

THE DOCUMENTARY HISTORY OF THE
RATIFICATION OF THE CONSTITUTION

VOLUME XXX

Ratification of the Constitution by the States

NORTH CAROLINA

[1]

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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* (27 volumes),
- (3) *Commentaries on the Constitution: Public and Private* (6 volumes),
- (4) *The Bill of Rights* (6 volumes).

Internet Availability

The North Carolina volumes and all other volumes will be found on the website of “Rotunda: The American Founding Era,” maintained by the University of Virginia Press (<http://rotunda.upress.virginia.edu>), and at UW Digital Collections on the website of the University of Wisconsin–Madison Libraries (<https://uwdc.library.wisc.edu>).

Constitutional Documents and Records, 1776–1787 (Vol. I).

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 (Vols. II–XII, XIX–XXXIV).

The volumes are arranged roughly 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.

Supplements to Ratification of the Constitution by the States.

Supplemental documents were originally placed on microfiche and are available in that form for Pennsylvania (Vol. II), Delaware, New Jersey, Georgia, and Connecticut (all four, Vol. III), and Virginia (Vols. VIII–X). The original microfiche editions of supplemental documents for Pennsylvania, Delaware, New Jersey, Georgia, Connecticut, and Virginia were digitized for online viewing. These digitized supplements can be located at UW Digital Collections on the website of the University of Wisconsin–Madison Libraries (<https://uwdc.library.wisc.edu>). Supplemental documents for all of the states will be made available in digital form in the coming years. (Because of the importance of the Pennsylvania Supplemental Documents to both the Pennsylvania and the national debate over the Constitution, these documents have been published as RCS volumes 32–34.)

Much of the material for each state is repetitious or peripheral but still valuable. Mostly literal transcripts of this material are placed in the supplements. (Any exceptions to this rule have been clearly indicated.) Occasionally, images 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) images of petitions with the names of signers,
- (5) images 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 (Vols. XIII–XVIII).

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 six 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 25 September and were sent to the states on 2 October. These volumes 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

All documents are transcribed literally. Obvious slips of the pen and errors in typesetting are silently corrected. When spelling, capitalization, punctuation, paragraphing, and spacing between words are unclear, modern usage is followed. Superscripts and interlineations are lowered to the line, and marginalia are inserted where the author intended. The thorn is spelled out (i.e., “ye” becomes “the”). Crossed-out words are retained when significant. Obsolete meanings of words are supplied in footnotes.

Square 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 text (up to five characters in length) is silently provided.

All headings are supplied by the editors. Salutations, closings of letters, addresses, endorsements, docketings, and postmarks are deleted unless they provide important information, in which case they are retained in the document or placed in editorial notes. Contemporary footnotes and marginal citations are printed after the text of the document and immediately preceding editorial footnotes. Symbols used by contemporaries, such as stars, asterisks, and daggers, have been replaced by superscripted letters (a), (b), (c), etc.

Many documents, particularly letters, are excerpted when they contain material that is not relevant to ratification. Whenever an excerpt is printed in this edition and a longer excerpt or the entire document appears elsewhere in this edition or in other editions, this is noted.

General Ratification Chronology, 1786–1791

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.

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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 <i>sine die</i> .
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– 7 January 1788	Massachusetts elects delegates to state convention.
20 November– 15 December	Pennsylvania Convention.
26 November	Delaware elects delegates to state convention.
27 November– 1 December	Maryland calls state convention.
27 November– 1 December	New Jersey elects delegates to state convention.
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– 5 January 1788	Georgia Convention.
31 December	Georgia Convention ratifies Constitution, 26 to 0.
31 December– 12 February 1788	New Hampshire elects delegates to state convention.
1788	
3–9 January	Connecticut Convention.
9 January	Connecticut Convention ratifies Constitution, 128 to 40.
9 January–7 February	Massachusetts Convention.
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.
3–27 March	Virginia elects delegates to state convention.
24 March	Rhode Island referendum: voters reject Constitution, 2,714 to 238.
28–29 March	North Carolina elects delegates to state convention.
7 April	Maryland elects delegates to state convention.
10–12 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.
- 27 June Virginia Convention proposes amendments.
- 2 July New Hampshire ratification read in Congress; Congress appoints committee to put 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**
- 4 March First Federal Congress convenes.
- 1 April House of Representatives attains quorum.
- 6 April Senate attains quorum.
- 30 April George Washington inaugurated first President.
- 8 June James Madison proposes Bill of Rights in Congress.
- 21–22 August North Carolina elects delegates to second state convention.
- 25 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.
- 1791**
- 6–10 January Vermont Convention.
- 10 January Vermont Convention ratifies Constitution, 105 to 4.
- 18 February Vermont admitted to the Union.
- 15 December Bill of Rights adopted.

Calendar for the Years 1787–1790

1787

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1789

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1790

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Introduction

The Founding of North Carolina

The English colonization of North Carolina began in 1663, when King Charles II granted a charter to eight men who had been instrumental in the restoration of the Stuart monarchy in 1660 following the English Civil War and the execution of Charles I in 1649. The royal charter gave the eight lords proprietors extensive control over the land that would become North and South Carolina, including “all the royalties, properties, jurisdictions, and privileges of a county palatine.” Two years later, in an attempt to lure settlers to the colony, the lords proprietors issued their Concessions and Agreement, which provided for a governor and council, a unicameral legislature, and a system of courts, as well as the collection of taxes.¹

In 1669, with some settler dissatisfaction with the Concessions and Agreement, Anthony Ashley Cooper, the first earl of Shaftesbury and one of the lords proprietors, and his secretary John Locke, the philosopher, devised a plan of government for the new colony called the Fundamental Constitutions of Carolina. The plan was approved but never fully implemented and was eventually revoked forty years later. The document consisted of 120 “Constitutions” (what would now be referred to as “Articles”). The Constitutions created a feudalistic society that provided social and political stability while guarding against the dangers of democracy. The social hierarchy consisted of the lords proprietors and their descendants; hereditary noblemen (each county would have one landgrave and two caziques); wealthy lords of the manor, farmers, merchants, and tradesmen, all of whom could own property; serfs (called leetmen), who could not vote or hold office and were permanently under the control of a master; and slaves. Ownership of fifty acres of land was necessary to vote and the secret ballot was used. Those who owned 500 acres of land could be elected to the colonial parliament, which was chosen biennially. Parliament consisted of the eight lords proprietors (or their descendants), the landgrave and caziques from each county, and four elected members from each county. A grand council consisting of the eight lords proprietors and forty-two councilors served as a court of last resort, set the agenda for parliament, and controlled all expenditures authorized by parliament. Free males between the ages of seventeen and sixty were required to bear arms in a colonial militia. Although the Anglican Church became the

colony's establishment in 1704, religious toleration extended to dissenters, Jews, and heathens.²

Without a major seaport of its own, Carolina developed in relative isolation from neighboring colonies and from England. Carolina's vastness and its regional differences, north and south, made administering the colony difficult. In 1691, the lords proprietors appointed a governor for the entire colony, but a deputy governor presided over the northern section. In 1712, a formal split occurred between North and South Carolina, with South Carolina becoming a royal colony in 1719. In 1729, North Carolina also became a royal colony, when King George II bought the shares of seven of the lords proprietors. The transition from a proprietary to a royal colony produced few noticeable changes except that the king now appointed the governor.³

Carolina drew from surrounding colonies as it grew. Settlers from Virginia came as early as the 1650s in search of fertile land to grow tobacco, wheat and corn and to raise livestock. In the 1720s, South Carolinians came to the Cape Fear River area to grow rice and other staples. When Wilmington developed as a port in the 1740s, the exportation of naval stores (tar, pitch, and turpentine) made a significant contribution to the economy. By the time of the Revolutionary War, North Carolina had become the fourth most populous colony behind Virginia, Massachusetts, and Pennsylvania. Although more homogeneous than its neighbors, with few aristocrats and fewer urban developments, North Carolina still had a wide range of inhabitants—wealthy families, subsistence farmers, and many slaves.

