people, which are among the chief blessings of civil society. An irregular and mutable legislation, is not more an evil in itself, than it is odious to the people; and it may be pronounced with assurance, that the people of this country, enlightened as they are, with regard to the nature, and interested, as the great body of them are, in the effects of good Government, will never be satisfied, till some remedy be applied to the vicissitudes and uncertainties, which characterize the State administrations. On comparing, however, these valuable ingredients with the vital principles of liberty, we must perceive at once, the difficulty of mingling them together in their due proportions. The genius of Republican liberty, seems to demand on one side, not only, that all power should be derived from the people; but, that those entrusted with it should be kept in dependence on the people, by a short duration of their appointments; and, that, even during this short period, the trust should be placed not in a few, but in a number of hands. Stability, on the contrary, requires, that the hands, in which power is lodged, should continue for a length of time, the same. A frequent change of men will result from a frequent return of elections, and a frequent change of measures, from a frequent change of men: whilst energy in Government requires not only a certain duration of power, but the execution of it by a single hand. How far the Convention may have succeeded in this part of their work, will better appear on a more accurate view of it. From the cursory view, here taken, it must clearly appear to have been an arduous part.

Not less arduous must have been the task of marking the proper line of partition, between the authority of the general, and that of the State Governments. Every man will be sensible of this difficulty in proportion as he has been accustomed to contemplate and discriminate objects, extensive and complicated in their nature. The faculties of the mind itself have never yet been distinguished and defined, with satisfactory precision, by all the efforts of the most acute and metaphysical Philosophers. Sense, perception, judgment, desire, volition, memory, imagination, are found to be separated by such delicate shades, and minute gradations, that their boundaries have eluded the most subtle investigations, and remain a pregnant source of ingenious disquisition and controversy. The boundaries between the great kingdoms of nature, and still more, between the various provinces, and lesser



portions, into which they are subdivided, afford another illustration of the same important truth. The most sagacious and laborious naturalists have never yet succeeded, in tracing with certainty, the line which separates the district of vegetable life from the neighboring region of unorganized matter, or which marks the termination of the former and the commencement of the animal empire. A still greater obscurity lies in the distinctive characters, by which the objects in each of these great departments of nature, have been arranged and assorted. When we pass from the works of nature, in which all the delineations are perfectly accurate, and appear to be otherwise only from the imperfection of the eye which surveys them, to the institutions of man, in which the obscurity arises as well from the object itself, as from the organ by which it is contemplated; we must perceive the necessity of moderating still farther our expectations and hopes from the efforts of human sagacity. Experience has instructed us that no skill in the science of Government has yet been able to discriminate and define, with sufficient certainty, its three great provinces, the Legislative, Executive and Judiciary; or even the privileges and powers of the different Legislative branches. Questions daily occur in the course of practice, which prove the obscurity which reigns in these subjects, and which puzzle the greatest adepts in political science. The experience of ages, with the continued and combined labors of the most enlightened Legislators and jurists, have been equally unsuccessful in delineating the several objects and limits of different codes of laws and different tribunals of justice. The precise extent of the common law, the statute law, the maritime law, the ecclesiastical law, the law of corporations and other local laws and customs, remain still to be clearly and finally established in Great-Britain, where accuracy in such subjects has been more industriously pursued than in any other part of the world. The jurisdiction of her several courts, general and local, of law, of equity, of admiralty, &c. is not less a source of frequent and intricate discussions, sufficiently denoting the indeterminate limits by which they are respectively circumscribed. All new laws, though penned with the greatest technical skill, and passed on the fullest and most mature deliberation, are considered as more or less obscure and equivocal, until their meaning be liquidated and ascertained by a series of particular discussions and adjudications. Besides the obscurity arising from the complexity of objects, and the imperfection of the human faculties, the medium through which the conceptions of men are conveyed to each other, adds a fresh embarrassment. The use of words is to express ideas. Perspicuity therefore requires not only that the ideas should be distinctly formed, but that they should be expressed by words distinctly and exclusively appropriated to them. But no language is so copious as to supply words and phrases for every complex idea, or so correct as not to include many equivocally denoting different ideas.

Hence it must happen, that however accurately objects may be discriminated in themselves, and however accurately the discrimination may be considered, the definition of them may be rendered inaccurate by the inaccuracy of the terms in which it is delivered. And this unavoidable inaccuracy must be greater or less, according to the complexity and novelty of the objects defined. When the Almighty himself condescends to address mankind in their own language, his meaning, luminous as it must be, is rendered dim and doubtful, by the cloudy medium through which it is communicated. Here then are three sources of vague and incorrect definitions; indistinctness of the object, imperfection of the organ of conception, inadequateness of the vehicle of ideas. Any one of these must produce a certain degree of obscurity. The Convention, in delineating the boundary between the Federal and State jurisdictions, must have experienced the full effect of them all.

To the difficulties already mentioned, may be added the interfering pretensions of the larger and smaller States. We cannot err in supposing that the former would contend for a participation in the Government, fully proportioned to their superior wealth and importance; and that the latter would not be less tenacious of the equality at present enjoyed by them. We may well suppose that neither side would entirely yield to the other, and consequently that the struggle could be terminated only by compromise. It is extremely probable also, that after the ratio of representation had been adjusted, this very compromise must have produced a fresh struggle between the same parties, to give such a turn to the organization of the Government, and to the distribution of its powers, as would encrease the importance of the branches, in forming which they had respectively obtained the greatest share of influence. There are features in the Constitution which warrant each of these suppositions; and as far as either of them is well founded, it shews that the Convention must have been compelled to sacrifice theoretical propriety to the force of extraneous considerations.

Nor could it have been the large and small States only which would marshal themselves in opposition to each other on various points. Other combinations, resulting from a difference of local position and policy, must have created additional difficulties. As every State may be divided into different districts, and its citizens into different classes, which give birth to contending interests and local jealousies; so the different parts of the United States are distinguished from each other, by a variety of circumstances, which produce a like effect on a larger scale. And although this variety of interests, for reasons sufficiently explained in a former paper,<sup>3</sup> may have a salutary influence on the administration of the Government when formed; yet every one must be sensible of the contrary influence which must have been experienced in the task of forming it.

Would it be wonderful if under the pressure of all these difficulties, the Convention should have been forced into some deviations from that artificial structure and regular symmetry, which an abstract view of the subject might lead an ingenious theorist to bestow on a Constitution planned in his closet or in his imagination? The real wonder is, that so many difficulties should have been surmounted; and surmounted with a unanimity almost as unprecedented as it must have been unexpected. It is impossible for any man of candor to reflect on this circumstance, without partaking of the astonishment. It is impossible for the man of pious reflection not to perceive in it, a finger of that Almighty hand which has been so frequently and signally extended to our relief in the critical stages of the revolution. We had occasion in a former paper, to take notice of the repeated trials which have been unsuccessfully made in the United Netherlands,<sup>4</sup> for reforming the baneful and notorious vices of their Constitution. The history of almost all the great councils and consultations, held among mankind for reconciling their discordant opinions, assuaging their mutual jealousies, and adjusting their respective interests, is a history of factions, contentions, and disappointments; and may be classed among the most dark and degrading pictures which display the infirmities and depravities of the human character. If, in a few scattered instances, a brighter aspect is presented, they serve only as exceptions to admonish us of the general truth; and by their lustre to darken the gloom of the adverse prospect to which they are contrasted. In revolving the causes from which these exceptions result, and applying them to the particular instance before us, we are necessarily led to two important conclusions. The first is, that the Convention must have enjoyed in a very singular degree, an exemption from the pestilential influence of party animosities; the diseases most incident to deliberative bodies, and most apt to contaminate their proceedings. The second conclusion is, that all the deputations composing the Convention, were either satisfactorily accommodated by the final act; or were induced to accede to it, by a deep conviction of the necessity of sacrificing private opinions and partial interests to the public good, and by a despair of seeing this necessity diminished by delays or by new experiments.

1. See especially *The Federalist* 15 to 22, 1–14 December 1787 (CC:312, 317, 321, 330, 333, 340, 341, 347).

2. See *The Federalist* 18 to 20, 7–11 December (CC:330, 333, 340).

3. See *The Federalist* 10, 22 November (CC:285).

4. See *The Federalist* 20, 11 December (CC:340).

#### **441. Luther Martin: Genuine Information V Baltimore Maryland Gazette, 11 January<sup>1</sup>**

*Mr. MARTIN's Information to the House of Assembly, continued.*

With respect to *that part* of the *second* section of the *first* article, which relates to the *apportionment of representation* and *direct taxation*, there were

considerable objections made to it, besides the great objection of *inequality*—It was urged, that no principle could justify taking *slaves* into computation in *apportioning* the number of *representatives* a State should have in the government—that it involved the absurdity of *increasing* the power of a State in making laws for *free men* in *proportion* as that State *violated* the *rights of freedom*—That it might be proper to take slaves into consideration, when *taxes* were to be apportioned, because it had a tendency to *discourage slavery*; but to take them into account in *giving representation* tended to *encourage the slave trade*, and to make it the *interest* of the States to *continue that infamous traffic*—That slaves could not be taken into account as *men*, or *citizens*, because they were not admitted to the *rights of citizens* in the States which adopted or continued slavery—If they were to be taken into account as *property*, it was asked, what peculiar circumstance should render this property (of *all others* the most *odious* in its nature) entitled to the *high privilege* of conferring *consequence* and *power* in the *government* to its possessors, rather than *any other property*—and why *slaves* should, as property, be taken into account rather than *horses, cattle, mules*, or any *other species*—and it was observed by an honorable member from Massachusetts, that he considered it as dishonorable and humiliating to enter into compact with the *slaves* of the *southern States*, as it would be with the *horses and mules* of the *eastern*.<sup>2</sup> It was also objected, that the *numbers* of representatives appointed by this section to be sent by the particular States to compose the *first legislature*, were not precisely *agreeable* to the *rule* of representation adopted by this system, and that the numbers in this section are *artfully lessened* for the *large States*, while the *smaller States* have their *full proportion* in order to prevent the *undue influence* which the *large States* will have in the government from being *too apparent*; and I think, Mr. Speaker, that this objection is *well founded*.—I have taken some pains to obtain information of the numbers of free men and slaves in the different States, and I have reason to believe, that if the estimate was *now* taken, which is directed, and one delegate to be sent for every thirty thousand inhabitants, that Virginia would have at least *twelve* delegates, Massachusetts *eleven*, and Pennsylvania *ten*, instead of the numbers stated in *this section*; whereas the *other States*, I believe, would not have more than the numbers there allowed them, nor would Georgia, most probably at present, send more than *two*—If I am right, Mr. Speaker, upon the enumeration being made, and the representation being apportioned according to the rule prescribed, the *whole number* of delegates would be *seventy-one, thirty-six* of which would be a *quorum* to do business; the delegates of Virginia, Massachusetts, and Pennsylvania, would amount to *thirty-three* of that quorum—Those three States will, therefore, have *much more* than *equal power* and influence in *making* the laws and regulations, which are to affect this continent, and will have a *moral certainty* of *preventing* any laws or regulations which *they disapprove*, although they might be thought

ever so *necessary* by a *great majority* of the States—It was further objected, that even if the States who had most inhabitants ought to have a greater number of delegates, yet the *number of delegates* ought to be in *exact proportion* to the *number of inhabitants*, because the influence and power of those States whose delegates are numerous, will be *greater* when compared to the influence and power of the other States, than the *proportion* which the numbers of their delegates bear to each other; as for instance, though Delaware has *one* delegate, and Virginia but *ten*, yet Virginia has *more than ten times* as much *power and influence* in the government as Delaware; to prove this, it was observed, that *Virginia* would have a *much greater* chance to carry any measure than *any number of States*, whose delegates were altogether ten (suppose the States of Delaware, Connecticut, Rhode-Island, and New-Hampshire) since the *ten delegates* from Virginia in every thing that related to the interest of that State would *act in union* and *move one solid and compact body*, whereas the *delegates of these four States*, though collectively *equal* in number to those from Virginia, coming from *different States*, having *different interests*, will be *less likely* to harmonize and move in concert—As a further proof it was said, that Virginia, as the system is now reported, by uniting with her the delegates of *four* other States, can carry a question *against* the sense and interest of *eight* States by *sixty-four* different combinations, the *four States* voting with Virginia, being every time *so far different* as not to be composed of the *same four*; whereas the State of Delaware can only, by uniting four other States with her, carry a measure against the sense of eight States by *two* different combinations—a mathematical proof that the State of *Virginia* has *thirty-two* times greater chance of carrying a measure against the sense of eight States than *Delaware*, although Virginia has only *ten times* as many delegates—It was also shewn, that the idea was totally fallacious which was attempted to be maintained, that if a State had *one thirteenth* part of the *numbers composing the delegation in this system*, such State would have *as much influence* as under the articles of confederation; to prove the fallacy of this idea it was shewn, that under the articles of confederation the State of Maryland had but *one* vote in *thirteen*, yet no measure could be carried against her interests without *seven States*, a majority of the whole concurring in it; whereas in this system, though Maryland has *six* votes, which is *more than the proportion* of *one in thirteen*, yet *five* States may, in a *variety of combinations*, carry a question *against* her interest, though *seven* other States concur with her, and *six* States by a *much greater* number of combinations, may carry a measure against *Maryland*, united with *six other States*. I shall here, Sir, just observe, that as the committee of detail reported the system, the delegates from the different States were to be *one* for every *forty thousand* inhabitants; it was afterwards altered to one for every *thirty thousand*; this alteration was made after I left the convention, at the

instance of whom I know not,<sup>3</sup> but it is evident that the alteration is in favour of *the States* which have large and *extensive* territory to increase their power and influence in the government, and to the injury of the *smaller States*—Since it is the States of *extensive* territory, who will *most speedily* increase the number of their *inhabitants* as before has been observed, and will, therefore, most speedily procure an increase to the number of their *delegates*—By this alteration Virginia, North-Carolina, or Georgia, by obtaining one hundred and twenty thousand additional inhabitants, will be entitled to *four* additional delegates, whereas such State would only have been entitled to *three*, if *forty thousand* had remained the number by which to apportion the delegation. As to that part of this section that relates to direct taxation, there was also an objection for the following reasons—It was said that as a *large sum* of money was to be brought into the national treasury by the *duties* on commerce, which would be almost *wholly* paid by the *commercial States*, it would be *unequal* and *unjust* that the sum which was necessary to be raised by *direct taxation* should be apportioned *equally* upon all the States, obliging the commercial States to pay as large a share of the revenue arising therefrom, as the States from whom no revenue had been drawn by imposts—Since the wealth and industry of the inhabitants of the commercial States will in the first place be severely taxed through their commerce, and afterwards be *equally taxed* with the industry and wealth of the inhabitants of the other States, *who have paid no part* of that *revenue*, so that by this provision, the inhabitants of the commercial States are in this system obliged to bear an unreasonable and disproportionate share in the expences of the union, and the payment of that foreign and domestic debt, which was incurred not more for the benefit of the commercial than of the other States. In the *sixth* section of the *first* article, it is provided, that senators and representatives may be appointed to any civil office under the authority of the United States, except such as shall have been created, or the emoluments of which have been increased during the time for which they were elected—Upon this subject, Sir, there was a great diversity of sentiment among the members of the convention—As the propositions were reported by the committee of the whole house, a senator or representative could not be appointed to *any office* under a *particular State*, or under the *United States*, during the time for which they were chosen, nor to any office under the United States until one year after the expiration of that time.<sup>4</sup>—It was said, and in my opinion justly, that no good reason could be assigned why a senator or representative should be incapacitated to hold an office in *his own* government, since it can only bind him more closely to his State, and attach him the more to its interests, which, as its representative, he is bound to consult and sacredly guard as far as is consistent with the welfare of the union, and therefore, at most, would only add the additional motive of gratitude

for discharging his duty; and according to this idea, the clause which prevented senators or delegates from holding offices in their own States, was rejected by a considerable majority; but, Sir, we sacredly endeavoured to preserve all that part of the resolution which prevented them from being *eligible* to *offices* under the *United States*, as we considered it *essentially necessary* to preserve the *integrity, independence, and dignity* of the legislature, and to secure its members from *corruption*.

I was in the number of those who was extremely solicitous to preserve this part of the report; but there was a powerful opposition made by such who wished the members of the legislature to be eligible to offices under the United States—*Three* different times did they attempt to procure an alteration, and *as often* failed, a majority firmly adhering to the resolution as reported by the committee—However, an alteration was at length, by dint of perseverance, obtained even within the last twelve days of the convention, for it happened after I left Philadelphia<sup>5</sup>—As to the exception that they cannot be appointed to offices created by themselves, or the emoluments of which are by themselves increased, it is certainly of little consequence, since they may easily evade it by creating new offices to which may be appointed the persons who fill the offices before created, and thereby vacancies will be made which may be filled by the members who for that purpose have created the new offices.

It is true, the acceptance of an office vacates their seat, nor can they be re-elected during their continuance in office; but it was said, that the evil would first take place, that the price for the office would be paid before it was obtained—that vacating the seat of the person who was appointed to office, made way for the admission of a new member, who would come there as desirous to obtain an office as him whom he succeeded, and as ready to pay the price necessary to obtain it; in fine, that it would be only driving away the flies who were *filled* to make room for those that were *hungry*—And as the system is now reported, the *president* having the power to *nominate* to *all offices*, it must be evident, that there is *no possible security* for the *integrity and independence* of the *legislature*, but that they are most *unduly* placed under the *influence* of the *president* and exposed to *bribery and corruption*.

(To be continued.)

1. This item was reprinted in the *Pennsylvania Packet*, 18 January; *Pennsylvania Herald*, 23 January; *Philadelphia Independent Gazetteer*, 24 January; *New York Journal*, 25, 26 January; and *State Gazette of South Carolina*, 28 April. (See also note 4 below.) The editors of the *Pennsylvania Herald* and *Independent Gazetteer* said that they were reprinting this installment out of sequence because they had not yet received the *Baltimore Maryland Gazette* of 8 January, which contained the previous installment (CC:425). For a general discussion of the *Genuine Information*, see CC:389.

2. On 11 June Elbridge Gerry had stated: "The idea of property ought not to be the rule of representation. Blacks are property, and are used to the southward as

horses and cattle to the northward; and why should their representation be increased to the southward on account of the number of slaves, than horses or oxen to the north?" (Farrand, I, 205–6).

3. The change was made on the motion of Nathaniel Gorham of Massachusetts on the last day of the Convention—almost two weeks after Martin had departed. George Washington spoke in behalf of the motion which had “no opposition” and which passed unanimously (Farrand, II, 643–44). For the *Pennsylvania Herald's* widely circulated report of 7 November 1787 on Washington's remarks, see CC:233–B. For the report of the Committee of Detail, see CDR, 261.

4. The text from this point to the end was reprinted in the *Boston American Herald* on 24 March.

5. For the evolution of Article I, section 6, clause 2, of the Constitution, see CDR, 243–44, 248, 256, 263, 273, 288; Farrand, I, 20–21, 375–77, 386–91; II, 283–90, 483, 484, 486–87, 489–92. The last substantive change occurred on 3 September, the day before Martin left Philadelphia.

#### 442. Publius: The Federalist 38

##### New York Independent Journal, 12 January

This essay, written by James Madison, was reprinted in the *New York Daily Advertiser* and *New York Packet*, 15 January; and the *New York Journal*, 25–26 January. All but the first two paragraphs were reprinted in the Exeter, N.H., *Freeman's Oracle* on 15 February. This essay was number 38 in the M'Lean edition and number 37 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### The FØDERALIST. No. XXXVII.

##### To the People of the State of New-York.

It is not a little remarkable that in every case reported by antient history, in which government has been established with deliberation and consent, the task of framing it has not been committed to an assembly of men; but has been performed by some individual citizen of pre-eminent wisdom and approved integrity. Minos, we learn, was the primitive founder of the government of Crete; as Zaleucus was of that of the Locrians. Theseus first, and after him Draco and Solon, instituted the government of Athens. Lycurgus was the Lawgiver of Sparta. The foundation of the original government of Rome was laid by Romulus; and the work completed by two of his elective successors, Numa, and Tullus Hostilius. On the abolition of Royalty, the Consular administration was substituted by Brutus, who stepped forward with a project for such a reform, which he alledged had been prepared by Tullus Hostilius,<sup>1</sup> and to which his address obtained the assent and ratification of the Senate and people. This remark is applicable to confederate governments also. Amphycyon, we are told, was the author of that which bore his name. The Achæan League received its first birth from Achæus, and its second from Aratus. What degree of agency these reputed Lawgivers might have in their respective



establishments, or how far they might be clothed with the legitimate authority of the people, cannot in every instance be ascertained. In some, however, the proceeding was strictly regular. Draco appears to have been entrusted by the people of Athens, with indefinite powers to reform its government and laws. And Solon, according to Plutarch, was in a manner compelled by the universal suffrage of his fellow citizens, to take upon him the sole and absolute power of new modelling the Constitution.<sup>2</sup> The proceedings under Lycurgus were less regular; but as far as the advocates for a regular reform could prevail, they all turned their eyes towards the single efforts of that celebrated patriot and sage, instead of seeking to bring about a revolution, by the intervention of a deliberative body of citizens.<sup>3</sup> Whence could it have proceeded that a people jealous as the Greeks were of their liberty, should so far abandon the rules of caution, as to place their destiny in the hands of a single citizen? Whence could it have proceeded, that the Athenians, a people who would not suffer an army to be commanded by fewer than ten Generals, and who required no other proof of danger to their liberties than the illustrious merit of a fellow citizen should consider one illustrious citizen as a more eligible depository of the fortunes of themselves and their posterity, than a select body of citizens, from whose common deliberations more wisdom, as well as more safety, might have been expected? These questions cannot be fully answered without supposing that the fears of discord and disunion among a number of Counsellors, exceeded the apprehension of treachery or incapacity in a single individual. History informs us likewise of the difficulties with which these celebrated reformers had to contend; as well as of the expedients which they were obliged to employ, in order to carry their reforms into effect. Solon, who seems to have indulged a more temporising policy, confessed that he had not given to his countrymen the government best suited to their happiness, but most tolerable to their prejudices. And Lycurgus, more true to his object, was under the necessity of mixing a portion of violence with the authority of superstition; and of securing his final success, by a voluntary renunciation, first of his country, and then of his life. If these lessons teach us, on one hand, to admire the improvement made by America on the ancient mode of preparing and establishing regular plans of government; they serve not less on the other, to admonish us of the hazards and difficulties incident to such experiments, and of the great imprudence of unnecessarily multiplying them.

Is it an unreasonable conjecture that the errors which may be contained in the plan of the Convention are such as have resulted rather from the defect of antecedent experience on this complicated and difficult subject, than from a want of accuracy or care in the investigation of it; and consequently such as will not be ascertained

until an actual trial shall have pointed them out? This conjecture is rendered probable not only by many considerations of a general nature, but by the particular case of the articles of confederation. It is observable that among the numerous objections and amendments suggested by the several States, when these articles were submitted for their ratification, not one is found which alludes to the great and radical error, which on actual trial has discovered itself. And if we except the observations which New-Jersey was led to make rather by her local situation than by her peculiar foresight,<sup>4</sup> it may be questioned whether a single suggestion was of sufficient moment to justify a revision of the system. There is abundant reason nevertheless to suppose that immaterial as these objections were, they would have been adhered to with a very dangerous inflexibility in some States, had not a zeal for their opinions and supposed interests, been stifled by the more powerful sentiment of self-preservation. One State, we may remember, persisted for several years in refusing her concurrence, although the enemy remained the whole period at our gates, or rather in the very bowels of our country.<sup>5</sup> Nor was her pliancy in the end effected by a less motive than the fear of being chargeable with protracting the public calamities, and endangering the event of the contest. Every candid reader will make the proper reflections on these important facts.

A patient who finds his disorder daily growing worse; and that an efficacious remedy can no longer be delayed without extreme danger; after coolly revolving his situation, and the characters of different physicians, selects and calls in such of them as he judges most capable of administering relief, and best entitled to his confidence. The physicians attend: The case of the patient is carefully examined: a consultation is held. They are unanimously agreed that the symptoms are critical, but that the case, with proper and timely relief, is so far from being desperate, that it may be made to issue in an improvement of his constitution. They are equally equanimous in prescribing the remedy by which this happy effect is to be produced. The prescription is no sooner made known however, than a number of persons interpose, and without denying the reality or danger of the disorder, assure the patient that the prescription will be poison to his constitution, and forbid him under pain of certain death to make use of it. Might not the patient reasonably demand before he ventured to follow this advice, that the authors of it should at least agree among themselves, on some other remedy to be substituted? and if he found them differing as much from one another, as from his first counsellors, would he not act prudently, in trying the experiment unanimously recommended by the latter, rather than in hearkening to those who could neither deny the necessity of a speedy remedy, nor agree in proposing one?

Such a patient, and in such a situation is America at this moment. She has been sensible of her malady. She has obtained a regular and unanimous advice from men of her own deliberate choice. And she is warned by others against following this advice, under pain of the most fatal consequences. Do the monitors deny the reality of her danger? No. Do they deny the necessity of some speedy and powerful remedy? No. Are they agreed, are any two of them agreed in their objections to the remedy proposed, or in the proper one to be substituted? Let them speak for themselves. This one tells us that the proposed constitution ought to be rejected, because it is not a confederation of the States, but a Government over individuals. Another admits that it ought to be a government over individuals, to a certain extent, but by no means to the extent proposed. A third does not object to the Government over individuals, or to the extent proposed, but to the want of a bill of rights. A fourth concurs in the absolute necessity of a bill of rights, but contends that it ought to be declaratory not of the personal rights of individuals, but of the rights reserved to the States in their political capacity. A fifth is of opinion that a bill of rights of any sort would be superfluous and misplaced and that the plan would be unexceptionable, but for the fatal power of regulating the times and places of election. An objector in a large State exclaims loudly against the unreasonable equality of representation in the Senate. An objector in a small State is equally loud against the dangerous inequality in the house of representatives. From this quarter we are alarmed with the amazing expence from the number of persons who are to administer the new Government. From another quarter, and sometimes from the same quarter, on another occasion, the cry is that the Congress will be but the shadow of a representation, and that the Government would be far less objectionable, if the number and the expence were doubled. A patriot in a State that does not import or export, discerns insuperable objections against the power of direct taxation. The patriotic adversary in a State of great exports and imports, is not less dissatisfied that the whole burden of taxes may be thrown on consumption. This Politician discovers in the constitution a direct and irresistible tendency to monarchy. That is equally sure, it will end in aristocracy. Another is puzzled to say which of these shapes it will ultimately assume, but sees clearly it must be one or other of them. Whilst a fourth is not wanting who with no less confidence affirms that the constitution is so far from having a bias towards either of these dangers, that the weight on that side will not be sufficient to keep it upright and firm against its opposite propensities. With another class of adversaries to the constitution, the language is that the legislative executive and judiciary departments are intermixed in such a manner as to contradict all the ideas of regular government, and all the requisite precautions in favour of liberty.

Whilst this objection circulates in vague and general expressions, there are not a few who lend their sanction to it. Let each one come forward with his particular explanation and scarce any two are exactly agreed on the subject. In the eyes of one the junction of the Senate with the President in the responsible function of appointing to offices, instead of vesting this executive power in the executive, alone, is the vicious part of the organisation. To another, the exclusion of the house of representatives whose numbers alone could be a due security against corruption and partiality in the exercise of such a power, is equally obnoxious. With another, the admission of the President into any share of a power which must ever be a dangerous engine in the hands of the executive magistrate, is an unpardonable violation of the maxims of republican jealousy. No part of the arrangement according to some is more inadmissible<sup>6</sup> than the trial of impeachments by the Senate, which is alternately a member both of the legislative and executive departments, when this power so evidently belonged to the judiciary department. We concur fully, reply others, in the objection to this part of the plan, but we can never agree that a reference of impeachments to the judiciary authority would be an amendment of the error. Our principal dislike to the organisation arises from the extensive powers already lodged in that department. Even among the zealous patrons of a council of State, the most irreconcilable variance is discovered concerning the mode in which it ought to be constituted. The demand of one gentleman is that the council should consist of a small number, to be appointed by the most numerous branch of the Legislature. Another would prefer a larger number, and considers it as a fundamental condition that the appointment should be made by the President himself.

As it can give no umbrage to the writers against the plan of the Fœderal Constitution, let us suppose that as they are the most zealous, so they are also the most sagacious of those who think the late Convention were unequal to the task assigned them, and that a wiser and better plan might and ought to be substituted. Let us further suppose that their country should concur both in this favorable opinion of their merits, and in their unfavorable opinion of the Convention, and should accordingly proceed to form them into a second Convention, with full powers and for the express purpose of revising and remoulding the work of the first. Were the experiment to be seriously made, though it requires some effort to view it seriously even in fiction, I leave it to be decided by the sample of opinions just exhibited, whether with all their enmity to their predecessors, they would in any one point depart so widely from their example, as in the discord and ferment that would mark their own deliberations; and whether the Constitution, now before the public, would not stand as

fair a chance for immortality, as Lycurgus gave to that of Sparta, by making its change to depend on his own return from exile and death, if it were to be immediately adopted, and were to continue in force, not until a BETTER, but until ANOTHER should be agreed upon by this new assembly of Lawgivers.

It is a matter both of wonder and regret, that those who raise so many objections against the new Constitution, should never call to mind the defects of that which is to be exchanged for it. It is not necessary that the former should be perfect; it is sufficient that the latter is more imperfect. No man would refuse to give brass for silver or gold, because the latter had some alloy in it. No man would refuse to quit a shattered and tottering habitation, for a firm and commodious building, because the latter had not a porch to it; or because some of the rooms might be a little larger or smaller, or the ceiling a little higher or lower than his fancy would have planned them. But waving illustrations of this sort, is it not manifest that most of the capital objections urged against the new system, lie with tenfold weight against the existing Confederation? Is an indefinite power to raise money dangerous in the hands of a fœderal government? The present Congress can make requisitions to any amount they please; and the States are constitutionally bound to furnish them; they can emit bills of credit as long as they will pay for the paper; they can borrow both abroad and at home, as long as a shilling will be lent. Is an indefinite power to raise troops dangerous? The Confederation gives to Congress that power also; and they have already begun to make use of it. Is it improper and unsafe to intermix the different powers of government in the same body of men? Congress, a single body of men, are the sole depository of all the fœderal powers. Is it particularly dangerous to give the keys of the treasury, and the command of the army, into the same hands? The Confederation places them both in the hands of Congress. Is a Bill of Rights essential to liberty? The Confederation has no Bill of Rights. Is it an objection against the new Constitution, that it empowers the Senate with the concurrence of the Executive to make treaties which are to be the laws of the land? The existing Congress, without any such controul, can make treaties which they themselves have declared, and most of the States have recognized, to be the supreme law of the land. Is the importation of slaves permitted by the new Constitution for twenty years? By the old, it is permitted for ever.

I shall be told that however dangerous this mixture of powers may be in theory, it is rendered harmless by the dependence of Congress on the States for the means of carrying them into practice: That however large the mass of powers may be, it is in fact a lifeless mass. Then say I in the first place, that the Confederation is chargeable with the still greater folly of declaring certain powers in the fœderal government to be absolutely necessary, and at the time rendering them absolutely

nugatory: And in the next place, that if the Union is to continue, and no better government be substituted, effective powers must either be granted to or assumed by the existing Congress, in either of which events the contrast just stated will hold good. But this is not all. Out of this lifeless mass has already grown an excrescent power, which tends to realize all the dangers that can be apprehended from a defective construction of the supreme government of the Union. It is now no longer a point of speculation and hope that the Western territory is a mine of vast wealth to the United States; and although it is not of such a nature as to extricate them from their present distresses, or for some time to come, to yield any regular supplies for the public expences, yet must it hereafter be able under proper management both to effect a gradual discharge of the domestic debt, and to furnish for a certain period, liberal tributes to the Federal Treasury. A very large proportion of this fund has been already surrendered by individual States; and it may with reason be expected, that the remaining States will not persist in withholding similar proofs of their equity and generosity. We may calculate therefore that a rich and fertile country, of an area equal to the inhabited extent of the United States, will soon become a national stock. Congress have assumed the administration of this stock. They have begun to render it productive. Congress have undertaken to do more; they have proceeded to form new States; to erect temporary Governments; to appoint officers for them; and to prescribe the conditions on which such States shall be admitted into the confederacy. All this has been done; and done without the least colour of constitutional authority.<sup>7</sup> Yet no blame has been whispered; no alarm has been sounded. A GREAT and INDEPENDENT fund of revenue is passing into the hands of a SINGLE BODY of men, who can RAISE TROOPS to an INDEFINITE NUMBER, and appropriate money to their support for an INDEFINITE PERIOD OF TIME. And yet there are men who have not only been silent spectators of this prospect; but who are advocates for the system which exhibits it; and at the same time urge against the new system the objections which we have heard. Would they not act with more consistency in urging the establishment of the latter, as no less necessary to guard the Union against the future powers and resources of a body constructed like the existing Congress, than to save it from the dangers threatened by the present impotency of that assembly?

I mean not by any thing here said to throw censure on the measures which have been pursued by Congress. I am sensible they could not have done otherwise. The public interest, the necessity of the case, imposed upon them the task of overleaping their constitutional limits. But is not the fact an alarming proof of the danger resulting from a government which does not possess regular powers commensurate to its objects. A dissolution or usurpation is the dreadful dilemma to which it is continually exposed.

1. "Servius Tullius" in M'Lean.
2. John Dryden and Arthur Hugh Clough, trans., *Plutarch: The Lives of the Noble Grecians and Romans* (New York, [1932]), 97-117.
3. *Ibid.*, 49-74.
4. In June 1778 New Jersey recommended amendments to the Articles of Confederation, one of which would have given Congress "the sole and exclusive Power of regulating the Trade of the United States with foreign Nations" (CDR, 114).
5. Maryland finally ratified the Articles on 1 March 1781 (CDR, 135-37).
6. "Admissible" in M'Lean.
7. Madison refers to the adoption of the Northwest Ordinance in July 1787 and its implementation the following October (CDR, 60-63, 168-74; JCC, XXXIII, 610). This was not the first time that Madison had charged that Congress had overstepped its constitutional authority in adopting the Northwest Ordinance and the earlier ordinances of 1784 and 1785 (see *The Confederation Congress and the Constitution*, 26-28 September 1787, CC:95, p. 236; and Madison to George Washington, 30 September 1787, CC:114. See also CC:469. For the land ordinances, see CDR, 59-60, 150-53, 156-63.).

#### 443. Centinel X

##### Philadelphia Independent Gazetteer, 12 January

In this essay "Centinel" refers to an alleged Federalist meeting in Philadelphia on 4 January. It was rumored that James Wilson had proposed that Federalists inundate the state newspapers to counteract Antifederalist publications and that committees had been appointed to raise £2,000 to support Federalist publications and other activities. (See "Tom Peep," "Watchman," "Peep, Junior," "Observer," "G.R.," and "James Bowdoin to James de Caledonia," *Independent Gazetteer*, 10, 11, 14, 26 January, 8, 27 February, Mfm:Pa. 320, 322, 330, 373, 412, 457.)

"Centinel" X was reprinted in the *Philadelphia Freeman's Journal*, 16 January; *New York Journal*, 17 January; and *Boston American Herald*, 28 January. For the authorship, circulation, and impact of "Centinel," see CC:133.

#### TO THE PEOPLE OF PENNSYLVANIA.

*Fellow Citizens.* What illustrious evidence and striking demonstration does the present momentous discussion afford of the inestimable value of the liberty of the press? No doubt now remains, but that it will prove the rock of our political salvation. Despotism, with its innumerable host of evils, by gliding through the mist of deception, had gained some of the principal works, had made a lodgement in the very citadel of liberty before it was discovered, and was near carrying the fortress by surprise: at this imminent alarming crisis the centries from the watch-towers sounded the alarm, and aroused the dormant votaries of liberty to a due sense of their danger; who, with an alacrity and spirit suited to the exigence, answered to the call, repulsed the enemy, dislodged it from most of its acquisitions, and nothing is now wanting to a total rout and compleat defeat, but a general discharge from the artillery of freedom. As the shades of night fly the approach of the radiant sun, so does

despotism before the majesty of enlightened truth; wherever free discussion is allowed, this is invariably the consequence. Since the press has been unshackled in Pennsylvania; what an astonishing transition appears in the sentiments of the people! Infatuation is at an end, execration and indignation have succeeded to blind admiration and mistaken enthusiasm. The rampant insolence of the conspirators is prostrated, black despair has taken possession of many of them, their countenances proclaim their defeat, and express serious apprehension for their personal safety from the rising resentment of injured freemen.

James, the Caledonian, lieutenant general of the myrmidons of power, under Robert, the cofferer, who, with his aid du-camp, *Gouvero*, the cunning man, has taken the field in Virginia;<sup>1</sup> I say James, in this exigence, summonses a grand council of his partizans in this city, and represents, in the most pathetic moving language, the deplorable situation of affairs, stimulates them to make a vigorous effort to recover the ground they have lost and establish their empire; that for this purpose, a generous contribution must be made by all those who expect to taste the sweets of power, or share in the fruits of dominion, in order to form a fund adequate to the great design, that may put them in possession of the darling object: then recommends that a committee be appointed of those who are gifted with Machiavelian talents, of those who excel in ingenuity, artifice, sophistry and the refinements of falsehood, who can assume the pleasing appearance of truth and bewilder the people in all the mazes of error; and as the task will be arduous, and requires various abilities and talents, the business ought to be distributed, and different parts assigned to the members of the committee, as they may be respectively qualified; some by ingenious sophisms to explain away and counteract those essays of patriotism that have struck such general conviction; some to manufacture extracts of letters and notes from correspondents, to give the complexion of strength to their cause, by representing the unanimity of all corners of America in favor of the new constitution; and others to write reams of letters to their tools in every direction, furnishing them with the materials of propagating error and deception; in short that this committee ought to make the press groan and the whole country reverberate with their productions. Thus to overpower truth and liberty by the din of empty sound and the delusion of falsehood.

The conspirators, deceived by their first success, grounded on the unreserved confidence of the people, do not consider that with the detection of their views, all chance of success is over; that suspicion once awakened, is not so soon to be lulled, but with eagle-eye will penetrate all their wiles, and detect their every scheme, however deeply laid, or speciously glossed. The labours of their committee will be



unavailing, the point of deception is passed, the rays of enlightened patriotism have diffused general illumination. However, this new effort will serve to shew the perseverance of ambition and the necessity of constant vigilance in the people for the preservation of their liberty.

Already we recognize the ingenuity and industry of this committee; the papers teem with paragraphs, correspondents, &c. that exhibit a picture which bears no resemblance to the original; if we view this mirror for the representation of the sentiments of the people, a perfect harmony seems to prevail, every body in every place are charmed with the new Constitution, consider it as a gift from heaven, as their only salvation, &c. &c. &c. and I am informed expresses are employing to waft the delusion to the remotest corners; such a scene of bustle, lying, and activity, was never exhibited since the days of Adam. The contributions to the grand fund are so great, that it is whispered a magazine of all the apparatus of war is to be immediately provided, and if all other means fail, force is to be recurred to, which they hope will successfully terminate the disagreeable discussion of the rights of mankind, of equal liberty, &c. and thus establish a due subordination to the *well born few*.

1. James Wilson, Robert Morris, and Gouverneur Morris. For the Morris in Virginia, see CC:255, note 2.

**444. Samuel Blachley Webb to Joseph Barrell  
New York, 13 January (excerpt)<sup>1</sup>**

. . . we were made Joyfull by last evenings Post on the news of Connecticut having adopted the new Constitution, but a dampness is thrown on our spirits by information that the Convention of Massachusetts are much divided, should that state reject it we are ruined, on them depends every thing, every Fedral Man in this City looks up to your State for our political salvation—for say they if Massachusetts Connecticut and New Hampshire accept it, tolerably unanimous, this State dare not refuse, but on the Contrary should they reject, the antifederal Junto here will increase and come forward, the Fact is that the Sense & property here are universally in favor, this City are very unanimous—but we have as you have before heard four or five Characters violently opposed, none however whose influence is to be feared but Governor Clinton's—his has been astonishingly great in the back County's, but is undoub[t]edly daily lessening, the Legislature is now siting at Poughkeepsie—80 Miles up the river, what they will do we are at a loss to determine, that they will appoint a Convention we have't a doubt, but suppose the a[n]tiferderalsts will be for delaying its meeting to as distant a period as possible, however as I said before, almost every thing depends on your State—I wish in your next you would dip a little

into this subject, let me know how the convention proceeds & what the prospects are,—God forbid that Adams should have much influence among you,<sup>2</sup>—we have in the Press a Pamphlet written by Col. Hamilton under the Signiture of Publius on the subject of a Fedral Government,<sup>3</sup> which I will send you by the first conveyance, he is undoubtedly one of the most sensible men in America, tho: yet not much more than Thirty years old.—we have no late arrivals from Europe, but several Ships are daily expected when 'tis probable we shall know, whether peace is [to] continue,—I think a War in Europe would be advantageous to our Politics, tho: our commercial regulations are so bad (or rather the want of any general regulations) that I am fearfull the Mercantile Interest would not be able to take the advantages which would be presented to us.

1. RC, Webb Papers, CtY. Webb (1753–1807), a native of Wethersfield, Conn., was an officer in the Continental Army from 1775 to 1783, serving for a time as George Washington's aide-de-camp and private secretary. In 1783 Webb was brevetted a brigadier general by Congress. The next year he established himself in New York City, where he served as an agent for Joseph Barrell, a Boston merchant. In 1785 he was an unsuccessful candidate for the office of Confederation Secretary at War.

2. For Samuel Adams, see CC:388.

3. For the proposed pamphlet edition of *The Federalist*, see CC:406.

#### 445. Charles Johnson to James Iredell Strawberry Hill, 14 January (excerpt)<sup>1</sup>

I return you the papers containing the Federalist, and am much obliged to you for communicating them to me. I observe that No. 13 of the papers, containing No. 6 of the Federalist,<sup>2</sup> is wanting, and cannot be certain whether it came with the rest or not, as I was at the time of receiving them in too much pain to look them over. Although it has already been looked for, yet if it was sent—which please let me know—I will cause another search to be made for it.

The Federalist appears to me to be elegantly written; the author displays a most comprehensive imagination, and great extent of political knowledge. But I am surprised that he should have thought it necessary to take so much pains to establish, what appears at the first glance, at least to me, an incontrovertible truth, which is—that the States, united under one efficient government, properly balanced, will be much more powerful, have much fewer causes either of internal or external quarrel, and will be able to procure greater commercial advantages, more respectability and credit, than the States disunited into distinct, independent governments, or separate confederacies. Either of these ideas seem so absurd that I must believe they can have few partisans; and had not the Federalist taken so much pains to refute them, I could scarce imagine they could have been at all entertained.

If he means to exhaust the subject, and is equally copious upon each article, he will undoubtedly afford a great fund of entertainment. I shall be particularly desirous to see those numbers that treat of the additional security which the adoption of the new Constitution will afford to the republican form of government, to liberty and property; and that will satisfactorily answer all the objections of importance that shall have made their appearance against it. This is part of the task he has set himself in his first number,<sup>3</sup> and it will afford great room for the exertion of his excursive genius and reasoning powers, as some very weighty objections have already arisen, and still more may possibly arise when the subject comes to be more fully and unprejudicedly investigated. For certainly there are few men acquainted with the great, respected, I may almost say adored, characters who formed the late convention, who did not view the new Constitution with an eye strongly prejudiced in its favor. There are, nevertheless, great defects found in it: ought they not to be more attended to even on that account?

For my part I will candidly, and in confidence, declare to you that it is a doubtful point with me, and which I cannot yet bring to a decision, whether it will be better to receive the new Constitution, with all its seeming imperfections on its head, or run the risk of obtaining another Convention, which may revise and amend, expunge those articles that seem repugnant to the liberties of the people—secure our political liberty by separating the executive, legislative, and judicial powers—affix responsibility to every office—and explicitly secure the trial by jury, according to former usage—the liberty of the press, with all the other rights of the individual which are not necessary to be given up to government, and which ought not and cannot be required for any good purpose. Surely, if there is no immediate, impending danger to prevent the adoption of the measure, it is most devoutly to be wished. This requisite information might easily, as I conceive, be obtained from Congress, as they must be acquainted, by the communications of their ambassadors, with the general aspect of affairs in Europe. I have already said that I have formed no decided opinion; the subject I conceive of too great magnitude, and above me. I only venture my doubts without any apprehension of your placing me in any of our friend Dr. W.'s classes, the burden of each verse of which, if I remember rightly, is, "the government is not for him."<sup>4</sup> . . .

1. Printed: Griffith J. McRee, *Life and Correspondence of James Iredell* . . . (2 vols., New York, 1857–1858), II, 598–600. Johnson (d. 1802), a Chowan County planter, was often a member of the state Senate, where he served as speaker in 1789. In December 1787 he was appointed to the North Carolina Council of State and served until his resignation in August 1788. He was a member of the Hillsborough Convention of 1788 and vice president of the Fayetteville Convention of 1789. He voted to ratify the Constitution in both conventions. Iredell (1751–1799), an

Edenton lawyer, was state attorney general from 1779 to 1781. In 1787 he was appointed to the Council of State and was chosen to revise and compile the state's laws. Between 20 February and 19 March 1788, the *Norfolk and Portsmouth Journal* published his "Marcus" essay (CC:548, 571, 596, 616, 630), a response to George Mason's objections to the Constitution (CC:138, 276). The essay was also published as a pamphlet (Evans 45276). Iredell represented Edenton in the Hillsborough Convention and led the unsuccessful attempt to ratify the Constitution. He was an associate justice of the U.S. Supreme Court from 1790 until his death.

2. Johnson possibly refers to issue 413 of the New York *Independent Journal*, 14 November, which continued *The Federalist* 6 (CC:257).

3. *The Federalist* 1, New York *Independent Journal*, 27 October (CC:201).

4. On 8 November 1787 Dr. Hugh Williamson, a signer of the Constitution, addressed a meeting of freemen of the town of Edenton and Chowan County. Near the end of his speech he said that "If there is any man among you that wishes for troubled times and fluctuating measures, that he may live by speculations, and thrive by the calamities of the State; this Government is not for him.

"If there is any man who envies the prosperity of a native citizen, who wishes that we should remain without native merchants or seamen, without shipping, without manufactures, without commerce; poor and contemptible, the tributaries of a foreign country; this Government is not for him.

"And if there is any man who has never been reconciled to our Independence, who wishes to see us degraded and insulted abroad, oppressed by anarchy at home, and torn into pieces by factions; incapable of resistance and ready to become a prey to the first invader; this Government is not for him" (New York *Daily Advertiser*, 25, 26, 27 February 1788, CC:560).

#### 446. James Madison to George Washington New York, 14 January<sup>1</sup>

The *Daily Advertiser* of this date contains several important articles of information,<sup>2</sup> which need only be referred to. I inclose it with a few other late papers. Neither French nor English packet is yet arrived; and the present weather would prevent their getting in if they should be on the Coast. I have heard nothing of Consequence from Massachusetts since my last.<sup>3</sup> The accounts from New Hampshire continue to be as favorable as could be wished. From South Carolina we get no material information. A letter from Georgia, of the 25. of Decr. says that the Convention was getting together at Augusta and that every thing wore a foederal complexion. N. Carolina it seems, has been so complaisant to Virginia as to postpone her Convention till July. We are still without a Congress.

1. RC, Washington Papers, DLC.

2. On 14 January the *Advertiser* published the New York House of Assembly proceedings for 11 January which included Governor George Clinton's speech to the legislature and Robert Yates and John Lansing, Jr.'s letter of 21 December 1787 to Clinton (CC:439, 447). The *Advertiser* also printed a brief announcement of Connecticut's ratification of the Constitution and some foreign news indicating that the prospects for peace in Europe had improved.

3. See CC:380.

#### 447. The Report of New York's Delegates to the Constitutional Convention, New York Daily Advertiser, 14 January

On 6 March 1787 the New York legislature appointed Robert Yates, John Lansing, Jr., and Alexander Hamilton as delegates to the Constitutional Convention to meet in May "for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several legislatures such alterations and provisions therein, as shall, when agreed to in Congress and confirmed by the several states, render the federal constitution adequate to the exigencies of government and the preservation of the Union" (CDR, 213). This language of the resolution was taken from the congressional resolution of 21 February 1787 which called the Convention (CDR, 187; CC:1).

Robert Yates (1738–1801), an Albany lawyer, was an Albany alderman, 1771–75; a delegate to four provincial congresses, 1775–77; and state Supreme Court justice, 1777–98 (chief justice, 1790–98). John Lansing, Jr. (1754–1829) had studied law with Yates. Lansing was a delegate to the House of Assembly, 1780–84, 1786–87, 1788–89 (speaker, 1786, 1788–89); a delegate to Congress, 1785; mayor of Albany, 1786–90; state Supreme Court justice, 1790–1801 (chief justice, 1798–1801); and state chancellor, 1801–14. Both men sat in the state Convention and voted against ratification of the Constitution in July 1788. (For Alexander Hamilton, see CC:40.)

Soon after arriving at the Constitutional Convention, Yates and Lansing aligned themselves with a minority of delegates who favored a revision of the Articles of Confederation instead of their total abandonment as proposed by the Virginia Resolutions. Yates and Lansing wanted to give Congress certain additional powers but the preeminence of the states was to be maintained. They believed that this could best be accomplished by adopting the New Jersey Amendments to the Articles of Confederation (CDR, 250–53) which retained the federalism of the Articles and were consistent with their instructions. On 19 June the Convention rejected the New Jersey Amendments and adopted the Amended Virginia Resolutions (CDR, 247–50), thereby becoming unequivocally committed to the creation of a strong central government. Yates and Lansing became increasingly disenchanted and finally left the Convention on 10 July.

Various reasons were given for Yates and Lansing's early departure and their refusal to return. According to George Mason, a Virginia delegate to the Convention, the two men left because "the season for courts came on" (Farrand, III, 367). The state Supreme Court met in Albany from 31 July until 8 August and the circuit courts through at least the end of September. Yates was a justice of the Supreme Court, and Lansing practiced before the court. On 26 August 1787 Abraham G. Lansing of Albany, brother of the latter, reported that both men had attended the circuit court in Montgomery County and that Yates was on his way "to hold a Court" in Washington County. "I find," Abraham G. Lansing continued, "but Little Inclination in either of them to repair again to Philadelphia, and from their General Observations I believe they will not go—early in the Commencement of the Business at Philadelphia, my Brother informed me that he was in sentiment with a respectable *Minority* of that Body, but that they had no prospect of succeeding in the measures proposed, and that he was at a Stand whether it would not be proper for him to Leave them. this Circumstance convinces me the more that they will not again attend" (to Abraham Yates, Jr., Yates Papers, NN). Luther Martin, a Maryland delegate, said that Yates and Lansing "had uniformly opposed the system, and I believe, despairing of getting a *proper one* brought forward, or of *rendering any real service*, they returned no more" (CC:414). Martin's assertion that the New Yorkers had

not intended to return was contradicted by Daniel of St. Thomas Jenifer, another Maryland delegate ("Extract of a letter from Annapolis," *Pennsylvania Packet*, 14 February, CC:414, note 7).

On 23 September 1787 Spanish minister Don Diego de Gardoqui, writing from New York, charged that Yates and Lansing left the Convention early "in order not to ratify" the Constitution (to Conde de Floridablanca, CC:89). Antoine de la Forest, the French vice consul for the United States in New York, asserted that Yates, Lansing, and three other delegates "abstained from Signing under various pretexts" (to Comte de Montmorin, 28 September, CC:105). A short item in the *Massachusetts Gazette*, 20 November, implied that eight Convention delegates, including Yates and Lansing, left the Convention because they opposed the Constitution. A response in the *Massachusetts Centinel*, 21 November, said that Yates and Lansing probably were "obliged by domestick concerns to return home prior to its [the Constitution's] being signed" (CC:Vol. 2, Appendix I).

After Yates and Lansing left the Convention on 10 July, New York was unrepresented for a time because Alexander Hamilton had gone to New York City on 29 June. He did not return to the Convention until after the Committee of Detail reported on 6 August. Under the rules of the Convention, New York's vote was not counted because only one delegate was present. Hamilton was absent again from 20 August to 2 September. He was appointed to the Committee of Style on 8 September and signed the Constitution on the 17th as the only delegate from New York.

Yates and Lansing waited several months before publicly declaring their objections to the Constitution. On 21 December, ten days before the scheduled session of the legislature, they wrote Governor George Clinton, giving their reasons for opposing the Constitution. Walter Rutherford of New York City, a merchant and large landowner, "suspected Cl. had a hand in it [the letter], he has certainly taken much pains" (to John Rutherford, 8, 15 January, Rutherford Collection, NHI). "A Dutchess County Farmer" believed that Yates and Lansing were "inspired by Cato" (i.e., Clinton), when they said that they opposed the Constitution because of their instructions "and a conviction of the impracticability [of] establishing a beneficial general Government" (Poughkeepsie *Country Journal*, 26 February). When a legislative quorum assembled on 11 January, Clinton gave the legislature the report of the Constitutional Convention, the congressional resolution of 28 September 1787, and the Yates and Lansing letter (CC:439).

The Yates-Lansing letter was printed in the New York *Daily Advertiser* and *New York Journal* on 14 January. The *Advertiser* included it with the legislative proceedings for 11 January. The *Journal* published the letter with this preface: "Late yesterday evening we were favored, by a correspondent, with the following COPY of a LETTER from the Hon. ROBERT YATES, jun. [*sic*] and JOHN LANSING, Esquires, members of the general convention, lately held in the city of Philadelphia, assigning their reasons for giving their dissent to the constitution, agreed upon by that body, and which was laid before the legislature by his excellency the Governor, at the opening of the session, on Friday last.—From a consideration of the *very interesting nature* of this LETTER to the public, notwithstanding the late hour of its receipt, the editor thus expeditiously presents it to the public view." The *Journal* also printed the letter in its Thursday issue (17 January) which "had a *more general Circulation in the Country*." By the 31st it was reprinted in six more New York newspapers, and by 10 March it was reprinted in the February issue of the Philadelphia *American Museum* and in eleven newspapers outside New York: N.H. (1), Mass. (1), Pa. (5), Md. (1), Va. (1), S.C. (1), Ga. (1).

The text of the Yates-Lansing letter below has been transcribed from the *New York Daily Advertiser* of 14 January. The punctuation and capitalization in the *New York Journal* printing of the same day varies slightly from the *Advertiser's* version. The *Journal* headed its version "REASONS of DISSENT."

Yates and Lansing's letter generated relatively little response. On 10 February Edward Carrington of Virginia wrote that the letter was "in perfect uniformity with the purpose of their Mission, and gives me no concern." He described New York as "a State whose measures have for a Number of years been Uniformly against the federal Interests" (to Henry Knox, CC:520. See also Carrington to James Madison, 10 February, Rutland, *Madison*, X, 493-95.). "A Citizen of the United States" said that "Mr. Lansing and Mr. Yates remonstrate against any system that has the most feeble trait of a consolidated Government" (*Pennsylvania Gazette*, 13 February, CC:526. See also *Pennsylvania Gazette*, 23 January, Appendix I.). "A Citizen" complained that Yates and Lansing should have remained in the Convention and explained their reasons of dissent to that body. The power to revise and amend had given the Convention latitude to amend the Articles of Confederation in toto, not just in parts (*New York Daily Advertiser*, 6 February, reprinted from the *Lansingburgh Northern Centinel*). "A Dutchess County Farmer" charged that Yates and Lansing left early because they "did not find so many gaping blockheads to swallow down" their "antifederal jargon at the Convention." They were intent on opposing any government formed by the Convention (*Poughkeepsie Country Journal*, 26 February).

Antifederalists viewed the Yates-Lansing letter as evidence that there had been opposition to the Constitution in the Convention and that Federalist assertions that the Convention was unanimous were simply untrue. In fact, the New York delegation itself opposed the Constitution by two to one. (See *Philadelphia Independent Gazetteer*, 25 January, Appendix I; Luther Martin to Speaker of the House, Thomas Cockey Deye, 27 January, *Baltimore Maryland Gazette*, 29 January; and "Algernon Sidney" II, *Independent Gazetteer*, 13 February, Mfm:Pa. 429.)

*Albany, Dec. 21, 1787.*

SIR, We do ourselves the honor to advise your Excellency, that, in pursuance of concurrent resolutions of the Honorable Senate and Assembly, we have, together with Mr. Hamilton, attended the Convention appointed for revising the articles of Confederation, and reporting amendments to the same.

It is with the sincerest concern we observe, that in the prosecution of the important objects of our mission, we have been reduced to the disagreeable alternative of either exceeding the powers delegated to us, and giving our assent to measures which we conceived destructive of the political happiness of the citizens of the United States; or opposing our opinion to that of a body of respectable men, to whom those citizens had given the most unequivocal proofs of confidence. Thus circumstanced, under these impressions, to have hesitated would have been to be culpable. We therefore gave the principles of the Constitution, which has received the sanction of a majority of the Convention, our decided and unreserved dissent; but we must candidly confess, that we should have been equally opposed to any system, however modified,

which had in object the consolidation of the United States into one Government.

We beg leave briefly to state some cogent reasons which, among others, influenced us to decide against a consolidation of the States. These are reducible into two heads.

First. The limited and well defined powers under which we acted, and which could not, on any possible construction, embrace an idea of such magnitude as to assent to a general Constitution in subversion of that of the State.

Secondly. A conviction of the impracticability of establishing a general Government, pervading every part of the United States, and extending essential benefits to all.

Our powers were explicit, and confined to the *sole and express purpose of revising the articles of Confederation*, and reporting such alterations and provisions therein, as should render the Federal Constitution adequate to the exigencies of Government, and the preservation of the Union.

From these expressions, we were led to believe that a system of consolidated Government, could not, in the remotest degree, have been in contemplation of the Legislature of this State, for that so important a trust, as the adopting measures which tended to deprive the State Government of its most essential rights of Sovereignty, and to place it in a dependent situation, could not have been confided, by implication, and the circumstance, that the acts of the Convention were to receive a State approbation, in the last resort, forcibly corroborated the opinion, that our powers could not involve the subversion of a Constitution, which being immediately derived from the people, could only be abolished by their express consent, and not by a Legislature, possessing authority vested in them for its preservation. Nor could we suppose, that if it had been the intention of the Legislature to abrogate the existing Confederation, they would, in such pointed terms, have directed the attention of their delegates to the revision and amendment of it, in total exclusion of every other idea.

Reasoning in this manner, we were of opinion, that the leading feature of every amendment ought to be the preservation of the individual States, in their uncontrolled constitutional rights; and that, in reserving these, a mode might have been devised, of granting to the Confederacy, the monies arising from a general system of revenue, the power of regulating commerce, and enforcing the observance of Foreign treaties, and other necessary matters of less moment.

Exclusive of our objections, originating from the want of power, we entertained an opinion that a general Government, however guarded by declarations of rights or cautionary provisions, must unavoidably, in a short time, be productive of the destruction of the civil liberty of such citizens who could be effectually coerced by it; by reason of the



extensive territory of the United States; the dispersed situation of its inhabitants, and the insuperable difficulty of controlling or counteracting the views of a set of men (however unconstitutional and oppressive their acts might be) possessed of all the powers of Government, and who, from their remoteness from their constituents, and necessary permanency of office, could not be supposed to be uniformly actuated by an attention to their welfare and happiness; that however wise and energetic the principles of the general Government might be, the extremities of the United States could not be kept in due submission and obedience to its laws at the distance of many hundred miles from the seat of Government; that if the general Legislature was composed of so numerous a body of men as to represent the interest of all the inhabitants of the United States in the usual and true ideas of representation, the expence of supporting it would become intolerably burthensome, and that if a few only were invested with a power of legislation, the interests of a great majority of the inhabitants of the United States must necessarily be unknown, or if known even in the first stages of the operations of the new Government, unattended to.

These reasons were in our opinion conclusive against any system of consolidated Government: to that recommended by the Convention we suppose most of them forcibly apply.

It is not our intention to pursue this subject further than merely to explain our conduct in the discharge of the trust which the Honorable the Legislature reposed in us—interested however, as we are in common with our fellow citizens in the result, we cannot forbear to declare that we have the strongest apprehensions that a Government so organized as that recommended by the Convention, cannot afford that security to equal and permanent liberty, which we wished to make an invariable object of our pursuit.

We were not present at the completion of the New Constitution; but before we left the Convention, its principles were so well established as to convince us that no alteration was to be expected, to conform it to our ideas of expediency and safety. A persuasion that our further attendance would be fruitless and unavailing, rendered us less solicitous to return.

We have thus explained our motives for opposing the adoption of the National Constitution, which we conceived it our duty to communicate to your Excellency, to be submitted to the consideration of the Hon. Legislature.

We have the Honor to be, with the greatest Respect, your Excellency's most obedient and very humble Servants,

#### **448. Pennsylvania Packet, 14 January<sup>1</sup>**

It is agreeable, says a correspondent, to observe how many of the same events and circumstances concur in favour of the New Federal

Government, that occurred in favour of the opposition to Great Britain and the declaration of independence in the beginning of the war. 1st, The American revolution began in the town of Boston. In the same town we observe the most perfect unanimity in the choice of deputies to attend the state convention.

2dly, The same characters who took the lead in each of the states in the struggle for liberty in the glorious years 1775 and 1776, now take the lead in their exertions to establish the federal government, viz Sullivan and Langdon in New-Hampshire; Hancock, Dana and Lincoln in Massachusetts; Huntington, Elsworth and Wadsworth in Connecticut; Schuyler, Jay, Hamilton, Benson, Gansevelt and Livingston, in New-York; Livingston, Brearly, Patterson, Stevens and Witherspoon in New-Jersey; Franklin, Morris, Clymer, M'Kean, Wilson, Mifflin and Wayne in Pennsylvania; Dickinson, Read and Bedford in Delaware; Smallwood, Johnson, Carrol, Jenifer and M'Henry in Maryland; WASHINGTON, Pendleton, Blair, Maddison and Page in Virginia; Caswell, Spaight and Blount in North-Carolina; the Rutledges, Pinkneys, Lawrens and Ramsay in South Carolina; and, lastly, Few, Telfair and Baldwin in Georgia.

3dly, The men who manifested the most unequivocal attachment to liberty, by enduring cold, hunger and nakedness in the army during a long and bloody war, are (with two or three exceptions) to a man in favor of the new government, from the great and good General Washington down to the lowest private that beat a drum or blew a fife under him.

4thly, The ministers of the gospel of every denomination (one or two excepted) are now united, from one end of the continent to the other, in praying with the same zeal that they did for the preservation of our liberties in the years 1775 and 1776, for the establishment of the new federal government.

It is not intended (by our correspondent) to intimate that a few of the distinguished and worthy characters of the years 1775 and 1776 are not unfriendly to the new government. These men have urged their objections with decency. They accuse the Federal Convention of no improper or wicked designs. Witness the letters of the Hon. Governor Randolph and Richard H. Lee, Esq.<sup>2</sup> How different are the publications of these gentlemen from some of the publications in this city, in which the members of the Convention (Franklin and Washington not excepted) are called *Conspirators*, *Aristocrats*, a *Conclave*, *Enemies of Liberty*, *Usurpers*, *diabolical Schemers*, &c. &c. &c. Such expressions do no honor to any cause, and make no proselytes.

1. Reprints by 17 April (16): R.I. (2), Conn. (3), N.Y. (2), N.J. (1), Pa. (4), Md. (1), Va. (1), S.C. (2). On 12 February the *Salem Mercury* reprinted parts of the first four paragraphs, some of which it paraphrased. The *Mercury's* version was reprinted twice in Massachusetts and once in New Hampshire by 5 March.

2. See CC:385 and CC:325.

**449. Nathaniel Barrell to George Thatcher**  
**Boston, 15 January<sup>1</sup>**

I can assure my friend Thatcher, his letter of 22d. ultimo was peculiarly flattering, and should have been answered before, but for a variety of reasons any of which I persuade myself you will be satisfied with, when you come to be informd of them, but which I have not time now to mention—I am pleasd with the open freedom with which you touch political matters, and however we may differ on that point I hope we shall always view each other as friends to good Government—at present I confess to you we are not altogether agreed in sentiment respecting the federal frame which brings me to this town<sup>2</sup>—the pamphlet you were pleasd to enclose on that subject I think is wrote in that easy familiar stile which is ever pleasing to me.<sup>3</sup> but tho it has a tendency to elucidate if not remove some objections to the federal constitution, yet I dare not say 'tis a full answer to the many objections against it, however I think with you a great part of those objections are founded on remote possibilities—do realy what you so humourously define, spring from that doctrine I have heard you reprobate, as originating in the heart which we are told by him who made it, is as you say—but tho I give more credit to this declaration than you do, yet I would by no means treat congress, or such men as my friend Thatcher, as “*tho they were rogues*”—nay I have such an opinion of you Sir, that I would cheerfully consent to your being a leading man in the first congress, after we adopt the federal Government.—I hope you will not think me to familiar if I should say the manner in which you treat this subject is rather laughfable than serious—and that it is much easier to tell the objectors to turn their representatives out, than to do it—I cant but think you know how difficult it is to turn out a representative who behaves ill, even tho chosen but for one year—think you not 'twould be more difficult to remove one chosen for two years?<sup>2</sup>—I could wish to lay my objections before you in the same familiar manner you have been pleasd to set me the example, but for want of your talents, I will do it in my own way, which are such as if not removd will prevent my acceding to it—because after all the Willsonian oratory—after all the learned arguments I have seen written—after all the labord speeches I have heard in its defence—and after the best investigation I have been able to give it—I see it pregnant with the fate of our libertys and if I should not live to feel its baneful effects, I see it intails wretchedness on my posterity—slavery on my children—for as it now stands congress will be vested with much more extensive powers than ever great Britain exercisd over us—too great to intrust with any set of men, let their talents & vertues be ever so conspicuous—even tho composd of such exalted amiable characters as the great Washington—for while we consider them as men of like passion the same spontaneous inherent

thirst for power with ourselves—great & good as they may be when they enter upon this important charge, what dependance can we have on their continuing so?—but were we sure they would continue the faithful guardians of our libertys, & prevent any infringements on the priviledges of the people—what assurance can we have that such men will always hold the reins of Government?—that their successors will be such—history tells us Rome was happy under Augustus, tho wretched under Nero, who could have no greater power than Augustus—and that the same Nero when young in power could weep at signing a death warrant, tho afterwards became so callous to the tender feelings of humanity as to behold with pleasure Rome in flames.—but Sir I am convinced such that six years is too long a term for any set of men to be at the helm of Government for in that time they will get so firmly rooted their influence will be so great as to continue them for life—because Sir I am persuaded we are not able to support the additional charge of such a Government and that when our State Government is annihilated this will not suit our local concerns so well as what we now have—because I think 'twill not be so much for our advantage to have our taxes imposd & levied at the pleasure of Congress as the method now pursued—and because Sir I think a Continental collector at the head of a standing army will not be so likely to do us justice in collecting the taxes, as the mode of colecting now practicd—and to crown all sir, because I think such a Government impracticable among men with such high notions of liberty as we americans. these are the general objections as they occur to my mind, the perticulars I cant bring within the bounds of a letter, all which convince me the federal constitution as it now stands, needs much amendment before 'twill be safe for us to adopt it—therefore as wise men—as the faithful guardians of the peoples libertys—and as we wish well to posterity it becomes to reject it unless such amendments take place as will secure to us & ours that liberty without which life is a burthen.—

1. RC, Thatcher Papers, Boston Public Library.

2. Barrell was in Boston attending the Massachusetts Convention as a delegate from York, Maine.

3. Barrell refers to "A Citizen of Philadelphia" (Pelatiah Webster), *The Weaknesses of Brutus Exposed* (CC:244).

**450. James R. Reid to Tench Coxe**  
**New York, 15 January<sup>1</sup>**

I am much obliged by your favor of the 28th. ultimo, I am pleased with the stile in which R.H. Lee is addressed,<sup>2</sup> as decency is certainly the only medium through which we may expect to produce conviction in a mind so enlightened as his,

I had read your commercial treatise<sup>3</sup> before I left Carlisle, I have read it again together with your agricultural tract including manufactures;<sup>4</sup> they are good because they are practicable, and will be of great service to me in my commercial enquiries

the paper will give you the news of the day We have unfavourable accounts from Carlisle<sup>5</sup> I wish violence may subside—it seems they have established an auto de fé—and have whipped, hung and burned the chief Justice and Mr. Wilson—with respect to the adoption of the proposed fœderal Government I am alternately agitated by fear and quieted by hope. a golden day is now passing when a good government would invite many of the dutch patriots with immensity of wealth.

We expect to make a Congress next week if the States South of the delaware were represented I think sufficient reasons could be urged to induce Congress to adjourn to philadelphia about the first of May—I understand the opposition are brooding over something which will be hatched by the time of meeting of the next assembly in February whether the offspring will be a quadruped or a biped is not sufficiently known untill it comes into existence—it must offer a legal and constitutional proof that the *people* of pennsylvania were not represented in the last convention, and of course overset their proceedings, (This is inter nos)<sup>6</sup>

1. RC, Tench Coxe Papers, Series II, Correspondence and General Papers, Phi. Reid (1750–1789), a Princeton graduate and former major in the Continental Army, was in New York serving as a Pennsylvania delegate to Congress.

2. Coxe's essay, "An American," was addressed to Richard Henry Lee (CC:392).

3. See CC:23 for Coxe's pamphlet, which was printed in May 1787 and entitled *An Enquiry into the Principles on Which a Commercial System for the United States of America Should be Founded*. . . . Parts of this pamphlet were used in Coxe's "An American" to Richard Henry Lee (CC:392, note 4).

4. Reid is probably referring to two different pamphlets: *Thoughts Concerning the Bank of North America; with a Plan for Encouraging Agriculture* . . . (Evans 20307) and *An Address to An Assembly of the Friends of American Manufactures, Convened for the Purpose of Establishing a Society for the Encouragement of Manufactures and the Useful Arts* . . . (Evans 20305). Both pamphlets were printed in Philadelphia in 1787.

5. For the Antifederalist riot in Carlisle, see CC:407.

6. Reid refers to the Antifederalist petition campaign to overturn Pennsylvania's ratification of the Constitution (see RCS:Pa., 709–25).

#### 451. Luther Martin: Genuine Information VI Baltimore Maryland Gazette, 15 January<sup>1</sup>

Mr. MARTIN'S *Information to the House of Assembly, continued.*

The *seventh* section of this article was also the subject of contest.—It was thought by many members of the convention, that it was very wrong to confine the origination of all revenue bills to the house of representatives, since the members of the senate will be chosen by the people as well as the members of the house of delegates, if not

*immediately*, yet *mediately*, being chosen by the members of the State legislature, which members are elected by the *people*, and that it makes no *real* difference whether a person doth a thing *in person*, or by a *deputy*, or agent, *appointed by him for that purpose*.

That no argument can be drawn from the house of Lords in the British constitution, since they are neither *mediately* or *immediately* the representatives of the people, but are one of the *three estates*, composing that kingdom, having *hereditary rights and privileges distinct* from, and *independent* of, the *people*.

That it may, and probably will be a fruitful source of dispute and controversy between the two branches, what are, or are not, revenue bills, and the more so, as they are not *defined* in the constitution; which controversies may be difficult to settle, and may become serious in their consequences, there being no power in the constitution to decide upon, or authorised in cases of absolute necessity to terminate them by a prorogation or dissolution of either of the branches; a remedy provided in the British constitution, where the King has that power, which has been found necessary at times to be exercised in case of violent dissensions between the Lords and Commons on the subject of money bills.

That every regulation of commerce—every law relative to excises—stamps—the post-office—the imposition of taxes, and their collection—the creation of courts and offices;—in fine, every law for the union, if enforced by any pecuniary sanctions, as they would tend to bring money into the continental treasury, might and probably would be considered a revenue act—That consequently the senate, the members of whom will probably be the most select in their choice, and consist of men the most enlightened and of the greatest abilities, who from the duration of their appointment, and the permanency of their body, will probably be best acquainted with the common concerns of the States, and with the means of providing for them, will be rendered almost useless as a part of the legislature; and that they will have but little to do in that capacity, except patiently to wait the proceedings of the house of representatives, and afterwards examine and approve, or propose amendments.

There were also objections to that part of this section which relates to the *negative* of the *president*. There were some who thought no good reason could be assigned for giving the president a negative of *any kind*—Upon the principle of a check to the proceedings of the legislature, it was said to be unnecessary—That the two branches having a controul over each others proceedings—and the senate being chosen by the State legislatures, and being composed of members from the *different* States, there would always be a sufficient guard against measures being *hastily* or *rashly* adopted.

That the *president* was not likely to have *more wisdom* or *integrity* than the *senators*, or *any of them*, or to *better know* or *consult* the interest of the States, than *any member* of the senate, so as to be entitled to a negative on that principle—And as to the precedent from the British constitution (for we were eternally troubled with arguments and precedents from the British government) it was said it would not apply. The King of Great-Britain there composed *one* of the *three estates* of the kingdom—he was possessed of *rights* and *privileges*, as such, *distinct from* the Lords and Commons; *rights* and *privileges* which *descended* to his *heirs*, and were inheritable by them; that for the *preservation* of these it was necessary *he* should have a negative, but that this was not the case with the president of the United States, who was no more than an *officer* of government, the *sovereignty* of which was not in *him*, but in the *legislature*—And it was further urged, even if he was allowed a negative, it ought not to be of so great extent as that given by the system, since *his single voice* is to countervail the *whole* of *either* branch, and any number *less* than *two-thirds* of the other; however, a majority of the convention was of a different opinion, and adopted as it now makes a part of the system.

⟨By the *eighth* section of this article, Congress is to have power to *lay* and *collect taxes*, *duties*, *imposts*, and *excises*.—When we met in convention after our adjournment, to receive the report of the committee of detail, the members of that committee were requested to inform us what powers were meant to be vested in Congress by the word *duties* in this section, since the word *imposts* extended to duties on goods *imported*, and by another part of the system no duties on *exports* were to be laid.—In answer to this inquiry we were informed, that it was meant to give the general government the power of laying *stamp* duties on paper, parchment and vellum. We then proposed to have the power inserted in *express words*, least disputes hereafter might arise on the subject, and that the meaning might be understood by *all* who were to be *affected* by it; but to this it was objected, because it was said that the word stamp would probably sound *odiously* in the ears of many of the inhabitants, and be a cause of objection. By the power of imposing *stamp duties* the Congress will have a *right* to declare that no *wills*, *deeds*, or other *instruments* of writing shall be *good* and *valid*, without being *stamped*—that without being reduced to *writing* and *being stamped*, no *bargain*, *sale*, *transfer of property*, or *contract* of any kind or nature whatsoever shall be *binding*; and also that no *exemplifications of records*, *depositions*, or *probates* of any kind shall be received in evidence, unless they have the same solemnity—They may likewise oblige all proceedings of a *judicial* nature to be *stamped* to give them effect—those stamp duties may be imposed to any amount they please, and under the pretence of *securing* the *collection* of these duties, and to prevent the laws which imposed them from being evaded, Congress may bring the *decision* of all *questions* relating to the *conveyance*, *disposition* and *rights* of *property* and *every*

*question relating to contracts between man and man into the courts of the general government.*—Their *inferior* courts in the *first* instance and the *superior* court by *appeal*. By the power to lay and collect imposts, they may impose duties on *any* or *every* article of *commerce* imported into these States to what amount they please. By the power to lay *excises*, a power very *odious* in its nature, since it authorises officers to go into your *houses*, your *kitchens*, your *cellars*, and to examine into your *private concerns*, the Congress may impose *duties* on every *article* of *use* or *consumption*, on the *food* that we *eat*—on the *liquors* we *drink*—on the *cloathes* that we *wear*—the *glass* which *enlighten* our *houses*—or the *hearths* necessary for our *warmth* and *comfort*. By the power to lay and collect taxes, they may proceed to *direct taxation* on every *individual* either by a *capitation* tax on their *heads*, or an *assessment* on their *property*. By this part of the section therefore, the government has a power to lay what duties they please on *goods imported*—to lay what duties they please afterwards on whatever we *use* or *consume*—to impose *stamp duties* to what amount they please, and in whatever cases they please—afterwards to impose on the people *direct taxes*, by *capitation* tax, or by *assessment*, to what amount they choose, and thus to *sluice* them at *every vein* as long as they have a *drop* of blood, without any *controul*, *limitation* or *restraint*—while *all the officers* for *collecting* these taxes, *stamp duties*, *imposts* and *excises*, are to be appointed by the *general government*, under its direction, not accountable to the *States*; nor is there *even* a security that they shall be *citizens* of the *respective States*, in which they are to exercise their offices; at the same time the construction of *every law imposing* any and all these taxes and duties, and *directing* the collection of them, and *every question* arising thereon, and on the *conduct* of the *officers* appointed to execute these laws, and to collect these taxes and duties so various in their kinds, are *taken away* from the courts of justice of the *different States*, and *confined* to the courts of the *general government*, there to be *heard* and *determined* by judges holding their offices under the appointment *not* of the *States*, but of the *general government*.)<sup>2</sup>

Many of the members, and myself in the number, thought that the *States* were much *better judges* of the circumstances of their citizens, and what sum of money could be collected from them by *direct taxation*, and of the manner in which it could be raised, with the *greatest ease* and *convenience* to their citizens, than the *general government* could be; and that the general government *ought* not in any case to have the power of laying *direct taxes*, but in that of the *delinquency* of a State. Agreeable to this sentiment, I brought in a proposition on which a vote of the convention was taken. The proposition was as follows: “And wherever the legislature of the United States shall find it necessary that *revenue* should be raised by *direct taxation*, having apportioned the same by the above rule, *requisitions* shall be made of the respective States to pay into



the continental treasury their respective quotas *within a time* in the said requisition to be specified, and in case of any of the States *failing* to comply with such requisition, then and *then only*, to have power to devise and pass acts directing the mode and authorising the collection of the same."<sup>3</sup> Had this proposition been acceded to, the *dangerous* and *oppressive* power in the *general government* of imposing *direct taxes* on the inhabitants, which it now enjoys *in all cases*, would have been *only* vested in it in case of the non-compliance of a State, as a *punishment* for its *delinquency*, and would have *ceased* that moment that the State *complied with the requisition*—But the proposition was rejected by a majority, consistent with their *aim* and *desire* of *encreasing the power of the general government as far as possible*, and *destroying the powers and influence of the States*—And though there is a provision that all duties, imposts and excises shall be uniform, that is, to be laid to the same amount on the same articles in each State, yet this will not prevent Congress from having it in their power to cause them to fall *very unequal* and *much heavier* on some States than on others, because these duties may be laid on articles but *little* or *not at all* used in some States, and of *absolute necessity* for the use and consumption of others, in which case the *first* would pay *little* or *no part* of the revenue arising therefrom, while the *whole* or nearly the whole of it would be paid by the *last*, to wit, the States which use and consume the articles on which the imposts and excises are laid.

By our original articles of confederation, the Congress have a power to borrow money and emit bills of credit on the credit of the United States—Agreeable to which was the *report on this system as made by the committee of detail*. When we came to this part of the report a motion was made to strike out the words “to emit bills of credit;” against the motion we urged, that it would be improper to *deprive* the Congress of that *power*—that it would be a novelty unprecedented to establish a government which should not have such authority—That it was impossible to look forward into futurity so far as to decide that events might not happen that should render the *exercise* of such a power *absolutely necessary*—And that we doubted whether if a war should take place it would be *possible* for this country to *defend* itself without having recourse to *paper credit*, in which case there would be a *necessity* of becoming a *prey* to our *enemies*, or *violating the constitution* of our government; and that considering the administration of the government would be principally in the hands of the wealthy there could be little reason to fear an *abuse* of the *power* by an unnecessary or injurious exercise of it—But, Sir, a majority of the convention, being wise beyond every possible event, and being willing to risque any political evil rather than admit the *idea* of a paper emission, in any *possible* event, refused to *trust* this authority to a government, to which they were *lavishing* the most *unlimited* powers of *taxation*, and to the

mercy of which they were willing *blindly* to trust the *liberty* and *property* of the *citizens* of *every State* in the union; and they *erased* that clause from the system.—(Among other powers given to this government in the eighth section it has that of appointing tribunals *inferior* to the *supreme court*; to this power there was an opposition. It was urged that there was no occasion for *inferior* courts of the *general government* to be appointed in the different States, and that such ought not to be admitted—That the different *State judiciaries* in the respective States would be *competent to*, and *sufficient for*, the cognizance in the *first instance* of all cases that should arise under the laws of the general government, which being by this system made the supreme law of the States, would be binding on the different State judiciaries—That by giving an *appeal* to the *supreme court* of the United States, the *general government* would have a *sufficient* check over their decisions, and security for the enforcing of their laws—That to have *inferior* courts appointed under the authority of Congress in the different States, would eventually *absorb* and *swallow up* the *State judiciaries*, by drawing all business from them to the courts of the general government, which the *extensive* and *undefined* powers, legislative and judicial, of which it is possessed, would *easily enable* it to do—That it would *unduly* and *dangerously* encrease the *weight* and *influence* of Congress in the *several States*, be productive of a *prodigious number of officers*, and be attended with an *enormous* additional and unnecessary *expence*—That the judiciaries of the respective States not having power to decide upon the laws of the general government, but the determination on those laws being *confined* to the judiciaries appointed under the authority of Congress in the *first instance*, as well as on *appeal*, there would be a necessity for *judges* or magistrates of the general government, and those to a *considerable number*, in *each county* of *every State*—That there would be a necessity for courts to be holden by them in each county and that these courts would stand in need of all their proper officers such as *sheriffs*, *clerks* and others commissioned, under the authority of the general government—In fine, that the administration of justice, as it will relate to the laws of the general government would require in each State all the magistrates, courts, officers and expence, which is now found necessary in the respective States for the administration of justice as it relates to the laws of the State governments.—But here again we were overruled by a majority, who *assuming* it as a *principle* that the general government and the State governments (as long as they should exist) would be at *perpetual variance* and *enmity*, and that their *interests* would constantly be *opposed* to each other, insisted for that reason that the *State judges* being citizens of their respective States, and holding their commission under them, ought not though *acting on oath*, to be *entrusted* in the administration of the laws of the general government.)<sup>4</sup>

(To be continued.)

1. In this same issue the *Maryland Gazette* contains Francis Hopkinson's "The New Roof" (CC:395) with this statement: "Mr. HAYES, If it will be no inconvenience to Mr. M. to suspend for one day, his history of the *imaginary treasons* and *unexecuted plots*, you will be pleased to insert in its place the enclosed original performance, entitled, the NEW ROOF."

This installment of Martin's *Genuine Information* was reprinted in the *Pennsylvania Packet*, 22 January; *Philadelphia Independent Gazetteer*, 25 January; *Pennsylvania Herald*, 26 January; *New York Journal*, 26–27 February; *Petersburg Virginia Gazette*, 13 March; *Boston American Herald*, 24, 27 March; and *State Gazette of South Carolina*, 5, 8 May.

On 30 January the *Philadelphia Freeman's Journal* reprinted excerpts (see notes 2 and 4 below) which were prefaced by a statement by "Democratic": "Mr. BAILEY, the conduct of the Legislature of Maryland in opening up the *dark proceedings* of the Continental Convention, will do them great honor, and be of infinite service to the people of America, in the glorious struggle for the liberties, against the Aristocrats. Your publishing only once a-week, must prevent your reprinting the whole of the information given by the honorable Mr. Martin. And having observed in one of your papers, some part of his information, I have made some farther extracts from it, which is well worth the attention of your readers, as it shews very plainly, that all our property will lie at the command of a military government which will be quite independent of us, and that this government will be more expensive and burdensome than we can bear."

For a general discussion of the *Genuine Information*, see CC:389.

2. The text in angle brackets was reprinted in the *Philadelphia Freeman's Journal* on 30 January (see note 1 above).

3. Martin made this motion on 21 August, stating that "The power of taxation is most likely to be criticised by the public. Direct taxation should not be used but in cases of absolute necessity; and then the States will be best Judges of the mode." The motion was defeated overwhelmingly (Farrand, II, 353–54, 359).

The Maryland "Landholder" charged that during the Convention Martin had "espoused the tyrannic principle" that if a state did not pay its share of a congressional requisition, "an army should be marched into its bowels, to fall indiscriminately upon the property of the innocent and the guilty" (*Maryland Journal*, 29 February, CC:580). Martin replied "That I ever suggested the idea of letting loose an army indiscriminately on the innocent and guilty, in a state refusing to comply with the requisitions of Congress, or that such an idea ever had place in my mind, is a falsehood so groundless, so base and malignant, that it could only have originated or been devised by a heart which would dishonour the midnight assassin" (*ibid.*, 18 March, CC:626).

4. See note 2 above.

## 452. Publius: The Federalist 39

### New York Independent Journal, 16 January

This essay, written by James Madison, was also printed in the *New York Daily Advertiser* on 16 January. It was reprinted in the *New York Packet*, 18 January, and the *New York Journal*, 30 January. This was the last essay of *The Federalist* published in the *New York Journal*. This essay was number 39 in the M'Lean edition and number 38 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

THE FEDERALIST. No. XXXVIII.

To the People of the State of New-York.

The last paper<sup>1</sup> having concluded the observations which were meant to introduce a candid survey of the plan of government reported

by the Convention, we now proceed to the execution of that part of our undertaking. The first question that offers itself is, whether the general form and aspect of the government be strictly republican? It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the revolution; or with that honorable determination, which animates every votary of freedom, to rest all our political experiments on the capacity of mankind for self-government. If the plan of the Convention therefore be found to depart from the republican character, its advocates must abandon it as no longer defensible.

What then are the distinctive characters of the republican form? Were an answer to this question to be sought, not by recurring to principles, but in the application of the term by political writers, to the constitutions of different States, no satisfactory one would ever be found. Holland, in which no part of the supreme authority is derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people, is exercised in the most absolute manner, by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy in their worst forms, has been dignified with the same appellation. The government of England, which has one republican branch only, combined with a hereditary aristocracy and monarchy, has with equal impropriety been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, shew the extreme inaccuracy with which the term has been used in political disquisitions.