The Regulator Movement

In the late 1760s and early 1770s backcountry North Carolinians protested against inequitable taxation and representation as well as corrupt local government. Soon the rhetorical battles escalated into an armed rebellion with both sides appealing to the British government for support. Government forces won a decisive victory at the Battle of Alamance in May 1771 and executed seven regulator leaders. The movement against unjust rule by the wealthy coastal regions soon melded with the growing conflict against the new imperial policy (an end to benign, or salutary, neglect and the imposition of revenue-generating measures) after the end of the French and Indian War.⁴

The political conflict between east and west in North Carolina persisted. In June 1784, the General Assembly ceded the state's western lands to Congress, but when other states failed to do the same, the General Assembly repealed its cession in November 1784. The repeal, however, did not stop an ongoing separatist movement to create the

district of Franklin in the mid-1780s with General John Sevier as its governor. Indian policy was a constant irritant between the easterners and those in the backcountry. Finally, in December 1789, the General Assembly again ceded the state's western lands to Congress. A relieved Archibald Maclaine wrote "that we are at last rid of a people who were a pest and a burthen to us."⁵

The Revolution

From North Carolina's origins, settlers believed that they retained the rights of Englishmen. North Carolinians vigorously objected to the king's Proclamation Line of 1763 that prohibited western settlement beyond the crest of the Appalachian Mountains. In response to the hated Stamp Act of 1765, Maurice Moore, a judge on the colony's supreme court, wrote a pamphlet stating that "The inhabitants of the Colonies . . . have always thought, and I believe ever will think, all the constitutional rights and liberties enjoyed in Great-Britain . . . their Birth-Right."⁶ Like the other mainland colonies, North Carolina's opposition to the new imperial policy steadily grew. Local opposition groups organized. In February 1776, 1,600 loyal Highland Scots from the Upper Cape Fear Valley marched to suppress the opposition. They were soundly defeated by patriot militia at the Battle of Moores Creek Bridge. On 12 April 1776, the Fourth Provincial Congress meeting at Halifax unanimously adopted the Halifax Resolves that called on the Second Continental Congress to declare independence. North Carolina's three delegates to the Second Continental Congress (William Hooper, Joseph Hewes, and John Penn) signed the Declaration of Independence.⁷

The Declaration of Rights and the State Constitution

In late 1776, the Fifth Provincial Congress meeting in Halifax formulated and adopted a declaration of rights on 17 December 1776 and a constitution on the following day. The 25 sections of the Declaration of Rights were similar to those of Virginia, Pennsylvania, Delaware and Maryland.⁸ Virtually all of the rights that would later be enshrined in the U.S. Bill of Rights were protected, including the right to be informed of charges against oneself, to confront witnesses, not to incriminate oneself, to grand jury indictments, and to jury trials in criminal cases with unanimous verdicts. Convictions had to be under the law of the land. Excessive bail or fines, cruel and unusual punishments, general warrants, and ex post facto laws were all prohibited. Jury trials in civil cases were required. Freedom of the press, the right of assembly, the right to petition for redress of grievances, the right to bear arms, and freedom of religion were all guaranteed. The Declaration of Rights

also mandated the separation of powers and prohibited the suspension of laws. Elections to the General Assembly were to be frequent and a frequent recurrence to fundamental principles was prescribed. Monopolies, standing armies in peacetime, and hereditary emoluments, privileges, and honors were prohibited. The military was always to be subordinate to the civil authority. Only freemen or their representatives in the General Assembly could approve taxes. Freemen could instruct their representatives. The state's boundary with South Carolina was described, and Indian hunting rights were guaranteed. The Constitution declared that the Declaration of Rights was part of the Constitution "and ought never to be violated, on any Pretence whatsoever."

The Constitution began with a preamble that justified independence from Great Britain. A bicameral legislature called the General Assembly was to be composed of a senate and a house of commons. Each county could choose one senator and two members of the Commons annually by ballot. Six borough towns could also elect one member of the Commons. Members of both houses needed at least one year's residency in their home county or town. Senators needed to own 300 acres of land, while members of the Commons needed 100 acres. Suffrage was held by twenty-one-year-old men, with fifty acres of land required to vote for the Senate and simply paying taxes required to vote for the Commons. All legislators and other officeholders were required to take an oath of allegiance to the state.

The General Assembly elected judges, the governor, and the attorney general by joint ballot. Judges served for good behavior, while the governor was eligible to serve no more than three annual terms within a six-year period. The governor needed to be at least thirty years old, a resident of North Carolina for at least five years, and owning land worth at least £1,000. He was to have all executive power, could grant pardons and reprieves, and was to be commander of the state militia. Upon the governor's death or disability, he was to be succeeded by the speaker of the Commons. The governor and all other officers were subject to impeachment. The General Assembly also annually elected by joint ballot a seven-member council of state that was to advise the governor, the state treasurer, and the secretary of state, who had a three-year term. All judges, the governor, and the attorney general were to receive adequate salaries.

Members of the military (state and continental), judges, and clergymen could not serve in the General Assembly or the Council of State. Members of the Council could not serve in the General Assembly. Dual office-holding was prohibited. Justices of the peace were recommended by the General Assembly and appointed by the governor. They served

during good behavior. Delegates to Congress were annually chosen by ballot by the General Assembly, could be recalled, and could serve no more than three consecutive years.

Although there was to be no established church and religious toleration was broadly allowed, state officeholders were required to be Protestants who believed in God and the divine authority of the Old and New Testaments. Debtors' prisons were forbidden. Naturalization could occur after a residency of one year. Upon taking an oath of allegiance to the state, foreigners could purchase and sell land. The General Assembly was to establish schools. No person could purchase land from Indians. Entails were to be regulated so as to prevent "perpetuations." Members of the General Assembly could dissent from legislative measures and have their dissent entered on the journals. The journals of both houses were to be printed "immediately after their Adjournments."

The Confederation

The North Carolina General Assembly unanimously approved the Articles of Confederation on 24 April 1778. The state's three delegates to Congress (John Penn, Cornelius Harnett, and John Williams) signed the engrossed Articles on 21 July 1778.⁹ The state quickly approved Congress' recommended amendments to the Articles of Confederation, including the Impost of 1781, the Impost of 1783, and the 1784 grant of power to Congress allowing it to regulate foreign commerce. The General Assembly also appointed five commissioners to attend the Annapolis Convention. But Hugh Williamson, the only North Carolina commissioner to make the journey, arrived in Annapolis after the convention made its report and adjourned. On 22 December 1787 the General Assembly agreed to Congress' resolution of 13 April 1787 making the Treaty of Peace (1783) the law of the land, thus empowering state judges to declare state laws null and void if they interfered with the attempts of British creditors to collect their prewar debts.

Like the other states, North Carolina experienced a brief period of prosperity at the end of the war. An increase in agriculture and natural resources occurred as exports greatly expanded. But soon the glutted markets drove prices down precipitously. Huge numbers of imports flooded the state that were paid for by specie that was shipped abroad to pay British merchants, thus creating a severe shortage of a circulating medium. Funds were unavailable to pay interest or principal on the state's wartime debt, to pay returning soldiers from the Continental Line, and to pay the state's requisition assessed by the Confederation Congress. Soon the state found itself in the throes of an economic depression. Demand grew for a new emission of paper money.¹⁰

Paper money had been used by all of the British American colonies during time of war and during economic depressions. The paper currency usually circulated successfully and was redeemed in payment of taxes. After initial success, the wartime experience with paper money was a disaster as the huge issuance of state and continental currency resulted in runaway inflation. Thus, when demand grew in April 1783 for a new emission of paper money, North Carolina was severely divided. The General Assembly approved an emission of £100,000 in paper money to be legal tender to pay the arrears to Continental soldiers, to pay for confiscated Loyalist estates, and to redeem wartime paper money at a rate of 800 for one. The bulk of the money (£72,000) went to pay returning soldiers. The legislature also passed a stay act that suspended all legal actions involving debts for one year.

Although initially opposed by merchants, the paper money held its value fairly well. Within the first year, the currency depreciated 25% when used to purchase goods and from 12.5% to 15% when exchanged for hard money. In the fall of 1784, the General Assembly officially allowed that it would consider the 1783 currency to be valued at 77.66% of hard money in collecting the state impost.

Although most people accepted the currency—even merchants—it offered little permanent relief from the economic difficulties of the mid-1780s. Consequently, debate over another emission of paper money dominated the political landscape. Fears of another emission caused a further depreciation of the 1783 currency to a 35% discount for purchases and a 25% discount in exchange for hard currency. In April 1785, the House of Commons passed the paper money bill by a vote of 52 to 21, while the Senate approved the measure by a vote of 31 to 7. The act provided for another £100,000 of legal tender paper money, which was not well received by merchants. In an attempt to stabilize the currency, the bill provided for a “sinking tax” assessed against property and payable in the 1785 currency. Paper money paid into this sinking tax was not to be re-circulated. Within a year, the new currency had depreciated by one-third. After two years it circulated at a 40% discount, which by 1788 increased to a 53% discount. In a report in the 1789 General Assembly, only about 22% of the paper money had been retired. By November 1789, seven-eighths of the 1783 and 1785 emissions still circulated. North Carolina’s two ratifying conventions proposed amendments to the U.S. Constitution that would allow the states alone to retire state paper money already in circulation before the adoption of the Constitution. In 1790, the General Assembly terminated the sinking tax and provided that both paper money and specie be receivable in payment for public lands.