If we resort for a criterion, to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people; and is administered by persons holding their offices during pleasure, for a limited period, or during good behaviour. It is *essential* to such a government, that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic. It is *sufficient* for such a government, that the persons administering it be appointed, either directly or indirectly, by the people; and that they hold their appointments by either of the tenures just specified; otherwise every government in the United States, as well as every other popular government that has been or can be well organized or well executed, would be degraded from the republican character. According to the Constitution of every State in the Union, some or

other of the officers of government are appointed indirectly only by the people. According to most of them the chief magistrate himself is so appointed.<sup>2</sup> And according to one, this mode of appointment is extended to one of the co-ordinate branches of the legislature.<sup>3</sup> According to all the Constitutions also, the tenure of the highest offices is extended to a definite period, and in many instances, both within the legislative and executive departments, to a period of years. According to the provisions of most of the constitutions, again, as well as according to the most respectable and received opinions on the subject, the members of the judiciary department are to retain their offices by the firm tenure of good behaviour.

On comparing the Constitution planned by the Convention, with the standard here fixed, we perceive at once that it is in the most rigid sense conformable to it. The House of Representatives, like that of one branch at least of all the State Legislatures, is elected immediately by the great body of the people. The Senate, like the present Congress, and the Senate of Maryland, derives its appointment indirectly from the people. The President is indirectly derived from the choice of the people, according to the example in most of the States. Even the judges, with all other officers of the Union, will, as in the several States, be the choice, though a remote choice, of the people themselves. The duration of the appointments is equally conformable to the republican standard, and to the model of the State Constitutions. The House of Representatives is periodically elective as in all the States: and for the period of two years as in the State of South-Carolina. The Senate is elective for the period of six years; which is but one year more than the period of the Senate of Maryland; and but two more than of the Senates of New-York and Virginia. The President is to continue in office for the period of four years; as in New-York and Delaware, the chief magistrate is elected for three years, and in South-Carolina for two years. In the other States the election is annual. In several of the States however, no constitutional provision is made for the impeachment of the Chief Magistrate. And in Delaware and Virginia, he is not impeachable till out of office. The President of the United States is impeachable at any time during his continuance in office. The tenure by which the Judges are to hold their places, is, as it unquestionably ought to be, that of good behaviour. The tenure of the ministerial offices generally will be a subject of legal regulation, conformably to the reason of the case, and the example of the State Constitutions.

Could any further proof be required of the republican complexion of this system, the most decisive one might be found in its absolute prohibition of titles of nobility, both under the Federal and the State Governments; and in its express guarantee of the republican form to each of the latter.

But it was not sufficient, say the adversaries of the proposed Constitution, for the Convention to adhere to the republican form. They ought, with equal care, to have preserved the *federal* form, which regards the union as a *confederacy* of sovereign States; instead of which, they have framed a *national* government, which regards the union as a *consolidation* of the States. And it is asked by what authority this bold and radical innovation was undertaken. The handle which has been made of this objection requires, that it should be examined with some precision.

Without enquiring into the accuracy of the distinction on which the objection is founded, it will be necessary to a just estimate of its force, first to ascertain the real character of the government in question; secondly, to enquire how far the Convention were authorised to propose such a government; and thirdly, how far the duty they owed to their country, could supply any defect of regular authority.

First. In order to ascertain the real character of the government it may be considered in relation to the foundation on which it is to be established; to the sources from which its ordinary powers are to be drawn; to the operation of those powers; to the extent of them; and to the authority by which future changes in the government are to be introduced.

On examining the first relation, it appears on one hand that the Constitution is to be founded on the assent and ratification of the people of America, given by deputies elected for the special purpose; but on the other that this assent and ratification is to be given by the people, not as individuals composing one entire nation; but as composing the distinct and independent States to which they respectively belong. It is to be the assent and ratification of the several States, derived from the supreme authority in each State, the authority of the people themselves. The act therefore establishing the Constitution, will not be a *national* but a *federal* act.

That it will be a federal and not a national act, as these terms are understood by the objectors, the act of the people as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration that it is to result neither from the decision of a *majority* of the people of the Union, nor from that of a *majority* of the States. It must result from the *unanimous* assent of the several States that are parties to it, differing no other wise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction as forming one nation, the will of the majority of the whole people of the United States, would bind the minority; in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined either by a comparison of the individual votes; or by considering the will of a

majority of the States, as evidence of the will of a majority of the people of the United States. Neither of these rules has been adopted. Each State in ratifying the Constitution, is considered as a sovereign body independent of all others, and only to be bound by its own voluntary act. In this relation then the new Constitution will, if established, be a *federal* and not a *national* Constitution.

The next relation is to the sources from which the ordinary powers of government are to be derived. The house of representatives will derive its powers from the people of America, and the people will be represented in the same proportion, and on the same principle, as they are in the Legislature of a particular State. So far the Government is *national* not *federal*. The Senate on the other hand will derive its powers from the States, as political and co-equal societies; and these will be represented on the principle of equality in the Senate, as they now are in the existing Congress. So far the government is *federal*, not *national*.<sup>4</sup> The executive power will be derived from a very compound source. The immediate election of the President is to be made by the States in their political characters. The votes allotted to them, are in a compound ratio, which considers them partly as distinct and co-equal societies; partly as unequal members of the same society. The eventual election, again is to be made by that branch of the Legislature which consists of the national representatives; but in this particular act, they are to be thrown into the form of individual delegations from so many distinct and co-equal bodies politic. From this aspect of the Government, it appears to be of a mixed character presenting at least as many *federal* as *national* features.

The difference between a federal and national Government as it relates to the *operation of the Government* is<sup>5</sup> supposed to consist in this, that in the former, the powers operate on the political bodies composing the confederacy, in their political capacities: In the latter, on the individual citizens, composing the nation, in their individual capacities. On trying the Constitution by this criterion, it falls under the *national*, not the *federal* character; though perhaps not so completely, as has been understood. In several cases and particularly in the trial of controversies to which States may be parties, they must be viewed and proceeded against in their collective and political capacities only. So far the national countenance of the Government on this side seems so to be disfigured by a few federal features. But this blemish is perhaps unavoidable in any plan; and the operation of the Government on the people in their individual capacities, in its ordinary and most essential proceedings, may<sup>6</sup> on the whole designate it in this relation a *national* Government.

But if the Government be national with regard to the *operation* of its powers, it changes its aspect again when we contemplate it in relation to the *extent* of its powers. The idea of a national Government involves in

it, not only an authority over the individual citizens; but an indefinite supremacy over all persons and things, so far as they are objects of lawful Government. Among a people consolidated into one nation, this supremacy is compleatly vested in the national Legislature. Among communities united for particular purposes, it is vested partly in the general, and partly in the municipal Legislatures. In the former case, all local authorities are subordinate to the supreme; and may be controuled, directed or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority, than the general authority is subject to them, within its own sphere. In this relation then the proposed Government cannot be deemed a *national* one; since its jurisdiction extends to certain enumerated objects only, and leaves to the several States a residuary and inviolable sovereignty over all other objects. It is true that in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide, is to be established under the general Government. But this does not change the principle of the case. The decision is to be impartially made, according to the rules of the Constitution; and all the usual and most effectual precautions are taken to secure this impartiality. Some such tribunal is clearly essential to prevent an appeal to the sword, and a dissolution of the compact; and that it ought to be established under the general, rather than under the local Governments; or to speak more properly, that it could be safely established under the first alone, is a position not likely to be combated.

If we try the Constitution by its last relation, to the authority by which amendments are to be made, we find it neither wholly *national*, nor wholly *federal*. Were it wholly national, the supreme and ultimate authority would reside in the *majority* of the people of the Union; and this authority would be competent at all times, like that of a majority of every national society, to alter or abolish its established Government. Were it wholly federal on the other head, the concurrence of each State in the Union would be essential to every alteration that would be binding on all. The mode provided by the plan of the Convention is not founded on either of these principles. In requiring more than a majority, and particularly, in computing the proportion by *States*, not by *citizens*, it departs from the *national*, and advances towards the *federal* character: In rendering the concurrence of less than the whole number of States sufficient, it loses again the *federal*, and partakes of the *national* character.

The proposed Constitution therefore<sup>7</sup> is in strictness neither a national nor a federal constitution; but a composition of both. In its foundation, it is federal, not national; in the sources from which the ordinary powers of the Government are drawn, it is partly federal, and



partly national: in the operation of these powers, it is national, not federal: In the extent of them again, it is federal, not national: And finally, in the authoritative mode of introducing amendments, it is neither wholly federal, nor wholly national.

1. See CC:442.

2. Only in New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York were the state executives elected by the people. The other eight state executives were elected by the legislatures.

3. A reference to the indirect election of the Maryland Senate in which the people voted for electors who met and elected fifteen senators from among "men of the most wisdom, experience and virtue . . ." (Thorpe, III, 1693-94).

4. In "A Countryman" VI, Hugh Hughes of Dutchess County, N.Y., addressed the "Federal Farmer" (CC:242) and "Publius," saying:

"In page the 18th, paragraph the 2d. [CC:242], it is said, 'The senate is entirely on the federal plan,' which to me appears somewhat singular, when each senator is to have one vote. Either I do not comprehend his meaning, or there is a mistake, which ought to be corrected, for, by the present confederation, which is a union of the states, not a consolidation, *all the delegates*, from a state, have but one vote, and in the state senate, which is on the plan of consolidation, *each* senator has a vote. In page 38, there is an expression, which does not seem to be altogether consistent with the general tenor of the whole, but, perhaps not worth your notice at this time.

"I ask your pardon for being so tedious on such a trifling affair, seemingly; yet viewed in all their consequences, they appear to me, to be of some import rightly to understand.

"The fabulous story of Actæon and his hounds, is too often verified in disputes of this sort. If I do not mistake, it frequently so happened, just before the revolution, as well as in the course of the war; and, I think, that I remember seeing several such complaints in the public prints, when you returned to the city, especially of Phocion [Alexander Hamilton], who then pretended to be as zealous an advocate for the constitution of the state [New York], as Publius is now for the new constitution, of which, in No. 38 [39], he gives but a vague account of what is alluded to in the preceding paragraph, as well as the Federal Farmer. . . .

"The Federalist, as he terms himself, or Publius, puts me in mind of some of the gentlemen of the long robe, when hard pushed, in a bad cause, with a rich client. They frequently say a great deal, which does not apply; but yet, if it will not convince the judge nor jury, may, perhaps, help to make them forget some part of the evidence—embarrass their opponent, and make the audience stare, besides encreasing the practice" (*New York Journal*, 14 February).

5. Inserted at this point in the M'Lean edition: "by the adversaries of the plan of the convention."

6. The M'Lean edition deleted the word "may" and inserted "will in the sense of its opponents."

7. Inserted at this point in the M'Lean edition: "even when tested by the rules laid down by its antagonists."

### 453. Centinel XI

#### Philadelphia Independent Gazetteer, 16 January<sup>1</sup>

##### TO THE PEOPLE OF PENNSYLVANIA.

*Fellow-Citizens*, The arguments upon which the advocates of the new constitution the most dwell, are the distresses of the community, the evils of anarchy, and the horrible consequences that would ensue from the dissolution of the union of the states, and the institution of separate

confederacies or republics: The unanimity of the federal convention, and the sanction of great names, can be no further urged as an argument after the exposition made by the attorney-general of Maryland,<sup>2</sup> who was a member of that convention; he has opened such a scene of discord and accommodation of republicanism to despotism as<sup>(a)</sup> excite the most serious apprehensions in every patriotic mind. The first argument has been noticed in the preceding essays; wherein it is shewn that this is not the criterion whereby to determine the merits of the new constitution; that notwithstanding the reality of the distresses of the people, the new constitution may not only be inadequate as a remedy, but destructive of liberty, and the completion of misery: The remaining two arguments will be discussed in this number; their futility elucidated; and thus the medium of deception being dissipated, the public attention, with undiverted, undiminished force, will be directed to the proper object, will be confined to the consideration of the nature and construction of the plan of government itself, the question will then be, Whether this plan be calculated for our welfare, or misery; whether it is the temple of liberty, or the structure of despotism? and as the former, or the latter, shall appear to be the case, to adopt, or reject it accordingly, otherwise to banish the demon of domination by suitable amendments and qualifications.

The evils of anarchy have been pourtrayed with all<sup>(b)</sup> the imagery of language, in the glowing colours of eloquence; the affrighted mind is thence led to clasp the new constitution as the instrument of deliverance, as the only avenue to safety and happiness: To avoid the possible and transitory evils of one extreme, it is seduced into the certain and permanent misery necessarily attendant on the other. A state of anarchy from its very nature, can never be of long continuance; the greater its violence, the shorter the duration; order and security are immediately sought by the distracted people beneath the shelter of equal laws, and the salutary restraints of regular government; and if this be not attainable, absolute power is assumed by the *one*, or the *few*, who shall be the most enterprising and successful. If anarchy, therefore, were the inevitable consequence of rejecting the new constitution, it would be infinitely better to incur it; for even then there would be at least the chance of a good government rising out of licentiousness; but to rush at once into despotism, because there is a bare possibility of anarchy ensuing from the rejection, or from what is yet more visionary, the small delay that would be occasioned by a revision and correction of the proposed system of government, is so superlatively weak, so fatally blind, that it is astonishing any person of common understanding should suffer such an imposition to have the least influence on his judgement;<sup>3</sup> still more astonishing, that so flimsy and deceptive a doctrine should make converts among the enlightened freemen of America, who have so long enjoyed the blessings of liberty;

but when I view among such converts, men otherwise *pre-eminent*, it raises a blush for the weakness of humanity, that these her brightest ornaments should be so dim-sighted to what is self-evident to most men, that such imbecility of judgement should appear where so much perfection was looked for; this ought to teach us to depend more on our own judgement and the nature of the case, than upon the opinions of the greatest and best of men, who, from *constitutional* infirmities, or *particular* situations may sometimes view an object through a delusive medium; but the opinions of great men are more frequently the dictates of ambition, or private interest.<sup>4</sup>

The source of the apprehensions of this so much dreaded anarchy would upon investigation be found to arise from the artful suggestions of designing men, and not from a rational possibility<sup>(c)</sup> grounded on the actual state of affairs; the least reflection is sufficient to detect the fallacy to shew that there is no one circumstance to justify the production<sup>(d)</sup> of such an event: On the contrary, a short time will evince to the utter dismay and confusion of the conspirators, that a perseverance in cramming down their scheme of power upon the freemen of this state, will inevitably produce *an anarchy* destructive of their darling domination, and *may* kindle a flame prejudicial to their safety; they should be cautious not to trespass too far on the forbearance of freemen, when wresting their dearest concerns; but prudently retreat from the gathering storm.

The other spectre that has been raised to terrify and alarm the people out of the exercise of their judgement on this great occasion, is the dread of our splitting into separate confederacies or republics, that might become rival powers and consequently liable to mutual wars from the usual motives of contention. This is an event still more improbable than the foregoing; it is a presumption unwarrantable,<sup>(e)</sup> either by the situation of affairs, or the sentiments of the people; no disposition leading to it exists; the advocates of the new constitution seem to view such a separation with horror, and its opponents are strenuously contending for a confederation that shall embrace all America under its comprehensive and salutary protection. This hobgoblin appears to have sprung from the deranged brain of *Publius*,<sup>5</sup> a New-York writer, who, mistaking sound for argument, has with Herculean labour accumulated myriads of unmeaning sentences, and *mechanically* endeavored to force conviction by a torrent of misplaced words; he might have spared his readers the fatigue of wading through his long-winded disquisitions on the direful effects of the contentions of inimical states, as totally inapplicable to the subject he was *professedly* treating; this writer has devoted much time, and wasted more paper in combating chimeras of his own creation: However, for the sake of

argument, I will admit, that the necessary consequence of rejecting, or delaying the establishment of the new constitution, would be the dissolution of the union, and the institution of even rival and inimical republics; yet ought such an apprehension, if well founded, to drive us into the fangs of despotism: Infinitely preferable would be occasional wars to such an event; the former, although a severe scourge, is transient in its continuance, and in its operation partial, but a small proportion of the community are exposed to its greatest horrors, and yet fewer experience its greatest evils; the latter is permanent and universal misery, without remission or exemption: as passing clouds obscure for a time the splendour of the sun, so do wars interrupt the welfare of mankind; but despotism is a settled gloom that totally extinguishes happiness, not a ray of comfort can penetrate to cheer the dejected mind; the goad of power with unabating rigor insists upon the utmost exaction, like a merciless task master, is continually inflicting the task,<sup>(f)</sup> and is never satiated with the feast of unfeeling domination, or the most abject servility.

The celebrated Lord Kains<sup>(g)</sup> whose disquisitions on human nature evidence extraordinary strength of judgement and depth of investigation, says that a continual *civil* war, which is the most destructive and horrible scene of human discord, is preferable to the uniformity of wretchedness and misery attendant upon despotism;<sup>6</sup>—of all *possible* evils, as I observed in my first number,<sup>7</sup> *this* is the worst and the most to be dreaded.

I congratulate my fellow-citizens that a good government, the greatest earthly blessing, may be so easily obtained, that our circumstances are so favorable that nothing but the folly of the conspirators can produce anarchy or civil war, which would presently terminate in their destruction and the permanent harmony of the state alone, interrupted by their ambitious machinations.

In a former number<sup>8</sup> I stated a charge of a very heinous nature, and highly prejudicial to the public welfare, and at this great crisis peculiarly alarming and threatening to liberty; I mean the suppression of the circulation of the newspapers from state to state by the of—c—rs of the P—t—O—ce, who in violation of their duty and integrity have prostituted their of—ces to forward the nefarious design of enslaving their countrymen, by thus cutting off all communication by the usual vehicle between the patriots of America;—I find that notwithstanding that public appeal, they persevere in this villainous and daring practice. The newspapers of the other states that contain any useful information, are still withheld from the printers of this state, and I see by the annunciation of the Editor of Mr. Greenleaf's patriotic New-York paper, that the printers of that place are still treated in like manner;

this informs his readers that but two southern papers have come to hand, and that they contain no information, which he affects to ascribe to the negligence of the p-t boy, not caring to quarrel with the p-t m-t-r g-l.<sup>9</sup>

Philadelphia, January 12, 1788

[*Independent Gazetteer's* Errata]

- (a) Insert "must."
- (b) Insert "the."
- (c) Read "rational probability."
- (d) Read "prediction."
- (e) Read "unwarranted."
- (f) Read "inflicting the lash."
- (g) Read "Lord Kaims."

1. "Centinel" XI was also published in the Philadelphia *Freeman's Journal* on 16 January and was reprinted in the *New York Journal* on 21 January. The *Gazetteer's* version contained seven errors that were corrected by an errata published in the *Gazetteer* on 5 February. The printer of the *New York Journal* indicated that he had reprinted "Centinel" XI from the *Gazetteer*; but, in comparing the texts of the three versions, it is evident that the *New York Journal's* reprint came from the *Freeman's Journal*.

For a discussion of the authorship, circulation, and impact of "Centinel," see CC:133.

2. See Luther Martin: *Genuine Information* (CC:389).

3. "A Citizen of Philadelphia" (Pelatiah Webster?) responded that "we are told, that *anarchy* and a *civil war* are less evils than the despotism (as he calls it) of the new government. It would be an affront to the understandings of my readers to controvert these two opinions—I shall only ask the author of them, whether he will risk himself, at the head of a company of his Carlisle *white boys*, in case he should succeed in his beloved scheme of exciting a civil war, or whether he would not rather shelter himself under a safe office, as he did during the late war, until the bloody storm was over?" (*Pennsylvania Gazette*, 23 January, RCS:Pa., 659). During the Revolution George Bryan, the alleged author of "Centinel," was a member of the Supreme Executive Council, an assemblyman, and a justice of the state Supreme Court.

4. "A Citizen of Philadelphia" (note 3 above) defended George Washington against this attack: "we are told that General Washington (under God the deliverer of our country) is a poor creature, with many *constitutional* infirmities; and that he has, from ambitious motives, united with the *conspirators* of Delaware, Pennsylvania, New-Jersey and Connecticut, to enslave his country.—Can human nature sink so low as to be guilty of such base ingratitude to a man to whom America owes her independence and liberties? or will the more grateful sons of America suffer the author of such a declaration to continue to insult their opinions and feelings? There was a time, when the liberties of our country were at the mercy of this great and good man—There was a time when a defrauded and clamorous army, devoted to his will, and a Congress without power or credit, would have rendered it an easy matter for him to have established a monarchy in the United States. But how nobly did he behave in this alarming crisis of our affairs. He composed the turbulent and punished the mutinous spirit of the army. He strengthened by his influence the hands of Congress, and finally bequeathed, as his last legacy to his country, his parting advice, to form such a union as would for ever perpetuate her liberties."

5. See especially *The Federalist* 1, 27 October (CC:201), where "Publius" first accuses Antifederalists of advocating the idea of separate confederacies.

6. The reference is perhaps to Henry Home Kames's *Sketches of the History of Man* (2 vols., Edinburgh, 1774), I, Book II, sketch 6, p. 434.

7. See "Centinel" I, 5 October (CC:133).

8. See "Centinel" IX, (CC:427).

9. See *New York Journal*, 10, 23 January (CC:Vol. 4, Appendix, Mails).

#### 454. Philanthropos

##### Pennsylvania Gazette, 16 January

"Philanthropos," which was also printed with minor variations in the *Philadelphia Independent Gazetteer* on 16 January, was written by Tench Coxe. The essay compares the different objections to the Constitution expressed by George Mason (CC:138, 276), Elbridge Gerry (CC:227), the minority of the Pennsylvania Convention (CC:353), and Edmund Randolph (CC:385). On the day that the essay was printed, Coxe wrote James Madison: "Enclosed is a little paper the republication of wch. may possibly be useful in New York." On 20 January Madison replied that "The little piece by Philanthropos is well calculated, and will be reprinted here. I do not know a better mode of serving the federal cause at this moment than to display the disagreement of those who make a common cause agst. the Constitution. It must produce the best affects on all who seriously wish a good general Government." Madison wrote Edmund Randolph on 27 January that he had seen "Philanthropos," but he did not identify Coxe as the author (Rutland, *Madison*, X, 375, 433; XII, 480-81).

On 21 January "Philanthropos" was reprinted in the *New York Morning Post*. Two days later the *New York Daily Advertiser* also reprinted the essay. By 10 March it was reprinted eight more times: N.H. (1), Mass. (2), Conn. (3), Va. (1), S.C. (1).

A draft of "Philanthropos" in Coxe's handwriting is in the Tench Coxe Papers, Series III, Essays, Addresses, and Resource Material, in the Historical Society of Pennsylvania. There are no significant differences between the printed and final draft versions.

##### *To the People of the United States.*

When we observe how much the several gentlemen of the late Convention, who declined to sign the fœderal constitution, *differ in their ground of opposition*, we must see how improbable it is, that another convention would unite in the same degree in any plan. Col. Mason and Mr. Gerry complain of the want of a bill of rights; Governor Randolph does not even mention it as desirable, much less as necessary. Col. Mason objects to the powers of Congress to raise an army; Governor Randolph and Mr. Gerry make no objections on this point, but the former seems to think a militia an inconvenient and uncertain dependence, which is contrary to our opinions in Pennsylvania. Mr. Randolph gives up the objection against the power of Congress to regulate trade by a majority; Mr. Mason complains of this, and says the objection is insuperable; Mr. Gerry does not say a word against it. Mr. Randolph wishes the President ineligible after a given number of years; Mr. Mason and Mr. Gerry do not make this one of their objections. Mr.

Randolph objects to some ambiguities; Mr. Mason does not. Col. Mason objects to the slave trade on the principles of policy merely; Mr. Gerry and Mr. Randolph make no such objections. Mr. Mason objects to the power of the President to pardon for treason; Mr. Gerry makes no such objection, and Mr. Randolph wishes, only, that the offender may be *convicted* before the President shall have power to *pardon!* This appears to be a legal solecism. Mr. Randolph objects to the power of Congress to determine their wages (the privilege of every legislature in the union;) but Mr. Gerry and Col. Mason do not object to this power. Mr. Randolph objects to the President's power of appointing the judges; Mr. Gerry and Col. Mason do not. Mr. Gerry says the people have no security for the right of election; Col. Mason and Mr. Randolph do not make this objection. Mr. Gerry and Mr. Mason think the representation not duly provided for; Mr. Randolph expresses no such idea. Mr. Mason objects to the want of security for the common law, to the power of the senate to alter money bills, to originate applications of money, to regulate the officers salaries, to the want of a privy Council, to the Vice-President, to the want of a clause concerning the press, and to the want of power in the states to lay imposts on exports; not one of which are stated as objections by Mr. Randolph or Mr. Gerry. Mr. Randolph objects to the want of a proper court of impeachment for senators (tho' the state courts of impeachment can always take cognizance of them;) Mr. Gerry and Col. Mason do not hold this exceptionable. Col. Mason objects to the states, or Congress, being restrained from passing *ex post facto* laws; Mr. Randolph and Mr. Gerry do not.

The minority of the Pennsylvania convention, on the other hand, differ from all these gentlemen. They say, the defects of the old confederation were not discovered till after the peace; while Mr. Randolph says, the short period between the ratification of the old constitution and the peace was distinguished by *melancholy testimonies* of its defects and faults. The Minority object, because some of the persons appointed by Pennsylvania have disapproved of our state constitution, which differs from those of eleven states in the union in the want of a *division* of the legislature, and in having *nineteen* persons to execute the office of governor, whose number will be increased by the addition of one more for every new county.

The Minority object to the *latitude* taken by the convention; we find no such objection made by Mr. Randolph, Mr. Gerry or Col. Mason. Mr. Gerry says, in his letter, it was *necessary*; and Mr. Mason insisted strongly in the house, that the convention could not do their business, unless they considered and recommended *every thing* that concerned the interests of the United States, tho' the strict letter of their powers was supposed by some not to extend so far. The Minority say, religious liberty is not duly secured; which is omitted as an objection by all of the

three gentlemen above named. The right of the people to fish, fowl and hunt, the freedom of speech, provision against disarming the people, a declaration of the subordination of the military to the civil power, annual elections of the representatives, and the organization and call of the militia, are considered by the Minority of our convention, as on an exceptionable footing; but none of these are even mentioned by Governor Randolph, Mr. Mason or Mr. Gerry. The Minority desire a declaration, that such powers as are not expressly given shall be considered as retained; Mr. Randolph thinks this unnecessary, for that the states retain every thing they do not grant. Mr. Gerry is silent on this head. The Minority desire a constitutional Council for the President; Mr. Gerry and Mr. Randolph do not. The Minority except against powers to erect a court of equity being vested in the federal government; to which neither of the above gentlemen express any dislike. The minority desire a bill of rights, and object to the smallness of the representation; which Mr. Randolph does not. They object to the term of duration of the legislature; which none of the above gentlemen find fault with. Nor does the account of particulars end here. The objections severally made by the three honorable gentlemen and the Pennsylvania Minority are so *different*, and even *discordant* in their essential principles, that all hope of greater unanimity of opinion, either in *another convention*, or in *the people*, must be given up by those who know the human heart and mind, with their infinitely varying feelings and ideas.

January 15, 1788.

#### 455. Brutus IX

New York Journal, 17 January<sup>1</sup>

The design of civil government is to protect the rights and promote the happiness of the people.

For this end, rulers are invested with powers. But we cannot from hence justly infer that these powers should be unlimited. There are certain rights which mankind possess, over which government ought not to have any controul, because it is not necessary they should, in order to attain the end of its institution. There are certain things which rulers should be absolutely prohibited from doing, because, if they should do them, they would work an injury, not a benefit to the people. Upon the same principles of reasoning, if the exercise of a power, is found generally or in most cases to operate to the injury of the community, the legislature should be restricted in the exercise of that power, so as to guard, as much as possible, against the danger. These principles seem to be the evident dictates of common sense, and what ought to give sanction to them in the minds of every American, they are



the great principles of the late revolution, and those which governed the framers of all our state constitutions. Hence we find, that all the state constitutions, contain either formal bills of rights, which set bounds to the powers of the legislature, or have restrictions for the same purpose in the body of the constitutions. Some of our new political Doctors, indeed, reject the idea of the necessity, or propriety of such restrictions in any elective government, but especially in the general one.

But it is evident, that the framers of this new system were of a contrary opinion, because they have prohibited the general government, the exercise of some powers, and restricted them in that of others.

I shall adduce two instances, which will serve to illustrate my meaning, as well as to confirm the truth of the preceding remark.

In the 9th section, it is declared, "no bill of attainder shall be passed." This clause takes from the legislature all power to declare a particular person guilty of a crime by law. It is proper the legislature should be deprived of the exercise of this power, because it seldom is exercised to the benefit of the community, but generally to its injury.

In the same section it is provided, that "the privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion and invasion, the public safety may require it." This clause limits the power of the legislature to deprive a citizen of the right of habeas corpus, to particular cases viz. those of rebellion and invasion; the reason is plain, because in no other cases can this power be exercised for the general good.

Let us apply these remarks to the case of standing armies in times of peace. If they generally prove the destruction of the happiness and liberty of the people, the legislature ought not to have power to keep them up, or if they had, this power should be so restricted, as to secure the people against the danger arising from the exercise of it.

That standing armies are dangerous to the liberties of a people was proved in my last number<sup>2</sup>—If it was necessary, the truth of the position might be confirmed by the history of almost every nation in the world. A cloud of the most illustrious patriots of every age and country, where freedom has been enjoyed, might be adduced as witnesses in support of the sentiment. But I presume it would be useless, to enter into a laboured argument, to prove to the people of America, a position, which has so long and so generally been received by them as a kind of axiom.

Some of the advocates for this new system controvert this sentiment, as they do almost every other that has been maintained by the best writers on free government.—Others, though they will not expressly deny, that standing armies in times of peace are dangerous, yet join

with these in maintaining, that it is proper the general government should be vested with the power to do it. I shall now proceed to examine the arguments they adduce in support of their opinions.

A writer, in favor of this system, treats this objection as a ridiculous one. He supposes it would be as proper to provide against the introduction of Turkish janizaries, or against making the Alcoran a rule of faith.<sup>3</sup>

From the positive, and dogmatic manner, in which this author delivers his opinions, and answers objections made to his sentiments—one would conclude, that he was some pedantic pedagogue who had been accustomed to deliver his dogmas to pupils, who always placed implicit faith in what he delivered.

But, why is this provision so ridiculous? because, says this author, it is unnecessary. But, why is it unnecessary? “because, the principles and habits, as well as the power of the Americans are directly opposed to standing armies; and there is as little necessity to guard against them by positive constitutions, as to prohibit the establishment of the Mahometan religion.” It is admitted then, that a standing army in time of peace, is an evil. I ask then, why should this government be authorised to do evil? If the principles and habits of the people of this country are opposed to standing armies in time of peace, if they do not contribute to the public good, but would endanger the public liberty and happiness, why should the government be vested with the power? No reason can be given, why rulers should be authorised to do, what, if done, would oppose the principles and habits of the people, and endanger the public safety, but there is every reason in the world, that they should be prohibited from the exercise of such a power. But this author supposes, that no danger is to be apprehended from the exercise of this power, because, if armies are kept up, it will be by the people themselves, and therefore, to provide against it, would be as absurd as for a man to “pass a law in his family, that no troops should be quartered in his family by his consent.” This reasoning supposes, that the general government is to be exercised by the people of America themselves—But such an idea is groundless and absurd. There is surely a distinction between the people and their rulers, even when the latter are representatives of the former.—They certainly are not identically the same, and it cannot be disputed, but it may and often does happen, that they do not possess the same sentiments or pursue the same interests. I think I have shewn, that as this government is constituted, there is little reason to expect, that the interest of the people and their rulers will be the same.

Besides, if the habits and sentiments of the people of America are to be relied upon, as the sole security against the encroachment of their rulers, all restrictions in constitutions are unnecessary; nothing more is

requisite, than to declare who shall be authorized to exercise the powers of government, and about this we need not be very careful—for the habits and principles of the people will oppose every abuse of power. This I suppose to be the sentiments of this author, as it seems to be of many of the advocates of this new system. An opinion like this, is as directly opposed to the principles and habits of the people of America, as it is to the sentiments of every writer of reputation on the science of government, and repugnant to the principles of reason and common sense.

The idea that there is no danger of the establishment of a standing army, under the new constitution, is without foundation.

It is a well known fact, that a number of those who had an agency in producing this system, and many of those who it is probable will have a principal share in the administration of the government under it, if it is adopted, are avowedly in favour of standing armies. It is a language common among them, "That no people can be kept in order, unless the government have an army to awe them into obedience; it is necessary to support the dignity of government, to have a military establishment." And there will not be wanting a variety of plausible reason to justify the raising one, drawn from the danger we are in from the Indians on our frontiers, or from the European provinces in our neighbourhood. If to this we add, that an army will afford a decent support, and agreeable employment to the young men of many families, who are too indolent to follow occupations that will require care and industry, and too poor to live without doing any business we can have little reason to doubt, but that we shall have a large standing army, as soon as this government can find money to pay them, and perhaps sooner.

A writer, who is the boast of the advocates of this new constitution, has taken great pains to shew, that this power was proper and necessary to be vested in the general government.<sup>4</sup>

He sets out with calling in question the candour and integrity of those who advance the objection, and with insinuating, that it is their intention to mislead the people, by alarming their passions, rather than to convince them by arguments addressed to their understandings.

The man who reproves another for a fault, should be careful that he himself be not guilty of it. How far this writer has manifested a spirit of candour, and has pursued fair reasoning on this subject, the impartial public will judge, when his arguments pass before them in review.

He first attempts to shew, that this objection is futile and disingenuous, because the power to keep up standing armies, in time of peace, is vested, under the present government, in the legislature of every state in the union, except two. Now this is so far from being true, that it is expressly declared, by the present articles of confederation, 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."<sup>5</sup> Now, was it candid and ingenuous to endeavour to persuade the public, that the general government had no other power than your own legislature have on this head; when the truth is, your legislature have no authority to raise and keep up any forces?

He next tells us, that the power given by this constitution, on this head, is similar to that which Congress possess under the present confederation. As little ingenuity is manifested in this representation as in that of the former.

I shall not undertake to enquire whether or not Congress are vested with a power to keep up a standing army in time of peace; it has been a subject warmly debated in Congress, more than once, since the peace;<sup>6</sup> and one of the most respectable states in the union, were so fully convinced that they had no such power, that they expressly instructed their delegates to enter a solemn protest against it on the journals of Congress, should they attempt to exercise it.<sup>7</sup>

But should it be admitted that they have the power, there is such a striking dissimilarity between the restrictions under which the present Congress can exercise it, and that of the proposed government, that the comparison will serve rather to shew the impropriety of vesting the proposed government with the power, than of justifying it.

It is acknowledged by this writer, that the powers of Congress, under the present confederation, amount to little more than that of recommending. If they determine to raise troops, they are obliged to effect it through the authority of the state legislatures. This will, in the first instance, be a most powerful restraint upon them, against ordering troops to be raised. But if they should vote an army, contrary to the opinion and wishes of the people, the legislatures of the respective states would not raise them. Besides, the present Congress hold their places at the will and pleasure of the legislatures of the states who send them, and no troops can be raised, but by the assent of nine states out of the thirteen. Compare the power proposed to be lodged in the legislature on this head, under this constitution, with that vested in the present Congress, and every person of the least discernment, whose understanding is not totally blinded by prejudice, will perceive, that they bear no analogy to each other. Under the present confederation, the representatives of nine states, out of thirteen, must assent to the raising of troops, or they cannot be levied: under the proposed constitution, a less number than the representatives of two states, in the house of representatives, and the representatives of three states and an half in the senate, with the assent of the president, may raise any number of troops they please. The present Congress are restrained

from an undue exercise of this power, from this consideration, they know the state legislatures, through whose authority it must be carried into effect, would not comply with the requisition for the purpose, if it was evidently opposed to the public good: the proposed constitution authorizes the legislature to carry their determinations into execution, without the intervention of any other body between them and the people. The Congress under the present form are amenable to, and removable by, the legislatures of the respective states, and are chosen for one year only: the proposed constitution does not make the members of the legislature accountable to, or removeable by the state legislatures at all; and they are chosen, the one house for six, and the other for two years; and cannot be removed until their time of service is expired, let them conduct ever so badly.—The public will judge, from the above comparison, how just a claim this writer has to that candour he affects to possess. In the mean time, to convince him, and the advocates for this system, that I possess some share of candor, I pledge myself to give up all opposition to it, on the head of standing armies, if the power to raise them be restricted as it is in the present confederation; and I believe I may safely answer, not only for myself, but for all who make the objection, that they will be satisfied with less.

1. Reprinted: Philadelphia *Freeman's Journal*, 23 January. The Boston *American Herald* reprinted excerpts of about two-thirds of the essay on 4 February and promised to continue its publication, but never did. For the authorship and impact of "Brutus," see CC:178.

2. See CC:437.

3. See "A Citizen of America" (Noah Webster), *An Examination into the Constitution*, 17 October (Mfm:Pa. 142, page 36 of the pamphlet). For a description of the pamphlet, see CC:173.

4. See *The Federalist* 24, CC:355.

5. See Article VI, CDR, 88.

6. For the national debate over the establishment of a permanent military force, see Richard H. Kohn, *Eagle and Sword: The Federalists and the Creation of the Military Establishment in America, 1783–1802* (New York and London, 1975), 45–62. Alexander Hamilton was the leading congressional proponent of a standing army.

7. On 1 November 1784 the Massachusetts legislature ordered that the state's congressional "delegates be instructed to oppose, and by all ways and means to prevent the raising of a standing army of any number, on any pretence whatever, in time of peace" (*A Journal of the Honorable House of Representatives . . .* [13 October–13 November 1784] [Boston, 1784], 174, Evans 18600). Elbridge Gerry led the fight in Congress against a standing army.

#### 456. George Washington to Samuel Powel Mount Vernon, 18 January<sup>1</sup>

Having nothing, either interesting or entertaining in these parts to communicate—our faces being turned to the Eastward for news—I felt no inclination to give you the trouble of perusing a dull scrawl, merely

to acknowledge the receipt of your obliging favor of the 12th. Ult,<sup>2</sup> & to thank you for the information it conveyed, being in hopes that a little time might be productive of occurrences more worthy of attention;—of this however I am disappointed.

It is with pleasure I find that the States of Pennsylvania, New Jersey & Delaware, have adopted the proposed Constitution, for a Fœderal Government; the two latter unanimously, and the former by a majority of two to one.—Connecticut, Massachusetts and New Hampshire are to appear next on the theatre, in the order they are mentioned; and will, I hope, with a decision equal to those which have preceded them, give their voices in favor of it.—Of the unanimity of Maryland there can be little question;—and tho' the Constitution in this State has powerful adversaries, little doubt of the adoption of it, has a place in my mind;—but in this I may be mistaken; for as I seldom go from home, & see few besides travellers, my conjectures on this subject may be founded in error.—North Carolina, has it seems, postponed the meeting of the Convention of that State to a later period than that of Virginia; which is indicative, in my opinion, of a disposition to take her tone from hence.—From the States more Southerly, I have received no information that can be relied on; except that Georgia has accompanied her act of appointment, with powers to alter, amend & what not;<sup>3</sup>—But if a weak State, with powerful tribes of Indians in its rear, & the Spaniards on its flank, do not incline to embrace a strong *general* Government there must, I should think, be either wickedness, or insanity in their conduct—

The unanimity, & generosity with which the County of Philadelphia has been proposed for the Seat of the Fœderal Government, by the Landholders thereof, gives much weight and merit to the Invitation; and will, probably, induce others to follow the example.—<sup>4</sup>

1. RC, Washington Papers, Mount Vernon Ladies Association of the Union. The letterbook copy (Washington Papers, DLC) contains many stylistic differences.

2. Powel reported that the Pennsylvania Convention had ratified the Constitution and that the landholders of Philadelphia County had offered land for the location of the federal capital (RCS:Pa., 601).

3. On 26 October 1787 the Georgia legislature resolved that the state Convention “adopt or reject any part or the whole” of the Constitution (RCS:Ga., 228).

4. For this offer to the Pennsylvania Convention and for the Convention's action upon it on 15 December 1787, see RCS:Pa., 316, 316n, 550, 601, 602, 610, 611, 611–13.

#### 457. Curtiopolis

New York Daily Advertiser, 18 January<sup>1</sup>

To the Honorable LEGISLATURE of the STATE of NEW-YORK.

*Fathers, Friends, Countrymen, Brethren and Fellow Citizens,* The happiness and existence of America being now suspended upon your

wise deliberations; three or four sly Aristocrats having lashed the public passions, like wild horses, to the car of Legislation, and driving us all in the midst of political clouds of error, into that ditch of despotism lately dug by the Convention: Such dismal circumstances have induced a private citizen to lay before you, in as concise a manner as possible, the objections that have been made, by the Pennsylvania Secession, Brutus, Cato, Cincinnatus, Farmer, An Officer, &c. &c. our best men.

1. The Convention were delegated to *amend* our political Constitution, instead of which they *altered* it.

2. It was composed of *unblemished* characters, which proves their detestable *hypocrisy*.

3. It possessed the *first rate abilities*, which proves that their *concerted mischief* will be the more certain and extensive.

4. Its discussions were in *secret*, which proves that they loved darkness rather than light, because their deeds were *evil*.

5. The whole plan is futile, and any *change* in the Government *unnecessary*.—1st. Because the present Government is an excellent one, if the States would but do as they ought. 2dly. Because it was approved of in its birth, by both Washington and Franklin. The former had not then *commanded* an army, nor the latter smelt the *despotic* air of France. 3dly. Because it answered our purposes *even* in times of *turbulence*, and must, therefore, certainly in *peace*. 4thly. Because those who, at present, hold the offices of trust, power, and profit, are generally as honest *as can be expected*.

6. By the new plan, the States will be politically *consolidated*, which is absolutely impossible, under a Republican form of Government, because *some* people say, that Montesquieu has said so.

7. *Faith* ought to be the principle of Union. For if we well and truly believe, that the States are united, we shall be just as happy as if they really were so.

8. An *extensive* territory cannot be free; this is too self evident to require a reason.

9. The Federal Head *ought to be supreme*, but ought *not* to possess a *coercive* power over the State Sovereignties, because this will *annihilate* them.

10. The Constitution proposed, will be too *energetic*, that is, it will have a power to *force* obedience, and the idea of *forcing*, is incompatible with that of *freedom*.

11. It is the most unheard of, unexampled, *incomprehensible*, motley, despotic, complication of biennial, quadrennial, and sextennial Aristocracies.

12. It is a *Government of individuals*; for *whole* years together, particular persons will be *entrusted* with *power*, notwithstanding the

experience of ages has demonstrated how prone men are to make an *ill* use of it.

13. It, by such distinctions, counteracts the sacred design of nature, which has created all men free and *equal*.

14. It supposes *compulsion* a necessary sanction to its laws, which is treating us not as generous citizens, but as slaves and brutes.

15. It ordains a representation of the people, *too small* to be safe. 1st. Because a majority of 79 Legislators<sup>2</sup> may easily be bribed, you know, gentlemen. 2dly. Because it is impossible that one man can be the image of, or know the interests, or feel the feelings of 30,000 constituents. 3dly. Because he must burst with vanity in such a situation.

16. It will be as *oppressive* as dangerous. 1st. Because it is so *numerous* as to occasion in a few years, tumult in its councils. 2dly. Procrastination in its proceedings. 3dly. Excessive taxation.

17. It appoints elections to be held for these rascally Despots, once only, in *two years*, when the time ought not to exceed *six months*; because the trust being more important than State Legislation, ought more frequently to change hands.

18. It will occasion tumults, *bloody noses* and broken heads among the people, as they will feel more interested in these elections, from *this* very circumstance of their being *something less frequent*.

19. It gives Congress the power to appoint the place of elections for the house of Representatives, but not for *Senators*; which was because they all intended to get into the Senate.—Some slyly pretend it was intended to hinder any one or two great States from being thrown out of the Federal Representation, by a temporary spirit of faction in their Legislatures. Rhode-Island was indeed unrepresented in Convention, from this cause—but the devil has got into Rhode-Island—and her proceedings can furnish no precedent.

20. It will oblige us sooner or later, to *pay the public debt*—Monstrum horrendum!—Not only the foreign but *domestic*—Not only the interest, but the *principal*!

21. It encourages the importation and slavery of Africans, because it leaves the States in this respect at perfect liberty to do *as they please*.

22. It will occasion the revolt of the *ancient dominion*, by assuming a power at the end of the twenty years, to make those black gentry as good *as ourselves*.

23. It admits to legislation, 1st. Quakers, who will make the blacks saucy, and at the same time deprive us of the means of defence—2dly. Mahometans, who ridicule the doctrine of the trinity—3dly. Deists, abominable wretches—4thly. Negroes, the seed of Cain—5thly. Beggars, who when set on horseback will ride to the devil—6thly. Jews, &c. &c.

24. It gives the command of the whole militia to the President—should he hereafter be a Jew, our dear posterity may be ordered to rebuild Jerusalem.



25. It gives our Representatives a power to keep up a *standing army* for two whole years—which would be well enough, had not Butler prov'd, that

They who fight and run away,  
Shall live to fight another day:  
But they who are in battle slain,  
Shall never live to fight again.<sup>3</sup>

26. It allows of other modes of trial besides that by jury, and of course this is *abolished*: such modes will be instituted under the direction of Congress, as will leave offenders, traitors, *malcontents*, or such of us as fall under the lash, *no chance at all*.

27. It affects to despise our paper money and all paper rights: In the war your predecessors all perjured themselves for want of a proper bill of rights—when they ordained the court of conspiracy; and often since, when from pretence of public good, they have picked the pockets of the public creditors.

28. It destroys the Freedom of the Press, and it will press us out of our freedom: The people will never exercise the liberty of conscience, and the rulers will have no consciences at all.

29. The preceding clause declares they make all *necessary* and *proper* laws, which would be very unnecessary and improper; because such laws are sometimes very disgusting; the truth is not always to be spoken.

30. It is to be crammed down our throats.

31. The *old woman* in Pennsylvania<sup>4</sup> has discovered the whole arrangement of *the conspirators*.

In short, gentlemen, if you prize your own characters or your country's happiness; if you would not be made to eat the rice of Virginia against your consents; if you would not wish to see your smoke and other little houses converted into *centinel* boxes; the poor ground to dust, and this dust trampled upon; you will never suffer *the impost*<sup>5</sup> to be given up, or this wicked, detestable, ridiculous, designing, artful, ill-contrived, clumsy, energetic and execrable Government to be set up over your *own heads*: It will deprive us of our liberties: It can never work: The people will never bear it—and it will end in Monocracy, Theocracy, Aristocracy, or some Ocracy or another.

To conclude, I would advise you to take good notice of that vile conspirator, *the author of Publius*: I think he might be impeached for high treason: he continues to do infinite mischief *among readers*: this whole city, except about forty or fifty of us, are all bewitched with him, and he is a playing the very devil elsewhere.

Jan. 14.

1. Reprinted: *Connecticut Courant*, 28 January; *New Hampshire Spy*, 1 February; *Massachusetts Centinel*, 9 February. The New York legislature convened on 1 January

and attained a quorum on the 11th. The legislature was expected to adopt a resolution calling a state convention to consider the Constitution. By 1 February both houses had adopted such a resolution (CC:439).

2. In the initial apportionment in the Constitution, Congress was to be composed of sixty-five Representatives and twenty-six Senators.

3. These four lines were first printed in 1746 in John Newbery's *The Art of Poetry* . . . (London). They are based upon two lines from Samuel Butler's *Hudibras*: "For those that fly, may fight again, / Which he can never do that's slain" (John Wilders, ed., *Samuel Butler, Hudibras* [Oxford, 1967], Third Part, canto III, lines 243–44, p. 285). The Third Part was first published in 1678. The four lines printed by "Curtiopolis" have been mistakenly attributed to Oliver Goldsmith (see J.W.M. Gibbs, ed., *The Works of Oliver Goldsmith* . . . [5 vols., London, 1892–1902], V, 409–10, 412).

4. The reference is to George Bryan (CC:395, note 2). Bryan was assumed to be the author of "Centinel" and the "Dissent of the Minority of the Pennsylvania Convention" (CC:133, 353).

5. A reference to New York's impost from which the state, in 1787, collected almost half of its revenue (Thomas C. Cochran, *New York in the Confederation, An Economic Study* [Philadelphia, 1932], 188).

#### 458. Publius: The Federalist 40 New York Packet, 18 January

This essay, written by James Madison, was reprinted in the *New York Independent Journal* and the *New York Daily Advertiser* on 19 January. It was number 40 in the M'Lean edition and number 39 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### The FEDERALIST, No. 39 *To the People of the State of New-York.*

The *second* point to be examined is, whether the Convention were authorised to frame and propose this mixed Constitution.

The powers of the Convention ought in strictness to be determined, by an inspection of the commissions given to the members by their respective constituents.<sup>1</sup> As all of these however had reference, either to the recommendation from the meeting at Annapolis in September, 1786, or to that from Congress in February, 1787, it will be sufficient to recur to these particular acts.

The act from Annapolis recommends the "appointment of commissioners to take into consideration, the situation of the United States, to devise *such further provisions* as shall appear to them necessary to render the Constitution of the Fœderal Government *adequate to the exigencies of the Union*; and to report such an act for that purpose, to the United States in Congress assembled, as when agreed to by them, and afterwards confirmed by the Legislature of every State, will effectually provide for the same."<sup>2</sup>

The recommendatory act of Congress is in the words following: "Whereas there is provision in the articles of confederation and perpetual Union, for making alterations therein, by the assent of a Congress of the United States, and of the Legislatures of the several

States: And whereas experience hath evinced, that there are defects in the present confederation, as a mean to remedy which, several of the States, and *particularly the State of New-York*, by express instructions to their delegates in Congress, have suggested a Convention for the purposes expressed in the following resolution; and such Convention appearing to be the most probable mean of establishing in these States, *a firm national government*.

“Resolved, That in the opinion of Congress, it is expedient, that on the 2d Monday in May next, a Convention of delegates, who shall have been appointed by the several States, be held at Philadelphia for the sole and express purpose *of revising the articles of confederation*, and reporting to Congress and the several Legislatures, such *alterations and provisions therein*, as shall, when agreed to in Congress, and confirmed by the States, render the Fœderal Constitution *adequate to the exigencies of government and the preservation of the Union*.”<sup>3</sup>

From these two acts it appears, 1st. that the object of the Convention was to establish in these States, *a firm national government*; 2d. that this Government was to be such as would be *adequate to the exigencies of government and the preservation of the Union*; 3d. that these purposes were to be effected by *alterations and provisions in the articles of confederation*, as it is expressed in the act of Congress, or by *such further provisions as should appear necessary*, as it stands in the recommendatory act from Annapolis; 4th. that the alterations and provisions were to be reported to Congress, and to the States, in order to be agreed to by the former, and confirmed by the latter.

From a comparison and fair construction of these several modes of expression, is to be deduced the authority, under which the Convention acted. They were to frame a *national government*, adequate to the *exigencies of government and of the Union*, and to reduce the articles of confederation into such form as to accomplish these purposes.

There are two rules of construction dictated by plain reason, as well as founded on legal axioms. The one is, that every part of the expression ought, if possible, to be allowed some meaning, and be made to conspire to some common end. The other is, that where the several parts cannot be made to coincide, the less important should give way to the more important part; the means should be sacrificed to the end, rather than the end to the means.

Suppose then that the expressions defining the authority of the Convention, were irreconcilably at variance with each other; that a *national and adequate government* could not possibly, in the judgment of the Convention, be effected by *alterations and provisions in the articles of confederation*, which part of the definition ought to have been embraced, and which rejected? Which was the more important, which the less important part? Which the end, which the means? Let the most

scrupulous expositors of delegated powers: Let the most inveterate objectors against those exercised by the Convention, answer these questions. Let them declare, whether it was of most importance to the happiness of the people of America, that the articles of confederation should be disregarded, and an adequate government be provided, and the Union preserved; or that an adequate government should be omitted, and the articles of confederation preserved. Let them declare, whether the preservation of these articles was the end for securing which a reform of the government was to be introduced as the means; or whether the establishment of a government, adequate to the national happiness, was the end at which these articles themselves originally aimed, and to which they ought, as insufficient means, to have been sacrificed.

But is it necessary to suppose that these expressions are absolutely irreconcilable to each other; that no *alterations* or *provisions* in the *articles of the confederation*, could possibly mould them into a national and adequate government; into such a government as has been proposed by the Convention?

No stress it is presumed will in this case be laid on the *title*, a change of that could never be deemed an exercise of ungranted power. *Alterations* in the body of the instrument, are expressly authorised. *New provisions* therein are also expressly authorised. Here then is a power to change the title; to insert new articles; to alter old ones. Must it of necessity be admitted that this power is infringed, so long as a part of the old articles remain? Those who maintain the affirmative, ought at least to mark the boundary between authorised and usurped innovations, between that degree of change, which lies within the compass of *alterations and further provisions*; and that which amounts to a *transmutation* of the government. Will it be said that the alterations ought not to have touched the substance of the confederation? The States would never have appointed a Convention with so much solemnity, nor described its objects with so much latitude, if some *substantial* reform had not been in contemplation. Will it be said that the *fundamental principles* of the confederation were not within the purview of the Convention, and ought not to have been varied? I ask what are these principles? do they require that in the establishment of the Constitution, the States should be regarded as distinct and independent sovereigns? They are so regarded by the Constitution proposed. Do they require that the members of the government should derive their appointment from the Legislatures, not from the people of the State? One branch of the new government is to be appointed by these Legislatures; and under the confederation the delegates to Congress *may all* be appointed immediately by the people, and in two States<sup>(a)</sup> are actually so appointed. Do they require that the powers of the

Government should act on the States, and not immediately on individuals? In some instances, as has been shewn, the powers of the new Government will act on the States in their collective characters. In some instances also those of the existing Government act immediately on individuals? In cases of capture, of piracy, of the post-office, of coins, weights and measures, of trade with the Indians, of claims under grants of land by different States, and above all, in the case of trials by Courts-martial in the army and navy, by which death may be inflicted without the intervention of a jury, or even of a civil Magistrate; in all these cases the powers of the confederation operate immediately on the persons and interests of individual citizens. Do these fundamental principles require particularly, that no tax should be levied without the intermediate agency of the States! The confederation itself authorises a direct tax to a certain extent on the post-office. The power of coinage has been so construed by Congress, as to levy a tribute immediately from that source also. But premitting these instances, was it not an acknowledged object of the Convention, and the universal expectation of the people, that the regulation of trade should be submitted to the general government in such a form as would render it an immediate source of general revenue? Had not Congress repeatedly recommended this measure as not inconsistent with the fundamental principles of the confederation? Had not every State but one,<sup>4</sup> had not New-York herself,<sup>5</sup> so far complied with the plan of Congress, as to recognize the *principle* of the innovation? Do these principles in fine require that the powers of the general government should be limited, and that beyond this limit, the States should be left in possession of their sovereignty and independence? We have seen that in the new government as in the old, the general powers are limited, and that the States in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction.

The truth is, that the great principles of the Constitution proposed by the Convention, may be considered less as absolutely new, than as the expansion of principles which are found in the articles of Confederation. The misfortune under the latter system has been, that these principles are so feeble and confined as to justify all the charges of inefficiency which have been urged against it; and to require a degree of enlargement which gives to the new system, the aspect of an entire transformation of the old.

In one particular it is admitted that the Convention have departed from the tenor of their commission. Instead of reporting a plan requiring the confirmation *of the Legislatures<sup>6</sup> of all the States*, they have reported a plan which is to be confirmed by the *people*,<sup>7</sup> and may be carried into effect by *nine States only*. It is worthy of remark, that this objection, though the most plausible, has been the least urged in the

publications which have swarmed against the Convention. The forbearance can only have proceeded from an irresistible conviction of the absurdity of subjecting the fate of 12 States, to the perverseness or corruption of a thirteenth; from the example of inflexible opposition given by a *majority* of 1-60th of the people of America, to a measure approved and called for by the voice of twelve States comprising 59-60ths of the people; an example still fresh in the memory and indignation of every citizen who has felt for the wounded honor and prosperity of his country. As this objection, therefore, has been in a manner waved by those who have criticised the powers of the Convention, I dismiss it without further observation.

The *third* point to be enquired into is, how far considerations of duty arising out of the case itself, could have supplied any defect of regular authority.

In the preceding enquiries, the powers of the Convention have been analysed and tried with the same rigour, and by the same rules, as if they had been real and final powers, for the establishment of a Constitution for the United States. We have seen, in what manner they have borne the trial, even on that supposition. It is time now to recollect, that the powers were merely advisory and recommendatory; that they were so meant by the States, and so understood by the Convention; and that the latter have accordingly planned and proposed a Constitution, which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed. This reflection places the subject in a point of view altogether different, and will enable us to judge with propriety of the course taken by the Convention.

Let us view the ground on which the Convention stood. It may be collected from their proceedings, that they were deeply and unanimously impressed with the crisis which had led their country almost with one voice to make so singular and solemn an experiment, for correcting the errors of a system by which this crisis had been produced; that they were no less deeply and unanimously convinced, that such a reform as they have proposed, was absolutely necessary to effect the purposes of their appointment. It could not be unknown to them, that the hopes and expectations of the great body of citizens, throughout this great empire, were turned with the keenest anxiety, to the event of their deliberations. They had every reason to believe that the contrary sentiments agitated the minds and bosoms of every external and internal foe to the liberty and prosperity of the United States. They had seen in the origin and progress of the experiment, the alacrity with which the *proposition* made by a single State (Virginia) towards a partial amendment of the confederation, had been attended to and promoted. They had seen the *liberty assumed* by a *very few*

deputies, from a *very few* States, convened at Annapolis, of recommending a great and critical object, wholly foreign to their commission, not only justified by the public opinion, but actually carried into effect, by twelve out of the thirteen States. They had seen in a variety of instances, assumptions by Congress, not only of recommendatory, but of operative powers, warranted in the public estimation, by occasions and objects infinitely less urgent than those by which their conduct was to be governed. They must have reflected, that in all great changes of established governments, forms ought to give way to substance; that a rigid adherence in such cases to the former, would render nominal and nugatory, the transcendent and precious right of the people to "abolish or alter their governments as to them shall seem most likely to effect their safety and happiness;"<sup>(b)</sup> since it is impossible for the people spontaneously and universally, to move in concert towards their object; and it is therefore essential, that such changes be instituted by some *informal and unauthorised propositions*, made by some patriotic and respectable citizen or number of citizens. They must have recollected that it was by this irregular and assumed privilege of proposing to the people plans for their safety and happiness, that the States were first united against the danger with which they were threatened by their antient government; that Committees and Congresses, were formed for concentrating their efforts, and defending their rights; and that *Conventions* were *elected in the several States*, for establishing the constitutions under which they are now governed; nor could it have been forgotten that no little ill-timed scruples, no zeal for adhering to ordinary forms, were any where seen, except in those who wished to indulge under these masks, their secret enmity to the substance contended for. They must have borne in mind, that as the plan to be framed and proposed, was to be submitted to *the people themselves*, the disapprobation of this supreme authority would destroy it for ever; its approbation blot out all antecedent errors and irregularities. It might even have occurred to them, that where a disposition to cavil prevailed, their neglect to execute the degree of power vested in them, and still more their recommendation of any measure whatever not warranted by their commission, would not less excite animadversion, than a recommendation at once of a measure fully commensurate to the national exigencies.

Had the Convention under all these impressions, and in the midst of all these considerations, instead of exciting<sup>8</sup> a manly confidence in their country, by whose confidence they had been so peculiarly distinguished, and of pointing out a system capable in their judgment of securing its happiness, taken the cold and sullen resolution of disappointing its ardent hopes of sacrificing substance to forms, of committing the dearest interests of their country to the uncertainties of delay, and the hazard of events; let me ask the man, who can raise his

mind to one elevated conception; who can awaken in his bosom, one patriotic emotion, what judgment ought to have been pronounced by the impartial world, by the friends of mankind, by every virtuous citizen, on the conduct and character of this assembly, or if there be a man whose propensity to condemn, is susceptible of no controul, let me then ask what sentence he has in reserve for the twelve States, who *usurped the power* of sending deputies to the Convention, a body utterly unknown to their constitutions; for Congress, who recommended the appointment of this body, equally unknown to the confederation; and for the State of New-York in particular, who first urged and then complied with this unauthorised interposition.<sup>9</sup>

But that the objectors may be disarmed of every pretext, it shall be granted for a moment, that the Convention were neither authorised by their commission, nor justified by circumstances, in proposing a Constitution for their country: Does it follow that the Constitution ought for that reason alone to be rejected? If according to the noble precept it be lawful to accept good advice even from an enemy, shall we set the ignoble example of refusing such advice even when it is offered by our friends? The prudent enquiry in all cases, ought surely to be not so much *from whom* the advice comes, as whether the advice be *good*.

The sum of what has been here advanced and proved, is that the charge against the Convention of exceeding their powers, except in one instance little urged by the objectors, has no foundation to support it; that if they had exceeded their powers, they were not only warranted but required, as the confidential servants of their country, by the circumstances in which they were placed, to exercise the liberty which they assumed, and that finally, if they had violated both their powers, and their obligations in proposing a Constitution, this ought nevertheless to be embraced, if it be calculated to accomplish the views and happiness of the people of America. How far this character is due to the Constitution, is the subject under investigation.

(a) *Connecticut and Rhode-Island.*

(b) *Declaration of Independence.*

1. For the acts of appointment, see CDR, 192–225.
2. For the call and report of the Annapolis Convention, see CDR, 176–90.
3. For more on the congressional resolution of 21 February 1787, see CC:1.
4. Rhode Island refused to ratify the Impost of 1781 (CDR, 140–41; CC:Vol. 1, pp. 17–18).
5. In early May 1786 New York adopted the Impost of 1783 but attached conditions that were unacceptable to Congress.
6. The words “*of the Legislatures*” were deleted in the M’Lean edition.
7. The words “*by the people*” were deleted in the M’Lean edition.
8. “*Exercising*” in the M’Lean edition.
9. New York had long been interested in the calling of a convention to revise the Articles of Confederation, having first made such a recommendation to Congress in 1782 (Syrett, III, 110–13). On 21 February 1787 the state’s congressional delegates, acting upon instructions from the state legislature, moved that Congress call a



convention on its own initiative, thereby ignoring the recommendations of the Annapolis Convention. Congress rejected this motion in favor of one proposed by the Massachusetts delegates that implicitly recognized the recommendations of the Annapolis Convention. On 6 March the New York legislature, in answer to this congressional resolution, appointed three delegates to attend the Constitutional Convention (CDR, 179, 185–90, 209–13).

**459. Luther Martin: Genuine Information VII**  
**Baltimore Maryland Gazette, 18 January<sup>1</sup>**

*Mr. MARTIN'S Information to the House of Assembly, continued.*

By the eighth section, of the first article, the Congress have also a power given them to raise and support *armies* without *any limitation* as to *numbers*, and without *any restriction in time of peace*. Thus, Sir, *this plan of government*, instead of *guarding against a standing army*, that *engine of arbitrary power*, which has so often and so successfully been used for the *subversion of freedom*, has, in *its formation*, given it an *express and constitutional sanction*, and hath *provided for its introduction*; nor could this be prevented: I took the sense of the convention on a proposition, by which the Congress should not have power, *in time of peace*, to keep embodied more than a certain number of regular troops—that number to be ascertained by what should be considered a *respectable peace establishment*.—This proposition was rejected by a majority,<sup>2</sup> it being their determination, that the *power* of Congress to keep up a *standing army*, even *in peace* should *only* be restrained by *their will and pleasure*.

This section proceeds further to give a power to the Congress to provide for calling forth the militia, to execute the laws of the union, suppress insurrections, and repel invasions.—As to *giving such a power* there was no objection; but it was thought by some, that this power *ought* to be given with certain *restrictions*—It was thought that not more than a certain *part* of the militia, of any one State, ought to be obliged to *march out* of the same, or be *employed out* of the same, at any *one time*, without the consent of the legislature of such State—This *amendment* I endeavoured to obtain;<sup>3</sup> but it met with the same fate, which attended almost every attempt to *limit* the powers given to the general government, and *constitutionally* to guard against *their abuse*, it was not adopted.—As it now stands, the Congress will have the power, if they please, to march the *whole* militia of Maryland to the *remotest* part of the union, and keep them in service as long as they think proper, without being in any respect *dependant* upon the *Government of Maryland* for this *unlimited exercise of power over its citizens*.—*All of whom*, from the *lowest* to the *greatest*, may, during such service, be *subjected to military law*, and *tied up* and *whipped* at the *halbert* like the *meanest of slaves*.

By the *next* paragraph, Congress is to have the power to provide for *organizing, arming, and disciplining* the *militia*, and for *governing* such part of them as may be *employed in the service* of the United States.—

For this *extraordinary* provision, by which the *militia*, the *only defence* and *protection* which the *States* can have for the security of *their rights* against *arbitrary encroachments* of the *general government*, is taken entirely *out of the power* of their *respective States*, and placed under the *power of Congress*, it was speciously assigned as a reason, that the general government would cause the militia to be better regulated and better disciplined than the State governments, and that it would be proper for the whole militia of the union, to have a uniformity in their arms and exercise.—To this it was answered, that the reason, however *specious*, was *not just*;—that it would be absurd the militia of the western settlements, who were exposed to an Indian enemy, should either be confined to the *same arms or exercise*, as the militia of the eastern or middle States—that the same penalties which would be sufficient to enforce an obedience to militia laws in some States, would be totally disregarded in others—That leaving the power to the several States, they would respectively best know the situation and circumstances of their citizens, and the regulations that would be necessary and sufficient to effect a well regulated militia in each—That we were satisfied the militia had heretofore been as well disciplined, as if they had been under the regulations of Congress; and that the States would now have an *additional* motive to keep their militia well disciplined, and fit for service, as it would be their *only chance* to preserve there *existence* against a general government, armed with powers *sufficient* to destroy them.—These observations, Sir, procured from some of the members an open avowal of those reasons, by which we believed before that they were actuated—They said, that as the States would be opposed to the general government, and at enmity with it, which as I before observed, they *assumed* as a *principle*, if the militia was under the controul and the authority of the respective States, it would *enable them* to *thwart* and *oppose* the general government:—They said the States ought to be at the mercy of the general government, and, therefore, that the militia ought to be put under its power, and not suffered to remain under the power of the respective States.—In answer to these declarations, it was urged, that if after having obtained to the general government the great powers already granted, and among those, that of *raising and keeping up regular troops without limitation*, the *power over the militia* should be *taken away from the States*, and also given to the general government, it ought to be considered as the *last coup de grace* to the *State governments*; that it must be the most convincing proof, the advocates of this system design the *destruction* of the *State governments*, and that no *professions*, to the contrary, ought to be *trusted*; and that every State in the union, ought to reject such a system with indignation, since, if the general government should attempt to oppress and enslave them, they could not have any possible means of self defence; because the proposed system, taking away from the States the right of organizing, arming and disciplining

the militia, the *first attempt* made by a *State* to put the militia in a situation to counteract the arbitrary measures of the general government, would be construed into an *act of rebellion, or treason*; and Congress would *instantly march their troops* into the State.—It was further observed, that when a government *wishes* to deprive their citizens of freedom, and reduce them to slavery, it *generally makes use of a standing army* for that purpose, and *leaves the militia in a situation as contemptible as possible, lest they might oppose its arbitrary designs*—That in *this* system, we give the general government every provision it could wish for, and even *invite* it to *subvert the liberties of the States and their citizens*, since we give them the right to increase and keep up a standing army as numerous as *it* would wish, and by placing the militia under *its* power, enable it to leave the militia *totally unorganized, undisciplined, and even to disarm them*;<sup>4</sup> while the *citizens*, so far from complaining of *this neglect*, might even esteem it a favour in the general government, as thereby they would be freed from the burthen of militia duties, and left to their own private occupations or pleasures.—However, *all* arguments, and every reason that could be urged on *this* subject, as well as on many others, were obliged to yield to *one* that was *unanswerable, a majority* upon the division.

By the *ninth* section of this article, the importation of such persons as any of the States now existing, shall think proper to admit, shall not be prohibited prior to the year one thousand eight hundred and eight, but a duty may be imposed on such importation not exceeding ten dollars for each person.

The design of this clause is to prevent the general government from prohibiting the importation of slaves, but the same reasons which caused them to strike out the word "*national*," and not admit the word "*stamps*," influenced them here to guard against the word "*slaves*," they anxiously sought to avoid the admission of expressions which might be odious in the ears of Americans, although they were very willing to admit into their system those *things* which the *expressions* signified: And hence it is, that the clause is so worded, as really to authorise the general government to impose a duty of ten dollars on every foreigner who comes into a State to become a citizen, whether he comes *absolutely free, or qualifiedly* so as a servant—although this is contrary to the design of the framers, and the duty was only meant to extend to the importation of *slaves*.

This clause was the subject of a great diversity of sentiment in the convention;—as the system was reported by the committee of detail, the provision was general, that such importation should not be prohibited, without confining it to any particular period.—This was rejected by eight States—Georgia, South-Carolina, and I think North-Carolina voting for it.<sup>5</sup>

We were then told by the delegates of the two first of those States, that their States would never agree to a system which put it in the power of the general government to prevent the importation of slaves, and that they, as delegates from those States, must withhold their assent from such a system.

A committee of one member from each State was chosen by ballot, to take this part of the system under their consideration, and to endeavour to agree upon some report which should reconcile those States;—to this committee also was referred the following proposition, which had been reported by the committee of detail, to wit, “No *navigation* act shall be passed without the assent of *two-thirds* of the members present in each house;” a proposition which the *staple* and *commercial* States were solicitous to *retain*, lest their *commerce* should be placed too much under the power of the *eastern* States, but which these last States were as anxious to *reject*.—This committee, of which also I had the honour to be a member, met and took under their consideration the subjects committed to them; I found the *eastern* States, notwithstanding their *aversion* to *slavery*, were very willing to indulge the southern States, at least with a temporary liberty to prosecute the *slave trade*, provided the southern States would in their turn gratify them, by laying no *restriction on navigation acts*; and after a very little time, the committee, by a great majority, agreed on a report, by which the general government was to be prohibited from preventing the importation of slaves for a limited time, and the restrictive clause relative to navigation acts was to be omitted.<sup>6</sup>

This report was adopted by a majority of the convention, but not without considerable opposition.—It was said, that we had but just assumed a place among independent nations, in consequence of our opposition to the attempts of Great-Britain to *enslave us*—that this opposition was grounded upon the preservation of *those rights*, to which God and Nature had entitled *us*, not in *particular*, but in *common* with *all the rest of mankind*—That we had *appealed* to the *Supreme Being* for his *assistance*, as the *God of freedom*, who could not but *approve* our efforts to preserve the *rights* which he had thus *imparted to his creatures*—that now, when we scarcely had risen from our *knees*, from *supplicating* his *aid and protection*—in *forming our government* over a *free people*, a government formed pretendedly on the *principles of liberty* and for *its preservation*,—in *that government* to have a provision, not only putting it out of *its power* to *restrain and prevent the slave trade*, but even *encouraging that most infamous traffic*, by giving the *States power and influence* in the *union*, in *proportion* as they *cruelly and wantonly sport with the rights of their fellow creatures*, ought to be considered as a *solemn mockery of*, and *insult to*, *that God* whose protection we had then implored, and could not fail to hold us up in *detestation*, and render us *contemptible* to every *true friend* of

liberty in the world.—It was said, it ought to be considered that *national crimes can only be, and frequently are, punished* in this world by *national punishments*, and that the *continuance* of the slave trade, and thus giving it a *national sanction and encouragement*, ought to be considered as *justly exposing* us to the *displeasure and vengeance* of Him, who is equal Lord of all, and who views with equal eye, the poor *African slave* and his *American master!*

(To be continued.)

1. Reprinted: *Pennsylvania Packet*, 25 January; *Pennsylvania Herald*, 26 January; *Philadelphia Independent Gazetteer*, 28 January; *Philadelphia Freeman's Journal*, 30 January (excerpt); *New York Journal*, 27 February, 1, 7 March; *Boston American Herald*, 31 March, 3 April; *Charleston City Gazette*, 14 April (excerpt); *State Gazette of South Carolina*, 8, 15 May.

For a general discussion of the *Genuine Information*, see CC:389.

2. On 18 August Martin's motion, seconded by Elbridge Gerry, "was disagreed to nem. con." (Farrand, II, 330).

3. Martin's amendment has not been located.

4. During the debate on 23 August Martin said he "was confident that the States would never give up the power over the Militia; and that, if they were [to do so,] the militia would be less attended to by the Genl than by the State Governments" (*ibid.*, 387).

5. As reported by the Committee of Detail on 6 August this clause reads: "No tax or duty shall be laid by the Legislature on articles exported from any State; nor on the migration or importation of such persons as the several States shall think proper to admit; nor shall such migration or importation be prohibited" (CDR, 265). For the Convention debates on this clause, see Farrand, II, 364–65, 369–74, 400, 414–17.

6. For the membership of the committee and its report, see Farrand, II, 375, 400, 414–17.

#### 460. Luther Martin to the Printer Maryland Journal, 18 January

Martin's letter answers "Landholder" VIII, an attack upon Elbridge Gerry, which was first printed in the *Connecticut Courant* on 24 December (CC:371) and reprinted in the *Maryland Journal* on 12 January. Martin's letter was reprinted in the *Pennsylvania Packet*, 25 January; *Pennsylvania Herald*, 26 January; *Philadelphia Independent Gazetteer*, 28 January; *Philadelphia Freeman's Journal*, 30 January; *New York Journal*, 6 February; *Boston American Herald*, 25 February; and *Providence United States Chronicle*, 28 February.

An anonymous writer criticized the manner in which Martin defended Gerry, asserting that Martin was harmful, not helpful, to Gerry. He charged that "to torture a character under the mask of friendship, is a refinement upon jesuitism. . . . You have, Sir, grossly traduced my friend, by telling us that he called the federal convention a *set of jockies*, that they wished to get a *halter* round the necks of the people, that the proposed constitution was like Pope's picture of *vice*, and that he should consider himself a traitor if he did not then and always oppose it" (*Philadelphia Independent Gazetteer*, 31 January, Mfm:Pa. 395).

In late February another writer, claiming to be the "Landholder," defended himself against Martin's charges and, in turn, was answered in three essays by Martin in March (*Maryland Journal*, 29 February, 7, 18, 21 March,

CC:580, 604, 626, 636). In April "A Friend and Customer," almost certainly Gerry himself, defended Gerry and Martin against the "Landholder's" attacks (*Boston American Herald*, 18 April, CC:691).

Mr. WILLIAM GODDARD:

SIR, As the Publication under the Signature of the CONNECTICUT LANDHOLDER, is circulating remote from the place of Mr. *Gerry's* residence, and is calculated not only to injure that honourable gentleman in his private character, but also to weaken the effect of his opposition to the government proposed by the late convention, and thereby promote the adoption of a system, which I consider destructive of the rights and liberties of the respective states, and of their citizens; I beg leave, through the channel of your Paper, to declare to the Public, that from the time I took my seat in convention, which was early in June, until the fourth day of September, when I left *Philadelphia*, I am satisfied I was not ten minutes absent from convention while sitting (excepting only five days in the beginning of August, immediately after the committee of detail had reported, during which but little business was done.)<sup>1</sup> That during my attendance, I never heard Mr. *Gerry*, or any other member, introduce a proposition for the redemption of continental money according to its nominal, or any other value, nor did I ever hear that such a proposition had been offered to consideration, or had been thought of. I was intimate with Mr. *Gerry*, and never heard him express in private conversation, or otherwise, a wish for the redemption of continental money, or assign the want of such a provision as a defect—Nor did I ever hear in convention, or any where else, such a motive of conduct attributed to Mr. *Gerry*.<sup>2</sup>

I also declare to the Public, that a considerable time before I left the convention, Mr. *Gerry's* opposition to the system was warm and decided—that in a particular manner he strenuously opposed that provision by which the *power and authority* over the *militia* is taken away from the *states* and given to the *general government*—that in the debate he declared, if that measure was adopted, it would be the most convincing proof that the destruction of the *state governments*, and the *introduction* of a *King* was *designed*, and that no declarations to the contrary ought to be *credited*, since it was giving the states the last *coup de grace*, by taking from them the *only* means of *self-preservation*.<sup>3</sup>

The conduct of the advocates and framers of this system, towards the *thirteen states*, in pretending it was designed for their advantage, and gradually obtaining power after power to the general government, which could not but end in *their slavery*, he compared to the conduct of a number of *jockeys*, who had *thirteen young colts* to break—they begin with the appearance of kindness, giving them a lock of hay, or a handful of oats, and stroaking them while they eat, until being rendered sufficiently gentle, they suffer a halter to be put round their

necks—obtaining a further degree of their confidence, the jockeys slip, a curb bridle on their heads, and the bit into their mouths, after which the saddle follows of course, and well booted and spurred, with good whips in their hands, they mount and ride them at their pleasure, and although they may kick and flounce a little at first, not being able to get clear of their *riders*, they soon become as *tame* and *passive* as their *masters* could wish them.

In the course of *public* debate in the convention, Mr. *Gerry* applied to the system of government, as then under discussion, the words of *Pope* with respect to *vice*, “that it was a monster of such horrid mien, as to be hated need but to be seen.”<sup>4</sup> And some time before I left *Philadelphia*, he in the same public manner, declared in convention, that he should consider himself a traitor to his country, if he did not oppose the system *there*, and also when he left the convention.

These, Sir, *are facts* which I do not fear being contradicted by any *member* of the convention, and will, I apprehend, satisfactorily shew that Mr. *Gerry*’s opposition proceeded from a conviction in his own mind, that the government, if adopted, would *terminate* in the *destruction* of the *states*, and in the *introduction* of a *kingly* government.

*Baltimore, January 13, 1788.*

1. For Martin’s attendance in the Constitutional Convention, see CC:389.

2. See CC:371, note 3.

3. In opposing the central government’s power over the state militia, Gerry said: “Let us at once destroy the State Govts have an Executive for life or hereditary, and a proper Senate, and then there would be some consistency in giving full powers to the Genl Govt. but as the States are not to be abolished, he wondered at the attempts that were made to give powers inconsistent with their existence. He warned the Convention agst pushing the experiment too far. Some people will support a plan of vigorous Government at every risk. Others of a more democratic cast will oppose it with equal determination. And a Civil war may be produced by the conflict” (23 August, Farrand, II, 388).

4. See Alexander Pope, *An Essay on Man* (London, 1758), Epistle II, 18. Epistle II was first published in 1733.

#### 461. Henry Knox to John Sullivan

New York, 19 January<sup>1</sup>

(private)

The new Minister of France, the Count de Moutiers who arrived yesterday brought the enclosed letter from our common friend the Marquis de la Fayette. It is addressed to you on the supposition of your being in this city and President of Congress. But alas there is no Congress although two months have elapsed since one ought to have been assembled agreeably to the confederation

The new constitution! the new Constitution! is the general cry this way. Much paper is spoiled on the subject, and many essays are written

which perhaps are not read by either side. It is a stubborn fact however, that the present system called the confederation has run down—That the springs if ever it had others, than the late Army have utterly lost their tone, and the machine cannot be wound up again.

But something must be done speedily or we shall (soon) be involved in all the horrors of anarchy and seperate (state) interests—This indeed appears to have been the serious judgement of all the states which have formally considered the new constitution, and therefore they have adopted it, not as a perfect system, but as the best that could be obtained under existing circumstances

If to those states which have already adopted it, Massachusetts and New Hampshire should be added, a doubt cannot be entertained, but that it will be received generally in the course of the present year—If Massachusetts and New Hampshire reject it we shall have to encounter a boisterous and uncertain ocean of events

Should you have leisure, I shall be much obliged by a confidential information of the disposition of New Hampshire on the subject, and you may rest assured that your confidence will not be misplaced<sup>2</sup>

1. RC, Sullivan Papers, NhHi. The two words in angle brackets appear only in Knox's draft (Knox Papers, MHi).

2. On 11 February Sullivan replied that the prospects for ratification in New Hampshire "are not so favorable as I expected. . . . I do not however Despair but trust it [the Constitution] will after a Long Discussion go down by a much greater majority than in Massachusetts" (J.H.S. Fogg Autograph Collection, Maine Historical Society). The first session of the New Hampshire Convention, which met from 13–22 February, adjourned without ratifying the Constitution.

#### 462. David Ramsay to John Eliot Charleston, 19 January<sup>1</sup>

I return you many thanks for the register & also for the inclosed manuscript which I have copied & shall make use of.<sup>2</sup> Our Assembly is now sitting & the foederal constitution has been discussed before them for the sake of informing the country members. There appears a great majority for it.<sup>3</sup> Indeed it seems to be a prevailing sentiment here that if Virginia & her neighbors should refuse it that we would confoederate with New England. For my part I am fully of that sentiment I would much rather be united with Massachusetts New Hampshire & Connecticut than with North Carolina, Virginia & Maryland. My first wish is union but if that cannot be my second is a confoederation with the eastern & middle states. I trust it will be universally accepted. One thing is certain that I shall live under it if I live & if it ever operates.

I have some thoughts of visiting the Northern States next summer just before the publication of my history;<sup>4</sup> but on this I am not decided.

Mrs. Ramsay joins me in presenting our most cordial regards to Mrs. Elliot & yourself.



1. RC, Andrew-Eliot Papers, MHi. No recipient is indicated on the letter, but internal evidence reveals that it was written to John Eliot (1754–1813), a Harvard graduate and Congregationalist pastor of the New North Church in Boston.

2. Four months earlier, Ramsay had asked Eliot for “any register” that would demonstrate the rapid increase in population under a government with “mild laws.” Ramsay believed that Massachusetts was an excellent example of “what great things were done in one century & a half in converting a wilderness to a civilized thick settled country by the combined influence of good laws education & of religion” (26 September, in Robert L. Brunhouse, ed., *David Ramsay, 1749–1815: Selections from His Writings* [Transactions of the American Philosophical Society, LV, Philadelphia, 1965], 115).

3. Ramsay was a member of the South Carolina House of Representatives which, from 16 to 19 January, debated whether to call a state convention to consider the Constitution. On the 19th, the House unanimously voted to call such a convention.

4. Ramsay’s two-volume *The History of the American Revolution* (Philadelphia, 1789) (Evans 22090).

### 463. Publius: The Federalist 41

#### New York Independent Journal, 19 January

This essay, written by James Madison, was reprinted in the *New York Packet*, 22 January, and the *New York Daily Advertiser*, 22–23 January. It was number 41 in the M’Lean edition and number 40 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### THE FEDERALIST. No. XL.

To the People of the State of New-York.

The Constitution proposed by the Convention may be considered under two general points of view. The FIRST relates to the sum or quantity of power which it vests in the Government, including the restraints imposed on the States. The SECOND, to the particular structure of the Government, and the distribution of this power, among its several branches.

Under the first view of the subject two important questions arise.—1. Whether any part of the powers transferred to the general Government be unnecessary or improper?—2. Whether the entire mass of them be dangerous to the portion of jurisdiction left in the several States?

Is the aggregate power of the general Government greater than ought to have been vested in it? This is the first question.

It cannot have escaped those who have attended with candour to the arguments employed against the extensive<sup>1</sup> powers of the Government, that the authors of them have very little considered how far these powers were necessary means of attaining a necessary end. They have chosen rather to dwell on the inconveniences which must be unavoidably blended with all political advantages; and on the possible abuses which must be incident to every power or trust of which a beneficial use can be made. This method of handling the subject cannot impose on the good sense of the people of America. It may display the

subtlety of the writer; it may open a boundless field for rhetoric and declamation; it may inflame the passions of the unthinking, and may confirm the prejudices of the misthinking. But cool and candid people will at once reflect, that the purest of human blessings must have a portion of alloy in them; that the choice must always be made, if not of the lesser evil, at least of the GREATER, not the PERFECT good; and that in every political institution, a power to advance the public happiness, involves a discretion which may be misapplied and abused. They will see therefore that in all cases, where power is to be conferred, the point first to be decided is whether such a power be necessary to the public good; as the next will be, in case of an affirmative decision, to guard as effectually as possible against a perversion of the power to the public detriment.

That we may form a correct judgment on this subject, it will be proper to review the several powers conferred on the Government of the Union; and that this may be the more conveniently done, they may be reduced into different classes as they relate to the following different objects;—1. security against foreign danger—2. regulation of the intercourse with foreign nations—3. maintenance of harmony and proper intercourse among the States—4. certain miscellaneous objects of general utility—5. restraint of the States from certain injurious acts—6. provisions for giving due efficacy to all these powers.

The powers falling within the first class, are those of declaring war, and granting letters of marque; of providing armies and fleets; of regulating and calling forth the militia; of levying and borrowing money.

Security against foreign danger is one of the primitive objects of civil society. It is an avowed and essential object of the American Union. The powers requisite for attaining it, must be effectually confided to the fœderal councils.

Is the power of declaring war necessary? No man will answer this question in the negative. It would be superfluous therefore to enter into a proof of the affirmative. The existing confederation establishes this power in the most ample form.

Is the power of raising armies, and equipping fleets necessary? This is involved in the foregoing power. It is involved in the power of self-defence.

But was it necessary to give an INDEFINITE POWER of raising TROOPS, as well as providing fleets; and of maintaining both in PEACE, as well as in WAR?

The answer to these questions has been too far anticipated, in another place,<sup>2</sup> to admit an extensive discussion of them in this place. The answer indeed seems to be obvious and conclusive as scarcely to justify such a discussion in any place. With what colour of propriety

could the force necessary for defence, be limited by those who cannot limit the force of offence. If a Federal Constitution could chain the ambition, or set bounds to the exertions of all other nations: then indeed might it prudently chain the discretion of its own Government, and set bounds to the exertions for its own safety.

How could a readiness for war in time of peace be safely prohibited, unless we could prohibit in like manner the preparations and establishments of every hostile nation? The means of security can only be regulated by the means and the danger of attack. They will in fact be ever determined by these rules, and by no others. It is in vain to oppose constitutional barriers to the impulse of self-preservation. It is worse than in vain; because it plants in the Constitution itself necessary usurpations of power, every precedent of which is a germ of unnecessary and multiplied repetitions. If one nation maintains constantly a disciplined army ready for the service of ambition or revenge, it obliges the most pacific nations, who may be within the reach of its enterprizes, to take corresponding precautions. The fifteenth century was the unhappy epoch of military establishments in time of peace. They were introduced by Charles VII. of France. All Europe has followed, or been forced into the example. Had the example not been followed by other nations, all Europe must long ago have worn the chains of a universal monarch. Were every nation except France now to disband its peace establishment, the same event might follow. The veteran legions of Rome were an overmatch for the undisciplined valour of all other nations, and rendered her mistress of the world.

Not less true is it, that the liberties of Rome proved the final victim to her military triumphs, and that the liberties of Europe, as far as they ever existed, have with few exceptions been the price of her military establishments. A standing force therefore is a dangerous, at the same time that it may be a necessary provision. On the smallest scale it has its inconveniences. On an extensive scale, its consequences may be fatal. On any scale, it is an object of laudable circumspection and precaution. A wise nation will combine all these considerations; and whilst it does not rashly preclude itself from any resource which may become essential to its safety, will exert all its prudence in diminishing both the necessity and the danger of resorting to one which may be inauspicious to its liberties.

The clearest marks of this prudence are stamped on the proposed Constitution. The Union itself which it cements and secures, destroys every pretext for a military establishment which could be dangerous. America, united with a handful of troops, or without a single soldier, exhibits a more forbidding posture to foreign ambition, than America disunited, with an hundred thousand veterans ready for combat. It was

remarked on a former occasion,<sup>3</sup> that the want of this pretext had saved the liberties of one nation in Europe. Being rendered by her insular situation and her maritime resources, impregnable to the armies of her neighbours, the rulers of Great-Britain have never been able, by real or artificial dangers, to cheat the public into an extensive peace establishment. The distance of the United States from the powerful nations of the world, gives them the same happy security. A dangerous establishment can never be necessary or plausible, so long as they continue a united people. But let it never for a moment be forgotten, that they are indebted for this advantage to their Union alone. The moment of its dissolution will be the date of a new order of things. The fears of the weaker or the ambition of the stronger States or Confederacies, will set the same example in the new, as Charles VII. did in the old world. The example will be followed here from the same motives which produced universal imitation there. Instead of deriving from our situation the precious advantage which Great-Britain has derived from hers, the face of America will be but a copy of that of the Continent of Europe. It will present liberty every where crushed between standing armies and perpetual taxes. The fortunes of disunited America will be even more disastrous than those of Europe. The sources of evil in the latter are confined to her own limits. No superior powers of another quarter of the globe intrigue among her rival nations, inflame their mutual animosities, and render them the instruments of foreign ambition, jealousy and revenge. In America, the miseries springing from her internal jealousies, contentions and wars, would form a part only of her lot. A plentiful addition of evils would have their source in that relation in which Europe stands to this quarter of the earth, and which no other quarter of the earth bears to Europe. This picture of the consequences of disunion cannot be too highly coloured, or too often exhibited. Every man who loves peace, every man who loves his country, every man who loves liberty, ought to have it ever before his eyes, that he may cherish in his heart a due attachment to the Union of America, and be able to set a due value on the means of preserving it.

Next to the effectual establishment of the Union, the best possible precaution against danger from standing armies, is a limitation of the term for which revenue may be appropriated to their support. This precaution the Constitution has prudently added. I will not repeat here the observations, which I flatter myself have placed this subject in a just and satisfactory light.<sup>4</sup> But it may not be improper to take notice of an argument against this part of the Constitution, which has been drawn from the policy and practice of Great-Britain. It is said that the continuance of an army in that kingdom, requires an annual vote of the Legislature; whereas the American Constitution has lengthened this

critical period to two years. This is the form in which the comparison is usually stated to the public: But is it a just form? Is it a fair comparison? Does the British Constitution restrain the Parliamentary discretion to one year? Does the American impose on the Congress appropriations for two years? On the contrary, it cannot be unknown to the authors of the fallacy themselves, that the British Constitution fixes no limit whatever to the discretion of the Legislature, and that the American ties down the Legislature to two years, as the longest admissible term.

Had the argument from the British example been truly stated, it would have stood thus: The term for which supplies may be appropriated to the army-establishment, though unlimited by the British Constitution, has nevertheless in practice been limited by parliamentary discretion, to a single year. Now if in Great-Britain, where the House of Commons is elected for seven years; where so great a proportion of the members are elected by so small a proportion of the people; where the electors are so corrupted by the Representatives, and the Representatives so corrupted by the Crown, the Representative body can possess a power to make appropriations to the army for an indefinite term, without desiring, or without daring, to extend the term beyond a single year; ought not suspicion herself to blush in pretending that the Representatives of the United States, elected FREELY, by the WHOLE BODY of the people, every SECOND YEAR, cannot be safely entrusted with a discretion over such appropriations, expressly limited to the short period of TWO YEARS.

A bad cause seldom fails to betray itself. Of this truth, the management of the opposition to the Federal Government is an unvaried exemplification. But among all the blunders which have been committed, none is more striking than the attempt to enlist on that side, the prudent jealousy entertained by the people, of standing armies. The attempt has awakened fully the public attention to that important subject; and has led to investigations which must terminate in a thorough and universal conviction, not only that the Constitution has provided the most effectual guards against danger from that quarter, but that nothing short of a Constitution fully adequate to the national defence, and the preservation of the Union, can save America from as many standing armies as it may be split into States or Confederacies; and from such a progressive augmentation of these establishments in each, as will render them as burdensome to the properties and ominous to the liberties of the people; as any establishment that can become necessary, under a united and efficient Government, must be tolerable to the former, and safe to the latter.

The palpable necessity of the power to provide and maintain a navy has protected that part of the Constitution against a spirit of censure, which has spared few other parts. It must indeed be numbered among

the greatest blessings of America, that as her Union will be the only source of her maritime strength, so this will be a principal source of her security against danger from abroad. In this respect our situation bears another likeness to the insular advantage of Great-Britain. The batteries most capable of repelling foreign enterprizers on our safety, are happily such as can never be turned by a perfidious government against our liberties.

The inhabitants of the Atlantic frontier are all of them deeply interested in this provision for naval protection, and they have hitherto been suffered to sleep quietly in their beds; if their property has remained safe against the predatory spirit of licencious adventurers; if their maritime towns have not yet been compelled to ransom themselves from the terrors of a conflagration, by yielding to the exactions of daring and sudden invaders, these instances of good fortune are not to be ascribed to the capacity of the existing government for the protection of those from whom it claims allegiance, but to causes that are fugitive and fallacious. If we except perhaps Virginia and Maryland, which are peculiarly vulnerable on their Eastern frontiers, no part of the Union ought to feel more anxiety on this subject than New-York. Her sea coast is extensive. The very important district of the state is an island. The state itself is penetrated by a large navigable river for more than fifty leagues. The great emporium of its commerce, the great reservoir of its wealth, lies every moment at the mercy of events, and may almost be regarded as a hostage, for ignominious compliances with the dictates of a foreign enemy, or even with the rapacious demands of pirates and barbarians. Should a war be the result of the precarious situation of European affairs, and all the unruly passions attending it, be let loose on the ocean, our escape from insults and deprivations, not only on that element but every part of the other bordering on it, will be truly miraculous. In the present condition of America, the states more immediately exposed to these calamities, have nothing to hope from the phantom of a general government which now exists; and if their single resources were equal to the task of fortifying themselves against the danger, the object to be protected would be almost consumed by the means of protecting them.

The power of regulating and calling forth the militia has been already sufficiently vindicated and explained.<sup>5</sup>

The power of levying and borrowing money, being the sinew of that which is to be exerted in the national defence, is properly thrown into the same class with it. This power also has been examined already with much attention,<sup>6</sup> and has I trust been clearly shewn to be necessary both in the extent and form given to it by the constitution. I will address one additional reflection only to those who contend that the power ought to

have been restrained to external taxation, by which they mean taxes on articles imported from other countries. It can not be doubted that this will always be a valuable source of revenue, that for a considerable time, it must be a principle source, that at this moment it is an essential one. But we may form very mistaken ideas on this subject, if we do not call to mind in our calculations, that the extent of revenue drawn from foreign commerce, must vary with the variations both in the extent and the kind of imports, and that these variations do not correspond with the progress of population, which must be the general measure of the publick wants. As long as agriculture continues the sole field of labour, the importation of manufactures must increase as the consumers multiply. As soon as domestic manufactures are begun by the hands not called for by agriculture, the imported manufactures will decrease as the numbers of people increase. In a more remote stage, the imports may consist in considerable part of raw materials which will be wrought into articles for exportation, and will therefore require rather the encouragement of bounties, than to be loaded with discouraging duties. A system of Government, meant for duration, ought to contemplate these revolutions, and be able to accommodate itself to them.

Some who have not denied the necessity of the power of taxation, have grounded a very fierce attack against the Constitution on the language in which it is defined. It has been urged and echoed, that the 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," amounts to an unlimited commission to exercise every power which may be alledged to be necessary for the common defence or general welfare. No stronger proof could be given of the distress under which these writers labour for objections, than their stooping to such a misconstruction.

Had no other enumeration or definition of the powers of the Congress been found in the Constitution, than the general expressions just cited, the authors of the objection might have had some colour for it; though it would have been difficult to find a reason for so awkward a form of describing an authority to legislate in all possible cases. A power to destroy the freedom of the press, the trial by jury or even to regulate the course of descents, or the forms of conveyances, must be very singularly expressed by the terms "to raise money for the general welfare.["]

But what colour can the objection have, when a specification of the objects alluded to by these general terms, immediately follows; and is not even separated by a longer pause than a semicolon. If the different parts of the same instrument ought to be so expounded as to give meaning to every part which will bear it; shall one part of the same sentence be excluded altogether from a share in the meaning; and shall

the more doubtful and indefinite terms be retained in their full extent and the clear and precise expressions, be denied any signification whatsoever? For what purpose could the enumeration of particular powers be inserted, if these and all others were meant to be included in the preceding general power? Nothing is more natural or common than first to use a general phrase, and then to explain and qualify it by a recital of particulars. But the idea of an enumeration of particulars, which neither explain nor qualify the general meaning, and can have no other effect than to confound and mislead, is an absurdity which as we are reduced to the dilemma of charging either on the authors of the objection, or on the authors of the Constitution, we must take the liberty of supposing, had not its origin with the latter.

The objection here is the more extraordinary, as it appears, that the language used by the Convention is a copy from the articles of confederation. The objects of the Union among the States as described in article 3d. are, "their common defence, security of their liberties, and mutual and general welfare." The terms of article 8th. are still more identical. "All charges of war, and all other expences, that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress, shall be defrayed out of a common treasury &c." A similar language again occurs in art. 9. Construe either of these articles by the rules which would justify, the construction put on the new Constitution, and they vest in the existing Congress a power to legislate in all cases whatsoever. But what would have been thought of that assembly, if attaching themselves to these general expressions, and disregarding the specifications, which ascertain and limit their import, they had exercised an unlimited power of providing ["]for the common defence and general welfare."? I appeal to the objectors themselves, whether they would in that case have employed the same reasoning in justification of Congress, as they now make use of against the Convention. How difficult it is for error to escape its own condemnation!

1. Changed to "extensive" in the M'Lean edition.
2. See *The Federalist* 8, *New York Packet*, 20 November (CC:274) and *The Federalist* 24 (CC:355).
3. See *The Federalist* 8 (CC:274).
4. See *The Federalist* 26 (CC:366).
5. See *The Federalist* 29 (CC:429).
6. See *The Federalist* 30–36 (CC:391, 403, 405, 416, 418, 426).

#### **464. James Madison to George Washington New York, 20 January<sup>1</sup>**

The Count de Moustier arrived here a few days ago as successor to the Cheva. de la Luzerne. His passage has been so tedious that I am not sure that the despatches from Mr. Jefferson make any considerable



addition to former intelligence. I have not yet seen them, but am told that this is the case. In general it appears that the affairs of Holland are put into pacific train. The Prussian troops are to be withdrawn, and the event settled by negotiations. But it is still possible that the war between the Russians & Turks may spread a general flame throughout Europe.

The intelligence from Massachusetts begins to be very ominous to the Constitution. The antifederal party is reinforced by the insurgents, and by the province of Mayne which apprehends greater obstacles to her scheme of a separate Government, from the new system than may be otherwise experienced. And according to the prospect at the date of the latest letters, there was very great reason to fear that the voice of that State would be in the negative. The operation of such an event on this State may easily be foreseen. Its Legislature is now sitting and is much divided. A majority of the Assembly are said to be friendly to the merits of the Constitution. A majority of the Senators actually convened are opposed to a submission of it to a Convention. The arrival of the absent members will render the voice of that branch uncertain on the point of a Convention.<sup>2</sup> The decision of Massachusetts either way will involve the result in this State. The minority in Penna. is very restless under their defeat. If they can get an Assembly to their wish they will endeavor to undermine what has been done there.<sup>3</sup> If backed by Massts. they will probably be emboldened to make some more rash experiment. The information from Georgia continues to be favorable. The little we get from S. Carolina is of the same complexion.

If I am not misinformed as to the arrival of some members for Congress, a quorum is at length made up.

1. RC, Washington Papers, DLC. Madison wrote a similar letter to Edmund Randolph on the same day (Rutland, *Madison*, X, 398–99).

2. See CC:439.

3. For the petition campaign to overturn Pennsylvania's ratification of the Constitution, see RCS:Pa., 709–25.

#### 465. James Wilson to Samuel Wallis Philadelphia, 22 January<sup>1</sup>

Immediately upon the Receipt of this Letter, hasten your Return to this Place as much as you *possibly* can. It is very material that you should be soon here.

Appearances with Regard to the new federal Constitution are very favourable on every Side. Its Friends encrease in Virginia. In Maryland, Opposition has ceased almost everywhere. The Convention of Connecticut have adopted it by a Majority of more than three to one. It is more than probable that, by this Time, it is adopted by the Convention of Massachusetts. It met on the 9th. inst. and Things wore then a favourable Aspect. Mr Hancock was chosen President—Some

agreeable Pieces of Intelligence have been lately received from New York; but we know not what the Assembly will do; tho' there seems greater Reason for Hope than for Apprehension.<sup>2</sup>

1. RC, Emmet Collection, NN. Wallis (1736–1798), a Quaker, was a large landowner in Northumberland County, Pa. He and Wilson were engaged in land speculation together.

2. See CC:439, 465.

**466. Publius: The Federalist 42**  
**New York Packet, 22 January**

This essay, written by James Madison, was reprinted in the *New York Independent Journal*, 23 January, and the *New York Daily Advertiser*, 24 January. It was number 42 in the M'Lean edition and number 41 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

THE FÆDERALIST, No. 41.

*To the People of the State of New-York.*

The *second* class of powers lodged in the General Government, consists of those which regulate the intercourse with foreign nations, to wit, to make treaties; to send and receive Ambassadors, other public Ministers and Consuls; to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; to regulate foreign commerce, including a power to prohibit after the year 1808, the importation of slaves, and to lay an intermediate duty of ten dollars per head, as a discouragement to such importations.

This class of powers forms an obvious and essential branch of the fœderal administration. If we are to be one nation in any respect, it clearly ought to be in respect to other nations.

The powers to make treaties and to send and receive Ambassadors, speak their own propriety. Both of them are comprized in the articles of confederation; with this difference only, that the former is disembarassed by the plan of the Convention of an exception, under which treaties might be substantially frustrated by regulations of the States; and that a power of appointing and receiving "other public Ministers and Consuls," is expressly and very properly added to the former provision concerning Ambassadors. The term Ambassador, if taken strictly, as seems to be required by the second of the articles of confederation, comprehends the highest grade only of public Ministers; and excludes the grades which the United States will be most likely to prefer where foreign embassies may be necessary. And under no latitude of construction will the term comprehend Consuls. Yet it has been found expedient, and has been the practice of Congress to employ the inferior grades of public Ministers; and to send and receive Consuls. It is true that where treaties of commerce stipulate for the

mutual appointment of Consuls, whose functions are connected with commerce, the admission of foreign Consuls may fall within the power of making commercial treaties; and that where no such treaties exist, the mission of American Consuls into foreign countries, may *perhaps* be covered under the authority given by the 9th article of the Confederation, to appoint all such civil officers as may be necessary for managing the general affairs of the United States. But the admission of Consuls into the United States, where no previous treaty has stipulated it, seems to have been no where provided for. A supply of the omission is one of the lesser instances in which the Convention have improved on the model before them. But the most minute provisions become important when they tend to obviate the necessity or the pretext for gradual and unobserved usurpations of power, a list of the cases in which Congress have been betrayed, or forced by the defects of the confederation into violations of their chartered authorities, would not a little surprize those who have paid no attention to the subject; and would be no inconsiderable argument in favor of the new Constitution, which seems to have provided no less studiously for the lesser, than the more obvious and striking defects of the old.

The power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations, belongs with equal propriety to the general government; and is a still greater improvement on the articles of confederation. These articles contain no provision for the case of offences against the law of nations; and consequently leave it in the power of any indiscreet member to embroil the confederacy with foreign nations. The provision of the fœderal articles on the subject of piracies and felonies, extends no farther than to the establishment of courts for the trial of these offences. The definition of piracies might perhaps without inconveniency, be left to the law of nations; though a legislative definition of them, is found in most municipal codes. A definition of felonies on the high seas is evidently requisite. Felony is a term of loose signification even in the common law of England; and of various import in the statute law of that kingdom. But neither the common, nor the statute law of that or of any other nation ought to be a standard for the proceedings of this, unless previously made its own by legislative adoption. The meaning of the term as defined in the codes of the several States, would be as impracticable as the former would be a dishonorable and illegitimate guide. It is not precisely the same in any two of the States; and varies in each with every revision of its criminal laws. For the sake of certainty and uniformity therefore, the power of defining felonies in this case, was in every respect necessary and proper.

The regulation of foreign commerce, having fallen within several views which have been taken of this subject,<sup>1</sup> has been too fully dis-

cussed to need additional proofs here of its being properly submitted to the federal administration.

It were doubtless to be wished that the power of prohibiting the importation of slaves, had not been postponed until the year 1808, or rather that it had been suffered to have immediate operation. But it is not difficult to account either for this restriction on the general government, or for the manner in which the whole clause is expressed. It ought to be considered as a great point gained in favor of humanity, that a period of twenty years may terminate for ever within these States, a traffic which has so long and so loudly upbraided the barbarism of modern policy; that within that period it will receive a considerable discouragement from the federal Government, and may be totally abolished by a concurrence of the few States which continue the unnatural traffic, in the prohibitory example which has been given by so great a majority of the Union. Happy would it be for the unfortunate Africans, if an equal prospect lay before them, of being redeemed from the oppressions of their European brethren!

Attempts have been made to pervert this clause into an objection against the Constitution, by representing it on one side as a criminal toleration of an illicit practice, and on another, as calculated to prevent voluntary and beneficial emigrations from Europe to America. I mention these misconstructions, not with a view to give them an answer, for they deserve none; but as specimens of the manner and spirit in which some have thought fit to conduct their opposition to the proposed government.

The powers included in the *third* class, are those which provide for the harmony and proper intercourse among the States.

Under this head might be included the particular restraints imposed on the authority of the States, and certain powers of the judicial department; but the former are reserved for a distinct class, and the latter will be particularly examined when we arrive at the structure and organization of the government. I shall confine myself to a cursory review of the remaining powers comprehended under this third description, to wit, to regulate commerce among the several States and the Indian tribes; to coin money, regulate the value thereof and of foreign coin; to provide for the punishment of counterfeiting the current coin, and securities of the United States; to fix the standard of weights and measures; to establish an uniform rule of naturalization, and uniform laws of bankruptcy; to prescribe the manner in which the public acts, records and judicial proceedings of each State shall be proved, and the effect they shall have in other States; and to establish post-offices, and post-roads.

The defect of power in the existing confederacy, to regulate the commerce between its several members, is in the number of those

which have been clearly pointed out by experience. To the proofs and remarks which former papers have brought into view on this subject, it may be added, that without this supplemental provision, the great and essential power of regulating foreign commerce, would have been incomplete, and ineffectual. A very material object of this power was the relief of the States which import and export through other States, from the improper contributions levied on them by the latter. Were these at liberty to regulate the trade between State and State, it must be foreseen that ways would be found out, to load the articles of import and export, during the passage through their jurisdiction, with duties which would fall on the makers of the latter, and the consumers of the former: We may be assured by past experience, that such a practice would be introduced by future contrivances; and both by that and a common knowledge of human affairs, that it would nourish unceasing animosities, and not improbably terminate in serious interruptions of the public tranquility. To those who do not view the question through the medium of passion or of interest, the desire of the commercial States to collect in any form, an indirect revenue from their uncommercial neighbours, must appear not less impolitic than it is unfair; since it would stimulate the injured party, by resentment as well as interest, to resort to less convenient channels for their foreign trade. But the mild voice of reason, pleading the cause of an enlarged and permanent interest, is but too often drowned before public bodies as well as individuals, by the clamours of an impatient avidity for immediate and immoderate gain.

The necessity of a superintending authority over the reciprocal trade of confederated States has been illustrated by other examples as well as our own. In Switzerland, where the Union is so very slight, each Canton is obliged to allow to merchandizes, a passage through its jurisdiction into other Cantons, without an augmentation of the tolls. In Germany, it is a law of the empire, that the Princes and States shall not lay tolls or customs on bridges, rivers, or passages, without the consent of the Emperor and Diet; though it appears from a quotation in an antecedent paper,<sup>2</sup> that the practice in this as in many other instances in that confederacy, has not followed the law, and has produced there the mischiefs which have been foreseen here. Among the restraints imposed by the Union of the Netherlands, on its members, one is, that they shall not establish imposts disadvantageous to their neighbors, without the general permission.

The regulation of commerce with the Indian tribes is very properly unfettered from two limitations in the articles of confederation, which render the provision obscure and contradictory. The power is there restrained to Indians, not members of any of the States, and is not to violate or infringe the legislative right of any State within its own limits.

What description of Indians are to be deemed members of a State, is not yet settled; and has been a question of frequent perplexity and contention in the Fœderal Councils. And how the trade with Indians, though not members of a State, yet residing within its legislative jurisdiction, can be regulated by an external authority, without so far intruding on the internal rights of legislation, is absolutely incomprehensible. This is not the only case in which the articles of confederation have inconsiderately endeavored to accomplish impossibilities; to reconcile a partial sovereignty in the Union, with compleat sovereignty in the States; to subvert a mathematical axiom, by taking away a part, and letting the whole remain.

All that need be remarked on the power to coin money, regulate the value thereof, and of foreign coin, is that by providing for this last case, the Constitution has supplied a material omission in the articles of confederation. The authority of the existing Congress is restrained to the regulation of coin *struck* by their own authority, or that of the respective States. It must be seen at once, that the proposed uniformity in the *value* of the current coin might be destroyed by subjecting that of foreign coin to the different regulations of the different States.

The punishment of counterfeiting the public securities as well as of the current coin, is submitted of course to that authority, which is to secure the value of both.

The regulation of weights and measures is transferred from the articles of confederation, and is founded on like considerations with the preceding power of regulating coin.

The dissimilarity in the rules of naturalization, has long been remarked as a fault in our system, and as laying a foundation for intricate and delicate questions. In the 4th article of the confederation, it is declared "that the *free inhabitants* of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of *free citizens*, in the several States, and the *people* of each State, shall in every other, enjoy all the privileges of trade and commerce, &c." There is a confusion of language here, which is remarkable. Why the terms *free inhabitants*, are used in one part of the article; *free citizens* in another, and *people* in another, or what was meant by superadding "to all privileges and immunities of free citizens,"—"all the privileges of trade and commerce," cannot easily be determined. It seems to be a construction scarcely avoidable, however, that those who come under the denomination of *free inhabitants* of a State, although not citizens of such State, are entitled in every other State to all the privileges of *free citizens* of the latter; that is, to greater privileges than they may be entitled to in their own State; so that it may be in the power of a particular State, or rather every State is laid under a necessity, not only to confer the rights of citizenship in other States upon any whom it

may admit to such rights within itself; but upon any whom it may allow to become inhabitants within its jurisdiction. But were an exposition of the term "inhabitants" to be admitted, which would confine the stipulated privileges to citizens alone, the difficulty is diminished only, not removed. The very improper power would still be retained by each State, of naturalizing aliens in every other State. In one State residence for a short term confers all the rights of citizenship. In another qualifications of greater importance are required. An alien therefore legally incapacitated for certain rights in the latter, may by previous residence only in the former, elude his incapacity; and thus the law of one State, be preposterously rendered paramount to the law of another, within the jurisdiction of the other. We owe it to mere casualty, that very serious embarrassments on this subject, have been hitherto escaped. By the laws of several States, certain descriptions of aliens who had rendered themselves obnoxious, were laid under interdicts inconsistent, not only with the rights of citizenship, but with the privilege of residence. What would have been the consequence, if such persons, by residence or otherwise, had acquired the character of citizens under the laws of another State, and then asserted their rights as such, both to residence and citizenship within the State prescribing<sup>3</sup> them? Whatever the legal consequences might have been, other consequences would probably have resulted of too serious a nature, not to be provided against. The new Constitution has accordingly with great propriety made provision against them, and all others proceeding from the defect of the confederation, on this head, by authorising the general government to establish an uniform rule of naturalization throughout the United States.

The power of establishing uniform laws of bankruptcy, is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into different States, that the expediency of it seems not likely to be drawn into question.

The power of prescribing by general laws the manner in which the public acts, records and judicial proceedings of each State shall be proved, and the effect they shall have in other States, is an evident and valuable improvement on the clause relating to this subject in the articles of confederation. The meaning of the latter is extremely indeterminate; and can be of little importance under any interpretation which it will bear. The power here established, may be rendered a very convenient instrument of justice, and be particularly beneficial on the borders of contiguous States, where the effects liable to justice, may be suddenly and secretly translated in any stage of the process, within a foreign jurisdiction.

The power of establishing post-roads, must in every view be a harmless power; and may perhaps, by judicious management, become productive of great public conveniency. Nothing which tends to facilitate the intercourse between the States, can be deemed unworthy of the public care.

1. See *The Federalist* 11, *New York Independent Journal*, 24 November, and *The Federalist* 22, *New York Packet*, 14 December (CC:291, 347).

2. See *The Federalist* 19, *New York Independent Journal*, 8 December (CC:333).

3. Changed to "proscribing" in the M'Lean edition.

#### 467. Luther Martin: Genuine Information VIII Baltimore Maryland Gazette, 22 January<sup>1</sup>

*Mr. MARTIN'S Information to the House of Assembly, continued.*

It was urged that by this system, we were giving the general government full and absolute power to regulate commerce, under which general power it would have a right to *restrain*, or *totally prohibit* the *slave trade*—it must appear to the world absurd and disgraceful to the last degree, that we should *except* from the exercise of that power, the *only branch of commerce*, which is *unjustifiable in its nature*, and *contrary to the rights of mankind*—That on the contrary, we ought rather to *prohibit expressly* in our constitution, the *further importation of slaves*; and to *authorize* the general government from time to time, to make such regulations as should be thought most advantageous for the *gradual abolition of slavery*, and the *emancipation of the slaves* which are already in the States.

That *slavery is inconsistent with the genius of republicanism*, and has a tendency to *destroy those principles* on which it is *supported*, as it *lessens the sense of the equal rights of mankind*, and habituates us to *tyranny and oppression*.—It was further urged, that by this system of government, every State is to be protected both from *foreign invasion* and from *domestic insurrections*; that from this consideration, it was of the *utmost importance* it should have a power to restrain the importation of slaves, since in *proportion* as the number of slaves were increased in any State, in the *same proportion* the State is *weakened and exposed* to foreign invasion, or domestic insurrection, and *by so much the less* will it be able to protect itself against *either*; and therefore will by so much the more, want aid from, and be a burthen to, the union.—It was further said, that as in this system we were giving the general government a power under the idea of national character, or national interest, to regulate even our *weights and measures*, and have prohibited all possibility of *emitting paper money*, and *passing instalment laws*, &c.—It must appear still more extraordinary, that we should prohibit the government from interfering with the slave trade, than which *nothing* could so *materially affect* both our *national honour and interest*.—These reasons influenced me both on the



committee and in convention, most decidedly to oppose and vote against the clause, as it now makes a part of the system.<sup>2</sup>

You will perceive, Sir, not only that the general government is prohibited from interfering in the slave trade *before* the year eighteen hundred and eight, but that there is no provision in the constitution that it shall *afterwards* be prohibited, nor any security that such prohibition will ever take place—and I think there is great reason to believe that if the importation of slaves is permitted until the year seventeen [*sic*] hundred and eight, it will not be prohibited afterwards—At *this time* we do not generally hold this commerce in so *great* abhorrence as we have done.—When our *own* liberties were at stake, we *warmly* felt for the *common rights of men*<sup>3</sup>—The danger being thought to be past, which threatened ourselves, we are daily growing *more insensible* to those rights—In those States who have restrained or prohibited the importation of slaves, it is only done by legislative acts which may be repealed—When those States find that they must in their *national character* and *connection* suffer in the *disgrace*, and share in the *inconveniences* attendant upon that detestable and iniquitous traffic, they may be desirous also to share in the *benefits* arising from it, and the odium attending it will be greatly effaced by the sanction which is given to it in the general government.

By the next paragraph, the general government is to have a *power* of *suspending* the *habeas corpus act*, in cases of *rebellion* or *invasion*.

As the State governments have a power of suspending the *habeas corpus act*, in those cases, it was said there could be no good reason for giving such a power to the general government, since whenever the *State* which is invaded or in which an insurrection takes place, finds its safety requires it, *it* will make use of that power—And it was urged, that if we gave this power to the general government, it would be an engine of oppression in its hands, since whenever a State should oppose its views, however arbitrary and unconstitutional, and refuse submission to them, the general government may declare it to be *an act of rebellion*, and suspending the *habeas corpus act*, may *seize* upon the persons of those *advocates of freedom*, who have had *virtue* and *resolution* enough to excite the opposition, and may *imprison* them during its pleasure in the *remotest* part of the union, so that a citizen of Georgia might be *bastiled* in the furthest part of New-Hampshire—or a citizen of New-Hampshire in the furthest extreme to the south, cut off from their family, their friends, and their every connection—These considerations induced me, Sir, to give my negative also to this clause.<sup>4</sup>

In this same section there is a provision that no preference shall be given to the ports of one State over another, and that vessels bound to or from one State shall not be obliged to enter, clear or pay duties in

another.—This provision, as well as that which relates to the uniformity of impost duties and excises, was introduced, Sir, by the delegation of this State.<sup>5</sup>—Without such a provision it would have been in the power of the general government to have compelled all ships sailing into, or out of the Chesapeak, to clear and enter at Norfolk or some port in Virginia—a regulation which would be extremely injurious to our commerce, but which would if considered merely as to the interest of the union, perhaps not be thought unreasonable, since it would render the collection of the revenue arising from commerce more certain and less expensive.

But, Sir, as the system is now reported, the general government have a *power to establish what ports they please in each State*, and to ascertain at what ports in every State ships shall clear and enter in such State, a power which *may* be so used as to *destroy the effect* of that provision, since by it may be established a port in such a place as shall be so *inconvenient* to the State as to render it *more eligible* for their shipping to clear and enter in *another* than in their *own State*; suppose, for instance the general government should determine that all ships which cleared or entered in Maryland, should clear and enter at George-Town, on Potowmack, it would oblige all the ships which sailed from, or was bound to, any other part of Maryland, to clear or enter in some port in *Virginia*. To prevent such a use of the power which the general government now has of *limiting the number of ports* in a State, and *fixing the place or places where they shall be*, we endeavoured to obtain a provision that the general government should only, in the first instance, have authority to ascertain the *number* of ports proper to be established in each State, and transmit information thereof to the several States, the legislatures of which, respectively, should have the power to fix the *places* where those ports should be, according to their idea of what would be most *advantageous* to the *commerce* of their State, and most for the *ease* and *convenience* of their *citizens*; and that the general government should not interfere in the establishment of the *places*, unless the legislature of the State should neglect or refuse so to do; but we could not obtain this alteration.<sup>6</sup>

By the tenth section, every State is *prohibited from emitting bills of credit*—As it was reported by the committee of detail, the States were *only* prohibited from emitting them *without the consent of Congress*;<sup>7</sup> but the convention was so *smitten* with the *paper money dread*, that they insisted the prohibition should be *absolute*. It was my opinion, Sir, that the States ought not to be *totally deprived of the right to emit bills of credit*, and that as we had *not given an authority* to the *general government* for that purpose, it was the *more necessary* to *retain it* in the *States*—I considered that *this State*, and *some others*, have *formerly received great benefit* from paper

emissions, and that if public and private credit should once more be restored, such emissions may *hereafter* be *equally advantageous*; and further, that it is impossible to foresee that events may not take place which shall render paper money of *absolute necessity*; and it was my opinion, if this power was not to be exercised by a State without the permission of the general government, it ought to be satisfactory even to those who were the *most haunted* by the apprehensions of paper money; I, therefore, thought it my duty to vote against this part of the system.<sup>8</sup>

The same section also, puts it out of the power of the States, to make any thing but gold and silver coin a tender in payment of debts, or to pass any law impairing the obligation of contracts.

I considered, Sir, that there might be times of such *great public calamities* and *distress*, and of such *extreme scarcity* of *specie* as should render it the *duty* of a government for the *preservation* of even the *most valuable part* of its citizens in some measure to interfere in their favour, by passing laws *totally* or *partially stopping* the courts of justice—or authorising the debtor to pay by *instalments*, or by delivering up his property to his creditors at a *reasonable* and *honest* valuation.—The times have been such as to render regulations of this kind necessary in most, or all of the States, to prevent the *wealthy creditor* and the *monied man* from *totally* destroying the *poor* though even *industrious* debtor—*Such times* may *again* arrive.—I therefore, voted against depriving the States of this power,<sup>9</sup> a power which I am decided they ought to possess, but which I admit ought only to be exercised on very important and urgent occasions.—I apprehend, Sir, the principal cause of complaint among the people at large is, the public and private debt with which they are oppressed, and which, in the present scarcity of cash, threatens them with destruction, unless they can obtain so much indulgence in point of time that by industry and frugality they may extricate themselves.

This *government proposed*, I apprehend so *far from removing* will greatly *encrease* those complaints, since grasping in its all powerful hand the citizens of the respective States, it will by the imposition of the variety of *taxes, imposts, stamps, excises* and *other duties*, *squeeze* from them the little money they may acquire, the hard earnings of their industry, as you would squeeze the juice from an orange, till not a drop more can be extracted, and then let *loose* upon them, their *private creditors*, to whose *mercy* it *consigns* them, by *whom* their property is to be *seized upon* and *sold* in this *scarcity* of *specie* at a *sheriffs sale*, where nothing but *ready cash* can be received for a *tenth part* of its *value*, and *themselves* and their *families* to be consigned to *indigence* and *distress*, without their governments having a *power* to *give them a moment's indulgence*, however *necessary* it might be, and however *desirous* to grant them aid.

By this same section, every State is also prohibited from laying any imposts, or duties on imports or exports, without the permission of the

general government.—It was urged, that as almost all sources of taxation were given to Congress it would be but reasonable to leave the States the power of bringing revenue into their treasuries, by laying a duty on exports if they should think proper, which might be so *light* as not to injure or discourage industry, and yet might be productive of considerable revenue—Also, that there might be cases in which it would be proper, for the purpose of encouraging manufactures, to lay duties to prohibit the exportation of raw materials, and even in addition to the duties laid by Congress on *imports* for the sake of *revenue*, to lay a duty to discourage the importation of particular articles into a State, or to enable the *manufacturer here* to supply us on as *good terms* as they could be obtained from a *foreign market*; however, the most we could obtain was, that this power might be exercised by the States with, and *only* with the consent of Congress, and subject to its controul—And so anxious were they to seize on *every shilling* of our money for the general government, that they insisted *even* the *little revenue* that might thus arise, should not be appropriated to the use of the respective States where it was collected, but should be paid into the treasury of the United States; and accordingly it is so determined.<sup>10</sup>

(*To be continued.*)

1. Reprinted: Philadelphia *Independent Gazetteer*, 11 February; *New York Journal*, 7, 12, 14 March; Boston *American Herald*, 3 April (excerpt); *State Gazette of South Carolina*, 15, 19 May (excerpt). For a general discussion of the *Genuine Information*, see CC:389.

2. See CC:459, note 6.

3. A reference to the prohibition of the slave trade by the first and second continental congresses in October 1774 and April 1776, respectively.

4. On 28 August this clause was adopted seven states to three, with Maryland voting in the majority (Farrand, II, 438).

5. The motion dealing with ports was made on 25 August by Daniel Carroll and Martin. The motion dealing with the uniformity of impost duties and excises was also made on 25 August by James McHenry and Charles Cotesworth Pinckney (*ibid.*, 417–18, 418).

6. This motion was made by James McHenry and Charles Cotesworth Pinckney on 25 August (*ibid.*, 418, 420).

7. See CDR, 268.

8. On 28 August the Convention voted eight states to one to prohibit the states from emitting bills of credit. Maryland's vote was divided (Farrand, II, 439).

9. On 28 August the Convention voted eleven states to none to prohibit the making of anything but gold and silver a tender in payment of debts (*ibid.*). For the contract clause, see *ibid.*, 439–40, 448–49, 597.

10. *Ibid.*, 441–43.

#### 468. Tench Coxe to James Madison Philadelphia, 23 January<sup>1</sup>

I am truly sorry that appearances are not more promising in Massachusetts than I learn from your letter of 20th instant.<sup>2</sup> The pamphlet may be of signal service as things unhappily are so cir-

cumstanced & I rejoice in having sent it.<sup>3</sup> I hope the movements of the tradesmen will have an influence on a principal Character.<sup>4</sup> The peculiar situation of Maine is unfortunate. The greatest difficulty will arise, I fear, from circumstances wch. like this have Nothing to connect them with the constitution as matters of government.

I believe there is a real Change working in Virginia. Mr. Contee of Maryland,<sup>5</sup> now at New York, mentioned some Circumstances with regard to Mr. R. H. Lee that may be worth your possessing yourself of for the information of Mr. King. I am unacquainted with Mr. Contee but I am told he spoke of several things which promise a Change of Conduct, tho perhaps not of Opinion on the part of Mr. Lee.<sup>6</sup> I am informed also that Col. Grierson<sup>7</sup> has written in these terms "that the game is up for George has been undoing all that they have done.["] The person who mentioned this to me told me he had seen the letter. Connecticut I hope will have influence every where especially in New York & Massachusetts—

I observe Consolidation is the great Object of Apprehension in New York. The same thing, the benefits of State sovereignty, is the difficulty in my opinion most generally prevailing. It does all the Mischief in Pennsylvania. I have therefore thought a few well tempered papers on this point might be useful & have commenced them under the signature of the freeman in this days Gazettee, of wch. I send you a copy. It is incorrectly printed & hastily written for at this time I happen to be very much engaged. I wish I had time and more talents for the duty. I trust however some good may happen from them & little harm—Should they be of any use in New York or Massachusetts it may be well to republish them there—<sup>8</sup>

[P.S.] I add a second copy of the freeman, one of wch. perhaps it may be useful to send for republication to Mr. King.<sup>9</sup>

1. RC, Madison Papers, DLC. For Madison's reply of 30 January, see CC:485.

2. See Rutland, *Madison*, XII, 480–81.

3. On 16 January Coxe sent Madison about sixty advance pages of Thomas Lloyd's debates of the Pennsylvania Convention, requesting that Madison forward them to Rufus King in the Massachusetts Convention. Four days later Madison replied that he had done so. Coxe sent Madison more pages of the debates on 27 January, which, on 30 January, Madison said he would forward to King (*ibid.*, X, 375, 435; XII, 480; CC:485). Lloyd's debates were not offered for sale until 7 February (CC:511).

4. On 7 January, two days before the Massachusetts Convention assembled, the tradesmen of Boston met and voiced their strong support for the Constitution. They said that anything other than an unconditional ratification of the Constitution would be against their "strongest feelings, and warmest wishes" (CC:424). The "principal Character" was Samuel Adams, one of the Boston delegates. (For Adams, see CC:388.) The proceedings of Boston tradesmen's meeting were published in four Philadelphia newspapers on 22 and 23 January.

5. Benjamin Contee (1755–1815), a merchant and lawyer, took his seat in Congress on 23 January.

6. Washington had written Madison on 10 January that "It is said however, and I believe it may be depended upon, that the latter [Richard Henry Lee] (tho' he may retain his sentiments) has with-drawn, or means to withdraw his opposition; because, as he has expressed himself, or as others have done it for him, he finds himself in bad Company . . ." (Rutland, *Madison*, X, 358). Madison informed Coxe on 30 January that he "had heard" that "Lee was relaxing in his opposition, if not in his opinions" (CC:485).

7. Colonel William Grayson.

8. Coxe's "A Freeman" I, a reply to the "Dissent of the Minority of the Pennsylvania Convention" (CC:353), was printed in the *Pennsylvania Gazette* (CC:472).

9. On 30 January Madison promised to forward "A Freeman" to Rufus King (CC:485). "A Freeman" I was reprinted in the *Boston American Herald* on 11 February.

### 469. Publius: The Federalist 43

#### New York Independent Journal, 23 January

This essay, written by James Madison, was reprinted in the *New York Daily Advertiser* and the *New York Packet* on 25 January. It was number 43 in the M'Lean edition and number 42 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### THE FÆDERALIST. No. XLII.

To the People of the State of New-York.

The *fourth* class comprises the following miscellaneous powers.

1. A power "to promote the progress of science and useful arts, by securing for a limited time, to authors and inventors, the exclusive right, to their respective writings and discoveries."

The utility of this power will scarcely be questioned. The copy right of authors has been solemnly adjudged in Great Britain to be a right at common law. The right to useful inventions, seems with equal reason to belong to the inventors. The public good fully coincides in both cases, with the claims of individuals. The States cannot separately make effectual provision for either of the cases, and most of them have anticipated the decision of this point, by laws passed at the instance of Congress.

2. ["]To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States; and to exercise like authority over all places purchased by the consent of the Legislature of the States, in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings."

The indispensable necessity of compleat authority at the seat of Government carries its own evidence with it. It is a power exercised by every Legislature of the Union, I might say of the world, by virtue of its general supremacy. Without it, not only the public authority might be

insulted and its proceedings be interrupted, with impunity; but a dependence of the members of the general Government, on the State comprehending the seat of the Government for protection in the exercise of their duty, might bring on the national councils an imputation of awe or influence, equally dishonorable to the Government, and dissatisfactory to the other members of the confederacy. This consideration has the more weight as the gradual accumulation of public improvements at the stationary residence of the Government, would be both too great a public pledge to be left in the hands of a single State; and would create so many obstacles to a removal of the Government, as still further to abridge its necessary independence. The extent of this federal district is sufficiently circumscribed to satisfy every jealousy of an opposite nature. And as it is to be appropriated to this use with the consent of the State ceding it; as the State will no doubt provide in the compact for the rights, and the consent of the citizens inhabiting it; as the inhabitants will find sufficient inducements of interest to become willing parties to the cession; as they will have had their voice in the election of the Government which is to exercise authority over them; as a municipal Legislature for local purposes, derived from their own suffrages, will of course be allowed them; and as the authority of the Legislature of the State, and of the inhabitants of the ceded part of it, to concur in the cession, will be derived from the whole people of the State, in their adoption of the Constitution, every imaginable objection seems to be obviated.

The necessity of a like authority over forts, magazines &c. established by the general Government is not less evident. The public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular State. Nor would it be proper for the places on which the security of the entire Union may depend, to be in any degree dependent on a particular member of it. All objections and scruples are here also obviated by requiring the concurrence of the States concerned, in every such establishment.

3. "To declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

As treason may be committed against the United States, the authority of the United States ought to be enabled to punish it. But as new-fangled and artificial treasons, have been the great engines, by which violent factions, the natural offspring of free Governments, have usually wrecked their alternate malignity on each other, the Convention have with great judgment opposed a barrier to this peculiar danger, by inserting a constitutional definition of the crime, fixing the proof necessary for conviction of it, and restraining the

Congress, even in punishing it, from extending the consequences of guilt beyond the person of its author.

4. "To admit new States into the Union; but no new State, shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress."

In the articles of confederation no provision is found on this important subject. Canada was to be admitted of right on her joining in the measures of the United States; and the other *colonies*, by which were evidently meant, the other British colonies, at the discretion of nine States.<sup>1</sup> The eventual establishment of *new States*, seems to have been overlooked by the compilers of that instrument. We have seen the inconvenience of this omission, and the assumption of power into which Congress have been led by it.<sup>2</sup> With great propriety therefore has the new system supplied the defect. The general precaution that no new States shall be formed without the concurrence of the federal authority and that of the States concerned, is consonant to the principles which ought to govern such transactions. The particular precaution against the erection of new States, by the partition of a State without its consent, quiets the jealousy of the larger States; as that of the smaller is quieted by a like precaution against a junction of States without their consent.

5. "To dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States, with a proviso that nothing in the Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

This is a power of very great importance, and required by considerations similar to those which shew the propriety of the former. The proviso annexed is proper in itself, and was probably rendered absolutely necessary, by jealousies and questions concerning the Western territory, sufficiently known to the public.

6. "To guarantee to every state in the Union a Republican form of Government; to protect each of them against invasion; and on application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic violence."

In a confederacy founded on republican principles, and composed of republican members, the superintending government ought clearly to possess authority to defend the system against aristocratic or monarchical innovations. The more intimate the nature of such a Union may be, the greater interest have the members in the political institutions of each other; and the greater right to insist that the forms



of government under which the compact was entered into, should be *substantially* maintained. But a right implies a remedy; and where else could the remedy be deposited, than where it is deposited by the Constitution. Governments of dissimilar principles and forms have been found less adapted to a federal coalition of any sort, than those of a kindred nature. "As the confederate republic of Germany," says Montesquieu, "consists of free cities and petty states subject to different Princes, experience shews us that it is more imperfect than that of Holland and Switzerland." "Greece was undone" he adds, "as soon as the King of Macedon obtained a seat among the Amphyctions."<sup>3</sup> In the latter case, no doubt, the disproportionate force, as well as the monarchical form of the new confederate, had its share of influence on the events. It may possibly be asked what need there could be of such a precaution, and whether it may not become a pretext for alterations in the state governments, without the concurrence of the states themselves. These questions admit of ready answers. If the interposition of the general government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can say what experiments may be produced by the caprice of particular states, by the ambition of enterprising leaders, or by the intrigues and influence of foreign powers. To the second question it may be answered, that if the general government should interpose by virtue of this constitutional authority, it will be of course bound to pursue the authority. But the authority extends no farther than to a *guaranty* of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long therefore as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the states may chuse to substitute other republican forms, they have a right to do so, and to claim the federal guaranty for the latter. The only restriction imposed on them is, that they shall not exchange republican for anti-republican Constitutions; a restriction which it is presumed will hardly be considered as a grievance.

A protection against invasion is due from every society to the parts composing it. The latitude of the expression here used, seems to secure each state not only against foreign hostility, but against ambitious or vindictive enterprizes of its more powerful neighbours. The history both of antient and modern confederacies, proves that the weaker members of the Union ought not to be insensible to the policy of this article.

Protection against domestic violence is added with equal propriety. It has been remarked that even among the Swiss Cantons, which properly speaking are not under one government, provision is made for this object; and the history of that league informs us, that mutual aid is frequently claimed and afforded; and as well by the most

democratic, as the other Cantons.<sup>4</sup> A recent and well known event among ourselves, has warned us to be prepared for emergencies of a like nature.<sup>5</sup>

At first view it might seem not to square with the republican theory, to suppose either that a majority have not the right, or that a minority will have the force to subvert a government; and consequently that the fœderal interposition can never be required but when it would be improper. But theoretic reasoning in this, as in most other cases, must be qualified by the lessons of practice. Why may not illicit combinations for purposes of violence be formed as well by a majority of a State, especially a small State, as by a majority of a county or a district of the same State; and if the authority of the State ought in the latter case to protect the local magistracy, ought not the fœderal authority in the former to support the State authority? Besides, there are certain parts of the State Constitutions which are so interwoven with the Fœderal Constitution, that a violent blow cannot be given to the one without communicating the wound to the other. Insurrections in a State will rarely induce a fœderal interposition, unless the number concerned in them, bear some proportion to the friends of government. It will be much better that the violence in such cases should be repressed by the superintending power, than that the majority should be left to maintain their cause by a bloody and obstinate contest. The existence of a right to interpose will generally prevent the necessity of exerting it.

Is it true that force and right are necessarily on the same side in republican governments? May not the minor party possess such a superiority of pecuniary resources, of military talents and experience, or of secret succours from foreign powers, as will render it superior also in an appeal to the sword? May not a more compact and advantageous position turn the scale on the same side against a superior number so situated as to be less capable of a prompt and collected exertion of its strength? Nothing can be more chimerical than to imagine that in a trial of actual force, victory may be calculated by the rules which prevail in a census of the inhabitants, or which determine the event of an election! May it not happen in fine that the minority of CITIZENS may become a majority of PERSONS, by the accession of alien residents, of a casual concourse of adventurers, or of those whom the Constitution of the State has not admitted to the rights of suffrage? I take no notice of an unhappy species of population abounding in some of the States, who during the calm of regular government are sunk below the level of men; but who in the tempestuous scenes of civil violence may emerge into the human character, and give a superiority of strength to any party with which they may associate themselves.

In cases where it may be doubtful on which side justice lies, what better umpires could be desired by two violent factions, flying to arms and tearing a State to pieces, than the representatives of confederate

States not heated by the local flame? To the impartiality of Judges they would unite the affection of friends. Happy would it be if such a remedy for its infirmities, could be enjoyed by all free governments; if a project equally effectual could be established for the universal peace of mankind.

Should it be asked what is to be the redress for an insurrection pervading all the States, and comprizing a superiority of the entire force, though not a constitutional right; the answer must be, that such a case, as it would be without the compass of human remedies, so it is fortunately not within the compass of human probability; and that it is a sufficient recommendation of the Fœderal Constitution, that it diminishes the risk of a calamity, for which no possible constitution can provide a cure.

Among the advantages of a confederate republic enumerated by Montesquieu, an important one is, "that should a popular insurrection happen in one of the States, the others are able to quell it. Should abuses creep into one part, they are reformed by those that remain sound."<sup>6</sup>

7. "To consider all debts contracted and engagements entered into, before the adoption of this Constitution, as being no less valid against the United States under this Constitution, than under the Confederation."

This can only be considered as a declaratory proposition; and may have been inserted, among other reasons, for the satisfaction of the foreign creditors of the United States, who cannot be strangers to the pretended doctrine that a change in the political form of civil society, has the magical effect of dissolving its moral obligations.

Among the lesser criticisms which have been exercised on the Constitution, it has been remarked that the validity of engagements ought to have been asserted in favour of the United States, as well as against them; and in the spirit which usually characterizes little critics, the omission has been transformed and magnified into a plot against the national rights. The authors of this discovery may be told, what few others need be informed of, that as engagements are in their nature reciprocal, an assertion of their validity on one side necessarily involves a validity on the other side; and that as the article is merely declaratory, the establishment of the principle in one case is sufficient for every case. They may be further told that every Constitution must limit its precautions to dangers that are not altogether imaginary; and that no real danger can exist that the government would DARE, with or even without this Constitutional declaration before it, to remit the debts justly due to the public, on the pretext here condemned.

8. "To provide for amendments to be ratified by three-fourths of the States, under two exceptions only."

That useful alterations will be suggested by experience, could not but be foreseen. It was requisite therefore that a mode for introducing them should be provided. The mode preferred by the Convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults. It moreover equally enables the general and the state governments to originate the amendment of errors as they may be pointed out by the experience on one side or on the other. The exception in favour of the equality of suffrage in the Senate was probably meant as a palladium to the residuary sovereignty of the States, implied and secured by that principle of representation in one branch of the Legislature; and was probably insisted on by the States particularly attached to that equality. The other exception must have been admitted on the same considerations which produced the privilege defended by it.

9. "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States ratifying the same."

This article speaks for itself. The express authority of the people alone could give due validity to the Constitution. To have required the unanimous ratification of the thirteen States, would have subjected the essential interests of the whole to the caprice or corruption of a single member. It would have marked a want of foresight in the Convention, which our own experience would have rendered inexcusable.

Two questions of a very delicate nature present themselves on this occasion. 1. On what principle the confederation, which stands in the solemn form of a compact among the States, can be superceded without the unanimous consent of the parties to it? 2. What relation is to subsist between the nine or more States ratifying the Constitution, and the remaining few who do not become parties to it.

The first question is answered at once by recurring to the absolute necessity of the case; to the great principle of self-preservation; to the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim, and to which all such institutions must be sacrificed. PERHAPS also an answer may be found without searching beyond the principles of the compact itself. It has been heretofore noted among the defects of the Confederation, that in many of the States, it had received no higher sanction than a mere legislative ratification.<sup>7</sup> The principle of reciprocity seems to require, that its obligation on the other States should be reduced to the same standard. A compact between independent sovereigns, founded on ordinary acts of legislative authority, can pretend to no higher validity than a league or

treaty between the parties. It is an established doctrine on the subject of treaties, that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; and that a breach committed by either of the parties absolves the others; and authorises them, if they please, to pronounce the treaty violated and void. Should it unhappily be necessary to appeal to these delicate truths for a justification for dispensing with the consent of particular States to a dissolution of the federal pact, will not the complaining parties find it a difficult task to answer the MULTIPLIED and IMPORTANT infractions with which they may be confronted? The time has been when it was incumbent on us all to veil the ideas which this paragraph exhibits. The scene is now changed, and with it, the part which the same motives dictates.

The second question is not less delicate; and the flattering prospect of its being merely hypothetical, forbids an over-curious discussion of it. It is one of those cases which must be left to provide for itself. In general it may be observed, that although no political relation can subsist between the assenting and dissenting States, yet the moral relations will remain uncanceled. The claims of justice, both on one side and on the other, will be in force, and must be fulfilled; the rights of humanity must in all cases be duly and mutually respected; whilst considerations of a common interest, and above all the remembrance of the endearing scenes which are past, and the anticipation of a speedy triumph over the obstacles to re-union, will, it is hoped, not urge in vain MODERATION on one side, and PRUDENCE on the other.

1. See Article XI, CDR, 93.

2. See CC:442, note 7.

3. *Spirit of Laws*, I, Book IX, chapter II, 187–88.

4. For a discussion of the Swiss Cantons, see *The Federalist* 19, *New York Independent Journal*, 8 December (CC:333).

5. Shays's Rebellion.

6. *Spirit of Laws*, I, Book IX, chapter I, 187.

7. See *The Federalist* 22, *New York Packet*, 14 December (CC:347).

#### 470. Centinel XII

**Philadelphia Independent Gazetteer, 23 January<sup>1</sup>**

TO THE PEOPLE OF PENNSYLVANIA.

*Fellow-Citizens*, Conscious guilt has taken the alarm, thrown out the signal of distress, and even appealed to the generosity of patriotism. The authors and abettors of the new constitution shudder at the term *conspirators* being applied to them, as it designates their true character, and seems prophetic of the catastrophe: they read their fate in the epithet.<sup>2</sup>

In despair they are weakly endeavouring to screen their criminality by interposing the shield of the virtues of a Washington, in represent-

ing his concurrence in the proposed system of government, as evidence of the purity of their intentions; but this impotent attempt to degrade the brightest ornament of his country to a base level with themselves, will be considered as an aggravation of their treason, and an insult on the good sense of the people, who have too much discernment not to make a just discrimination between the honest mistaken zeal of the patriot, and the flagitious machinations of an ambitious junto, and will resent the imposition that Machiavelian arts and consummate cunning have practised upon our *illustrious chief*.

The term *conspirators* was not, as has been alledged, rashly or inconsiderately adopted; it is the language of dispassionate and deliberate reason, influenced by the purest patriotism: the consideration of the nature and construction of the new constitution naturally suggests the epithet; its justness is strikingly illustrated by the conduct of the patrons of this plan of government, but if any doubt had remained whether this epithet is merited, it is now removed by the very uneasiness it occasions; this is a confirmation of its propriety. Innocence would have nothing to dread from such a stigma, but would triumph over the shafts of malice.

The conduct of men is the best clue to their principles. The system of deception that has been practised; the constant solicitude shewn to prevent information diffusing its salutary light, are evidence of a conspiracy beyond the arts of sophistry to palliate, or the ingenuity of falsehood to invalidate: the means practised to establish the new constitution are demonstrative of the principles and designs of its authors and abettors.

At the time, says Mr. Martin (deputy from the state of Maryland in the general convention) when the public prints were announcing our perfect unanimity, discord prevailed to such a degree, that the minority were upon the point of appealing to the public against the machinations of ambition.<sup>3</sup> By such a base imposition, repeated in every newspaper and reverberated from one end of the union to the other, was the people lulled into a false confidence, into an implicit reliance upon the wisdom and patriotism of the convention; and when ambition, by her deceptive wiles, had succeeded to usher forth the new system of government with apparent unanimity of sentiment, the public delusion was compleat. The most extravagant fictions were palmed upon the people, the seal of divinity was even ascribed to the new constitution;<sup>4</sup> a felicity more than human was to ensue from its establishment;—overlooking the real cause of our difficulties and burthens, which have their proper remedy, the people were taught that the new constitution would prove a mine of wealth and prosperity equal to every want, or the most sanguine desire; that it would effect what can only be produced by the exertion of industry and the practice of œconomy.

The conspirators, aware of the danger of delay, that allowing time for a rational investigation would prove fatal to their designs, precipitated the establishment of the new constitution with all possible celerity; in Massachusetts the deputies of that convention, who are to give the final fiat in behalf of that great state to a measure upon which their dearest concerns depend, were elected by express in the first moments of blind enthusiasm;<sup>5</sup> similar conduct has prevailed in the other states as far as circumstances permitted.

If the foregoing circumstances did not prove a conspiracy, there are others that must strike conviction in the most unsuspecting. Attempts to prevent discussion by shackling the press ought ever to be a signal of alarm to freemen, and considered as an annunciation of meditated tyranny; this is a truth that the uniform experience of mankind has established beyond the possibility of doubt. Bring the conduct of the authors and abettors of the new constitution to this test, let this be the criterion of their criminality, and every patriotic mind must unite in branding them with the stigma of conspirators against the public liberties.—No stage of this business but what has been marked with every exertion of influence and device of ambition to suppress information and intimidate public discussion; the virtue and firmness of some of the printers, rose superior to the menaces of violence, and the lucre of private interest; when every means failed to shackle the press, the free and independent papers were attempted to be demolished by withdrawing all the subscriptions to them within the sphere of the influence of the conspirators; fortunately for the cause of liberty and truth, these daring high handed attempts have failed except in one instance, where from a peculiarity of circumstances, ambition has triumphed. Under the flimsy pretence of vindicating the character of a contemptible drudge of party rendered ridiculous by his superlative folly in the late convention, of which the statement given in the *Pennsylvania Herald*, was confessedly a faithful representation,<sup>6</sup> this newspaper has been silenced<sup>(a)</sup> by some hundreds of its subscribers (who it seems are generally among the devoted tools of party, or those who are obliged from their thralldom to yield implicit assent to the mandates of the junto) withdrawing their support from it; by this stroke the conspirators have suppressed the publication of the most valuable debates of the late convention, which would have been given in course by the Editor of that paper, whose stipend now ceasing, he cannot afford without compensation the time and attention necessary to this business.<sup>7</sup>

Every patriotic person who had an opportunity of hearing that illustrious advocate of liberty and his country, Mr. Findley,<sup>8</sup> must sensibly regret that his powerful arguments are not to extend beyond

the confined walls of the State-House, where they could have so limited an effect; that the United States could not have been his auditory through the medium of the press. I anticipate the answer of the conspirators; they will tell you that this could not be their motive for silencing this paper, as the whole of the debates were taken down in short hand by another person and published,<sup>9</sup> but the public are not to be so easily duped, they will not receive a spurious as an equivalent for a genuine production; equal solicitude was expressed for the publication of the former as for the suppression of the latter—the public will judge of the motives.

That investigation into the nature and construction of the new constitution, which the conspirators have so long and zealously struggled against, has, notwithstanding their partial success, so far taken place as to ascertain the enormity of their criminality. That system which was pompously displayed as the perfection of government, proves upon examination to be the most odious system of tyranny that was ever projected, a many headed hydra of despotism, whose complicated and various evils would be infinitely more oppressive and afflictive than the scourge of any single tyrant: the objects of dominion would be tortured to gratify the calls of ambition and cravings of power, of rival despots contending for the sceptre of superiority; the devoted people would experience a distraction of misery.

No wonder then that such a discovery should excite uneasy apprehensions in the minds of the conspirators, for such an attempt against the public liberties is unprecedented in history, it is a crime of the blackest dye, as it strikes at the happiness of millions and the dignity of human nature, as it was intended to deprive the inhabitants of so large a portion of the globe of the choicest blessing of life and the oppressed of all nations of an asylum.

The explicit language of the Centinel during the empire of delusion was not congenial to the feelings of the people, but truth when it has free scope is all powerful, it enforces conviction in the most prejudiced mind; he foresaw the consequence of an exertion of the good sense and understanding of the people, and predicted the defeat of the measure he ventured to attack, when it was deemed sacred by most men and the certain ruin of any who should dare to lisp a word against it: he has persevered th[r]ough every discouraging appearance, and has now the satisfaction to find his countrymen are aware of their danger and are taking measures for their security.

Since writing the foregoing, I am informed that the Printer of the Pennsylvania Herald is not quite decided whether he will drop his paper; he wishes, and perhaps will be enabled, to persevere;<sup>10</sup>—



however, the conspirators have effected their purpose; the editor is dismissed and the debates of the convention thereby suppressed.

(a) *The Herald it is said is to be discontinued the 23d instant, (the Editor is already dismissed.)*

1. Reprinted: *Pennsylvania Chronicle*, 6 February (except for the last paragraph); *New York Journal*, 11 February. For the authorship and impact of "Centinel," see CC:133.

2. See, for example, CC:448. See also "A Real Patriot," *Pennsylvania Mercury*, 24 January (Mfm:Pa. 368).

3. For Martin's statement, see CC:414 (note 5).

4. See Benjamin Rush's speech of 12 December in the Pennsylvania Convention, CC:357.

5. On 25 October 1787 the Massachusetts legislature called a state convention for 9 January 1788, and between 19 November and 7 January the towns of Massachusetts elected delegates.

6. See note 4 above.

7. For a discussion of the alleged Federalist attempts to influence the *Pennsylvania Herald* and the dismissal of editor Alexander J. Dallas who had been publishing detailed notes on the debates of the Pennsylvania Convention, see CC:Vol. 1, xxxix; CC:357. Similar charges were made by "Philadelphiensis" VIII and "Centinel" XIII (CC:473, 487). These assertions touched off a debate between Federalists and Antifederalists. See "A Real Patriot" and "Census," *Pennsylvania Mercury*, 24, 31 January; "A foe to scribbling dunces and pseudo-patriots," *Philadelphia Freeman's Journal*, 30 January; and "G.R." and "Peep Junior," *Independent Gazetteer*, 31 January, 5, 8 February (Mfm:Pa. 368, 384, 393, 396, 399, 412). Antifederalists had claimed earlier that Federalists put pressure on the *Independent Gazetteer* (CC:125, 155, 237-A).

8. William Findley of Westmoreland County was one of the three principal opponents of the Constitution in the Pennsylvania Convention (RCS:Pa., *passim*).

9. Thomas Lloyd's debates were not advertised for sale until 7 February; they included only speeches by Federalists James Wilson and Thomas McKean (CC:511).

10. Printer William Spotswood retired with the issue on 5 February and Mathew Carey became the publisher. With the issue of 12 February, John M'Culloch became the printer. The last extant issue located of the *Herald* is that of 14 February 1788.

#### **471. A Copy of a Letter from Centinel Pennsylvania Gazette, 23 January**

This letter, written by Federalist Francis Hopkinson, was included in *The Miscellaneous Essays and Occasional Writings of Francis Hopkinson, Esq.* (3 vols., Philadelphia, 1792), II, 323-28 (Evans 24407). It was reprinted in the *Pennsylvania Packet*, 25 January; *New York Daily Advertiser*, 31 January; *Carlisle Gazette*, 6 February; *Poughkeepsie Country Journal*, 19 February; and *Charleston Columbian Herald*, 20 March. Using Hopkinson's technique, a Federalist published a second spurious letter (Mfm:Pa. 378) in the form of an Antifederalist response to "Centinel's" letter printed below.

On 24 February Antifederalist William Petrikin of Carlisle informed John Nicholson of Philadelphia that "Centinel's" letter probably was written in Carlisle, but that "some people in the Country believe that it really came from

the Centinel." Petrikin asked Nicholson to show the letter to the real "Centinel" and to request that "Centinel" write a reply, treating the author "according to his deserts." Petrikin promised to get the reply printed in the *Carlisle Gazette* (RCS:Pa., 695). On 5 March an Antifederalist asserted in the *Carlisle Gazette* that "No judicious and impartial person can read the fictitious and partial representations and the groundless assertions which crowd our newspapers, without horror and regret—I pity my countrymen who thus abuse their conscience (if they have any) by fabricating falsehoods to deceive and mislead weak, innocent, unwary & honest minds into the adoption of a constitution, which with its iron sinews, and brazen brows, will tread triumphantly on the necks of posterity. Such Esaus who thus sell their birthright for a mess of pottage, act with a humiliating indignity, infinitely beneath the character of freemen.—In our paper of February 6, we are highly entertained by a fictitious Centinel, who mounts the watch tower with some patriotic principles of his brother Arnold, and counterfeits a writer who by his unanswerable reasons is gaining ground daily" (Mm:Pa. 484).

Copy of a Letter from the Author of the CENTINEL TO  
his Friend in — County.

*Philadelphia, January 19, 1788.*

*Dear Sir,* I received your letter by Mr. —, and am sorry to find that your exertions in the county of — have been attended with so little success. I expected, long before this, to have heard of a commotion begun. It is, indeed, high time that something vigorous should be attempted, otherwise the spirit of our cause will languish in our hands, and when once that spirit is flown, it will not be in our power to recall it. You know it was always our opinion, that the great gun should be charged here and fired in one of the western counties. I am sure I have not been remiss in my part of the business. Have I not already charged it with eleven cartridges well ramm'd down; and when I am every moment expecting the explosion, you only urge me to double my diligence, and ram away. In short, I am almost weary of this fruitless toil. I don't find that my publications have had the desired effect here; I hope they have been more successful in the counties—if so, you should have informed me, for I want encouragement more than a spur. Whilst I am issuing number after number of my Centinel, all written with a freedom and spirit sufficient, one would think, to rouse the people—I say, while I am doing this, the states, one after another, either unanimously or by large majorities, are ratifying the new constitution. You have heard, or will hear, that Connecticut has adopted it by a majority of 127 to 40 in their Convention. Besides this, I have the mortification to see my Centinels printed, and re-printed, but never replied to. Attempts to answer would afford fresh sources of argument. Can any thing be more provoking or discourageing? I have rung the changes upon—the liberty of the press—trial by jury—despotism and tyranny—and am reduced to the necessity of repeating in different words the same railings against the constitution, and the same abuse

against the framers of it.—The novelty of this boldness is over, and my pieces are scarcely read. I am astonished, that such extraordinary exertions have had so little effect with the people. I have, directly and without reserve, called the members of the late General Convention, with G—e W—n at their head, villains, traitors, fools, and conspirators, collectively and individually, and yet the mob does not rise. I have often told you, that it is of no great importance on which side an insurrection takes place: All that is necessary is, to have a commotion begun: A faction can always turn public confusion to its own account. I was in great hopes that the attack upon Major Boyd's house would have produced something; it was indeed serviceable to our party; but the flame was too weak to spread—the law interfered, and extinguished it entirely.<sup>1</sup> A mob is not worth a farthing, unless, by its great numbers or the weight of its leaders, it can stoutly look law in the face, and bid defiance to its operations.

You tell me, that you have enlisted about 60 insurgents—but what can they do?—600 in each of the counties would have been more to the purpose. Either you must have been very negligent, or your influence in the county is not as great as you gave us reason to believe. You say you have constantly attended at taverns, vendues, funerals, and other public meetings—liberally treated those whom you thought it would be of use to gain—dispersed my Centinels—and watched the most favorable opportunities for inflaming the minds of the people. This is all very well—but if the effect has been no more than the association of 60 insurgents, it is certainly very poor doings. If our friends have done no better in the other counties, and I have not yet heard that they have done any thing, our party had better tack about, and cry up the new constitution, that some of us may stand a chance at least for a share in the loaves and fishes. For if, notwithstanding our opposition, this new constitution should be established, we shall always be looked upon as disaffected to the government, and unfit to be trusted with offices under it.

Our champions in the other states begin to fall off. You have seen, I suppose, Gov. R—'s letter<sup>2</sup>—and I am told that R. H. L.— and M—<sup>3</sup> have dropped all opposition. Unless some extraordinary exertions are made, and speedily too, our whole scheme must fall to the ground. Only imagine what a ridiculous figure I make here. I am every week publishing things, which in any other country would bring the author to the gallows, as a seditious disturber of the public peace—and nothing comes of it. My performances, as I said before, do not even provoke a reply. Can any thing be more mortifying?—In the mean time the new constitution is taking root in the other states. And it must be confessed, that in every instance where the people have been legally brought together, either in Conventions, or as Assemblymen, Grand Juries, or

otherwise, they have uniformly declared themselves in favour of it. These are great obstacles to our views. We have affected the popular side of the question, and the voice of the people is decidedly against us. Patriotism, not supported by the body of citizens, is always denominated—Faction.

To conclude. Unless we can do something, speedily, towards raising a respectable commotion in the state, it is my opinion that we ought to prepare for joining the general current in favour of this new system of government. And this may be plausibly effected by declaring, that we never had any thing in view but the good of our country—that the new constitution appeared in our judgments to contain many things objectionable, and some even dangerous to the liberties of the people—but, as the general opinion seems to be otherwise, we resign our own prejudices to the will of the Majority, as every good citizen ought to do;—and since we find the new system of federal government is indeed likely to be established, we shall not be behind any in zealous exertions for its support.

Think of these things—and let me hear from you as soon as possible. In the mean time I am, dear Sir, Your's, &c.

1. At midnight on 6 November 1787, the day Pennsylvania elected delegates to the state Convention, a Federalist mob attacked a boarding house, where several Antifederalist western assemblymen and councillors lodged. On 10 November the Federalist-dominated Assembly asked the Supreme Executive Council to offer a reward for the capture of the rioters, but the Assembly defeated a resolution requesting that it direct the attorney general to prosecute them. Two days later the Council offered a \$300 reward for the rioters, but none was captured (RCS:Pa., 225n, 235–36, 237–56).

2. For Edmund Randolph's 10 October letter to the Virginia House of Delegates, which was published about 27 December, see CC:385.

3. Richard Henry Lee and George Mason. For reports on Lee's diminished opposition to the Constitution, see CC:468 (note 6).

## 472. A Freeman I

### Pennsylvania Gazette, 23 January

Three essays by "A Freeman" were published in the *Pennsylvania Gazette* on 23 and 30 January and 6 February in answer to the "Dissent of the Minority of the Pennsylvania Convention" (CC:353). Tench Coxe revealed his identity as the author of these essays in several private letters. He was also identified in the April issue of the *Philadelphia American Museum*, perhaps in response to Antifederalist charges that James Wilson was "A Freeman." Coxe wrote the essays to alleviate the "Apprehension," pervasive in Pennsylvania and New York, that the Constitution established a consolidated government (CC:468). The essays "were written with an intention to demonstrate, that *the proposed federal Constitution* does not provide for the exigencies of civil Society, and the execution of domestic government, and that, the powers & agency of *the state governments* being therefore indispensibly necessary, their existence must be *permanent & certain*" (Coxe to Mathew Carey, 6 February, Lea and Febiger Collection, PHi).

Coxe was active in getting the "Freeman" essays reprinted. On 23 January he sent two copies of the *Pennsylvania Gazette* printing of "A Freeman" I to James Madison in New York City recommending that it be reprinted in New York and Massachusetts. Despite the fact that the essays were "incorrectly printed & hastily written," Coxe hoped that "some good may happen from them & little harm" (CC:468). Madison replied on the 30th that he would forward the essay to Massachusetts that day (CC:485). On 6 February Coxe sent "A Freeman" III to Madison and all three essays to Mathew Carey, printer of the *Philadelphia American Museum* (Rutland, *Madison*, X, 473; Coxe Papers, Series II, Correspondence and General Papers, PHI). Coxe also encouraged Jacob Broom of Wilmington, Del., and Thomas Hartley of York, Pa., to have the "Freeman" essays reprinted in their local newspapers (Broom to Coxe, 4, 25 February, and Hartley to Coxe, 15 February, Coxe Papers, Series II, Correspondence and General Papers, PHI; and Coxe to Broom, 9 February, Coxe Papers, Series I, Volumes and Printed Material, PHI).

"A Freeman" I-III were reprinted in the *Pennsylvania Packet*, 25, 31 January, and 7 February; the *Philadelphische Correspondenz*, 5, 12, 19, 26 February; and the February, March, and April issues of the *American Museum*; and probably in the *Delaware Gazette*, 6, 13, 20 February (not extant). "A Freeman" I was also reprinted in the *New York Morning Post*, 1 February; *Boston American Herald*, 11 February; and *Carlisle Gazette*, 13 February. The *Herald* reprint was immediately preceded by an advertisement for the Boston pamphlet edition of the "Dissent of the Minority of the Pennsylvania Convention."

The most serious criticism of the "Freeman" essays was made by "A Farmer" in the *Philadelphia Freeman's Journal* on 16 and 23 April (Mfm:Pa. 625, 648). Other Antifederalist writers, using the names or nicknames of prominent Federalists, ridiculed "A Freeman's" efforts and charged that the essays were written by James Wilson ("James Bowdoin to James de Caledonia" [James Wilson], *Philadelphia Independent Gazetteer*, 27 February; "James de Caledonia to James Bowdoin," *ibid.*, 4 March; and "Original Letters" [Benjamin Rush to Alexander Hamilton], *Philadelphia Freeman's Journal*, 5 March, CC:570, Mfm:Pa. 481, 487). An anonymous writer in the *Carlisle Gazette* declared that "A Freeman's" "design" was "to delude and baffle by sophistry and infatuation" (5 March, Mfm:Pa. 484; see also *Carlisle Gazette*, 21 May, Mfm:Pa. 684.).

Federalists praised "A Freeman." As "A Pennsylvanian," Tench Coxe claimed that "A Freeman" "has thrown into one view the *indefeasible powers of the separate states*, and the deficiencies of *indispensible social power* in the proposed government" (*Pennsylvania Gazette*, 20 February, Mfm:Pa. 439). An extract from a Philadelphia letter indicated that "A Freeman" and "A Pennsylvanian" were "full Answers" to the "Dissent of the Minority of the Pennsylvania Convention" (*Providence Gazette*, 12 April). And a "Foreign Spectator" (Nicholas Collin) referred his readers to "A Freeman" to dispel the belief that the "explicit or constructive powers of Congress" would gradually abolish the state governments (*Philadelphia Federal Gazette*, 24 October).

To the MINORITY of the CONVENTION of *Pennsylvania*.

*Gentlemen*, The great question which at this time engages the attention of the United States calls for the fairest and most dispassionate discussion. Mistakes in taking up the subject must lead to erroneous conclusions, and men of pure intentions, both among yourselves and the people at large, should misconceptions have arisen,

may continue averse to the system, after it has received the *fiat* of all the conventions. Well intended attempts to throw light upon the interesting subject cannot, therefore, be displeasing to you. Without further introduction, then, I will proceed to a point of considerable importance in itself and in its consequences, on which I conceive your opinions have been erroneously formed, and on which I earnestly hope we shall finally concur.

The consolidation of the United States into one government by the operation of the proposed constitution (in contradistinction from a confederacy) appears to you to be the consequence of the system, and the intention of its framers. This is the point of difference which I mean to treat of, and for the present I shall confine my observations to it alone.

Were the parts of the fœderal government which you have particularized as much of the nature of consolidation as you seem to suppose, real nature and design, and the state sovereignties, would indeed be finally annihilated. The appearances which have misled you I shall remark on in the course of these papers, and I shall endeavour to exhibit clear and permanent marks and lines of *separate sovereignty*, which must ever distinguish and circumscribe each of the several states, and *prevent their annihilation* by the fœderal government, or any of its operations.

When the people of America dissolved their connexion with the crown of Britain, they found themselves separated from all the world, but a few powerless colonies, the principal of which indeed they expected to induce into their measures. The crown having been merely a centre of *union*, the act of independence dissolved the political ties that had formerly existed among the states, and it was attended with no absolute confederacy; but many circumstances conspired to render some new form of connexion desirable and necessary. We wished not to continue distinct bodies of people, but to form a respectable nation. The remains of our ancient governments kept us in the form of thirteen political bodies, and from a variety of just and prudent considerations, we determined to enter into an indissoluble and perpetual *union*. Though a confederacy of sovereign states was the mode of connexion which was wisely desired and actually adopted, yet in that feeble and inadequate bond of union to which we assented, articles strongly partaking of the nature of consolidation are observable.

We see, for example, that the free inhabitants of each state were rendered, to all intents and purposes, *free citizens of all the rest*. Persons fleeing from justice in one state were to be *delivered up* by any other in which they might take *refuge*, contrary to the laws prevailing among *distinct* sovereignties, whereby the jurisdiction of one state pervaded the territories of all the rest, to the effectual length of trial, condemnation

and punishment. The right to judge of *the sums that should be expended for the use of the nation* lies, even under the old confederation, *solely* with Congress, and after the demand is fixed by them, and formally made, the states are *bound*, as far as they can be bound by any compact, to pay their respective quotas into the fœderal treasury, by which the power of the purse is fully given to them; nor can the states *constitutionally* refuse to comply. It is very certain that there is not in the present fœderal government vigor enough to carry *this actually delegated* power into execution; yet, if Congress had possessed energy sufficient to have done it, there is no doubt but they would have been justifiable in the measure, though the season of invasion was unfavorable for internal contests.

We shall also find, that *the right to raise armies and build navies* is also vested in Congress by the present confederation, and they are to be the sole judges of the occasion, and the force required. The state, therefore, that refuses to fulfil the requisitions of Congress on either of these articles, acts *unconstitutionally*. It appears, then, that it was thought necessary at the time of forming the old fœderal constitution, that Congress should have what is termed "*the powers of the purse and the sword.*" That constitution contained a delegation of them, because the framers of it saw that those powers were necessary to *the perpetuity and efficiency* of the union, and to obtain the desirable ends of it. It is certainly very true, that the means provided to enable Congress to apply those powers, which the constitution vested in them, were so liable to opposition, interruption and delay, that the clauses containing them became a mere dead letter. This however was not expected or desired by any of the states at the time, and their subsequent defaults are *infringements* of the letter and spirit of the confederation. On these circumstances I entreat your most dispassionate and candid consideration. I beg leave to remark, however, that as in the present constitution they are only *appearances* of consolidation, irrefragably contradicted by other facts and circumstances, so also are the facts and observations in your address *merely appearances* of a consolidation, which I hope to demonstrate does not exist. The matter will be better understood by proceeding to those points which shew, that, as under the old so under the new fœderal constitution, the thirteen United States were *not intended* to be, and really *are not consolidated*, in such manner as to *absorb or destroy* the sovereignties of the several states. In order to [have] a perfect understanding of each other, it may be proper to observe here, that by your term *consolidation* I understand you mean *the final annihilation of separate state government or sovereignty, by the nature and operations of the proposed constitution*. Among the proofs you adduce of such consolidation being the *intention* of the late convention, is the expression of—"We the People."—Tho' this is a mere form of words, it will be well to see what expressions are to be found in the constitution

in opposition to this, and indicative of the intentions of the convention, before we consider those things, which, as I conceive, secure the states from a possibility of losing their respective sovereignties.

First, then, tho' the convention propose that it should be the act of the people, yet it is in their capacities as citizens of *the several members of our confederacy*—for they are expressly declared to be “the people of the United States”—to which idea the expression is *strictly* confined, and the *general* term of *America*, which is constantly used in speaking of us *as a nation*, is carefully omitted: a pointed view was evidently had to our *existing union*. But we must see at once, that the reason of “*the People*” being mentioned was, that alterations of several constitutions were to be effected, which the convention well knew could be done by no authority but that of “*the people*,” either determining themselves *in their several states*, or delegating adequate powers to their *state conventions*. Had the foederal convention meant to exclude the idea of “*union*,” that is, of *several and separate* sovereignties joining in a confederacy, they would have said, *we the people of America*; for union necessarily involves the idea of component states, which complete consolidations exclude. But the severalty of the states is frequently recognized in the most distinct manner in the course of the constitution. The representatives are to be inhabitants of *the state* they represent—each *state* is to have a representative—the militia officers are to be appointed by the *several states*—and many other instances will be found in reading the constitution. These, however, are all mere expressions, and I should not have introduced them, but to overbalance the words you have mentioned by a superior weight of the same kind. Let us, then, proceed to evidences against consolidation, of more force than the mere form of words.

It will be found, on a careful examination, that many things, which are indispensibly necessary to the existence and good order of society, cannot be performed by the foederal government, but will require *the agency and powers* of the state legislatures or sovereignties, with their various appurtenances and appendages.

1st. Congress, under all the powers of the proposed constitution, can neither train the militia, nor appoint the officers thereof.

2dly. They cannot fix the qualifications of electors of representatives, or of the electors of the electors of the President or Vice-President.

3dly. In case of a vacancy in the senate or the house of representatives, they cannot issue a writ for a new election, nor take any of the measures necessary to obtain one.

4thly. They cannot appoint a judge, constitute a court, or in any other way interfere in determining offences against the criminal law of the states, nor can they in any way interfere in the determinations of civil causes between citizens of the same state, which will be innumerable and highly important.



5thly. They cannot elect a President, a Vice-President, a Senator, or a fœderal representative, without all of which their own government must remain *suspended*, and universal *Anarchy must ensue*.

6thly. They cannot determine the place of chusing senators, because that would be derogatory to *the sovereignty* of the state legislatures, who are to elect them.

7thly. They cannot enact laws for the inspection of the produce of the country, a matter of the utmost importance to the commerce of the *several states*, and the honor of *the whole*.

8thly. They cannot appoint or commission *any state officer*, legislative, executive or judicial.

9thly. They cannot interfere with the opening of rivers and canals; the making or regulation of roads, except post roads; building bridges; erecting ferries; establishment of state seminaries of learning; libraries; literary, religious, trading or manufacturing societies; erecting or regulating the police of cities, towns or boroughs; creating new state offices; building light houses, public wharves, county gaols, markets, or other public buildings; making sale of state lands, and other state property; receiving or appropriating the incomes of state buildings and property; executing the state laws; altering the criminal law; nor can they do any other matter or thing appertaining to the internal affairs of any state, whether legislative, executive or judicial, civil or ecclesiastical.

10thly. They cannot interfere with, alter or amend the constitution of any state, which, it is admitted, now is, and, from time to time, will be more or less necessary in most of them.

The proper investigation of this subject will require more of your time than I can take the liberty of engaging at present. I shall therefore leave what I have now written to your honest and cool reflection.

#### 473. Philadelphiensis VIII

##### Philadelphia Freeman's Journal, 23 January<sup>1</sup>

*"This is true liberty; when freeborn men,  
Having to advise the public, may speak free;  
Which he who can, and will, deserves high praise;  
Who neither can, nor will, may hold his peace—  
What can be juster in a state than this?"*<sup>2</sup>

Hail, immortal genius!—hail, thou friend of freedom, and of thy fellow-men, whose patriotic pen first wrote this divine sentiment, "Let it be impressed upon your minds, let it be instilled into your children, that the liberty of the press is the palladium of all civil, political and religious rights of freemen."<sup>3</sup> This is the scourge of tyrants, oppressors, villains, and blood-suckers; the bulwark of freedom, that causes the haughtiest lordling to tremble; an inestimable jewel, that places the

poorest citizen on a level with the richest demagogue. In America the freedom of the press is peculiarly interesting: to a people scattered over such a vast continent, what means of information or redress have they, when a conspiracy has been formed against their sacred rights and privileges? None but the press. This is the herald that sounds the alarm, and rouses freemen to guard their liberty. From this scourge, the parricide, the knave of power and his cringing sycophants have every thing to fear; it hurls fury on the guilty heads of such base characters, and drags them to the public altar—And through the medium of the press, the *good and the patriotic* citizen receives the thanks of his grateful countrymen.

The sons of freedom who framed the constitution of Pennsylvania, expressly declared this to be one of the unalienable rights of the people, and therefore it ought not to be restrained.<sup>4</sup> That some evils attend an unrestrained press, is obvious; but these are infinitely overbalanced by its advantages. The very salvation of America, I trust, will be wrought out by it; and the *conspirators* be taken by their own snares, which they so artfully set to seize the liberties of their fellow citizens, to their extreme mortification and disgrace.

In my first number, I took notice of some attempts, made by some of the *well born* or their parasites, to destroy the freedom of the press. A scheme was then proposed, that every writer, for or against the constitution, should leave his name with the printer, to be published if required. This plan was first set on foot in Boston, and adopted by some of the printers there;<sup>5</sup> in consequence of which, a gentleman under the signature of *A Pennsylvania Mechanic*, recommends a similar conduct to the printers of Philadelphia—And a few days after, another, under the signature of *Galba*,<sup>6</sup> carries the system something higher; for he must have the villains only who wrote against the new government to leave their names for publication, while the *patriotic gentlemen* who wrote in favour of it, might walk at large.