The Constitutional Convention

On 6 January 1787 the North Carolina General Assembly responded to the Annapolis Convention's report by authorizing the appointment of five delegates to the proposed convention to meet in Philadelphia in May 1787.¹¹ According to the act, the Articles of Confederation were found to be "far inadequate to the enlarged purposes which they were intended to produce." Congress, the act said, had tried to convince the states "of the truly critical and alarming situation into which they must be unavoidably cast, unless measures are forthwith taken to enlarge the powers of Congress" so as "to avert the dangers which threaten our existence as a free and independent people." North Carolina, in the words of the act, had been "at all times ready to make every concession to the safety and happiness of the whole, which justice and sound policy could vindicate." By joint ballot, the General Assembly then appointed Governor Richard Caswell, Alexander Martin, Richard Dobbs Spaight, William R. Davie, and Willie Jones as delegates to the convention. The delegates were to report any act of the convention to the state legislature. The governor was authorized to fill vacancies that might occur due to resignation or death. When Caswell and Jones declined to serve, Governor Caswell recommended and the Council approved the appointment of Hugh Williamson on 14 March and William Blount on 16 April.

Except for Blount, the North Carolina delegates attended the beginning of the Convention during the third week of May 1787. Blount did not attend until 20 June. Williamson and Spaight stayed for the entire Convention. Davie left in mid-August, while Martin left toward the end of August. Blount left the Convention on 2 July to attend Congress, which was then sitting in New York City. He returned to the Convention on 7 August and stayed until the end. Williamson, Spaight, and Blount signed the Constitution on the last day of the Convention. Williamson was the most active North Carolina delegate, being the ninth most prolific speaker with seventy-seven speeches and thirty-five motions. He also served on six committees. Davie spoke five times with two motions, and Spaight spoke four times with thirteen motions. Blount spoke only once, and Martin never delivered a speech. Neither Blount nor Martin served on a committee, while Martin made only three motions and Blount made none.¹² Coming from the fourth most populous state, North Carolina's delegates often supported the large state position and wanted a stronger central government. They almost always supported the Southern States' position on key issues. On 18 September, the day after the Constitutional Convention adjourned, North Carolina's delegates sent their report to Governor Caswell. The report enclosed the

newly proposed Constitution, which the delegates hoped “will obviate the defects of the present Federal Union and procure the enlarged purposes which it was intended to effect.”¹³

1. The Fundamental Constitutions of Carolina opened with a re-statement of the prerogatives given to the lords proprietors in the royal charter (Thorpe, V, 2772). For the early documents of North Carolina’s founding, including the royal charter, the Concessions and Agreement, and the further extension of the royal charter in 1665, see Thorpe, V, 2743–53, 2756–61, 2761–71.

2. For the Fundamental Constitutions of Carolina, including the provisions highlighted in this paragraph, see Thorpe, V, 2772–86. See also William S. Price, Jr., “‘There Ought to Be a Bill of Rights’: North Carolina Enters a New Nation,” in Patrick T. Conley and John P. Kaminski, eds., *The Bill of Rights and the States: The Colonial and Revolutionary Origins of American Liberties* (Madison, Wis., 1992), 427.

3. For North Carolina’s colonial history, see William S. Powell, *North Carolina through Four Centuries* (Chapel Hill, N.C., 1989); and Jack P. Greene, *The Quest for Power: The Lower House of Assembly in the Southern Royal Colonies, 1689–1776* (Chapel Hill, N.C., 1963).

4. For the Regulator movement, see Alan D. Watson in Lindley S. Butler and Alan D. Watson, eds., *The North Carolina Experience: An Interpretive and Documentary History* (Chapel Hill, N.C., 1984).

5. Archibald Maclaine to James Iredell, 22 December 1789, Kelly, *Iredell*, III, 552.

6. Price, “‘There Ought to Be a Bill of Rights,’” 429.

7. Alan D. Watson, “States’ Rights and Agrarianism Ascendant,” in Patrick T. Conley and John P. Kaminski, eds., *The Constitution and the States: The Role of the Original Thirteen in the Framing and Adoption of the Federal Constitution* (Madison, Wis., 1988), 251–52.

8. For all references to the North Carolina Declaration of Rights and the state constitution, see Appendix I (RCS:N.C., 823–29).

9. On the North Carolina General Assembly’s unanimous approval and its delegates’ signing of the Articles of Confederation, see CDR, 94, 124–26.

10. James R. Morrill, *The Practice and Politics of Fiat Finance: North Carolina in the Confederation, 1783–1789* (Chapel Hill, N.C., 1969), 3–14. For the politics of paper money in North Carolina, see Morrill, 72–99.

11. For North Carolina’s appointment of delegates to the Constitutional Convention, see Appendix II (RCS:N.C., 830–32).

12. For the speeches, motions, and committee assignments in the Constitutional Convention, see the listing compiled by John P. Kaminski and Michael E. Stevens on the Center for the Study of the American Constitution’s website (<https://csac.history.wisc.edu/>).

13. RCS:N.C., 5–7n.

Note on Sources

Legislative and Executive Records

Manuscript journals of the House of Commons and the Senate are located in the North Carolina Archives. A sixteen-volume edition of these journals was published—Walter Clark, ed., *The State Records of North Carolina* (Raleigh, N.C., 1895–1906)—and is the standard source that is regularly cited in historical accounts. Annotation in the DHRC usually cites both the manuscript and printed journals. Many loose legislative papers can also be found in the state archives. When these loose papers provide nothing in addition to the journals, they are not printed or cited in the DHRC. Facsimiles of some loose papers, especially those that have unusual presentations, can be found on Mfm:N.C.

The manuscript governor's letterbook is also located in the state archives.

Petitions

Between August and November 1788, more than twenty manuscript petitions circulated and were then presented to the legislature requesting it to call a second ratifying convention. The wording on some of these petitions was copied from others. Ten different variations in wording appear—an example of each one is printed in Part VI. Facsimiles of all of the petitions with their 3,325 signatures can be found on Mfm:N.C. (All but one of the petitions are in the North Carolina State Papers, 1788–1789, at Duke University Library. The Halifax County and Town petition is in Legislative Papers/Commons/Nov. 1788 in Nc-Ar.)

Hugh Williamson, serving as a North Carolina commissioner to settle accounts between Congress and the state, addressed a petition (he called it a memorial) to Congress on 31 August 1789, requesting that Congress delay levying foreign tonnage duties on North Carolina ships and vessels. Congress read the memorial and agreed to delay implementation of the discriminatory duties until mid-January 1790, by which time North Carolina had ratified the Constitution.

Personal Papers

Almost 200 letters appear in the two North Carolina volumes. Although written by more than eighty writers and received by almost seventy different people, more than half of the letters were written or received by a few individuals. The most prolific letter writers were: Hugh Williamson (24), Governor Samuel Johnston (19), William R. Davie (16), Archibald Maclaine (15), James Iredell (9), William Hooper (6),

James Madison (5), Benjamin Hawkins (5), and Richard Dobbs Spaight (4). Recipients of letters were also concentrated. James Iredell received 58 letters, far more than any other person. (Iredell had a particularly extensive correspondence with Davie, Maclaine, and Williamson.) Others received the following number of letters: John Gray Blount (13), James Madison (13), Samuel Johnston (9), George Washington (9), and Hugh Williamson (5). Sixty-three people received one, two, or three letters.

Included in volume one is an exchange of letters between three prominent North Carolina Antifederalists (Willie Jones, Timothy Bloodworth, and Thomas Person) and John Lamb, the chairman of the New York Federal Republican Committee, which attempted to coordinate activities among Antifederalists in states that had not yet ratified the Constitution.

Four editions of personal papers have been most useful, particularly the edition of James Iredell papers edited by Donna Kelly and Lang Baradell.

- Don Higginbotham, ed. *The Papers of James Iredell*, Vols. 1–2 (Raleigh, N.C., 1976).
- Alice Barnwell Keith, ed., *The John Gray Blount Papers*, Vol. 1 (Raleigh, N.C., 1952).
- Donna Kelly and Lang Baradell, eds., *The Papers of James Iredell*, Vol. 3 (Raleigh, N.C., 2003).
- Griffith J. McRee, *Life and Correspondence of James Iredell*, Vols. 1–2 (New York, 1857–1858).

Over thirty personal letters appear in newspapers as “Extracts of a Letter.” (For a description of these excerpts, see the Newspapers section, immediately below.)