Either through my reply, the terrors of a guilty conscience, or probably both, we heard no more of these press-fettering gentlemen until Monday last, when a writer in the *Independent Gazetteer*, under the signature of *One of the whigs of 1776*,<sup>7</sup> comes forth with an improvement upon the original plan. As he says “he has been bred a *mechanic*,” I conceive he is the identical *Pennsylvania Mechanic*, who, we formerly observed, must be a blacksmith, employed in the service of the *well born* to construct chains for confining to perpetual slavery the rest of his fellow-citizens. As his method of obtaining the names of the patriotic writers is tolerably clever, it deserves our particular notice. He says that he has left his name with the printer, and hopes the opposite writers will have no objections to do the same, to the end that he may have a private interview with them, and probably they may then make a

convert of him. This is a pretty decent kind of a *trap* of the blacksmith's construction; but let him recollect the old proverb, *There is no catching old birds with chaff*; and then, I think, he will soon find that his *interviews and conversions* are rather visionary.

Tyrannical men are generally cunning, and hence they use deceitful arguments, with all the appearance of plausible equality. The author of a piece, say they, ought to give his name, for no man should write what he is ashamed to own. There is an appearance of candour in this argument, which renders it dangerous; but if we consider the thing more attentively, we shall find, that such a system would be subversive of truth and free enquiry, and eventually annihilate the freedom of the press.

When a political writer gives his name with his piece, he then shews where the opposite party may aim their shafts of malice, falshood, and scurrility, with certainty and success. Will a man, for his own sake—or if he has friends, family and endearing connections in life, still more for their sake; venture to expose his interest, his property, and perhaps his life, to the mercy of a revengeful, and probably a powerful party? He certainly will not, if he has common sense; and yet if he gives his name, this would necessarily be the consequence—All investigation of the subject would cease; the whole attention would be drawn off to another object; reason and argument must give place to personal invective and scurrility. When a person writes upon a national subject, he appeals to the public, who have nothing to do with the man himself, but with his sentiments: If his arguments and illustrations are well founded, they ought by all means to be published, as they tend to promote the general good; but if they are of a false or dangerous nature, let them be refuted.

The friends of the new constitution have used every method and device, that their power, their cunning, or their influence could have access to, in order to restrain the liberty of the press respecting that despotic scheme of government; but to their confusion be it remembered, that there were printers in Philadelphia beyond their influence or corruption: No city in the Union has afforded such illustrious instances of independence and patriotism among printers. While such a noble spirit exists among these men, there is little danger of the new government ever being established. The despots and their parasites are well aware, that if they could restrain the freedom of the press, all would be their own; hence they have pursued the object with unremitting zeal, and have in some measure succeeded. They have, I am told, by threats and by withdrawing subscriptions, stopt the publication of the debates of the Convention in the Pennsylvania Herald, and otherwise injured that paper so far, that the printer must cease publishing.<sup>8</sup> If such conduct as this be not sufficient to rouse the

people of America to a sense of their duty, they must become the scorn of the whole world—a mere bye-word of contempt.

The advocates of this government say, that if nine states come into it, they will proceed to organize and put it in operation. They hug themselves up in the idea, that its enemies will cease their opposition and submit peaceably. How they came to make such a silly conclusion, is to me matter of surprise, as I never have observed the smallest change of sentiment among the patriotic gentlemen with whom I have conversed. From some of the writings of its friends, it seems probable, that this idea sprang from the circumstance of the Declaration of Independence. That measure was carried by a bare majority in some of the states, yet the minority gave way and joined cordially in it.—If there were any similarity between the circumstances of the Declaration of Independence and the adoption of the proposed Constitution, this argument would have some weight; but the premises are widely different, and consequently the inference inconclusive. The whole body of the people were determined to defend their liberties, at the hazard of their lives and fortunes, against the tyranny of the British government; so that there was a union of sentiment in respect of the great object, the only difference was in the means of obtaining it; in this case, then, common sense must have pointed out the expediency of the minority accommodating their private sentiments to those of the majority.

But the matter now in debate has no relation to that: the men opposed to the new constitution have the same cause to defend, that the people of America had during the period of a seven years war. Who is he so base, that will peaceably submit to a government that will eventually destroy his sacred *rights and privileges*? The liberty of conscience, the liberty of the press, the liberty of trial by jury, &c. must lie at the mercy of a few despots—an infernal junto, that are for changing our *free republican government* into a tyrannical and absolute monarchy. These are what roused the sons of America to oppose Britain, and from the nature of things, they must have a similar effect now.

1. Reprinted: *Philadelphia Independent Gazetteer*, 24 January; *New York Morning Post*, 31 January; *New York Journal*, 1 February; *Providence Gazette*, 23 February; *Boston American Herald*, 25 February; *Newport Mercury*, 3 March.

2. See CC:356, note 1.

3. See C. W. Everett, ed., *The Letters of Junius* (London, 1927), "Dedication to the English Nation," page 4. The dedication was apparently written in 1771 and was published in Henry Sampson Woodfall's edition of the *Letters* which appeared in 1772 (*ibid.*, vii, 311).

4. Declaration of Rights, section XII, Thorpe, V, 3083.

5. The "scheme" had been announced by Benjamin Russell in the *Massachusetts Centinel* on 10 October (CC:131-C). "Philadelphiensis" I attacked the policy in the

*Independent Gazetteer* on 7 November, and this led to a reply by Russell and a rejoinder by "Philadelphiensis" (CC:237 A-C).

6. See "A Pennsylvania Mechanic" and "Galba," *Independent Gazetteer*, 29, 31 October (CC:131 I-J).

7. "One of the Whigs of 1776," *Independent Gazetteer*, 21 January (Mfm:Pa. 350).

8. See CC:470, note 7.

#### 474. Brutus X

**New York Journal, 24 January<sup>1</sup>**

*To the PEOPLE of the STATE of NEW-YORK.*

The liberties of a people are in danger from a large standing army, not only because the rulers may employ them for the purposes of supporting themselves in any usurpations of power, which they may see proper to exercise, but there is great hazard, that an army will subvert the forms of the government, under whose authority, they are raised, and establish one, according to the pleasure of their leaders.

We are informed, in the faithful pages of history, of such events frequently happening.—Two instances have been mentioned in a former paper.<sup>2</sup> They are so remarkable, that they are worthy of the most careful attention of every lover of freedom.—They are taken from the history of the two most powerful nations that have ever existed in the world; and who are the most renowned, for the freedom they enjoyed, and the excellency of their constitutions:—I mean Rome and Britain.

In the first, the liberties of the commonwealth was destroyed, and the constitution overturned, by an army, lead by Julius Cesar, who was appointed to the command, by the constitutional authority of that commonwealth. He changed it from a free republic, whose fame had sounded, and is still celebrated by all the world, into that of the most absolute despotism. A standing army effected this change, and a standing army supported it through a succession of ages, which are marked in the annals of history, with the most horrid cruelties, bloodshed, and carnage;—The most devilish, beastly, and unnatural vices, that ever punished or disgraced human nature.

The same army, that in Britain, vindicated the liberties of that people from the encroachments and despotism of a tyrant king, assisted Cromwell, their General, in wresting from the people, that liberty they had so dearly earned.

You may be told, these instances will not apply to our case:—But those who would persuade you to believe this, either mean to deceive you, or have not themselves considered the subject.

I firmly believe, no country in the world had ever a more patriotic army, than the one which so ably served this country, in the late war.

But had the General who commanded them, been possessed of the spirit of a Julius Cesar or a Cromwell, the liberties of this country, had

in all probability, terminated with the war; or had they been maintained, might have cost more blood and treasure, than was expended in the conflict with Great-Britain. When an anonymous writer addressed the officers of the army at the close of the war, advising them not to part with their arms, until justice was done them—the effect it had is well known.<sup>3</sup> It affected them like an electric shock. He wrote like Cesar; and had the commander in chief, and a few more officers of rank, countenanced the measure, the desperate resolution had been taken, to refuse to disband. What the consequences of such a determination would have been, heaven only knows.—The army were in the full vigor of health and spirits, in the habit of discipline, and possessed of all our military stores and apparatus. They would have acquired great accessions of strength from the country.—Those who were disgusted at our republican forms of government (for such there then were, of high rank among us) would have lent them all their aid.—We should in all probability have seen a constitution and laws, dictated to us, at the head of an army, and at the point of a bayonet, and the liberties for which we had so severely struggled, snatched from us in a moment. It remains a secret, yet to be revealed, whether this measure was not suggested, or at least countenanced, by some, who have had great influence in producing the present system.<sup>4</sup>—Fortunately indeed for this country, it had at the head of the army, a patriot as well as a general; and many of our principal officers, had not abandoned the characters of citizens, by assuming that of soldiers, and therefore, the scheme proved abortive. But are we to expect, that this will always be the case? Are we so much better than the people of other ages and of other countries, that the same allurements of power and greatness, which led them aside from their duty, will have no influence upon men in our country? Such an idea, is wild and extravagant.—Had we indulged such a delusion, enough has appeared in a little time past, to convince the most credulous, that the passion for pomp, power and greatness, works as powerfully in the hearts of many of our better sort, as it ever did in any country under heaven.—Were the same opportunity again to offer, we should very probably be grossly disappointed, if we made dependence, that all who then rejected the overture, would do it again.

From these remarks, it appears, that the evils to be feared from a large standing army in time of peace, does not arise solely from the apprehension, that the rulers may employ them for the purpose of promoting their own ambitious views, but that equal, and perhaps greater danger, is to be apprehended from their overturning the constitutional powers of the government, and assuming the power to dictate any form they please.

The advocates for power, in support of this right in the proposed government, urge that a restraint upon the discretion of the

legislatures, in respect to military establishments in time of peace, would be improper to be imposed, because they say, it will be necessary to maintain small garrisons on the frontiers, to guard against the depredations of the Indians, and to be prepared to repel any encroachments or invasions that may be made by Spain or Britain.<sup>5</sup>

The amount of this argument striped of the abundant verbagages with which the author has dressed it, is this:

It will probably be necessary to keep up a small body of troops to garrison a few posts, which it will be necessary to maintain, in order to guard against the sudden encroachments of the Indians, or of the Spaniards and British; and therefore, the general government ought to be invested with power to raise and keep up a standing army in time of peace, without restraint; at their discretion.

I confess, I cannot perceive that the conclusion follows from the premises. Logicians say, it is not good reasoning to infer a general conclusion from particular premises: though I am not much of a Logician, it seems to me, this argument is very like that species of reasoning.

When the patriots in the parliament in Great-Britain, contended with such force of argument, and all the powers of eloquence, against keeping up standing armies in time of peace, it is obvious, they never entertained an idea, that small garrisons on their frontiers, or in the neighbourhood of powers, from whom they were in danger of encroachments, or guards, to take care of public arsenals would thereby be prohibited.

The advocates for this power farther urge that it is necessary, because it may, and probably will happen, that circumstances will render it requisite to raise an army to be prepared to repel attacks of an enemy, before a formal declaration of war, which in modern times has fallen into disuse.<sup>6</sup> If the constitution prohibited the raising an army, until a war actually commenced, it would deprive the government of the power of providing for the defence of the country, until the enemy were within our territory. If the restriction is not to extend to the raising armies in cases of emergency, but only to the keeping them up, this would leave the matter to the discretion of the legislature; and they might, under the pretence that there was danger of an invasion, keep up the army as long as they judged proper—and hence it is inferred, that the legislature should have authority to raise and keep up an army without any restriction. But from these premises nothing more will follow than this, that the legislature should not be so restrained, as to put it out of their power to raise an army, when such exigencies as are instanced shall arise. But it does not thence follow, that the government should be empowered to raise and maintain standing armies at their discretion as well in peace as in war. If indeed, it is impossible to vest

the general government with the power of raising troops to garrison the frontier posts, to guard arsenals, or to be prepared to repel an attack, when we saw a power preparing to make one, without giving them a general and indefinite authority, to raise and keep up armies, without any restriction or qualification, then this reasoning might have weight; but this has not been proved nor can it be.

It is admitted that to prohibit the general government, from keeping up standing armies, while yet they were authorised to raise them in case of exigency, would be an insufficient guard against the danger. A discretion of such latitude would give room to elude the force of the provision.

It is also admitted that an absolute prohibition against raising troops, except in cases of actual war, would be improper; because it will be requisite to raise and support a small number of troops to garrison the important frontier posts, and to guard arsenals; and it may happen, that the danger of an attack from a foreign power may be so imminent, as to render it highly proper we should raise an army, in order to be prepared to resist them. But to raise and keep up forces for such purposes and on such occasions, is not included in the idea, of keeping up standing armies in times of peace.

It is a thing very practicable to give the government sufficient authority to provide for these cases, and at the same time to provide a reasonable and competent security against the evil of a standing army—a clause to the following purpose would answer the end:

As standing armies in time of peace are dangerous to liberty, and have often been the means of overturning the best constitutions of government, no standing army, or troops of any description whatsoever, shall be raised or kept up by the legislature, except so many as shall be necessary for guards to the arsenals of the United States, or for garrisons to such posts on the frontiers, as it shall be deemed absolutely necessary to hold, to secure the inhabitants, and facilitate the trade with the Indians: unless when the United States are threatened with an attack or invasion from some foreign power, in which case the legislature shall be authorised to raise an army to be prepared to repel the attack; provided that no troops whatsoever shall be raised in time of peace, without the assent of two thirds of the members, composing both houses of the legislature.

A clause similar to this would afford sufficient latitude to the legislature to raise troops in all cases that were really necessary, and at the same time competent security against the establishment of that dangerous engine of despotism a standing army.

The same writer who advances the arguments I have noticed, makes a number of other observations with a view to prove that the power to raise and keep up armies, ought to be discretionary in the general



legislature; some of them are curious; he instances the raising of troops in Massachusetts and Pennsylvania, to shew the necessity of keeping a standing army in time of peace;<sup>7</sup> the least reflection must convince every candid mind that both these cases are totally foreign to his purpose—Massachusetts raised a body of troops for six months, at the expiration of which they were to disband of course; this looks very little like a standing army. But beside, was that commonwealth in a state of peace at that time? So far from it that they were in the most violent commotions and contests, and their legislature had formally declared that an unnatural rebellion existed within the state. The situation of Pennsylvania was similar; a number of armed men had levied war against the authority of the state, and openly avowed their intention of withdrawing their allegiance from it. To what purpose examples are brought, of states raising troops for short periods in times of war or insurrections, on a question concerning the propriety of keeping up standing armies in times of peace, the public must judge.

It is farther said, that no danger can arise from this power being lodged in the hands of the general government, because the legislatures will be a check upon them, to prevent their abusing it.<sup>8</sup>

This is offered, as what force there is in it will hereafter receive a more particular examination. At present, I shall only remark, that it is difficult to conceive how the state legislatures can, in any case, hold a check over the general legislature, in a constitutional way. The latter has, in every instance to which their powers extend, complete controul over the former. The state legislatures can, in no case, by law, resolution, or otherwise, of right, prevent or impede the general government, from enacting any law, or executing it, which this constitution authorizes them to enact or execute. If then the state legislatures check the general legislatures, it must be by exciting the people to resist constitutional laws. In this way every individual, or every body of men, may check any government, in proportion to the influence they may have over the body of the people. But such kinds of checks as these, though they sometimes correct the abuses of government, oftner destroy all government.

It is further said, that no danger is to be apprehended from the exercise of this power, because it is lodged in the hands of representatives of the people; if they abuse it, it is in the power of the people to remove them, and chuse others who will pursue their interests.<sup>9</sup> Not to repeat what has been said before, That it is unwise in any people, to authorize their rulers to do, what, if done, would prove injurious—I have, in some former numbers, shewn, that the representation in the proposed government will be a mere shadow without the substance.<sup>10</sup> I am so confident that I am well founded in this opinion, that I am persuaded, if it was to be adopted or rejected, upon a fair discussion of its merits, without taking into contemplation

circumstances extraneous to it, as reasons for its adoption, nineteen-twentieths of the sensible men in the union would reject it on this account alone; unless its powers were confined to much fewer objects than it embraces.

1. This essay was not reprinted. For the authorship, circulation, and impact of "Brutus," see CC:178.

2. See "Brutus" VIII, CC:437.

3. On 10 and 12 March 1783, anonymous addresses were circulated among the army officers at Washington's headquarters at Newburgh, N.Y., proposing that officers refuse to fight if the war continued, or refuse to lay down their arms if peace were obtained. Washington called a meeting for 15 March and squelched whatever plot there was. The meeting drew up resolutions pledging the army's support for Congress. Washington, himself, wrote Congress and urged it to meet the just demands of the army (CC:Vol. 1, p. 20).

4. Alexander Hamilton, Gouverneur Morris, and Robert Morris met with various army officers in December 1782 and January 1783 to discuss means of using the army to obtain additional tax powers for Congress. Arthur Lee, a Virginia delegate to Congress, observed that "Every Engine is at work here to obtain permanent taxes and the appointment of Collectors by Congress, in the States. The terror of a mutinying Army is playd off with considerable efficacy" (to Samuel Adams, 29 January 1783, LMCC, VII, 28).

5. *The Federalist* 24, CC:355.

6. *The Federalist* 25, CC:364.

7. *Ibid.*

8. *The Federalist* 26, CC:366.

9. *Ibid.*

10. See "Brutus" I, III, IV, *New York Journal*, 18 October, 15, 29 November, CC:178, 264, 306.

#### 475. William Russell to William Fleming Aspenville, 25 January<sup>1</sup>

It afforded me, much pleasure, to be informed by Mr. Stewart, that you, & Mrs. Fleming, were well; and, afforded equal pleasure to Mrs. Russell.

I have long wished for a line from you, and have, as long neglected to claim the right.

But sir, calling to mind our long and happy acquaintance, I am emboldened, at this critical juncture (when the sentiments of our Nation seem so greatly divided, on the new plan of Government) to ask, that your well grounded judgement on goverment, be given to me, thereupon; which will, no doubt be satisfactory to many others in this quarter, besides my self. Having matured my thoughts upon it, confess I am much alarmed, & am prone to think (although it is a production of much *genius*, yet, it demands the closest attention of every friend to our Country; or it may prove an *engine* of destruction to the liberties, we have been so long [— —] contending for, & at length acquired, at vast expence of blood & treasure.

The first article giving powers to Congress legislatively; & 8th. article [i.e., section] refining these powers, yeild to Congress the sole power to lay & collect taxes &C, to borrow money, to regulate commerce, to constitute tribunals to define & punish piracies, to declare war, to raise & support armies, to provide & support a Navy, to call forth the Militia, & to be abosolute over all Forts, Magazines, Arsenals, Dockyards & other needful building thereunto belonging;—together with a variety of other powers; must, I think require the utmost circumspection, whether these powers are dangerous or not. And next, please examine the following Article—(“And to make laws that shall be necessary & proper, for carrying into execution the foregoing powers; & all other powers vested by this constitution; in the government of the United States; or in any department or offices thereof”) to which, I think, you will readily say, that no power is reserved or withheld from Congress.

It seems to me, if Congress, have a right to make all laws that may be necessary & proper, that no inferiour Legislature, can be more than a Mitaphysical nothing.

It must be evident, that only force under the new constitution can dictate to Congress; which is a misery every good man wood wish to escape.

The late President has wisely observed. “It may be said that the new Legislature may provide remedies; but as they may so they may not, & if they did, a succeeding assembly may repeal the provision, & adds, the evil is founded resting upon constitutional bottomn, & the remedy upon the mutable ground of legislation, & revocable at any annual meeting.”<sup>2</sup>

Time at present, wont allow me, or my mind might be enlarged on, my fears of the Constitution without amendments; but, am encouraged from the judicious remarks so many able pens have pointed out, that the people will behold the danger eer it be too late, & make choice of men for, the Conventions of the different States; whom, the hand of Providence, may direct, to wholesome amendments, upon the most permanent basis. I shall now rest my sentiments, hoping shortly for your better judgement, to aid your friend, & the good people of this country, in so important an object. I think but few here understand it yet. We lately heard from Mrs. Christian, all well there; as are Mr. Madisons family.

1. RC, Emmet Collection, NN. The letter was “favd. by Mr. Stewart.” William Russell (1735–1793), a planter, was brevetted a brigadier general in the Continental Army in 1783. He represented Washington County in the Virginia House of Delegates from 1784 to 1786 and was a member of the Virginia Senate from 1788 to 1791.

2. See Richard Henry Lee’s letter of 16 October to Governor Edmund Randolph which was published on 6 December (CC:325). Lee had been President of Congress in 1784 and 1785.

**476. Publius: The Federalist 44**  
**New York Packet, 25 January**

This essay, written by James Madison, was reprinted in the *New York Independent Journal*, 26 January, and *New York Daily Advertiser*, 29 January. It was number 44 in the M'Lean edition and number 43 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST, No. 43.

*To the People of the State of New-York.*

A *Fifth* class of provisions in favor of the fœderal authority, consists of the following restrictions on the authority of the several States:

I. "No State shall enter into any treaty, alliance or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make any thing but gold and silver a legal tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility."

The prohibition against treaties, alliances and confederations, makes a part of the existing articles of Union; and for reasons which need no explanation, is copied into the new Constitution. The prohibition of letters of marque is another part of the old system, but is somewhat extended in the new. According to the former, letters of marque could be granted by the States after a declaration of war. According to the latter, these licences must be obtained as well during war as previous to its declaration, from the government of the United States. This alteration is fully justified by the advantage of uniformity in all points which relate to foreign powers; and of immediate responsibility to the nation in all those, for whose conduct the nation itself is to be responsible.

The right of coining money, which is here taken from the States, was left in their hands by the confederation as a concurrent right with that of Congress, under an exception in favor of the exclusive right of Congress to regulate the alloy and value. In this instance also the new provision is an improvement on the old. Whilst the alloy and value depended on the general authority, a right of coinage in the particular States could have no other effect than to multiply expensive mints, and diversify the forms and weights of the circulating pieces. The latter inconveniency defeats one purpose for which the power was originally submitted to the fœderal head. And as far as the former might prevent an inconvenient remittance of gold and silver to the central mint for recoinage, the end can be as well attained, by local mints established under the general authority.

The extension of the prohibition to bills of credit must give pleasure to every citizen in proportion to his love of justice, and his knowledge of the true springs of public prosperity. The loss which America has

sustained since the peace, from the pestilent effects of paper money, on the necessary confidence between man and man; on the necessary confidence in the public councils; on the industry and morals of the people, and on the character of Republican Government, constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied; or rather an accumulation of guilt, which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice, of the power which has been the instrument of it. In addition to these persuasive considerations, it may be observed that the same reasons which shew the necessity of denying to the States the power of regulating coin, prove with equal force that they ought not to be at liberty to substitute a paper medium in the place of coin. Had every State a right to regulate the value of its coin, there might be as many different currencies as States; and thus the intercourse among them would be impeded; retrospective alterations in its value might be made, and thus the citizens of other States be injured, and animosities be kindled among the States themselves. The subjects of foreign powers might suffer from the same cause, and hence the Union be discredited and embroiled by the indiscretion of a single member. No one of these mischiefs is less incident to a power in the States to emit paper money than to coin gold or silver. The power to make any thing but gold and silver a tender in payment of debts, is withdrawn from the States, on the same principle with that of striking of paper currency.

Bills of attainder, *ex post facto* laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation. The two former are expressly prohibited by the declarations prefixed to some of the State Constitutions, and all of them are prohibited by the spirit and scope of these fundamental charters. Our own experience has taught us nevertheless, that additional fences against these dangers ought not to be omitted. Very properly therefore have the Convention added this constitutional bulwark in favor of personal security and private rights; and I am much deceived if they have not in so doing as faithfully consulted the genuine sentiments, as the undoubted interests of their constituents. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and with indignation, that sudden changes and legislative interferences in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators; and snares to the more industrious and less informed part of the community. They have seen too, that legislative interference, is but the first link of a long chain of repetitions; every subsequent interference being naturally produced by the effects of the preceding. They very rightly infer, therefore, that

some thorough reform is wanting which will banish speculations on public measures, inspire a general prudence and industry, and give a regular course to the business of society. The prohibition with respect to titles of nobility, is copied from the articles of confederation, and needs no comment.

2. "No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the neat produce of all duties and imposts laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and controul of the Congress. No State shall, without the consent of Congress, lay any duty on tonnage, keep troops or ships of war in time of peace; enter into any agreement or compact with another State, or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay."

The restraint on the power of the States over imports and exports is enforced by all the arguments which prove the necessity of submitting the regulation of trade to the fœderal councils. It is needless therefore to remark further on this head, than that the manner in which the restraint is qualified, seems well calculated at once to secure to the States a reasonable discretion in providing for the conveniency of their imports and exports; and to the United States a reasonable check against the abuse of this discretion. The remaining particulars of this clause, fall within reasonings which are either so obvious, or have been so fully developed, that they may be passed over without remark.

The sixth and last class consists of the several powers and provisions by which efficacy is given to all the rest.

I. "Of these the first is the power 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."

Few parts of the Constitution have been assailed with more intemperance than this; yet on a fair investigation of it,<sup>1</sup> no part can appear more compleatly invulnerable. Without the *substance* of this power, the whole Constitution would be a dead letter. Those who object to the article therefore as a part of the Constitution, can only mean that the *form* of the provision is improper. But have they considered whether a better form could have been substituted?

There are four other possible methods which the Convention might have taken on this subject. They might have copied the second article of the existing confederation which would have prohibited the exercise of any power not *expressly* delegated;<sup>2</sup> they might have attempted a positive enumeration of the powers comprehended under the general

terms "necessary and proper;" they might have attempted a negative enumeration of them, by specifying the powers excepted from the general definition: They might have been altogether silent on the subject; leaving these necessary and proper powers, to construction and inference.

Had the Convention taken the first method of adopting the second article of confederation; it is evident that the new Congress would be continually exposed as their predecessors have been, to the alternative of construing the term "*expressly*" with so much rigour as to disarm the government of all real authority whatever, or with so much latitude as to destroy altogether the force of the restriction. It would be easy to shew if it were necessary, that no important power, delegated by the articles of confederation, has been or can be executed by Congress, without recurring more or less to the doctrine of *construction* or *implication*. As the powers delegated under the new system are more extensive, the government which is to administer it would find itself still more distressed with the alternative of betraying the public interest by doing nothing; or of violating the Constitution by exercising powers, indispensably necessary and proper; but at the same time, not *expressly* granted.

Had the Convention attempted a positive enumeration of the powers necessary and proper for carrying their other powers into effect; the attempt would have involved a complete digest of laws on every subject to which the Constitution relates; accommodated too not only to the existing state of things, but to all the possible changes which futurity may produce: For in every new application of a general power, the *particular powers*, which are the means of attaining the *object* of the general power, must always necessarily vary with that object; and be often properly varied whilst the object remains the same.

Had they attempted to enumerate the particular powers or means, not necessary or proper for carrying the general powers into execution, the task would have been no less chimerical; and would have been liable to this further objection; that every defect in the enumeration, would have been equivalent to a positive grant of authority. If to avoid this consequence they had attempted a partial enumeration of the exceptions, and described the residue by the general terms, *not necessary or proper*: It must have happened that the enumeration would comprehend a few of the excepted powers only; that these would be such as would be least likely to be assumed or tolerated, because the enumeration would of course select such as would be least necessary or proper, and that the unnecessary and improper powers included in the residuum, would be less forceably excepted, than if no partial enumeration had been made.

Had the Constitution been silent on this head, there can be no doubt that all the particular powers, requisite as means of executing the

general powers, would have resulted to the government, by unavoidable implication. No axiom is more clearly established in law, or in reason, than that wherever the end is required, the means are authorised; wherever a general power to do a thing is given, every particular power necessary for doing it, is included. Had this last method therefore been pursued by the Convention, every objection now urged against their plan, would remain in all its plausibility; and the real inconveniency would be incurred, of not removing a pretext which may be seized on critical occasions for drawing into question the essential powers of the Union.

If it be asked, what is to be the consequence, in case the Congress shall misconstrue this part of the Constitution, and exercise powers not warranted by its true meaning? I answer the same as if they should misconstrue or enlarge any other power vested in them, as if the general power had been reduced to particulars, and any one of these were to be violated; the same in short, as if the State Legislatures should violate their respective constitutional authorities. In the first instance, the success of the usurpation will depend on the executive and judiciary departments, which are to expound and give effect to the legislative acts; and in the last resort, a remedy must be obtained from the people, who can by the election of more faithful representatives, annul the acts of the usurpers. The truth is, that this ultimate redress may be more confided on against unconstitutional acts of the fœderal than of the State Legislatures, for this plain reason, that as every such act of the former, will be an invasion of the rights of the latter, these will be ever ready to mark the innovation, to sound the alarm to the people, and to exert their local influence in effecting a change of fœderal representatives. There being no such intermediate body between the State Legislatures and the people, interested in watching the conduct of the former, violations of the State Constitutions are more likely to remain unnoticed and unredressed.

2. "This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the Judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding."

The indiscreet zeal of the adversaries to the Constitution, has betrayed them into an attack on this part of it also, without which it would have been evidently and radically defective. To be fully sensible of this we need only suppose for a moment, that the supremacy of the State Constitutions had been left compleat by a saving clause in their favor.

In the first place, as these Constitutions invest the State Legislatures with absolute sovereignty, in all cases not excepted by the existing



articles of confederation, all the authorities contained in the proposed Constitution, so far as they exceed those enumerated in the confederation, would have been annulled, and the new Congress would have been reduced to the same impotent condition with their predecessors.

In the next place, as the Constitutions of some of the States do not even expressly and fully recognize the existing powers of the confederacy, an express saving of the supremacy of the former, would in such States have brought into question, every power contained in the proposed Constitution.

In the third place, as the Constitutions of the States differ much from each other, it might happen that a treaty or national law of great and equal importance to the States, would interfere with some and not with other Constitutions, and would consequently be valid in some of the States at the same time that it would have no effect in others.

In fine, the world would have seen for the first time, a system of government founded on an inversion of the fundamental principles of all government; it would have seen the authority of the whole society every where subordinate to the authority of the parts; it would have seen a monster in which the head was under the direction of the members.

3. "The Senators and Representatives, and the members of the several State Legislatures; and all executive and judicial officers, both of the United States, and the several States shall be bound by oath or affirmation, to support this Constitution."

It has been asked, why it was thought necessary, that the State magistracy should be bound to support the Fœderal Constitution, and unnecessary, that a like oath should be imposed on the officers of the United States in favor of the State Constitutions?

Several reasons might be assigned for the distinction. I content myself with one which is obvious & conclusive. The members of the Fœderal Government will have no agency in carrying the State Constitutions into effect. The members and officers of the State Governments, on the contrary, will have an essential agency in giving effect to the Fœderal Constitution. The election of the President and Senate, will depend in all cases, on the Legislatures of the several States. And the election of the House of Representatives, will equally depend on the same authority in the first instance; and will probably, for ever be conducted by the officers and according to the laws of the States.

4. Among the provisions for giving efficacy to the fœderal powers, might be added, those which belong to the executive and judiciary departments: But as these are reserved for particular examination in another place,<sup>3</sup> I pass them over in this.

We have now reviewed in detail all the articles composing the sum or quantity of power delegated by the proposed Constitution to the Fœderal Government; and are brought to this undeniable conclusion, that no part of the power is unnecessary or improper for accomplishing the necessary objects of the Union. The question therefore, whether this amount of power shall be granted or not, resolves itself into another question, whether or not a government commensurate to the exigencies of the Union, shall be established; or in other words, whether the Union itself shall be preserved.

1. The words "as has been elsewhere shewn" were inserted here in the M'Lean edition. See *The Federalist* 33 (CC:405).

2. CDR, 86.

3. See *The Federalist* 65–85.

#### **477. Tench Coxe to John Barry Philadelphia, 26 January (excerpt)<sup>1</sup>**

. . . The federal government I presume interests you even at your present distance. It goes on well. The unanimity of Delaware and Jersey, the Majority of 2 to 1 here, & more than 3 to 1 in Connecticut do not quiet your friend Bryan, and our Western people. Such a set of men never lived before I do believe; I had no Idea of them. We are impatiently waiting the Event of the Convention at Boston. Mr. Madison writes me from New York, that the representatives of the insurgents give opposition & that those from the province of Maine aid them on the Occasion being fearful that they may not be permitted to separate.<sup>2</sup> I am however sanguine in hoping there will be 2 to 1. In Virginia the opposition is softening.<sup>3</sup> Here it is most violent, and I am satisfied War & Bloodshed is their wish—Notwithstanding all Opposition I hope the Asia will enter with an Officer of Congress on her return—

1. FC, Coxe Papers, Series II, Correspondence and General Papers, PHI. Captain John Barry (1745–1803), a native of Ireland, was a naval hero of the Revolution. On 29 September he led a mob that forcibly returned two Pennsylvania assemblymen to the legislature in order to attain a quorum that was needed to pass resolutions calling a state convention. Early in December a warrant was issued for Barry's arrest, but on 14 December he set out for the Far East in command of the *Asia*. The case against Barry was dropped in February 1788 (CC:125; RCS:Pa., 111n). The *Asia* returned to America in 1789.

2. On 20 January Madison had written: "The latest information from Boston makes it probable that every aid to the federal cause will be wanted there. The antifederal party have [found?] such reinforcements in the Insurgents [Shaysites], and the province of Maine which is afraid of creating obstacles to her separation, that there is the most serious reason to apprehend the friends of the Constitution will be outnumbered. The consequences of such an event elsewhere are as obvious as they are melancholy" (Rutland, *Madison*, XII, 480).

3. See CC:468.

**478. Publius: The Federalist 45**  
**New York Independent Journal, 26 January**

This essay, written by James Madison, was reprinted in the *New York Packet*, 29 January, and *New York Daily Advertiser*, 30 January. It is number 45 in the M'Lean edition and number 44 in the newspapers.

Madison sent numbers 45 and 46 (CC:483) to Tench Coxe on 30 January and told Coxe "that if any hints are contained in them," he could use them in his own writings (CC:485). Coxe replied on 6 February that the essays "are very valuable papers" (Rutland, *Madison*, X, 473). Coxe reiterated this sentiment in "A Pennsylvanian" III and said that *The Federalist* 45 and 46 supported his assertion that the central government, under the Constitution, "cannot possibly absorb the state governments" (*Pennsylvania Gazette*, 20 February, Mfm:Pa. 439).

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

The FÆDERALIST. No. XLIV.

To the People of the State of New-York.

Having shewn that no one of the powers transferred to the federal Government is unnecessary or improper, the next question to be considered is whether the whole mass of them will be dangerous to the portion of authority left in the several States.

The adversaries to the plan of the Convention instead of considering in the first place what degree of power was absolutely necessary for the purposes of the federal Government, have exhausted themselves in a secondary enquiry into the possible consequences of the proposed degree of power, to the Governments of the particular States. But if the Union, as has been shewn, be essential, to the security of the people of America against foreign danger; if it be essential to their security against contentions and wars among the different States; if it be essential to guard them against those violent and oppressive factions which embitter the blessings of liberty, and against those military establishments which must gradually poison its very fountain; if, in a word the Union be essential to the happiness of the people of America, is it not preposterous, to urge as an objection to a government without which the objects of the Union cannot be attained, that such a Government may derogate from the importance of the Governments of the individual States? Was then the American revolution effected, was the American confederacy formed, was the precious blood of thousands spilt, and the hard earned substance of millions lavished, not that the people of America should enjoy peace, liberty and safety; but that the Governments of the individual States, that particular municipal establishments, might enjoy a certain extent of power, and be arrayed with certain dignities and attributes of sovereignty? We have heard of the impious doctrine in the old world that the people were made for kings, not kings for the people. Is the same doctrine to be revived in the new, in another shape, that the solid happiness of the people is to be

sacrificed to the views of political institutions of a different form? It is too early for politicians to presume on our forgetting that the public good, the real welfare of the great body of the people is the supreme object to be pursued; and that no form of Government whatever, has any other value, than as it may be fitted for the attainment of this object. Were the plan of the Convention adverse to the public happiness, my voice would be, reject the plan. Were the Union itself inconsistent with the public happiness, it would be, abolish the Union. In like manner as far as the sovereignty of the States cannot be reconciled to the happiness of the people. The voice of every good citizen must be, let the former be sacrificed to the latter. How far the sacrifice is necessary, has been shewn. How far the unsacrificed residue will be endangered, is the question before us.

Several important considerations have been touched in the course of these papers, which discountenance the supposition that the operation of the federal Government will by degrees prove fatal to the State Governments. The more I revolve the subject the more fully I am persuaded that the balance is much more likely to be disturbed by the preponderancy of the last than of the first scale.

We have seen in all the examples of antient and modern confederacies, the strongest tendency continually betraying itself in the members to despoil the general Government of its authorities, with a very ineffectual capacity in the latter to defend itself against the encroachments. Although in most of these examples, the system has been so dissimilar from that under consideration, as greatly to weaken any inference concerning the latter from the fate of the former; yet as the States will retain under the proposed Constitution a very extensive portion of active sovereignty, the inference ought not to be wholly disregarded. In the Achæan league, it is probable that the federal head had a degree and species of power, which gave it a considerable likeness to the government framed by the Convention. The Lycian confederacy, as far as its principles and form are transmitted, must have borne a still greater analogy to it. Yet history does not inform us that either of them ever degenerated or tended to degenerate into one consolidated government. On the contrary, we know that the ruin of one of them proceeded from the incapacity of the federal authority to prevent the dissensions, and finally the disunion of the subordinate authorities. These cases are the more worthy of our attention, as the external causes by which the component parts were pressed together, were much more numerous and powerful than in our case; and consequently, less powerful ligaments within, would be sufficient to bind the members to the head, and to each other.

In the feudal system we have seen a similar propensity exemplified. Notwithstanding the want of proper sympathy in every instance between the local sovereigns and the people, and the sympathy in some

instances between the general sovereign and the latter; it usually happened that the local sovereigns prevailed in the rivalry for encroachments. Had no external dangers, enforced internal harmony and subordination; and particularly had the local sovereigns possessed the affections of the people, the great kingdoms in Europe, would at this time consist of as many independent princes as there were formerly feudatory barons.

The State Governments will have the advantage of the federal Government, whether we compare them in respect to the immediate dependence of the one or the other; to the weight of personal influence which each side will possess; to the powers respectively vested in them; to the predilection and probable support of the people; to the disposition and faculty of resisting and frustrating the measures of each other.

The State Governments may be regarded as constituent and essential parts of the federal Government; whilst the latter is nowise essential to the operation or organisation of the former. Without the intervention of the State Legislatures, the President of the United States cannot be elected at all. They must in all cases have a great share in his appointment, and will perhaps in most cases of themselves determine it. The Senate will be elected absolutely and exclusively by the State Legislatures. Even the House of Representatives, though drawn immediately from the people, will be chosen very much under the influence of that class of men, whose influence over the people obtains for themselves an election into the State Legislatures. Thus each of the principal branches of the federal Government will owe its existence more or less to the favor of the State Governments, and must consequently feel a dependence, which is much more likely to beget a disposition too obsequious, than too overbearing towards them. On the other side, the component parts of the State Governments will in no instance be indebted for their appointment to the direct agency of the federal government, and very little if at all, to the local influence of its members.

The number of individuals employed under the Constitution of the United States, will be much smaller, than the number employed under the particular States. There will consequently be less of personal influence on the side of the former, than of the latter. The members of the legislative, executive and judiciary departments of thirteen and more States; the justices of peace, officers of militia, ministerial officers of justice, with all the county corporation and town-officers, for three millions and more of people, intermixed and having particular acquaintance with every class and circle of people, must exceed beyond all proportion, both in number and influence, those of every description who will be employed in the administration of the federal system. Compare the members of the three great departments, of the

thirteen States, excluding from the judiciary department the justices of peace, with the members of the corresponding departments of the single Government of the Union; compare the militia officers of three millions of people, with the military and marine officers of any establishment which is within the compass of probability, or I may add, of possibility, and in this view alone, we may pronounce the advantage of the States to be decisive. If the federal Government is to have collectors of revenue, the State Governments will have theirs also. And as those of the former will be principally on the sea-coast, and not very numerous; whilst those of the latter will be spread over the face of the country, and will be very numerous, the advantage in this view also lies on the same side. It is true that the confederacy is to possess, and may exercise, the power of collecting internal as well as external taxes throughout the States: But it is probable that this power will not be resorted to, except for supplemental purposes of revenue; that an option will then be given to the States to supply their quotas by previous collections of their own; and that the eventual collection under the immediate authority of the Union, will generally be made by the officers, and according to the rules, appointed by the several States.<sup>1</sup> Indeed it is extremely probable that in other instances, particularly in the organisation of the judicial power, the officers of the States will be clothed with the correspondent authority of the Union. Should it happen however that separate collectors of internal revenue should be appointed under the federal Government, the influence of the whole number would not be a comparison with that of the multitude of State officers in the opposite scale. Within every district, to which a federal collector would be allotted, there would not be less than thirty or forty or even more officers of different descriptions and many of them persons of character and weight, whose influence would lie on the side of the State.

The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement, and prosperity of the State.

The operations of the Federal Government will be most extensive and important in times of war and danger; those of the State Governments, in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State Governments will here enjoy another advantage over the Federal Government. The more adequate indeed the federal powers may be rendered to the

national defence, the less frequent will be those scenes of danger which might favour their ascendancy over the governments of the particular States.

If the new Constitution be examined with accuracy and candour, it will be found that the change which it proposes, consists much less in the addition of *NEW POWERS* to the Union, than in the invigoration of its *ORIGINAL POWERS*. The regulation of commerce, it is true, is a new power; but that seems to be an addition which few oppose, and from which no apprehensions are entertained. The powers relating to war and peace, armies and fleets, treaties and finance, with the other more considerable powers, are all vested in the existing Congress by the articles of Confederation. The proposed change does not enlarge these powers; it only substitutes a more effectual mode of administering them. The change relating to taxation, may be regarded as the most important: And yet the present Congress have as compleat authority to *REQUIRE* of the States indefinite supplies of money for the common defence and general welfare, as the future Congress will have to require them of individual citizens; and the latter will be no more bound than the States themselves have been, to pay the quotas respectively taxed on them. Had the States complied punctually with the articles of confederation, or could their compliance have been enforced by as peaceable means as may be used with success towards single persons, our past experience is very far from countenancing an opinion that the State Governments would have lost their constitutional powers, and have gradually undergone an entire consolidation. To maintain that such an event would have ensued, would be to say at once, that the existence of the State Governments is incompatible with any system whatever that accomplishes the essential purposes of the Union.

1. Madison's position that the federal government would seldom levy internal taxes was stated by other Federalists. (See CC:292, note 2.) But Alexander Hamilton disagreed in *The Federalist* 30 (CC:391). Madison's reference to the state quota system for the collection of internal taxes by the federal government is an unusual Federalist position. It had been expressed previously by Roger Sherman and Oliver Ellsworth in their letter to the governor of Connecticut on 26 September 1787 (CC:192), and by Sherman as "A Citizen of New Haven" on 7 January 1788 (CC:421).

**479. Charles Tillinghast to Hugh Hughes**  
**New York, 27–28 January (excerpts)<sup>1</sup>**

Friday about twelve o'Clock the Boys arrived at my House, and handed me your favour, with the inclosures.<sup>2</sup> The Piece signed Countryman, you will find inserted in Greenleaf's paper,<sup>3</sup> and *part* of the Expositor<sup>4</sup> in Thursday's Paper—I consulted the General,<sup>5</sup> and he was of opinion with me, that the Expositor had better be inserted in

Thursday's than any other, as that Paper had a more *general Circulation in the Country*, than that of any other day in the Week<sup>6</sup>—This will, I trust, account satisfactorily, for the *division* of the Piece—he has seperated it at a part which excites the curiosity of People to see the Remainder, and they will of course read the residue with pleasure. Brutus,<sup>7</sup> you will find in the same paper—that piece, was *deposited* for Thursday's Paper, before the *Expositor* came to hand, otherwise the latter would have had the preference, and Brutus would have been in continuation. I am of Opinion with you, that it will be best to have the *political* pieces delivered, as they come to hand, to Greenleaf; for I put the *Interrogator*<sup>8</sup> into the hands of *Cato*, who gave it to *Brutus* to read, and between them, I have not been able to get it published, *Cato* having promised me from time to time that he would send it to Greenleaf—It shall be inserted, I am determind, in Tuesday's Paper—

You will observe in the Countryman, a small alteration viz—for *Baron*,<sup>9</sup> is inserted *a certain head*; which I did at the request of the *General*, who observed that as the Baron did not *interest* himself *openly* with respect to the Constitution, it would have too *personal* a nature, and it might involve Greenleaf in embarrassment; and that the words substituted, pointed to him, almost as clearly, as if his name had been mentioned—As I know you wish to indulge your friend, provided you can *be consistent*, I did not hesitate to comply with the General's request—I trust you will excuse me for the freedom I have taken—I should not have done it, from *my own suggestions of propriety*.

You will be surprised, I am confident, at the appointment of Hamilton to Congress<sup>10</sup>—but I can account for it in some measure—I attribute it to *Benson's*<sup>11</sup> Influence in *both Houses*—he is, as you no doubt are informed, a strong *new-government man*—I cannot but help thinking, that the REPUBLICAN staid here too long; for after he had delivered his *speech*, he immediately came to Town, and did not set off 'till Thursday last,<sup>12</sup> and it was on That day, or the Tuesday before, that the appointment took place—I am sure they took the *advantage* of his *absence*.—The appointment of *Phocion*<sup>13</sup> I am clear will not be pleasing to the *Republican*, but, I think, he may charge it to his own account; for if he had been at Poughkeepsie, at the time, he would have had sufficient influence to have prevented it.

The Papers will give you a better account of the state of *Politicks* than I can collect otherwise—

The federalists, as they are pleased to call themselves, have their *doubts* whether Massachusetts will adopt the new constitution proposed—they say, if that state does not, it will never take place—from which we may infer, that the prayers of the whole tribe of office seekers—would be *Officers &c &c*—are daily put up for the fulfillment of their Wishes—Mr. Gerry writes that he is clearly of opinion that their is a majority against it—But whether it proceeds from my not being of so



*sanguine* a disposition as some of *my Neighbours*, I must confess to *you*, I have *my fears*.—They are grounded on a variety of reasons, but the chief are, that most of the men of *abilities, learning, information* and INTRIGUE, (but not of honesty, with regard to the liberties of the People at large) in the Massachusetts Convention, are in favour of the new System; their sitting in Boston, is also not in favour of the People; for the more honest, tho' less informed, will be the more likely to be duped and cajoled by the designing ones, who will treat them with Dinners &c. &c. Another reason I can assign, which is a very strong one, with me, and that is, on examining the list of delegates, I find that there are *seventeen Clergymen; delegates from different Towns*; and altho' the precepts of that Religion, which they profess, and whose principles they endeavour to impress on their hearers, strongly recommend *humility* &c., yet there are no set of Men, *collectively* who have more pride, and who are possessed of more *arbitrary* principles—I have not taken up this opinion hastily; but from a particular attention I have paid to their Conversation, deportment &c, not only in this State, but those others in which I have travelled—And as the new Constitution does not exclude them from offices under it, and the Constitutions of the different states (this, and one or two more, excepted) permitting them to hold civil and other Offices, I have not a doubt but they will be found, at the close of this important Business, almost generally, the most zealous advocates for the adoption of the proposed government—I know you are fully sensible of the *influence* they commonly have on the minds of the more *ignorant*, tho not less *virtuous* part, of the community; and I make not a doubt, but they will use their utmost exertions as well in, as out of Convention, to make proselytes to the *new faith*.

In my last letter, I inclosed you the Copy of a short one I received from Colonel Pickering.—A few days ago I recd. the original, of which the inclosed is a Copy,<sup>14</sup> and as I knew, that you would be glad to see what he could say for himself, I prevailed on John to assist me in copying it—from the pains he has taken, and the complexion of the postscript, I believe he intended that I should publish it—but as his reasons does not convince me, I shall not do it. I wish my abilities were sufficient to enable me to enter into a full discussion of the subject—in that case, it is *probable*, the charge of *inconsistency*, at least, might be retorted on him—He shews, I think, more *Temper* in this last letter, than he ordinarily does—particularly in that part, where he says, that the Opposition in Massachusetts, consists only of *Paper-money men*, and *Shayites*—does he include in this Description *Mr. Gerry, Mr. S. Adams and Mr. Dane?* men, who have borne some of the most important Offices in that State, and have *all* been Delegates to Congress—But, the spirit of *party will, generally*, ever predominate. . . . I gave him [John Lamb] your letter to read, as it respected political matters. . . .

Monday Morning Jany. 28. 1788

P.S. The Boys set out in about an hour—From the account brought by the eastern Post it appears pretty evident that there is a decided majority against the new Constitution in the Massachusetts Convention—You will find in Greenleaf's of this day an extract of a letter from Boston—The Letter was received by Greenleaf, from one of his Correspondents.<sup>15</sup>

The extract from Edes's paper, serves to convince me that no means will be left unessayed to get a *majority*, however *small*, in favour of the government proposed.<sup>16</sup>

I had like to have forgot mentioning to you that I believe the Writer, who has attacked Noah Webster, to be Mr. Osgood,<sup>17</sup>—it is only my conjecture, as, from delicacy, I did not ask the General, the writer's name—it was handed to him by the Author, for his opinion, and if he approved of it, to send it for Publication. I shall send you the Magazine, as it is probable he may prove *vulnerable* in some other instances, than those which have been noticed.

I should have been more *circumspect* with regard to names; if this Letter went by any other Conveyance, but as it will be delivered into your *own hands*, I did not think it requisite to use more caution than I have done—

P.S. in continuation—

I cannot but consider the appointment of Hamilton as a very considerable point gained over the opponents to the new Constitution, as his election holds up an idea of the approbation of the Legislature respecting his late Conduct in *General Convention*, which, no doubt, will be made a handle of by the *federalists* and, I think, it also implies an *indirect* censure on Mr. Judge Yates & Mr Lansing.<sup>18</sup> I have not time to add further—Adieu—

1. RC, Hughes Papers, DLC.

2. A reference to John Lamb's sons who were being tutored by Hughes. Tillinghast was Lamb's son-in-law.

3. "A Countryman" V, written by Hughes, was printed in the *New York Journal* on 17 and 22 January. Hughes wrote six "Countryman" essays which were published in the *Journal* between 21 November 1787 and 14 February 1788.

4. "Expositor" I, written by Hughes, was printed in three installments in the *New York Journal* on 24, 31 January and 7 February. "Expositor" II was published in the *Journal* on 28 February.

5. John Lamb.

6. For the publication of Thomas Greenleaf's *New York Journal*, see CC:Vol. 1, xxxvii—xxxviii.

7. See "Brutus" X (CC:474).

8. Hughes's "Interrogator," an attack upon *The Federalist* 15, *New York Independent Journal*, 1 December (CC:312), was never published. A draft of the "Interrogator" is in the Hughes Papers in the Library of Congress.

9. A reference to Baron von Steuben. "A Countryman" V (22 January, see note 3 above) opposed a standing army in time of peace and "a select militia" which, he said,

was "a scheme that a certain head has, for some time, been teeming with, and is nothing else but an artful introduction" to a standing army. For von Steuben's plan for a permanent military establishment, see his pamphlet entitled *A Letter on the Subject of an Established Militia, and Military Arrangements, Addressed to the Inhabitants of the United States* (New York, [1784?]) (Evans 44601). Von Steuben admitted his militia was a standing army, but it was one "composed of your brothers and your sons" (page 16).

10. On 22 January Alexander Hamilton, Abraham Yates, Jr., Ezra L'Homme-dieu, Egbert Benson, and Leonard Gansevoort were elected delegates to Congress.

11. Egbert Benson (1746–1833), state attorney general from 1777 to 1789, represented Dutchess County in the New York Assembly. He was one of two New York delegates to the Annapolis Convention in 1786, was a delegate to Congress in 1784 and 1787–1788, and was elected to the U.S. House of Representatives in March 1789.

12. Governor George Clinton delivered his speech to the legislature in Poughkeepsie on 11 January and returned to New York City the next day. He went back to Poughkeepsie on 24 January—two days after the legislature elected delegates to Congress.

13. A pseudonym used by Alexander Hamilton. (See Syrett, III, 483–97, 530–58.)

14. On 24 November Tillinghast wrote Timothy Pickering, a Pennsylvania Federalist, enclosing an Antifederalist pamphlet by "Federal Farmer" (CC:242) and requesting Pickering's opinion on the Constitution. On 6 December Pickering responded with a short letter, saying that he would write at length when he had leisure. On 24 December Pickering began writing a lengthy letter that explained his attitude on the Constitution in the form of a criticism of the "Federal Farmer." (See CC:288 A–C for the exchange of letters.)

15. The *New York Journal*, 28 January, reads: "By private letters from Boston, on the 20th inst. we are assured, that 'the proceedings of the convention, and several speeches therein made, have been erroneously and partially represented.' That 'the resolve, so appointing a committee to request the honorable Elbridge Gerry, Esq. to take a seat in convention, for the purpose of answering to such questions as might be asked him, was carried by a majority of *two thirds*.'"

"Our information, by this letter, further states that 'the opponents of the constitution have made out their list, and say, they have 201, out of 320; the supporters say, they have a majority. On the whole, there is no ascertaining facts. Many are for adjourning several months, &c. &c.'" By 13 February this item was reprinted five times: N.J. (1), Pa. (2), Md. (2).

16. On 28 January the *New York Journal* reprinted the following item, signed "Centinel," under the dateline "From last Monday's (Edes's) Boston Gazette": "*Bribery and Corruption! ! !* The most diabolical plan is on foot to corrupt the members of the convention, who oppose the adoption of the new constitution.—Large sums of money have been brought from a neighbouring state for that purpose, contributed by the wealthy; if so, is it not probable there may be collections for the same accursed purpose nearer home?"

17. Probably Samuel Osgood of Massachusetts, an Antifederalist and a member of the Confederation Board of Treasury. Noah Webster and his *New York American Magazine* were attacked in a lengthy article printed in the *New York Journal* on 23 January. In particular, the article criticized "Giles Hickory," an essay written by Webster and printed in the first issue (December 1787) of the *American Magazine*. "Giles Hickory" denied the need for a bill of rights.

18. Robert Yates and John Lansing, Jr., served with Hamilton in the Constitutional Convention. For their letter explaining why they opposed the Constitution, see CC:447.

**480. John Brown to James Breckinridge  
New York, 28 January (excerpt)<sup>1</sup>**

... We have at length formed a Congress but as only Seven States are yet fully represented no Business of Consequence has been taken up. I shall bring forward the Kentucky Address at as early a Period as possible, from the soundings which I have been able to make, have sanguine hopes of Success;<sup>2</sup> but with me it is an object of such consequence that I shall not be free from Anxiety until it is finally determined. I think little is to be feared from the Project for ceeding the Navigation of the Mississipi to Spain almost a total change of Sentiment upon that Subject has taken place, the Opposition has acquired great Strength from the Sales of Western Territory; many Inhabitants of the Eastern States of great Influence & powerfull Connections have become Adventurers in that Country & are now engaged in forming Settlements at Muskingum Miamia &c.—The fate of the New Constitution becomes every day more precarious—Connecticut & the Three States South of this have adopted it. in this it will meet with Opposition the Convention of Massachusetts is now sitting but the event of their deliberations is extremely doubtful—such warmth has already prevailed as had well nigh ended in total confusion—both parties are equally confident of Success—should it be rejected in that state I fear the consequences will be fatal to the Plan. The hope of its succeeding is the only Prop which at present supports the Federal Government—If it was finally rejected I fear we should immediately experience the dire effects of Anarchy—& the total dissolution of our Confederacy—But we will not yet despair there is still room to hope. . . .

1. RC, Breckinridge Family Papers, ViU. Brown (1757–1837) attended Princeton College and William and Mary College, and read law with Thomas Jefferson. He moved to Kentucky in 1783, establishing himself eventually in Frankfort. He sat in the Virginia Senate, 1784–88; the Confederation Congress, 1787–88; and the U.S. House of Representatives, 1789–92. In 1792 Brown was elected to the U.S. Senate from the new state of Kentucky. James Breckinridge (1763–1833), Brown's cousin, lived alternately in Botetourt County and in Williamsburg.

2. On 29 February the Virginia delegates in Congress submitted an address from "the people of Kentucky in convention" and moved that Congress approve the "Compact" between Virginia and Kentucky for making the District of Kentucky a separate state. The address and motion were submitted to a committee of the whole house. On 2 June the committee recommended that Kentucky be made a separate state, and the next day a grand committee of one delegate from each state was appointed to report an act granting statehood to Kentucky. On 2 July the grand committee asked to be discharged. John Brown then made a motion, seconded by fellow Virginia delegate Edward Carrington, that Congress ratify and confirm the compact between Virginia and the District of Kentucky. The next day the motion was postponed and another motion was adopted to defer the question of Kentucky statehood to the new Congress under the Constitution (JCC, XXXIV, 72–73, 194, 198, 287, 287–94).

481. State Gazette of South Carolina, 28 January<sup>1</sup>

On the New Constitution.

In evil hour his pen 'squire Adams<sup>2</sup> drew  
 Claiming dominion to his well born few:  
 In the gay circle of St. James's plac'd  
 He wrote, and, writing, has his work disgrac'd.  
 Smit with the splendor of a British King  
 The crown prevail'd, so once despis'd a thing!  
 Shelburne and Pitt approv'd of all he wrote,  
 While Rush and Wilson echo back his note.

Tho' British armies could not here prevail  
 Yet British politics shall turn the scale;—  
 In five short years of Freedom weary grown  
 We quit our plain republics for a throne;  
*Congress* and *President* full proof shall bring,  
 A mere disguise for Parliament and King.

A standing army!—curse the plan so base;  
 A despot's safety—Liberty's disgrace.—  
 Who sav'd these realms from Britain's bloody hand,  
 Who, but the generous rustics of the land;  
 That free-born race, inur'd to every toil,  
 Who tame the ocean and subdue the soil,  
 Who tyrants banish'd from this injur'd shore  
 Domestic traitors may expel once more.

Ye, who have bled in Freedom's sacred cause,  
 Ah, why desert her maxims and her laws?  
 When *thirteen* states are moulded into *one*  
 Your rights are vanish'd and your honors gone;  
 The form of Freedom shall alone remain,  
 As Rome had Senators when she hugg'd the chain.

Sent to revise your systems—not to change—  
 Sages have done what Reason deems most strange:  
 Some alterations in our fabric we  
 Calmly propos'd, and hop'd at length to see—  
 Ah, how deceived!—these heroes in renown  
 Scheme for themselves—and pull the fabric down—  
 Bid in its place Columbia's tomb-stone rise  
 Inscrib'd with these sad words—*Here Freedom lies!*

1. Reprinted: *New York Journal*, 14 February; *Boston American Herald*, 3 March; *Philadelphia Independent Gazetteer*, 10 March; *Philadelphia Freeman's Journal*, 12

March; New Jersey *Brunswick Gazette*, 18 March; Winchester *Virginia Gazette*, 30 April.

2. For John Adams and the *Defence of the Constitutions*, see CC:16.

**482. David Ramsay to Benjamin Lincoln  
Charleston, 29 January<sup>1</sup>**

I had the pleasure of receiving your letter by mr. Crocker. I shall be happy in rendering that young gentle man every civility in my power.

Our Assembly is now sitting & have unanimously agreed to hold a convention. By common consent the merits of the foederal constitution were freely discussed on that occasion for the sake of enlightening our citizens. Mr Lownds<sup>2</sup> was the only man who made direct formal opposition to it. His objections were local & proceeded from an illiberal jealousy of New: England men. He urged that you would raise freights on us & in short that you were too cunning for our honest people. That your end of the continent would rule the other. That the sun of our glory would set when the new constitution operated. He has not one foederal idea in his head nor one that looks beyond Pedee.<sup>3</sup> He is said to be honest & free of debt but he was an enemy to Independence & though our President in 1778 he was a British subject in 1780. His taking protection was rather the passive act of an old man than otherwise. He never aided nor abetted the British government directly but his example was mischievous. His opposition has poisoned the minds of some. I fear the numerous class of debtors more than any other. On the whole I have no doubt that it will be accepted by a very great majority of this State. The sentiments of our leading men are of late much more foederal than formerly. This honest sentiment was avowed by the first characters. "New England has lost & we have gained by the war her suffering citizens ought to be our carriers though a dearer freight should be the consequence." Your delegates never did a more political thing than in standing by those of South Carolina about negroes. Virginia deserted them & was for an immediate stoppage of further importation. The dominion has lost much popularity by the conduct of her delegates on this head.<sup>4</sup> The language now is "the Eastern states can soonest help us in case of invasion & it is more our interest to encourage them & their shipping than to join with or look up to Virginia". In short sir a revolution highly favorable to union has taken place. Foederalism & liberality of sentiment has gained great ground. Mr Lownds still thinks you are a set of sharpers—does not wonder that you are for the new constitution as in his opinion you will have all the advantage. You begrudge us our negroes in his opinion. But he is almost alone. I have now nearly completed a general history of the late revolution & mean to publish it soon. I also have it in idea to visit Boston previously to its publication that I may trace the rise of the opposition. I wish to converse with some of your leading characters

about 1767. I shall thank every body who will furnish me with any documents that may be of service.

1. RC, Lincoln Papers, MHi. Ramsay and Lincoln had become acquainted when the latter served in Charleston as commander of the Continental Army in the Southern Department from 1778 to 1780.

2. Rawlins Lowndes (1721–1800), a lawyer, served frequently in the colonial and state assembly from 1749 to 1778 and was president of the state from March 1778 to January 1779. From 1787 to 1790, he represented the Charleston parishes of St. Philip and St. Michael in the state House of Representatives, and he was elected intendant (i.e., mayor) of Charleston in October 1788. For his speeches against the Constitution in the House, see Evans 21470. He concluded his last speech by declaring that “he wished for no other epitaph than to have inscribed on his tomb, here lies the man that opposed the constitution, because it was ruinous to the liberty of America.”

3. The Peedee River.

4. On 25 August the Constitutional Convention voted seven states to four to approve the provision that “The migration or importation of such persons as the several States now existing shall think proper to admit, shall not be prohibited by the Legislature prior to the year 1808.” Massachusetts voted with the majority; Virginia with the minority (Farrand, II, 416).

### **483. Publius: The Federalist 46 New York Packet, 29 January**

This essay, written by James Madison, was reprinted in the New York *Independent Journal* on 30 January and the New York *Daily Advertiser* on 31 January. (For more on its circulation and for a commentary upon it, see CC:478.) This essay was number 46 in the M'Lean edition and number 45 in the newspapers.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201.

#### The FœDERALIST, No. 45.

##### *To the People of the State of New-York.*

Resuming the subject of the last paper, I proceed to enquire whether the Fœderal Government or the State Governments will have the advantage with regard to the predilection and support of the people. Notwithstanding the different modes in which they are appointed, we must consider both of them, as substantially dependent on the great body of the citizens of the United States. I assume this position here as it respects the first, reserving the proofs for another place. The Fœderal and State Governments are in fact but different agents and trustees of the people, constituted with different powers, and designated for different purposes. The adversaries of the Constitution seem to have lost sight of the people altogether in their reasonings on this subject; and to have viewed these different establishments, not only as mutual rivals and enemies, but as uncontroled by any common superior in their efforts to usurp the authorities of each other. These gentlemen must here be reminded of their error. They must be told that the ultimate authority, wherever the derivative may be found,

resides in the people alone; and that it will not depend merely on the comparative ambition or address of the different governments, whether either, or which of them, will be able to enlarge its sphere of jurisdiction at the expence of the other. Truth no less than decency requires, that the event in every case, should be supposed to depend on the sentiments and sanction of their common constituents.

Many considerations, besides those suggested on a former occasion,<sup>1</sup> seem to place it beyond doubt, that the first and most natural attachment of the people will be to the governments of their respective States. Into the administration of these, a greater number of individuals will expect to rise. From the gift of these, a greater number of offices and emoluments will flow. By the superintending care of these, all the more domestic, and personal interests of the people will be regulated and provided for. With the affairs of these, the people will be more familiarly and minutely conversant. And with the members of these, will a greater proportion of the people have the ties of personal acquaintance and friendship, and of family and party attachments; on the side of these therefore the popular bias, may well be expected most strongly to incline.

Experience speaks the same language in this case. The fœderal administration, though hitherto very defective, in comparison with what may be hoped under a better system, had during the war, and particularly, whilst the independent fund of paper emissions was in credit, an activity and importance as great as it can well have, in any future circumstances whatever. It was engaged too in a course of measures, which had for their object, the protection of every thing that was dear, and the acquisition of every thing that could be desirable to the people at large. It was nevertheless, invariably found, after the transient enthusiasm for the early Congresses was over, that the attention and attachment of the people were turned anew to their own particular governments; that the Fœderal Council, was at no time the idol of popular favor; and that opposition to proposed enlargements of its powers and importance, was the side usually taken by the men who wished to build their political consequence on the prepossessions of their fellow citizens.

If therefore, as has been elsewhere remarked,<sup>2</sup> the people should in future become more partial to the fœderal than to the State governments, the change can only result, from such manifest and irresistible proofs of a better administration, as will overcome all their antecedent propensities. And in that case, the people ought not surely to be precluded from giving most of their confidence where they may discover it to be most due: But even in that case, the State governments could have little to apprehend, because it is only within a certain sphere, that the fœderal power can, in the nature of things, be advantageously administered.



The remaining points on which I propose to compare the fœderal and State governments, are the disposition, and the faculty they may respectively possess, to resist and frustrate the measures of each other.

It has been already proved, that the members of the fœderal will be more dependent on the members of the State governments, than the latter will be on the former.<sup>3</sup> It has appeared also, that the prepossessions of the people on whom both will depend, will be more on the side of the State governments, than of the Fœderal Government.<sup>4</sup> So far as the disposition of each, towards the other, may be influenced by these causes, the State governments must clearly have the advantage. But in a distinct and very important point of view, the advantage will lie on the same side. The prepossessions which the members themselves will carry into the Fœderal Government, will generally be favorable to the States; whilst it will rarely happen, that the members of the State governments will carry into the public councils, a bias in favor of the general government. A local spirit will infallibly prevail much more in the members of the Congress, than a national spirit will prevail in the Legislatures of the particular States. Every one knows that a great proportion of the errors committed by the State Legislatures proceeds from the disposition of the members to sacrifice the comprehensive and permanent interest of the State, to the particular and separate views of the counties or districts in which they reside. And if they do not sufficiently enlarge their policy to embrace the collective welfare of their particular State, how can it be imagined, that they will make the aggregate prosperity of the Union, and the dignity and respectability of its government, the objects of their affections and consultations? For the same reason, that the members of the State Legislatures, will be unlikely to attach themselves sufficiently to national objects, the members of the Fœderal Legislature will be likely to attach themselves too much to local objects. The States will be to the latter, what counties and towns are to the former. Measures will too often be decided according to their probable effect, not on the national prosperity and happiness, but on the prejudices, interests and pursuits of the governments and people of the individual States. What is the spirit that has in general characterized the proceedings of Congress? A perusal of their journals as well as the candid acknowledgments of such as have had a seat in that assembly, will inform us, that the members have but too frequently displayed the character, rather of partizans of their respective States, than of impartial guardians of a common interest; that whereon one occasion improper sacrifices have been made of local considerations to the aggrandizement of the Fœderal Government; the great interests of the nation have suffered on an hundred, from an undue attention to the local prejudices, interests and views of the particular States. I mean not by these reflections to insinuate, that the new Fœderal Government will

not embrace a more enlarged plan of policy than the existing government may have pursued, much less that its views will be as confined as those of the State Legislatures; but only that it will partake sufficiently of the spirit of both, to be disinclined to invade the rights of the individual States, or the prerogatives of their governments. The motives on the part of the State governments, to augment their prerogatives by defalcations from the Fœderal Government, will be overruled by no reciprocal predispositions in the members.

Were it admitted however that the Fœderal Government may feel an equal disposition with the State governments to extend its power beyond the due limits, the latter would still have the advantage in the means of defeating such encroachments. If an act of a particular State, though unfriendly to the national government, be generally popular in that State, and should not too grossly violate the oaths of the State officers, it is executed immediately and of course, by means on the spot, and depending on the State alone. The opposition of the Fœderal Government, or the interposition of Fœderal officers, would but inflame the zeal of all parties on the side of the State, and the evil could not be prevented or repaired, if at all, without the employment of means which must always be resorted to with reluctance and difficulty. On the other hand, should an unwarrantable measure of the Fœderal Government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people, their repugnance and perhaps refusal to co-operate with the officers of the Union, the frowns of the executive magistracy of the State, the embarrassments created by legislative devices, which would often be added on such occasions, would oppose in any State difficulties not to be despised; would form in a large State very serious impediments, and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the Fœderal Government would hardly be willing to encounter.

But ambitious encroachments of the Fœderal Government, on the authority of the State governments, would not excite the opposition of a single State or of a few States only. They would be signals of general alarm. Every Government would espouse the common cause. A correspondence would be opened. Plans of resistance would be concerted. One spirit would animate and conduct the whole. The same combination in short would result from an apprehension of the federal, as was produced by the dread of a foreign yoke; and unless the projected innovations should be voluntarily renounced, the same appeal to a trial of force would be made in the one case, as was made in the other. But what degree of madness could ever drive the Fœderal Government to such an extremity? In the contest with Great Britain,

one part of the empire was employed against the other. The more numerous part invaded the rights of the less numerous part. The attempt was unjust and unwise; but it was not in speculation absolutely chimerical. But what would be the contest in the case we are supposing? Who would be the parties? A few representatives of the people, would be opposed to the people themselves; or rather one set of representatives would be contending against thirteen sets of representatives, with the whole body of their common constituents on the side of the latter.

The only refuge left for those who prophecy the downfall of the State Governments, is the visionary supposition that the Fœderal Government may previously accumulate a military force for the projects of ambition. The reasonings contained in these papers must have been employed to little purpose indeed, if it could be necessary now to disprove the reality of this danger. That the people and the States should for a sufficient period of time elect an uninterrupted succession of men ready to betray both; that the traitors should throughout this period, uniformly and systematically pursue some fixed plan for the extension of the military establishment; that the governments and the people of the States should silently and patiently behold the gathering storm, and continue to supply the materials, until it should be prepared to burst on their own heads, must appear to every one more like the incoherent dreams of a delirious jealousy, or the misjudged exaggerations of a counterfeit zeal, than like the sober apprehensions of genuine patriotism. Extravagant as the supposition is, let it however be made. Let a regular army, fully equal to the resources of the country be formed; and let it be entirely at the devotion of the Fœderal Government; still it would not be going too far to say, that the State Governments with the people on their side would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield in the United States an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the late successful resistance of this country against the British arms will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the Americans possess over the people of almost every other nation, the existence of subordinate governments to which

the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprizes of ambition, more insurmountable than any which a simple government of any form can admit of. Notwithstanding the military establishments in the several kingdoms of Europe, which are carried as far as the public resources will bear, the governments are afraid to trust the people with arms. And it is not certain that with this aid alone, they would not be able to shake off their yokes. But were the people to possess the additional advantages of local governments chosen by themselves, who could collect the national will, and direct the national force; and of officers appointed out of the militia, by these governments and attached both to them and to the militia, it may be affirmed with the greatest assurance, that the throne of every tyranny in Europe would be speedily overturned, in spite of the legions which surround it. Let us not insult the free and gallant citizens of America with the suspicion that they would be less able to defend the rights of which they would be in actual possession, than the debased subjects of arbitrary power would be to rescue theirs from the hands of their oppressors. Let us rather no longer insult them with the supposition, that they can ever reduce themselves to the necessity of making the experiment, by a blind and tame submission to the long train of insidious measures, which must precede and produce it.

The argument under the present head may be put into a very concise form, which appears altogether conclusive. Either the mode in which the Fœderal Government is to be constructed will render it sufficiently dependant on the people, or it will not. On the first supposition, it will be restrained by that dependence from forming schemes obnoxious to their constituents. On the other supposition it will not possess the confidence of the people, and its schemes of usurpation will be easily defeated by the State Governments; who will be supported by the people.

On summing up the considerations stated in this and the last paper,<sup>5</sup> they seem to amount to the most convincing evidence, that the powers proposed to be lodged in the Fœderal Government, are as little formidable to those reserved to the individual States, as they are indispensibly necessary to accomplish the purposes of the Union; and that all those alarms which have been sounded, of a meditated or consequential annihilation of the State Governments, must, on the most favorable interpretation, be ascribed to the chimerical fears of the authors of them.

1. *The Federalist* 17, New York *Independent Journal*, 5 December (CC:321).

2. *The Federalist* 27 (CC:378).

3. *The Federalist* 17 (CC:321).

4. *Ibid.*

5. *The Federalist* 45 (CC:478).

**484. Luther Martin: Genuine Information IX**  
**Baltimore Maryland Gazette, 29 January<sup>1</sup>**

*Mr. MARTIN'S Information to the House of Assembly, continued.*

The *second article*, relates to the executive—his mode of election—his powers—and the length of time he should continue in office.

On these subjects, there was a great diversity of sentiment—Many of the members were desirous that the president should be elected for seven years, and not to be eligible a second time—others proposed that he should not be absolutely ineligible, but that he should not be capable of being chosen a second time, until the expiration of a certain number of years—The supporter of the above propositions, went upon the idea that the best security for liberty was a limited duration and a rotation of office in the chief executive department.

There was a party who attempted to have the president appointed during good behaviour, without any limitation as to time, and not being able to succeed in that attempt, they then endeavoured to have him re-eligible without any restraint.—It was objected that the choice of a president to continue in office during good behaviour, would be at once rendering our system an elective monarchy—and, that if the president was to be re-eligible without any interval of disqualification, it would amount nearly to the same thing, since with the powers that the president is to enjoy, and the interest and influence with which they will be attended, he will be almost absolutely certain of being re-elected from time to time, as long as he lives—As the propositions were reported by the committee of the whole house, the president was to be chosen for seven years, and not to be eligible at any time after—In the same manner the proposition was agreed to in convention, and so was it reported by the committee of detail, although a variety of attempts were made to alter that part of the system by those who were of a contrary opinion, in which they repeatedly failed; but, Sir, by never losing sight of their object, and choosing a proper time for their purpose, they succeeded at length in obtaining the alteration, which was not made until within the last twelve days before the convention adjourned.<sup>2</sup>

As the propositions were agreed to by the committee of the whole house, the president was to be appointed by the national legislature, and as it was reported by the committee of detail, the choice was to be made by ballot in such a manner, that the States should have an equal voice in the appointment of this officer, as they, of right, ought to have; but those who wished as far as possible to establish a *national* instead of a *federal* government, made repeated attempts to have the president chosen by the people at large; on this the sense of the convention was taken, I think not less than three times while I was there, and as often rejected;<sup>3</sup> but within the last fortnight of their session, they obtained

the alteration in the manner it now stands, by which the large States have a very undue influence in the appointment of the president.—There is no case where the States will have an equal voice in the appointment of the president, except where two persons shall have each an equal number of votes, and those a majority of the whole number of electors, a case very unlikely to happen, or where no person has a majority of the votes; in these instances the house of representatives are to choose by ballot, each State having an equal voice, but they are confined in the last instance to the five who have the greatest number of votes, which gives the largest States a very unequal chance of having the president chose under their nomination.

As to the vice-president, that great officer of government, who is in case of death, resignation, removal or inability of the president, to supply his place, and be vested with his powers, and who is officially to be the president of the senate, there is no provision by which a majority of the voices of the electors are necessary for his appointment, but after it is decided who is chosen president, that person who has the next greatest number of votes of the electors, is declared to be legally elected to the vice-presidency, so that by this system it is very possible, and not improbable, that he may be appointed by the electors of a *single large State*; and a very undue influence in the senate is given to that State of which the vice-president is a citizen, since in every question where the senate is divided that State will have two votes, the president having on those occasions a casting voice.—Every part of the system which relates to the vice-president, as well as the present mode of electing the president, was introduced and agreed upon after I left Philadelphia.

Objections were made to that part of this article, by which the president is appointed commander in chief of the army and navy of the United States, and of the militia of the several States, and it was wished to be so far restrained, that he should not command in person; but this could not be obtained.<sup>4</sup>—The power given to the president of granting reprieves and pardons, was also thought extremely dangerous, and as such opposed—The president thereby has the power of pardoning those who are guilty of treason, as well as of other offences; it was said that no treason was so likely to take place as that in which the president himself might be engaged—the attempt to assume to himself powers not given by the constitution, and establish himself in regal authority—in which attempt a provision is made for him to secure from punishment the creatures of his ambition, the associates and abettors of his treasonable practices, by granting them pardons should they be defeated in their attempts to subvert the constitution.

To that part of this article also, which gives the president a right to *nominate*, and with the consent of the senate to appoint all the officers, civil and military, of the United States, there were considerable

opposition—it was said that the person who *nominates*, will always in reality *appoint*, and that this was giving the president a power and influence which together with the other powers, bestowed upon him, would place him above all restraint and controul. In fine, it was urged, that the president as here constituted, was a king in every thing but the name—that though he was to be chosen but for a limited time, yet at the expiration of that time if he is not re-elected, it will depend entirely upon his own moderation whether he will resign that authority with which he has once been invested—that from his having the appointment of all the variety of officers in every part of the civil department for the union, who will be very numerous—in them and their connexions, relations, friends and dependants, he will have a formidable host devoted to his interest, and ready to support his ambitious views.—That the army and navy, which may be increased without restraint as to numbers, the officers of which from the highest to the lowest, are all to be appointed by him and dependant on his will and pleasure, and commanded by him in person, will, of course, be subservient to his wishes, and ready to execute his commands; in addition to which, the militia also are entirely subjected to his orders—That these circumstances, combined together, will enable him, when he pleases, to become a king in *name*, as well as in substance, and establish himself in office not only for his own life, but even if he chooses, to have that authority perpetuated to his family.

It was further observed, that the only appearance of responsibility in the president, which the system holds up to our view, is the provision for impeachment; but that when we reflect that he cannot be impeached but by the house of delegates, and that the members of this house are rendered dependant upon, and unduly under the influence of the president, by being appointable to offices of which he has the sole nomination, so that without his favour and approbation, they cannot obtain them, there is little reason to believe that a majority will ever concur in impeaching the president, let his conduct be ever so reprehensible, especially too, as the final event of that impeachment will depend upon a different body, and the members of the house of delegates will be certain, should the decision be ultimately in favour of the president, to become thereby the objects of his displeasure, and to bar to themselves every avenue to the emoluments of government.

Should he, contrary to probability, be impeached, he is afterwards to be tried and adjudged by the senate, and without the concurrence of two-thirds of the members who shall be present, he cannot be convicted—This senate being constituted a privy council to the president, it is probable many of its leading and influential members may have advised or concurred in the very measures for which he may

be impeached; the members of the senate also are by the system, placed as unduly under the influence of, and dependent upon the president, as the members of the other branch, since they also are appointable to offices, and cannot obtain them but through the favour of the president—There will be great, important and valuable offices under this government, should it take place, more than sufficient to enable him to hold out the expectation of one of them to *each* of the senators—Under these circumstances, will any person conceive it to be difficult for the president always to secure to himself more than one-third of that body? Or, can it reasonably be believed, that a criminal will be convicted who is constitutionally empowered to bribe his judges, at the head of whom is to preside on those occasions the chief justice, which officer in his original appointment, must be *nominated* by the president, and will therefore, probably, be appointed not so much for his eminence in legal knowledge and for his integrity, as from favouritism and influence, since the president knowing that in case of impeachment the chief justice is to preside at his trial, will naturally wish to fill that office with a person of whose voice and influence he shall consider himself secure.—These are reasons to induce a belief that there will be but little probability of the president ever being either impeached or convicted; but it was also urged, that vested with the powers which the system gives him and with the influence attendant upon those powers, to him it would be but of little consequence whether he was impeached or convicted, since he will be able to set both at defiance.—These considerations occasioned a part of the convention to give a negative to this part of the system establishing the executive as it is now offered for our acceptance.

(*To be continued.*)

1. Reprinted: *Pennsylvania Packet*, 8 February; *Philadelphia Independent Gazetteer*, 13 February; *New York Journal*, 14, 15, 17 March; *Boston American Herald*, 10 April (excerpt); *State Gazette of South Carolina*, 19, 22 May (excerpt). On 25 January the editor of the *Baltimore Maryland Gazette* announced that “The continuation of Mr. Martin’s Information, is unavoidably postponed till next week.” For a general discussion of the *Genuine Information*, see CC:389.

2. On 31 August a committee of eleven, one delegate from each state present, was appointed to consider those parts of the Constitution or parts of reports that had been postponed. On 4 September, the day Luther Martin left the Convention, the committee proposed a four-year term for the President with no restriction on reelection. This proposal was debated, amended, and adopted between 4 and 6 September (Farrand, II, 481, 497–502, 511–29).

3. The election of the President by the people was first considered on 1 June. It was later rejected on 17 July and 24 August (Farrand, I, 68, 69; II, 32, 402).

4. The New Jersey Amendments to the Articles of Confederation, proposed on 15 June, provided that the federal executive, as commander in chief, should not “on any occasion take command of any troops, so as personally to conduct any enterprise as General, or in other capacity” (Farrand, I, 244).



**485. James Madison to Tench Coxe**  
**New York, 30 January<sup>1</sup>**

I have been favored with two letters from you, one containing 2 copies of the freeman, the other a pamphlet & letter for Mr. King.<sup>2</sup> The latter will be forwarded this evening, as will also the former which did not arrive in time for the preceding mail. What goes by name of consolidation in Pena. is I suspect at the bottom of the opposition to the new Govt. almost every where; and I am glad to find you engaged in developing the subject. I inclose some papers in which it has been taken up here, that if any hints are contained in them, they may be pursued in your enquiry.<sup>3</sup>

There is certainly a favorable change taking place in Virga. on the subject of the Constitution. Several converts of influence have been named to me.<sup>4</sup> I had heard also that Col. R. H. Lee was relaxing in his opposition, if not in his opinions. The authority from which I have it is ~~so good~~ such as almost to overcome the improbability of the thing.<sup>5</sup>

Our anxiety for the event in Masts. was not relieved by the last mail. No decisive index had appeared of the relative force of parties. Some letters are flattering, others discouraging, and others again totally skeptical.<sup>6</sup> My hopes & apprehensions are pretty nearly balanced by the sum of the probabilities of each side, tho' with rather a preponderancy on the favorable side.

1. RC, Madison Papers, DLC.

2. On 23 January Coxe sent Madison two copies of his essay, "A Freeman" I (CC:468, 472). Four days later he again wrote to Madison enclosing a letter for Rufus King, a delegate to the Massachusetts Convention, and a portion of the printed debates of the Pennsylvania Convention (Rutland, *Madison*, X, 435). These debates were not published until 7 February (CC:511).

3. According to Coxe's response of 6 February, Madison's enclosures were *The Federalist* 45 and 46 (newspaper numbers 44 and 45, CC:478, 483) (Rutland, *Madison*, X, 473).

4. On 14 January Archibald Stuart, in Richmond, wrote Madison that "The anti-constitutional Fever which raged here some time ago begins to abate & I am not without hopes that many patients will be restored to their senses. Mr. [John] Page of Rosewell has become a Convert. Genl. [Thomas] Nelson begins to view the Govt with a More favorable eye & I am told St. G: Tucker has confessed his sins" (Rutland, *Madison*, X, 374).

5. See CC:468, note 6.

6. See Rufus King to Madison, 16, 20, 23 January (Rutland, *Madison*, X, 376, 400-1, 411). For Madison's analysis of King's description of the prospects of ratification in the Massachusetts Convention, see Madison to Washington, 1 February (CC:491).

**486. Publius: The Federalist 47**  
**New York Independent Journal, 30 January**

This essay, written by James Madison, was reprinted in the *New York Packet* on 1 February and the *New York Daily Advertiser* on 1-2 February. It was number 47 in the M'Lean edition and number 46 in the newspapers.

For the authorship, circulation, and impact of *The Federalist*, see CC:201.

## The FEDERALIST. No. XLVI.

To the People of the State of New-York.

Having reviewed the general form of the proposed government, and the general mass of power allotted to it: I proceed to examine the particular structure of this government, and the distribution of this mass of power among its constituent parts.

One of the principal objections inculcated by the more respectable adversaries to the constitution, is its supposed violation of the political maxim, that the legislative, executive and judiciary departments ought to be separate and distinct. In the structure of the federal government, no regard, it is said, seems to have been paid to this essential precaution in favor of liberty. The several departments of power are distributed and blended in such a manner, as at once to destroy all symmetry and beauty of form; and to expose some of the essential parts of the edifice to the danger of being crushed by the disproportionate weight of other parts.

No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty, than that on which the objection is founded. The accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of tyranny. Were the federal constitution therefore really chargeable with this accumulation of power or with a mixture of powers having a dangerous tendency to such an accumulation, no further arguments would be necessary to inspire a universal reprobation of the system. I persuade myself however, that it will be made apparent to every one, that the charge cannot be supported, and that the maxim on which it relies, has been totally misconceived and misapplied. In order to form correct ideas on this important subject, it will be proper to investigate the sense, in which the preservation of liberty requires, that the three great departments of power should be separate and distinct.

The oracle who is always consulted and cited on this subject, is the celebrated Montesquieu. If he be not the author of this invaluable precept in the science of politics, he has the merit at least of displaying, and recommending it most effectually to the attention of mankind. Let us endeavour in the first place to ascertain his meaning on this point.

The British constitution was to Montesquieu, what Homer has been to the didactic writers on epic poetry. As the latter have considered the work of the immortal Bard, as the perfect model from which the principles and rules of the epic art were to be drawn, and by which all similar works were to be judged; so this great political critic appears to have viewed the constitution of England, as the standard, or to use his own expression, as the mirror of political liberty; and to have delivered in the form of elementary truths, the several characteristic principles of that particular system. That we may be sure then not to

mistake his meaning in this case, let us recur to the source from which the maxim was drawn.