Newspapers

Between 1787 and 1790 seven weekly newspapers were published in North Carolina—three in Edenton, two in New Bern, and one each in Fayetteville and Wilmington. Few extant issues remain. The *Edenton Intelligencer* was published by Maurice Murphy. Its masthead read: “Where LIBERTY dwells there is my COUNTRY.” Only the issues of 9 April and 4 June 1788 survive. The *Edenton North-Carolina Gazette* was established on 24 October 1787, but only the issue for 19 December 1787 survives. The *Edenton State Gazette of North-Carolina* originated in New Bern and was published by Abraham Hodge and Henry Wills. The earliest extant issue is 8 September 1788.

The *Fayetteville Gazette* was published by John Sibley and Caleb D. Howard beginning in 1789. By January 1790 the name changed to *The*

North-Carolina Chronicle, or Fayetteville Gazette. With the issue of 17 September 1790 it went from a four-page folio edition to an eight-page quarto printed by George Roulstone for John Sibley & Co. With the issue of 11 October 1790 it was printed by Howard & Roulstone for John Sibley & Co. It was discontinued with the issue of 7 March 1791.

New Bern's newspapers included the *North-Carolina Gazette* published throughout the ratification years by François X. Martin. Between the issues of 15 August 1787 and 1 April 1790, Martin's name appeared in the title. The *State Gazette of North-Carolina* was published by Hodge and Wills. It moved to Edenton in the summer of 1788.

The *Wilmington Centinel, and General Advertiser* was published in 1788 by Daniel Bowen and Caleb D. Howard. Only the issue of 18 June 1788 survives. A brief report in the *New York Journal*, 17 March 1788, announced that the first issue of the *Wilmington Centinel* had arrived. It was said that the people were so pleased with the publication "that they immediately afforded it their general patronage, and in a few weeks upwards of 400 persons entered their names for the paper once a week at forty shillings per annum." (For more information on these newspapers, see Alan D. Watson, *An Index to North Carolina Newspapers, 1784–1789* [Raleigh, N.C., 1992].)

More than 120 items from newspapers are printed in the two North Carolina volumes. Most of the newspaper items are single pieces. Only a few items are serialized, such as the five pieces signed by "Americanus" and the five "Marcus" essays written by James Iredell responding to George Mason's objections to the Constitution.

Non-extant Issues

More than twenty items first appeared in non-extant issues of newspapers (mostly in North Carolina newspapers or in the Petersburg *Virginia Gazette*). Transcriptions for these items were taken from reprints in other newspapers that appear under the dateline of the non-extant newspapers. The transcriptions for these items are placed under the date of original printing; footnotes indicate the fact that the original is not extant as well as the source from which the transcription was taken.

Extracts of Letters

Extracts of letters were often printed in newspapers—usually unbeknownst to the letter writer. Thirty of these extracts appear in the two North Carolina volumes. Because of the length of time between the date of the extract of the letter and the publication in out-of-state newspapers, the editors have placed these extracts of letters under the date of the letter. Footnotes indicate the newspaper and the date in which the extracts first appeared as well as information on the reprinting of

these items. In a couple cases, the letters' author and recipient have been identified, the complete letter is printed, and the extract printing is explained in the footnotes. Footnotes also indicate any differences in the text of the original letter from the newspaper extract as well as differences between the original newspaper printing of the extract and reprintings in other newspapers.

Celebrations

Newspaper accounts of seven celebrations in five different North Carolina towns are included in these DHRC volumes. These accounts recorded celebrations of the Fourth of July, Virginia's ratification of the Constitution, and North Carolina's ratification. Many out-of-state celebrations were also printed in newspapers, some of which included accounts of dinners with toasts. A compilation is printed in the second volume of RCS:N.C. of only the toasts from fourteen different celebrations in which it was hoped that North Carolina and Rhode Island would soon ratify. Transcriptions of the complete accounts of these fourteen celebrations appear on Mfm:N.C.

Special Addresses

The two North Carolina volumes contain accounts of a number of meetings or addresses that were widely printed in newspapers throughout the country. On 8 November 1787 Hugh Williamson delivered an address praising the Constitution at a meeting of inhabitants of Chowan County and the town of Edenton. After Williamson's speech, the meeting adopted several resolutions supporting the Constitution. Four days later, the grand jury of the district of Edenton issued its presentment, which included support for the Constitution. After the adjournment of the Hillsborough Convention, inhabitants of the town of Tarborough addressed Governor Samuel Johnston on 20 August 1788, thanking him for his service as president of the Convention. The address and Johnston's response on 3 September were widely printed. On 10 May 1789, Governor Johnston and the North Carolina Council wrote an address to President George Washington, congratulating him on his election as the first U.S. president and anticipating the call of a second North Carolina convention that would ratify the Constitution. The address and Washington's response of 19 June 1789 were widely printed.

Pamphlets

Three Federalist pamphlets were published in North Carolina. James Iredell's "Marcus" series of five essays responding to George Mason's objections to the Constitution was first published in the *Norfolk and Portsmouth Journal* between 20 February and 19 March 1788 and then as a pamphlet in New Bern on 27 March. The pamphlet (Evans 45276)

also included an essay by “Publicola” written by Archibald Maclaine. “A Citizen of North Carolina” (Evans 45383), dated by the author 18 August 1788, was reprinted in the *State Gazette of North Carolina* and the *Norfolk and Portsmouth Journal*. “A Citizen and Soldier” (Evans 45382), containing seven numbered letters, was published in Edenton on 27 August 1788. The first letter was reprinted in the *State Gazette of North Carolina* and in the *Winchester Virginia Gazette*. All seven letters were reprinted in the *New Jersey Brunswick Gazette*. The manuscript for a fourth pamphlet by “A North Carolina Citizen” was probably written in April 1788, but was never published.

Election of Convention Delegates

Each county was authorized to elect five delegates to each convention, and the borough towns could each elect one delegate. Manuscript elections certificates exist for many county and town elections. Several indicate that a candidate received a unanimous vote. These election certificates are printed in the volumes. Facsimiles of all of the election certificates are on Mfm:N.C. Addresses were printed in the newspapers from James Iredell to his constituents in Edenton and from Archibald Maclaine to his constituents in Wilmington, thanking them for their unanimous vote in electing them to the Hillsborough Convention. Iredell later wrote to his constituents explaining that he did not wish to be a candidate for the Fayetteville Convention.

Four elections for the Hillsborough Convention deserve special attention. Federalist Elkanah Watson’s journal describes how he and two colleagues disrupted a meeting at the Reverend Lemuel Burkitt’s Baptist church the day before the election. The next day, Watson and one of his friends posted a caricature of Burkitt with the words “Lo he brayeth.” The posting caused a ruckus. In New Hanover County, the sheriff certified the election of John Huske, assuming that votes for Thomas Devane and Thomas Devane, Sr., were meant for two different men. Depositions were taken and submitted to the Convention, including a deposition from the sheriff in which he admitted that his judgment was incorrect and that all of the votes marked for Devane were for the same man. The Convention unseated Huske in favor of Devane. In a newspaper account, an extract of a letter indicated that the election for the town of Hillsborough ended in a tie. To settle the matter, the sheriff discarded two ballots, both of which William Hooper said had been cast for him.

The most serious election issue occurred in Dobbs County. After balloting was closed on the second day, the sheriff and election officials publicly started to count the “tickets.” When it became obvious to the

onlookers that the Antifederalist candidates would have a majority of votes, the candles were doused, election officials were clubbed, and the ballot box was stolen and destroyed along with its contents. The governor called a second election at which mostly Federalists voted. Five Federalists were certified as delegates. Numerous affidavits described the events. The Convention voided the elections, and no Dobbs County delegates were allowed to participate in the Hillsborough Convention. Various accounts of the riot were recorded in private letters and newspapers. All of these accounts and the affidavits are published in the first North Carolina volume. Sheriff Benjamin Caswell also submitted poll lists for both elections, facsimiles of which are placed on Mfm:N.C.

Convention Sources

Manuscript journals of both the Hillsborough and Fayetteville conventions are found in the state archives. Both journals were printed at the order of each convention. Three Federalist delegates (James Iredell, Archibald Maclaine, and William R. Davie) arranged for a person to take notes of the debates at the 1788 convention and then arranged for the printing of a single volume at their own expense (*Proceedings and Debates of the Convention of North Carolina . . . for the Purpose of Deliberating and Determining on the Constitution Recommended by the General Convention at Philadelphia, the 17th Day of September* [Edenton: Hodge & Wills, 1789] [Evans 22037]). Several letters among the three delegates trace the difficulties they faced in obtaining a printer, the actual printing, and the sales and distribution of the edition.

The printed *Proceedings and Debates* of the Hillsborough Convention (Evans 22037), which appear in Part V under the heading “Convention Debates,” are published in the first volume of North Carolina. When it provides additional information about the Hillsborough Convention, the printed Convention journal (Evans 21337), which appears under the heading “Convention Proceedings,” is used as a supplement to the *Proceedings and Debates*. For the Fayetteville Convention, the printed Convention journal (Evans 22738), which appears in Part IX under the heading “Convention Proceedings,” has been used as the principal source. The entire printed journals can be found on Mfm:N.C. Many loose convention papers can be found in the state archives in “Papers of the Convention of 1788” and “Papers of the Convention of 1789.” These loose papers are printed in the DHRC when they provide information not available from the journals. Facsimiles of some of these loose papers can be found on Mfm:N.C.

One source has been particularly helpful in determining the rosters of the two conventions. Variations in the spelling of delegates’ names

as well as brief biographical data is provided in Stephen E. Massengill's *North Carolina Votes on the Constitution: A Roster of Delegates to the State Ratification Conventions of 1788 and 1789* (Raleigh, N.C., 1988).

The conventions ordered the printing of several broadsides. The Hillsborough Convention ordered the printing of its resolution not ratifying the Constitution along with its proposed Declaration of Rights and Amendments to the Constitution. The Fayetteville Convention ordered the broadside printings of the Constitution, the twelve amendments to the Constitution proposed by Congress in September 1789, and the Convention's form of ratification.

Two lengthy manuscript documents list the "allowances" provided for convention delegates based on mileage, ferry charges, per diem, and to whom the payment was made. These documents have been transcribed and re-arranged in alphabetical order for the ease of the reader in locating delegates.

Secondary Accounts

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Symbols

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

Manuscripts

FC	File Copy
MS	Manuscript
RC	Recipient's Copy

Manuscript Depositories

DLC	Library of Congress
DNA	National Archives
MHi	Massachusetts Historical Society, Boston
Nc-Ar	North Carolina State Archives
NHi	New-York Historical Society
PHi	Historical Society of Pennsylvania

Short Titles

Abbot, <i>Washington, Confederation Series</i>	W. W. Abbot, ed., <i>The Papers of George Washington: Confederation Series</i> (6 vols., Charlottesville, Va., 1992–1997).
Abbot, <i>Washington, Presidential Series</i>	W. W. Abbot, Dorothy Twohig et al., eds., <i>The Papers of George Washington: Presidential Series</i> (Charlottesville, Va., 1987–).
Blackstone, <i>Commentaries</i>	Sir 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 et al., eds., <i>The Papers of Thomas Jefferson</i> (Princeton, N.J., 1950–).
DHFFC	Linda Grant De Pauw, Charlene Bangs Bickford, Kenneth R. Bowling et al., eds., <i>Documentary History of the First Federal Congress of the United States of America, March 4, 1789–March 3, 1791</i> (22 vols., Baltimore, 1972–2017).

- DHFFE Merrill Jensen, Robert A. Becker, and Gordon DenBoer, eds., *The Documentary History of the First Federal Elections, 1788–1790* (4 vols., Madison, Wis., 1976–1989).
- Farrand Max Farrand, ed., *The Records of the Federal Convention of 1787* (3rd ed., 3 vols., New Haven, 1927).
- JCC Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774–1789 . . .* (34 vols., Washington, D.C., 1904–1937).
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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:N.C., 200.”
- Mfm References to the 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:N.C. 2.” The supplemental documents for The Confederation Congress Implements the Constitution are denoted by “Mfm:Cong. 1.” All supplemental documents will be available at UW Digital Collections on the University of Wisconsin–Madison Libraries web site (<https://uwdc.library.wisc.edu>). The supplemental documents for Pennsylvania are also published in three printed volumes by the Wisconsin Historical Society Press.

North Carolina Chronology, 1663–1790

1663

Charter from Charles II to the Eight Lords Proprietors

1665

Concessions and Agreement

1669

Fundamental Constitutions of Carolina

1691

N.C. governed by separate deputy governor

1712

North and South Carolina separated

1729

North Carolina becomes a royal colony

1770–71

Regulator Movement

1771

16 May Battle of Alamance

1776

27 February Battle of Moores Creek Bridge
12 April Fourth Provincial Congress recommends Halifax Resolves
that calls for Congress to declare independence from
Britain

17 December Fifth Provincial Congress drafts and adopts state declaration
of rights

18 December Fifth Provincial Congress drafts and adopts state constitution

1778

24 April General Assembly adopts Articles of Confederation
21 July N.C. delegates to Congress sign engrossed Articles of
Confederation

1781

14 July General Assembly adopts Impost of 1781

1783

17 May General Assembly repeals act approving Impost of 1781
17 May General Assembly emits £100,000 in legal tender paper
money

1784

- 2 June General Assembly authorizes Congress to regulate foreign commerce
- 2 June General Assembly cedes western lands to Congress
- 2 June General Assembly adopts Impost of 1783
- 20 November General Assembly repeals act ceding western lands to Congress

1785

- 29 December General Assembly emits £100,000 in legal tender paper money

1786

- Commissioners to Annapolis Convention appointed by Governor and Council

1787

- 6 January General Assembly appoints delegates to Constitutional Convention
- 14 March Hugh Williamson appointed delegate to Constitutional Convention by the governor and Council
- 24 April William Blount appointed delegate to Constitutional Convention by the governor and Council
- 18 September N.C. delegates to the Constitutional Convention report to Governor Caswell
- 26 November *Bayard v. Singleton*
- 5 December General Assembly reads U.S. Constitution
- 6 December General Assembly calls state convention to meet at Hillsborough
- 6 December General Assembly orders 1,500 copies of U.S. Constitution printed
- 22 December General Assembly makes Treaty of Peace the law of the land

1788

- 20 February Marcus I published in *Norfolk and Portsmouth Journal*
- 28–29 March Election of delegates to Hillsborough Convention
- 29 March Riot ending Dobbs County election
- 14–15 July Second Dobbs County election
- 21 July–4 August Hillsborough Convention meets
- 2 August Convention resolves not to ratify Constitution without previous amendments
- 12, 24 August President Samuel Johnston transmits Hillsborough proceedings and convention resolutions to Congress
- August–November County petitions circulate calling for second ratifying convention
- 21 November General Assembly calls second Convention to meet in Fayetteville
- 24, 29 November General Assembly elects five delegates to second general convention of the states

1789

- | | |
|----------------|---|
| 21–22 August | Election of delegates to Fayetteville Convention |
| 31 August | Hugh Williamson: Memorial to Congress |
| 16–23 November | Fayetteville Convention meets |
| 21 November | Fayetteville Convention ratifies Constitution 194 to 77 and proposes amendments |
| 1 December | Edenton celebration of North Carolina ratification |
| 2 December | New Bern celebration of North Carolina ratification |
| 11–12 December | General Assembly cedes western lands to Congress |
| 12 December | Wilmington celebration of North Carolina ratification |
| 22 December | General Assembly adopts amendments to U.S. Constitution proposed by Congress |

1790

- | | |
|------------|--|
| 11 January | President Washington transmits North Carolina ratification to Congress |
|------------|--|

Officers of the State of North Carolina 1787–1790

Governor

Richard Caswell (1786–87)
Samuel Johnston (1787–89)
Alexander Martin (1789–92)

Secretary of State

James Glasgow

Treasurer

John Haywood

Attorney General

Alfred Moore

Comptroller

Francis Child

Superior Court of Law and Equity

Samuel Ashe
Samuel Spencer
John Williams

Council of State

1787

Whitmel Hill (Martin)
Charles Johnson (Chowan)
Willie Jones (Halifax)*
John Kinchen (Orange)
Thomas Brown (Bladen)
John Skinner (Perquimans)
John Mare (Chowan)
Clerk: William Johnston Dawson

1788

James Armstrong (Pitt)
Josiah Collins (Tyrrell)
Dempsey Conner (Pasquotank)
Whitmel Hill (Martin)
James Iredell (Chowan)*
John Kinchen (Orange)
John Skinner (Perquimans)
William Borritz (Chowan)
Clerk: William Johnston Dawson

1789

Charles Bruce (Guilford)
Jesse Franklin (Surry)
James Gillespie (Duplin)
John Hamilton (Guilford)
Wyatt Hawkins (Warren)*
Griffith Rutherford (Rowan)
James Taylor (Rockingham)
Clerk: Thomas Henderson
* President

Delegates to Confederation Congress

James White
John Swann
Hugh Williamson

*Commissioners to the Annapolis Convention**

John Gray Blount
Philemon Hawkins
Alfred Moore
Abner Nash
Hugh Williamson
* Only Williamson traveled to Annapolis, but he arrived a day after the Convention adjourned.