On the slightest view of the British constitution we must perceive, that the legislative, executive and judiciary departments are by no means totally separate and distinct from each other. The executive magistrate forms an integral part of the legislative authority. He alone has the prerogative of making treaties with foreign sovereigns, which when made have, under certain limitations, the force of legislative acts. All the members of the judiciary department are appointed by him; can be removed by him on the address of the two Houses of Parliament, and form, when he pleases to consult them, one of his constitutional councils. One branch of the legislative department forms also, a great constitutional council to the executive chief; as on another hand, it is the sole depository of judicial power in cases of impeachment, and is invested with the supreme appellate jurisdiction, in all other cases. The judges again are so far connected with the legislative department, as often to attend and participate in its deliberations, though not admitted to a legislative vote.

From these facts by which Montesquieu was guided it may clearly be inferred, that in saying "there can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates," or, "or if the power of judging be not separated from the legislative and executive powers,"<sup>1</sup> he did not mean that these departments ought to have no *partial agency* in, or no *controul* over the acts of each other. His meaning, as his own words import, and still more conclusively as illustrated by the example in his eye, can amount to no more than this, that where the *whole* power of one department is exercised by the same hands which possess the *whole* power of another department, the fundamental principles of a free constitution, are subverted. This would have been the case in the constitution examined by him, if the King who is the sole executive magistrate, had possessed also the compleat legislative power, or the supreme administration of justice; or if the entire legislative body, had possessed the supreme judiciary, or the supreme executive authority. This however is not among the vices of that constitution. The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law, nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock, nor any legislative function, though they may be advised with by the legislative councils. The entire legislature, can perform no judiciary act, though by the joint act of two of its branches. The judges may be removed from their offices; and though one of its branches is possessed of the judicial power in the last resort. The entire

legislature again can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy; and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.

The reasons on which Montesquieu grounds his maxim are a further demonstration of his meaning. "When the legislative and executive powers are united in the same person or body" says he "there can be no liberty, because apprehensions may arise lest *the same* monarch or senate should *enact* tyrannical laws, to *execute* them in a tyrannical manner." Again "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary controul, for *the judge* would then be *the legislator*. Were it joined to the executive power, *the judge* might behave with all the violence of an *oppressor*."<sup>2</sup> Some of these reasons are more fully explained in other passages; but briefly stated as they are here, they sufficiently establish the meaning which we have put on this celebrated maxim of this celebrated author.

If we look into the constitutions of the several states we find that notwithstanding the emphatical, and in some instances, the unqualified terms in which this axiom has been laid down, there is not a single instance in which the several departments of power have been kept absolutely separate and distinct. New-Hampshire, whose constitution was the last formed, seems to have been fully aware of the impossibility and inexpediency of avoiding any mixture whatever of these departments; and has qualified the doctrine by declaring "that the legislative, executive and judiciary powers ought to be kept as separate from, and independent of each other *as the nature of a free government will admit; or as is consistent with that chain of connection, that binds the whole fabric of the constitution in one indissoluble bond of unity and amity*."<sup>3</sup> Her constitution accordingly mixes these departments in several respects. The senate which is a branch of the legislative department is also a judicial tribunal for the trial of impeachments. The president who is the head of the executive department, is the presiding member also of the senate; and besides an equal vote in all cases, has a casting vote in case of a tie. The executive head is himself eventually elective every year by the legislative department; and his council is every year chosen by and from the members of the same department. Several of the officers of state are also appointed by the legislature. And the members of the judiciary department are appointed by the executive department.

The constitution of Massachusetts has observed a sufficient though less pointed caution in expressing this fundamental article of liberty. It declares "that the legislative department shall never exercise the executive and judicial powers, or either of them: The executive shall

never exercise the legislative and judicial powers, or either of them: The judicial shall never exercise the legislative and executive powers, or either of them."<sup>4</sup> This declaration corresponds precisely with the doctrine of Montesquieu as it has been explained, and is not in a single point violated by the plan of the Convention. It goes no farther than to prohibit any one of the entire departments from exercising the powers of another department. In the very constitution to which it is prefixed, a partial mixture of powers has been admitted. The Executive Magistrate has a qualified negative on the Legislative body; and the Senate, which is a part of the Legislature, is a court of impeachment for members both of the executive and judiciary departments. The members of the judiciary department again are appointable by the executive department, and removeable by the same authority, on the address of the two legislative branches. Lastly, a number of the officers of government are annually appointed by the legislative department. As the appointment to offices, particularly executive offices, is in its nature an executive function, the compilers of the Constitution have in this last point at least, violated the rule established by themselves.

I pass over the constitutions of Rhode-Island and Connecticut, because they were formed prior to the revolution; and even before the principle under examination had become an object of political attention.

The constitution of New-York contains no declaration on this subject; but appears very clearly to have been framed with an eye to the danger of improperly blending the different departments. It gives nevertheless to the executive magistrate a partial controul to the legislative department; and what is more, gives a like controul to the judiciary department, and even blends the executive and judiciary departments in the exercise of this controul.<sup>5</sup> In its council of appointment, members of the legislative are associated with the executive authority in the appointment of officers both executive and judiciary. And its court for the trial of impeachments and correction of errors, is to consist of one branch of the legislature and the principal members of the judiciary department.

The constitution of New-Jersey has blended the different powers of government more than any of the preceding. The governor, who is the executive magistrate, is appointed by the legislature; is chancellor and ordinary or surrogate of the state; is a member of the supreme court of appeals, and president with a casting vote, of one of the legislative branches. The same legislative branch acts again as executive council to the governor, and with him constitutes the court of appeals. The members of the judiciary department are appointed by the legislative department, and removeable by one branch of it, on the impeachment of the other.

According to the constitution of Pennsylvania, the president, who is head of the executive department, is annually elected by a vote in which the legislative department predominates. In conjunction with an executive council, he appoints the members of the judiciary department, and forms a court of impeachments for trial of all officers, judiciary as well as executive. The judges of the supreme court, and justices of the peace, seem also to be removeable by the legislature; and the executive power of pardoning in certain cases to be referred to the same department. The members of the executive council are made *EX OFFICIO* justices of peace throughout the state.

In Delaware, the chief executive magistrate is annually elected by the legislative department. The speakers of the two legislative branches are vice-presidents in the executive department. The executive chief, with six others, appointed three by each of the legislative branches, constitute the supreme court of appeals: He is joined with the legislative department in the appointment of the other judges. Throughout the states it appears that the members of the legislature may at the same time be justices of the peace. In this state, the members of one branch of it are *EX OFFICIO* justices of peace; as are also the members of the executive council. The principal officers of the executive department are appointed by the legislature; and one branch of the latter forms a court of impeachments. All officers may be removed on address of the legislature.

Maryland has adopted the maxim in the most unqualified terms; declaring that the legislative, executive and judicial powers of government, ought to be forever separate and distinct from each other. Her constitution, notwithstanding makes the executive magistrate appointable by the legislative department; and the members of the judiciary, by the executive department.

The language of Virginia is still more pointed on this subject. Her constitution declares, "that the legislative, executive and judiciary departments, shall be separate and distinct; so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time; except that the justices of the county courts shall be eligible to either house of assembly."<sup>6</sup> Yet we find not only this express exception, with respect to the members of the inferior courts; but that the chief magistrate with his executive council are appointable by the legislature; that two members of the latter are triennially displaced at the pleasure of the legislature; and that all the principal offices, both executive and judiciary, are filled by the same department. The executive prerogative of pardon, also is in one case vested in the legislative department.

The constitution of North-Carolina, which declares, "that the legislative, executive and supreme judicial powers of government,

ought to be forever separate and distinct from each other,"<sup>7</sup> refers at the same time to the legislative department, the appointment not only of the executive chief, but all the principal officers within both that and the judiciary department.

In South-Carolina, the constitution makes the executive magistracy eligible by the legislative department. It gives to the latter also the appointment of the members of the judiciary department, including even justices of the peace and sheriffs; and the appointment of officers in the executive department, down to captains in the army and navy of the state.

In the constitution of Georgia, where it is declared, "that the legislative, executive and judiciary departments shall be separate and distinct, so that neither exercise the powers properly belonging to the other."<sup>8</sup> We find that the executive department is to be filled by appointments of the legislature; and the executive prerogative of pardon, to be finally exercised by the same authority. Even justices of the peace are to be appointed by the legislature.

In citing these cases in which the legislative, executive and judiciary departments, have not been kept totally separate and distinct, I wish not to be regarded as an advocate for the particular organizations of the several state governments. I am fully aware that among the many excellent principles which they exemplify, they carry strong marks of the haste, and still stronger of the inexperience, under which they were framed. It is but too obvious that in some instances, the fundamental principle under consideration has been violated by too great a mixture, and even an actual consolidation of the different powers; and that in no instance has a competent provision been made for maintaining in practice the separation delineated on paper. What I have wished to evince is, that the charge brought against the proposed constitution, of violating a sacred maxim of free government, is warranted neither by the real meaning annexed to that maxim by its author; nor by the sense in which it has hitherto been understood in America. This interesting subject will be resumed in the ensuing paper.

1. *Spirit of Laws*, I, Book XI, chapter VI, 222.

2. *Ibid.* The italics are "Publius'."

3. Bill of Rights, Article XXXVII, Thorpe, IV, 2457. The italics are "Publius'."

4. A Declaration of the Rights, Article XXX, Thorpe, III, 1893.

5. A reference to the New York Council of Revision composed of the governor, the chancellor, and the judges of the supreme court. All bills passed by the legislature had to be submitted to the Council of Revision, which then had ten days to reject the bill or to report alterations. The legislature could pass its original bill and override the Council's actions by a two-thirds vote of each house (Article III, Thorpe, V, 2628–29).

6. Thorpe, VII, 3815.

7. A Declaration of Rights, IV, Thorpe, V, 2787.

8. Article I, Thorpe, II, 778.

## 487. Centinel XIII

Philadelphia Independent Gazetteer, 30 January<sup>1</sup>

TO THE PEOPLE OF PENNSYLVANIA.

*Fellow-Citizens*, The conspirators are putting your good sense, patriotism and spirit to the severest test. So bold a game of deception, so decisive a stroke for despotic power, was never before attempted among enlightened freemen. Can there be apathy so indifferent as not to be roused into indignation, or prejudice so blind, as not to yield to the glaring evidence of a flagitious conspiracy against the public liberties! The audacious and high-handed measures practised to suppress information, and intimidate discussion, would in any other circumstances than the present, have kindled a flame fatal to such daring invaders of our dearest privileges.

The conspirators having been severely galled and checked in their career by the artillery of freedom, have made more vigorous and successful efforts to silence her batteries, while falsehood with all her delusions is making new and greater exertions in favor of ambition. On the one hand, every avenue to information is as far as possible cut off, the usual communication between the states through the medium of the press, is in a great measure destroyed by a new arrangement at the Post-Office, scarcely a newspaper is suffered to pass<sup>(a)</sup> by this conveyance,<sup>2</sup> and the arguments of a Findley, a Whitehill and a Smilie, that bright constellation of patriots are suppressed, and a spurious publication substituted;<sup>3</sup> and on the other hand the select committee are assiduously employed in manufacturing deception in all its ensnaring colours, and having an adequate fund at their command, they are deluging the country with their productions.<sup>4</sup> The only newspaper that circulates extensively out of the city is kept running over with deceptive inventions.<sup>5</sup> Doctor Puff<sup>6</sup> the paragraphist, has scarcely slept since his appointment, having received orders to work double tides; beneath his creative pen thousands of correspondents rise into view, who all harmonize in their sentiments and information about the new-constitution; but the chief reliance is on James the Caledonian,<sup>7</sup> who can to appearance destroy all distinction between liberty and despotism, and make the latter pass for the former, who can bewilder truth in all the mazes of sophistry, and render the plainest propositions problematical—He cameleon-like can vary his appearance at pleasure, and assume any character for the purposes of deception. In the guise of a *Conciliator*, in the Independent Gazetteer, he professes great candour and moderation, admits some of the principal objections to the new constitution to be well founded, and insidiously proposes a method to remove them, which is to consider the first Congress under the new constitution as a convention, competent to supply all defects in the system of government.<sup>8</sup> This is really a discovery that does honor to



his invention. What! a legislative declaration or law a basis upon which to rest our dearest liberties. Does he suppose the people have so little penetration as not to see through so flimsey a delusion, that such a security would amount to no more than the will and pleasure of their rulers, who might repeal this *fundamental* sanction whenever ambition stimulated?—in the feigned *character* of a *freeman*, he combats the weighty arguments of the minority of the late convention, by a meer play upon words, carefully avoiding the real merits of the question;<sup>9</sup> and we moreover trace him in a variety of miscellaneous productions in every shape and form, he occasionally assists Doctor Puff in the fabrication of extracts of letters, paragraphs, correspondents, &c. &c.

So gifted and with such a claim of merit from his extraordinary and unwearied exertions in the cause of despotism, who so suitable or deserving of the office of Chief Justice of the United States. How congenial would such a post be to the principles and disposition of James! Here he would be both Judge and jury, sovereign arbiter in law and equity. In this capacity he may satiate his vengeance on patriotism for the opposition given to his projects of dominion: Here he may gratify his superlative arrogance and contempt of mankind, by trampling upon his fellow creatures with impunity; here he may give the finishing stroke to liberty, and silence the offensive complaints of violated justice and innocence, by adding the sanction of his office to the rapacity of power and the wantonness of oppression; there will be no intervening jury to shield the innocent, or procure redress to the injured.

Fellow-citizens, although the conspirators and their abettors are not sufficiently numerous to endanger our liberties by an open and forcible attack on them, yet when the characters of which they are composed and the methods they are practising, are considered, it ought to occasion the most serious alarm, and stimulate to an immediate, vigorous and united exertion of the patriotic part of the community for the security of their rights and privileges. Societies ought to be instituted in every county and a reciprocity of sentiments and information maintained between such societies, whereby the patriots throughout Pennsylvania, being mutually enlightened and invigorated, would form an invincible bulwark to liberty, and by unity of council and exertion might the better procure and secure to themselves and to unborn ages the blessings of a good federal government. Nothing but such a system of conduct can frustrate the machinations of an ambitious junto, who, versed in Machiavelian arts, can varnish over with the semblance of freedom the most despotic instrument of government ever projected, who cannot only veil over their own ambitious purposes, but raise an outcry against the real patriots for interested views when they are advocating the cause of liberty and of

their country by opposing a scheme of arbitrary power and office-making; who can give the appearance of economy to the introduction of a numerous and permanent standing army and the institution of lucrative, needless offices to provide for the swarms of gaping, almost famished expectants, who have been campaigning it for ten years without success against our inestimable state constitution, as a reward for their persevering toils, but particularly for their zeal on the present occasion, and also as a phalanx to tyranny; and who notwithstanding the testimony of uniform experience evinces the necessity of restrictions on those entrusted with power, and a due dependence of the deputy on the constituent being maintained to ensure the public welfare; who notwithstanding the fate that liberty has ever met from the remissness of the people and the persevering nature of ambition who ever on the watch, grasps at every avenue to supremacy. I say, notwithstanding such evidence before them of the folly of mankind so often duped by similar arts, the conspirators have had the address to inculcate the opinion that forms of government are no security for the public liberties, that the administration is every thing,<sup>10</sup> that although there would be no responsibility under the new constitution, no restriction on the powers of the government, whose will and pleasure would be literally the law of the land, yet that we should be perfectly safe and happy, that as our rulers would be made of the same corrupt materials as ourselves, they certainly could not abuse the trust reposed in them, but would be the most self-denying order of beings ever created; with your purses at their absolute disposal, and your liberties at their discretion, they would be proof against the charms of money and the allurements of power; however, if such Utopian ideas should prove chimerical and the people should find the yoke too heavy, they might at pleasure alleviate or even throw it off. In short, the conspirators have displayed so much ingenuity on this occasion, that if it had not been for the patriotism and firmness of some of the printers, which gave an opportunity to enlightened truth to come forward, and by her invincible powers to detect the sophistry, and expose the fallacy of such impositions, liberty must have been overcome by the wiles of ambition, and this land of freemen have become the miserable abode of slaves.

(a) *For the truth of this charge I appeal to the Printers.*

Philadelphia, January 26, 1788.

1. Reprinted: *Philadelphia Freeman's Journal*, 6 February; *New York Journal*, 12 February; *Boston American Herald*, 28 February.

2. See CC:427, headnote.

3. Probably a reference to *Thomas Lloyd's Debates*, which were published on 7 February (CC:511).

4. See CC:443.

5. Probably the *Pennsylvania Gazette*, which, Benjamin Rush wrote, "is filled every week" "with fœderal essays—Anecdotes—and intelligence" (to Henry Muhlenberg, 15 February, Mfm:Pa. 432).

6. Benjamin Rush.

7. James Wilson.

8. "Conciliator," *Independent Gazetteer*, 9, 15 January (Mfm:Pa. 312, 331).

9. "A Freeman" I (Tench Coxe) (CC:472).

10. A reference to Thomas McKean's speech of 28 November in the Pennsylvania Convention. (See CC:369.)

#### 488. A Freeman II

##### **Pennsylvania Gazette, 30 January<sup>1</sup>**

To the MINORITY of the CONVENTION of *Pennsylvania*.

*Gentlemen*, The principal object of my last paper was to point out a variety of instances, in which *the agency and power of the state governments* are absolutely *necessary to the existence* of civil society, and to the *execution* of the fœderal constitution itself. I therein shewed that certain important matters, which must be done from time to time, cannot be attempted or performed by the general government. Here, then, we find, not only that the state powers will not be annihilated, but that they are so requisite to our system, *that they cannot be dispensed with*.

Having seen what Congress *cannot do*, let us now proceed to examine what the state governments *must or may do*.

First, then, each state can appoint every officer of its own militia, and can train the same, by which it will be sure of a powerful military support attached to, and even part of itself, wherein no citizen of any other state can be a private centinel, much less have influence or command.

2dly. Every regulation relating to religion, or the property of religious bodies, must be made by the state governments, since no powers affecting those points are contained in the constitution.

3dly. The state legislatures and constitutions must determine the qualifications of the electors for both branches of the fœderal government; and here let us remember to adhere firmly within our respective commonwealths to *genuine republican principles*. Wisdom, on this point which lies entirely in our hands, will pervade the whole system, and will *be a never failing antidote* to aristocracy, oligarchy and monarchy.

4thly. Regulating the law of descents, and forbidding the entail of landed estates, are exclusively in the power of the state legislatures. A perfect equality, at least among the males, and possibly among the females, should be established, not only in the strict line of descent, but in the most remote collateral branches. If a man *omits* to make a will, the public should distribute his property *equally* among those who have

*equal* pretensions, and who are able to render *equal* services to the community. By these means, poverty and extreme riches would be avoided, and a republican spirit would be given to our laws, not only without a violation of private rights, but consistently with the principles of justice and sound policy. This power with that mentioned under the last head, if exercised with wisdom and virtue, will preserve the freedom of the states beyond any other means.

5thly. The elections of the President, Vice President, Senators and Representatives, are exclusively in the hands of the states, even as to filling vacancies. The smallest interference of Congress is not permitted, either in prescribing the qualifications of electors, or in determining what persons may or may not be elected.

The clause which enables the fœderal legislature to make regulations on this head, permits them only to say at what time in the two years the house of representatives shall be chosen, at what time in the six years the Senate shall be chosen, and at what time in the four years the President shall be elected; but these elections, by other provisions in the constitution, *must take place every two, four and six years*, as is declared in the several cases respectively.

6thly. The states elect, appoint and commission all their own officers, without any possible interference of the fœderal government.

7thly. The states can alter and amend their several constitutions, provided they do not make them aristocratical, oligarchic or monarchical—for the fœderal constitution restrains them from any alterations that are not *really republican*. That is, the sovereignty of the people is never to be infringed or destroyed.

8thly. The states have the power to erect corporations for literary, religious, commercial, or other purposes, which the fœderal government cannot prevent.

9thly. Every state can always give its dissent to fœderal bills, as each has a *vote* in the Senate secured by the constitution. Hence it appears, that the state governments are not only intended to remain in force within their respective jurisdictions, but they are always to be known to, and have their voices, *as states*, in the fœderal councils.

10thly. The states not only elect all their own officers, but they have a *check*, by their delegates to the Senate, on the appointment of *all fœderal officers*.

11thly. The states are to hold *separate territorial rights*, and the domestic jurisdiction thereof, exclusively of any interference of the fœderal government.

12thly. The states will regulate and administer the criminal law, *exclusively of Congress*, so far as it regards *mala in se*, or real crimes; such as murder, robbery, &c. They will also have a certain and large part of

the jurisdiction, with respect to *mala prohibita*, or matters which are *forbidden* from political considerations, though not in themselves immoral; such as unlicensed public houses, nuisances, and many other things of the like nature.

13thly. The states are to determine all the innumerable disputes about property lying within their respective territories between their own citizens, such as titles and boundaries of lands, debts by assumption, note, bond, or account, mercantile contracts, &c. *none of which can ever be cognizable by any department of the fœderal government.*

14thly. The several states can create corporations civil and religious; prohibit or impose duties on the importation of slaves into their own ports; establish seminaries of learning; erect boroughs, cities and counties; promote and establish manufactures; open roads; clear rivers; cut canals; regulate descents and marriages; licence taverns; alter the criminal law; constitute new courts and offices; establish ferries; erect public buildings; sell, lease and appropriate the proceeds and rents of *their lands*, and of every other species of *state property*; establish poor houses, hospitals, and houses of employment; regulate the police; and many other things of the utmost importance to the happiness of their respective citizens. In short, besides the particulars enumerated, every thing of a domestic nature must or can be done by them.

In addition to this enumeration of the powers and duties of the state governments, we shall find many other instances under the constitution, which require or imply the existence or continuance of the sovereignty and severalty of the states.—The following are some of them:—

All process against criminals and many other law proceedings will be brought by and run in the name of *that commonwealth*, in which the offence or event has taken place.

The senate will be representatives of the several *state sovereignties*.

Every state must send *its own* citizens to the senate and to the house of representatives. No man can go thither, but from the state of which he is a complete *citizen*, and to which, if they choose, he shall be *sworn to be faithful*.

No state shall on any pretence be without an *equal voice* in the senate.

Any state may repel invasions or *commence a war* under emergent circumstances, without waiting for the consent of Congress.

The electors of the President and Vice-President must not nominate more than one person *of the state to which they belong*: so careful is the fœderal constitution to *preserve the rights of the states*.

In case of an equality of votes in the election of the President or Vice-President, a casting voice is given to *the states* from a due attention to their *sovereignty* in appointing the ostensible head of the fœderal government.

The President of the United States may require written communications from *the governors of the states*.

Provision is made for adjusting differences between *two states*—or *one state* and the citizens of *another*. *New states* may be admitted into *the union*. As all *the territory* of each state is *already* in the *union*, it is clear that any district will stand on different ground *when erected into a state*, from what it did when it composed a number of counties, or a part of an already existing member of the confederacy.

*Two states* may not become *one* without the consent of Congress, which proves clearly that the convention held *the severalty* of the states *necessary*. This is directly opposed to your idea, *that consolidation was intended*. *Each state* and the *fœderal* judiciary are to give faith and credit to the records and proceedings of *every other state*.

The states have, in the *fœderal* constitution, a guarantee of *a separate republican form of government*.

Two thirds of *the states* in the proposed confederacy can call a convention.

Three fourths of those *states* can alter the constitution.

From this examination of the proposed constitution for the United States, I trust it will appear, that though there are some parts of it, which, taken separately, look a little like consolidation, yet there are very many others of a nature, which proves, that no such thing was intended, and that it cannot ever take place.

It is but since the middle of the present century, that the principles and practice of free governments have been well understood, political science having been much slower in its progress than any other branch. Perhaps this has been caused by the greater degree of passion, to which, from its nature, this department of knowledge is subjected. The principles on which free sovereignties ought to confederate is quite a new question, and a new case. It is difficult to take it up at once in the proper way. One circumstance has exceedingly obscured the subject, and hid the truth from the eyes of many of us. Most of the states being in the possession of free governments, have looked for the same forms in *a confederating instrument*, which they have justly esteemed in their several *social compacts*. Recommending this distinction as necessary to be taken home to your minds when you examine the great subject before you, I shall cease to trespass on your time.

1. Reprinted: *Pennsylvania Packet*, 31 January; *Philadelphische Correspondenz*, 12, 19 February; *Philadelphia American Museum*, March 1788; and probably the *Delaware Gazette*, 13 February (not extant). For the authorship, circulation, and impact of "A Freeman," see CC:472. For an answer to "A Freeman" II, see "A Farmer," *Philadelphia Independent Gazetteer*, 22 April; *Philadelphia Freeman's Journal*, 23 April, Mfm:Pa. 648.

**489. Brutus XI****New York Journal, 31 January<sup>1</sup>**

The nature and extent of the judicial power of the United States, proposed to be granted by this constitution, claims our particular attention.

Much has been said and written upon the subject of this new system on both sides, but I have not met with any writer, who has discussed the judicial powers with any degree of accuracy. And yet it is obvious, that we can form but very imperfect ideas of the manner in which this government will work, or the effect it will have in changing the internal police and mode of distributing justice at present subsisting in the respective states, without a thorough investigation of the powers of the judiciary and of the manner in which they will operate. This government is a complete system, not only for making, but for executing laws. And the courts of law, which will be constituted by it, are not only to decide upon the constitution and the laws made in pursuance of it, but by officers subordinate to them to execute all their decisions. The real effect of this system of government, will therefore be brought home to the feelings of the people, through the medium of the judicial power. It is, moreover, of great importance, to examine with care the nature and extent of the judicial power, because those who are to be vested with it, are to be placed in a situation altogether unprecedented in a free country. They are to be rendered totally independent, both of the people and the legislature, both with respect to their offices and salaries. No errors they may commit can be corrected by any power above them, if any such power there be, nor can they be removed from office for making ever so many erroneous adjudications.

The only causes for which they can be displaced, is, conviction of treason, bribery, and high crimes and misdemeanors.

This part of the plan is so modelled, as to authorise the courts, not only to carry into execution the powers expressly given, but where these are wanting or ambiguously expressed, to supply what is wanting by their own decisions.

That we may be enabled to form a just opinion on this subject, I shall, in considering it,

1st. Examine the nature and extent of the judicial powers—and

2d. Enquire, whether the courts who are to exercise them, are so constituted as to afford reasonable ground of confidence, that they will exercise them for the general good.

With a regard to the nature and extent of the judicial powers, I have to regret my want of capacity to give that full and minute explanation of them that the subject merits. To be able to do this, a man should be

possessed of a degree of law knowledge far beyond what I pretend to. A number of hard words and technical phrases are used in this part of the system, about the meaning of which gentlemen learned in the law differ.

Its advocates know how to avail themselves of these phrases. In a number of instances, where objections are made to the powers given to the judicial, they give such an explanation to the technical terms as to avoid them.

Though I am not competent to give a perfect explanation of the powers granted to this department of the government, I shall yet attempt to trace some of the leading features of it, from which I presume it will appear, that they will operate to a total subversion of the state judiciaries, if not, to the legislative authority of the states.

In article 3d, sect. 2d, it is said, "The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority, &c."

The first article to which this power extends, is, all cases in law and equity arising under this constitution.

What latitude of construction this clause should receive, it is not easy to say. At first view, one would suppose, that it meant no more than this, that the courts under the general government should exercise, not only the powers of courts of law, but also that of courts of equity, in the manner in which those powers are usually exercised in the different states. But this cannot be the meaning, because the next clause authorises the courts to take cognizance of all cases in law and equity arising under the laws of the United States; this last article, I conceive, conveys as much power to the general judicial as any of the state courts possess.

The cases arising under the constitution must be different from those arising under the laws, or else the two clauses mean exactly the same thing.

The cases arising under the constitution must include such, as bring into question its meaning, and will require an explanation of the nature and extent of the powers of the different departments under it.

This article, therefore, vests the judicial with a power to resolve all questions that may arise on any case on the construction of the constitution, either in law or in equity.

1st. They are authorised to determine all questions that may arise upon the meaning of the constitution in law. This article vests the courts with authority to give the constitution a legal construction, or to explain it according to the rules laid down for construing a law.—These rules give a certain degree of latitude of explanation. According to this mode of construction, the courts are to give such meaning to the



constitution as comports best with the common, and generally received acceptation of the words in which it is expressed, regarding their ordinary and popular use, rather than their grammatical propriety. Where words are dubious, they will be explained by the context. The end of the clause will be attended to, and the words will be understood, as having a view to it; and the words will not be so understood as to bear no meaning or a very absurd one.

2d. The judicial are not only to decide questions arising upon the meaning of the constitution in law, but also in equity.

By this they are empowered, to explain the constitution according to the reasoning spirit of it, without being confined to the words or letter.

"From this method of interpreting laws (says Blackstone) by the reason of them, arises what we call equity;" which is thus defined by Grotius, "the correction of that, wherein the law, by reason of its universality, is deficient; for since in laws all cases cannot be foreseen, or expressed, it is necessary, that when the decrees of the law cannot be applied to particular cases, there should some where be a power vested of defining those circumstances, which had they been foreseen the legislator would have expressed; and these are the cases, which according to Grotius, *lex non exacte definit, sed arbitrio boni viri permittet.*"

The same learned author observes, "That equity, thus depending essentially upon each individual case, there can be no established rules and fixed principles of equity laid down, without destroying its very essence, and reducing it to a positive law."<sup>2</sup>

From these remarks, the authority and business of the courts of law, under this clause, may be understood.

They will give the sense of every article of the constitution, that may from time to time come before them. And in their decisions they will not confine themselves to any fixed or established rules, but will determine, according to what appears to them, the reason and spirit of the constitution. The opinions of the supreme court, whatever they may be, will have the force of law; because there is no power provided in the constitution, that can correct their errors, or controul their adjudications. From this court there is no appeal. And I conceive the legislature themselves, cannot set aside a judgment of this court, because they are authorised by the constitution to decide in the last resort. The legislature must be controuled by the constitution, and not the constitution by them. They have therefore no more right to set aside any judgment pronounced upon the construction of the constitution, than they have to take from the president, the chief command of the army and navy, and commit it to some other person. The reason is plain; the judicial and executive derive their authority from the same source, that the legislature do theirs; and therefore in all

cases, where the constitution does not make the one responsible to, or controulable by the other, they are altogether independent of each other.

The judicial power will operate to effect, in the most certain, but yet silent and imperceptible manner, what is evidently the tendency of the constitution:—I mean, an entire subversion of the legislative, executive and judicial powers of the individual states. Every adjudication of the supreme court, on any question that may arise upon the nature and extent of the general government, will affect the limits of the state jurisdiction. In proportion as the former enlarge the exercise of their powers, will that of the latter be restricted.

That the judicial power of the United States, will lean strongly in favour of the general government, and will give such an explanation to the constitution, as will favour an extension of its jurisdiction, is very evident from a variety of considerations.

1st. The constitution itself strongly countenances such a mode of construction. Most of the articles in this system, which convey powers of any considerable importance, are conceived in general and indefinite terms, which are either equivocal, ambiguous, or which require long definitions to unfold the extent of their meaning. The two most important powers committed to any government, those of raising money, and of raising and keeping up troops, have already been considered, and shewn to be unlimited by any thing but the discretion of the legislature.<sup>3</sup> The clause which vests the power to pass all laws which are proper and necessary, to carry the powers given into execution, it has been shewn, leaves the legislature at liberty, to do every thing, which in their judgment is best.<sup>4</sup> It is said, I know, that this clause confers no power on the legislature, which they would not have had without it<sup>5</sup>—though I believe this is not the fact, yet, admitting it to be, it implies that the constitution is not to receive an explanation strictly, according to its letter; but more power is implied than is expressed. And this clause, if it is to be considered, as explanatory of the extent of the powers given, rather than giving a new power, is to be understood as declaring, that in construing any of the articles conveying power, the spirit, intent and design of the clause, should be attended to, as well as the words in their common acceptation.

This constitution gives sufficient colour for adopting an equitable construction, if we consider the great end and design it professedly has in view—there appears from its preamble to be, “to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity.” The design of this system is here expressed, and it is proper to give such a meaning to the various parts, as will best promote the accomplishment of the end; this

idea suggests itself naturally upon reading the preamble, and will countenance the court in giving the several articles such a sense, as will the most effectually promote the ends the constitution had in view—how this manner of explaining the constitution will operate in practice, shall be the subject of future enquiry.<sup>6</sup>

2d. Not only will the constitution justify the courts in inclining to this mode of explaining it, but they will be interested in using this latitude of interpretation. Every body of men invested with office are tenacious of power; they feel interested, and hence it has become a kind of maxim, to hand down their offices, with all its rights and privileges, unimpaired to their successors; the same principle will influence them to extend their power, and increase their rights; this of itself will operate strongly upon the courts to give such a meaning to the constitution in all cases where it can possibly be done, as will enlarge the sphere of their own authority. Every extension of the power of the general legislature, as well as of the judicial powers, will increase the powers of the courts; and the dignity and importance of the judges, will be in proportion to the extent and magnitude of the powers they exercise. I add, it is highly probable the emolument of the judges will be increased, with the increase of the business they will have to transact and its importance. From these considerations the judges will be interested to extend the powers of the courts, and to construe the constitution as much as possible, in such a way as to favour it; and that they will do it, appears probable.

3d. Because they will have precedent to plead, to justify them in it. It is well known, that the courts in England, have by their own authority, extended their jurisdiction far beyond the limits set them in their original institution, and by the laws of the land.

The court of exchequer is a remarkable instance of this. It was originally intended principally to recover the king's debts, and to order the revenues of the crown. It had a common law jurisdiction, which was established merely for the benefit of the king's accomptants. We learn from Blackstone, that the proceedings in this court are grounded on a writ called *quo minus*, in which the plaintiff suggests, that he is the king's farmer or debtor, and that the defendant hath done him the damage complained of, by which he is less able to pay the king. These suits, by the statute of Rutland, are expressly directed to be confined to such matters as specially concern the king, or his ministers in the exchequer. And by the *articuli super cartas*, it is enacted, that no common pleas be thenceforth held in the exchequer contrary to the form of the great charter: but now any person may sue in the exchequer. The surmise of being debtor to the king being matter of form, and mere words of course; and the court is open to all the nation.<sup>7</sup>

When the courts will have a president [precedent] before them of a court which extended its jurisdiction in opposition to an act of the legislature, is it not to be expected that they will extend theirs, especially when there is nothing in the constitution expressly against it? and they are authorised to construe its meaning, and are not under any controul?

This power in the judicial, will enable them to mould the government, into almost any shape they please.—The manner in which this may be effected we will hereafter examine.

1. This essay was not reprinted. For the authorship, circulation, and impact of “Brutus,” see CC:178.
2. Blackstone, *Commentaries*, I, 61–62.
3. See “Brutus” I, V–X (CC:178, 343, 384, 411, 437, 455, 474).
4. See “Brutus” I, V (CC:178, 343).
5. Cf. *The Federalist* 33 (CC:405).
6. See “Brutus” XII, *New York Journal*, 7 February (CC:510).
7. Blackstone, *Commentaries*, III, chapter IV, 45. The Statute of Rutland was adopted in 1282 and the Articles upon the Charters in 1300—both during the reign of Edward I. (See “Aristides,” CC:490, note 6.)

#### **490 A–E. Aristides: Remarks on the Proposed Plan of a Federal Government, 31 January–27 March**

On 10 and 24 January, advertisements in the Annapolis *Maryland Gazette* announced that a pamphlet by “Aristides” was at the press and would soon be published. On the 31st another advertisement announced the publication of *Remarks on the Proposed Plan of a Federal Government, Addressed to the Citizens of the United States of America, And Particularly to the People of Maryland, By Aristides* (CC:490–A; Evans 21131). *Remarks* was printed by Frederick Green, printer to the state and co-publisher of the Annapolis *Maryland Gazette* (see note 23 below).

The author was immediately apparent. Alexander Contee Hanson had used the pen name “Aristides” for many years, so that it was “equal to a public avowal of the author” (“Aristides,” *Maryland Journal*, 4 March, extra). Hanson also acknowledged authorship in several private letters (CC:490 B–E). Hanson (1749–1806) was educated at the College of Philadelphia and was assistant private secretary to George Washington in 1776. He was a judge of the Maryland General Court, 1778–89, and state chancellor, 1789–1806. He represented the city of Annapolis in the Maryland Convention, where he voted to ratify the Constitution in April 1788.

Hanson’s forty-two page pamphlet, dated “Annapolis, January 1, 1788,” was inscribed “To George Washington, Esquire, Not as a Tribute to the Worth, which no Acknowledgement, or Distinctions, can reward; but to do himself an Honour, which, by labouring in the same Common Cause, he flatters himself, in some Degree, he hath deserved; the Author begs Leave to inscribe the following imperfect Essay.” The title page contains a quotation from Montesquieu’s *Spirit of Laws*: “As a confederate government is composed of petty republics, it enjoys the internal happiness of each; and with regard to its external situation, by means of the association, it possesses all the advantages of extensive monarchies” (I, Book IX, chapter I, 187).

The price charged was high for an unbound pamphlet. The advertisement offering the pamphlet for sale listed its price as "two shillings and nine-pence, or three-eighths of a dollar, for a single copy, and proportionably much less for 100, 50, or 25 copies." The author apologized for the high cost, stating "that he would be happy, could he, conveniently, distribute gratis, as heretofore, the production of his labour. But this cannot be done, without incurring a considerable expence, or imposing on a few generous subscribers. From a circumstance not necessary to be mentioned, the cost of the impression exceeds his and the Printer's first expectation. The price therefore of a copy is higher than he wished to fix. It is no part of his plan to make money from the sale; and the most pressing demand will produce little more than an indemnification." (This advertisement was reprinted in the *Annapolis Maryland Gazette*, 14 February, supplement; *Maryland Journal*, 5, 8 February; and *Pennsylvania Journal*, 13 February.) In mid-February, however, Hanson lowered the price to two shillings or one-quarter of a dollar in Maryland, and to one shilling, ten pence in Philadelphia (CC:490-C. See also advertisements in the *Maryland Journal* between 12 February and 18 March, and in the *Pennsylvania Journal* between 27 February and 31 May.)

"Aristides" pamphlet circulated in several states. Early in February Hanson sent fifty copies to Thomas Bradford, the printer of the *Philadelphia Pennsylvania Journal*. Although personally unacquainted with Bradford, Hanson asked for his help in selling the pamphlet. On 6 February Hanson forwarded another fifty pamphlets to Tench Coxe in Philadelphia. Coxe was told to keep a copy for himself and to give individual copies to Benjamin Franklin, William Hamilton, and James Wilson. The remaining copies were to be delivered to Bradford (CC:490-B). Despite Hanson's fears, the pamphlets were received and were first advertised for sale in Philadelphia on 13 February. Hanson also sent copies to Virginia and New York. Sales were brisk in the former and slow in the latter (CC:490-E). Hanson gave a copy to George Washington. Horatio Gates and George Nicholas also received copies from correspondents. Hanson sent "a large packet of Pamphlets," to his uncle Benjamin Contee, then serving as a Maryland delegate to Congress in New York (Tench Coxe to James Madison, 15 February, CC:531). William Irvine and Nicholas Gilman, also delegates to Congress, forwarded copies to correspondents in their home states—William Findley in Pennsylvania and President John Sullivan in New Hampshire. In London, John Brown Cutting had the pamphlet by July 1788 and wrote Thomas Jefferson in Paris that he would transmit it to him "If a good private opportunity occurs soon" (Boyd, XIII, 337).

Federalists, especially in Maryland, praised "Aristides." Dr. Philip Thomas of Frederick, Md., Hanson's brother-in-law, wrote that he had read the pamphlet "several times over with much more pleasure than it has been, or will be, read, I suppose, by 99 in a 100; not barely because I feel myself As much interested in the adoption of the plan in proportion to my rank & worth As Any One can be; but because it is the work of one of my most dear friends, Judge Hanson. Whether the work deserves all, or one half, the merit which I, & several others, think it possesses I know not. there is one thing however that must *recommend* it to your attention & that is, the independent style in which it is wrote which serves as an incontestible proof that the Author wrote without favor or partiality; and I beleive you are not a stranger to his character for integrity" (to Horatio Gates, 21 March, Gates Mss, NN). "A Plebeian" asserted that Hanson's "patriotic, sensible essay" eliminated "the necessity of further disquisition"; while "A Real Federalist" suggested that no "man can doubt"

after reading the pamphlet (*Maryland Journal*, 14, 21 March). An anonymous writer from Washington County, Md., described "Aristides" "as the supreme Arbiter, and final Appeal, in all Cases of Controversy between Federalists and Antifederalists" (*ibid.*, 4 April).

George Nicholas, a Virginia lawyer, believed that "Judge Hanson's performance . . . [was] sensible and well written" (to David Stuart, 9 April, C. E. French Collection, MHi). "A Gentleman of Distinction" from Berkeley County, Va., who had received the pamphlet from his correspondent, wrote "that not only Maryland, but every State in the Union is under much Obligation to that Gentleman for his masterly Defence of the proposed Constitution . . ." (*Maryland Journal*, 11 April). A Pennsylvania correspondent described "Aristides" as one of the Federalist writers whose writings "are full of profound political wisdom" (*Pennsylvania Gazette*, 30 April, CC:718). A gentleman in London, who had received a copy of the pamphlet from his correspondent, reported that he had "read it over and over, with a great deal of pleasure," and he had "seen a great many Copies in different Hands, and it seems very generally to be admired" (*Maryland Journal*, 23 September).

The most serious and sustained rebuttal to "Aristides" came from "A Farmer," perhaps John Francis Mercer, who chided Hanson for choosing a pseudonym that revealed his identity. Hanson had sacrificed "prudence to vanity" (Baltimore *Maryland Gazette*, 15 February, 1 April. For Hanson's defense of his choice of pen names, see "Aristides," *Maryland Journal*, 4 March, extra.). "A Farmer" attacked "Aristides" for having "generally erred and frequently mistated in his remarks." "Many of his remarks betray a misrecollection of the A, B, C, of politics, and some of the historical questions discover a total absence of memory" (Baltimore *Maryland Gazette*, 15, 29 February). Antifederalist William Findley concurred: "the Author gives greater evidences of his good will to support, and his enthusiastical abilities to declaim, in favour of the new System, than of his digested knowledge of the operations of political principles upon Government or candour in stating the objections which he pretends to refute or his good sense in arranging the principles which he professes to explain. I conclude that the Author hath never passed the threshold of politics or else considers his readers to have little understanding . . ." (to William Irvine, 12 March, CC:613).

"A Farmer" singled out "Aristides'" interpretation of the judiciary for particular criticism. "Aristides" argued that the state courts had concurrent jurisdiction with the federal courts, that federal officers could be sued in state courts, and that state judges had the power to rule null and void any federal law that they "may conceive repugnant to the constitution." (Although not mentioned by "A Farmer," "Aristides" also maintained that federal courts had jurisdiction over cases between a state and its own citizens.) "A Farmer" considered these interpretations especially grievous because Hanson, as a judge of the Maryland General Court, "knows the least of what he ought to understand the most" ("A Farmer," Baltimore *Maryland Gazette*, 1 April). Luther Martin also criticized "Aristides'" view of the federal judiciary. If a learned judge could not understand the language of the Constitution, how could the common people understand it (*Maryland Journal*, 28 March, CC:650).

On 26 March Hanson received letters from Tench Coxe detailing "Aristides'" "misconception of the judiciary." The next day Hanson thanked Coxe for the "hint." Hanson also wrote an apology to the people of Maryland, acknowledging his error with respect to the jurisdiction of federal courts in cases between a state and its own citizens (CC:490-E; "Aristides," *Maryland Journal*, 1 April). Hanson, however, would not concede any error in his

interpretation of other aspects of the judiciary—"My opinion remains unaltered . . . that, which was only a *strong persuasion*, is converted into an absolute thorough conviction" ("Aristides," *Maryland Journal*, 22 April).

Three reviews of the *Remarks* have been located. A reviewer in the *New York American Magazine*, May 1788, wrote that "These remarks are not all original, but they are very judicious, calculated to remove objections to the proposed plan of government, and written with spirit and elegance." A writer in the *London Monthly Review*, June 1788, praised the Constitution but thought that "Aristides'" uncritical support—"I would not change a single part"—excessive. Another London commentator believed that the pamphlet contained "very sensible arguments, and a species of eloquence that flows from sincerity of intention. . . . This treatise is written in a careless and somewhat slovenly manner, with regard to style and composition; but it contains a great deal of sound political observation" (*Analytical Review*, November 1788; reprinted in the *New York Gazette of the United States*, 25 April 1789).

The title page of Hanson's copy of the pamphlet is endorsed "Written in December 1787." Hanson bound this pamphlet and several others written by him in a single volume labeled "Hanson's Pamphlets." Shortly before his death he gave the compilation to his son Charles Wallace Hanson (1784–1853), who, in turn, gave the volume to the Maryland Historical Society in 1852.

The annotations in the text and margins of the *Remarks* appear to have been made shortly after the pamphlet was published. The lengthy annotations introducing the bound compilation and those on the front and back pages of the *Remarks* were apparently made in 1804 just before Hanson gave the volume to his son.

The beginning of the bound compilation contains the inscription:

"Presented by the Author to Charles Wallace Hanson—

"A careful perusal of these papers (altho' it may not greatly contribute to improve his taste, or enlighten his understanding) may possibly inspire him with humanity and a disinterested love of his country—

"After the lapse of many years, the author has reviewed these papers and candidly confesses, that he can not determine, whether or not he was entitled to much credit for writing them. Had they however been the most excellent which the wit of man ever produced, it is certain, that, at this time, nobody will greatly regard them; because the occasions on which they were written have totally ceased—This is the fate of all pamphleteers. They cannot swim far down the tide of fame; notwithstanding that, at their outset, the eyes of all men are cast upon them, and their vigour seemed almost superhuman—But let us not be deceived. If elegies, idle sonnets, and even epic poems, be more admired in after ages, than at the time, when they were written; and if pamphlets, which have, as it were, electrified a whole nation, and produced the most astonishing, beneficial effects, are totally neglected, despised or unknown, in after times; I cannot believe, that the former are to be preferred—No! if a pamphlet could have seasonably exposed the conduct and views of Julius Cæsar, and by its influence on the public mind could have defeated his intents; ought not the author to have been preferred to Lucan with his *Pharsalia*. I say, yes! and one seasonable convincing pamphlet does more good than 40,000 poems. . . ."

The following passages appear on the verso of the title page of the *Remarks* and are carried over to the dedication page and the verso of the dedication page.

“The author, in making this address, obeyed the strong impulse of his feelings. He was soon after in the public prints, reproached for mean designing adulation. He was said to be seeking promotion, inasmuch, as, if the government should be adopted, Genl. Washington assuredly must be president—Then it is that men, not conscious of virtue, or disinterested principle, falsely judge of others. Now Aristides was one of the very few officers of a state government, who did not oppose the constitution, on the principle that its adoption would be fatal to their own interests; and the state office, which he held, was at that time, more lucrative, than any which he could possibly expect from the federal government. He had afterwards indeed the offer of a place under the federal government, a place of honour and profit. But he declined it. This is what I call the triumph of virtue over envy and malice—

“Of this treatise it is said by the Analytical Reviewers, that it is written in a careless and somewhat slovenly manner, with respect to stile and composition, but contains a great deal of sound political observation; & that the Author recommends the Constitution by very sensible arguments and a species of eloquence, that flows from sincerity of intention

“The Monthly Reviewers assert that Aristides is a warm and very intelligent advocate of the government proposed; but they think, no man can pronounce that it is perfect, until it shall have been fully tried—

“N.B. The Author no where maintains, that it is perfect; but he recommends it to trial, on the very ground, that, should experience point out it's defects, it prescribes a mode of obtaining amendments—”

Immediately following the last page of the *Remarks* Hanson commented on *The Federalist*:

“It is probable that few persons, into whose hands this book may fall, will even peruse it. The occasions, on which it was written, having wholly ceased—They may however be tempted to read short manuscript notes—

“The last pamphlet in this volume is the only pamphlet on the subject, which was noticed by the English reviewers. It had great celebrity and effect in Maryland and Virginia. Further its influence did not extend. The fact was, that men of great fame in Philadelphia and New York had written or begun to write on the subject. Particularly Mr. Hamilton (as it is said) with the assistance of Mr. Jay, and Mr. Maddison wrote the federalist. Aristides against three such names could not succeed. However the Federalist was not completed until almost every state in the Union had decided on the constitution; and therefore, be its excellence what it may, it could have had little weight in recommending the constitution—

“May the author be permitted a few free remarks—

“The Federalist unquestionably is a treatise, which displays learning and deep penetration. It is an ingenious, elaborate, and in some places, sophistical defence of the constitution. It is minute to the last degree. It lays down first principles, some of which are so obvious, that it is even an affront to any reader, to suppose it necessary to mention them. Altho written in a correct, smooth stile it is from its prolixity, tiresome. I honestly confess, that I could not read it thro’—It is not in short, what is called a [wonder?] making pamphlet. It is not written as a pamphlet ought to be, which on a great interesting occasion, is intended to guide the public mind. It does not force the attention, rouze the passions, or thrill the nerves—

“It is easily to be seen, that Aristides assumes more merit as a pamphleteer, than he is willing to allow the Feederalist—He does so! whilst he admits, with his whole heart, that as a treatise on government, the Federalist is as much



superiour to the 'remarks' as the latter considered merely as an occasional pamphlet, is superiour to the former. He will go further and acknowledge the great superiority of the Federalist take them both for all in all: and yet he insists that the remarks were more serviceable."

The textual and marginal annotations in Hanson's copy of the *Remarks* are printed after the text of the *Remarks* as internal notes "f" through "q." Internal notes "a" through "e" are part of the pamphlet as originally published.

490—A. *Aristides: Remarks on the Proposed Plan, 31 January*

It is my intention, with all possible plainness, to examine the proposed plan of a federal government. Its enemies and its advocates have laid particular stress on the names, wherewith it is subscribed. As one side would obtain your implicit assent, by a reference to characters, and as the other would defeat measures, by exciting your jealousy of men, permit me, in the first place, to make some general observations on the persons who composed the late memorable convention.—

In general, they had been distinguished by their talents and services. They were not principally the men to whom the idea of a convention first suggested itself, and it is notorious, that, in general, they accepted their appointments with reluctance. It would seem, however, according to some vague insinuations, that, no sooner did they find themselves convened, than their natures became changed; and fatally have they combined for the destruction of your liberties. Now this altogether shocks my faith. I should sooner imagine that the sacredness of the trust, the unparalleled grandeur of the occasion, and the fellowship of the great and good, might have elevated the soul of the most abandoned wretch, had it been possible for such<sup>(d)</sup> to obtain a seat in that illustrious assemblage.

If those, who would inspire suspicion and distrust, can suggest any precise idea, it must be this, that the members of the convention will be elected into the first federal congress, and there combining again will compose a body capable of bearing down all opposition to their own aggrandisement.

By their scheme, however, thus deeply concerted, the house of representatives is to be chosen by the people once in two years; and if they have acted so as to warrant any reasonable apprehension of their designs, it will be easy, at any time, to prevent their election. The truth is, that very few of them either wish to be elected, or would consent to serve, either in that house, or in the senate. I have exercised my imagination to devise in what manner they, or any other men, supposing them to bear full sway in both houses, could erect this imaginary fabric of power. I request any person to point out any law, or system of laws, that could be possibly contrived for that purpose, obtain the final assent of each branch, and be carried into effect, contrary to the interests and wishes of

a free, intelligent, prying people, accustomed to the most unbounded freedom of inquiry. To begin by an attempt to restrain the press, instead of promoting their designs, would be the most effectual thing to prevent them.—

I am apprized of the *almost* universal disposition for the increase and abuse of authority. But if we are to with-hold power because there is a possibility of its perversion, we must abolish government, and submit to those evils, which it was intended to prevent. The perfection of political science consists chiefly in *providing mutual checks amongst the several departments of power, preserving, at the same,*<sup>(c)</sup> *the dependence of the greatest on the people.* I speak this with reference to a single government. The necessity of another species of government, for the mutual defence and protection of these American states,<sup>(h)</sup> no man of sense and honesty, that I know of, has ever yet denied.

The convention had the above principle constantly in their view. They have contrived, that it shall be extremely difficult, if not altogether impracticable, for any person to exceed or abuse his lawful authority. There is nothing in their plan like the cloathing of individuals with power, for their own gratification. Every delegation, and every advantage that may be derived to individuals, has a strict reference to the general good.—

To examine their constitution, by article and section, would be a painful and needless undertaking. I shall endeavour to answer such objections, as I have already heard, to anticipate others; to point out some advantages not generally known; and to correct certain errors, with respect to construction. When the convention was appointed, I much feared, that the numerous seeds, and principles of discord amongst the states, would, for ever, prevent them from agreeing to any efficient system whatever. I apprehended, in particular, that the dispute about representation would be the rock, on which the vessel containing all our hopes would be dashed. When, therefore, I discerned that equitable compromise between the larger and lesser states, my anxiety was instantly removed, and my soul enlightened by a sudden ray.

How then was I, some months after, disgusted at the repetition of the arguments, respecting the inequality of representatives in the first branch.<sup>1</sup> We were told, that the minority in convention reasoned upon first principles, that, as all men, in a state of nature, are equal with respect to rights, so also are equal all separate and distinct states;—that, when individuals form a free government, they must all have equal suffrage, either in framing laws by themselves, or in choosing representatives, although one man be ten times stronger, richer, or wiser, than another; so also, when several states unite, for common convenience, they must meet on terms of perfect equality, although one

be ten times more wealthy, extensive and populous, than another;—that, under our present compact, the states are equal, and that no injury has resulted from the equality.—

To these arguments, we may imagine, was opposed something like the following: “You talk of first principles, and, at the same time, would let 180,000 free inhabitants of Maryland have no more to do in the choice of representatives than only 30,000 inhabitants of Delaware. Do you propose, that these 30,000 shall bear an equal part of burthens and impositions? As to no injury having resulted from the equality, as you call it, under the articles of confederation, we think the reverse; and that this pretended<sup>(a)</sup> equality was a poison, which pervaded all our affairs.”

The anticipation of arguments like these had raised those apprehensions of an irreconcilable difference. It were needless to repeat more. Had an angel been the umpire, he could propose no expedient more equitable, and more politic, not only as a compromise, but to establish such a decided difference between the two branches of congress, as will make them indeed two distinct bodies, operating by way of mutual balance and check.—

By this expedient, is safety secured to the lesser states as completely as if the senate were the only legislative body. It is possible (*if such a thing can be devised*) that, from the inequality in the first branch, propositions will be made to give the larger states some advantage over the lesser; but the equality in the senate will, for ever, preclude its adoption. It is well worthy of remark, that not more than three of the thirteen are, at present, deemed larger states, in the peculiar sense of the word. There is no reason for supposing, in the federal, like a state, legislature, the senate will be intimidated or overawed, by the more numerous branch. A demagogue may declaim, rave, menace and foam, with as little impression as the roaring billows produce upon the solid beach. Were it not for this equality in one, and inequality in the other, a jealousy might be entertained of too perfect a coincidence of sentiment.—

The convention has been censured for an excess of its authority. But with no other power was it invested, than is possessed by every free citizen of the states. Its office was to advise, and no further has it proceeded. Had it<sup>(i)</sup> been even invested with full powers to amend the present compact, their proposed plan would not have exceeded their trust. Amendment, in parliamentary language, means either addition, or diminution, or striking out the whole, and substituting something in its room. The convention were<sup>(j)</sup> not limited. The states did not tell them,<sup>(k)</sup> this article must stand, this must be struck out, and this may be altered. The avowed object of a convention was to consult on the additional powers necessary to be vested in congress. But the members of this convention perceiving, from the experience of these states, from the history of ancient and modern states, and, I may add, from the principles

of human nature, that the same body of men ought not to make and execute laws; and that one body alone ought not to do the first, have separated the executive, so far as was proper, from the legislative; and this last they have divided into two branches, composed of different materials, distinct from, and totally independent of, each other.—

The house of representatives<sup>(b)</sup> is to be the immediate choice of the people, and one man is to represent 30,000 souls. In an affair of so much importance, and in districts containing so many suffrages, it is not to be supposed, that a worthless character will succeed by those arts, which have, sometimes, prevailed in county elections. It is to be expected, that, in general, the people will choose men of talents and character. Were they even so inclined, they can choose none but men of ripe age, who have been, at least, seven years citizens of the United States, and, at the time of election, residents of the respective state. Whatever laws shall be proposed, or assented to, by these men, are to bind themselves, their children, and their connexions. If a single man, or a party, shall propose a measure, calculated to promote private interest, at the expence of public good, is it conceivable, that the whole house will be brought into the measure? Suppose it should. The measure cannot be adopted into a law, without the concurrence of another house, consisting of men still more select, possessing superior qualifications of residence and age, and equally bound by the laws. After gaining the assent of the senate, the bill must be submitted to the objections of the president. He is not in any manner dependent on the legislature, which can, in no manner, punish him, except for some crime known to the laws. He is elected by persons chosen for that special purpose. He receives a compensation, which cannot be diminished or increased, during his continuance in office. The term of his commission is limited to four years, unless he shall have acted so as to merit the people's favour. From the mode of his election, it is impossible he can intrigue to advantage; and, from the nature of other things, he will never succeed by bribery and corruption. Like any other individual, he is liable to punishment. Finally, at the expiration of his office, he returns into the mass of the people.—

In spite of all these circumstances, an idea is gone forth amongst the enemies of the plan, and they labour to impress it on your minds, that whatever power may be exercised by these delegates of the people, will be used contrary to the interests of their constituents. This is a supposition, so repulsive to my mind, that I wonder any man of the least generosity, or reflection, can possibly adopt it. The assembly of Maryland, with respect to internal regulations, is almost omnipotent. And yet, is there a man who supposes the assembly would, intentionally, pass laws injurious to the people? Why then should we distrust the federal assembly, chosen for a short term, bound by the same ties, and selected on account of their talents and patriotism?—

But, say the objectors, although we might probably confide with safety in congress, it is not consistent with prudence, without a manifest necessity, to empower any men to do us an injury.

Whenever the proposed plan delegates authority, which you imagine might safely be denied, be assured, that a little reflection will suggest abundant reason for granting it. At the same time you may be convinced, that, as some powers were not intended to be exercised, so they never will be exercised, without absolute necessity.

I have been amused by the writings of an avowed friend to the plan. "Let no man," says he, "think of proposing amendments. Should each person object, and should his objections prevail, not a tittle of the system will be left. You are to accept the whole, or reject the whole." After speaking in this very sensible way, he advises the states to reject, with unanimity and firmness, the following provision.<sup>2</sup>

"Art. 1, sect. 4. The times, places, and manner of holding elections for senators and representatives, shall be prescribed in each state, by the legislature thereof; *but the congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.*"

Can this writer imagine, that congress will presume to use this power, without the occurrence of some one or more of the cases, the contemplation whereof induced the convention to create it. These are the cases of invasion by a foreign power; of neglect, or obstinate refusal, in a state legislature; of the prevalence of a party, prescribing so as to suit a sinister purpose, or injure the general government. Others might perhaps occur to the convention. But these may suffice to evince the propriety of such a power in the federal head. It was never meant, that congress should at any time interfere, unless on the failure of a state legislature, or to alter such regulations as may be obviously improper. The exercise of this power must at all times be so very invidious, that congress will not venture upon it without some very cogent and substantial reason. Let congress, even officiously, exert every power given by this clause, the representatives must still be chosen by the people, and the senate by the state legislatures. The provision cannot by any possibility admit of a different construction.—

Should the bare appointment to congress have the magic to pervert the tempers and principles of men, I perceive not the temptation for abusing this, or any other of their powers. There are bad men to be found at times, in every numerous assembly. But, under all circumstances, I predict, that, in congress, their party will be small. Should there be thither sent the most prostituted character, that ever acted, like a pest, to his own state; should he possess talents superior to the rest, I should have little dread of his influence, unless I could suppose, that a majority of like characters may be chosen. Even then, I

repeat it—they will be under no temptation sufficient to influence a sensible mind; and no man of ripe age was ever yet wicked for the sake of wickedness alone.—

You have heard, that, by the privilege of nominating persons to office, the president will find the congress obsequious enough to pass any laws, he shall think fit to propose. It is incumbent on the authors of this suggestion to shew some interest in the president, inducing him to propose prejudicial measures. I have remarked, that under the constitution, his salary can be neither augmented nor curtailed, during his commission; and, to change the constitution, is not in the power of congress. Should he, however, devise, and endeavour to procure, some dangerous act of that body, can we conceive, that this lure will be powerful enough to corrupt a majority in each house. No member can be appointed to an office, created, or of which the profits shall be increased, during the time for which he was elected. And the expectation of such, as may fall vacant, within four years, will hardly corrupt even the smallest number, that can, in any possible case, be a majority in the two houses. To make the members of each house ineligible to any other office whatever, would be even impolitic, on account of its precluding these states from the services perhaps of its best men. And it would be unjust to deny men the possibility of benefits, which might be attained by others less deserving.

In ascertaining and defining the powers of congress, the convention evidently pursued this obvious principle, that all things, which concern the union in general, should be regulated by the federal head; and that each state legislature should regulate those things, which concern only its own internal government, together with the separate interests of its citizens. The enemies of the proposed constitution have deemed it material to shew, that such a one never existed before. It does not indeed agree with definitions in books, taken from the Amphycionic council, the United Netherlands, or the Helvetic body. They would therefore infer, that it is wrong. This mode of reasoning deserves not a serious refutation. The convention examined those several constitutions, if such they can be called. It found them either woefully defective, as to their own particular object, or inapplicable to ours. Peradventure, our own articles of confederation, in theory, appear more perfect than any of them. These articles were made according to rule; the legislative and executive authorities being vested in one assembly. The extreme caution of its framers to secure the independence of the several states, on account of its principle, was much to be commended. But experience having fully demonstrated this constitution to be inadequate to the purposes for which it was framed, and a general conviction of its defects having occasioned the convention, it is astonishing, that attempts are now

made to prefer still a theory, not founded on the nature of things, but derived merely from a few deplorable examples. If two branches in a state legislature be proper, why, in the name of common sense, are they not so in a confederate legislature?—Many instances of hasty unadvised proceedings of congress, as a legislature, have by other writers been adduced; and so long as mankind shall remain under the influence of passion or interest, there will be such proceedings in every numerous assembly of men.

It is universally, by good writers, agreed, that where any one political body possesses *full* powers, legislative and executive, whether it be a single man, or a select few, or a numerous assembly, it matters not;—the government must, in a short time, become despotic.<sup>3</sup> That in a free government, therefore, the legislative and executive ought to be ever distinct and separate, is a position in the Maryland declaration of rights.<sup>4</sup> This hackneyed principle has been urged, with great confidence, against constituting the senate a council to the president. It has been urged too, even by the men who would have the whole powers of the federal government centered in a single assembly. I mean the men who insist that the convention ought to have done no more than advise in what manner the powers of the present congress should be increased. Let us understand the principle in its proper extent. It does not follow, that a body, whose assent is required in making laws, but who cannot, by themselves, do any legislative act, may not be a fit council to the supreme executive magistrate, deriving his authority, like them, from the people, in no manner dependent on them, or the immediate representatives of the people, for any private advantage, and possessed of no share in legislation, except that of offering his advice.

The objection to this part of the constitution, I confess, at first, appeared formidable. The reasons which I now conjecture to have influenced the convention, did not then occur. But I have long adhered to a maxim, which I warmly recommend to others—never to condemn, absolutely, even within myself, any one kind, until I can hit upon some other kind which I *conceive* better. As no human institution can possess absolute perfection, it is an easy matter to espy some fault or defect in almost every thing, which the wit of man can contrive, or, at least, to reason plausibly against it. But this faculty of finding faults is by no means sufficient to constitute the politician or statesman. I deliberated, what kind of council might be preferable, under all circumstances, to the senate. The plainest thing in nature! Exclaims he, who solves all difficulties at once. Why not appoint a body to act as council and nothing else?

One reason, and that not very unpopular, is the great additional expence. However, this reason I deem the lightest of all; and the general proposition involves a great variety of other considerations.—

It is essential to a council, that the members be free, as possible, from all bias, or improper influence. This separate and distinct council must be elected by the people, or by special electors; by the legislature, or by one of its branches; or by some other department; or by the president.—

That the people should either make laws to bind themselves, or elect persons, without whose consent, no laws shall be made, is essential to their freedom. But universal experience forbids, that they should also immediately choose persons for the execution of the laws.<sup>(1)</sup> Shall the legislature then, or the senate, or the house of representatives, have this appointment? A council thus chosen would be dependent on its electors; and it would be the same thing, in many respects, as if the legislature should execute its own laws. Can you believe, that a council, chosen annually, or once in two or three years, would dare to pursue, in all cases, the dictates of its own judgment, contrary to the known will of those, who will soon have an opportunity of removing them? Would they not be emulous to please leading men; and would there not be opened, at every period of election, a fine field for intrigue and cabal? There would be one way only of rendering a council, thus chosen, independent of their electors; and that is, the choosing them for life, with salaries, not to be augmented or diminished.

Against choosing an executive for life the reasons are weighty indeed. Should they then hold their commissions during good behaviour, there must be some tribunal to determine on that good behaviour; and what body it can be, except the congress, would be difficult to decide. Besides good behaviour in a member of council is not determinable, like that of a judge, which has relation to the laws, and things universally known. In the office of the former, there is so much left to discretion, that I cannot perceive with what propriety he can hold it on the condition of good behaviour. There can be no sure criterion, and the decision must therefore unavoidably depend on the discretion, or mere opinion, of his judges, founded on no established principles whatever.—

A council, chosen by the president himself, would probably consist of creatures devoted to his will. I can discern no reason, wherefore any other officers of the government should make the appointment. There remains then only the people's choosing electors, and placing the council of the president on the same footing with himself. Here occurs the objection of expence; and here again would arise the controversy respecting equality of representation.—

The senate will, in all human likelihood, consist of the most important characters, men of enlightened minds, mature in judgment, independent in their circumstances, and not deriving their principal subsistence from their pay, as probably would the members of a board, distinct and separate from all other public employments.—



I am not, therefore, barely reconciled to the article in question. It commands my warmest admiration, and entire applause.—

Is there any power improperly trusted to that select assembly, in which all the states have equal interest, and to which they will assuredly make a determined point of sending their best men? It is this equality, almost as much as any other circumstance, which recommends it as an executive council. The senate are to try impeachments. By their advice only, may the president make treaties, appoint ambassadors, ministers, consuls, judges of the supreme court, and officers, not otherwise provided for in the constitution. Let us reflect, whether these things could be better done, by any other body, and whether it be proper for any one man (suppose even the saviour of his country to be immortal) to have the appointment of all those important officers. It has always appeared to me, that neither one man, nor many men, should possess this transcendent authority, in a republic. A single man in high power, if he always mean right, can with difficulty discern the true characters of men. Continual efforts are made to impose on his judgment. But, indeed, a single man *generally* confers offices by favour. In a large assembly there is perhaps equal partiality; and elections are conducted by intrigue and cabal. A select assembly is not so open to direct application; and although each may be supposed to entertain his partialities, he cannot recommend his favourites, without pointing out their essential qualifications, and becoming, in some measure, responsible for their conduct. It is here, that characters are most fairly investigated, and appointments most deliberately made. I appeal to universal experience, whether these remarks be not strictly founded on fact, and whether the most judicious appointments have not been made by small select assemblies. I confess, that the number of the senators for this purpose only is excessive. But I can confidently rely on the extraordinary selection to compensate for the excess.

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The power of the president is alarming peculiarly to that class, who cannot bear to view others in possession of that fancied blessing, to which, alas! they must themselves aspire in vain. They tell you, this supreme magistrate, although he be called by the modest name of president, and elected for only four years, will, in every essential, be an emperor, king, or stadtholder at least; and that his dignity, in a few years, will become hereditary. Let us examine the foundation of this alarming prediction.—

Before this appointment can be *entailed*, and before even the term can be enlarged, the constitution must be changed, by consent of the people. By what method, then, shall the president effect this alteration? Every citizen in the union will be a censor on his conduct. Not even his person is particularly protected; and the means of oppression are little

in his power. Let the jealousy of the people once take the alarm, and, at the expiration of his term, he is dismissed, as inevitably as light succeeds to darkness. The election of a president is not carried on in a single assembly, where the several arts of corruption may be essayed. He is elected by persons chosen by the people; and those electors give their suffrages on the same day, in thirteen different assemblies, in thirteen different states. An elective monarchy has long been severely reprobated. But had the countries, where it prevailed, enjoyed regulations like these, they would perhaps, at this time, be preferred to the rules of hereditary succession, which have so often placed fools and tyrants on the throne.

It seems, however, that the president may possibly be continued for life. He may so, provided he deserve it. If not, he retires to obscurity, without even the consolation of having produced any of the convulsions, attendant usually on grand revolutions. Should he be wicked or frantic enough to make the attempt, he atones for it, with the certain loss of wealth, liberty or life.—

I return to the powers of congress. They are almost universally admitted to be proper for a federal head, except only the *sweeping clause*, and the power of raising fleets and armies, without any stint or limitation, in time of peace. The clause runs thus:

Art. 1, sect. 8, par. the last. “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.”

It is apprehended, that this *sweeping clause* will afford pretext, for freeing congress from all constitutional restraints.

I will not here again insist on the pledge we enjoy, in the common interest, and sure attachment of the representatives and senate; setting aside the little probability of a majority in each branch lying under the same temptation. Consider the import of the words.

I take the construction of these words to be precisely the same, as if the clause had proceeded further and said, “No act of congress shall be valid, unless it have relation to the foregoing powers, and be necessary and proper for carrying them into execution.” But say the objectors, “The congress, being itself to judge of the necessity and propriety, may pass any act, which it may deem *expedient*, for any other purpose.” This objection applies with equal force to each particular power, defined by the constitution; and, if there were a bill of rights, congress might be said to be the judge of that also. They may reflect however, that every judge in the union, whether of federal or state appointment, (and some persons would say every jury) will have a right to reject any act, handed to him as a law, which he may conceive repugnant to the constitution.

It may nevertheless strike you at first view, that a provision, so obviously apt to excite distrust, might have well been omitted. So indeed it might, were there a possibility of providing every thing, necessary and proper, for carrying into effect the various powers, intended to be conferred. Without this general clause, it were easy to suppose cases, wherein a particular clause might be incompetent to its own purpose.—

For want of some plain and obvious distinctions, there has been vented so much senseless clamour against standing armies, that they are become a political bugbear. A limited monarch, with the means of maintaining, at all times, an army devoted to his will, might soon trample on the natural and civil rights of his subjects. Could the present congress find means of augmenting the force, which it now maintains, which of you, on that account, would experience the slightest anxiety? Which of all the European powers is destitute of an army? Which of them, if they were free, could be secure of remaining so, without a standing force? I might go further, and demand, whether any of them have lost their liberties, by means of a *standing* army?<sup>(m)</sup> The troops, continually kept up in Great-Britain, are formidable to its neighbours, and yet no rational Englishman apprehends the destruction of his rights. It is true, that he knows, these troops cannot be maintained, without the consent of his representatives, annually obtained. But the necessity of an army he readily conceives; and the number he leaves to the discretion of parliament. Ought then an American to have greater fears of a president, than an Englishman has of his king? Or may he not trust his representatives and the senate, with as much confidence, as the Englishman reposes in the commons and lords?

Let the federal head be constituted as it may, there can be no perfect security, without both a land force, and naval armament. It is impossible to say how much will, at all times of peace, be sufficient. We have the same security against the abuse of this, as of any other authority. The expences of an army might indeed raise fears of a different kind,—that we shall not be able to maintain force enough for the most proper occasion.

Suppose a limitation in time of peace. What then is to be done on the prospect of a war? Should you make the distinction between profound peace, and a *threatened* war, who is there, but congress, to determine on the exigency? If you make no distinction, then will it be expedient to declare war, at the instant in which the danger shall be conceived, in order that it may be lawful to prepare for only a just defence. In fine, I consider this grand objection, as a mere pretext for terrifying you, like children, with spectres and hobgoblins. It may be material here to remark, that although a well regulated militia has ever been considered as the true defence of a free republic, there are always honest purposes,

which are not to be answered by a militia. If they were, the burthen on the militia would be so great, that a free people would, by no means, be willing to sustain it. If indeed it be possible in the nature of things, that congress shall, at any future period, alarm us by an improper augmentation of troops, could we not, in that case, depend on the militia, which is ourselves. In such a case it would be ridiculous to urge, that the federal government is invested with a power over the whole militia of the union. Even when congress shall exercise this power, on the most proper occasions, it is provided in the constitution, that each state shall officer, and train its own militia.—

The objections against the judiciary are probably more sincere. The article has been generally misconceived, or misrepresented; and after bestowing much attention, I am not certain, that I fully comprehend it. I am, however, at length satisfied, that no rational construction can be given to this part of the proposed plan, either to warrant a rejection of the whole, or to place matters on a worse footing, than they are at present.

The judiciary power is to be vested in one supreme court, fixed at the seat of government; and, for the advantage of government, with the ease and convenience of the people, the congress may hereafter appoint inferior courts in each of the states. The jurisdiction of this supreme court is to be partly original, and partly appellate. With respect to the extent of either, there can be no possible doubt, as there is neither ambiguity nor uncertainty in the relative expressions.

The original jurisdiction of the supreme court extends

1. To all cases, in which may be concerned an ambassador, any other public minister, or a consul.
2. To all cases whatever, in which a state may be a party.—This second division may be branched into 1. Cases between the United States, and one or more of the individual states. 2. Cases between two or more states. 3. Cases between a state, and its own citizens.<sup>(n)</sup> 4. Cases between a state, and the citizens of another state. 5. Cases between a state, and a foreign state. 6. Cases between a state, and the citizens, or subjects, of a foreign state.

The appellate jurisdiction of the supreme court extends

1. To all cases whatever between parties of every kind, in law and equity, arising under this constitution, and the laws of congress, passed agreeably thereto, and to treaties already, or hereafter to be, made.
2. To all cases of admiralty or maritime jurisdiction.
3. To all cases, in which the United States shall be a party.
4. To all cases between citizens of different states.
5. To all cases between citizens of the same state, claiming lands under the grants of different states.

6. To all cases between citizens of a state, and foreign states, or their citizens or subjects.

One doubt arising on the judiciary article is, whether in these cases of appellate jurisdiction, the appeal lies both from the state courts, and the inferior federal courts, or only from the former, or only from the latter.

Another doubt is, whether the inferior federal courts are to be branches of the supreme court, constituted for convenience, and having equal jurisdiction, both original and appellate, with the supreme court; or whether the inferior courts are to be confined to an *original* jurisdiction in those cases, wherein the supreme court has *appellate* jurisdiction.

I shall not presume to decide absolutely on the genuine construction of an article, which is said to have caused much private debate and perplexity. I am however fully persuaded, that, as the article speaks of an original and appellate jurisdiction, of a supreme court, and inferior courts; and, as there is no intimation of appeals from the several state tribunals, the inferior federal courts are intended to have original jurisdiction in all cases, wherein the supreme court has appellate jurisdiction; and the appeal lies only from them. I can, almost, with confidence, maintain, that, as there is no express clause, or necessary implication, to oust the jurisdiction of state courts, an action, after the adoption of the plan, may be instituted in any court, having, at this time, a jurisdiction. And if an action be brought in a state court, I do not, at present, perceive, that it can, in any manner, be transferred to the supreme or inferior federal court.

According then to the best of my judgment the affair stands thus. The supreme federal court will have an exclusive original jurisdiction in all cases relative to the rights of ambassadors, other ministers, and consuls; because, as I humbly conceive, the several state governments have at this time nothing to do with these cases. With respect to the cases, in which a state may be party, the supreme federal court, and the several state courts, will have, I conceive, concurrent original jurisdiction, *provided a state may, at this time, institute an action in its own name, in the courts of another state.* The inferior federal courts, and the state courts, will, I conceive, have concurrent original jurisdiction in all the enumerated cases, wherein an appeal lies to the supreme court, *except only the cases created by or under the proposed constitution, in which, as they do not now exist, the inferior federal courts will have exclusive jurisdiction.* From the state inferior courts, I further apprehend, that an appeal will lie, in all cases, to their own high courts of appeal, as heretofore.

A choice of jurisdictions has been ever esteemed a valuable right, even where there are both of the same kind. The purpose of extending so far the jurisdiction of the federal judiciary, is to give every assurance

to the general government, of a faithful execution of its laws, and to give citizens, states, and foreigners, an assurance of the impartial administration of justice. Without this salutary institution, the federal government might frequently be obstructed, and its servants want protection. It is calculated not as an engine of oppression, but to secure the blessings of peace and good order. The provisions respecting different states, their citizens, and foreigners, if not absolutely necessary, are much to be applauded. The human mind is so framed, that the slightest circumstance may prevent the most upright and well known tribunal from giving complete satisfaction; and there may happen a variety of cases, where the distrust and suspicion may not be altogether destitute of a just foundation.—

On these principles, an appeal as to fact is no less proper, than the appeal from judges of law. A jury, whose legal qualifications are only property and ripe age, may more probably incur the imputation of weakness, partiality, or undue influence. But in regard to appeals, it is very material to remark, that congress is to make such regulations and exceptions, as upon mature deliberation, it shall think proper. And indeed, before such regulations and exceptions shall be made, the manner of appeal will not be ascertained. Is it then to be presumed, that, in making regulations and exceptions, this appellate jurisdiction shall be calculated as an engine of oppression, or to serve only the purposes of vexation and delay.—

As the rod of Aaron once swallowed up the rods of the Egyptian *magi*,<sup>5</sup> so also is it feared, that these federal courts will, at length, swallow up the state tribunals. A miracle, in one case, is as necessary, as in the other.

But let not the officers of state courts be overmuch alarmed! The causes, which, by possibility, may be<sup>(c)</sup> instituted in the federal courts bear no comparison to the rest. In the course of ten years, not one action, that I know of, in Maryland, has concerned either another state, or an ambassador, consul, or other minister. It is hoped, that actions by foreigners will, in a few years, become much rarer than at any time heretofore, and these may still be determined in the state courts.—

A gentleman, as it is conjectured, in the law department of a neighbouring state, has been pleased to infer, that fictions, similar to those in the king's bench and exchequer of England, will be contrived, to draw causes into the federal courts.<sup>6</sup> He seems not aware, that, even in England, the established fictions of law are not of modern date. They were ingenious devices, to remedy defects in the common law, *without the aid of parliament*. The fundamental principle however, with respect to their adoption, was, that they *consist with equity, and be requisite for the advancement of justice*. Now every man, who would establish over his cause a jurisdiction in a federal court, must shew, that such cause comes

under the description of the constitution. If he do not, there will be wanting that equity, which is the support of legal fiction. But can any man seriously imagine, that fiction will be permitted, to give the judges a power of legislation, denied to congress itself? Wherefore should the judges, holding their commissions during good behaviour, be guilty of such gross falshood, perjury, and breach of trust? Would there not be a general revolt against such barefaced impudent innovations? Away then with your trumpery of fictions! Accuse not the illustrious members of the convention of having in their contemplation such sophistry, pettifogging and chicane! But another fear is, that whatever actions may be instituted in the federal courts will there seek an admission, on account of a more speedy decision. That man alone, "on whose brow shame is ashamed to sit," will avow his opposition to a more speedy administration of justice.

The institution of the trial by jury has been sanctified by the experience of ages. It has been recognised by the constitution of every state in the union. It is deemed the birthright of Americans; and it is imagined, that liberty cannot subsist without it. The proposed plan expressly adopts it, for the decision of all criminal accusations, except impeachment; and is silent with respect to the determination of facts in civil causes.

The inference, hence drawn by many, is not warranted by the premises. By recognising the jury trial in criminal cases, the constitution effectually provides, that it shall prevail, so long as the constitution itself shall remain unimpaired and unchanged. But, from the great variety of civil cases, arising under this plan of government, it would be unwise and impolitic to say ought about it, in regard to these. Is there not a great variety of cases, in which this trial is taken away in each of the states? Are there not many more cases, where it is denied in England? For the convention to ascertain in what cases it shall prevail, and in what others it may be expedient to prefer other modes, was impracticable. On this subject, a future congress is to decide; and I see no foundation under Heaven for the opinion, that congress will despise the known prejudices and inclination of their countrymen. A very ingenious writer of Philadelphia has mentioned the objections without deigning to refute that, which he conceives to have originated "in sheer malice."<sup>7</sup>

I proceed to attack the whole body of anti-federalists in their strong hold. The proposed constitution contains no *bill of rights*.

Consider again the nature and intent of a federal republic. It consists of an assemblage of distinct states, each completely organized for the protection of its own citizens, and the whole consolidated, by

express compact, under one head, for their general welfare and common defence.

Should the compact authorise the sovereign, or head, to do all things it may think necessary and proper, then is there no limitation to its authority; and the liberty of each citizen in the union has no other security, than the sound policy, good faith, virtue, and perhaps proper interests, of the head.

When the compact confers the aforesaid general power, making nevertheless some special reservations and exceptions, then is the citizen protected further, so far as these reservations and exceptions shall extend.

But, when the compact ascertains and defines the power delegated to the federal head, then cannot this government, without manifest usurpation, exert any power not expressly, or by *necessary* implication, conferred by the compact.

This doctrine is so obvious and plain, that I am amazed any good man should deplore the omission of a bill of rights. When we were told, that the celebrated Mr. Wilson had advanced this doctrine in effect, it was said, Mr. Wilson would not dare to speak thus to a CONSTITUTIONALIST.<sup>8</sup> With talents inferior to that gentleman's, I will maintain the doctrine against any CONSTITUTIONALIST who will condescend to enter the lists, and behave like a gentleman.—

It is, however, the idea of another most respectable character, that, as a bill of rights could do no harm, and might quiet the minds of many good people, the convention would have done well to indulge them.—With all due deference, I apprehend, that a bill of rights might not be this innocent quieting instrument. Had the convention entered on the work, they must have comprehended within it every thing, which the citizens of the United States claim as a natural or a civil right. An omission of a single article would have caused more discontent, than is either felt, or pretended, on the present occasion. A multitude of articles might be the source of infinite controversy, by clashing with the powers intended to be given. To be full and certain, a bill of rights might have cost the convention more time, than was expended on their other work. The very appearance of it might raise more clamour than its omission,—I mean from those, who study pretexts for condemning the whole fabric of the constitution.—“What! (might they say) did these exalted spirits imagine, that the natural rights of mankind depend on their gracious concessions. If indeed they possessed that tyrannic sway, which the kings of England had once usurped, we might humbly thank them for their *magna charta*, defective as it is. As that is not the case, we will not suffer it to be understood, that their *new-fangled* federal head shall domineer with the powers not excepted by their precious bill of rights. What! If the owner of 1000 acres of land thinks proper to sell



one half, is it necessary for him to take a release from the vendee of the other half? Just as necessary is it for the people to have a grant of their natural rights from a government, which derives every thing it has, from the grant of the people.”—

The restraints laid on the state legislatures will tend to secure domestic tranquillity, more than all the bills, or declarations, of rights, which human policy could devise. It is very justly asserted, that the plan contains an avowal of many rights. It provides, that no man shall suffer by *ex post facto* laws, or bills of attainder. It declares, that gold and silver only shall be a tender for specie debts; and that no law shall impair the obligation of a contract.

I have here perhaps touched a string, which secretly draws together many of the foes to the plan. Too long have we sustained evils, resulting from injudicious emissions of paper, and from the operation of tender laws. To bills of credit, as they are now falsely called, may we impute the entire loss of confidence between men. Hence is it, that specie has, in a great degree, ceased its proper office, and been confined to speculations, baneful to the public, and enriching a few enterprising sharp-sighted men, at the expence not only of the ignorant, slothful, and needy, but of their country's best benefactors. Hence chiefly are the bankruptcies throughout America, and the disreputable ruinous state of our commerce. Hence is it principally, that America hath lost its credit abroad, and American faith become a proverb. The convention plainly saw, that nothing short of a renunciation of the right to emit bills of credit could produce that grand consummation of policy, the RESTORATION OF PUBLIC AND PRIVATE FAITH.

Were it possible for the nations abroad to suppose Great-Britain would emit bills on the terms whereon they have issued in America, how soon would the wide arch of that mighty empire tumble into ruins? In no other country in the universe has prevailed the idea of supplying, by *promissory notes*, the want of coin, for commerce and taxes. In America, indeed, they have heretofore served many valuable purposes. It is this consideration, which has so powerfully attached to them many well meaning honest citizens; and they talk of gratitude to paper money, as if it were a sensible benefactor, entitled to the highest rank and distinction; and as if, to abandon it, would be a deadly sin. But when every thing demonstrates the season to be past; when the credit of America, in all places, depends on the security she shall give to contracts, it would be madness in the states to be tenacious of their right. So long as Europe shall believe we regard not justice, gratitude and honour, so long will America labour under the disadvantages of an individual, who attempts to make good his way through the world with a blasted reputation. To the man, who shall say, “it is of no consequence

to consult national honour," I only answer thus,—“If thy soul be so narrow and depraved, as to believe this, it were a needless attempt to cure thee of thy error.”

On this subject, there is no necessity for enlarging, to the people of my native state; their conduct on a recent occasion having acquired them great and deserved applause.<sup>9</sup> Is it necessary to enlarge on the propriety of giving more efficient powers to a federal head? At this moment, congress is little more than a name, without power to effect a single thing, which is the object of a confederate republic. Reflect on the recent period, when, in a sister state, a numerous body of her frantic citizens appeared armed for the destruction of a government, framed by the people.<sup>10</sup> When that unhappy state was devoted to the miseries of a civil war, did congress even dare to interpose? Conscious of its inability to protect, it could only await the result, in silence and in terror. It indeed ventured to *make application* to the states for a small body of troops, under the poor pretext of another, and a necessary, destination.<sup>11</sup> But, notwithstanding the universal contagion of the alarm, did the states, on *that* occasion, comply with the *requisition*? Suppose even an invasion by a foreign power,—in what manner could congress provide for its own defence? In the contemptible light, in which America has lately stood, is it reasonable to expect she will be suffered to remain long in peace? The distance between the two continents is the only circumstance, on which we can rely. All Europe is now in suspense; and the result of your deliberations will instruct her in the part she shall act.

With amazement, her nations contemplate a scene, of which the world is too young to furnish a parallel. We assembled our sages, patriots, and statesmen, to consult what mode of government is capable of producing the greatest sum of general good, with the least mixture of general, and partial evil. Not that each individual in this august assembly was expected to offer a system; but that the product of their joint wisdom should be referred to the several states, to be adopted, or rejected, as the great body of the people shall determine on a free and full deliberation.

As the occasion was unparalleled, so also is the plan, which, after many months of painful investigation, is submitted, with an unanimity, also unparalleled.

If there be any man, who approves the great outlines of the plan, and, at the same time, would reject it, because he views some of the minute parts as imperfect, he should reflect, that, if the states shall think as he does, an alteration may be hereafter effected, at leisure. When the convention determined, that the whole should be received, or the whole fail, they did it not on an arrogant conceit of their own infallibility, but on the soundest principles of policy and common sense.

Were each state legislature, or convention, to take it up, article by article, and section by section, with the liberty of adopting some, and rejecting the rest, in all probability, so small a part would be approved by nine states, on the narrow view which each has of the subject, and attached as each is to its own supposed interest, that, in its mutilated condition, it would be worse than the present confederation. For thirteen different assemblies, in that way, to approve so much of any plan whatever, as might merit the name of system, the convention well knew to be impossible. Were there any one body of men, invested with full power, in behalf of the whole United States, to consider, and amend the plan, then would it be proper to debate it by sections, in the same manner as it was originally debated.

With a view to defeat totally the plan, another general convention is proposed; not with the power of giving a finishing hand to a constitution; but *again* to consider objections, to strike out, to add, and *again* to make their report to the several states.

In this way, there can never be an end. We must at last return to this,—that whatever is agreed on, by the assembly appointed to propose, must be either adopted in the whole, or in the whole rejected.

The idea of a new convention is started by some men, with the vain expectation of having amendments made to suit a particular state, or to advance their own selfish views. Were this fatal idea adopted, I should bid a last adieu to that elevated hope, which now inspires me, of living under the happiest form of government which the sun ever beheld. Recollect again and again, that almost every state in the union made a determined point of delegating its first characters to this grand convention. Reflect upon the time spent in the arduous work, and the sacrifices which those distinguished persons made to their country. Should the same men be deputed again, would they not, think you, with the same unanimity, subscribe and recommend the same plan? So far as I have been informed, those members, who, in the progression of the plan, had opposed certain parts, and yet afterwards subscribed cheerfully to the whole, have, with the candour which becomes them, acknowledged their errors in debate. Even an illustrious character, who was of the minority, consisting only of three, I have been told, has since regretted his refusal.<sup>12</sup>

Suppose then a second convention, with a different choice of delegates. These too would either speedily subscribe, or they might propose some other system, to be debated, paragraph by paragraph, in thirteen different assemblies; and then there would be the same probability of a mutilated plan; or they would propose something, to be adopted or rejected in the whole; and there would be the same necessity of another convention. Besides, as the second convention, if it consist of different men, must *inevitably* be inferior to the first, there is little probability that their work will be superior. Never again, in an

assembly constituted as that was, will there be found the same liberality of sentiment, “the same spirit of amity, and the same mutual deference and concession.”<sup>13</sup>

If it be contended, that the second, being possessed of the various objections from the several states, must be better able to determine, I would ask, what conduct this second convention should adopt? Are they to take the proposed plan, and strike out every thing objected to by nine states, or by seven states, or by any one of the states? Or may they like wise adopt and recommend the entire plan? In short, to appoint a second convention, merely to consult and propose, would be the most absurd expedient, that ever, in a matter of this amazing magnitude, was proposed. Does any man then entertain the thought of another kind of convention, invested with full powers to consult, amend, adopt, and confirm? A scheme like this was never yet, I trust, in agitation. But, if it were, I would propose this single question. Whether it is better to amend, before it be tried, that plan, which may be termed the result of the wisdom of America, or leave it to be amended, at leisure, as mature experience shall direct?

Although a very great variety of sensible objections have been publicly offered, the real and sincere objections are hardly ever disclosed in private. There is a class, opposed to the union of *thirteen different states*, and the reason they assign, is the vast extent of our territory. Let us consider well their objection.

To consolidate the whole thirteen states into a single organization, was out of the convention’s contemplation,—for two unanswerable reasons. In the first place, they were satisfied, that not one of the states would renounce its sovereignty. In the next place, they considered, that, in a single government, with a great extent of territory, the advantages are most unequally diffused. As the extreme parts are scarcely sensible of its protection, so are they scarcely under its domination. It is generally agreed, that a great extended nation can long continue under no *single* form of government, except a despotism, into which, either a republic, or a limited monarchy, will be certain to degenerate. And hence, if I understand the man who styles himself a *Centinel*, he insinuates, that, if these states will persist in remaining under one head, they must soon fall under the dominion of a despot.<sup>14</sup> But, my fellow-citizens, in a confederate republic, consisting of distinct states, completely organized within themselves, and each of no greater extent than is proper for a republican form, almost all the blessings of government are equally diffused. Its protection extends to the remotest corner, and there every man is under restraint of laws.

A true federal republic is always capable of accession by the peaceable and friendly admission of new single states. *Its true size is neither greater nor less than that, which may comprehend all the states, which, by their contiguity, may*

*become enemies, unless united under one common head, capable of reconciling all their differences.* Such a government as this, excels any single government, extending over the same territory, as a band of brothers is superior to a band of slaves, or as thirteen common men, for the purposes of agriculture, would be superior to a giant, enjoying strength of body equal to them all.

The idea of a balance has long influenced the politics of Europe. But how much superior to this almost impracticable balance would be a general league, constituting a kind of federal republic, consisting of all the independent powers in Europe, for preventing the impositions and encroachments of one upon another! A true and perfect confederate government, however, in her situation, is not to be attained; although the great soul of HENRY THE FOURTH is said to have conceived the idea.

Shall America then form one grand federal republic? Or shall she, after experiencing the benefits of even an imperfect union, and when a union the most perfect is requisite for her permanent safety;—shall she, in this situation, divide into thirteen contemptible single governments, exposed to every insult and wrong from abroad, and watching each other's motions, with all the captiousness of jealous rivals? Or shall she divide into two or more federal republics, actuated by the same malignant dispositions? In either of these cases, after struggling through infinite toils, difficulty, and danger, should the thirteen single states be, at last, delivered from foreign foes, they will fall upon each other; and no man can predict, what forms of government, or division of territory, shall finally obtain—. Two or three federal republics might possibly retain their independence. But they would be in the same situation, with respect to each other, as France, England, and Spain, scarcely ever free from war; practising the arts of dissimulation and intrigue; in vain striving to impose, by endless negotiation; and, after all, relying only on the immense naval and land forces, which they continually maintain.

Let us, then, my countrymen, embrace those blessings, which Providence is ready to shower on us. Open and extend your views! Let the prospect comprehend the present and future generations, yourselves, your children, your relatives, your fellow-citizens, dwellers on the same continent, and inhabitants of the whole terraqueous globe.—

With the prospect of my country's future glory, presented to my glowing imagination, it is difficult to resist the strong impulse of enthusiasm. But it is neither *my* talent, nor desire, to mislead. I wish only to impress the genuine advantages of the proposed plan; and, if possible, to rouse every man from that supineness, into which he is lulled by the present deceitful calm. To acquit themselves, like men, when visible danger assails; and, when it is repelled, to sink like savages,

into indolence, is said to be the characteristic of Americans. I am not, however, one of those, who imagine a necessity for embracing almost any scheme, which the convention might have devised, for giving to the union more efficient powers. Had the plan, they have proposed, contained the seeds of much, though distant, evil, perhaps a *faithful patriot* might address you thus:

“Let us not, my friends, in a fit of unmanly apprehension, betray that immense charge, with which Americans, at this day, are entrusted! Let us confide in *the wisdom of our great men*, with the assistance of Heaven, to establish yet our safety and happiness! Let us, in the mean time, sustain all our evils, with resignation and firmness! Let us hope, that no foreign power, or lawless internal combinations, shall do us a mighty injury! Let us be frugal, economical, industrious! Let us suspend the cruel collection of debts! Let commerce continue to droop! Let us awhile submit even to infamy; and turn a callous ear to the indignant reproaches of our late faithful and affectionate servants, friends and benefactors.”

To this purpose might a man plausibly declaim; provided the proposed plan contained many and great faults; provided it were not calculated to promote the general good, without violating the *just rights* of a single individual; and provided it were not the best, which, under all circumstances, could be reasonably expected. It was the parting declaration of the American NESTOR, to his exalted fellow-labourers, that “he would subscribe, because he thought it good, and because he did not know, but it was the best that could be contrived.”<sup>15</sup> My own declaration, which would be the same, were I now standing on the verge of eternity, is, that if the whole matter were left to my discretion, I would not change a single part.<sup>(6)</sup> On reflection, I was pleased with the conduct of the Virginia and Maryland assemblies, in appointing distant days for the meeting of their state conventions. Not that I greatly admired the supposed motive; but because I sincerely wished every man might have time to comprehend and weigh the plan, before the ultimate decision of these two states should be pronounced. The longer it is contemplated, after it is understood, the greater, I am persuaded, will be the approbation of those, who wish the public good, and to whose private views and expectations, nothing, which tends to promote that good, can be greatly detrimental.—

But alas! My fellow-citizens, on the adoption of this fatal plan, and when every part of the great complicated machine shall be put in motion, the lustre of our state assemblies will be diminished by the superior splendour of the federal head. This single consideration, although many hesitate to avow it, will cause more opposition, than all the rest united. Weigh well the objection. If ever it be material to inquire, by whom reasons are adduced, it is on this peculiar occasion.

From the objection itself, may perhaps be discerned the danger we are exposed to, from the secret views and selfish considerations of the objector.

What at this moment to the nations abroad is the state of Maryland? The poor member of a defenceless system of petty republics—In what light is she viewed by her sister states?—Whatever rank she now possesses, will remain after the great alteration of the system. They will all rise or fall in the proportion which now exists—What then are the powers an individual state will lose?—She will no longer be able to deny congress that, which congress, at this moment, has a right to demand. She will have no power to enter into a treaty, alliance, or confederation. She shall, in time of war, grant no letters of marque and reprisal. She shall coin no money, emit no bills of credit, nor make any thing but gold and silver a tender in payment of debts. She shall pass no bill of attainder, or ex post facto law, or law impairing the obligation of a contract. She shall grant no title of nobility. She shall not, *without consent of congress*, lay any duty on imports or exports, except what may be necessary for executing her inspection laws. She shall not, *without consent of congress*, lay any duty on tonnage, keep troops or<sup>(d)</sup> ships of war, in time of peace; enter into any agreement, or compact, with another state, or with a foreign power; or engage in war, unless actually invaded, or in such imminent danger, as will not admit of delay.

Of the several powers, from which an individual state is thus restrained, some are improper to be used at all; others belong not even now to the individual states; and the rest are strictly proper for only the federal head. The aversion from ceding them to congress, is just as reasonable as in a state of nature would be the reluctance of an individual to relinquish any of his natural rights, upon entering into a state of society. The principle, on which, at length, he surrenders, is the necessity of every one's making a cession of some rights, to enable the sovereign to protect the rest. Each state is fully sensible, that she cannot protect herself; and yet she would enjoy the advantages of an union, without making the necessary contributions. To discern how preposterous is the idea, requires not more than a moment's reflection.

For the honour of my countrymen, I hope this extreme reluctance to surrender power is confined to those, whose ambition, or private interest, would have all things subservient to the omnipotence of assembly. In the few years that the state constitutions have endured, has not every one seen pregnant proofs of the vain love of domination? Has he not also seen decisive marks of overbearing secret influence? Where are the instances of exalted patriotism?—But I forbear. Far from me is the wish to cast wantonly one stinging or disagreeable reflection. The subject naturally required the general remark, and I hope, this short hint may be excused.—

Is there a possible advantage to be derived to the public, from a single state's exercising powers proper only for the federal head; suppose even each state should use them properly and alike; which, in the nature of things, is not to be expected? If there be men, who delight in parliamentary warfare; who choose a fair wide field for displaying their talents; who wish to see every servant of the public prostrate before them; whose ears are soothed by humble supplication; they may still enjoy rich sources of gratification. Are not the regulations of property, the regulations of the penal law, the protection of the weak, the promotion of useful arts, the whole internal government of their respective republics; are not these the main objects of every wise and honest legislature? Are not these things still in their power; and, whilst free from invasion or injuries abroad, are not these almost the only things, in which sovereignty is exercised?

That the state legislatures will soon "drop out of sight," is an idea most extravagant and absurd; because, in addition to the importance of their duties, the very existence of the congress depends upon them. That they will, at least, dwindle into something like city corporations, is an apprehension, founded on no better principle. May the Ruler of the universe inspire them with wisdom to discharge those numerous and extensive duties, which they will find remaining. To do this, as they ought, will be far preferable to the<sup>(e)</sup> breaking all useful national measures, and marring the concerns of a continent. To do this, as they ought, will afford more true pleasure to a good mind, than the carrying, by consummate eloquence and address, the most interesting federal measure, which can now be contrived by an enlightened honest politician, in a state assembly, possessing all its darling sovereignties!

You have been assured, that, soon as this fatal plan shall succeed, an host of rapacious collectors will *invade* the land; that they will wrest from you the hard product of your industry, turn out your children from their dwellings, perhaps commit your bodies to a jail; and your own immediate representatives will have no power to relieve you.—This is the mere phrenzy of declamation, the ridiculous conjuration of spectres and hobgoblins!

To the five per cent. impost most of the states have more than once given their assent.<sup>16</sup> This is the only tax which congress wishes immediately to impose. Of the imposition of assessment, capitation, or direct taxes of any kind, the congress entertains no idea at present; and although it be proper for the federal head to possess this power in reserve, nothing but some unforeseen disaster will ever drive them to such ineligible expedients. Setting aside the immediate advantages of revived credit and trade, and the increased value of your property and labour, you will be delivered, in a great measure, from that load of



direct taxation, which has been so unequally borne, and produced so little substantial good.

Permit me to demand, what mighty benefit has resulted from the exercise of those sovereign rights, that, in general, you should be loth to resign them? Has not a perpetual clamour been kept up (it matters not whether justly or otherwise) concerning the enormous impositions on the people? And what are the advantages derived to the people of the respective states, to the union, or to meritorious individuals? Has not the far greater part of a state's internal expences been owing to the extreme length of sessions? Have not these sessions been consumed in disgusting altercation, and in passing laws, serving to little better purpose, than to swell the statute book, encourage a negligence of duty, and obstruct the administration of justice?

To trace each real and ostensible objection up to its proper source, would be a task equally invidious, irksome and unnecessary. The characters of the principal advocates and opponents are well known. To him who declines not a public avowal of his sentiments, some credit is due, for his candour; and he is entitled to your patient attention. But, he that prefers a secret corner, for dealing forth his objections, and expositions, should be heard with caution and distrust. It is in a land of slavery alone, where truth shuns the open day—. Each side has imputed to the other illiberal and selfish motives. Consider then the particular interests of each; and bear this in your minds, that an interest may be either honourable and praiseworthy, or directly the reverse.

You have been told, that the proposed plan was calculated peculiarly for the rich. In all governments, not merely despotic, the wealthy must, in most things, find an advantage, from the possession of that, which is too much the end and aim of all mankind. In the proposed plan, there is nothing like a discrimination in their favour. How this amazing objection is to be supported, I am at a loss to conjecture. Is it a just cause of reproach, that the constitution effectually secures property? Or would the objectors introduce a general scramble? In eligibility to office, in suffrage, and in every other civil right, all men are on terms of perfect equality. And yet, notwithstanding this just equality, each man is to pay taxes in proportion to his ability, or his expences.—

A still more suprising objection remains to be considered. "This new constitution, so much bepraised and admired, will commence in a moderate aristocracy.<sup>17</sup> To a corrupt and oppressive one the transition is easy, and inevitable, unless some Cæsar, or a Cromwell, in their stead, shall make a seizure of your liberties. As to the house of representatives, they will either be insignificant spectators of the contest between the president and the senate, or their weight will be thrown into one of the scales."

No man, indeed, has exactly used these words; but they contain the sum and scope of several recent publications.

In the course of my remarks, I have already said enough to expose the futility of certain objections, which are ushered to the world, under the auspices of a pair of honourable names. Notwithstanding the care and pomposity, with which they are circulated, it is not worth while to draw an invidious comparison. One gentleman, whose name is thus *freely* used, I think, calls the house of representatives a mere shred, or rag of representation.<sup>18</sup> Does he consider the distinction between the objects of a confederate republic, and of a single government? It is a poor return for that singular respect, which the convention paid to the majesty of the people, in contriving, that congress shall not only be a representation of states, as heretofore, but also an immediate representation of the people. Were 5, 10, or even 20,000, the ratio proposed, then peradventure the honourable objector might clamour about the expence of a mobbish legislature. The fact is, that the new government, constructed on the broad basis of equality, mutual benefits, and national good, is not calculated to secure a single state all her natural advantages, at the expence of the natural and acquired advantages of her respectable brethren of New-England.—

His real objection against constituting the senate an executive council arises, I conceive, from the equality of representation. As to the trite maxim, that the legislative and executive ought ever to be distinct and separate, I would, in addition to my foregoing observations on this head, refer him to Montesquieu's chapter on the English government.<sup>19</sup> I could wish, the writings of that great man, and of judge Blackstone, so often either copied, or cited for conclusive authority, were better understood. Should a second, or a third convention, be obtained, the aforesaid honourable gentlemen can never be *fully* indulged in their main object of a proportionate representation.

The examples of a genuine aristocracy are rare. They were founded in times of profound ignorance, and when the mass of property was in the hands of a few, whilst the rest pined in want and wretchedness.<sup>(P)</sup> One European aristocratic government, if such it can be called, has grown out of an original defective form, the offspring of necessity, and commenced amidst the horrors of a civil war. Although the people of that country fought, and intended, to be free, their compact of government never was complete; they did not attend to the principle of rotation, and checks; and a genuine representation did never there prevail.—

An aristocracy can perhaps subsist only with a moderate extent of territory and population.—But it is a farce to talk of an aristocracy; when there are two branches, so differently formed; when the members of each are chosen for a reasonable term; and when their re-appointment depends on the good opinion of their countrymen. It is

not in nature, that a man with the least portion of *common* sense can believe, the people of America will consent to such a deplorable change in their constitution, as shall confine all power to a few noble families, or that, without their consent, the change will be effected, by internal policy, or force.

Whilst mankind shall believe freedom to be better than slavery; whilst our lands shall be generally distributed, and not held by a few insolent barons, on the debasing terms of vassallage; whilst we shall teach our children to read and write; whilst the liberty of the press, that grand palladium, which tyrants are compelled to respect, shall remain; whilst a spark of public love shall animate even a small part of the people; whilst even self-love shall be the general ruling principle; so long will it be impossible for an aristocracy to arise from the proposed plan.—Should Heaven, in its wrath, inflict blindness on the people of America; should they reject this fair offer of permanent safety and happiness;—to predict, what species of government shall at last spring from disorder, is beyond the short reach of political foresight.

Believe me, my fellow-citizens, that no overweening self-conceit, no vain ambition, no restless meddling spirit, has produced this address. Long had I waited to see this vast question treated, as it deserves; and the publication disseminated in my native state. Many judicious observations had appeared in news-papers and hand-bills. But no publication, that I have seen, has gone fully into the merits, considered the objections, and explained that, which is doubtful and obscure. On this account I, at length, made the attempt. That my performance is equal to my wishes, I can by no means believe. I have, however, a consolation in reflecting, that it will be difficult for any man to demonstrate, that, in this business, I have a particular interest.—In many of my remarks, I have been anticipated by writings, which I have seen; and I have collected materials, wherever I could find them. Could I be convinced, that I have said nothing, which had not before been said or thought by thousands, the reflection would yield far less mortification than pleasure.

ANNAPOLIS,

January 1, 1788.

FINIS.

(a) Against what is called equality in representation, the great Montesquieu seems to have declared by the strongest implication. In his *Spirit of Laws*, b. 9, ch. 2,<sup>20</sup> he says, that the confederate republic of Lycia contained twenty-three associated towns: that, in the common council, the larger

towns had three votes, the middling towns two, and the lesser only one; that they contributed to the common expence according to the proportion of suffrages; and, that were he to give *the model of an excellent confederate republic*, it should be that of Lycia. Could the immortal spirit of Montesquieu revisit the earth, and behold the model now offered to America, how quickly would his favourite republic sink in his estimation. In a new quarter of the globe scarcely heard of by the greater part of Europeans in his day, and since the commencement of the present century, he would see men who have attained a perfection in the science most conducive to human happiness, in that study which was the principal occupation of his life, in which his predecessors had acquired only a few glimmering lights, and of which it was reserved for him to develope most of the true first principles.

(b) Whether the state of Maryland shall be divided into six districts, for each to choose one man, or the people at large give their suffrage for the whole six, is hereafter to be settled by the assembly.<sup>21</sup> The latter mode, on a variety of occasions, would be preferable.<sup>(9)</sup>

(c) The importance of having the western territory determined a common stock, needs only to be mentioned, to excite attention.—

As the articles of confederation contain no provision, for adjusting the dispute between the United, and particular, states, Maryland, for a long time, refused her ratification. An adequate provision is made by the proposed plan. That the United States will assuredly institute actions against two of the states, setting up claims equally wild and extensive, may appear from the following statement.

New-Hampshire, Rhode-Island, New-Jersey, Delaware and Maryland, have been always interested in making good the common claim; as they never laid any particular claim to the territory in question.—

Massachusetts, if the province of Main be separate, is likewise become interested in the common claim.

Connecticut, and New-York, have both made cessions, which congress has accepted. These two are therefore become interested.

Pennsylvania, although very extensive, has her limits ascertained. She likewise is interested.—

Virginia, having made a cession to congress, has since relinquished a part of the reserved lands, or at least offered independence, to Kentucky.—

North-Carolina, having once made a cession, thought proper, in the omnipotence of her distinct sovereignty, to repeal the act. Will not the cession be determined valid, and the repeal void?

South-Carolina also, *it is said*, has ceded part of that territory, which lately she disputed with Georgia. In this case the United States have their claim fortified.—

But Georgia, the weakest of all, lays claim to an immense tract of country. In this territory there are warlike and independent tribes of the *aborigines*, now carrying terror and desolation towards the heart of the country occupied by the whites. It is expected, that this circumstance, with a consciousness of the weak foundation of her claims, will dispose Georgia to give up without a suit, and consent to be circumscribed within narrower limits, so soon as a proper tribunal shall have power to enter upon a rational investigation.—

N. B. For the above statement I am principally indebted to a member of the late continental convention, and who for a considerable time, was a member of congress, a gentleman of established honour and accuracy.

(d) The advantage derived from this to the southern states, is easily perceived. Have not serious apprehensions been entertained on account of the vast superiority of the eastern states by sea?

(e) Is it possible to reflect, without indignation, on the fate of the five per cent. impost scheme?

[Alexander Contee Hanson's Handwritten, Unpublished Annotations]

(f) Change "such" to "him."

(g) Insert "time."

(h) Insert "to which it equally applies."

(i) Change "it" to "it's members."

(j) Change "were" to "was."

(k) Change "them" to "their delegates."

(l) Two horizontal lines are drawn above this paragraph and below this line. A handwritten symbol is placed in the margin.

(m) Insert: "It cannot reasonably be supposed the meaning of Aristides, that an army has never been the engine to destroy liberty; but that the circumstance of an army's being continually maintained has not been fatal to the liberties of any nation in Europe, unless some other circumstance

concurrent. From what man, or body of men, is danger to the liberties of the United States to be apprehended, supposing even the standing forces of America to be greater than exigencies require? What could even a body of 10,000 men effect, where the territory is of such amazing extent, & where there are 13 single governments continually watching the head? What purpose could be answered by seizing a few posts before the alarm could be spread?—When indeed a whole state scarcely extends beyond the bounds of a single city, an enterprising man may, by a sudden stroke, with a few body guards, effect his purpose—But is it at all likely, that the president of America can do so, with any force, that is likely to be raised and maintained by the government, could that force even be collected together without exciting jealousy—”

(n) Cross out “3. Cases between a state, and its own citizens.” Numbers 4, 5, and 6 in this paragraph were changed to 3, 4, and 5.

(o) Change this sentence to read: “My own declaration is, that if the whole matter were left to my discretion, I would not change a single part without a previous trial.”

(p) Footnote: “United Netherlands or Holland—”

(q) Insert: “I do not mean that all the people should repair to the capital; but that each man should vote in his own county for six representatives—”

490—B. *Alexander Contee Hanson to Tench Coxe*  
*Annapolis, 6 February (excerpts)*<sup>22</sup>

... Last week, I wrote to Mr. Thos. Bradford, printer in P. and sent him 50 copies of a pamphlet, which I have lately published. I requested him to sell them for me at the price of 2/9. Be pleased to enquire whether they reached him. They were sent by the stage waggons. I now send you 50 copies, of which I beg you to accept 1; to send another to Dr. Franklin, a third to Billy Hamilton, and a fourth to Mr. Wilson. Be pleased to engage Mr. Bradford to dispose of the residue at the aforesaid price. I intimated to him, that I would send him another supply. . . .

I could wish to distribute all my pamphlets gratis; but really cannot afford it. I shall, if I can, sell just enough for indemnification. I would most willingly have presented the manuscript to the printer, were he not inimical to the plan and were I not certain that he would not distribute the copies agreeably to my wishes—<sup>23</sup>

I pray you to excuse the liberties I have taken as well as the slovenliness of this writing. Believe me, that with the greatest esteem

and respect, your old schoolmate and companion of some part of your early manhood remains your most obedient servant and sincere friend<sup>24</sup>

490—C. *Alexander Contee Hanson to Thomas Bradford*  
Annapolis, 8 February<sup>25</sup>

Last week I took the liberty of sending you 50 copies of a pamphlet entitled "Remarks on the proposed plan of a federal government." They were sent by the stages; and if they are not arrived at Philadelphia I request you to enquire at the stage office for them. Two days since I sent you a second supply directed to the care of Mr. Tench Coxe. I hope you will receive them both—

From the expence of the impression which perhaps is more than double what it might have cost in Philadelphia I was induced to fix the price of a copy at  $\frac{3}{8}$  of a dollar. On reflexion, I wish to change it to a quarter of a dollar; which is full enough for a pamphlet of its size, particularly as it has no cover, and the shells are scarcely tacked together. But that is not the Author's fault—

I shall consider myself under great obligations for your selling the pamphlet on my account, and am willing to allow any commission, you shall think proper. Be pleased to favor me, as soon as possible, with an answer. Should you be of opinion, that another 100 may sell in P. I can spare them, or even 200 more. If you prefer taking them on your account I will send you 100 copies for 3 guineas—It was not my original intention to profit by the publication and I still desire no more than a reimbursement—

Altho I have not the honor of the smallest acquaintance with you, I took the liberty of sending you my pamphlets on a supposition, arising from the fairness of your character; that you would oblige me with pleasure—

[P.S.] My address—Alexander Contee Hanson

One of the judges of the  
general court of Maryland—

490—D. *Alexander Contee Hanson to Tench Coxe*  
Annapolis, 24 February<sup>26</sup>

I have written to you by post, since I sent, by the stages directed to you, a packet containing 50 copies of a late publication. I had sent 50 copies likewise to Mr. Bradford, the printer. I have just now reason to apprehend, that both packets have miscarried. I have not a minute to write, and therefore only beg to be informed whether you received yours and whether Mr. Bradford received his

490–E. Alexander Contee Hanson to Tench Coxe  
Annapolis, 27 March (excerpts)<sup>27</sup>

Not before last night, did I receive your letter of the 15th and 21st ult. (Considering the importance of it's contents, I have reason to join the clamor, that is raised against the post office. It's failures, and the defect of communication between even adjoining states are really serious evils.) I believe the people of Virginia have, in general, seen few publications respecting the proposed government, except Mason's, Lee's and Randolph's. (I judge so from the avidity, with which I am informed my humble essay has been bought up; and I regret that I did not send them thither much sooner and in a larger quantity. Had I been apprized of one half of the publications in your state I should have sent none thither for sale: and had I known, that Maddison Hamilton and Jay had published 60 Numbers in New York, I should not have presumed to send thither my essay, of which I have by no means an exalted opinion. I only thought it would be useful amongst those, who had seen nothing capable of informing their minds). . . .

You are quite right with respect to my misconception of the judiciary; and how I came to blunder so very grossly, after bestowing great attention, to that article more particularly, I am entirely at a loss to account. I thank you for your hints. I examined the pamphlet with the constitution immediately after I read your letter. I have already sent Goddard my apology, which you will perhaps see in his paper.<sup>28</sup> The mistake being favorable to the antifederalists they did not think proper to expose it, altho they asserted generally, that I was entirely mistaken. . . .

1. See Luther Martin's *Genuine Information* I (CC:389).

2. A reference to "A Citizen of America" (Noah Webster), *An Examination into the Leading Principles of the Federal Constitution* . . . (CC:173; Mfm:Pa. 142). On pages 51–52 Webster wrote: "It is absurd for a man to oppose the adoption of the constitution, because *he* thinks some part of it defective or exceptionable. Let every man be at liberty to expunge what *he* judges exceptionable, and not a syllable of the constitution will survive the scrutiny." On pages 25–26 and 49–50 Webster objected to Article I, section 4 of the Constitution concluding "I repeat it—reject the clause with decency, but with unanimity and firmness."

3. For example, see Montesquieu, *Spirit of Laws*, I, Book XI, chapter VI, 222.

4. Article VI, Thorpe, III, 1687.

5. Exodus 7:12.

6. Probably a reference to two passages by "Centinel": "Every person acquainted with the history of the courts in England, knows by what ingenious sophisms they have, at different periods, extended the sphere of their jurisdiction over objects out of the line of their institution, and contrary to their very nature; courts of a criminal jurisdiction obtaining cognizance in civil causes" ("Centinel" I, 5 October, CC:133. See also "Brutus" XI, CC:489, note 7.).

7. See "A Citizen of Philadelphia" (Pelatiah Webster), 18 October (CC:125–B, p. 303).



8. For James Wilson's speech of 6 October, see CC:134.
9. Perhaps a reference to the Maryland legislature's rejection, in May 1787, of an act to pay debts in installments.
10. Shays's Rebellion.
11. On 20 October 1786 Congress, in response to Shays's Rebellion, ordered 1,300 troops be raised under the guise that they were needed to protect against "the hostile intentions of the Indians in the Western country" (JCC, XXXI, 739-40, 751-53, 875, 886-88, 891-92).
12. Edmund Randolph (CC:385).
13. The President of the Constitutional Convention to the President of Congress, 17 September (CC:76).
14. See "Centinel" V, 4 December (CC:318).
15. A paraphrasing of Benjamin Franklin's last speech to the Constitutional Convention, 17 September (CC:77).
16. For the Imposts of 1781 and 1783, see CDR, 140-41, 146-48.
17. See George Mason's objections (CC:276).
18. See Richard Henry Lee to Governor Edmund Randolph, 16 October (CC:325).
19. *Spirit of Laws*, I, Book XI, chapter VI, 221-37.
20. *Ibid.*, Book IX, chapter III, 188-89.
21. For the election act passed on 22 December 1788 which created six districts, see Gordon R. DenBoer and Lucy T. Brown, eds., *The Documentary History of the First Federal Elections, 1788-1790*, Volume II (Madison, Wis., 1984), 123-43.
22. RC, Coxe Papers, Series II, Correspondence and General Papers, PHi. Neither the date nor the place appear on the letter. The letter was probably written on 6 February from Annapolis. On 8 February Hanson wrote Thomas Bradford from Annapolis, stating that he had forwarded some pamphlets to him "Two days since . . . to the care of Mr. Tench Coxe" (CC:490-C).
23. The printer of the *Remarks*, Frederick Green, was also co-publisher of the Annapolis *Maryland Gazette*. Hanson wrote Coxe on 27 March explaining what had happened to one of Coxe's essays: "I wished much to publish the address [probably "An American," CC:392-A] you first sent me in Green's paper. I gave it him, & requested him to insert it. He promised to do so at a future day, and has not complied. The truth is, that Mr. Green is opposed to the plan, and makes every possible excuse for declining every thing of the kind. One constant apology is the want of paper" (Coxe Papers, Series II, Correspondence and General Papers, PHi).
24. Hanson and Coxe attended the College of Philadelphia.
25. RC, Autograph Collection of the Historical Society of Pennsylvania, PHi.
26. RC, Coxe Papers, Series II, Correspondence and General Papers, PHi.
27. RC, *ibid.* Excerpts from this letter were published in the *Pennsylvania Gazette*, 9 April, and were reprinted, in whole or in part, sixteen times from Maine to South Carolina by 15 May.
28. See "Aristides" in William Goddard's *Maryland Journal*, 1 April.

## APPENDIX I

The documents printed in Appendix I are, for the most part, widely circulated squibs or fillers. Most of the squibs are either reports on the prospects of ratification in the various states or speculations about the attitudes of one or more persons on the Constitution. Others are reports of events, followed by some partisan commentary about them. Since Federalists controlled most newspapers, the majority of the squibs favor the Constitution or attack its opponents.

### **Pennsylvania Gazette, 19 December<sup>1</sup>**

Such has been the zeal of two or three *Salary Officers*<sup>2</sup> of the state of Pennsylvania, to prevent the establishment of the new Federal Constitution, that copies of their *pamphlets* and *centinels* have been sent to the Governor, and to all the members of the late convention of the Delaware state. When the Governor opened his packet, and perceived the title of the enclosures, he threw them suddenly into the fire.

1. Reprints by 5 January 1788 (9): N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (3), N.J. (1), Va. (1).

2. Among the Pennsylvania officeholders who opposed the Constitution were George Bryan, John Ewing, John Nicholson, and Jonathan Bayard Smith. Bryan was alleged to be the author of "Centinel" (CC:133), and Nicholson had published an Antifederalist pamphlet (CC:172; Mfm:Pa. 141).

### **Pennsylvania Packet, 19 December<sup>1</sup>**

*Extract of a letter from a Gentleman of extensive information and influence in the State of New-York, Dec. 9.*

"Upon the whole, I think we have a *good* majority thus far in this state in favor of the new constitution."

1. Reprints by 9 February 1788 (16): N.H. (1), Mass. (3), Conn. (1), N.Y. (3), N.J. (1), Pa. (2), Md. (2), Va. (2), S.C. (1).

### **Benjamin Franklin, George Washington, and the Constitution Pennsylvania Herald, 19, 22 December**

*Pennsylvania Herald, 19 December<sup>1</sup>*

A correspondent begs leave to state the amount of Dr. Franklin's speech in the federal convention<sup>2</sup>—it is this—"I think the system is an imperfect one, and if I were to consult my own judgment only, I would not recommend it—but there is a majority who differ from me, and as I am sensible that my opinions are not infallible, I am determined that my conduct shall not be obstinate." If general Washington's reason for signing this federal work was the same, what becomes of the great argument founded upon the approbation of these illustrious patriots?<sup>3</sup>

*Pennsylvania Herald*, 22 December<sup>4</sup>

A friend to true representation begs the correspondent who furnished you with what he called the amount of Dr. Franklin's last speech to the National Convention, would reperuse that performance, he will there find the following passages which he had either overlooked, or wilfully perverted.

"I doubt (too) whether any other Convention we can obtain may be able to make a better Constitution."

"It (therefore) astonishes me, Sir, to find this system approaching so near to perfection as it does."

"(Thus) I consent Sir to this Constitution because I expect no better, and because *I am not sure this is not the best.*"<sup>5</sup>

"I HOPE THEREFORE THAT FOR OUR SAKES AS PART OF THE PEOPLE, AND FOR THE SAKE OF OUR POSTERITY, WE SHALL ACT HEARTILY AND UNANIMOUSLY IN RECOMMENDING THIS CONSTITUTION WHEREVER OUR *influence may extend.*" The approbation of General Washington, contrary to the half insinuation of your correspondent, was given in terms full as decided and unequivocal.

These illustrious patriots have wisdom to discern, and virtue to pursue their country's good, and the just veneration in which they are held, leads to a suspicion of want of wisdom or want of virtue in the opponents of a system to which their sanction and hearty support is given.<sup>6</sup>

1. Reprints by 17 January 1788 (9): Mass. (2), R.I. (1), N.Y. (3), Pa. (2), S.C. (1).

2. For Franklin's 17 September speech in the Constitutional Convention, see CC:77. The *Pennsylvania Herald* reprinted the speech on 15 December.

3. Some Antifederalists charged that Franklin signed the Constitution to accommodate the majority and that Washington signed because he was President of the Convention (CC:377, note 1; Boston *American Herald*, 19 November; "Hampden" [William Findley], *Pittsburgh Gazette*, 16 February 1788, RCS:Pa., 668-69; and "Deliberator" and "A Friend to Law and Order," Philadelphia *Freeman's Journal*, 2 April, Mfm:Pa. 594-95).

4. Reprinted: New York *Independent Journal*, 29 December; *Albany Gazette*, 10 January 1788.

5. The italics in this and the succeeding paragraph were not in Franklin's manuscript or the newspaper versions of the speech.

6. "A True Whig" agreed that Franklin and Washington were "decidedly in favour" of the Constitution and that neither hesitated "to say, that 'all opposition to it is addressed more to the passions than to reason'" (*Pennsylvania Mercury*, 15 January, Mfm:Pa. 334).

### Newspaper Reports of the Calling of State Conventions 20-26 December

*Worcester Magazine*, Third Week in December<sup>1</sup>

Newhampshire, Massachusetts, Connecticut, Newjersey, Pennsylvania, Delaware, Maryland, Virginia, Northcarolina, and Georgia,

have appointed the meeting of state Conventions, agreeably to the recommendation of Congress for considering the new federal Constitution.

*Pennsylvania Packet, 20 December*<sup>2</sup>

The General Assembly of North Carolina have recommended to their constituents the election of a Convention, to take into consideration the proposed plan of government for the United States.—Nine states have now agreed in this measure.

*Massachusetts Centinel, 22 December*<sup>3</sup>

The General Assembly of New-Hampshire, the 12th inst. appointed the second Wednesday of February next, for the meeting of the Convention of that State, at Exeter. *Nine States have now called Conventions to ratify and adopt the federal Constitution.*

*Massachusetts Centinel, 26 December*<sup>4</sup>

TEN States have called Conventions—South-Carolina we have not heard from—New-York as yet could not, and Rhode-Island—*shame come upon her rulers for it*—will not. The call of Conventions is tantamount to the final adoption of the Constitution—as, in these assemblies, such unanswerable arguments will be given, as must convince every member, disposed to hearken to truth, of the expediency of the measure, whatever may have been their former sentiments respecting it.

1. Reprinted: Springfield *Hampshire Chronicle*, 25 December; Providence *United States Chronicle*, 27 December; *Albany Gazette*, 3 January 1788; *New Hampshire Recorder*, 8 January. A variation of this item was also printed in the *Salem Mercury*, 8 January.

2. Reprints, in whole or in part, by 19 January 1788 (18): N.H. (1), Mass. (2), R.I. (1), Conn. (1), N.Y. (3), N.J. (1), Pa. (6), Md. (1), Va. (2). On 21 December a similar item, mentioning only eight states, was printed in the *New York Daily Advertiser*, and by 11 January it was reprinted four times: N.Y. (2), Pa. (1), Md. (1).

3. Reprints by 9 February 1788 (11): Mass. (2), R.I. (2), Conn. (5), N.J. (1), S.C. (1).

4. Reprinted: *New Hampshire Gazette*, 2 January 1788. The January 1788 issue of the *Philadelphia American Museum* reprinted only the first sentence.

**Albany Gazette, 20 December**<sup>1</sup>

We cannot (says a correspondent) affirm, that “that those who have turned the world upside down, are come hither also”; but we can with safety say this much, that they have *troubled* this part of the country with *false* alarms (viz. George Bryan’s Centinels)<sup>2</sup> in abundance.—The paper on which these things are printed, however, is of a *soft* texture, and answers the good people a very *necessary* purpose.

1. Reprinted: *Hartford American Mercury*, 31 December.

2. George Bryan was thought to be the author of “Centinel” (CC:133).

**Pennsylvania Packet, 21 December<sup>1</sup>**

A *Correspondent* hopes that the *unanimous* ratification of the Federal Government, by the state of New-Jersey, will satisfy the friends of the minority in Pennsylvania, that there is no *despotism* in the new Constitution. The yeomanry of New-Jersey love liberty. Nearly every field in that state has been dyed with the blood of its militia, shed in the cause of freedom, and nearly every farm in the state has been plundered by the British army during the late war. Certainly a people who have sacrificed so much for liberty could not have *surrendered* it by an *unanimous* vote. No commercial influence—no terror of an applauding gallery—no legal sophistry had any weight in the convention of that *patriotic* state, in producing the ratification.<sup>2</sup> The men who pretend to love liberty more than the citizens of *New-Jersey* must shew that they have done half as much in its defence, before they can be believed.

1. Reprints by 11 February 1788 (31): Vt. (1), N.H. (3), Mass. (8), R.I. (2), Conn. (4), N.Y. (3), N.J. (1), Pa. (3), Md. (1), N.C. (1), S.C. (2), Ga. (2). On 2 January the *Massachusetts Centinel* reprinted this item under this heading: "A SCRAP—WORTHY TO BE WRITTEN IN LETTERS OF GOLD." This heading was repeated in the *New Hampshire Spy*, 8 January, and Exeter, N.H., *Freeman's Oracle*, 11 January.

2. A reference to various arguments in the "Dissent of the Minority of the Pennsylvania Convention" (CC:353).

**Salem Mercury, 25 December<sup>1</sup>**

Perhaps the publick bodies of no state in the union have exhibited so many and so disgraceful instances of indecorum and disorder, as those of Pennsylvania—The business of their Convention has been conducted with a degree of warmth and animosity, which bespeak the very summit of party spirit—the differing members accusing each other of want of reason and argument, and expressing the most perfect contempt for each other's abilities and persons.

1. Reprints by 30 January 1788 (7): N.Y. (2), Pa. (3), Md. (2). The *Albany Gazette*, 10 January, and the Poughkeepsie *Country Journal*, 16 January, deleted the word "Perhaps" and italicized the words "indecorum" and "disorder."

**Pennsylvania Packet, 25 December<sup>1</sup>**

A correspondent informs us, that a gentleman who has just returned from a tour through the states of Maryland and Virginia says, that he was repeatedly assured, that there would not be a dissenting voice in the convention of Maryland against the new constitution; and that at least *nineteen-twentieths* of the yeomanry of Virginia are on the side of General Washington, the *Man of the People*, in favour of the new government. He adds further, that the Nabobs, or great men (falsely so called) of Virginia are its only enemies.

1. Reprints by 11 February 1788 (21): Vt. (1), N.H. (1), Mass. (5), Conn. (3), N.Y. (4), N.J. (1), Pa. (5), Va. (1). The Portland *Cumberland Gazette*, 17 January, omitted the last sentence. The phrase respecting the yeomanry of Virginia was printed in the *Salem Mercury*, 15 January, and *New Hampshire Spy*, 18 January.

### Connecticut Journal, 26 December<sup>1</sup>

*Extract of a Letter from Baltimore, (Maryland) to a Gentleman in this City, dated December 12.*

"The mercantile Interest in this Town, and the Majority of the Inhabitants of the State, are in Favour of the new fœderal Plan; yet, like the State of New-York, it will be *strongly* opposed by some Men of great Influence and very leading Characters in the State. For which Opposition, 'tis said, they are actuated by a dread of the loss of their *own* Popularity—not the Liberties of their Country.—I think it will be adopted."

1. Reprints by 18 January 1788 (9): N.H. (3), Mass. (3), R.I. (1), Conn. (2).

### New Jersey Journal, 26 December<sup>1</sup>

Many people look upon the adoption of the new constitution, as the millennium of virtue and wealth; indeed it's auspicious dawn augurs much, but it should be remembered, that much depends on our own conduct.

1. Reprints by 25 January 1788 (11): N.H. (3), Mass. (2), R.I. (1), Conn. (1), N.Y. (3), Pa. (1). This paragraph followed two other paragraphs announcing New Jersey's ratification of the Constitution (RCS:N.J., 194).

### Pennsylvania Herald, 29 December<sup>1</sup>

We are informed by a gentleman who arrived lately from the West-Indies, that the federal constitution has been considered in the Islands as a masterpiece of human wisdom. Many planters have declared that as soon as there is a prospect of its adoption, they will arrange their affairs, and embark for this country, in order to establish a claim of citizenship coeval with the new government.

If any judgment could be formed from the papers published in the different states, we should be led to conclude that the adoption of the proposed constitution would be general, except in the state of New-York; but when we consider that Pennsylvania, the second to adopt it, was the first and the most clamorous to oppose it, there can be no dependance upon this criterion.

1. By 3 March 1788 the first paragraph was reprinted thirty-three times: Vt. (2), N.H. (3), Mass. (7), R.I. (3), Conn. (5), N.Y. (3), N.J. (1), Pa. (3), Md. (1), Va. (3), S.C. (2); while the second paragraph was reprinted eleven times: Mass. (2), N.Y. (3), N.J. (1), Pa. (2), Md. (1), Va. (1), S.C. (1). Seven newspapers reprinted both paragraphs: Mass. (2), N.J. (1), Pa. (1), Md. (1), Va. (1), S.C. (1).

**Newburyport Essex Journal, 2 January<sup>1</sup>**

It is with pleasure we inform the public, that, by accounts from several towns in the State of New-Hampshire, the good people, in general, are favourably disposed toward the new Constitution, and that its being adopted in that state by a great majority, does not admit of a doubt.

1. Reprints by 25 January (8): Mass. (2), R.I. (1), Conn. (1), Pa. (3), Md. (1). A summary was printed in the *Salem Mercury*, 8 January.

**Philadelphia Freeman's Journal, 2 January<sup>1</sup>**

Extract of a letter from a gentleman at Washington Court-House, near Holstein,<sup>2</sup> Virginia, to his friend in this city.

"Here I expected to be happily removed from the din of politics, but even in these remote wilds the people are deeply engaged in that science. The new Constitution is the subject of universal discussion. A general dissatisfaction with the proceedings of the late Convention prevail here. So much disappointed in their expectations are the people, that they think it more eligible to revert to the tyranny of Britain than bow the neck to domestic tyrants."

1. Reprints by 31 January (8): Mass. (2), R.I. (2), Conn. (1), N.Y. (3). The reprint in the *Newburyport Essex Journal*, 16 January, omitted the first sentence.

2. Holston.

**Pennsylvania Gazette, 2 January<sup>1</sup>**

*Extract of a letter from a gentleman in Charleston, South-Carolina, to his friend in this city, dated December 3, 1787.*

"The foederal system, as it has been just presented to us, meets with general approbation, though several pieces have appeared in the news-papers against it. I shall, in common with the most worthy and respected part of the citizens of this state, most sincerely rejoice at the adoption of a form of government, calculated to preserve the states from certain ruin."

*Extract of another letter from the same place, dated Dec. 4, 1787.*

"I am glad to hear that you are disposed to adopt the new government in your and the adjacent states. I am not much of a politician, but my anxiety for the prosperity and happiness of my country leads me to wish sincerely that the system, in its original form, may be adopted in *toto* by all the states. South-Carolina, I trust, will not hesitate. Very little is said against it here, but by such as we regard as the rotten part of our community, and God knows we have too many of that worthless unprincipled tribe amongst us, who no doubt are secretly devising mischief in their dark and hidden places. They have not,

however, as yet had either the candour or effrontery to avow themselves before men who live and move in open day-light."

1. Both extracts were reprinted in the *Pennsylvania Mercury* on 3 January and again on 7 February; in the *Maryland Journal* on 8 January; and in the *Annapolis Maryland Gazette* on 10 January. The first extract was also reprinted in the *Virginia Journal*, 29 January.

### The Political Society of Richmond, Virginia

The Political Society, which generally met weekly, debated the Constitution for several nights in November and December 1787. Among other speakers, Patrick Henry spoke against the Constitution; John Harvie and George Nicholas in support. It was hoped that Robert and Gouverneur Morris of Pennsylvania, in Virginia on business, would attend and speak. On 13 December "the sense of the house was taken & a great majority were in favour of the ratification of the proposed Constitution." (See Samuel McCraw to James Breckinridge, 28 November, Breckinridge Family Papers, ViU; Stephen Hollingsworth to Levi Hollingsworth, 29 November, Hollingsworth Papers, PHi; James Breckinridge to John Breckinridge, 14 December, Breckinridge Family Papers, DLC; David Stuart to George Washington, 4 December, quoted in Washington to James Madison, 7 December, Rutland, *Madison*, X, 298; and Washington to Madison, 10 January 1788, *ibid.*, 358.)

#### *Pennsylvania Gazette*, 2 January<sup>1</sup>

In the Political Society lately instituted at Richmond, in Virginia, the new federal constitution was the subject of a public debate. After three evenings spent in discussing it, the *Yeas* in favour of it were 128, the *Nays* were only 15. The members of this society consist of the principal characters in Virginia. The principal Speaker against the government was Patrick Henry, Esq;—the principal Speaker in favour of it was Mr. Nicholas.<sup>2</sup> It is expected there will be the same majority in favour of the government in the State Convention.

#### *Philadelphia Independent Gazetteer*, 5 January<sup>3</sup>

The political society at Richmond, Virginia, having discussed the new federal government, very fully took the question on it, when upwards of 100 were in favor of it, and only 15 against it. This society is composed of most of the enlightened characters in the lower parts of Virginia. The western counties of that state have been much in favor of it, from its first appearance.

1. This item was reprinted in the January issue of the *Philadelphia American Museum* and in twenty-seven newspapers by 19 March: N.H. (2), Mass. (7), R.I. (1), Conn. (5), N.Y. (3), N.J. (1), Pa. (4), Va. (1), S.C. (2), Ga. (1). News of the Society's action may have been given to the *Pennsylvania Gazette* by Tench Coxe or someone known to him. On 28 December 1787 Coxe wrote James Madison that the Society had approved the Constitution by "a great Majority" (Rutland, *Madison*, X, 348).



2. Henry represented Prince Edward County in the House of Delegates; George Nicholas represented Albemarle County. On the evening the vote was taken, "G. Nicholas gave us a harangue which lasted an hour butt not so much to the amusement of the company as was expected from the abilities of the Gentleman & time he took to prepare himself" (James Breckinridge to John Breckinridge, 14 December, Breckinridge Family Papers, DLC).

3. This item was reprinted in the *Gazetteer* a second time on 8 January. It was also reprinted in the *Pennsylvania Packet*, 8 January; *Baltimore Maryland Gazette*, 11 January; *New York Journal*, 12 January; and *Pittsburgh Gazette*, 16 February.

On 11 January a correspondent in the *Gazetteer* wrote that "the account of the Richmond Society, having taken the new constitution under consideration, seems to want confirmation, as it is not noted in the Richmond papers." On 16 January the *Richmond Virginia Independent Chronicle* reprinted the original account from the *Pennsylvania Gazette*.

### John Hancock and the Constitution, 3 January–4 February

Since Governor John Hancock was immensely popular in Massachusetts, both Federalists and Antifederalists knew that it was imperative to gain his support. But Hancock's position on the Constitution was uncertain. He had transmitted the Constitution to the state legislature on 18 October 1787 declaring that it was not "within the duties of my office to decide upon this momentous affair . . ." (CC:177).

On 7 December Hancock was elected one of the twelve Boston delegates to the Massachusetts Convention, scheduled to convene in Boston on 9 January 1788. About a week before the Convention met the *Worcester Magazine* noted that Governor Hancock was "talked of as Vicepresident" (below). Between 7 and 9 January three Boston newspapers reprinted this account. As expected, Hancock was elected Convention President, but an alleged attack of gout kept him from attending. His illness was perceived as a convenient excuse to absent himself "because he wishes first to know, on which side the majority will be . . ." (William Cranch to John Quincy Adams, 22, 27 January, Adams Family Papers, MHi). When Federalist delegates realized that a majority opposed ratification of an unamended Constitution, they met in caucus and formulated a plan. Hancock was approached and asked to present a list of recommendatory amendments. He attended the Convention on 30 January, and the next day, in a speech prepared by Federalists, he presented a form of ratification that included these amendments. In a week, the Constitution was ratified 187 to 168 with recommendatory amendments.

The Reverend Jeremy Belknap, in whose church the Convention was meeting, explained the Federalist strategy: "Hancock is the ostensible Puppet in proposing amendments—but they are ye product of the Feds in Concert & it was tho't that coming from him they would be better recd. than from any other Person—should they finally take, it will greatly help his Popularity & ensure his Election ye next year" (to Ebenezer Hazard, 3 February, Belknap Papers, MHi). Federalist leader Rufus King said that, in order to obtain Hancock's assistance, Federalists agreed to support him in the next gubernatorial election. They also told him "that if Virginia does not unite, which is problematical that he is considered as the only fair candidate for President" (to Henry Knox, 3 February, Knox Papers, MHi). Outside Massachusetts, an Antifederalist remarked that Hancock, "the man of the people," had been won over "by holding out to him the office of Vice

President" ("James Bowdoin," *Philadelphia Independent Gazetteer*, 27 February, CC:570).

As their part of the bargain with Hancock, Federalists did not run a candidate for governor, thereby assuring Hancock's reelection on 7 April. John Quincy Adams commented upon the irony of the situation: "The revolution that has taken place in sentiments within one twelve month past must be astonishing to a person unacquainted, with the weaknesses, the follies, and the vices of human nature. The very men, who at the last election declared the Commonwealth would be ruined if Mr Hancock was chosen, have now done every thing to get him in and the other side are equally capricious" (Diary, 7 April, Adams Family Papers, MHi).

*Worcester Magazine, First Week in January*<sup>1</sup>

A gentleman from the southward informs us, that provided the federal Constitution should be adopted, Mr. Hancock is talked of as Vicepresident.

*Massachusetts Gazette, 11 January*<sup>2</sup>

It is much regretted, says a correspondent, that his excellency JOHN HANCOCK, esquire, our worthy chief magistrate, is at present detained from attending the convention on account of sickness; the arguments of a man who presided in the councils of America at the most important era of our affairs, and whose conduct as a patriot, a republican, and a friend to the rights of human nature, has shone so conspicuous through every stage of the late revolution, would no doubt have great weight at this time, as a matter the most interesting to our country is in debate. It is, however, pleasing to announce from good authority, that the sentiments of his excellency are truly federal; and it is sincerely hoped that he will soon be able to attend the convention, and in that august assembly demonstrate his approbation of that constitution lately formed by the grand federal convention—a constitution which is the boast of every TRUE Republican.

*Connecticut Courant, 4 February*<sup>3</sup>

*Extract of a letter from a Gentleman in Pennsylvania to his friend in this City.*

"Should the new Constitution be adopted, General Washington will unquestionably be President, and Governor Hancock Vice-President of the Union.<sup>4</sup> With these great men at the head of government, all Europe will again acknowledge the importance of America."

1. Reprints by 29 January (9): N.H. (1), Mass. (3), N.Y. (1), Pa. (2), Md. (2).

2. Reprints by 8 February (10): N.H. (1), N.Y. (2), Pa. (2), Md. (3), Va. (2). For a similar item, see *Newport Herald*, 21 February.

3. This item was also printed in the *Hartford American Mercury* on 4 February. It was reprinted twelve times by 8 March: N.H. (2), Mass. (2), R.I. (1), Conn. (2), Pa. (4), Md. (1).

4. At this point the *Massachusetts Gazette* of 12 February inserted this sentence in brackets: “‘May the immortal powers who guard the just, watch o’er the Godlike patriots;—long may Columbia boast such heroes, statesmen, and true friends to freemen’s sacred rights, as Washington and Hancock.” This sentence was reprinted in the *New Hampshire Gazette*, 20 February, and Exeter, N.H., *Freeman’s Oracle*, 22 February.

### **Philadelphia Independent Gazetteer, 5 January<sup>1</sup>**

The honorable Mr. Langdon, late Governor of New-Hampshire, signed the new constitution in the federal convention, and has since been open in support of it. The Honorable General Sullivan, the present Governor, (a prodigious wise man) has also declared his sentiments to be decidedly in favor of the early adoption of it. From those two symptoms and the readiness with which the assembly have called a convention, there can be [no] doubt but that the good people of New-Hampshire will come heartily into the measure.

1. The word “no” was mistakenly omitted from the last sentence. In reprinting this item on 8 January, the *Gazetteer* corrected the error and deleted the parenthetical phrase about Sullivan—“(a prodigious wise man).” The *Pennsylvania Packet* printed a nearly identical corrected version on 8 January, and the *Pennsylvania Gazette* reprinted the *Gazetteer’s* version on 9 January. For President John Sullivan’s 5 December message to the New Hampshire legislature supporting the Constitution, see CC:339.

### **New York Journal, 7 January<sup>1</sup>**

By private accounts from Boston, we learn, that almost all the stanch republicans of Massachusetts, those begetters and supporters of the late revolution, who are lovers of the community at large, and defenders of their freedom and independence, consequently detesters of every tyrannical junto, and their abettors, are decidedly opposed to the proposed constitution in its present form; among these are, that father of patriots SAMUEL ADAMS, and a number of the other members of the ever memorable COMMITTEE OF CORRESPONDENTS, of 1774, ’5, and 6.

1. Reprinted: *Philadelphia Independent Gazetteer*, 12 January; *Baltimore Maryland Gazette*, 18 January; *State Gazette of South Carolina*, 11 February. For Samuel Adams, see CC:388.

### **The Pillars of the American Republic, 9–16 January**

Throughout the ratification debate, Federalists and Antifederalists referred to the Constitution metaphorically. Timothy Pickering called it a “mansion” (RCS:Pa., 445), Francis Hopkinson “The New Roof” (CC:395), “Centinel” “the monster” (CC:243), “Brutus” “the gilded pill” (CC:264), and “Philadelphiansis” “the rivet of tyranny” (CC:302). On 7 December 1787 the *Massachusetts Gazette* (CC:329) published a short piece describing “the disunited states of America” as “thirteen distinct, separate, independent, *unsupported*

columns." The structure of the federal republic was completed when the Constitution, "the heaven-descended DOME," was added both "*supporting and supported by*" the columns. On 26 December a new metaphorical device was created by Benjamin Russell, printer of the *Massachusetts Centinel*. Russell introduced his reprint of the Delaware Convention's form of ratification with the heading: "*The FIRST PILLAR of a great FEDERAL SUPERSTRUCTURE raised.*" Thereafter, newspapers throughout the country published variations on this theme. Russell brought his metaphor to life on 16 January 1788 when he published a cartoon entitled "THE FEDERAL PILLARS." The cartoon showed five state pillars erected with a sixth pillar labeled "MASS." in the process of being raised. Russell updated his cartoon as additional states ratified the Constitution.

*Massachusetts Centinel, 9 January*<sup>1</sup>

FEDERAL CONSTITUTION.

This day the Convention of this State are to meet in this town, for the purpose of assenting to, and ratifying the Federal Constitution.—May the GREAT IDEA fill the mind of every member of this honourable body, that Heaven on this auspicious occasion favours America, with an opportunity never before enjoyed by the sons of men, of establishing a form of government *peaceably and deliberately*, which will secure to these States all those blessings which give worth to existence, or dignity to man, PEACE, LIBERTY and SAFETY!—And may the guardian God of our "dear country" inspire the Convention of this Commonwealth with *wisdom, disinterestedness and patriotism* equal to the display of those virtues in our sister States who have already erected Three Pillars of the glorious Fabrick of the Federal Republic.<sup>2</sup>

*Massachusetts Gazette, 15 January*<sup>3</sup>

Yesterday morning was ushered in with the ringing of bells in this metropolis, on account of the pleasing intelligence received by Saturday nights mail, that the state of Connecticut had added a FOURTH PILLAR to that GRAND REPUBLICAN SUPERSTRUCTURE, the FEDERAL CONSTITUTION. The numbers in favour of the constitution were ONE HUNDRED and TWENTY-EIGHT—against it, *forty*. The former number, were composed of men of the first characters in the state. Thus Connecticut has the honour of being the first of the New England States which has *officially* approbated a plan of government, which, if adopted by the Union, will cause the sound of republicanism, equal law, liberty and justice, to be vociferated from the furthest boundaries of New-Hampshire, to the extremities of Georgia.

We are informed, by a vessel arrived at Cape-Ann, after a short passage from Georgia, that that state have ratified the Federal Constitution. Thus is a FIFTH PILLAR added to the glorious fabrick. May Massachusetts add the SIXTH.

Massachusetts Centinel, 16 January<sup>4</sup>

States—like the gen'rous vine supported livè,  
The strength they gain is from th'embrace they giv  
**THE FEDERAL PILLARS.**

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**UNITED THEY STAND—DIVIDED FALL.**  
A vessel arrivèd at Cape-Ann, after a short pas-  
sage from Georgia, confirms the pleasing intelli-  
gence announced in our last, that that State has u-  
nanimously ratified the Federal Constitution. Thus  
is a **FIFTH PILLAR** added to the glorious fabrick.  
May Massachusetts rear the **SIXTH.**  
As we predicted in our last, so it happened—  
Monday morning, was ushered in with the ring-  
ing of bells in this metropolis, on account of the  
pleasing intelligence received by Saturday night's  
mail, that the State of Connecticut had added a  
**FOURTH PILLAR** to that **GRAND REPUB-  
LICAN SUPERSTRUCTURE, the FEDERAL  
CONSTITUTION.**

1. Reprints by 5 February (7): N.J. (1), Pa. (4), Md. (2).

2. A different description of the three ratifying states appeared in the Boston *Independent Chronicle* on 10 January. "Helvidius Priscus" compared "the three pillars lately erected" to "the hanging towers of Pisa, to be propped up and cemented by the blood of posterity." Americans, however, would not forsake their rights "to set down passively under a tottering pile, erected on pillars of porcelain." Even if six more states were "added to the gilded dome, it will still be astonishingly defective . . ." (CC:436).

3. These two paragraphs were the first of six paragraphs printed together in the *Massachusetts Gazette* on 15 January. The first paragraph was reprinted eight times by 13 February: Mass. (1), Conn. (1), N.Y. (2), Pa. (2), Md. (1), Va. (1). The second was reprinted forty-one times by 23 February: Vt. (1), N.H. (3), Mass. (6), R.I. (3), Conn.

(5), N.Y. (6), N.J. (2), Pa. (12), Md. (1), Va. (2). Seven reprints omitted the last sentence; nine the last two sentences. Five of the forty-one reprints, beginning with the *Massachusetts Centinel*, 16 January, reported that Georgia "has unanimously ratified . . ." and expressed the hope that Massachusetts would "rear the sixth" pillar. For the subsequent four paragraphs, see the *Massachusetts Gazette*, 15 January, Appendix I, below.

4. The two-lines of verse, the cartoon, and the two paragraphs appeared at the top of the second column on the third page of the *Massachusetts Centinel*. The original cartoon is approximately  $3\frac{1}{2}'' \times 2\frac{1}{4}''$ . Benjamin Russell reprinted the two paragraphs, with minor variations, from the *Massachusetts Gazette*, 15 January. Russell reversed the order of the paragraphs placing news of Georgia's ratification ahead of news of Connecticut's ratification, but he did not correct the references to Connecticut and Georgia as the fourth and fifth pillars, respectively. The cartoon, however, correctly labels Georgia as the fourth pillar and Connecticut as the fifth.

### **Pennsylvania Gazette, 9 January<sup>1</sup>**

*Extract of a letter from a Member of Congress, dated New-York, Dec. 28, 1787.*

"Gentlemen here who have pretty good information of what is doing in the eastern states say, that Connecticut will be three to one in convention for the constitution—In New-Hampshire almost, if not quite, unanimous; and Massachusetts two to one; however a short time will decide—should this be actually the case, it will have great influence in New-York. I cannot think they will remain long opposed, with three states on each hand who have already decided."

1. Reprinted: *Pennsylvania Mercury*, 10 January; *New York Journal*, 12 January; *Baltimore Maryland Gazette* and *Maryland Journal*, 15 January.

### **Worcester Magazine, Second Week in January<sup>1</sup>**

A gentleman from Rodeisland says, that the inhabitants of that State begin to think seriously of calling a State Convention to take into consideration the proposed Federal Constitution.

1. Reprints by 27 March (19): N.H. (3), Mass. (6), Conn. (4), Pa. (4), Md. (1), S.C. (1).

### **Massachusetts Gazette, 15 January**

On 15 January six original paragraphs were printed together in the *Massachusetts Gazette*. All six paragraphs were reprinted in the *Pennsylvania Mercury*, 29 January, and *Maryland Journal*, 5 February. Five appeared in the *New York Daily Advertiser*, 24 January; *Pennsylvania Packet*, 29, 30 January; and *Fairfield Gazette*, 30 January; while three were reprinted in the *Portland Cumberland Gazette*, 24 January, and *New York Morning Post*, 25 January. The first two paragraphs, announcing the ratification of the Constitution by Connecticut and Georgia, are printed under "The Pillars of the American Republic, 9–16 January," Appendix I, above. See the footnotes to each of the six paragraphs for the total reprints.

If there was one trait of modesty left with those anti-federalists who are continually dinning us with their complaints of "cramming down" the constitution, it would manifest itself, when the whole world is witnessing the unlimited discussion both in convention and in print which the subject undergoes.<sup>1</sup>

It has been shrewdly hinted, from a *certain quarter*, that should the proposed constitution be adopted by the United States, the hon. R. M. esq.,<sup>2</sup> is the man designed by our brethren at the southward for PRESIDENT, and not the great FABIUS.<sup>3</sup> It is expected that this will be a subject of enquiry when the hon. E. G. makes his appearance on the floor of the convention.<sup>4</sup>

The introduction of mr. G— to the convention, cannot be considered by the friends to the constitution as an *inauspicious* event. The utmost that can be expected by the *anti-federalists* from him, is, an *amplification* of the reasons he has already published;<sup>5</sup> for as to any matters of fact, it is not probable he can be possessed of the knowledge of any, which are not EQUALLY well known to those gentlemen of the delegation who are LEGAL members of convention:<sup>6</sup> and to suppose that they would *not* communicate *every circumstance* that could conduce to an elucidation of the GREAT SUBJECT, conveys an idea that I presume no man will suggest.<sup>7</sup>

If, says a correspondent, the force of truth, reason, eloquence, and the most sublime rhetorical abilities, were ever influential, the friends of the new constitution have every reason to hope a happy issue to the debates of our state convention; for, never, in any assembly, were greater geniuses in politicks, or men more famed for oratory, than many who now have seats in that august body.<sup>8</sup>

1. This paragraph was reprinted six times by 5 February: Conn. (1), N.Y. (2), Pa. (2), Md. (1).

2. Robert Morris.

3. George Washington.

4. On 14 January the Massachusetts Convention resolved that Elbridge Gerry be invited to attend the Convention to answer questions about the drafting of the Constitution. Gerry attended only a few days. This paragraph was reprinted eight times by 13 February: N.H. (1), Conn. (1), N.Y. (2), Pa. (2), Md. (1), Va. (1).

5. For Gerry's objections to the Constitution, see his letter of 18 October to the Massachusetts legislature, which was first printed in the *Massachusetts Centinel* on 3 November (CC:227-A).

6. Nathaniel Gorham, Rufus King, and Caleb Strong.

7. This paragraph was reprinted six times by 5 February: Mass. (1), Conn. (1), N.Y. (1), Pa. (2), Md. (1).

8. This paragraph was reprinted four times by 5 February: Mass. (1), Pa. (2), Md. (1). For a widely reprinted poem praising the members of the state Convention, see the *Massachusetts Centinel*, 12 January.

**Lansingburgh Northern Centinel, 15 January<sup>1</sup>**

Extract of a letter from a gentleman in Poughkeepsie to his friend in Albany, dated Jan. 10.

"It is with inexpressible satisfaction I inform you, that there is a great probability of a majority of the assembly of this state being in favor of the new constitution.—Cato<sup>2</sup> and the Rough-Hewer<sup>3</sup> are both here, using their utmost endeavours to create jealousy among the people—but, happy for the state, the people well know from what principle their extreme anxiety proceeds—their conduct has given ocular demonstration to the world, that self-interest, the basest motive that can disgrace a statesman, is all they have in view."

1. Reprints by 25 February (8): Conn. (3), N.Y. (1), Pa. (2), S.C. (2). The first sentence only was reprinted in the *Maryland Journal*, 5 February.

2. Governor George Clinton.

3. Abraham Yates, Jr.

**Massachusetts Centinel, 19 January<sup>1</sup>**

So far as the discussion of the Constitution has proceeded, the defence it has received is astonishing—*divine providence* on this occasion, affords one of those few opportunities which occur in the revolution of human affairs, for the unfolding and displaying the amazing powers of the human mind—and from the progress already made in convincing those who were before unconvinced, and bringing to view the latent perfections of the system, should the arguments on which the remaining part depends for their support, be equally demonstrative and convincing, it may be presumed that had *two thirds* of the Convention been opposed to its adoption at the beginning, there will not be *one third* for its rejection at the close of the session.

It may be easily conceived from the volume of arguments opened in favour of some parts of the Constitution which were thought to be the least defensible, that what have been considered as defects will turn out in the event from experience to be the most invaluable jewels of the system.

1. Both paragraphs were reprinted in six newspapers by 5 February: N.H. (2), Mass. (1), R.I. (2), Conn. (1). Between 24 January and 19 February five other newspapers reprinted only the first paragraph: R.I. (1), N.J. (1), Pa. (2), Md. (1).

**Pennsylvania Packet, 19 January<sup>1</sup>**

A correspondent says "The adoption of the new Federal Constitution by so great a majority of the Connecticut convention<sup>2</sup> must afford comfort and satisfaction both to the *firm* and to the *doubting* friends of the new government; for if there are in the American Union any genuine commonwealthsmen, any body of men really and truly republican, it is the free and equal citizens of that frugal, industrious, warlike and enlightened state." Our correspondent adds, "that he



hopes our late writers will now refrain from the inconsiderate accusations of conspiracy, which in their less reflecting moments they have given into.”

1. A nearly identical version was also printed in the *Philadelphia Independent Gazetteer* on 19 January. It was reprinted eleven times by 18 February: Mass. (1), R.I. (1), Conn. (4), N.J. (1), Pa. (2), Md. (2).

2. On 9 January the Connecticut Convention ratified the Constitution by a vote of 128 to 40.

### **The Minority of the Connecticut Convention, 21–24 January**

*Philadelphia Independent Gazetteer*, 21 January<sup>1</sup>

A correspondent observes, that the minority in the convention of Connecticut is very great, considering the circumstances attending this business in that state. In the first place, before the people could possibly have time scarcely to read the new constitution, they were compelled to sign to their perfect approbation of it, or be posted in a black list—<sup>2</sup> and to prevent their obtaining any light upon this all-important subject, all their newspapers were muffled; nothing but sophistical, abusive and fallacious performances in favor of it, could be published.<sup>3</sup> The election of the convention was precipitated, and care taken to get the tools of the well born into that body; the convention sat but a few days, to prevent discussion; & from a paragraph in one of their newspapers, it appears that they precipitated the grand question, dreading the operation of some pamphlets said to be introduced into that state by the honorable Samuel Adams.<sup>4</sup> It is to be observed that the manners of these good people are very plain; they have no constitution, but are entirely governed by their usages—they are as perfectly ignorant of the science of government as is possible; they have been told by their leaders it is an excellent form of government, given from heaven, and they have believed it; but when they find they have been deceived, that it is a deep conspiracy (and we are told the opposition encreases daily) they will be the foremost in standing forth in defence of their liberties.

*New Haven Gazette*, 24 January<sup>5</sup>

To the honor of the minority in our state convention it ought to be publicly known, that they, (unlike the obstinate and unprincipled minority of Pennsylvania)<sup>6</sup> declared generally, they determined to abide by the just republican principle of submitting to the majority—that they were treated with the utmost candor and politeness through the whole discussion—that they considered the constitution as their constitution—&c that among their constituents they should inculcate the same sentiments.

1. Reprints by 10 March (8): Mass. (1), Conn. (4), N.Y. (1), Md. (2). On 7 February an anonymous writer in the *New Haven Gazette* quoted from this paragraph

and charged that it was "pitiful and mean" of Pennsylvania Antifederalists to "endeavour to sow sedition also in CONNECTICUT" (RCS:Conn., 596-97).

2. For other references to this black list, see "Brutus, Junior," *New York Journal*, 8 November, CC:239.

3. For the partisan nature of the Connecticut press, see RCS:Conn., 329-31, 456-58, and *passim*.

4. Probably a reference to the Hartford *American Mercury*, 7 January, which reprinted a paragraph from the *Massachusetts Gazette*, 28 December 1787 (CC:390-A).

5. Reprints by 12 March (13): R.I. (1), Conn. (1), N.Y. (4), N.J. (1), Pa. (5), Md. (1).

6. For the Pennsylvania minority, see CC:353.

### Massachusetts Centinel, 23 January<sup>1</sup>

A lengthy letter from his Excellency the Governour of Virginia, addressed to the Speaker of the House of Delegates of that State, has been published—in which he paints, in the most striking colours, the actual and probable evils of our present system of national government; and proves the expediency of adopting the proposed Constitution, at least with some amendments; and his principal reason for refusing to sign it seems to be, that, however necessary they might be found, no amendments were to be admitted—however, if they are not to be obtained, he would be willing to accept it as it is.

1. Reprinted: *New Hampshire Spy*, 25 January; *New Hampshire Gazette*, *Newburyport Essex Journal*, and *Springfield Hampshire Chronicle*, 30 January; *Portland Cumberland Gazette*, 31 January; *Norwich Packet*, 6 March. For Governor Edmund Randolph's letter, see CC:385.

### Pennsylvania Gazette, 23 January

The gentlemen of the late foederal Convention, says a correspondent, who dissented from the Majority, ought to have acted a little more in concert, both for their own reputation's sake and for the good of their country, if they really thought, at the time, of the reasons of dissent which they have given to the people of America. The truth, he supposes, is, that their several sentiments were so discordant, that they could not unite in any number of amendments. They appear to be so *dissentient* a set of *dissenters*, that they must continue to *dissent* from each other, as long as any *dissention* remains among the *dissenting* sons of men.<sup>1</sup>

A correspondent observes, that the honorable Mr. Yeates and Mr. Lansing, of New-York, appear to have thought very little of any of the various and opposite objections of their colleagues in the late foederal Convention, except one.—They express no apprehensions about the footing on which the state and federal Constitutions have placed the liberty of the press and of conscience, the military, and the several other matters, the supposed dangers of which have been much insisted on by the other gentlemen. *Consolidation* seems to be their only fear.<sup>2</sup>

*Extract of a letter from a gentleman at Newport, Rhode-Island, dated 29th Dec. 1787, to his correspondent in this city.*<sup>3</sup>

“I thank you for all the good news, and the news-papers with the Debates in your Convention, which are truly worth reading. You have had a fair opportunity to discover that two or three artful designing men may do a world of Mischief—Instance a few in Rhode-Island—old C— and L—<sup>4</sup> in New-York—and a few such in every state. Delaware and Jersey are high on the list—Connecticut will have a very great majority—Boston near three to one—and New-Hampshire clear—and that will be the case in North and South-Carolina. *We* that have taken an active part in the late war must again step forward, and do double duty, till we secure a good government. I speak for myself, and am ready. The virtuous Minority in this state feel happy in being thought of by the worthy citizens of Philadelphia, and I know they deserve their notice, for never did men stand their ground equal to a few in this state—and I hope the time is nigh, when the wicked must flee to the dens and cliffs of the rocks.”

1. Reprinted: *New York Morning Post*, 30 January; *State Gazette of South Carolina*, 25 February. This item was probably inspired by “Philanthropos” (Tench Coxe), which was printed in the *Pennsylvania Gazette* and *Philadelphia Independent Gazetteer* on 16 January (CC:454).

2. Reprinted: *Maryland Journal*, 29 January; *New York Morning Post*, 30 January; *New York Daily Advertiser*, 31 January; *Boston Gazette*, 4 February; *Albany Gazette*, 7 February; *State Gazette of South Carolina*, 25 February. For Yates and Lansing’s reasons of dissent, see CC:447.

3. Reprinted: *New York Morning Post*, 28 January; *Richmond Virginia Gazette*, 7 February.

4. George Clinton and John Lamb.

### **Philadelphia Independent Gazetteer, 25 January<sup>1</sup>**

A correspondent says, that we should bear great indignation at being told that the new constitution met with the unanimous consent of the convention. There were several besides Governor Randolph, Mr. Mason and Mr. Gerry, who were astonished at the proposal of giving up the liberties of the people. It is utterly untrue that the new constitution met with the consent of the states present in convention. The honorable Mr. Yates and Mr. Lansing of New-York gave it a decided opposition, while only Mr. Hamilton gave it his support. There were two delegates from New-York against it, and only one in favor. Mr. Yates and Mr. Lansing have published the reasons of their dissent.<sup>2</sup> When every circumstance is exposed the design against us will be found to be much deeper than was at first imagined by the fond credulity of the multitude.

1. Reprinted: *Virginia Independent Chronicle*, 6 February; *Boston American Herald*, 17 March.

2. See CC:447.

**Litchfield Weekly Monitor, 28 January<sup>1</sup>**

A Correspondent from Massachusetts observes, that the years 88, for some centuries past, have been remarkably conspicuous for great events: In 1588 the Spanish armada was destroyed—in 1688 the Revolution in England commenced—and in the beginning of the year 1788, when the Connecticut Convention adopted the new Constitution, the majority consisted of 88.<sup>2</sup>

1. Reprints by 31 March (18): Vt. (2), N.H. (2), Mass. (2), R.I. (2), Conn. (1), N.Y. (2), Pa. (5), Md. (2).

2. At this point, the reprints in the *Salem Mercury*, 12 February, and the *Massachusetts Centinel*, 16 February, added: “and in the same year, the Convention of Massachusetts consented to the adoption of the same Constitution.”

**Massachusetts Centinel, 30 January<sup>1</sup>**

The General Assembly of New-York, now in session at Poughkeepsie, we are assured by good authority, have resolved that a Convention be called, for the purpose of assenting to, and ratifying the Federal Constitution—to meet at a short day—and that the Constitution will be adopted by that State by two against one—which God grant.

1. Reprinted: *Providence Gazette*, 2 February; *Springfield Hampshire Chronicle*, 6 February; *Portland Cumberland Gazette*, 7 February. Four newspapers reprinted this item without the phrases “and that the Constitution will be adopted by that State by two against one—which God grant”: *Boston Independent Chronicle*, 31 January; *New Hampshire Spy*, 1 February; *Newport Mercury*, 4 February; and *New Hampshire Gazette*, 6 February. The *Norwich Packet*, 14 February, paraphrased the piece.

**Philadelphia Freeman's Journal, 30 January<sup>1</sup>**

By private accounts from Virginia, we learn, that political disputes run very high in that State; that the advocates of the proposed Constitution are losing ground daily; that they avoid all argument, and depend principally upon the magic of Names, declamation, songs &c; that there will be two to one against it in their Convention, which meets next June; that their Assembly had passed an act to set apart a sum of money for the expences of deputies to propose, to the other States, amendments;<sup>2</sup> that it was currently reported in that State, that all opposition had ceased in Pennsylvania to the proposed Constitution: That the North Carolina Convention would meet in June; and that the people to the southward were all kept in the dark by the stoppage of the newspapers in the Post Office.

1. Reprints by 25 February (10): Mass. (4), R.I. (2), N.Y. (2), N.J. (1), Pa. (1). Excerpts were reprinted in the Exeter, N.H., *Freeman's Oracle* on 29 February.

2. See CC:328, note 9.

**Pennsylvania Gazette, 30 January<sup>1</sup>**

*Extract of a letter from a mercantile house in Charleston, South Carolina, to one in this city, dated the 12th instant.*

"It gives us much pleasure to advise you that the state of Georgia have adopted the Fœderal Constitution, and have no doubt but ours will follow their example early in the spring."

The adoption of the proposed Fœderal Government by the state of Georgia, whose constitution, like that of Pennsylvania, vests the legislative power in a single House, is a proof that another body of men, besides the Majority of the Pennsylvania Convention, think, under the same kind of government, that the fœderal constitution should be adopted. Georgia is a very rising state, possessing an extensive territory, and is a great acquisition to the new Confederacy. Live oak, red cedar, tobacco of an excellent quality, rice, indigo, furs, peltry, hides, hemp, cotton, and silk, are her most valuable productions:—An inestimable treasure, whether we consider them with regard to commerce, navigation, manufactures, or domestic consumption.

1. The first paragraph was reprinted fifteen times by 3 March: Vt. (1), N.H. (1), Mass. (5), Conn. (4), N.Y. (1), Pa. (2), Md. (1); while the second was reprinted twenty-three times by 27 March: N.H. (1), Mass. (4), R.I. (1), Conn. (4), N.Y. (3), N.J. (2), Pa. (4), Md. (1), Va. (2), S.C. (1). Six newspapers reprinted both paragraphs: Mass. (3), Conn. (1), Pa. (1), Md. (1). These two paragraphs were preceded by another report of Georgia ratification which had first appeared in the *Massachusetts Gazette* on 15 January ("The Pillars of the American Republic, 9-16 January," Appendix I, above).

## APPENDIX II

This table illustrates the circulation of all items in Volume 3 of *Commentaries on the Constitution* that were published in newspapers or as broadsides or pamphlets. The total figure for each item includes the original publication and all reprints, including the reprints of significant excerpts. An asterisk (\*) indicates publication in the *Philadelphia American Museum*, which had a national circulation. A plus sign (+) indicates publication as a broadside, pamphlet, or book.

This table is included in *Commentaries* as an aid in comparing reprint data. Headnotes and footnotes of documents often contain additional information about circulation and should also be consulted.