Delegates to the Constitutional Convention

William Blount*
Richard Caswell (resigned)
William R. Davie
Willie Jones (resigned)
Alexander Martin
Richard Dobbs Spaight*
Hugh Williamson*
* Signed Constitution on 17 September 1787.

General Assembly of North Carolina¹

Assembly of 1787

Tarborough, N.C.

19 November–22 December 1787

SENATE

Speaker: Alexander Martin, Guilford

Clerk: Sherwood Haywood, Edgecombe

Robert Alexander (Lincoln) ²	Charles McDowall (Burke)
Elisha Battle (Edgecombe)	John Macon (Warren)
George H. Berger (Rowan)	Alexander Martin (Guilford)
Anthony Bledsoe (Sumner)	Joseph Martin (Sullivan)
Joseph Boon (Johnston)	Nathan Mayo (Martin)
John A. Campbell (New Hanover) ²	James Miller (Rutherford)
Richard Clinton (Sampson)	Stephen Miller (Anson)
James Coor (Craven)	George Mitchell (Onslow)
William Crawford (Richmond)	Dempsey Moore (Caswell)
John Easton (Carteret)	Burwell Mooring (Wayne)
Alexius M. Foster (Brunswick)	Thomas Overton (Moore)
James Galloway (Rockingham)	Thomas Owen (Bladen)
Isaac Gregory (Camden)	Thomas Person (Granville)
Hardy Griffin (Nash)	Ambrose Ramsey (Chatham)
Frederick Harget (Jones)	Joseph Reddick (Gates)
Jesse Hendley (Randolph)	Thomas Relfe (Pasquotank)
Henry Hill (Franklin)	James Robertson (Davidson)
Robert Irwin (Mecklenburg)	Benjamin Sheppard (Dobbs)
John Johnston (Bertie)	John Skinner (Perquimans)
Abraham [or Abram] Jones (Hyde)	John Smaw (Beaufort)
Allen Jones (Northampton)	John Stokes (Montgomery) ²
Jacob Jordan (Chowan)	John Warrington (Tyrrell)
James Kenan (Duplin)	Hollowell Williams (Currituck)
Daniel Kennedy (Greene)	John Williams (Pitt)
Joel Lane (Wake)	John Willis (Robeson)
William Lenoir (Wilkes)	Joseph Winston (Surry)
Nicholas Long (Halifax)	George Wyns (Hertford)
Alexander McAllister (Cumberland)	Vacant (Hawkins) ³
William McCauley (Orange)	Vacant (Washington) ⁴

HOUSE OF COMMONS

Speaker: John Sitgreaves, New Bern⁵

Clerk: John Hunt, Franklin

Representatives by County

<i>Anson County</i>	<i>Davidson County</i>	<i>Lincoln County</i>
Lewis Lanier	Robert Ewing	Joseph Jenkins
William Wood	Robert Hayes	Daniel McKissick ²
<i>Beaufort County</i>	<i>Dobbs County</i>	<i>Martin County</i>
John Gray Blount ⁶	William Sheppard	Joseph Bryan
Henry Smaw	Bryan Whitfield	Edward Smithwick
<i>Bertie County</i>	<i>Duplin County</i>	<i>Mecklenburg County</i>
William Horn	Joseph Dickson	Caleb Phifer
Andrew Oliver	Joseph T. Rhodes	William Polk
<i>Bladen County</i>	<i>Edgecombe County</i>	<i>Montgomery County</i>
John Brown	Robert Diggs	Thomas Childs
Samuel Cain	John Dolvin	William Kindal
<i>Brunswick County</i>	<i>Franklin County</i>	<i>Moore County</i>
Lewis Dupree	Jordan Hill	John Cox
Jacob Leonard	Thomas Sherrod	Thomas Tyson
<i>Burke County</i>	<i>Gates County</i>	<i>Nash County</i>
Joseph McDowall of	John Baker	John Bonds ⁸
Pleasant Gardens	William Baker	Micajah Thomas
Joseph McDowall of	<i>Granville County</i>	<i>New Hanover County</i>
Quaker Meadows	Howell Lewis	Timothy Bloodworth
<i>Camden County</i>	Thornton Yancey	Thomas Devane, Jr.
Peter Dauge	<i>Greene County</i>	<i>Northampton County</i>
Enoch Sawyer	David Campbell	Robert Peebles
<i>Carteret County</i> ⁷	Vacant	James Vaughan
John Fulford	<i>Guilford County</i>	<i>Onslow County</i>
Nathan Fuller	Barzilla Gardner	Edward Starkey
Eli West	William Goudy	Daniel Yates
<i>Caswell County</i>	<i>Halifax County</i>	<i>Orange County</i>
Robert Dickens	John Branch	Jonathan Lindley
Adam Sanders	John Dawson	Alexander Mebane
<i>Chatham County</i>	<i>Hawkins County</i>	<i>Pasquotank County</i>
James Anderson	Nathaniel Henderson	Edward Everagain
Joseph Stewart	William Marshall	Caleb Koen
<i>Chowan County</i>	<i>Hertford County</i>	<i>Perquimans County</i>
Josiah Copeland	Robert Montgomery	Thomas Hervey
Lemuel Creecy	Thomas Wyns	Joseph Skinner ²
<i>Craven County</i>	<i>Hyde County</i>	<i>Pitt County</i>
Richard Nixon	John Eborne	Reading Blount
Richard Dobbs Spaight	Southy Rew	Robert Williams
<i>Cumberland County</i>	<i>Johnston County</i>	<i>Randolph County</i>
William Barry Grove	William Bridges	John Stanfield
James Thackston	Everet Pearce	Edmund Waddell
<i>Currituck County</i>	<i>Jones County</i>	<i>Richmond County</i>
Joseph Ferebee	Nathan Bryan	William Pickett
John Humphries	William Randal	Robert Webb

<i>Robeson County</i>	<i>Sullivan County</i>	<i>Warren County</i>
Elias Barnes	George Maxwell	Philemon Hawkins
William Latham	John Scott	Wyatt Hawkins
<i>Rockingham County</i>	<i>Sumner County</i>	<i>Washington County</i>
William Bethell	James Sanders	Robert Alison
Peter Perkins	Vacant	James Stewart
<i>Rowan County</i>	<i>Surry County</i>	<i>Wayne County</i>
Thomas Carson	Seth Coffin	Richard McKinnie
William Tatham ⁹	James Gains	William Taylor
<i>Rutherford County</i>	<i>Tyrrell County</i>	<i>Wilkes County</i>
Richard Singleton	Benjamin Spruil	John Brown
James Withrow	Simeon Spruil	Jesse Franklin
<i>Sampson County</i>	<i>Wake County</i>	
David Dodd	Nathaniel Jones	
Lewis Holmes	Britain Saunders	

Representatives by Borough Towns

<i>Edenton</i>	<i>New Bern</i>
Stephen Cabarrus	John Sitgreaves
<i>Town of Halifax</i>	<i>Salisbury</i>
William R. Davie	John Steele
<i>Hillsborough</i>	<i>Wilmington</i>
John Taylor	Joshua Potts

Assembly of 1788
Fayetteville, N.C.
3 November–6 December 1788

SENATE

Speaker: Alexander Martin, Guilford
Clerk: Sherwood Haywood, Edgecombe

Thomas Amis (Hawkins)	Etheldred Gray (Edgecombe)
John Armstrong (Surry)	Isaac Gregory (Camden)
John Auld (Anson)	Frederick Harget (Jones)
John M. Bentford (Northampton)	Thomas Harvey (Perquimans)
Timothy Bloodworth (New Hanover)	Joseph Hill (Carteret)
William Blount (Pitt)	Whitmill Hill (Martin)
Thomas Brickell (Franklin)	Hardy Holmes (Sampson) ¹⁰
Thomas Brown (Bladen)	John Humphries (Currituck)
William Brown (Beaufort)	Memucan Hunt (Granville)
Arthur Bryan (Johnston)	Charles Johnson (Chowan)
Redman Bunn (Nash)	John Johnston (Bertie) ²
Richard Caswell (Dobbs)	Thomas Johnston (Onslow)
Joseph Dickson (Lincoln)	Abraham [or Abram] Jones (Hyde) ²
Thomas Dougan (Randolph)	Willie Jones (Halifax)
Lewis Dupree (Brunswick)	Joseph Keaton (Pasquotank)
Bazel Gaither (Rowan)	James Kenan (Duplin)
James Galloway (Rockingham)	Joel Lane (Wake)
Joseph Graham (Mecklenburg)	William Lenoir (Wilkes)