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
352. Publius															
The Federalist 23		1			5+										6
353. Minority Dissent															
Pa. Convention		1+	2		5+		9+			2+		1			20
354. Anti-Cincinnatus		1			1										2
355. Publius															
The Federalist 24					5+										5
356. Philadelphiensis V		1	1				1								3
357. Benj. Rush's Speech															
Dallas Version		4			2		3								9
Lloyd Version	1	2	1		3		7					1			15
361. A Countryman V		1		1	1										3
362. N.Y. Journal		2			2	2	3					1			10
364. Publius															
The Federalist 25					5+										5
365. Pa. Mercury		2	1		4		4								11
366. Publius															
The Federalist 26					5+										5
369. Poplicola		2			1										3
371. Landholder VIII	1	5	1	4	1		1		1						14
372. New England	1	1		1	1							1	1		6
377. One of the People	1	1		2	1	1	2*		1			1			10
378. Publius															
The Federalist 27					5+										5

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
379. Centinel VI					3 <sup>+</sup>		2								5
381. Publius															
The Federalist 28					5 <sup>+</sup>										5
382. Philadelphiensis VI		1	1		2		2								6
383. Pa. Herald		1	1		1		1		1						5
384. Brutus VI					1										1
385. Edm. Randolph's Letter <sup>+</sup>		3	2	2	6 <sup>+</sup>		4 <sup>*</sup>		1	4 <sup>+</sup>					22
386A. Washington to Carter		3	9	4	7	8	3	11 <sup>*</sup>	1	1		1	2	1	51
386C. Brutus			4		1		1								6
386D. Mass. Gazette			1				3								4
386E. Cato			2												2
386F. An American			1		1										2
386G. Junius			1												1
386H. Countryman VI					1		1								2
388. Mass. Gazette		1	2		1	3	1	4				2			14
389. Genuine Information I			1		1		4 <sup>+</sup>		1			1			8
390A. Mass. Gazette			1		1	1	1					1			5
390B. Boston															
American Herald			1												1
390C. Mass. Gazette			1												1
390D. Mass. Gazette			1												1
390E. Mass. Gazette			1			2	2								5
390F. Mass. Gazette			1												1
390G. Mass. Centinel			1												1
390H. Boston															
American Herald			1												1
390I. Boston															
American Herald			1												1
391. Publius															
The Federalist 30						5 <sup>+</sup>									5
392A. An American		1	1				5 <sup>*</sup>		1			1			9
394. Centinel VII				1		3 <sup>+</sup>	3								7
395. New Roof		1	1		2	2	1	6 <sup>*</sup>	1			1		1	16
397. Landholder IX			1		4										5
399. America					4										4
401. Genuine Information II			1		1		4 <sup>+</sup>		1			1			8
402. N.H. Spy		1	4	1	2	1	2	2					1		14
403. Publius															
The Federalist 31						5 <sup>+</sup>									5
405. Publius															
The Federalist 32-33						5 <sup>+</sup>									5
406. N.Y. Independent															
Journal						4				2					6
407. An Old Man		2	7	2	7	4	2	7	1	2		2	1	1	38
408. Carlisle Gazette			1	2	1	2	2	1	1						7

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
409. Philadelphia															
Freeman's Journal		2	1		4		1								8
410. Centinel VIII					3 <sup>+</sup>		2								5
411. Brutus VII					1										1
412. Cato VII					2										2
413. Oliver Ellsworth's Speech	1	2	2	8	1	1	7*		1						23
Wm. Saml. Johnson's Speech			2	8	3		4		1						18
414. Genuine Information III					1		4 <sup>+</sup>		1			1			7
415. An Old Soldier				1											1
416. Publius															
The Federalist 34							5 <sup>+</sup>								5
418. Publius															
The Federalist 35							5 <sup>+</sup>								5
419. Elbridge Gerry's Defense		2	1		2		1								6
420. James Wadsworth's Speech					8	1	4		1			1			15
Oliver Ellsworth's Speech	1			8	1		5*		1			1			17
421. A Citizen of New Haven				1											1
424. Boston Tradesmen Mass. Gazette		1													1
Mass. Centinel		4	1		2	1	6*		1						15
Boston Gazette		1	1												2
425. Genuine Information IV					1		3 <sup>+</sup>		1			1			6
426. Publius															
The Federalist 36							5 <sup>+</sup>								5
427. Centinel IX							2 <sup>+</sup>		4						6
428. Samuel Huntington's Speech	1	1	1	8	1		4*		1					1	18
Oliver Wolcott's Speech				8	1		4*		1					1	15
Richard Law's Speech	1	1	8	1			4*		1					1	17
429. Publius															
The Federalist 29							5 <sup>+</sup>								5
430. Tamony			1		1		1			1					4
436. Helvidius Priscus II		1			2										3
437. Brutus VIII		1			1		1								3
438. Philadelphiensis VII							1								1
439. George Clinton's Speech	4	2	8	8	8		3		1	1		2	1		30



	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
440. Publius The Federalist 37					5 <sup>+</sup>										5
441. Genuine Information V					1		4 <sup>+</sup>		1			1			7
442. Publius The Federalist 38						5 <sup>+</sup>									5
443. Centinel X		1			1		2								4
447. Yates-Lansing Letter	1	1			8		6 <sup>+</sup>		1	1		1	1		20
448. Pennsylvania Packet			2	3	2	1	5		1	1		2			17
451. Genuine Information VI		1			1		5 <sup>+</sup>		1	1		1			10
452. Publius The Federalist 39						5 <sup>+</sup>									5
453. Centinel XI					1		2								3
454. Philanthropos	1	2		3	2		2			1		1			12
455. Brutus IX		1			1		1								3
457. Curtiopolis	1	1		1	1										4
458. Publius The Federalist 40						4 <sup>+</sup>									4
459. Genuine Information VII		1			1		5 <sup>+</sup>		1			2			10
460. Luther Martin's Letter		1	1		1		4		1						8
463. Publius The Federalist 41						4 <sup>+</sup>									4
466. Publius The Federalist 42						4 <sup>+</sup>									4
467. Genuine Information VIII		1			1		2 <sup>+</sup>		1			1			6
469. Publius The Federalist 43						4 <sup>+</sup>									4
470. Centinel XII					1		2								3
471. Centinel Letter (Spurious)						2	3					1			6
472. A Freeman I		1			1		5 <sup>+</sup>	1							8
473. Philadelphiensis VIII		1	2		2		2								7
474. Brutus X					1										1
476. Publius The Federalist 44						4 <sup>+</sup>									4
478. Publius The Federalist 45						4 <sup>+</sup>									4
481. State Gazette of S.C.		1			1	1	2			1		1			7
483. Publius The Federalist 46						4 <sup>+</sup>									4
484. Genuine Information IX		1			1		3 <sup>+</sup>		1			1			7
486. Publius The Federalist 47						4 <sup>+</sup>									4
487. Centinel XIII		1			1		2								4
488. A Freeman II							4 <sup>+</sup>	1							5
489. Brutus XI					1										1
490. Aristides, Remarks <sup>+</sup>									1 <sup>+</sup>						1

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
<b>APPENDIX I: SQUIBS</b>															
Pa. Gazette															
19 December	1	1	1	1	3	1	1			1					10
Pa. Packet															
19 December	1	3		1	3	1	3		2	2		1			17
Franklin and Washington															
Pa. Herald															
19 December		2	1		3		3					1			10
Pa. Herald															
22 December					2		1								3
State Conventions															
Worcester Magazine															
3rd week December	1	2	1		1										5
Pa. Packet															
20 December	1	2	1	1	3	1	7		1	2					19
Mass. Centinel															
22 December		3	2	5		1						1			12
Mass. Centinel															
26 December	1	1					1*								3
Albany Gazette															
20 December					1	1									2
Pa. Packet															
21 December	3	8	2	4	3	1	4		1		1	2	2	1	32
Salem Mercury															
25 December		1			2		3		2						8
Pa. Packet															
25 December	1	5		3	4	1	6			1				1	22
Conn. Journal															
26 December	3	3	1	3											10
N.J. Journal															
26 December	3	2	1	1	3	1	1								12
Pa. Herald															
29 December (both)		2				1	2		1	1		1			8
(1st paragraph)	3	7	3	5	3	1	4		1	3		2		2	34
(2nd paragraph)		2			3	1	3		1	1		1			12
Essex Journal															
2 January		3	1	1			3		1						9
Freeman's Journal															
2 January		2	2	1	3		1								9
Pa. Gazette															
2 January															
(1st paragraph)							2		2	1					5
(2nd paragraph)							2		2						4
Va. Political Society															
Pa. Gazette															
2 January	2	7	1	5	3	1	6*			1		2	1		29
Independent Gazetteer															
5 January					1		3		1						5



	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
Pa. Gazette															
23 January															
(1st paragraph)					1		1					1			3
(2nd paragraph)		1			3		1		1			1			7
(3rd paragraph)					1		1			1					3
Independent Gazetteer															
25 January		1					1			1					3
Weekly Monitor															
28 January	2	2	2	2	2		5		2					2	19
Mass. Centinel															
30 January	2	4	2	1											9
Freeman's Journal															
30 January		4	2		2	1	2								11
Pa. Gazette															
30 January (both)		3		1			2		1						7
(1st paragraph)	1	5		4	1		3		1					1	16
(2nd paragraph)	1	4	1	4	3	2	5		1	2		1			24



## Index

An asterisk denotes a signer of the Constitution. Several main entries are compilations of similar items: Biblical References; Broad­sides, Pamphlets, and Books; Classical Antiquity; Governments, Ancient and Modern; Newspapers; Political and Legal Writers and Writings; Printers and Booksellers; and Pseudonyms. The pseudonymous items printed in this volume and in earlier volumes of *Commentaries on the Constitution* are also indexed separately. When a pseudonym has been identified, the name of the author has been placed in parentheses. Biographical information in earlier volumes of *Commentaries* is indicated by a volume and page reference placed in parentheses immediately after the name of the person. Sketches of newspapers printed in Volume 1 of *Commentaries* have been placed in parentheses immediately following the name of the newspaper.

- ADAMS, ABIGAIL (Mass.), 70  
ADAMS, JOHN (Mass.; CC:Vol. 1, 81n), 297, 301n–2n, 340, 486  
ADAMS, JOHN QUINCY (Mass.; CC:Vol. 2, 220n), 70, 562n, 563n  
ADAMS, SAMUEL (Mass.; CC:Vol. 1, 325n): and opposition to Constitution, 144n–45n, 146n, 158, 158–59, 290n, 291, 291n, 292, 328, 363, 564; defended, 145n, 146n, 482; and republication of “Federal Farmer,” 145n, 156n, 157, 158–59, 332n, 570; elected to Massachusetts Convention, 145n, 289n, 332n; alleged to be “Helvidius Priscus,” 145n, 332n; and meeting of Boston tradesmen, 290n, 291n, 292, 438, 438n; supports amendments to Constitution, 291n  
–letters from: cited, 144n–45n, 263  
–letters to, 192–93, 263–67; quoted, 467n  
ADDAMS, WILLIAM (Pa.), 230  
“AN ADDRESS OF THE SECEDING ASSEMBLYMEN,” 35n, 284, 400–3  
“AN ADDRESS TO THE MINORITY OF THE STATE CONVENTION OF PENNSYLVANIA,” 13n, 228–30  
ADMIRALTY JURISDICTION: *See* Judiciary, U.S.  
AGNEW, JOHN (Pa.): *id.*, 228n; 226  
AGRICULTURE: agrarian laws favored, 88; importance of, 168, 204; toast to prosperity of, 228. *See also* Farmers  
ALBANY FEDERAL REPUBLICAN COMMITTEE  
–letter from: quoted, 148  
ALDEN, ROGER (Conn.; CC:Vol. 1, 221n), 188–90  
ALLEN, JOHN W. (Mass.), 160n. *See also* Newspapers, *Massachusetts Gazette*  
ALLEN, THOMAS (N.Y.), 180n  
ALLIANCE, 339, 340n  
AMBASSADORS, 339, 427–28, 533, 534  
AMENDMENTS TO ARTICLES OF CONFEDERATION: criticism of unanimity needed to obtain, 50, 407; population amendment of 1783, 125, 135n, 282; justification of abandonment of Articles in favor of a new constitution, 128, 182; and Constitutional Convention, 205–6, 281, 301, 368n, 409n–10n; argument that only limited amendments should have been proposed, 205–6, 281, 326, 369, 409n–10n, 486; proposed by the states during adoption of Articles, 250, 251, 355, 360n; opposition to, 490–91. *See also* Articles of Confederation; Constitutional Convention; Impost of 1781; Impost of 1783; Ratification, procedure for  
AMENDMENTS TO CONSTITUTION, 54n; need for, 8n, 111, 118n, 121n, 131–32, 134, 284–89, 324, 364, 373, 387, 393–94, 468, 505–6; proposed in Pennsylvania Convention, 18, 18–20,

- 44, 392–93; Constitution's provision for, 50, 153, 253, 316, 386, 444–45, 511; Antifederalist disagreements concerning, 52, 78, 120n, 288n, 355–57, 391–93, 571; opposition to, 53–54, 120n, 288, 290n, 293, 327, 526, 543, 553, 560; should be adopted after establishment of new government, 54, 74, 86, 120n, 136–37, 137, 283, 329, 468, 539–40, 540, 541; and Virginia legislature, 70, 324n, 573; should be adopted before Constitution is ratified, 110, 131, 132–33, 133, 139, 140, 263, 290n, 291, 322–23, 468; favored by Edmund Randolph, 118n, 119n, 133–34, 288n, 571; advocates of criticized, 121n, 192, 327; in Massachusetts Convention, 291n, 562n; Georgia legislature authorizes state convention to make, 399; two prohibitions explained, 445. *See also* Antifederalists; Bill of rights; Civil liberties; Convention, second constitutional
- “AMERICA” (Noah Webster), 13n, 194–203
- “AN AMERICAN,” 139–40, 141
- “AN AMERICAN” (Tench Coxe), 165–71, 171–72, 172, 173–76, 373, 554n
- “AN AMERICAN CITIZEN” (Tench Coxe), 172, 176n
- AMERICAN REVOLUTION, 74, 81, 83, 84, 108, 125, 200, 257, 278, 322, 323, 326–27, 333, 348, 355, 370–71, 402, 486, 487–88, 492, 558; weakness of central government during, 6, 62, 194–95, 246–47; danger that it might have been fought in vain, 22, 72, 98, 106, 128–30, 178, 266, 332n, 486, 564; goals of have not yet been achieved, 87–88, 294, 295; problems created by, 98–99, 261–62, 276; charges of dereliction during, 179, 390n; reasons for fighting, 201, 229, 231–32, 280, 332–33, 334, 339, 381, 393–94, 408, 413, 461, 476, 492; slave trade violates principles of, 434. *See also* Patriotism
- ANARCHY: *See* Political conditions under the Confederation
- ANNAPOLIS CONVENTION, 173, 403, 407–8, 409n–10n
- “ANTI-CINCINNATUS,” 36–39
- ANTIFEDERALISTS, 556n; writings of criticized, 6–7, 11n, 12n, 37, 40, 49, 50, 52, 87, 90, 119n, 120n, 140–41, 143n, 157, 157–58, 175, 179n, 194, 213, 360n, 361, 451–53, 536–38; in Pennsylvania, 7n–9n, 64, 88, 90n, 177, 200, 225, 227, 327, 360n, 361, 371, 475, 506; criticized, 41, 51, 65, 78, 79, 81, 87, 88, 92–94, 121n, 136n, 136, 137, 138, 140–41, 157, 191, 192, 193, 211, 294, 322, 343, 540, 546, 556, 560–61, 568; disagreement among, 52, 78, 120n, 191, 288n, 326, 355–57, 391–93, 571; in Virginia, 78, 121n, 203, 216, 325, 330; in Massachusetts, 78, 287n, 289n, 326–27, 426, 482; in New York, 78, 326, 362, 402; in Connecticut, 79, 81, 326–27, 570; publication and distribution of literature of, 81, 82, 145n, 147n, 147n–48n, 149n, 156n, 308n, 310–11, 459, 459–60, 480–81, 555, 557; defense of, 107, 108, 179, 189, 192, 315, 339, 388, 461; in Maryland, 553; in South Carolina, 560–61. *See also* Federalists; Officeholders, state; Pseudonyms
- APPELLATE JURISDICTION: *See* Judiciary, U.S.
- APPOINTMENT POWER, 298, 357; dangerous in hands of President, 26–27, 133–34, 298–99, 352, 357, 392, 495–96, 496–97, 530; criticism of Senate's role in, 29; privy council favored to assist President in, 30, 52, 530; debate over in Constitutional Convention, 58, 146n, 153, 154; defense of Senate's role in, 175–76, 281, 509; defense of President's role in, 527. *See also* Impeachment; Officeholders, U.S.; President, U.S.; Privy council; Senate, U.S.
- APPROPRIATIONS, 266, 285, 392; praise of Constitution's provision for two-year appropriations for military, 40, 67–68, 69, 281–82, 401, 421–22, 422; criticism of provision for, 324. *See also* House of Representatives, U.S.; Money bills; Requisitions; Taxation
- “ARISTIDES” (Alexander Contee Hanson), 517–54
- ARISTOCRACY, 45, 71n, 73–74, 74, 82, 84, 199–200, 200, 201, 207, 339, 441–42, 508; Constitution creates danger of, 26, 28, 31, 108, 118n, 121n, 143–

- 44, 144n-45n, 229, 233, 266, 323, 340, 356, 378; Federalists favor, 45, 109, 179, 380n; and Constitutional Convention, 47, 371, 400; Constitution will not create, 280, 400, 402, 546, 547-48. *See also* Democracy; Despotism; Republican form of government; Senate, U.S.
- ARMS, RIGHT TO BEAR, 19, 312n, 393, 492-93
- ARMSTRONG, JOHN (Pa.), 230
- ARMSTRONG, JOHN, JR. (Pa.): *id.*, 87n; as member of Congress, 89, 90n, 176n
- letter from, 86-87
- ARMSTRONG, JOHN, SR. (Pa.), 12n
- ARMY, 248, 276, 380n; defense of Constitution's provisions for, 4-7, 40, 57-58, 102-6, 160-61, 198, 244, 277-78, 281-82, 419-20, 480, 532, 544; danger from Constitution's provisions for, 19, 75, 112, 115-16, 273, 324, 391, 393, 468, 496; under Articles of Confederation, 61, 123, 124-25, 126-27, 247, 281-82, 358, 406, 417, 456, 467n, 554n; Continental Army, 79n-80n, 278, 371, 390n, 462, 467n. *See also* Appropriations; Army, standing; Invasion, foreign; Militia; Navy; President, U.S.; War power
- ARMY, STANDING, 66, 275, 571; danger of under Constitution, 19, 24, 31, 32, 33, 46, 146n, 148n, 183, 230, 232, 320, 336-38, 339, 394-98, 397-98, 410, 462-67, 483n-84n, 486, 507, 515; debate over use of to impose Constitution, 33, 95, 108, 233, 275, 319, 323, 373, 380n, 396, 412; denial of danger of under Constitution, 39n, 39-43, 59-63, 65-69, 102-6, 184, 186, 198, 281-82, 318-20, 394-95, 396, 396-98, 401, 421-22, 422, 492-93, 532-33, 550-51; prohibited in peacetime by Pennsylvania and North Carolina, 43, 65, 67; likelihood of under separate confederacies, 130, 422, 542; under Articles of Confederation, 396-97, 397, 397-98, 398n, 466. *See also* Army; Militia
- ARNOLD, BENEDICT (England), 451n
- ARTICLES OF CONFEDERATION, 14, 139-40; defects of, 5, 13, 36n, 47n, 50, 54, 57, 65, 91, 123-28, 135n, 181, 190-91, 194, 236-37, 244, 245, 248, 249, 257, 263, 274, 301, 302n, 314, 315, 317, 344, 355, 392, 400, 407, 423, 427, 428, 429-30, 430-31, 431, 431-32, 432, 441, 527, 527-28, 571; Article VIII of, 5, 125, 161-64, 425, 445-46; Article II of, 19, 24, 36n, 124, 135n, 471-72; method of amending, 34, 50, 109-10, 125, 253; nature of government created by, 40, 383, 406, 455, 476, 527; state military forces under, 41, 61, 62-63, 64n, 103, 310, 312n, 391, 466; ratification of, 127, 131, 355, 445, 455, 549; equality of states in Congress under, 128, 150, 151, 182, 207, 210n, 250-51, 253, 386n, 524; debate over violation of by Constitutional Convention, 138, 182, 205-6, 253, 297, 366n, 400, 403, 403-4, 404-5, 445-46, 486, 539-40; provisions of included in Constitution, 378, 406, 419, 427-33, 455, 469, 471, 480; are no longer viable, 455-56. *See also* Amendments to Articles of Confederation; Congress under Articles
- ASIA, 475
- ASSEMBLY, RIGHT OF, 202n
- ATCHLEY, THOMAS (Pa.), 230
- ATHERTON, JOSHUA (N.H.), 148n
- ATTAINDER, BILL OF, 285, 394, 470, 538, 544
- ATTORNEYS, 47, 186, 197
- BACON, JOHN (Mass.), 90, 91n
- BAIL, RIGHT OF, 18, 199
- BAIRD, JOHN (Pa.), 34
- BAIRD, RICHARD (Pa.), 34
- BALANCED GOVERNMENT, 363, 547. *See also* Separation of powers
- BALDWIN, ABRAHAM\* (Ga.): *id.*, 59n; 371; commentary on Constitutional Convention, 57-58, 74-75
- BALDWIN, SIMEON (Conn.), 243n, 317n
- BALTIMORE, 181n, 559
- BANK OF NORTH AMERICA, 200, 202n, 234
- BANKRUPTCY, 281, 432, 436
- BARRELL, JOSEPH (Mass.): *id.*, 51n
- letter from, 49-51
- letter to, 362-63
- BARRELL, NATHANIEL (Mass.): *id.*, 51n
- letters from, 372-73; cited, 51n
- letters to, 49-51; cited, 372



- BARRY, JOHN (Pa.): *id.*, 475n; 215, 216n  
 –letter to, 475
- BAYARD, JOHN (Pa.), 35n
- BEDFORD, GUNNING, JR.\* (Del.), 371
- BELCHER, AARON (Mass.), 289n
- BELKNAP, JEREMY (Mass.; CC:Vol. 2, 529n), 11n, 562
- BELL, JAMES (Pa.), 230
- BELL, ROBERT (Pa.), 230
- BELL, WILLIAM (Mass.), 289n
- BENSON, EGBERT (N.Y.): *id.*, 484n; 371, 481, 484n
- BEVERLY, MASS., 177n
- BIBLICAL REFERENCES, 148n, 258, 333; Aaron, 535; Adam, 362; Canaanitish nations, 244; Egypt, 535; Esau, 451n; Exodus, 535; Isaiah, 109; Israelites, 73; Issachar, 245; Luke, 46, 47n; Matthew, 114; Mount Sinai, 284, 333; Pharisees, 264; Red Sea, 47n; Satan, 194; Scribes, 264; Ten Commandments, 47n, 333
- BICAMERALISM: supported, 57, 152, 313–14, 346, 522, 524–25, 528; not needed in a federal government, 296, 296–302. *See also* Unicameralism
- BILL OF RIGHTS, 147n, 202n, 284, 531, 537; criticism of lack of in Constitution, 8n, 8n–9n, 25, 31, 47n, 148, 183, 258, 266, 267, 284–85, 356, 393–94, 536–38; defense of Constitution's lack of, 37–38, 76, 94, 109, 184, 196, 280–83, 358, 391, 393, 393–94, 484n, 536–38, 538. *See also* Amendments to Constitution; Civil liberties; Convention, second constitutional
- BINGHAM, WILLIAM (Pa.; CC:Vol. 1, 134n), 176n
- BISHOP, JOHN (Pa.), 34
- BLACK, JOHN (Pa.), 12n, 13n
- BLACKSTONE, WILLIAM: *See* Political and legal writers and writings
- BLAIR, JOHN\* (Va.; CC:Vol. 1, 285n), 130, 371
- BLOUNT, WILLIAM\* (N.C.; CC:Vol. 1, 472n), 371
- BOARD OF TREASURY, U.S., 340n
- BOOKS: *See* Broad­sides, pamphlets, and books
- BORDMAN, WILLIAM (Mass.): *id.*, 295; 293
- BOSTON, 267, 371 482; “Dissent of the Minority of the Pennsylvania Convention” in, 11n; republication of “Federal Farmer” in, 80n, 156–60; and delegates of to Massachusetts Convention, 145n, 192, 193n, 289n, 290n, 291n, 291, 292, 371; population of, 267; tradesmen’s meeting in, 289–95; Constitution will hurt economy of, 289n; support for Constitution in, 289n, 290n, 572; Constitution will revive economy of, 289n, 293; opposition to Constitution in, 290n; Federalists attempt to destroy freedom of the press in, 459; news of Connecticut ratification received in, 565, 566. *See also* Green Dragon Tavern
- BOWDOIN, JAMES (Mass.; CC:Vol. 1, 346n), 146, 291, 292; name of used in satirical Antifederalist essays, 147n, 360n, 454n, 562n–63n
- BOYD, ALEXANDER (Pa.), 452
- BOYD, DAVID (Pa.), 230
- BRADFORD, THOMAS (Pa.)  
 –letters to, 552; quoted, 554n; cited, 518n, 551, 552
- BREADING, NATHANIEL (Pa.), 34
- BREARLEY, DAVID\* (N.J.), 371
- BRECKINRIDGE, JAMES (Va.): *id.*, 485n  
 –letter from: quoted, 562n; cited, 561  
 –letters to, 485; quoted, 561n
- BRECKINRIDGE, JOHN (Va.)  
 –letter to: quoted, 562n; cited, 561n
- BRIBERY: *See* Corruption
- BRIGGS, JOHN H. (Va.): *id.*, 134n–35n  
 –letter from (joint), 121–22; cited, 119n  
 –letter to (joint), 122; cited, 119n
- BROADSIDES, PAMPHLETS, AND BOOKS, 81, 520n, 521n–22n, 552, 555; John Adams, A Defence of the Constitutions, 297, 301n–2n, 486; An Address of the Seceding Assemblymen, 35n; “Aristides” (Alexander Contee Hanson), Remarks on the Proposed Plan of a Federal Government, 517–54; “Aristocrotis” (William Petrikin), The Government of Nature Delineated, 149n; British Liberties, 101; “A Citizen of America” (Noah Webster), An Examination into the Constitution, 202n, 395, 395–96, 526, 553n; “A Citizen of Philadelphia” (Pelatiah Webster), Remarks on the Address of Sixteen Members, 536; “A Citizen of Philadelphia” (Pelatiah Webster), The

- Weaknesses of Brutus Exposed, 372; "A Columbian Patriot" (Mercy Warren), Observations on the New Constitution, 149n; Constitution, U.S., 58, 86, 118n, 123, 203, 225, 225n, 227, 329, 330-31, 341n, 342, 367n; Constitutions of the Several Independent States of America, 43, 94; Tench Coxe, An Address [on Manufactures], 374; Tench Coxe, An Enquiry [on a Commercial System], 168, 374; Tench Coxe, Thoughts Concerning the Bank of North America, 374; Dissent of the Minority of the Pennsylvania Convention (Samuel Bryan), 9n, 10n, 11n, 34n, 156n, 454n; "Federal Farmer," Letters, 156n-60, 332n; *The Federalist* (Alexander Hamilton, John Jay, James Madison), 71, 98n, 223n, 307n, 363, 521n-22n; Francis Hopkinson, Miscellaneous Essays, 180n, 450n; Richard Jackson, An Historical Review of the Constitution and Government of Pennsylvania, 201; Letters of Junius (Philip Francis), 148, 458, 461n; Koran, 395; Richard Henry Lee to Edmund Randolph (16 October 1787), 51; Luther Martin, Genuine Information, 147n-48n; "Marcus" (James Iredell), Answers to Mr. Mason's Objections, 365n; "A Native of Virginia," Observations upon the Proposed Plan of Federal Government, 13n, 120n; John Newbery, The Art of Poetry, 403n; John Nicholson, A View of the Proposed Constitution, 555n; Observations on the Proposed Constitution, 10n, 34n, 119n, 120n, 308n; Thomas Paine, Common Sense, 338; Debates in the Pennsylvania Convention (Thomas Lloyd), 437-38, 438n, 449, 450n, 498, 498n, 505; "A Plebeian" (Melancton Smith), An Address to the People of the State of New-York, 13n, 48n; Richard Price, Observations on the Importance of the American Revolution, 323; David Ramsay, History of the American Revolution, 487-88; Edmund Randolph to the Virginia House of Delegates (10 October 1787), 117-35, 287, 326-27; Baron von Steuben, A Letter on the Subject of an Established Militia, 484n; John Torbuck, A Collection of the Parliamentary Debates in England, 337-38; "Truth," Disadvantages of Federalism, Upon the New Plan, 289n; Various Extracts on the Fœderal Government, 172; Noah Webster, A Collection of Essays and Fugitiv Writings, 194n, 202n. *See also* Pseudonyms
- BROOM, JACOB\* (Del.), 454n
- BROWN, JOHN (Va.): *id.*, 485n  
-letter from, 485
- BROWN, WILLIAM (Pa.), 9n
- "BRUTUS," 3n, 39n, 111, 112, 234, 334, 394, 462, 466, 483n, 515, 516, 553n, 564n; texts of, 110-17, 234-40, 335-38, 393-98, 462-67, 512-17; influence on Samuel Adams, 156n, 291; publication and circulation of, 295, 338n, 398n, 481; criticism of, 295, 372, 400-3; praised, 310; reads manuscript for newspaper publication, 481
- "BRUTUS," 137-38, 143n
- "BRUTUS, JUNIOR," 571n
- BRYAN, ARTHUR (S.C.), 148n
- BRYAN, GEORGE (Pa.; CC:Vol. 1, 326n), 11n, 202n, 475, 555n; alleged author of "Dissent of the Minority," 9n, 12n; called "Margery" by Federalists, 9n, 44n, 47n, 149n, 181n, 183, 185, 186, 188n; thought to be author of "Centinel," 9n, 183, 187, 390n, 402, 403n, 555n, 557  
-letters to: quoted, 10n, 148n
- BRYAN, SAMUEL (Pa.; CC:Vol. 1, 326n)  
-"Dissent of the Minority of the Pennsylvania Convention," 7-36. *See also* "Dissent of the Minority of the Pennsylvania Convention"  
-"Centinel," 308-12, 360-62, 386-91, 446-50, 505-8. *See also* "Centinel"  
-letters from: quoted, 9n-10n, 13n
- BUCHAN, EARL OF (David Steuart Erskine) (Scotland; CC:Vol. 1, 505n), 87-88
- BUCHANAN, JOHN (Pa.), 230
- BURR, AARON (N.Y.), 148n
- BUTLER, PIERCE\* (S.C.; CC:Vol. 1, 352n), 79n
- CABINET, 529. *See also* Executive departments; Privy council
- CABOT, GEORGE (Mass.), 177n
- CAESAR: *See* Classical antiquity

- CAMBRIDGE, MASS., 102
- CAPITAL, U.S., 217, 264, 266–67, 267, 299, 439–40; Carlisle favored as site of, 89; Philadelphia County suggested as site of, 267, 374, 399, 399n
- CAREY, MATHEW (Pa.; CC:Vol. 1, 45n), 450n
- letters to: quoted, 165n, 180n, 312n, 453n; cited, 454n
- See also Newspapers, Pennsylvania *American Museum*
- CARLISLE, PA., 87–88, 89; Union Society of, 13n, 230n; favored as site of U.S. capital, 89; riot in, 90n, 225–28, 310, 374
- CAROTHERS, JOHN, JR. (Pa.), 230
- CAROTHERS, THOMAS (Pa.), 230
- CAROTHERS, WILLIAM, JR. (Pa.), 230
- CAROTHERS, WILLIAM, SR. (Pa.), 230
- CARRINGTON, EDWARD (Va.; CC:Vol. 1, 441n), 485n
- letters from: quoted, 120n, 368n; cited, 119n, 368n
- CARROLL, CHARLES, OF CARROLLTON (Md.; CC:Vol. 2, 296n), 371
- CARROLL, DANIEL\* (Md.; CC:Vol. 2, 296n), 147n, 437n
- CARTER, CHARLES (Va.): id., 135n
- letter from: quoted, 136n
- letters to, 136–37, 137; quoted, 136n
- CARTOON, 565n, 566
- CASWELL, RICHARD (N.C.), 371
- “CATO” (George Clinton?): text of, 240–43; circulation of, 243n, 310; praised, 310; criticized, 400–3; reads manuscript for newspaper publication, 481; reference to his opposition to Constitution out of self-interest, 569
- “CATO,” 138
- CELEBRATIONS: in Carlisle, 225n, 226, 227, 228
- CENSUS, 305. See also Population
- “CENTINEL” (Samuel Bryan), 149n, 389, 450n, 564n; texts of, 98–101, 178–79, 231–34, 308–12, 360–62, 386–91, 446–50, 505–8; author of thought to be George Bryan, 9n, 183, 187, 390n, 402, 403n, 555n, 557; quoted, 10n, 11n, 149n, 553n; criticism of, 12n, 179n, 183, 311n, 390n, 402, 451–53, 535–36, 541, 557; circulation of, 81, 179n, 308n, 360n, 390n, 450n, 507n, 555, 557
- “CENTINEL” (Francis Hopkinson), 450–53
- “CENTINEL” (spurious), 150n, 181n
- CHARLESTON, S.C., 277
- CHILDS, FRANCIS (N.Y.), 3n. See also Newspapers, New York *Daily Advertiser*
- CHOWAN COUNTY, N.C., 365n
- CINCINNATI, SOCIETY OF THE, 39, 139
- “CINCINNATUS” (Arthur Lee), 310; criticized, 36–39, 400–3
- “A CITIZEN OF AMERICA” (Noah Webster), 553n; quoted, 114, 202n, 395; criticized, 395–96, 526
- “A CITIZEN OF NEW HAVEN” (Roger Sherman), 280–83, 480n
- “A CITIZEN OF PHILADELPHIA” (Pelatiah Webster), 13, 372; quoted, 36n, 390n; criticized, 372, 536
- CITIZENSHIP: See Comity; Immigration
- CIVIL LAW, 27, 27–28, 196
- CIVIL LIBERTIES, 201, 458–61, 482; Constitution endangers, 18, 21–22, 26, 29–30, 32, 45, 72, 75, 98–101, 106–9, 178–79, 207, 229, 231–34, 242, 258, 273, 300–1, 309, 311, 356, 360–62, 364, 369–70, 372, 373, 380n, 415, 446–50, 461, 467, 486, 488n, 505–8, 566n, 570, 572; standing army endangers, 32, 43, 324, 337–38, 394, 410, 462–67, 486; denial that Constitution endangers, 55, 68, 85, 86–87, 104, 145–46, 149n, 175, 190–91, 195, 204, 280–83, 283, 292–93, 313–15, 315, 320–21, 325–26, 331, 345, 400–1, 402, 476, 494, 499, 536, 546, 559, 565; standing army does not necessarily endanger, 60, 532–33, 550–51; state governments will protect, 73, 280–81, 296, 300; should not be confused with licentiousness, 89, 193, 470; as aim of Revolution, 106, 332–33, 334, 339, 371, 413, 461, 492, 558; amendments to the Constitution needed to preserve, 117n–18n, 284–85, 373, 393–94, 505–6; separation of powers needed to preserve, 356, 498–504. See also Bill of rights
- CIVIL WAR, 248, 279, 318, 385, 416n; Rhode Island must be subdued by arms, 88; danger of in Pennsylvania, 88, 88–89, 178, 179, 179n, 312n, 388, 389, 475; hope that Constitution can be established without, 89, 140; possible if fewer than thirteen states ratify Constitution, 110, 138; probable if

- Constitution is rejected, 143n; danger of without Union, 386, 476, 542
- CLANDININ, JOHN (Pa.), 230
- CLARK, JOSEPH (Mass.): *id.*, 295; 289n, 292, 293
- CLASSICAL ANTIQUITY: Achæus, 353; Actæon, 386n; Alexander the Great, 245; Amphictyion, 353; Aratus, 353; Augustus, 373; Brutus, 353, Julius Caesar, 138, 334, 337, 462, 463, 520n, 546; Caligula, 45, 186, 228; Chaos, 139; Chimeras, 321; Claudius, 334; Colossus, 234; Curio, 334; Cybles, 334; Cyrus, 257; Delphic Oracle, 77; Demosthenes, 242, 313; Draco, 353; Euripides, 47n; Gorgons, 321; Homer, 499; Hydras, 321, 449; Jove, 91; Lucan, 520n; Lycurgus, 353, 354, 358; Lysander, 63; Minos, 353; Nero, 45, 73, 186, 228, 373; Numa, 353; Pagan Oracles, 334; Philip of Macedon, 242; Philippian Hero, 334; Titus Maccius Plautus, 90, 90n; Plutarch, 354; Pontifex Maximus, 334; Romulus, 353; Rubicon, 109, 178; Servius Tullius, 353; Solon, 353, 354; The-seus, 353; Tullus Hostilius, 353; Zaleucus, 353. *See also* Governments, ancient and modern
- CLERGY, 88, 229, 482; support Constitution, 371, 482. *See also* Religion
- CLINTON, GEORGE (N.Y.; CC:Vol. 1, 141n): attacked as an opponent of Constitution, 76, 81, 84, 340n–41n, 341n, 362, 569, 572; allegedly paid for publication of pamphlet edition of Martin's "Genuine Information," 148n; attends legislative session as governor, 216, 341–42, 365n, 481, 484n; as party leader, 340n, 362; as "Cato" opposes Constitution, 481, 569—speech to legislature (11 Jan. 1788), 341–42
- letter to, from Yates and Lansing, 367–70, 571, 572
- CLYMER, GEORGE\* (Pa.; CC:Vol. 2, 488n), 16, 35n, 371
- COERCIVE POWER, 97, 235–36; lack of was a defect of Confederation Congress, 5, 57, 124, 124–25, 126–27, 182, 198–99, 257; need for, 57, 102–3, 199, 210–11, 245–48, 279, 313; defense of Constitution's provision for, 97–98, 126–27, 210–11, 245–48, 249, 279, 282, 319, 384, 400, 401; attack upon Constitution's direct power over people, 266, 356, 397–98
- COLLIN, NICHOLAS (Pa.), 454n
- COMITY, 432, 455, 511
- COMMERCE, 36n, 42–43, 51, 83, 91, 135n, 150, 168, 171, 228, 233, 267, 268, 268–69, 276, 289n, 342, 468; importance of Union to, 4, 83, 245, 423; power over should reside in central government, 5, 14, 78, 99, 127, 203, 264, 280–81, 360n, 369, 406; problems with under Confederation, 14, 98–99, 123, 125–26, 129, 173, 174–75, 192, 248, 281, 355, 363, 365n, 429–30, 480, 538, 543; need for navy to protect, 43, 260, 338–40, 340; opposition to Constitution's provisions providing for regulation of by a simple majority of Congress, 50, 52, 53n, 76, 102, 133, 165–71, 173, 391, 487; debate over restraints upon states' power over, 54, 435, 470, 471; New York's dominance over neighbors, 78, 82, 84, 159, 177, 192, 245, 247, 275, 276, 355, 360n; will improve under Constitution, 92, 281, 289n, 293, 294, 363, 365n, 428–29, 429–30, 430, 434–35, 471, 479, 480, 545–46; debate over in Constitutional Convention, 135n, 150, 351, 356, 413; will be annihilated if Constitution is rejected, 293. *See also* Slave trade; Treaties
- COMMON LAW: Constitution criticized for failure to provide benefits of, 25, 27, 28–29, 392; in England, 346, 428, 439. *See also* Judiciary, U.S.
- CONCURRENT POWERS: detrimental to states in tax matters, 111–12, 264; praise of, 217–23, 259–63, 274; under Confederation, 469. *See also* Taxation
- CONFEDERACIES: *See* Separate confederacies
- CONGRESS, CONTINENTAL, 251, 434, 437n
- CONGRESS UNDER ARTICLES, 489, 490–91, 524, 528; tax powers of, 5, 35n, 161–64, 239, 240n, 341–42, 342n, 358, 406, 456, 480; deficiencies of, 13, 14, 54, 90, 98–99, 99, 123, 125–26, 128, 161–64, 179, 182, 235, 274, 314, 339, 358–59, 390n, 406, 428, 472, 473–74, 489, 539; and resolution call-

ing Constitutional Convention (Feb. 1787), 14, 366n, 403–4, 409, 409n–10n; and transmittal of Constitution to the states, 16, 153–54, 215, 216, 341n, 342n, 367n, 404, 556–57; attendance of delegates to, 90, 91n, 143, 216, 282, 328, 328n, 365, 374, 416, 426, 485; possible foreign influence over, 128; debate over equal representation of states in, 128, 182, 250, 386n, 524; delegates to, 128, 167, 298, 341, 382, 405, 409, 481, 484n; recall of delegates to by states, 128, 298, 397; tottering, 136; restrictions upon, 242, 335; military powers of, 278, 339–40, 340n, 358, 397, 397–98, 398n, 456, 480, 539, 554n; attacked for wasting money, 339, 340n; danger of granting additional powers to, 339, 358–59; and power to borrow money, 340, 378; and treaty-making power, 358, 480; and policy toward western lands, 359, 360n, 408, 441, 549; exercise of extra-legal powers by, 359, 408, 409, 428, 441; power of to coin money, 406, 431, 469; and Newburgh Conspiracy, 467n; powers of relating to war and peace; 480; and Kentucky statehood, 485, 485n; response of to Shays's Rebellion, 539, 554n

—letter to president of: quoted, 541

See also Requisitions

CONGRESS UNDER CONSTITUTION, DEBATE OVER POWERS OF, 324, 468, 485n, 522; criticism of, 22, 46, 55, 74–75, 75, 134, 206, 240, 266, 285, 296–97, 356, 372, 379, 393, 436–37, 468, 486, 515; in Constitutional Convention, 152, 153, 154–55, 494; defense or praise of, 195, 196, 197, 278, 281, 282, 314, 328n, 329, 378–79, 394, 427–33, 454n, 480, 490–91, 505–6, 525, 525–26, 526–27, 527, 533, 535, 536; and federal judiciary, 278, 283, 379, 514–15. See also House of Representatives, U.S.; Senate, U.S.; Entries for individuals topics

CONNECTICUT, 172, 274, 275, 328; prospects for ratification in, 52, 56, 88, 177, 189, 325, 327–28, 330, 331, 399, 567, 572; constitution and government of, 55n, 257, 257–58, 386n, 405, 409, 502, 570; and dispute with

Pennsylvania over Wyoming Valley, 63n–64n, 67, 103, 310, 311n, 466; commercial domination of by New York, 78, 82, 84, 159, 177, 192, 245, 247, 275, 276; Antifederalists in, 79, 81, 326–27, 570; circulation of Antifederalist literature in, 81, 156n, 570, 571n; Sherman-Ellsworth letter to governor of, 93, 480n; in Constitutional Convention, 154, 156n, 204, 205, 252; Federalist literature sent to, 171; “Landholder” addresses state convention of, 190–92; state convention of, 192, 203, 244n, 256n, 556, 570; ratifies Constitution, 243n, 328n, 362, 365n, 426, 451, 475, 485, 565, 566, 567n, 569, 573; speeches in state convention of, 244–49, 273–80, 312–17; ratification by will influence New York, 362, 438; land cession of to Congress, 549; praise of people of as republicans, 569; blacklisting of Antifederalists in, 570; leaders of duped people into ratification, 570; Federalists restrict entry to state newspapers, 570; praise of state convention minority, 570, 570–71. See also Hartford; Stonington

CONSTITUTION, U.S., 53, 58, 329; Constitutional Convention delegates distribute copies of, 86, 118n, 203, 330–31; presented to Virginia legislature, 118n, 123; announcement that it would be published in pamphlet edition of *The Federalist*, 225; ceremoniously burned in Carlisle, Pa., 225n, 227; read in Stonington, Conn., 257; presented to New York legislature, 341n, 342, 367n; in metaphors, 564n–65n

CONSTITUTIONAL CONVENTION, 117n–18n, 150–51, 221, 222, 251, 296–302, 302n, 351–52, 379, 408, 410, 413, 434, 434–35, 568; election of delegates to, 14, 15, 17, 35n, 366n, 403, 410n; calling of, 14, 74, 173–74, 181–82, 403, 403–4, 407, 407–8, 409, 409n, 409n–10n; debate over its violation of Articles of Confederation, 15, 34, 110, 138, 139, 150, 182, 186, 205–6, 252, 253, 281, 297, 366n, 368, 392, 400, 402, 403–10, 486, 524; rule of secrecy in, 15, 34, 149n, 151, 255, 380n, 400, 447; criticism of, 15, 35n,

- 47, 133, 138, 151, 186, 188n, 205, 231, 238, 264, 309, 332n, 332-35, 361, 387, 390n, 392, 396, 446, 446-50, 458-61, 486, 505-8, 570, 572; diversity of opinion in, 15, 149n, 251, 252-53, 253, 254, 256n, 273, 368n, 387, 447, 523, 540, 571, 572; Committee of Detail of, 58, 59n, 255, 350, 376-78, 435; Committee of Style of, 58, 59n, 118n, 415; Virginia Plan in, 59n, 117n, 135n, 150, 151, 154, 156n, 210n, 302n, 366n; proposal in for second constitutional convention, 71, 131, 131-32, 288n; debate in over public debt and money, 79n-80n, 272n-73, 415, 435, 436; praise of members and actions of, 85, 92, 120n, 130, 135n, 136, 137, 140, 149n, 174, 188, 228, 248, 257, 294, 315, 327, 329, 344, 344-45, 345-47, 347, 364, 371, 406-7, 407, 408-9, 414n, 452, 522, 536, 537, 539, 540, 563, 569-70; spirit of compromise in, 86, 249, 288, 329, 347, 523; attendance in, 110, 130, 135n, 173, 366n-67n; reason for calling, 131, 249, 527; George Washington's alleged statement at signing of Constitution quoted, 139; reports of delegates, 147n, 150, 152-54, 156n, 204; debate in over representation in Congress, 151, 154, 156n, 206-10, 249-56, 296-302, 348-51; New Jersey Amendments in, 152, 204-5, 205, 210n, 251, 366n, 497n; unanimity in, 283, 343-48, 355, 539, 540, 540-41; votes in, 302n, 412, 414n, 437n, 488n; debate in over the office of President, 334n-35n, 494-97, 497n; debate in over slavery and slave trade, 349, 412, 412-14, 414n, 433-34, 487; debate in over taxation, 374-79, 380n, 436-37; letter of president of, 541; Benjamin Franklin's last speech in quoted, 543, 555, 556. *See also* Baldwin, Abraham; "Genuine Information"; Great men and the Constitution; Ratification, procedure for; Entries for individual topics
- CONTEE, BENJAMIN (Md.): *id.*, 438n; 438, 518n
- CONTRACTS, OBLIGATION OF: opposition to Constitution's provision for, 20, 436; violated under Confederation, 88, 174, 201; praise of Constitution's provision for, 273, 470, 538, 544. *See also* Tender laws
- CONVENTION, SECOND CONSTITUTIONAL, 206; favored, 70-71, 71, 110, 117n-18n, 118n, 131, 133, 139, 142, 179, 364; pessimism about prospects of, 120n, 136, 139, 173-74, 251-52, 288, 326-27, 327, 329, 357-58, 393, 540, 540-41, 547, 556; Virginia provides for payment of delegates to, 573. *See also* Amendments to Constitution
- CONVENTIONS, STATE: called by various states, 15-16, 118n, 119n, 147n, 203, 233, 399, 556-57, 557, 557n; should be allowed to propose amendments to Constitution, 131, 468; Constitutional Convention provides for ratification of Constitution by, 154, 288n, 406-7; as agents of the states, 383-84, 457; Revolutionary precedents for, 408; calling of is tantamount to ratification of Constitution, 557. *See also* Ratification, procedure for; Entries for individual states
- COPYRIGHTS AND PATENTS, 281, 439
- CORBIN, FRANCIS (Va.), 324n-25n, 325n
- CORPORATIONS, 509, 510
- CORRUPTION, 177n, 351, 484n; likelihood of under Constitution, 26-27, 29, 266, 352; in British elections, 74, 422; unlikelihood of under Constitution, 401, 525
- COUNTERFEITING, 431
- "A COUNTRYMAN" (Hugh Hughes), 48n, 143n, 480, 481, 483n; texts of, 141-42, 386n
- "A COUNTRYMAN" (Roger Sherman), 54-55
- COXE, TENCH (Pa.; CC:Vol. 1, 102n), 561n; and "Aristides," 518n, 551, 552, 553, 554n
- letters from, 171-72, 437-38, 475; quoted, 165n, 291n, 391n, 453n, 454n, 476n, 561n; cited, 165n, 172, 223n, 373, 438n, 454n, 498, 498n, 518n, 519n, 553
- letters to, 172-73, 373-74, 498, 551-52, 552, 553, 554n; quoted, 12n, 176n, 391n, 439n, 475n, 476n, 519n, 554n; cited, 340n, 437, 438n, 439n, 454n, 475, 518n, 552
- An Address [on Manufactures]*, 374

- “An American”: To R. H. Lee, 165–71. *See also* “An American”
- “An American Citizen,” 172, 176n
- An Enquiry . . . [Commercial System]*, 168, 176n, 374
- “A Freeman,” 12n, 438, 453n, 454–57, 508–11. *See also* “A Freeman”
- “A Pennsylvanian,” 12n, 454n, 476n
- “Philanthropos,” 12n, 120n, 391–93, 571, 572n
- Thoughts Concerning the Bank of North America*, 374
- CRANCH, WILLIAM (Mass.; CC:Vol. 2, 220n), 562n
- CREDIT, PUBLIC: *See* Public credit
- CREDITORS, PRIVATE, 174, 436; private credit will return under Constitution, 283. *See also* Debtors, private
- CROMWELL, OLIVER (England), 100, 101n, 462, 546
- CUMBERLAND COUNTY, PA., 44. *See also* Carlisle
- “CURTIOPOLIS,” 399–403
- CUTTING, JOHN BROWN (Mass.; CC:Vol. 2, 460n)
- letter from: quoted, 149n, 518n
- DALLAS, ALEXANDER J. (Pa.; CC:Vol. 1, xxxix), 47n, 48n, 448–49, 449–50, 450, 450n. *See also* Newspapers, *Pennsylvania Herald*
- DANA, FRANCIS (Mass.): id., 102n; 102, 146, 371
- DANA, STEPHEN (Mass.): id., 102n; 102
- DANE, NATHAN (Mass.; CC:Vol. 1, 357n), 173, 177n, 482
- letter from: quoted, 177n, 193n
- DAVIS, AUGUSTINE (Va.), 10n, 34n, 119n. *See also* Newspapers, *Virginia Independent Chronicle*
- DEBT, U.S., 240, 261–62, 276, 335, 401, 436, 538; being paid by sale of western lands, 14, 237, 359; problems of Confederation in paying, 54, 129, 174, 237; considered in Constitutional Convention, 76–77, 79n–80n, 153, 273; public creditors, 79n, 80n, 174, 402, 436, 444, 538; government is obligated to pay, 114, 116, 174, 444; foreign debt, 130, 174, 247, 321, 335, 444; revenue needed to pay, 161, 162, 276, 282, 335, 339. *See also* Public credit
- DEBTS, PRIVATE: are not being paid, 87–88, 88, 543; debtors associated with opposition to Constitution, 88, 487; caused by excessive imports, 98–99; are heavy and oppressive, 436; and paper money, 469–70. *See also* Constitutional Convention; Contracts, obligation of; Paper money; Tender laws
- DEBTS, STATE, 116–17, 144, 237, 262, 436
- DECLARATION OF INDEPENDENCE, 128–29, 371, 408, 409, 455, 461
- DELAWARE, 90, 166, 245, 549, 560; constitution and government of, 43, 382, 503; ratifies Constitution, 56, 88, 91–92, 177, 189, 203, 245, 325, 330, 331, 332–33, 399, 475, 485, 565n, 572; opposition of in Constitutional Convention to equal representation of states, 150, 252; in Constitutional Convention, 154, 156n, 204, 205; Pennsylvania Antifederalist literature sent to, 555; calls state convention, 556
- DEMAGOGUES, 44
- DEMOCRACY, 24, 57, 144, 193n
- DESPOTISM, 45, 140, 201, 242, 313, 451, 499, 501, 528; assertion that Constitution will result in, 20, 21, 21–22, 24, 25, 29–30, 30, 31–32, 33, 45, 98, 99, 106–9, 118n, 128, 178, 232, 233, 263, 266, 273, 277, 308, 309, 323, 324, 333, 339, 380n, 387, 388–89, 389, 390n, 446–50, 451n, 460, 462–67, 486, 505–8, 541, 558, 560, 564n; denial that Constitution will result in, 55, 68, 214–15, 283, 320–22, 400, 401, 402, 558; and Constitutional Convention, 57, 186, 332–35, 371, 414n; debate over as a form of government, 71n, 72–73, 106–7, 389; fear of if Constitution is rejected, 130, 191, 216, 317, 476; bill of rights and freedom of the press as protections against, 284, 360–61, 458–61. *See also* Aristocracy; Democracy; Monarchy; Republican form of government
- DEYE, THOMAS COCKEY (Md.)
- letter to: cited, 148n, 256n, 368n
- DICKINSON, JOHN\* (Del.), 90n, 100, 101n, 371
- “DISSENT OF THE MINORITY OF THE PENNSYLVANIA CONVENTION”: text of, 13–

36; authorship of, 9n-10n, 12n; publication of, 9n, 70, 101n; circulation of, 10n-11n, 18, 34n, 87n, 156n, 454n; attacked as inflammatory, 11n-13n, 70, 87, 195; influence of, 11n, 70, 230; replies to, 12n-13n, 194-201, 439n, 453n, 454-57, 506, 508-11, 558, 558n; praised, 13n, 107, 229; signers of, 34; differences with other Antifederalists, 120n, 391n, 392-93

**DIVISION OF POWERS**, 5-7, 19, 57, 105, 116-17, 127, 134, 193, 200, 214, 217-23, 234-40, 259, 278-79, 345-47, 384-85, 473-74, 527. *See also* Government, debate over nature of; Sovereignty; States, impact of Constitution upon; States under Articles of Confederation

**DIXON, JOHN** (Va.), 119n

**DOMESTIC INSURRECTIONS**: *See* Insurrections, domestic

**DOUGLASS, JOHN** (Pa.), 230

**DOUGLASS, WILLIAM** (Pa.), 230

**DUE PROCESS OF LAW**, 18, 25, 28-29. *See also* Bill of rights; Judiciary, U.S.

**DUNCAN, THOMAS** (Pa.), 225n

**DUNCANSON, JAMES** (Va.), 121n

**DUTIES**, 217-18, 259; inability of Confederation Congress to levy, 14, 124; opposition to Constitution's provision for, 22, 78, 111, 237, 273, 351, 356, 376-77, 377, 378, 412, 436-37; opposition to Constitution's ban on states' power to levy import duties, 54, 78; central government should have power to levy duties on imports, 57-58, 239, 268-72, 274-77, 304, 306, 406, 435, 471, 510, 544, 545; debate over whether principle source of revenue will arise from, 162, 164, 239, 268-70, 276, 282, 423-25; debate over Constitution's ban on export duties, 218, 239, 392, 436-37, 544. *See also* Commerce; Impost of 1781; Impost of 1783; Taxation

**ECONOMIC CONDITIONS UNDER THE CONFEDERATION**: Constitution will not alleviate, 108, 386-87, 436, 447; distress of, 122, 174-75, 342, 365n, 407, 436, 538. *See also* Agriculture; Commerce; Debt, U.S.; Debts, private; Debts, state; Luxuries; Merchants;

Political conditions under the Confederation; Shipbuilding

**EDENTON, N.C.**, 365n

**EDES, BENJAMIN** (Mass.), 290n, 483. *See also* Newspapers, *Boston Gazette*

**EDES, PETER** (R.I.), 290n. *See also* Newspapers, *Newport Herald*

**EDGAR, JAMES** (Pa.), 34

**ELECTIONS, U.S.**: criticism of Congress' power over, 19, 23, 24, 26, 27, 31, 144, 202n, 232, 240-42, 265-66, 299, 356, 526, 553n; debate over annual vs. biennial elections, 19, 26, 58, 68, 258, 314, 393, 400, 401; defense of Congress' power over, 54-55, 195, 282, 392, 401, 457, 458, 508, 509, 526; praise of Constitution's provisions for, 57, 95-96, 546; debate over whether elections will safeguard liberties, 193, 195-96, 466, 473; popular elections of Senate and President preferred, 258; first federal, 549, 554n. *See also* House of Representatives, U.S.; President, U.S.; Senate, U.S.; Vice President

**ELECTORS, PRESIDENTIAL**: *See* President, U.S.

**ELIOT, JOHN** (Mass.): id., 418n

-letter to, 417; quoted, 418n

**ELLSWORTH, OLIVER** (Conn.; CC:Vol. 1, 562n), 371; delegate to Constitutional Convention, 58, 59n, 79n, 93, 94n, 302n

-letter from (with Roger Sherman): quoted, 93; cited, 480n

-"Landholder," 75-79, 272n

-speeches in Connecticut Convention, 243-48, 274-79, 312-13

**ENUMERATED POWERS**, 97; Constitution limits powers of general government, 200, 278, 281, 385, 479, 537; are too extensive, 468; would have been impossible to list all, 472. *See also* Reserved powers

**EQUITY LAW**: *See* Judiciary, U.S.

**EWING, JOHN** (Pa.), 202n, 555n

**EXCISE TAXES**: *See* Taxation

**EXECUTIVE DEPARTMENTS**, 281, 283; criticism of lack of executive under Confederation, 128, 250. *See also* Board of Treasury, U.S.

**EXPENSES OF GOVERNMENT**, 259-62, 276, 528, 532, 546; will increase if Constitution is rejected, 6; will in-



- crease if Constitution is ratified, 28, 33, 46, 356, 373, 379, 380n, 507; will decrease if Constitution is ratified, 60, 198, 244, 281. *See also* Appropriations; Duties; Officeholders, U.S.; President, U.S.; Requisitions; Taxation
- EXPORTS: debate over Constitution's prohibition on states from levying duties on, 218, 239, 392, 436–37, 544
- EX POST FACTO LAWS, 285, 392, 470; defense of Constitution's provision prohibiting, 50, 470, 538, 544
- EXTRADITION, 455
- FARMERS, 26, 166, 172, 192, 294; compose most of American population, 168, 276, 424. *See also* Agriculture
- "FEDERAL FARMER," LETTERS, 11n, 156n; authorship of, 80–85; republication of in Boston, 80n, 156–60; criticized, 80–85, 157, 158, 159, 386n, 400–3, 482; Samuel Adams accused of distributing, 145n, 332n; influence on Samuel Adams, 156n, 291; praised, 160
- THE FEDERALIST (Alexander Hamilton, John Jay, and James Madison): texts of, 4–7, 39–43, 59–63, 65–69, 95–98, 102–5, 160–64, 211–15, 217–23, 259–63, 268–72, 302–7, 318–22, 343–48, 353–59, 380–86, 403–9, 418–25, 427–33, 439–46, 469–75, 476–80, 488–93, 499–504; authorship and purpose of, 3n, 39n, 59n, 65n, 71, 95n, 102n, 160n, 211n, 216n, 258n, 268n, 302n, 318n, 343n, 344, 353n, 363, 380n, 386n, 403n, 418n, 427n, 439n, 469n, 476n, 488n, 498n, 521n, 553; publication and circulation of, 3n, 39n, 59n, 65n, 71, 95n, 102n, 160n, 216n, 223n, 258n, 268n, 302n, 318n, 343n, 353n, 363, 380n, 403n, 418n, 427n, 439n, 469n, 476n, 488n, 498n, 498; criticism of, 39n, 71, 115–16, 230, 235, 236, 386n, 388, 396–98, 463–66, 483n, 515, 521n; praise or defense of, 190, 363–64, 364, 402, 476n, 521n
- references to: quoted, 36n, 272n; cited, 69n, 98n, 106n, 164n, 215n, 230n, 259, 272n, 325n, 344, 347, 348, 391n, 419, 420–21, 421, 423, 428, 430, 446n, 475n, 489, 490, 493
- advertisement for sale of pamphlet edition of, 223–25
- FEDERALISTS, 15, 51; accused of using the post office to suppress Antifederalist letters and newspapers, 10n, 11n, 147n, 308n, 310, 310–11, 389–90, 483, 505, 553, 573; attacked as aristocrats and despots, 45, 98, 109, 159, 179, 229, 231–32, 334, 362, 380n; improper use of name, 72, 300; praised as honest and enlightened citizens, 89, 145, 177, 325–36, 362, 572; rebut Antifederalist falsehoods, 92–94, 140; criticism of literature of, 159, 233, 310, 394, 451n, 505–6, 506, 507, 573; distribution of literature of, 171, 172, 176n, 363, 391n, 437–38, 438, 454n, 498, 518n, 551–53, 554n; in Pennsylvania, 177, 360n, 361, 362, 505; attacked for deceiving people, 178, 229, 232–33, 309, 570; accused of being federal office seekers, 179, 181n, 309, 339, 481, 482, 507, 521n; in Boston, 289n; in Virginia, 325, 573; accused of trying to limit access to the press, 450n, 459, 459–60, 460. *See also* Despotism; Great men and the Constitution
- FEW, WILLIAM\* (Ga.), 371
- FINDLEY, WILLIAM (Pa.), 35n, 518n; signer, "Dissent of the Minority," 34; as "Hampden," 48n, 556n; as a delegate to Pennsylvania Convention, 88, 90n, 183, 334, 448–49, 505
- letter from: quoted, 519n
- FINES, 199
- FISH AND FOWL RIGHTS, 19, 199–200, 393
- FISHERIES, 168
- FITZSIMONS, THOMAS\* (Pa., CC:Vol. 1, 405n), 35n
- FLEMING, JAMES (Pa.), 230
- FLEMING, WILLIAM (Va.): id., 54n
- letter from: cited, 53
- letter to, 53–54, 467–68
- FLORIDABLANCA, CONDE DE (Spain; CC:Vol. 1, 223n)
- letter to: quoted, 367n
- FOREIGN AFFAIRS: central government ought to have power over, 4, 127, 203–4; danger of foreign influence over Confederation Congress, 128; danger of foreign influence over sep-

- arate confederacies, 130; Washington recommends neutrality with European nations, 204; praise of Constitution's provisions concerning, 427-29, 533, 544. *See also* Ambassadors; Commerce; Treaties
- FOREIGN OPINION OF THE U.S., 106-9, 228, 236, 563; is low under Confederation, 14, 54, 86, 124, 125-26, 174-75, 182, 248, 407; Constitution will raise, 92, 283, 293, 329, 365n, 427-29; efficient central government needed to raise, 127, 164, 203, 345, 363, 542; U.S. must meet its obligations to raise, 174-75, 444, 470, 538-39; navy needed to raise, 338-39, 340; slave trade lowers, 433
- "FOREIGN SPECTATOR" (Nicholas Collin), 454n
- FOREST, ANTOINE DE LA (France; CC:Vol. 1, 261n)  
-letter from: quoted, 367n
- FORTS, MAGAZINES, ETC., 323, 439, 440, 465, 468
- FRANCE: *See* Governments, ancient and modern
- FRANKLIN, BENJAMIN\* (Pa.; CC:Vol. 1, 80n), 228, 326n, 556n; supports Constitution, 39, 92, 284, 371, 556n; defense of, 149n, 188, 371, 400; sent a copy of "Aristides," 518n, 551  
-letter to, 86-87; quoted, 12n  
-in Constitutional Convention: election to, 15, 35n, 311n; speeches in, 52, 53n, 58, 87, 87n, 92, 333, 334n-35n, 543, 555, 556; favored large-state position in, 155, 255; opposed Constitution in, 333
- FRANKLIN, JOHN (Pa.), 63n
- "A FREEMAN" (Tench Coxe), 12n; texts of, 454-57, 508-11; circulation of, 438, 439n, 454n, 498, 511n; authorship of, 438, 453n, 454n, 506; purpose of, 438, 453n, 454n, 498; praised, 454n; criticized, 454n, 511n
- GALLATIN, ALBERT (Pa.), 9n-10n, 13n
- GANSEVOORT, LEONARD (N.Y.), 371, 484n
- GARDOQUI, DON DIEGO DE (Spain; CC:Vol. 1, 223n)  
-letter from: quoted, 367n
- GATES, HORATIO (Va.)  
-letter to: quoted, 518n
- GELSON, WILLIAM (Pa.), 230
- GENERAL WELFARE CLAUSE: language of taken from Articles of Confederation, 5, 425; attacked, 22, 114-15; defended, 424-25. *See also* Necessary and proper clause; Reserved powers
- "GENUINE INFORMATION" (Luther Martin): texts of, 296-302, 348-53, 374-80, 410-14, 433-37, 494-97; circulation of, 301n, 352n, 380n, 414n, 437n, 497n; praised, 380n, 387; criticized, 380n, 523-24
- GEORGIA, 277, 550, 574; Antifederalist literature sent to, 10n; prospects for ratification in, 53, 70, 88, 172, 189, 325, 328, 330, 331, 365, 399, 426; calls state convention, 55-56, 70, 399, 557; western lands of, 91, 550; Indian danger in, 91, 550; in Constitutional Convention, 154, 156n, 252, 412, 413; Federalist literature sent to, 172; and slave trade, 412, 413; constitution of, 504, 574; ratifies Constitution, 565, 566, 567n, 574, 574n
- GERMANY: *See* Governments, ancient and modern
- GERRY, ELBRIDGE (Mass.; CC:Vol. 1, 196n), 80n, 157, 398n, 481, 482; attacked by "Landholder," 75-80, 272n; not elected to Massachusetts Convention, 102, 173; defended by Luther Martin, 414n, 415-16; as "A Friend and Customer," 415n; asked to attend Massachusetts Convention, 484n, 568, 568n  
-letter to, 215-16  
-in Constitutional Convention: as a non-signer, 58, 130; on public debt, 79n, 79n-80n, 273, 415; as representative of a large state, 206; defends conduct, 272n-73, 415n; on counting slaves in apportioning representatives, 349, 352n-53n; on a standing army, 414n; on Congress' control over militia, 415; fears Constitution would lead to monarchy, 415, 416, 416n; opposition expressed to Constitution, 415, 416, 572; on fear of civil war, 416n  
-objections to Constitution (18 Oct. 1787 letter), 80n, 206, 215, 273, 568; differences with other Antifederalists, 120n, 391n, 571; criticized, 391n, 391-93

GILMAN, NICHOLAS\* (N.H.; CC:Vol. 1, 516n), 210n, 518n

GLAS, JOHN (Scotland), 51n

GOD: *See* Religion

GODDARD, WILLIAM (Md.), 553. *See also* Newspapers, *Maryland Journal*

GORE, CHRISTOPHER (Mass.): *id.*, 295

—letters from, 291–92; quoted, 145n, 156n, 177n, 291n, 332n; cited, 291

GORHAM, NATHANIEL\* (Mass.; CC:Vol. 1, 555n): delegate to Constitutional Convention, 59n, 155, 353n, 568n

—letters from, 292; quoted, 290n; cited, 290n

—letters to: cited, 193n

GOVERNMENT, DEBATE OVER NATURE OF, 88, 100, 197, 242, 260, 294, 300, 314, 327, 333, 346, 387, 404–5, 466, 494–95, 498, 511; debate over vast extent of U.S. and need for a federal republic instead of a national government, 5–7, 21, 104–5, 110–17, 291, 300–1, 301, 302n, 317, 363, 369–70, 383–86, 400, 541–42; argument that Constitution will create a consolidated government, 21–22, 22, 33, 143, 144n–45n, 184, 235, 297–301, 368–70, 383, 386n, 438, 456–57, 486, 498, 507; representative government, 57, 104, 195–96, 298, 313, 395, 395–96; theory that only a good administration is required for a good government, 71n, 72, 73–74, 95, 99, 507; strong central government is needed, 73, 84, 92, 115–16, 126, 128, 130, 134, 135n, 144, 152, 162, 211, 279, 336–38, 344–45, 455–56, 477–78; aim of government, 84, 100, 106, 235–36, 258, 296, 393–94, 445, 477; denial that Constitution creates consolidated government, 185, 200, 217, 264, 314, 316–17, 345–47, 368n, 400, 401, 453n, 454–57, 457–58, 476n, 476–80, 478, 488–93, 508–11, 527, 536–37, 541–42, 547, 571; argument that the proposed government will act upon the people directly without state intervention, 266, 296, 356, 384, 397–98, 405–6. *See also* Aristocracy; Balanced government; Coercive power; Democracy; Despotism; History; Monarchy; Republican form of government; Revolution, right of; Sover-

eighty; States, impact of Constitution upon; States under the Articles of Confederation

GOVERNMENTS, ANCIENT AND MODERN, 248; Achæan League, 245–46, 333, 353, 477; Aetolian League, 246; Amphictyonic Council, 209, 245, 353, 442, 527; Antwerp, 245; Asia, 46; Athens, 63, 242, 353, 354; Canada, 41, 230, 441; Corsica, 107; Crete, 353; Europe, 46, 83, 112, 174, 199–200, 203, 236, 238, 247, 252, 260–61, 284, 331, 337, 338, 363, 365n, 477–78; France, 28, 29, 42, 107, 189, 246, 261, 275, 321, 330, 331, 338, 420, 421, 542; Gaul, 334; Germany, 85, 246, 331, 430, 442, 542; Greece, 442; Helvetian League, 527; Indostan, 46; Ireland, 228n; Italy, 188n, 332, 566n; Lacedemon, 63; Locri, 353; Lycian Confederacy, 477, 548; Macedon, 442; Netherlands, 170, 189, 209, 244, 245, 246, 247, 248, 275, 321, 331, 340, 348, 374, 381, 426, 430, 442, 527, 547; New Spain, 41–42, 42, 60, 85; New Zealand, 82; Pelopponesian Confederates, 63; Pharsalia, 520n; Poland, 247, 381; Prussia, 331, 426; Rome, 21, 44n, 140, 228–29, 244, 258, 259, 337, 353, 373, 420, 462, 486; Russia, 236, 331, 426; Scotland, 28, 51n; Spain, 42, 230, 245, 247, 330, 399, 463–64, 485, 542, 573; Sparta, 353, 358; Sweden, 28; Swiss Cantons, 209, 246, 275, 430, 442, 442–43; Turkey, 106, 107, 161, 331, 395, 426; Venice, 229, 381; West Indies, 41–42, 275, 441, 559. *See also* Classical antiquity; Great Britain

GRAYSON, WILLIAM (Va.; CC:Vol. 2, 83n), 438

GREASON, WILLIAM (Pa.), 230

GREAT BRITAIN, 50, 66, 100, 101, 101n, 107–8, 108, 167, 338, 365n, 372, 439, 455, 486, 542, 560; Scotland, 28, 51n; House of Lords of, 28, 55, 316, 375, 376, 500; legal and judicial system of, 28, 346, 500, 516, 535, 536, 553n; Parliament of, 29, 277, 500, 532, 535; danger of to U.S., 42, 60, 247; monarchy and monarchs of, 45, 66, 74, 101n, 176, 178, 186, 193, 277, 282, 316, 324, 375, 376, 422, 486, 500,

516, 532, 537; and American Revolution, 45, 74, 108, 339, 371, 461, 558; House of Commons of, 55, 375, 376, 422; Bill of Rights of, 66, 67, 284; history of, 66, 107; and standing army in, 74, 198, 337-38, 421, 421-22, 462, 463-64, 464, 532; corruption of elections in, 74, 422; Lord Bute, 78, 117n; Triennial Bill, 100-1; Oliver Cromwell, 100, 101n, 462, 546; Petition of Right, 101; constitution of, 93, 138, 314, 316, 376, 381, 499, 499-501, 547; taxation in, 113, 244, 261, 275, 276, 280; problems previous to the Act of Union (1707), 193, 244; colonial system of, 245, 300; London, 258, 278; Magna Carta, 258, 537; enmity of toward France, 261, 330, 331, 338; magazines of, 301n-2n, 520n, 521n; Mutiny Act, 324; Glorious Revolution, 573

**GREAT MEN AND THE CONSTITUTION**, 522, 543; support of should not be a reason for ratifying Constitution, 80n, 155, 178-79, 232-33, 255, 364, 372-73, 387, 387-88, 446-47, 555; support of as a reason for ratifying Constitution, 85, 135n, 284, 325-26, 327, 400, 556, 565, 573; charge that great men conspired to destroy liberties, 308-9, 309, 311, 486; favor Constitution in Massachusetts, 482; favor Constitution in South Carolina, 487; oppose Constitution in Virginia, 558; oppose Constitution in New York, 559; oppose Constitution in Maryland, 559. *See also* Franklin, Benjamin; Washington, George

**GREECE:** *See* Classical antiquity; Governments, ancient and modern

**GREEN DRAGON TAVERN (Boston)**, 290n, 292, 293, 294, 295n

**GREEN, FREDERICK (Md.):** as publisher of "Aristides," 517n, 551, 554n; said to be an Antifederalist, 551, 554n. *See also* Newspapers, Annapolis *Maryland Gazette*

**GREENLEAF, THOMAS (N.Y.; CC:Vol. 1, xxxvii-xxxviii):** and publication of *The Federalist*, 3n; and publication of Antifederalist material, 3n, 310, 480-81; and interference with the circulation of newspapers, 308n, 389-90,

483. *See also* Newspapers, *New York Journal*

**HABEAS CORPUS, WRIT OF**, 437n; debate over Constitution's provision to suspend, 25, 198, 285, 394, 434

**HAMILTON, ALEXANDER\*** (N.Y.; CC: Vol. 1, 141n), 172, 240n, 371, 398n, 454n, 467n; attacked, 3n, 386n; in Constitutional Convention, 59n, 366n, 367n; signs Constitution, 135n, 367n, 572; attacks Governor Clinton in newspaper article, 340n-41n; elected to Confederation Congress, 481, 483  
-*The Federalist*, 3-7, 39-43, 59-63, 65-69, 95-98, 102-6, 160-64, 211-15, 216-23, 258-63, 268-72, 302-7, 318-22; quoted, 36n; authorship of, 363, 386n, 521n, 553. *See also* The Federalist

**HAMILTON, ARCH. (Pa.)**, 230

**HAMILTON, WILLIAM (Pa.)**, 518n, 551

**HANCOCK, JOHN (Mass.; CC:Vol. 1, 410n)**, 64n, 563, 564n; said to support Constitution, 146, 371, 563; impact of Boston tradesmen's meeting on, 291; fails to attend dinner-caucus of Boston's delegates to Massachusetts Convention, 291, 292; in Massachusetts Convention, 291n, 292, 426, 562n, 563; position on Constitution unclear, 562n; as possible first President of U.S., 562n; as possible first Vice President of U.S., 562n-63n; speech to state legislature, 562n; reelection as governor, 562n, 563n

**HANNA, JOHN A. (Pa.)**, 34

**HANSON, ALEXANDER CONTEE (Md.):** id., 517n

-letters from, 551-52, 552, 553; quoted, 176n, 519n, 554n; cited, 517n, 518n, 551, 552

-letters to: cited, 519n, 553, 554n

-"Aristides," 517-54

**HANSON, CHARLES WALLACE (Md.)**, 520n

**HARRIS, JOHN (Pa.)**, 34

**HARTFORD, CONN.**, 278

**HARTLEY, THOMAS (Pa.)**, 8n, 454n

-letters from: quoted, 12n; cited 454n

**HARVIE, JOHN (Va.; CC:Vol. 2, 398n)**, 561n

- HAZARD, EBENEZER (N.Y.; CC:Vol. 1, 384n)  
 -letters from: quoted, 11n, 180n  
 -letter to: quoted, 562n
- HAZARD, NATHANIEL (N.Y.): id., 312n  
 -letters from: quoted, 312n
- HEDGE, TEMPERANCE (Mass.), 286
- "HELVIDIUS PRISCUS," 48n; text of, 332-35; quoted, 80n, 332n, 566n; authorship of, 145n, 332n
- HENDERSON, THOMAS (Pa.), 230
- HENRY, PATRICK (Va.; CC:Vol. 1, 223n), 91, 121n, 327, 328; in Virginia House of Delegates, 70, 325n, 562n; said to oppose Union, 71, 327; said to oppose Constitution, 203, 326, 561n, 561
- HIESTER, JOSEPH (Pa.), 34
- HILL, JEREMIAH (Mass.): id., 287n; 286
- HISTORY: referred to, 21, 63, 85, 99, 107, 125, 130, 162, 182, 190-91, 196-97, 201, 209, 228, 231, 235-36, 258, 261, 296, 313, 315, 344, 348, 353-54, 373, 394, 400-1, 420, 442, 442-43, 462, 477-78, 524-25, 527; America as a unique example in, 85, 236. *See also* Classical antiquity; Governments, ancient and modern; Political and legal writers and writings
- HODGDON, SAMUEL (Pa.)  
 -letter from: quoted, 120n
- HOGE, JONATHAN (Pa.), 34
- HOLLINGSWORTH, LEVI (Pa.; CC:Vol. 2, 349n)  
 -letter to: cited, 561n
- HOLLINGSWORTH, STEPHEN (Md.)  
 -letter from: cited, 561n
- HOLMES, ABRAHAM (Mass.): id., 51n; 50
- HOPKINSON, FRANCIS (Pa.): id., 180n; 181n, 450n  
 -letters from: quoted, 148n, 180n; cited, 180n  
 -letter to: quoted, 181n  
 -"The New Roof," 179-88, 380n, 564n  
 -"A Copy of a Letter from Centinel," 450-53
- HOUSE OF REPRESENTATIVES, U.S., 152; biennial elections for, 19, 23, 26, 27, 31, 55, 152, 258, 280, 314, 372, 382, 393, 398, 422, 522, 547; size of, 19, 26, 144, 314, 547; lack of treaty-making power of, 20; elected by the people, 54-55, 152, 257, 297, 315, 316, 382, 384; voting in, 57; inequality of state representation in, 57, 152-53, 154, 206-10, 280, 349-50, 356, 524; would adequately represent local interests, 58, 270-72, 302-3; qualifications and salary of members, 134, 152, 392, 457, 510, 525; and dual officeholding by members of, 152, 351-52, 352; will be dominated by agricultural interests, 166, 170, 267; important role of states in electing, 242, 457, 458, 474, 478, 509; residents of U.S. capital ought to be represented in, 267; Senate as a check upon, 296, 297, 375-76, 524, 525; unlikely to impeach President, 324, 496; objection to lack of appointment power of, 357; lack of recall of, 372, 398; and election of President, 384, 495, 510; as a check on Senate, 524, 546. *See also* Elections, U.S.; Large vs. small states; Money bills; President, U.S.; Senate, U.S.; Slavery; Three-fifths clause
- HOUSTON, WILLIAM (Ga.), 256n
- HUGHES, HUGH (N.Y.; CC:Vol. 1, 374n): as author of Antifederalist essays, 143n, 480, 480-81, 483n  
 -letters from: cited, 480, 482  
 -letters to, 480-84; cited, 482
- HUMAN NATURE, 41, 73, 82, 85, 86, 87-88, 96-97, 98, 115, 146, 231, 261, 266, 313, 327, 333, 390n, 449, 524-25; power corrupts, 99-101, 334n-35n, 372-73, 463, 516, 523; danger from self-interest, 195, 267, 388, 528; denial that power must corrupt, 400-1. *See also* Personal interest; Virtue
- HUNTING: *See* Fish and fowl rights
- HUNTINGTON, BENJAMIN (Conn.)  
 -letter to: quoted, 148n
- HUNTINGTON, JEDIDIAH (Conn.): id., 317n; 313
- HUNTINGTON, SAMUEL (Conn.): id., 312n; 371  
 -letters to: quoted, 93; cited, 91n, 480n  
 -speech in Connecticut Convention, 243n, 313-15, 317n
- HUTCHINS, THOMAS (Pa.): id., 326n  
 -letter from, 325-26
- HUTCHINSON, JAMES (Pa.)  
 -letter to: quoted, 9n-10n, 13n

- IMMIGRATION, 168, 169; U.S. destined to be asylum for oppressed, 106, 231; problems of Confederation have discouraged, 174–75, 175; strong central government needed to encourage, 204; debate over Constitution's provision concerning an uniform rule of naturalization, 218, 266–67, 281, 431–32; effect of Constitution's slave-trade clause on, 412, 429; Constitution will reduce, 449; Constitution will encourage, 559
- IMPEACHMENT, 281, 512, 536; criticism of Senate's role in, 29, 134, 240, 357; of Senators, 29, 392; considered in Constitutional Convention, 57, 153; praise of Constitution's provisions for, 175, 283, 382, 525; unlikelihood of impeaching President, 324, 496–97
- IMPLIED POWERS: *See* General welfare clause; Necessary and proper clause; Reserved powers
- IMPORT DUTIES: *See* Duties
- IMPOST OF 1781, 237, 545, 550; Rhode Island refuses to adopt, 13, 84, 279, 280n, 406, 407
- IMPOST OF 1783, 125, 237, 550; approved by most states, 13, 545; and supplementary funds, 13–14, 237, 239; in Connecticut, 79, 80n; New York refuses to adopt, 177, 406
- INDIANS, 231; danger on frontier from, 42, 54, 60, 230, 238, 396, 463–64, 554n; trade with, 42–43, 406, 430–31, 465; threat to North Carolina from, 91; threat to Georgia from, 91, 330, 399, 550
- INFERIOR COURTS: *See* Judiciary, U.S.
- INGERSOLL, JARED\* (Pa.), 15, 35n, 311n
- INSTALLMENT ACTS, 174, 433, 436, 539, 554n. *See also* Contracts, obligation of; Debts, private; Paper money; Property, private; Tender laws
- INSURRECTIONS, DOMESTIC, 261; efficient general government needed to protect against, 4, 127, 331, 345, 363, 443–44; use of militia to suppress, 33, 322, 410; as reason for raising an army, 69, 184; less likely under Constitution, 96, 96–97, 102–5, 106, 235, 442–43, 538; danger from under Confederation, 123, 125, 175, 543; danger of if Constitution is rejected, 137, 190–91, 191; Antifederalists charged with inciting, 140, 452; defense of tax powers to protect against, 213, 260; danger from if Constitution is adopted, 229, 267; slavery increases likelihood of, 433, 443; inadequate congressional response to Shays's Rebellion, 539. *See also* Civil war; Habeas corpus, writ of; Invasion, foreign; Shays's Rebellion; Wyoming Valley
- INTEREST GROUPS, 270–72. *See also* Army; Cincinnati, Society of the; Clergy; Creditors, private; Debt, U.S.; Debts, private; Farmers; Jesuits; Landed interest; Lawyers; Learned professions; Loyalists; Manufactures; Mechanics and tradesmen; Merchants; Monied men; Officeholders, state; Officeholders, U.S.; Physicians; Printers and booksellers; Property, private; Quakers; Sailors; Shipbuilding
- INTERNAL IMPROVEMENTS, 433; power to make limited to states, 458, 479, 510
- INTERNAL POLICE: *See* Police powers
- INTERSTATE RELATIONS, 127; Union necessary to preserve harmony among states, 60, 244, 476; Articles of Confederation were unable to maintain harmony among states, 123, 174, 191, 281, 432; praise of Constitution's provisions that promote harmony among states, 276, 280–81, 429–30, 442, 511, 544. *See also* Comity; Commerce, New York's dominance over neighbors; Northern States; Privileges and immunities; Southern States
- INVASION, FOREIGN, 235–36, 479, 487, 526; Union necessary to protect against, 4, 244, 419–23, 476; danger of under Confederation, 41–42, 60, 123, 247, 281, 365n, 539, 543; navy needed to protect against, 43, 338–39; debate over need for an army to protect against, 69, 184, 198, 230, 464–65, 465; efficient general government needed to protect against, 127, 146n, 280–81, 331, 345, 363, 523; danger of if Constitution is rejected, 191; defense of tax powers to protect against, 213, 235, 260, 274; no threat

- to U.S. under Confederation, 238, 252, 364; debate over militia to defend against, 318, 322, 410; Constitution protects against, 365n, 442, 510, 544; slavery increases likelihood of, 433. *See also* Habeas corpus, writ of; War power
- IREDELL, JAMES (N.C.): id., 364n–65n  
–letter to, 363–65
- IRVIN, ANDREW (Pa.), 230
- IRVIN, JAMES (Pa.), 230
- IRVIN, WILLIAM (Pa.), 230
- IRVINE, WILLIAM (Pa.; CC:Vol. 1, 220n), 52, 89, 90n, 176n, 518n  
–letters to: quoted, 11n, 48n–49n, 225n, 519n
- JACKSON, HENRY (Mass.)  
–letter from: quoted, 291n
- JAY, JOHN (N.Y.; CC:Vol. 1, 385n), 371; denial that he opposes Constitution, 52, 53n, 92–93; as an author of *The Federalist*, 521n, 553  
–letter from: quoted, 93
- JEFFERSON, THOMAS (Va.; CC:Vol. 1, 81n), 43n, 425–26  
–letters to, 203–4; quoted, 121n, 148n, 149n, 180n, 518n; cited, 10n, 53n, 91n, 119n, 180n, 203
- JENIFER, DANIEL OF ST. THOMAS\* (Md.), 210n, 255, 256n, 366n–67n, 371
- JESUITS, 47, 186
- JOHNSON, CHARLES (N.C.): id., 364n  
–letter from, 363–65
- JOHNSON, SAMUEL WILLIAM (Conn.; CC:Vol. 1, 228n)  
–letter from: cited, 188  
–letter to, 188–90
- JOHNSON, THOMAS (Md.; CC:Vol. 2, 296n), 371
- JOHNSON, WILLIAM SAMUEL\* (Conn.; CC:Vol. 1, 227n–28n): on Committee of Style, 58, 59n  
–speech in Connecticut Convention, 243n–44n, 248–49, 312–13
- JONES, JOHN PAUL, 203, 204n, 330
- JUDICIARY, U.S., 153, 273, 385, 519n; debate over independence of judges of, 19, 29, 30, 278; criticism of jurisdiction of, 20, 24, 25, 27–28, 112, 134, 144, 264–65, 265, 357, 376–77, 377, 393, 512–17, 519n; and judicial review, 22, 278–79, 519n, 531; debate over appellate jurisdiction of, 25, 27, 28, 379, 533–34, 535; debate over equity jurisdiction of, 25, 197, 265, 393, 514, 535–36; admiralty cases, 28, 197, 428, 533; under Confederation, 36n, 406; appointment of, 58, 133–34, 146n, 153, 382, 392, 497; the Supreme Court, 58, 283, 497, 514–15, 533, 533–34; defense of jurisdiction of, 85, 235, 283, 346, 428, 511, 533, 534, 535, 535–36, 553; inferior courts, 153, 283, 379, 468, 533, 534; tenure of, 153, 382, 512; salary of, 153, 516; debate over appellate jurisdiction of as to law and fact, 197, 535. *See also* Civil law; Common law; Great Britain, legal and judicial system of; Jury trials; Separation of powers; States, impact of Constitution upon
- “JUNIUS,” 140–41, 143n, 149n
- JUNKIN, BENJAMIN (Pa.), 230
- JUNKIN, JOHN (Pa.), 230
- JUNKIN, JOSEPH (Pa.), 230
- JURY TRIALS, 55, 406, 531; criticism of Constitution’s failure to provide for in civil cases, 18, 25, 27, 28, 183, 232, 286, 364, 461; criticism of Constitution’s failure to provide for juries of the vicinage, 18, 29; and danger of loss of from appellate jurisdiction of U.S. judiciary, 25, 27; Constitution’s provisions for in criminal cases may be evaded, 28–29; denial that Constitution abolishes in civil cases, 185, 197, 283, 401, 424–25, 451, 536
- KENTUCKY: separate statehood for, 54, 166, 300, 485, 485n, 549; opposition to Constitution in, 328n
- KING, RUFUS\* (Mass.; CC:Vol. 1, 555n), 11n, 146, 291, 438, 438n, 439n; in Constitutional Convention, 59n, 255, 568n  
–letters from, 70–71; quoted, 11n, 148n–49n, 562n; cited, 498n  
–letters to, 291–92; quoted, 145n, 156n, 177n, 332n; cited, 223n, 291, 498
- KNOX, HENRY (Mass.; CC:Vol. 1, 280n–81n)  
–letters from, 292, 330, 416–17; cited, 330  
–letters to: quoted, 119n, 120n, 193n, 290n, 291n, 324n, 368n, 417n, 562n; cited, 290n

- LAFAYETTE, MARQUIS DE (France; CC:Vol. 2, 487n)  
 -letter from: cited, 416  
 -letters to, 330-31; cited, 330-31
- LAMB, JOHN (N.Y.), 482; attacked for opposition to Constitution, 76, 572; and publication and circulation of Antifederalist literature, 81, 82, 156n, 480-81, 483
- LANDED INTEREST, 271, 302-3. *See also* Agriculture; Farmers
- "A LANDHOLDER" (Oliver Ellsworth), 71, 75n, 79n, 86n, 317n; texts of, 75-80, 190-92; circulation of, 75n, 192n, 414n; attacks Elbridge Gerry, 75-80, 272n, 414n, 415-16
- LANGDON, JOHN\* (N.H.), 90, 210n; supports Constitution, 371, 564  
 -letters to: quoted, 148n, 148n-49n; cited, 120n
- LANSING, ABRAHAM G. (N.Y.)  
 -letter from: quoted, 366n
- LANSING, JOHN, JR. (N.Y.): *id.*, 366n; leaves Constitutional Convention early, 255, 256n, 366n-67n, 367n, 370, 483; as delegate to Constitutional Convention, 366n, 367n, 572  
 -letter from (with Robert Yates), 256n, 341n, 342, 365, 366-70, 571, 572
- LARGE VS. SMALL STATES, 146n, 149n, 205, 206; over representation in Senate, 26, 154-55, 252-56, 298, 299, 356; over representation in Congress, 151, 249-56, 347, 523, 524; over representation in House of Representatives, 154-55, 206-10, 249-56, 349-50, 350-51, 356; over election of President and Vice President, 154, 494-95, 495. *See also* Representation
- LATHROP, JOHN (Mass.)  
 -letter to: cited, 49n
- LAURENS, HENRY (S.C.; CC:Vol. 1, 367n), 371
- LAW, RICHARD (Conn.): *id.*, 312n  
 -speech in Connecticut Convention, 243n, 316-17, 317n
- LAW OF NATIONS, 38, 124
- LAWYERS, 47, 186, 197
- LEAR, TOBIAS (N.H., Va; CC:Vol. 2, 157n)  
 -letters from: quoted, 148n; cited, 120n
- LEARNED PROFESSIONS, 270-71, 302-3
- LEE, ARTHUR (Va.; CC:Vol. 1, 308n), 216, 263, 267n, 325  
 -letter from: quoted, 467n  
*See also* "Cincinnatus"
- LEE, CHARLES (Va.), 81
- LEE, HENRY (Va.), 328, 328n
- LEE, RICHARD HENRY (Va.; CC:Vol. 1, 282n), 468n; favors amendments to Constitution, 52, 94, 288n; alleged hatred of George Washington, 78, 81, 82, 85, 159; alleged author of "Federal Farmer," 80-85, 156n, 158, 159; said to oppose Constitution, 203, 325, 327; rumored to relax active opposition to Constitution, 438, 439n, 452, 498  
 -letters from: quoted, 93  
 -letters to: cited, 118n, 121n, 144n-45n, 267n  
 -objections to Constitution (16 Oct. 1787 letter), 51, 51-52, 165n, 165, 171, 173, 371, 468, 547, 553; reply to by "An American," 165-71, 172, 173-76, 176n, 373
- LEE, SILAS (Mass.): *id.*, 287n; 286
- LEGAL TENDER: *See* Tender laws
- LEGAL WRITERS: *See* Political and legal writers and writings
- LETTERS OF MARQUE AND REPRISAL: *See* Marque and reprisal, letters of
- L'HOMMEDIEU, EZRA (N.Y.), 484n
- LINCOLN, ABRAHAM (Pa.), 34
- LINCOLN, BENJAMIN (Mass.): *id.*, 488n; 53n, 371  
 -letters to, 487-88; cited, 53n, 142n
- LIVINGSTON, ROBERT R. (N.Y.), 371
- LIVINGSTON, WILLIAM\* (N.J.), 371
- LLOYD, THOMAS (Pa.): and Pennsylvania Convention *Debates*, 48, 90n, 437-38, 438n, 449, 450n, 498
- LOUDON, SAMUEL AND JOHN (N.Y.), 3n. *See also* Newspapers, *New York Packet*
- LOWNDES, RAWLINS (S.C.): *id.*, 488n; 487
- LOYALISTS: *See* Tories
- LUCAS, JOHN (Mass.): *id.*, 295n; 292, 293, 295
- LUDWIG, JOHN (Pa.), 34
- LUTZ, NICHOLAS (Pa.), 34
- LUX, GEORGE (Md.), 150n
- LUXURIES: attack upon importation of, 88, 98-99, 168, 342, 543; debate over levying import duties on, 268, 275, 306, 342. *See also* Commerce
- LUZERNE, COMTE DE LA (France), 425  
 -letter to: quoted, 13n



- M'CORMICK, JAMES (Pa.), 230
- McCRAW, SAMUEL (Va.)  
 -letter from: quoted, 561n
- M'CULLOCH, JOHN (Pa.), 450n
- McDOWELL, SAMUEL (Va.): id., 54n  
 -letter from, 53-54  
 -letter to: cited, 53
- M'GUIRE, FRANCIS (Pa.), 230
- McHENRY, JAMES\* (Md.; CC:Vol. 2, 294n), 371; reports to Maryland House of Delegates, 147n, 150; in Constitutional Convention, 204-5, 437n
- McKEAN, THOMAS (Pa.): id., 7n, 71n; 35n, 228, 371; burned in effigy in Carlisle, Pa., 90n, 225n, 226, 227, 374  
 -in Pennsylvania Convention, 7n-8n, 45, 90n, 450n; speech of, 71-74, 507, 508n
- McKNIGHT, CHARLES (N.Y.), 3n
- M'LEAN, JOHN AND ARCHIBALD (N.Y.), 3n, 223n, 225. *See also* Newspapers, *New York Independent Journal*
- MADISON, JAMES\* (Va.; CC:Vol. 1, 219n), 130, 288n, 371; in Constitutional Convention, 59n, 79n  
 -letters from, 51-53, 102, 172-73, 326-28, 365, 425-26, 498; quoted, 53n, 120n, 136n, 148n, 288n, 391n, 439n, 475n, 476n; cited, 53n, 91n, 119n, 136n, 144n, 223n, 340n, 391n, 426n, 437, 438n, 439n, 454n, 475, 498n  
 -letters to, 171-72, 437-38; quoted, 53n, 118n, 118n-19n, 119n, 120n, 121n, 291n, 328n, 391n, 439n, 453n, 454n, 476n, 498n, 561n; cited, 12n, 51, 53n, 136n, 142n, 165n, 172, 223n, 326, 368n, 438n, 454n, 498, 498n, 518n, 561n  
 -*The Federalist*, 343-48, 353-60, 418-25, 427-33, 439-46, 469-75, 476-80, 488-93, 499-504; authorship of, 164n, 380n, 403n, 498, 521n, 553. *See also* *The Federalist*
- MAINE: opposition to Constitution in, 49, 51n, 286-87, 426, 438, 475, 475n; desire for separate statehood in, 300, 426, 438, 475, 475n, 549. *See also* York
- MANIFEST DESTINY OF THE U.S., 542
- MANUFACTURES, 89-90, 175, 228, 270, 277, 510; debate over the use of import duties to encourage, 54, 268, 269, 342, 424, 437; in New England, 83, 277; insignificant when compared to agriculture, 169, 276; Constitution will encourage, 365n
- MARQUE AND REPRISAL, LETTERS OF, 469, 544
- MARSHALL, JOHN (Va.; CC:Vol. 1, 453n), 121n
- MARSHAL, JAMES (Pa.), 9n
- MARTIN, JAMES (Pa.), 34
- MARTIN, LUTHER (Md.; CC:Vol. 2, 295n), 519n  
 -Constitutional Convention, 146n-47n, 210n, 253, 255, 301, 377-78, 380n, 410, 414n, 433-34, 434, 436, 437n; attendance in, 146n, 147n, 150, 415, 497n; on departure of Yates and Lansing from, 256n, 366n  
 -letters from: quoted, 148n; cited, 148n, 256n, 368n  
 -"Genuine Information," 147n, 155n; texts of, 146-56, 204-10, 249-56, 296-302, 348-53, 374-80, 410-14, 433-37, 494-97; praised, 13n, 148n, 149n, 380n, 447; circulation of, 147n, 155n, 210n, 256n, 301n, 352n, 380n, 414n, 437n, 497n; attacked, 149n, 180n  
 -defense of Elbridge Gerry, 79n, 414-17
- MARYLAND, 121n, 277, 423, 436, 539, 549, 554n, 559; Antifederalist literature sent to, 10n; constitution of, 43, 298, 301, 382, 386n, 503, 528; calls state convention, 56, 147n, 189, 203, 233, 329, 543, 556; prospects for ratification in, 88, 148n, 148n-49n, 325, 330, 399, 426, 558, 559; delegates from to Constitutional Convention report to legislature of, 147n, 150, 380n; in Constitutional Convention, 154, 156n, 204, 204-5, 205, 252, 434-35, 437n; delays ratifying Articles of Confederation, 355, 549; method of electing state senators in, 382, 386n; first federal elections in, 549, 554n. *See also* Baltimore; "Genuine Information"
- MASON, GEORGE (Va.; CC:Vol. 1, 196n), 70, 366n; as non-signer of Constitution, 58, 118n, 119n, 130, 166, 188n; opposes Constitution in Virginia, 70, 78, 91, 203, 327, 452; in Constitutional Convention, 79n, 206, 572

- letter to: cited, 118n  
 –objections to Constitution, 109n, 546; attacks upon, 50, 75–79, 365; publication and circulation of, 52, 53n, 75–76, 102, 119n, 553; compared to objections of other Antifederalists, 52, 120n, 391n, 391–93, 571
- MASSACHUSETTS, 102, 138, 167–68, 245, 247, 267, 276, 342, 349–50, 418n, 549; Antifederalist literature sent to, 11n, 289n; constitution and government of, 43, 193, 286, 287n, 386n, 501–2; elections to state convention, 49, 52–53, 173, 448, 450n; prospects for ratification in, 52–53, 88, 146, 177, 189, 325, 328, 330, 331, 365, 399, 417, 426, 437–38, 475n, 475, 481, 482, 483, 484n, 485, 498, 565, 565n, 566, 566n, 567, 569; influence of on other states, 53n, 189, 362, 417, 426, 481, 485, 567; calls state convention, 56, 203, 450n, 556; pays New York impost, 78, 177; Antifederalists in, 78, 189, 310, 312n, 326–27, 334, 482, 484n, 564; delegates of in Confederation Congress, 90, 91, 397, 398n, 409n–10n; stops requisition payments to Congress, 90, 91n; state convention of, 92, 120n, 173, 291n, 292, 295, 335n, 362, 482, 483, 484, 484n, 485, 562n, 568; in Constitutional Convention, 154, 156n, 252, 488n; Federalists in, 189, 193n, 295, 482, 484n, 562n, 563n; effect of Connecticut on, 243n, 438; population of, 267; Federalist literature sent to, 437–38, 438, 498, 498n; Elbridge Gerry invited to attend state convention of, 484n, 568, 568n; Governor Hancock's speech to legislature of, 562n; election of governor of (1788), 562n, 563n; ratifies Constitution, 562n, 573n. *See also* Beverly; Boston; Cambridge; Gerry, Elbridge; Green Dragon Tavern; Maine; Salem; Shays's Rebellion; Stockbridge; York
- MAURY, JAMES (Va.)  
 –letter to: quoted, 121n
- MECHANICS AND TRADESMEN, 26, 270; meeting of in Boston favors Constitution, 289–95; support Constitution in Newport, R.I., 290n
- MERCER, JOHN FRANCIS (Md.; CC:Vol. 2, 398n): as possible author of "A Farmer," 317n, 519n
- MERCHANTS, 26, 166, 167, 233, 234, 268–69, 270, 302–3, 365n, 558, 559; plight of under Confederation, 174–75, 365n. *See also* Commerce
- MEREDITH, SAMUEL (Pa.), 176n
- MIFFLIN, THOMAS\* (Pa.), 35n, 371
- MILITIA, 69, 411, 457, 492–93; criticism of Constitution's provisions concerning, 19, 32, 232, 310, 336, 391, 393, 410–12, 414n, 415, 468, 483n–84n, 496; not a good substitute for an army, 42, 62, 103, 124–25; in Pennsylvania, 62, 63n–64n, 103, 310, 312n, 391, 466; in Massachusetts, 62–63, 64n, 103, 466; defense of Constitution's provisions concerning, 281, 318–22, 401, 411, 423, 508, 532–33. *See also* Army; Army, standing
- MILLER, ROBERT, JR. (Pa.), 226
- MINOR, NATHANIEL (Conn.), 256n
- MISSISSIPPI RIVER: possible cession of navigation rights to Spain, 247, 328, 328n, 485
- MONARCHY, 55, 71n, 73, 73–74, 261, 279, 441–42, 531, 532; danger of from Constitution, 32, 46, 53n, 75, 108, 118n, 121n, 143, 206, 323–24, 333, 356, 416, 416n, 461, 486, 494, 495, 496; and Constitutional Convention, 53n, 57, 205, 415, 416, 416n, 494, 496; sentiment for in America, 86n, 193, 193n, 309n, 486; danger of if Constitution is not adopted, 193; no danger of from Constitution, 280, 508, 530–31; George Washington as possible king of U.S., 390n. *See also* Despotism; Great Britain
- MONEY, 161; scarcity of, 88, 98–99, 538; debate over Congress' power to borrow, 164, 335–36, 358, 378–79, 423; debate over Confederation Congress' power to coin and regulate value of, 406, 431, 469; praise of Constitution's provision for coinage of, 431, 469, 470, 544
- MONEY BILLS, 152, 175, 374–75, 375, 392
- MONIED MEN, 436. *See also* Creditors, private
- MONOPOLIES, 113, 233
- MONROE, JAMES (Va.; CC:Vol. 1, 455n)  
 –letter from: quoted, 121n

MONTESQUIEU, CHARLES, BARON DE:  
See Political and legal writers and writings

MONTGOMERY, JOHN (Pa.)