Alexander McAllister (Cumberland)	Joseph Reddick (Gates)
William McCauley (Orange)	James Robertson (Davidson)
Charles McDowall (Burke)	James Roddy (Greene)
Richard McKinnie (Wayne)	Richard Singleton (Rutherford)
John Macon (Warren)	Thomas Stewart (Tyrrell)
Alexander Martin (Guilford)	John Tipton (Washington)
Robert Montgomery (Hertford)	Robert Webb (Richmond)
David Nesbitt (Montgomery)	Benjamin Williams (Craven)
Thomas Overton (Moore)	John Willis (Robeson)
Robert Payne (Caswell)	Vacant (Sullivan)
Ambrose Ramsey (Chatham)	Vacant (Sumner)

HOUSE OF COMMONS

Speaker: John Sitgreaves, New Bern⁵

Clerk: John Hunt, Franklin

Representatives by County

<i>Anson County</i>	<i>Chowan County</i>	<i>Greene County</i>
Lewis Lanier	Stephen Cabarrus	Joseph Hardin
Pleasant May	Lemuel Creecy	Alexander Outlaw
<i>Beaufort County</i>	<i>Craven County</i>	<i>Guilford County</i>
John Gray Blount	John Allen	William Goudy
Henry Smaw	Richard Nixon	John Hamilton
<i>Bertie County</i>	<i>Cumberland County</i>	<i>Halifax County</i>
William Horn	William Barry Grove	John Branch
Frances Pugh	John McKay	John Jones
<i>Bladen County</i>	<i>Currituck County</i>	<i>Hawkins County</i>
John Brown	Griffith Dauge	William Cocke
Samuel Cain	Thomas P. Williams	Thomas King
<i>Brunswick County</i>	<i>Davidson County</i>	<i>Hertford County</i>
John Cains	Thomas Hardiman	Henry Baker
Jacob Leonard	Elijah Robertson	Henry Hill
<i>Burke County</i>	<i>Dobbs County</i>	<i>Hyde County</i>
Joseph McDowall of	Nathan Lassiter	John Eborne ²
Pleasant Gardens	Benjamin Sheppard	Southy Rew ²
Joseph McDowall of	<i>Duplin County</i>	<i>Johnston County</i>
Quaker Meadows	Robert Dickson	John Bryan, Jr.
<i>Camden County</i>	Charles Ward	William Ward
Peter Dauge	<i>Edgecombe County</i>	<i>Jones County</i>
Enoch Sawyer	William Fort	John Hill Bryan
<i>Carteret County</i>	Joshua Killibrew	William Randal
John Fulford	<i>Franklin County</i>	<i>Lincoln County</i>
William Shepperd	Brittain Harris	William Maclaine
<i>Caswell County</i>	Jordan Hill	John Moore
Benjamin Douglass	<i>Gates County</i>	<i>Martin County</i>
John Graves	Seth Eason ²	Ebenezer Slade
<i>Chatham County</i>	David Rice ²	William Williams
James Anderson	<i>Granville County</i>	<i>Mecklenburg County</i>
Joseph Stewart	Elijah Mitchell	Joseph Douglas
	Thomas Person	Caleb Phifer

<i>Montgomery County</i>	<i>Pitt County</i>	<i>Sumner County</i>
James Tindall	Shadrick Allen	James Clendenen
Thomas Ussery	John Moye	William Walter
<i>Moore County</i>	<i>Randolph County</i>	<i>Surry County</i>
William Martin	William Bell	George Houser
William Mears	Zebedee Wood	William T. Lewis
<i>Nash County</i>	<i>Richmond County</i>	<i>Tyrrell County</i>
John Bonds	Miles King	Samuel Chesson
Wilson Vick	Edward Williams	Simeon Spruil
<i>New Hanover County</i>	<i>Robeson County</i>	<i>Wake County</i>
Thomas Devane	Elias Barnes	James Hinton
John Pugh Williams	Neil Brown	Britain Saunders
<i>Northampton County</i>	<i>Rockingham County</i>	<i>Warren County</i>
John Knox	William Bethell	Wyatt Hawkins
Robert Peebles ²	Abraham [or	Henry Montfort
<i>Onslow County</i>	Abram] Phillips	<i>Washington County</i>
Reuben Grant	<i>Rowan County</i>	John Blair
Daniel Yates	David Caldwell	James Stewart
<i>Orange County</i>	Thomas Carson	<i>Wayne County</i>
Jonathan Lindley	<i>Rutherford County</i>	James Hanley
Alexander Mebane	William Porter	William Taylor
<i>Pasquotank County</i>	James Withrow	<i>Wilkes County</i>
Devotion Davis	<i>Sampson County</i>	John Brown
Edward Everagain	Lewis Holmes	Joseph Herndon
<i>Perquimans County</i>	William King	
Joseph Harvey	<i>Sullivan County</i>	
Joshua Skinner	George Maxwell	
	John Scott	

Representatives by Borough Towns

<i>Edenton</i>	<i>New Bern</i>
William Cumming	John Sitgreaves
<i>Town of Halifax</i>	<i>Salisbury</i>
Goodorum Davis	John Steele
<i>Hillsborough</i>	<i>Wilmington</i>
Absalom Tatom	Edward Jones

Assembly of 1789
Fayetteville, N.C.
2 November–22 December 1789

SENATE

Speakers: Richard Caswell, Dobbs¹¹

Charles Johnson, Chowan¹²

Speakers Pro Tempore: Charles Johnson, Chowan¹¹

John B. Ashe, Halifax¹³

Clerk: Sherwood Haywood, Edgecombe

Thomas Amis (Hawkins)

John Arnold (Randolph)

John B. Ashe (Halifax)

John M. Bentford (Northampton)

George H. Berger (Rowan)

Timothy Bloodworth (New Hanover)

William Blount (Pitt)

Thomas Brown (Bladen)

William Brown (Beaufort)

Arthur Bryan (Johnston)

Landon Carter (Washington)¹⁴

Richard Caswell (Dobbs)¹⁵

Samuel Clay (Granville)

Richard Clinton (Sampson)

Joseph Dickson (Lincoln)

William Donnelson (Davidson)

John Easton (Carteret)

John Eborne (Hyde)

Jeremiah Frazier (Tyrrell)

James Galloway (Rockingham)

James Gillespie (Duplin)

William Goudy (Guilford)

Joseph Graham (Mecklenburg)

Etheldred Gray (Edgecombe)¹⁶

Isaac Gregory (Camden)

Hardy Griffin (Nash)

Frederick Harget (Jones)

Henry Hill (Franklin)

John Herritage (Dobbs)¹⁵

Joseph Hodge (Orange)

Charles Johnson (Chowan)

John Johnston (Bertie)

Joseph Keaton (Pasquotank)

William Kindal (Montgomery)

Joel Lane (Wake)

Lewis Lanier (Anson)¹⁷

William Lenoir (Wilkes)

George Lucas (Chatham)

Alexander McAllister (Cumberland)

Charles McDowall (Burke)

Richard McKinnie (Wayne)

John Macon (Warren)

Joseph Martin (Sullivan)

Nathan Mayo (Martin)

John Montgomery (Tennessee)

John Nesbitt (Iredell)

Thomas Overton (Moore)

Robert Payne (Caswell)

Joseph Reddick (Gates)

John Sevier (Greene)¹⁴

Richard Singleton (Rutherford)

John Skinner (Perquimans)

Daniel Smith (Sumner)

Thomas Wade (Anson)¹⁷

Robert Webb (Richmond)

Benjamin Williams (Craven)²

Howell Williams (Currituck)²

John Willis (Robeson)

Joseph Winston (Surry)

Thomas Wyns (Hertford)

Daniel Yates (Onslow)

Vacant (Brunswick)