-letter from: quoted, 225n

MONTGOMERY COUNTY, PA., 35n

MONTMORIN, COMTE DE (France; CC:Vol. 1, 261n

-letter from: quoted, 367n

-letter to: quoted, 10n, 12n

MORRIS, GOUVERNEUR\* (Pa.; CC:Vol. 1, 514n-15n), 181; in Constitutional Convention, 35n, 58, 59n, 79n; in Continental and Confederation congresses, 36n, 467n; in Virginia, 181n, 361, 561n

MORRIS, ROBERT\* (Pa.), 35n, 234, 371; as Superintendent of Finance, 30, 36n, 467n; in Virginia, 361, 561n; as possible first President of U.S., 568

-letter from: quoted, 181n

-letter to: cited, 180n

MOUSTIER, COMTE DE (France), 416, 425

MUHLENBERG, HENRY (Pa.)

-letter to: quoted, 508n

NATURAL RIGHTS, 332n, 332-33, 339, 445, 523, 537-38. See also Revolution, right of

NATURALIZATION: See Immigration

NAVY, 263; defense of Constitution's provision concerning, 4-7, 57-58, 161, 244, 419-20, 422-23, 480; danger of Constitution's provision concerning, 19, 75, 115-16, 468, 496; need for, 43, 260, 261, 338-40, 422-23, 532, 542; under Articles of Confederation, 61, 339, 340n, 406, 456, 480; debate over Constitution's provision prohibiting states from keeping, 544, 550. See also Appropriations; Army; standing; President, U.S.

NECESSARY AND PROPER CLAUSE: defense of, 4-7, 219-22, 319, 402, 471-73, 531-32; criticism of, 22, 111-12, 134, 213, 232, 335, 336, 468, 515. See also Enumerated powers; General welfare clause; Reserved powers

NELSON, THOMAS (Va.; CC:Vol. 1, 223n), 498n

NESBIT, CHARLES (Pa.): id., 90n; 86

-letter from, 87-88

THE NETHERLANDS: See Governments, ancient and modern

NEW ENGLAND: See Northern States

"NEW ENGLAND," 80-86, 156n, 159

NEW HAMPSHIRE, 135n, 549; constitution and government of, 43, 386n, 501; prospects for ratification in, 52, 56, 88, 177, 189, 325, 330, 331, 365, 399, 417, 560, 564, 567, 572; attendance of delegates in Confederation Congress, 90, 328; calls state convention, 102, 233, 556, 557, 564; state convention of adjourns without ratifying Constitution, 148n-49n, 417n; in Constitutional Convention, 154, 156n, 204, 210n; influence of on other states, 362, 417, 567

NEW JERSEY, 90, 166, 180n, 502, 549; prospects for ratification in, 52, 56, 88; calls state convention, 56, 556; ratifies Constitution, 70, 91-92, 102, 177, 189, 203, 245, 325, 330, 331, 332-33, 399, 475, 485, 558, 572; dominated commercially by New York, 78, 82, 177, 245; in Constitutional Convention, 154, 156n, 204, 205, 252; and amendments proposed to Articles of Confederation, 355, 360n

"THE NEW ROOF" (Francis Hopkinson), 179-88, 380n, 564n

NEW YORK, 84, 167-68, 172, 177n, 342, 401, 423, 549; Federal Republican Committee of, 10n, 148n; Anti-federalist literature sent to, 10n, 230, 310, 557; prospects for ratification in, 39n, 56, 88, 143, 177, 189, 203, 230, 325, 330, 331, 362, 426-27, 555, 559, 567, 573; constitution and government of, 43, 67, 382, 386n, 502, 504n; danger to if Union is dissolved, 60, 245, 330, 362; Antifederalists in, 76, 77, 78, 203, 326, 362, 368n, 438, 453n, 559; Antifederalism in caused by desire to keep state impost, 76, 78, 269, 402, 403n; commercial domination of over New Jersey and Connecticut, 78, 82, 84, 159, 177, 192, 245, 247, 275, 276; Antifederalist literature disseminated from, 81, 156n; dispute over Vermont, 103; in Constitutional Convention, 154, 156n, 204, 205, 252, 366n-67n, 367n, 368n, 572; circulation of Federalist literature in,

- 171, 391n, 438, 518n; rejects Impost of 1783, 177, 406; Governor Clinton and legislature of, 216, 341-42, 481; calls state convention, 233, 340n, 341n, 362, 402n-3n, 426, 557, 573; legislature of, 271, 340n, 341-42, 365n, 367n, 399-403, 426, 569; influence of other states upon, 290n, 330, 362, 426, 438, 567; election of delegates to Confederation Congress, 328, 341, 481, 483, 484n; election and instruction of delegates to Constitutional Convention, 366n, 368n, 369, 410n; recommends calling of a constitutional convention, 403-4, 409, 409n, 409n-10n. *See also* Albany; New York City
- NEW YORK CITY, 278, 362, 423; Federal Republican Committee of, 10n, 148n; favors Constitution, 143; few Antifederalists in, 402
- NEWBURGH CONSPIRACY, 463, 467n
- NEWENHAM, SIR EDWARD (Ireland): id., 92n
- letter to, 91-92
- NEWPORT, R.I., 290n
- NEWSPAPERS, 10n, 361-62; access to and freedom of, 3n, 8n, 75n, 83, 361, 448-49, 459-60, 507, 570; criticized, 15-16, 40, 254, 362, 447, 451n, 505, 570; role of in ratification debate, 70, 189, 331, 416-17; circulation of, 83, 287, 575-81; post office allegedly hinders circulation of, 147n, 301n, 308n, 310, 310-11, 389-90, 505, 553, 573; praised, 460. *See also* Printers and booksellers
- in CONNECTICUT
- American Mercury*, 243n, 312n; material printed from, 75n, 243n, 279n-80n, 563n
- Connecticut Courant*, 243n; material printed from, 75-79, 81-85, 190-92, 243n, 244-49, 273-79, 280-83, 312-17, 563
- Connecticut Gazette*: material printed from, 256-58
- Connecticut Journal*: material printed from, 559
- New Haven Gazette*, 570n-71n; material printed from, 54-55, 570
- Weekly Monitor*: material printed from, 573
- in MARYLAND
- Annapolis *Maryland Gazette*, 517n, 518n, 554n
- Baltimore *Maryland Gazette*, 9n, 13n, 147n, 180n, 210n, 301n, 317n, 352n, 380n, 497n, 519n, 553; material printed from, 150-55, 204-10, 249-56, 296-301, 348-52, 374-79, 410-14, 433-37, 494-97
- Maryland Journal*, 95n, 136n, 147n, 380n, 517n, 518n, 518n-19n, 519n, 520n; material printed from, 92-94, 136-37, 415-16
- in MASSACHUSETTS
- American Herald* (CC:Vol. 1, xxxii-xxxiii), 11n, 72n, 140-41, 157-58, 289n, 290n, 308n, 556n; material printed from, 139-40, 157, 159, 160
- Boston Gazette*, 146n, 290n, 308n, 483, 484n; material printed from, 72-74
- Cumberland Gazette*, 287n
- Essex Journal*: material printed from, 560
- Hampshire Gazette*: material printed from, 36-39
- Independent Chronicle*, 51n, 53n, 289n, 295n, 332n, 566n; material printed from, 137-38, 332-34
- Massachusetts Centinel* (CC:Vol. 1, xxxvi-xxxvii), 11n, 53n, 75n, 80n, 94n, 102n, 143n, 145n, 243n, 289n, 290n, 311n-12n, 367n, 459, 558n, 565n, 567n, 573n; material printed from, 138, 143n, 159, 273, 294-95, 557, 565, 566, 569, 571, 573
- Massachusetts Gazette*, 11n, 80n, 94n, 145n, 146n, 157, 289n, 290n, 332n, 367n, 564n, 564n-65n, 567n; material printed from, 92-94, 138, 140-41, 157, 157-58, 158-59, 159, 292-93, 563, 565, 567-68
- Salem Mercury*, 573n; material printed from, 558
- Worcester Magazine*, 91n, 165n, 311n, 562n; material printed from, 556-57, 563, 567
- in NEW HAMPSHIRE
- New Hampshire Gazette*, 243n
- New Hampshire Recorder*, 165n
- New Hampshire Spy*: material printed from, 210-11

## -in NEW JERSEY

-*New Jersey Journal*: material printed from, 143n, 559

## -in NEW YORK

-*Albany Gazette*: material printed from, 557

-*American Magazine*, 483, 520n

-*Country Journal*, 10n, 119n, 223n, 367n, 368n

-*Daily Advertiser*, 3n, 13n, 39n, 56, 59n, 194n, 223n, 365n, 368n, 557n; material printed from, 194-201, 343-48, 399-402

-*Hudson Weekly Gazette*, 10n, 12n

-*Independent Journal*, 3n, 223n; material printed from, 39-43, 65-69, 102-6, 217-23, 224-25, 268-72, 318-22, 353-59, 380-86, 418-25, 439-46, 476-80, 499-504

-*New York Journal* (CC:Vol. 1, xxxvii-xxxviii), 3n, 10n, 12n, 39n, 56n, 59n, 147n, 194n, 308n, 310, 338n, 340n, 341n, 367n, 380n, 386n, 389, 480-81, 481, 483, 483n, 484n; material printed from, 55-56, 110-17, 141-42, 234-40, 240-42, 335-38, 393-98, 462-67, 512-17, 564

-*New York Morning Post*, 194n

-*New York Packet*, 3n, 215n, 223n, 258n; material printed from, 4-7, 59-63, 95-98, 160-64, 211-15, 259-63, 263, 302-7, 403-9, 427-33, 469-75, 488-93

-*Northern Centinel*, 368n; material printed from, 569

## -in PENNSYLVANIA

-*American Museum* (CC:Vol. 1, xxxiii-xxxiv), 180n, 312n, 453n

-*Carlisle Gazette*, 9n, 13n, 228n, 451n; material printed from, 226-28, 228-30

-*Federal Gazette*, 180n, 454n

-*Freeman's Journal* (CC:Vol. 1, xxxiv-xxxv), 10n, 11n, 13n, 39n, 179n, 181n, 308n, 311n, 380n, 390n; material printed from, 106-9, 230, 458-61, 560, 573

-*Independent Gazetteer* (CC:Vol. 1, xxxv-xxxvi), 10n, 12n, 13n, 35n, 44n, 48n, 53n, 101n, 155n-56n, 165n, 181n, 188n, 301n, 308n, 311n, 312n,

352n, 414n, 450n, 459-60, 505-6, 562n, 562n-63n; material printed from, 44-47, 165-71, 178-79, 231-34, 308-12, 338-40, 360-62, 446-50, 486-90, 505-7, 561, 564, 570n, 570, 572

-*Pennsylvania Gazette* (CC:Vol. 1, xxxviii-xxxix), 9n, 10n, 11n, 12n, 13n, 36n, 48n, 55n, 368n, 390n, 454n, 476n, 505, 508n, 519n; material printed from, 391-93, 451-53, 454-57, 508-11, 555, 560-61, 561, 567, 571-72, 573-74

-*Pennsylvania Herald* (CC:Vol. 1, xxxix), 9n, 35n, 45, 47n, 48n, 71n, 188n, 352n, 448-49, 449-50, 450n, 460; material printed from, 109-10, 555, 556, 559

-*Pennsylvania Journal*, 518n

-*Pennsylvania Mercury*, 9n, 44n, 47n, 64, 135n, 149n, 179n, 181n, 556n

-*Pennsylvania Packet*, 9n, 11n, 35n, 48n, 256n, 301n, 308n; material printed from, 98-101, 181-88, 555, 557, 558, 569-70

## -in RHODE ISLAND

-*Newport Herald*, 290n

-*Providence Gazette*, 9n, 142n, 454n

## -in SOUTH CAROLINA

-*State Gazette of South Carolina*: material printed from, 486

## -in VIRGINIA

-*Norfolk and Portsmouth Journal*, 223n

-*Petersburg Virginia Gazette*, 95n, 325n

-*Winchester Virginia Gazette*, 13n

-*Virginia Herald*, 135n

-*Virginia Independent Chronicle*, 121n, 223n, 324n; material printed from, 322-24

NICHOLAS, GEORGE (Va.; CC:Vol. 2, 398n), 325n, 518n, 562n; in Richmond Political Society, 561n, 561, 562n

-letters from: quoted, 149n, 519n; cited, 12n

NICHOLSON, JOHN (Pa.; CC:Vol. 1, 405n), 555n

-letter to: quoted, 450n-51n

NOBILITY, TITLES OF, 285, 471; praise of Constitution's prohibition of, 382, 471, 544. *See also* Aristocracy

- NORTH CAROLINA, 177n, 277; Antifederalist literature sent to, 10n; constitution of, 43, 65, 67, 503-4; prospects for ratification in, 53, 56, 70, 88, 325, 330, 331, 572; calls state convention, 56n, 70, 233, 556, 557, 573; Indian war in, 91; and cession of western lands, 91, 300, 550; in Constitutional Convention, 154, 156n, 252, 412; address to Antifederalist majority of state convention of, 215n; influence of on other states, 328; influence of Virginia on, 328, 365, 399. *See also* Chowan County; Edenton
- NORTH VS. SOUTH: *See* Northern States; Southern States
- NORTHAMPTON COUNTY, PA., 310, 311n
- NORTHERN STATES, 11n, 82, 171, 277, 402, 417, 487, 550, 565; and debate over congressional regulation of commerce, 50, 76, 83, 169, 285, 413, 487; and slave trade, 285, 413, 487. *See also* Entries for individual states
- NORTHWEST ORDINANCE, 359, 360n. *See also* Western lands
- NORTHWEST TERRITORY, 317n. *See also* Ohio; Western lands
- OATHS, 253; to support Pennsylvania constitution, 16, 200, 202n; state officers required to take to support Constitution, 97, 112, 153, 316, 474. *See also* Religion
- OFFICEHOLDERS, STATE, 258, 273, 382, 402, 478-79, 482, 489; accused of opposing Constitution for selfish reasons, 76, 78, 81, 82, 88, 183, 211, 521n, 555, 569; central government cannot appoint, 458, 509. *See also* Oaths; Religion
- OFFICEHOLDERS, U.S., 161, 364, 381, 382, 396, 452, 496, 519n, 521n; debate over dual officeholding by, 29, 152, 175, 351-52, 527; assertion that Constitution will create a larger number of, 33, 112, 113, 309, 379, 507; fear of oppression by, 46, 242; Federalists accused of being office seekers, 179, 181n, 309, 339, 481, 482, 507, 521n; assertion that they will not be oppressive under Constitution, 239, 276, 283, 304, 305-6, 478-79, 546.
- See also* Appointment power; House of Representatives, U.S.; President, U.S.; Religion; Senate, U.S.
- "AN OFFICER OF THE LATE CONTINENTAL ARMY" (William Findley?), 400-3
- OHIO, 485. *See also* Northwest Territory; Western lands
- "AN OLD MAN" (Thomas Duncan?), 225-28
- "AN OLD SOLDIER," 256-58
- "AN OLD WHIG" (George Bryan, James Hutchinson, John Smilie?), 12n
- "ONE OF THE PEOPLE," 92-95
- ORTH, ADAM (Pa.), 34
- OSGOOD, SAMUEL (Mass.): *id.*, 267n; 483, 484n
- letter from, 263-67
- letter to: cited, 263
- OSTER, MARTIN (France)
- letter from: quoted, 13n
- OSWALD, ELEAZER (Pa.; CC:Vol. 1, xxxv-xxxvi), 147n-48n, 311n; publishes "Dissent of the Minority of the Pennsylvania Convention," 9n, 10n, 11n, 34n. *See also* Newspapers, Pennsylvania *Independent Gazetteer*
- OTIS, SAMUEL A. (Mass.; CC:Vol. 2, 235n-36n)
- letters from, 90-91, 215-16
- PAGE, JOHN (Va.; CC:Vol. 2, 398n), 371, 498n
- PAGE, MANN, JR. (Va.; CC:Vol. 1, 453n), 135n
- letter from (joint), 121-22; cited, 119n
- letter to (joint), 122; cited, 119n
- PAINE, THOMAS (Pa.; CC:Vol. 2, 488n), 338
- PAMPHLETS: *See* Broad sides, pamphlets, and books
- PAPER MONEY: attack upon experience with, 174, 182, 469-70, 538; in Pennsylvania, 202n; debate over in Constitutional Convention, 272-73, 378-79, 415, 433, 435, 437n; in Continental and Confederation congresses, 358, 378, 378-79, 489; debate over Constitution's prohibition of, 378, 435-36, 436, 469-70, 470, 538, 544; in New York, 401; supporters of in Massachusetts accused of being Antifederalists, 482. *See also* Tender laws

- PARDONS AND REPRIEVES, 257; debate over President's power over, 30, 134, 283, 392, 495
- PARSONS, SAMUEL HOLDEN (Conn.): *id.*, 317n; 313, 317
- PARTY SPIRIT, 68, 126, 128, 177n, 191, 224; in Pennsylvania, 11n, 64, 78, 87, 229, 448–49, 558; in Massachusetts, 70; in Connecticut, 79; less likely under Constitution, 96, 365n; in Virginia, 189, 573; Federalists charged with being motivated by, 334, 482
- PATENTS: *See* Copyrights and patents
- PATERSON, WILLIAM\* (N.J.), 204, 210n, 371
- PATRIOTISM, 294, 308, 323, 548; and American Revolution, 13, 257; support of Constitution equated with, 85, 228, 290n, 294, 295, 558, 565; lack of during Confederation, 87, 89, 195, 544; opposition to Constitution equated with, 98, 146, 178, 229, 310, 332n, 334, 361, 387, 389, 486, 505–8, 564
- PATTERSON, ALEXANDER (Pa.), 310, 311n
- PEACE: power to make should reside in central government, 479, 480. *See also* Treaties; Treaty of Peace; War; War power
- PEIRCE, JOHN (Va.)  
–letter from: quoted, 119n, 324n
- PENDLETON, EDMUND (Va.; CC:Vol. 1, 219n), 371
- PENNSYLVANIA, 15, 31, 90, 166, 167, 198, 202n–3n, 276, 328, 342, 349–50, 452, 549, 553, 558, 573; constitution of, 7n, 8n, 16, 33, 36n, 43, 63, 65, 67, 459, 503, 574; attempts in to overthrow ratification of Constitution by, 8n, 179, 374, 374n, 426, 426n; party spirit in, 11n, 64, 78, 87, 229, 448–49, 558; political attitude of western Pennsylvania, 11n, 87–89, 300, 451, 475; Constitutionalist Party in, 12n, 177, 200; controversy over constitution of, 14, 15, 16, 78, 234, 308–9, 392, 507; election of delegates from to Constitutional Convention, 14, 15, 35n, 309, 392; Republican Party in, 20, 177, 234, 309; Federalists in, 30, 505, 506; Wyoming Valley dispute in, 62, 63n–64n, 67, 103, 310, 311n, 466; in Constitutional Convention, 154, 156n, 252; “Federal Farmer” in, 156n; Antifederalists in, 200, 505–8, 555, 559, 572; Supreme Executive Council in, 226n, 312n, 392, 453n; charge that Federalists in attempt to restrict access to press of, 310, 361, 460, 507; “Aristides” in, 518n, 551–52; dissemination of Antifederalist literature from, 555, 571n; prospects for ratification in, 560  
–convention of, 7n–9n, 286; ratification of Constitution by, 8n, 20, 34n–35n, 52, 56, 70, 88, 91–92, 177, 189, 203, 225n, 325, 330, 331, 332–33, 399, 475, 485; majority of thanked, 11n, 228, 574; call of, 15–16, 16, 16–17, 17, 178, 284, 556; legality of questioned, 16, 16–17, 17, 44; and seceding assemblymen, 16, 35n, 200–1, 215, 284, 400–3; election of delegates to, 17, 178, 374, 452, 453n; Antifederalists attack procedures of, 18, 44, 558; James Wilson’s speech in, 21, 110, 332n; majority of attacked, 45, 230; petitions to in favor of a bill of rights, 47n; Benjamin Rush’s speech in, 47n–49n, 333, 333–34, 448; Thomas McKean’s speech in, 71–74, 507, 508n; minority of attacked, 88, 183, 570; Thomas Lloyd’s *Debates* of, 90n, 437–38, 438n, 449, 450n, 498, 498n, 505; minority of praised, 229, 334; cedes land for U.S. capital, 267n; newspaper reprints of debates of, 287n, 572. *See also* “An Address of the Seceding Assemblymen”; “Dissent of the Minority of the Pennsylvania Convention”  
*See also* Carlisle; Cumberland County; Montgomery County; Northampton County; Philadelphia; Philadelphia County; Violence
- PERKINS, ENOCH (Conn.), 243n  
–letter from: quoted, 243n, 317n
- PERSONAL INTEREST, 47, 89, 195; Antifederalists accused of, 49, 78, 191, 540; Elbridge Gerry accused of, 76–77, 78, 272n. *See also* Human nature; Officeholders, state; Officeholders, U.S.; Party spirit
- PETITION, RIGHT OF, 202n
- PETITIONS: in Pennsylvania Convention supporting amendments to Constitution, 8n, 44; in Pennsylvania sup-

- porting Constitution and calling of a state convention, 15–16, 35n; in Connecticut supporting Constitution, 570
- PETRIKIN, WILLIAM (Pa.), 149n, 225, 450n–51n
- PETRY, JEAN-BAPTISTE (France)  
–letter from: quoted, 10n, 12n
- PETTIT, CHARLES (Pa.), 35n, 176n
- PHELPS, CHARLES (Conn.), 256n
- PHILADELPHIA, 310; dominance of members from in state legislature, 15; petitions from for calling state convention, 15–16, 35n; election of delegates from to state convention, 17; election-night riot in, 17–18; publication of Antifederalist literature in, 147n–48n, 451; as commercial center, 166–67, 170, 289n; public meeting in, 182; charge that Federalists attempt to limit access of Antifederalists to press of, 310, 448–49, 459, 460; alleged Federalist meeting in to counter Antifederalist literature, 360n, 361; criticism of Antifederalists in, 371, 451; as site of U.S. capital, 374
- PHILADELPHIA COUNTY: petitions from for calling state convention, 15–16, 35n; as site of U.S. capital, 267, 399, 399n
- “PHILADELPHIENSIS” (Benjamin Workman), 13n, 450n, 459, 564n; texts of, 44–47, 106–9, 338–40, 458–62; circulation of, 44n, 109n, 461n; attacked, 44n, 185–86, 186, 187–88, 188; authorship of, 187–88, 188n
- “PHILANTHROPOS” (Tench Coxe), 12n, 120n, 571, 572n; text of, 391–93
- PHYSICIANS, 333–34
- PICKERING, JOHN (Mass.): id., 177n  
–letter to, 177
- PICKERING, TIMOTHY (Pa.; CC:Vol. 2, 192n), 482, 564n  
–letters from, 177; cited, 482, 484n  
–letter to: quoted, 120n
- “PILLARS OF THE REPUBLIC,” 564–67
- PINCKNEY, CHARLES\* (S.C.) 156n, 371
- PINCKNEY, CHARLES COTESWORTH\* (S.C.; CC:Vol. 1, 274n), 371, 437n
- PIRACY: debate over Constitution’s provision concerning, 235, 428, 468; jurisdiction of Confederation over, 283, 406, 428
- PLATER, GEORGE (Md.): id., 329n  
–letter from, 329
- POETRY, 44, 141, 401, 458, 486, 566
- POLAND: *See* Governments, ancient and modern
- POLICE POWERS: argument that states will control under Constitution, 57, 200, 276, 281, 453n, 454n, 458, 479, 509, 509–10, 510, 545; argument that Constitution endangers state control over, 234–35, 264, 267
- POLITICAL AND LEGAL WRITERS AND WRITINGS, 21, 182, 208, 250; William Blackstone, 28, 514, 516, 547; Samuel Butler, *Hudibras*, 401, 403n; Lord Chesterfield, 297, 302n; Lord George Digby (Earl of Bristol), 100–1; Oliver Goldsmith, 403n; Hugo Grotius, 514; David Hume, 195, 201n; Letters of Junius (Philip Francis), 148n, 458, 461n; Lord Kames (Henry Home), 389, 390; John Locke, 324; Niccoló Machiavelli, 361, 447, 506; John Milton, *Areopagitica*, 47n; Charles, Baron de Montesquieu, 21, 24, 29–30, 93, 100, 242n, 242, 301, 324, 400, 442, 444, 499–501, 502, 517n, 528, 547, 548–49; [Thomas More], *Utopia*, 109, 507; William Pitt the Younger, 486; Alexander Pope, 98, 414n, 416; Richard Price, 301, 323; William Pulteney, 337–38; Abbé Guillaume Thomas François Raynal, 324; William Shakespeare, *Hamlet*, 324; Lord Shelburne (William Petty, Marquis of Lansdowne), 486; Algernon Sydney, 324. *See also* Adams, John
- POLITICAL CONDITIONS UNDER THE CONFEDERATION, 388; anarchy will result from rejection of Constitution, 49, 65, 136, 139, 143n, 177n, 190–91, 191, 192, 215–16, 248, 251, 288, 290n, 315, 325, 325–26, 326, 326–27, 329, 333, 417, 476, 485, 542–43, 548, 560, 565; situation under Confederation is desperate, 86, 87–88, 88, 89, 135n, 174, 175, 365n, 417, 455–56; denial that rejection of Constitution will result in anarchy, 139, 322–23, 387–88, 389; adoption of Constitution may create worse conditions, 174, 251, 390n. *See also* Separate confederacies; Union
- “POPULICOLA,” 71–74
- POPULATION, 26, 89, 276, 282. *See also* Immigration



- POST OFFICE, 286, 287, 308n, 406, 433; allegedly hinders circulation of Anti-federalist newspapers and letters, 10n, 11n, 147n, 308n, 310, 310–11, 389–90, 483, 505, 553, 573
- POTOMAC RIVER, 52, 53n
- POWARS, EDWARD E. (Mass.): publishes "Dissent of the Minority of the Pennsylvania Convention," 11n, 34n; publishes "Federal Farmer," *Letters*, 80n, 156n, 160; attacked as Antifederalist printer, 157, 158. *See also* Newspapers, Massachusetts *American Herald*
- POWELL, SAMUEL (Pa.; CC:Vol. 2, 95n)  
–letter from: cited, 399  
–letter to: 398–99
- POWELL, JOSEPH (Pa.), 34
- PREAMBLE TO CONSTITUTION, 25, 114–15, 456–57, 515–16
- PRESIDENT, U.S., 52, 185, 257, 511, 525; debate over need of privy council to assist, 19, 30, 52, 58, 324, 357, 392, 393, 528–29; term of, 23, 55, 153, 280, 382, 494, 497n, 525, 530–31; election of, 23, 57, 93–94, 94, 153, 154, 258, 266, 316, 382, 384, 457, 458, 474, 478, 494, 494–95, 495, 497n, 509, 510, 525, 531; veto power of, 26, 153, 154, 175, 282, 375–76, 525; appointment power of, 26–27, 52, 298–99, 352, 357, 495–96, 496–97, 530; treaty-making power of, 29; relationship of with Senate, 30, 240, 298–99, 357, 528–29, 530, 546, 547; plural executive favored, 52, 53n; debate over power of, 57, 112, 146n, 153, 175, 183, 206; debate over whether or not he will become a monarch, 75, 143, 206, 316, 486, 495, 495–96, 530–31; reeligibility of, 133, 143, 153, 280, 324, 391, 494, 497n, 531; pardon power of, 134, 283, 495; George Washington as possible first President, 139, 563, 568; impeachment of, 153, 240, 382, 496–97, 497, 525; salary of, 153, 281, 333, 334n–35n, 525; relationship of with Congress, 175, 240; as commander in chief, 323–24, 324, 401, 495, 496, 497n, 551; John Hancock as possible first President, 562n; Robert Morris as possible first President, 568. *See also* Executive departments; House of Representatives, U.S.; Senate, U.S.
- PRESS, FREEDOM OF, 55, 459; debate over access to press, 3n, 448–49, 459, 459–60, 460; attack on Constitution's failure to guarantee, 19, 25, 107, 183, 232, 364, 392, 461, 571; defense of Constitution's failure to guarantee, 38, 76, 184, 196–97, 267, 282, 402, 424–25, 451, 522–23; as a defense against despotism and aristocracy, 360–61, 458–61, 548. *See also* Bill of rights
- PRICE, RICHARD: *See* Political and legal writers and writings
- PRIMOGENITURE, RIGHT OF, 510; criticism of Constitution's failure to prohibit Congress from establishing, 20, 195; Congress may not pass laws establishing, 221, 424–25, 508–9
- PRINTERS AND BOOKSELLERS, 223n  
–Annapolis, Md.: *See* Green, Frederick  
–Boston: John W. Allen, 160n; Benjamin Edes, 290n, 483. *See also* Powars, Edward E.; Russell, Benjamin  
–Hartford, Conn.: 243n  
–Hudson, N.Y.: Ashbel Stoddard, 10n, 34n  
–New York, 225; Thomas Allen, 180n; Francis Childs, 3n; Samuel and John Loudon, 3n; John and Archibald M'Lean, 3n, 223n, 225. *See also* Greenleaf, Thomas  
–Newport: Peter Edes, 290n  
–Philadelphia: William Spotswood, 450n. *See also* Bradford, Thomas; Carey, Mathew; Dallas, Alexander J.; Lloyd, Thomas; Oswald, Eleazer  
–Portland, Me.: *See* Wait, Thomas B.  
–Richmond: Augustine Davis, 10n, 34n, 119n; John Dixon, 119n  
*See also* Broad sides, pamphlets, and books; Newspapers
- PRIVILEGES AND IMMUNITIES, 365, 455
- PRIVY COUNCIL: needed to assist President, 19, 30, 52, 58, 324, 357, 392, 393; Senate is likened to, 298–99, 496–97; denial of need for, 528–29
- PROPERTY, PRIVATE, 55, 58, 88, 100, 106, 174, 199–200, 204, 508, 508–9, 510, 545, 545–46, 548; owners of favor Constitution, 88, 145; Constitution endangers, 233–34, 380, 436; Constitution protects, 292–93, 325–26, 546. *See also* Contracts, obligation of

PSEUDONYMS: "A," 75n; "A.B." (Francis Hopkinson), 181n, 188n; Address of Thanks, 13n; Agrippa (James Winthrop), 50, 51n, 143n, 159, 160n; Algernon Sidney, 149n, 368n; America (Noah Webster), 13n, 194-203; An American, 139-40, 141; An American (Tench Coxe), 165-71, 171-72, 172, 173-76, 373, 554n; An American Citizen (Tench Coxe), 172, 176n; Americanus (John Stevens, Jr.), 120n; Americanus, 215n; Amicus, 188n; Anecdote, 188n; Another Customer, 180n; Another of the People, 225n; Anti-Cincinnatus, 36-39; Aristides (Alexander Contee Hanson), 517-54; Aristocrotis (William Petrikín), 149n; A Bostonian, 289n; Brutus, 3n, 39n, 110-17, 156n, 234-40, 291, 295, 310, 334, 335-38, 372, 393-98, 400-3, 462-67, 481, 483n, 512-17, 553n, 564n; Brutus, 137-38, 143n; Brutus, Junior, 571n; "C," 145n; Candour, 149n; Cato, 138; Cato (George Clinton?), 240-43, 310, 400-3, 481, 569; Census, 450n; Centinel (Samuel Bryan), 9n, 10n, 11n, 12n, 81, 98-101, 149n, 178-79, 183, 231-34, 308-12, 360-62, 386-91, 402, 446-50, 451-53, 505-8, 535-36, 541, 553n, 555n, 555, 557, 564n; Centinel (spurious), 150n, 181n; Centinel (Francis Hopkinson), 450-53; Cicero, 149n; Cincinnatus (Arthur Lee), 36-39, 310, 400-3; A Citizen (two items), 120n, 368n; A Citizen of America (Noah Webster), 114, 202n, 395, 395-96, 526, 553n; A Citizen of New Haven (Roger Sherman), 280-83, 480n; A Citizen of Philadelphia (Pelatiah Webster), 13n, 36n, 372, 390n, 536; A Citizen of the State of Maryland, 148n; A Citizen of the United States, 150n, 368n; A Columbian Patriot (Mercy Warren), 149n; Conciliator, 120n, 505-6; A Countryman (Hugh Hughes), 48n, 141-42, 143n, 386n, 480, 481, 483n; A Countryman (Roger Sherman), 54-55; Crazy Jonathan, 286, 287n; A Creed, Supported by Solid Reasons, 9n; Croaker, 149n; Curtiopolis, 399-403; A Customer, 147n, 150; Deborah Woodcock, 188n; Deliberator, 149n, 556n; Democratic,

149n, 380n; Democritus, 48n; Dentatus, 44n; Detector, 150n; A Dutchess County Farmer, 367n, 368n; An Elector (two items), 289n; Examiner (Charles McKnight), 3n; Expositor (Hugh Hughes), 480-81, 483n; A Farmer (three items), 290n, 454n; A Farmer (John Francis Mercer?), 317n, 511n, 519n; Federal Argument, 149n; Federal Farmer, 11n, 80-85, 145n, 156-60, 291, 332n, 386n, 400-3, 482; Federalissimo, 332n; A Federalist, 10n, 119n, 149n; A foe to scribbling dunces and pseudo-patriots, 450n; Foreign Spectator (Nicholas Collin), 454n; A Freeman (Tench Coxe), 12n, 438, 439n, 453-57, 490, 498, 506, 508-11; A Friend and Customer (Elbridge Gerry), 415n; A Friend to Law and Order, 556n; "G.R.," 360n, 450n; Galba, 459; A gentleman of character, 12n; Giles Hickory (Noah Webster), 484n; Gomez, 9n, 13n; Grateful, 149n; Hampden (William Findley), 48n, 556n; Helvidius Priscus, 48n, 80n, 145n, 332-35, 566n; Hermenius, 13n; Honorius, 332n; Hum Strum, 179n; Interrogator (Hugh Hughes), 481, 483n; James Bowdoin, 147n, 360n, 454n, 562n-63n; James de Caledonia, 147n, 149n, 180n, 454n, 505; John De Witt, 50, 51n; John Wilkes, 13n, 72n; Junius, 140-41, 143n, 149n; Junius (Philip Francis), 148n, 458, 461n; Justice, 149n; A Landholder (Oliver Ellsworth), 71, 75-80, 86n, 190-92, 272n, 317n, 414n, 415-16; Landholder (of Maryland), 380n, 414n-15n, 415n; "M," 11n; Marcus (James Iredell), 365n; Margery (George Bryan), 9n, 44n, 47n, 149, 181n, 183, 185, 186, 188n; A Marylander (Otho Holland Williams), 13n, 120n, 149n; A Mechanick, 145n; Mechanics of the North-End, 145n, 289n; A Native of Virginia, 13n, 120n; New England, 80-86, 156n, 159; The New Roof (Francis Hopkinson), 179-88, 380n, 564n; No Conspirator, 150n; Observer, 360n; An Officer of the Late Continental Army (William Findley?), 400-3; An Old Man (Thomas Dun-

- can?), 225–28; An Old Soldier, 256–58; An Old Whig (George Bryan, James Hutchinson, John Smilie?), 12n; An Old Woman, 188n; One of the People, 92–95; One of the People (William Petrikin), 225n; One of the Whigs of 1776, 459; One of the Whigs of 1788, 149n; One of Your Constant Readers, 120n; “P.Q.,” 48n; Peep Junior, 360n, 450n; A Pennsylvania Mechanic, 459; A Pennsylvania (Tench Coxe), 12n, 454n, 476n; Philadelphiensis (Benjamin Workman), 13n, 44–47, 106–9, 185–86, 186, 187–88, 188, 188n, 338–40, 450n, 458–62, 564n; Philanthropos (Tench Coxe), 12n, 120n, 391–93, 571, 572n; Philo-Publius (William Duer), 225, 225n; Phocion (Alexander Hamilton), 386n, 481; A Plain Dealer (Spencer Roane), 121n; A Plain Farmer, 150n, 244n; A Plebeian (Melancton Smith), 13n, 48n, 518n; Poplicola, 71–74; Publius (Alexander Hamilton, John Jay, James Madison), 3–7, 36n, 39–43, 59–64, 65–69, 71, 95–98, 102–6, 115–16, 160–64, 190, 211–15, 216–23, 223–25, 230, 230n, 235, 236, 258–63, 268–72, 302–7, 318–22, 325n, 343–48, 353–60, 363–64, 380–86, 388, 391n, 396–98, 402, 403–10, 418–25, 427–33, 439–46, 463–64, 464, 465–66, 466, 469–75, 476–80, 483n, 488–93, 498–504, 515, 521n, 553; A Question, 143n; A Real Federalist, 518n–19n; A Real Patriot, 149n, 450n; Republican (George Clinton), 481; Republican Federalist (James Warren?), 72n, 149n, 155n, 210n, 332n; Rough Hewer (Abraham Yates, Jr.), 569; The Scourge (William Petrikin), 225n, 228n; Sommers, 120n; A Steady and Open Republican, 150n; Tamony, 322–25; Tar and Feathers, 15, 35n; Thomas a Kempis, 289n; Tim Quandary, 48n; Tom Peep, 360n; A True Whig, 556n; Truth, 289n; Twenty-seven Subscribers, 3n; Uncle Tobey, 13n; Valerius, 9n, 13n; Vox Populi (Abraham Holmes), 50, 51n; Watchman, 360n; William Penn, 72n; Willson’s Lane, 289n; “Z,” 9n, 11n, 53n. *See also* Broad­sides, pamphlets, and books; Entries for individual names
- PUBLIC CREDIT, 163–64, 340, 363, 538; is low under Confederation, 54, 87–88, 469–70, 538–39; Constitution will restore, 283, 545–46
- PUBLIC DEBT: *See* Debt, U.S.
- PUBLIUS: *See* The Federalist
- PUNISHMENTS, CRUEL AND UNUSUAL, 18, 199
- QUAKERS, 200, 202n, 401
- RALSTON, JOHN (Pa.), 11n
- RAMSAY, DAVID (S.C.), 371
- letters from, 417–18, 487–88; quoted, 418n
- RANDOLPH, BEVERLEY (Va.; CC:Vol. 2, 398n), 118n
- RANDOLPH, EDMUND (Va.; CC:Vol. 1, 196n–97n): differences with other Antifederalists, 52, 120n, 288n, 391n, 571; in Constitutional Convention, 53n, 59n, 71, 79n, 80n, 117n, 135n, 150, 302n, 572; as non-signer of Constitution, 58, 118n, 118n–19n, 119n, 123, 130, 131–33, 166; sends Constitution to lieutenant governor, 118n; reelected governor, 118n, 121n, 122; sends Virginia act to other state executives, 119n; influence of in Virginia, 119n, 203, 326, 327; elected to state convention, 121n; sends Constitution to state legislature, 123; said to favor Constitution, 123, 452, 540, 571
- letters from, 122; quoted, 118n, 121n, 135n, 328n; cited, 118n, 119n, 121n, 287, 326
- letters to, 122, 287–88, 326–28; cited, 119n, 144n, 223n, 391n, 426n; from Richard Henry Lee (16 Oct. 1787), 51, 93, 165, 165n, 171, 173, 468, 547
- letter to Virginia House of Delegates (10 Oct. 1787), 118n–19n, 121–22, 452; text of, 123–34; circulation of, 119n, 287, 326, 553; praised, 120n, 326–27, 371, 571; criticized, 121n, 326–27, 391–93
- RATIFICATION, PROCEDURE FOR, 297; as violation of Articles of Confederation, 34, 253–54; argument that Constitution should not be ratified precipitately, 44, 132, 216, 448; debate over consequences of ratification by nine states, 109–10, 139–40, 383–84, 445, 446, 461; desire to amend Constitution before ratification, 118n, 133,

- 136–37, 399; debate over in Constitutional Convention, 147n, 154, 408, 457; as violation of congressional resolution of 21 Feb. 1787, 404, 406–7; defense of Constitution's provision for, 406–7, 445–46, 539–40. *See also* Amendments to Constitution; Convention, second constitutional; Conventions, state
- RATIFICATION, PROSPECTS OF:** uncertainty of, 55–56, 340n, 559; favorable, 70, 91, 109, 143, 189, 203, 216, 328–29, 330, 331, 365, 399, 426, 452–53, 557; doubtful, 78, 178–79, 309, 325, 485, 559. *See also* Amendments to Constitution; Entries for individual states
- READ, GEORGE (Del.),** 302n, 371
- RECALL,** 128, 298, 372, 398
- REID, JAMES R. (Pa.):** *id.*, 374n; as delegate to Congress, 89, 90n, 176n; and circulation of "An American," 165n—letters from, 373–74; quoted, 176n—letters to: cited, 165n, 373
- RELIGION,** 55, 174, 201, 212, 231, 253, 258, 316, 323, 327, 333, 395, 401, 482, 508; debate over Constitution's lack of provision protecting freedom of, 18, 25, 32–33, 36n, 55, 106, 170–71, 267, 392–93, 402, 452, 461, 571; Constitution endangers conscientious objectors, 32–33, 36n; debate over role of God in writing and ratification of Constitution, 47n, 48n, 50, 174, 249, 317, 333, 333–34, 348, 447, 468, 542, 548, 565, 569, 570; debate over Constitution's prohibition of a religious test for federal officeholding, 144n, 171, 200, 202n, 211, 316, 317n, 401. *See also* Bill of rights; Clergy
- REPRESENTATION,** 267, 317n, 370; in House of Representatives, 19, 26, 27, 57, 144, 152–53, 154, 206–10, 267, 270–72, 280, 302–3, 314, 349–50, 350–51, 384, 547; in Senate, 26, 57, 133, 152–53, 154, 156n, 384, 547; in Confederation Congress, 31, 128, 150, 151, 182, 207, 210n, 250–51, 253, 386n, 524; debate over adequacy of in Congress under Constitution, 31, 209–10, 249–56, 282, 285, 291, 356, 392, 393, 401, 403n, 466, 547; debate over in Constitutional Convention, 58, 151, 152–53, 154, 205, 296–302, 347, 348–51, 523. *See also*
- Population; Taxation; Three-fifths clause
- REPRIEVES:** *See* Pardons and reprieves
- REPUBLICAN FORM OF GOVERNMENT,** 261, 364, 463, 549; cannot exist over a vast territory, 7, 21, 110–17, 291, 300–1, 301, 369–70; can exist over a vast territory, 7, 104–5, 302n, 317, 400, 541–42; definition and features of, 24, 214–15, 279, 345, 381–82, 442, 508–9, 517n; support for in America, 83, 381, 569; argument that force is sometimes necessary in, 102–3, 184, 532–33; Constitution guarantees to states, 105, 153, 382, 441–42, 508, 509, 511; Constitution establishes and protects, 282, 380–86, 400, 541–42, 565; Constitution threatens, 387, 433, 486
- REQUISITIONS,** 61, 358; failure of states to pay under Confederation, 5, 14, 54, 88, 90, 91n, 123, 161–62, 174, 236–37, 247, 248, 257, 341, 342n, 456, 480; argument that it is not an effective system for raising revenue, 124–25, 126–27, 128, 161–64, 199, 213, 305, 380n, 397, 398; argument that Congress under Constitution will raise revenue from, 282, 479, 480n; argument that it is an effective system for raising revenue, 373, 377–78
- RESERVED POWERS,** 19; argument that states have, 37–39, 217, 281, 385, 393, 406, 458, 479, 488–93, 525, 537; criticism of argument that states have, 73, 264–65, 284–85. *See also* Necessary and proper clause; States, impact of Constitution upon; Wilson, James
- REVERE, PAUL (Mass.):** *id.*, 295n; 292, 293, 295
- REVOLUTION, RIGHT OF,** 45, 104, 112, 408
- REYNOLDS, JOHN (Pa.),** 34
- RHODE ISLAND,** 135n, 154, 156n, 177n, 407, 549; rejects Impost of 1781, 13, 84, 279, 280n, 406, 407; prospects for ratification in, 88, 325, 331; not represented in Constitutional Convention, 135n, 401; refuses to call state convention, 189, 203, 204n, 557, 567; attack on paper money policies of, 201, 245; constitution and government of, 386n, 405, 409, 502; praise of Federalists in, 572; attack on Anti-federalists in, 572. *See also* Newport

- RHODES, JACOB (Mass.): id., 295n; 292
- RICHMOND, VA.: political society of favors Constitution, 172, 561–62
- RITTENHOUSE, DAVID (Pa.), 202n
- ROANE, SPENCER (Va.), 121n
- ROME: *See* Classical antiquity; Governments, ancient and modern
- ROTATION IN OFFICE, 258, 280, 370, 547; praise of under Articles of Confederation, 31; praise of in Pennsylvania, 31, 36n
- RUSH, BENJAMIN (Pa.; CC:Vol. 1, 45n–46n), 88, 171, 454n, 486; criticism of Federalist writings of, 505, 506  
 –letters from: quoted, 11n, 48n–49n, 508n; cited, 49n  
 –letter to: quoted, 12n  
 –speech in Pennsylvania Convention, 47n–49n; criticism of, 107–8, 333, 333–34, 447, 448
- RUSSELL, BENJAMIN (Mass.; CC:Vol. 1, xxxvi–xxxvii): id., 295n; 11n, 461n–62n; and Boston tradesmen’s meeting, 292, 295; prints cartoon of “Pillars,” 565n, 567n. *See also* Newspapers, *Massachusetts Centinel*
- RUSSELL, CHAMBERS (Mass.): id., 295n; 292
- RUSSELL, WILLIAM (Va.): id., 468n  
 –letter from, 467–68
- RUTHERFURD, JOHN (N.J.)  
 –letter to: quoted, 120n, 367n
- RUTHERFURD, WALTER (N.Y.)  
 –letter from: quoted, 120n, 367n
- RUTLEDGE, JOHN, SR.\* (S.C.), 59n, 371
- SAILORS, 170, 338–39, 365n. *See also* Navy
- ST. CLAIR, ARTHUR (Pa.), 176n
- SALEM, MASS., 145
- SANDEMAN, ROBERT (Scotland), 51n
- SAVAGE, SAMUEL PHILLIPS (Mass.)  
 –letter from: quoted, 51n
- SCHOOLS, 510, 548
- SCHUYLER, PHILIP (N.Y.), 371
- SEARCHES AND SEIZURES, 18
- SEDGWICK, THEODORE (Mass.): id., 91n; 90n, 91n, 310, 311n  
 –letter to, 90–91
- SENATE, U.S., 26, 170, 392, 546; union of with President, 19, 29, 30, 240, 298–99, 528–29, 530, 547; length of sessions of, 19, 240, 281, 298–99; term of, 23, 26, 27, 31, 55, 143–44, 152, 240, 258, 280, 298, 373, 382, 547; manner of election will guarantee existence of states, 23, 58, 143, 298–300, 315, 374–75, 375–76, 458, 474, 478, 509, 510; equal representation of states in, 26, 57, 133, 153, 154, 156n, 166, 252, 253, 280, 298, 356, 384, 445, 510, 524, 530; criticism of lack of separation of powers in, 27, 29; debate over powers of, 27, 85, 175, 175–76, 530; appointment power of, 29, 58, 146n, 153, 175–76, 281, 298–99, 357, 509; impeachment power of, 29, 134, 240, 281, 324, 357, 392, 496–97; criticism of treaty-making power of, 29, 134, 281; voting in, 57, 386n; election of, 95–96, 143–44, 152, 240–42, 257, 258, 265–66, 299, 315, 316, 382, 405, 457, 458, 478, 509; salary of, 134, 152, 240, 298, 392; and dual officeholding by members of, 152, 175, 351–52, 352, 496–97; and money bills, 152, 175, 374–75, 375, 392; qualifications of, 152, 265–66, 510, 525; and Vice President as president of, 283, 495; as a check upon House of Representatives, 296, 297, 375–76, 524, 525; criticism of lack of power of states to recall, 298, 398. *See also* Appointment power; House of Representatives, U.S.; Impeachment; President, U.S.; Separation of powers; Treaties
- SEPARATE CONFEDERACIES, 249–50; support for, 7, 128, 129–30, 135n, 326, 327, 391n, 417; fear of, 103, 126, 128, 129–30, 193, 248, 363, 542; debate over whether rejection of Constitution will result in, 110, 301, 386–87, 388–89, 417, 422. *See also* Union
- SEPARATION OF POWERS, 76, 152, 249, 473, 527; need for in a good government, 19, 29–30, 93, 128, 301n–2n, 498–504, 524–25, 528; danger from lack of in Constitution, 27, 29, 240, 356, 357, 364, 499; argument that separation of powers need not be absolute, 93, 282, 346, 498–504, 547; defense of Constitution’s provisions concerning, 175, 358, 498–504, 523, 525, 547. *See also* House of Representatives, U.S.; Judiciary, U.S.; President, U.S.; Senate, U.S.

- SERGEANT, JONATHAN DICKINSON (Pa.), 9n, 10n
- SEWALL, DAVID (Mass.), 51n  
 -letter from: quoted, 51n
- SHAYS'S REBELLION, 50, 78, 196, 443-44, 539; suppression of, 62-63, 64n, 103, 466, 554n; Shaysites equated with Antifederalists, 189, 426, 475, 475n
- SHERMAN, ROGER\* (Conn.; CC:Vol. 1, 471n-72n), 58, 59n, 312-13  
 -letter from (with Oliver Ellsworth): quoted, 93; cited, 480n  
 -"A Countryman," 54-55  
 -"A Citizen of New Haven," 280-83, 480n
- SHIPBUILDING, 340; Constitution will encourage, 170, 365n
- SHORT, WILLIAM (Va.; CC:Vol. 1, 455n)  
 -letter to: cited, 119n
- SILL, RICHARD (N.Y.)  
 -letter from: quoted, 340n
- SLAVE TRADE, 358; criticism of Constitution's provisions protecting, 349, 392, 412, 428, 433-34, 434; defense of Constitution's provisions protecting, 401, 428, 445, 510; debate over in Constitutional Convention, 412, 413, 414n, 487, 488n; and American Revolution, 413, 437n
- SLAVERY, 85, 88, 149n, 277; R. H. Lee attacked as slaveholder, 81, 82; danger of, 129, 433, 443; and three-fifths clause, 153, 285; debate over in Constitutional Convention, 348-49, 349, 433; denial that Constitution encourages, 401
- SMALLWOOD, WILLIAM (Md.), 371
- SMILIE, JOHN (Pa.): in Pennsylvania Convention, 8n, 8n-9n, 34, 88, 90n, 183, 334, 505
- SMITH, JONATHAN BAYARD (Pa.), 555n
- SMITH, MELANCTON (N.Y.), 76; as "A Plebeian," 13n, 48n  
 -letter to: quoted, 177n
- SMITH, MERIWETHER (Va.; CC:Vol. 2, 408n): id., 134n  
 -letter from (joint), 121-22; cited, 119n  
 -letter to (joint), 122; cited, 119n
- SMITH, ROBERT (Pa.)  
 -letter from: quoted, 10n
- SOCIAL COMPACT, 25, 40, 297, 470, 544.  
*See also* Revolution, right of
- SOUTH CAROLINA, 70, 90, 277, 417, 550; Antifederalist literature in, 10n, 12n, 560; prospects for ratification in, 53, 56, 70, 88, 189, 325, 328, 331, 365, 417, 426, 487, 560, 572, 574; in Constitutional Convention, 154, 156n, 252, 412, 413, 487; Federalist literature sent to, 172; calls state convention, 233, 418n, 487, 557; constitution and government of, 382, 504; Federalists in, 487; Antifederalists in, 487, 560-61. *See also* Charleston
- SOUTHERN STATES, 10n, 108-9, 166, 171, 172, 216, 277, 402, 487, 550; and debate over congressional regulation of commerce, 76, 166, 273, 274-75, 276-77, 413; as a possible separate confederacy, 129-30, 135n, 327, 417. *See also* Slave trade; Slavery; Entries for individual states
- SOVEREIGNTY, 57; assertion that Constitution transfers to central government, 19, 23, 72, 74-75, 114, 146n, 184, 369, 438; debate over Article II of Articles of Confederation, 19, 24, 124; debate over argument that sovereignty is derived from the people, 24, 202n, 381, 509; criticism of state sovereignty under Confederation, 127, 182, 546; denial that Constitution transfers to central government, 185, 214, 217-23, 281, 384, 385, 400, 438. *See also* Government, debate over nature of; Reserved powers; States, impact of Constitution upon; Supremacy clause
- SIPAIGHT, RICHARD DOBBS\* (N.C.), 371
- SPAIN: *See* Governments, ancient and modern
- SPEAR, DAVID (Mass.): id., 295n; 293
- SPEECH, FREEDOM OF, 458; need to protect, 19, 267, 393
- SPOTSWOOD, WILLIAM (Pa.), 450n. *See also* Newspapers, *Pennsylvania Herald*
- STAGE COACHES, 308n, 551, 552
- STATES, IMPACT OF CONSTITUTION UPON, 127, 138, 300, 323  
 -central government will act directly upon people rather than through states, 5, 126-27, 249, 279  
 -debate over charge that U.S. judiciary will supersede judiciaries of, 5-6, 21-22, 31, 112, 264, 282, 283, 377, 379, 457, 479, 510, 519n, 531, 533, 534, 535

- constitutions and bills of rights of, 18, 25, 29, 40, 94, 95n, 196-97, 214, 265, 296, 382, 386n, 458, 474, 501, 504, 509, 536
  - debate over assertion that Constitution transfers all or part of sovereignty to central government, 19, 21-22, 23, 24, 33, 97, 110-17, 135n, 143, 144, 153, 176, 181n, 184, 185, 200, 205, 206, 213-14, 217, 221, 235, 237, 264, 280-81, 297, 314, 315, 316-17, 336, 356, 369, 373, 378, 384, 385, 400, 405-6, 411, 415, 416, 434, 435, 454n, 454-57, 466, 468, 476n, 476-80, 488-93, 494, 508-11, 515, 541, 543-44, 545
  - debate over assertion that all powers not enumerated in Constitution are reserved to, 19, 37-39, 73, 217, 264-65, 281, 284-85, 385, 393, 406, 458, 479, 488-93, 525, 537
  - judicial review of laws of, 22, 278-79
  - election of senators by legislatures of, 23, 95-96, 152, 241, 257, 258, 298-300, 315, 374-75, 375, 382, 405, 458, 474, 478, 510
  - debate over equality of representation of in Senate, 26, 57, 133, 153, 154-55, 156n, 252, 253, 280, 298, 298-300, 315, 356, 384, 386n, 405, 445, 510, 523-24, 530
  - argument that states will be affected unequally, 54, 198, 269, 378, 434-35
  - argument that states will be guardians of rights and liberties, 68, 105, 279, 280-81, 296
  - debate over guarantee of republican form of government to, 105, 153, 184, 283, 382, 441-42, 508, 509, 511
  - proposals in Constitutional Convention for congressional veto of laws of, 152, 154-55
  - provision for creation of new states, 153, 252, 441, 511, 541
  - restrictions upon, 204, 218-19, 273, 326-27, 392, 398, 429, 435-37, 437n, 469, 470, 538, 544
  - danger that states may encroach on central government, 214, 221, 477-78
- See also* Debts, state; Reserved powers; Sovereignty; Supremacy clause
- STATES UNDER THE ARTICLES OF CONFEDERATION, 411, 489
- failure of to comply with congressional requisitions, 5, 14, 54, 88, 90, 91n, 123, 161-62, 174, 236-37, 247, 248, 257, 341, 342n, 456, 480, 539
  - inadequacies of governments of, 86, 87-88, 88, 89, 135n, 174, 175, 345, 355, 365n, 417, 544
  - Constitution as a compromise among, 86, 249, 288, 329, 347, 523
  - relationship of to central government, 125, 358-59, 396-97, 397-98, 427, 473-74, 527-28
  - equal representation of in Confederation Congress, 128, 150, 151, 182, 207, 210n, 250-51, 253, 386n, 524
  - recall of congressional delegates of, 128, 298, 397
- See also* Articles of Confederation; Coercive power; Congress under Articles; Constitutional Convention; Conventions, state; Debts, state; Interstate relations; Political conditions under the Confederation; Entries for individual states
- STEARNS, ISAAC (Mass.): id., 193n
- letter from, 192-93; cited, 193n
- STEBEN, FRIEDRICH WILLIAM AUGUSTUS, BARON VON (N.Y.), 340, 481, 483n-84n
- STEVENS, JOHN, JR. (N.J.; CC:Vol. 1, 486n), 120n
- STEVENS, JOHN, SR. (N.J.; CC:Vol. 1, 486n), 371
- STILES, EZRA (Conn.): id., 58n-59n
- diary of, 57-59, 74-75
- STILLMAN, SAMUEL (Mass.), 120n
- STOCKBRIDGE, MASS., 90, 91n, 310, 311n
- STODDARD, ASHBEL (N.Y.), 10n, 34n.
- See also* Newspapers, New York *Hudson Weekly Gazette*
- STONINGTON, CONN., 256-58
- STRONG, CALEB (Mass.; CC:Vol. 1, 357n), 568n
- STUART, ARCHIBALD (Va.; CC:Vol. 1, 454n)
- letters from: quoted, 119n, 498n
- STUART, DAVID (Va.; CC:Vol. 1, 386n)
- letter from: cited, 561n
  - letter to: quoted, 149n, 519n
- SULLIVAN, JOHN (N.H.; CC:Vol. 1, 516n), 371, 518n, 564
- letter from: quoted, 417n; cited, 102
  - letter to, 416-17; cited, 416n

- SUPREMACY CLAUSE:** criticism of, 22–23, 25, 29, 112, 134, 213, 232, 264, 379; defense of, 38–39, 97, 127, 200, 220, 222, 259, 358, 400, 473–74. *See also* Treaties
- SUPREME COURT:** *See* Judiciary, U.S.
- SWITZERLAND:** *See* Governments, ancient and modern
- “**TAMONY,**” 322–25
- TAXATION,** 153, 207, 209–10, 211, 239, 248, 257, 267, 280, 355; central government needs stronger powers over, 5, 19, 57; criticism of Constitution’s provisions concerning, 19, 22, 30–31, 32, 33, 46, 75, 110–17, 213, 232, 234–40, 264, 273, 285, 291, 339, 369, 373, 377, 378, 436, 468, 507, 515; under Confederation, 36n, 239, 467n, 545–46; defense of Constitution’s provisions concerning, 57–58, 76, 126–27, 160–64, 198, 211–15, 217–23, 259–63, 268–72, 274–79, 282, 303–7, 401, 422, 423–25, 479, 480, 480n, 545, 546; debated in Constitutional Convention, 57, 349, 351, 376–78, 380n
- direct taxes, 351, 545–46; criticism of, 30–31, 239, 275, 356, 376–78, 380n; defense of, 57–58, 282, 304–7, 406, 545
- excise taxes: criticism of, 22, 111, 113, 273, 275, 377, 378, 436; defense of, 57–58, 269, 304, 435
- land taxes, 239; criticism of, 22, 30–31, 271, 275, 377; defense of, 304
- poll taxes, 36; criticism of, 22, 30, 377; defense of, 307, 545
- stamp taxes: criticism of, 22, 376–77, 412
- See also* Debt, U.S.; Duties; House of Representatives, U.S.; Impost of 1781; Impost of 1783; Money bills; Property, private; Requisitions; Senate, U.S.; Slavery; Three-fifths clause; Western lands
- TELFAIR, WILLIAM** (Ga.), 371
- TENDER LAWS:** debate over Constitution’s provisions prohibiting, 174, 436, 437n, 470, 538, 544. *See also* Contracts, obligation of; Debts, private; Paper money; Property, private
- THATCHER, GEORGE** (Mass.; CC:Vol. 2, 169n)
- letters from: quoted, 287n; cited, 284, 372
- letters to, 284–87, 372–73; quoted, 51n, 291n; cited, 51n
- THATCHER, SARAH** (Mrs. George) (Mass.), 286
- letter to: quoted, 287n
- THOMAS, PHILIP** (Md.)
- letter from: quoted, 518n
- THOMPSON, SAMUEL** (Mass.): id., 287n; 287
- THOMPSON, WILLIAM** (Mass.), 193n
- THOMSON, CHARLES** (N.Y.)
- letter from: cited, 91n
- THORNDIKE, ISRAEL** (Mass.), 177n
- THREE-FIFTHS CLAUSE,** 153, 285
- THRUSTON, CHARLES M.** (Va.; CC:Vol. 2, 83n): id., 134n
- letter from (joint), 121–22; cited, 119n
- letter to (joint), 122; cited, 119n
- TILLINGHAST, CHARLES** (N.Y.; CC:Vol. 1, 374n), 10n
- letters from, 480–83; cited, 482, 484n
- letters to: cited, 480, 482, 484
- TODD, WILLIAM** (Pa.), 34
- TORIES,** 51n; members of Constitutional Convention labelled as, 47, 186
- TOWN MEETINGS:** Stockbridge, Mass., 91n; Stonington, Conn., 256–58
- TRADESMEN:** *See* Mechanics and tradesmen
- TREASON,** 447; criticism of President’s power to pardon in cases of, 30, 134, 392, 495; praise of Constitution’s provisions concerning, 440–41
- TREATIES,** 20, 479, 533; criticism of inability of Confederation to obtain and enforce, 14, 124, 247, 369, 427, 469, 480; debate over as supreme law of land, 29, 38–39, 134, 474; debate over Senate’s power over, 29, 134, 281; defense of Constitution’s provisions concerning, 38–39, 358, 427, 469, 480; debated in Constitutional Convention, 57, 152; defense of prohibition against states entering into, 204, 269, 544
- TREATY OF PEACE,** 247
- TRIST, ELIZA HOUSE** (Va.)
- letter to: quoted, 148n
- TROUP, ROBERT** (N.Y.)
- letter to: cited, 223n
- TRUMAN, THOMAS** (Mass.): id., 295n; 292



TRUMAN, WILLIAM (Mass.): id., 295n; 292

TUCKER, FRANCES (Mrs. St. George) (Va.)

—letter to: quoted, 118n

TUCKER, ST. GEORGE (Va.; CC:Vol. 1, 454n): id., 144n; 498n

—letter from: quoted, 118n

—letter to, 143–44

TUCKER, THOMAS TUDOR (S.C.): id., 144n

—letter from, 143–44

TURBERVILLE, GEORGE LEE (Va.; CC:Vol. 1, 507n)

—letter from: quoted, 120n

TURKEY: *See* Governments, ancient and modern

UNICAMERALISM, 574; supported, 58, 296–97, 297; opposed, 128, 524–25. *See also* Bicameralism

UNION, 34, 60, 245, 487; necessity of, 4, 57, 69, 126, 128–29, 134, 140, 193, 200, 244, 247–48, 420–21, 476; Confederation must be strengthened to preserve, 128, 359, 385; danger to if Constitution is rejected, 132, 137, 249, 288, 388–89, 485; Antifederalists accused of opposing, 326, 541; advantages of, 363, 566. *See also* Separate confederacies

UNION SOCIETY (Carlisle, Pa.), 13n, 230n

VAN SCHAACK, HENRY (Mass.)

—letter from: quoted, 12n

VAN SCHAACK, PETER (N.Y.)

—letter to: quoted, 12n

VAUGHAN, JOHN (Pa.; CC:Vol. 2, 209n)

—letter to: quoted, 53, 93

VERMONT, 103, 166, 177, 300

VERSE: *See* Poetry

VETO POWER, 93, 133, 153, 245; debate over President's power, 26, 154, 175, 282, 375–76, 525; debate over congressional veto of state laws, 152, 154–55

VICE PRESIDENT, 280, 392; debate over connection with Senate, 283, 495; debate over method of election of, 458, 495, 509, 510; John Hancock as possible first Vice President of U.S., 562n, 562n–63n, 563

VIOLENCE: intimidation used by Pennsylvania Federalists, 15–16, 20, 362, 388, 390n, 449, 505; in Pennsylvania, 16, 17, 17–18, 202n, 215, 225n, 374; intimidation used by Pennsylvania Antifederalists, 88–89, 194; charge that Federalists will use force to ratify Constitution, 108–9, 140. *See also* Civil war; Insurrections, domestic; Shays's Rebellion; Wyoming Valley

VIRGINIA, 90, 94, 108–9, 138, 277, 349–50, 401, 423, 562n; calls convention to strengthen Articles of Confederation, 14, 173, 407; constitution and government of, 43n, 382, 503; Antifederalists in, 52, 70, 78, 119n, 203, 216, 288, 324n, 325, 327, 399, 475, 558, 560; calls state convention, 56, 70, 118n, 119n, 203, 233, 323, 325n, 543, 556; prospects for ratification in, 88, 119n, 173, 189, 203, 325, 330, 331, 399, 426, 438, 498, 498n, 561, 573; stops requisition payments to Congress, 90, 91n; letter from Governor Randolph to House of Delegates of (10 Oct. 1787), 117–35, 287, 288n, 326–27, 391–93, 571; proposal for limited ratification by, 118n; Governor Randolph delivers Constitution to legislature of, 118n, 123; and a second constitutional convention, 118n, 326, 573; convention of, 121n; and separate confederacies, 129–30, 135n; favors unequal representation of states in Confederation Congress, 151, 251; in Constitutional Convention, 154, 156n, 252, 299–300, 302n, 487, 488n; Federalist literature sent to, 172, 518n, 553; party spirit high in, 189, 573; Federalists in, 324n–25n, 426, 498, 558, 561, 573; influence of on other states, 328, 365, 399; animosity of South Carolina for, 417, 487; cedes western lands to Congress, 549. *See also* Kentucky; Richmond

VIRTUE, 236; possessed by Americans, 13, 83; loss of in America, 47n, 89, 174, 279, 469–70, 538; Constitution will promote, 293, 559. *See also* Human nature; Personal interest

WADSWORTH, JAMES (Conn.; CC:Vol. 2, 241n), 243n, 273–74, 274–79

- WADSWORTH, JEREMIAH** (Conn.; CC:Vol. 1, 177n), 371  
 –letter from: cited, 223n  
 –letters to, 70–71; quoted, 11n, 340n  
**WAIT, THOMAS B.** (Mass.)  
 –letter from, 284–87  
 –letter to: cited, 284  
*See also* Newspapers, Massachusetts  
*Cumberland Gazette*  
**WALKER, DAVID** (Pa.), 230  
**WALKER, JOHN** (Pa.), 230  
**WALKER, JONATHAN** (Pa.), 230  
**WALLIS, SAMUEL** (Pa.): id., 427n  
 –letter to, 426–27  
**WAR:** danger of in Europe, 203, 330, 331, 363, 364, 426. *See also* Invasion, foreign  
**WAR POWER:** debate over Constitution's provisions concerning, 57, 57–58, 163–64, 236, 260, 261, 264, 274, 378, 418, 419, 468, 479, 480, 544. *See also* Invasion, foreign; Peace  
**WARRANTS:** *See* Searches and seizures  
**WARREN, JAMES** (Mass.; CC:Vol. 1, 407n), 332n  
**WARREN, MERCY** (Mass.), 149n, 332n  
**WASHINGTON, GEORGE\*** (Va.; CC:Vol. 1, 60n, 77n), 119n, 135n, 137–38, 139, 353n, 372, 517n, 518n; and R. H. Lee's alleged enmity for, 78, 81, 82, 85, 159; praised, 100, 130, 137–38, 139, 141, 142, 228, 257, 390n, 530, 564n; said to support Constitution, 135n, 325, 371, 556, 556n, 558; and debate over whether he was duped into signing Constitution, 149n, 188, 232–33, 284, 309, 371, 390n, 400, 446–47, 452, 555, 556n; favored large-state position in Constitutional Convention, 155, 255; quelled Newburgh Conspiracy, 390n, 462–63, 467n; will be first President of U.S., 521n, 563; will not be first President of U.S., 568  
 –letters from, 91–92, 135–36, 136–37, 137, 203–4, 287–88, 330, 330–31, 398–99; quoted, 53n, 92n, 118n–19n, 119n, 136n, 439n, 541; cited, 51, 53n, 136n, 142n, 203, 204n, 330–31, 561n  
 –letters to, 51–53, 102, 365, 425–26; quoted, 12n, 53n, 120n, 135n, 136n, 288n; cited, 136n, 203, 287n, 330, 340n, 399, 498n, 561n  
 –circular letter of June 1783, 390n  
*See also* Great men and the Constitution  
**WAYNE, ANTHONY** (Pa.), 371  
**WEBB, SAMUEL BLACHLEY** (N.Y.): id., 363n  
 –letter from, 362–63  
**WEBSTER, NOAH** (Pa., N.Y.; CC:Vol. 1, 405n), 202n, 483, 484n  
 –diary of, 194n  
 –“America,” 13n, 194–201  
**WEBSTER, PELATIAH** (Pa.; CC:Vol. 1, 294n), 13n, 36n  
**WEIGHTS AND MEASURES,** 406, 431, 433  
**WESTERN LANDS,** 89, 166, 254, 485; sale of and public debt, 14, 237, 282, 359, 485; protection of, 42, 247, 276, 396, 463–64, 465; conflict among states over, 84, 441, 549, 550; states cede to Congress, 91, 359, 549, 550; Confederation Congress' use of extra-legal powers over, 359, 360n, 408, 441; praise for Constitution's provision concerning, 441, 549  
**WHARTON, RICHARD** (Pa.), 86  
**WHEELBARROW MEN,** 201  
**WHITE, ALEXANDER** (Va.), 13n  
**WHITEHILL, JOHN** (Pa.), 34  
**WHITEHILL, ROBERT** (Pa.), 35n  
 –in Pennsylvania Convention, 34, 35n, 36, 47n, 88, 90n, 183, 335n, 505; quoted, 7n, 8n; and petitions from Cumberland County, 8n, 44, 47n  
**WIDGERY, WILLIAM** (Mass.): id., 287n; 287  
**WILKINSON, JAMES** (Va.; CC:Vol. 2, 380n), 328, 328n  
**WILLET, MARINUS** (N.Y.), 76  
**WILLIAMS, OTHO HOLLAND** (Md.), 13n, 120n, 149n  
**WILLIAMS, WILLIAM** (Conn.), 317n  
 –letter from: quoted, 148n  
**WILLIAMSON, HUGH\*** (N.C.), 364, 365n  
**WILSON, JAMES\*** (Pa.; CC:Vol. 1, 337n), 36n, 171, 228, 234, 240n, 360n, 361–62, 371, 372, 427n, 486, 505, 506; in Pennsylvania Convention, 8n, 90n, 450n; in Constitutional Convention, 35n, 58, 59n, 210n; burned in effigy in Carlisle, 90n, 225n, 226, 227, 374; as “James de Caledonia” in satirical Antifederalist essays, 147n, 149n, 180n, 454n, 505; accused of writing “A Freeman,” 453n, 454n, 506; accused of writing

- "Conciliator," 505-6; sent a copy of  
 "Aristides," 518n, 551  
 -letter from, 426-27  
 -speech in Philadelphia public meet-  
 ing (6 Oct. 1787): praised, 36-39,  
 182, 184-85, 537; criticized, 264-65,  
 284-85  
 -speech in Pennsylvania Convention  
 (24 Nov. 1787), 21, 110, 332n  
 WILSON, JAMES A. (Pa.): *id.*, 228n; 226,  
 228  
 WINSOR, OLNEY (Va.)  
 -letter from: cited, 120n  
 WINTHROP, JAMES (Mass.): *id.*, 160n;  
 51n, 157, 160n  
 WINTHROP, JOHN (Mass.), 290n, 291,  
 292  
 WITHERLE, JOSHUA (Mass.): *id.*, 295n;  
 293  
 WITHERSPOON, JOHN (N.J.), 371  
 WOLCOTT, OLIVER, SR. (Conn.; CC:  
 Vol. 1, 354n): *id.*, 312n  
 -speech in Connecticut Convention,  
 243n, 317n; text of, 315-16  
 WOMEN, 508  
 WOOD, JOSEPH (Mass.), 177n  
 WORKMAN, BENJAMIN (Pa.; CC:Vol. 1,  
 573n)  
 -"Philadelphiensis," 188n, 458-62. *See*  
*also* "Philadelphiensis"  
 WRONGHEADS, 79, 81  
 WYOMING VALLEY: dispute in, 62, 63n-  
 64n, 67, 103, 310, 311n, 466  
 WYTHE, GEORGE (Va.; CC:Vol. 1,  
 453n), 58, 59n, 181n  
 YATES, ABRAHAM, JR. (N.Y.; CC:Vol. 2,  
 242n), 484n, 569  
 YATES, ROBERT (N.Y.): *id.*, 366n; 76,  
 483  
 -in Constitutional Convention, 366n,  
 367n, 572; leaves early, 58, 59n, 255,  
 256n, 366n-67n, 367n, 370  
 -letter from (with John Lansing, Jr.) to  
 Governor Clinton, 256; text of, 368-  
 70; legislature receives, 341n, 342,  
 367n; publication and circulation of,  
 365n, 367n, 572; charge that Clinton  
 was behind writing of, 367n; praised,  
 368n; criticized, 368n, 571  
 -letter to: quoted, 366n  
 YORK, MAINE, 49, 51n







**THE DOCUMENTARY HISTORY OF THE  
RATIFICATION OF THE CONSTITUTION**

was composed by A-R Editions, Inc.  
of Madison, Wisconsin, on a  
Mergenthaler Linotron 202  
in a type face called Baskerville,  
and is printed on  
Warren's Olde Style Antique Wove.







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