HOUSE OF COMMONS

Speaker: Stephen Cabarrus, Chowan

Clerk: John Hunt, Franklin

Representatives by County

<i>Anson County</i>	<i>Davidson County</i>	<i>Jones County</i>
Pleasant May	Robert Ewing	John Hill Bryan
William Wood	Joel Rice	Jacob Johnston
<i>Beaufort County</i>	<i>Dobbs County</i>	<i>Lincoln County</i>
John Gray Blount	Nathan Lassiter	William Maclaine
Richard Grist	Benjamin Sheppard	John Moore
<i>Bertie County</i>	<i>Duplin County</i>	<i>Martin County</i>
William Horn	William Beck	John Stewart
Francis Pugh	Robert Dickson	William Williams
<i>Bladen County</i>	<i>Edgecombe County</i>	<i>Mecklenburg County</i>
John Cowan	Thomas Blount	Joseph Douglas
Duncan Stewart	Etheldred Phillips	Caleb Phifer
<i>Brunswick County</i>	<i>Franklin County</i>	<i>Montgomery County</i>
Jacob Leonard	Jordan Hill	William Johnston
Benjamin Smith	Thomas Sherrod	James Tindall
<i>Burke County</i>	<i>Gates County</i>	<i>Moore County</i>
Joseph McDowall of	John Baker	William Barrot
Pleasant Gardens	David Rice	Thomas Tyson
Joseph McDowall of	<i>Granville County</i>	<i>Nash County</i>
Quaker Meadows	Thomas Person	John Bonds
<i>Camden County</i>	Thornton Yancey	Wilson Vick
Peter Dauge	<i>Greene County</i>	<i>New Hanover County</i>
Enoch Sawyer	John Ellison ¹⁸	John A. Campbell
<i>Carteret County</i>	Alexander Outlaw	John Pugh Williams ²
Malachi Bell	<i>Guilford County</i>	<i>Northampton County</i>
John Wallace	Daniel Gillespie	Samuel Peete
<i>Caswell County</i>	John Hamilton	Halcott B. Pride
Robert Dickins	<i>Halifax County</i>	<i>Onslow County</i>
John Womack	Marmaduke Norfleet	Robert W. Snead
<i>Chatham County</i>	Peter Qualls	John Spicer
James Anderson	<i>Hawkins County</i>	<i>Orange County</i>
Joseph Stewart	Thomas King	Jonathan Lindley
<i>Chowan County</i>	James White	Alexander Mebane
Stephen Cabarrus	<i>Hertford County</i>	<i>Pasquotank County</i>
Lemuel Creecy	Henry Baker	Edward Evergain
<i>Craven County</i>	Robert Montgomery	Thomas Reading
John Allen	<i>Hyde County</i>	<i>Perquimans County</i>
Richard Nixon	John Alderson	Benjamin Perry
<i>Cumberland County</i>	Michael Peters	Ashbury Sutton
William Barry Grove	<i>Iredell County</i>	<i>Pitt County</i>
John McKay	Adam Brevard	Shadrack Allen
<i>Currituck County</i>	Musentine Matthews	James Armstrong
Andrew Duke	<i>Johnston County</i>	<i>Randolph County</i>
Thomas P. Williams	John Bryan, Jr.	Aaron Hill
	Benjamin Williams	Zebedee Wood

<i>Richmond County</i>	<i>Sampson County</i>	<i>Tyrrell County</i>
William Robinson	James Spiller	Samuel Chesson
Edward Williams	James Thompson	Simeon Spruill
<i>Robeson County</i>	<i>Sullivan County</i>	<i>Wake County</i>
Elias Barnes	John Rhea	Thomas Hines
Neil Brown	John Scott	Britain Saunders
<i>Rockingham County</i>	<i>Sumner County</i>	<i>Warren County</i>
William Bethell ¹⁹	David Wilson	Philemon Hawkins
Abraham [or	Vacant	Wyatt Hawkins
Abram] Phillips	<i>Surry County</i>	<i>Washington County</i>
<i>Rowan County</i>	Absalom Bostick	John Blair
Matthew Lock	Gideon Edwards	Robert Love
John Stokes	<i>Tennessee County</i>	<i>Wayne County</i>
<i>Rutherford County</i>	John Drew	James Hanley
James Holland	Thomas Johnston	Burwell Mooring
William Porter		<i>Wilkes County</i>
		John Brown
		Benjamin Jones

Representatives by Borough Towns

<i>Edenton</i>	<i>New Bern</i>
John Hamilton	Isaac Guion
<i>Town of Halifax</i>	<i>Salisbury</i>
William R. Davie	Maxwell Chambers
<i>Hillsborough</i>	<i>Wilmington</i>
William Nash	Edward Jones

1. The legislative rosters for the years 1787–1789 have been compiled from two principal sources: (1) the printed House of Commons and Senate journals (Evans 21338–39, 22034–35, and 22739–40) and (2) John L. Cheney, Jr., ed., *North Carolina Government, 1585–1979: A Narrative and Statistical History* (Raleigh, 1981) (hereafter, Cheney). When possible, the spelling of members' names in these rosters conforms to the spelling of delegates' names in the two Convention rosters (RCS:N.C., 216–21n, 744–48). (Alternate spellings have been recorded in the Convention rosters when useful.) Succeeding notes clarify irregularities in the Assembly rosters.

2. The election of this member is questionable. (See Cheney's qualification, p. 339, note 1.) The member's name is recorded in John H. Wheeler, ed., *The Legislative Manual and Political Register for the State of North Carolina . . .* (Raleigh, 1874), but no contemporary record of an election exists.

3. On the vacancy in Hawkins County, see Cheney, p. 345, note 203 (and also Evans 21339, pp. 7–8).

4. On the vacancy in Washington County, see Cheney, p. 345, note 204 (and also Evans 21339, p. 8).

5. Cheney lists John Sitgreaves as the speaker of the House of Commons for the years 1787 and 1788 and identifies him with Craven County (pp. 219, 221). In the roster itself, Cheney identifies Sitgreaves with New Bern (pp. 220, 222), which is correct based upon the House journal. William S. Powell, ed., *Dictionary of North Carolina Biography* (6 vols., Chapel Hill, 1979–1996), V, 353, confirms the House journal's identification with New Bern. New Bern is in Craven County.

6. John Gray Blount may have filled the vacancy left by John Bonner's death. See Cheney, p. 345, notes 205–6. On 19 December 1787, the House ordered that a writ of

election be issued to Beaufort to fill the seat formerly held by Bonner (Evans 21338, p. 46).

7. Each county was allowed to elect one senator and two members of the House of Commons, and each borough was allowed to elect one member of the House. Cheney lists three representatives from Carteret County in the House roster for 1787. The elections of two of those representatives—John Fulford and Eli West, whose names were obtained from Wheeler's *Legislative Manual* (p. 185)—are unable to be confirmed. The third representative, Nathan Fuller, is listed in the House journal (Evans 21338, p. 3). The presence of three members from Carteret suggests unknown factors or that an error was made by Wheeler or in the printed House journal.

8. On 14 December 1787, John Bonds was expelled from the House of Commons for fraudulent behavior. See Cheney, p. 345, note 207. See also Evans 21338, pp. 37–38, for the charges against Bonds.

9. Cheney identifies Richard Pearson as one of two representatives from Rowan County (p. 220). But the House journal recorded that a “Mr. William Tatham, one of the members for Rowan county, appeared, was qualified and took his seat” (Evans 21338, p. 8).

10. On 11 November 1788, Hardy Holmes was deprived of his seat due to public indebtedness. Holmes was eventually seated on 29 November. See Cheney, p. 345, note 208 (and Evans 22035, pp. 7, 29).

11. On 6 November 1789, William Blount, the senator from Pitt County, reported that Speaker Richard Caswell was “incapable of attending the duties of the chair” due to indisposition. Charles Johnson was “unanimously chosen” as speaker pro tempore (Evans 22740, p. 5).

12. On 10 November 1789, Timothy Bloodworth, the senator from New Hanover County, reported that Speaker Richard Caswell “had departed this life.” Bloodworth, seconded by Joshua Skinner of Perquimans County, moved that Charles Johnson be chosen as speaker in Caswell's place. Johnson was “unanimously chosen” (Evans 22740, p. 9).

13. On 25 November 1789, John B. Ashe was “unanimously chosen” to act as speaker pro tempore in the absence of Speaker Charles Johnson, who was “unable to attend the duties of the chair.” Johnson, “having recovered of his indisposition,” resumed his leadership of the Senate on 30 November (Evans 22740, pp. 18, 23).

14. Both Landon Carter and John Sevier are listed as the senator for Washington County (Evans 22740, pp. 1, 7). According to Cheney, Carter likely represented Greene, not Washington County, in the Senate, while Sevier probably represented Washington (Cheney, p. 345, note 219). That said, Sevier is recorded in the journal as presenting a bill on behalf of Greene County (Evans 22740, p. 19), which suggests that Sevier was serving as the senator from Greene County. Furthermore, Sevier represented Greene County and Carter represented Washington County in the ratifying Convention in Fayetteville in 1789.

15. On 13 November 1789, the Senate ordered that a writ of election be issued to Dobbs to fill the seat formerly held by Richard Caswell, who died in office. John Herriage was elected in Caswell's place and was seated on 30 November (Evans 22740, pp. 12, 25).

16. Etheldred Gray died on 23 November 1789. The news of Gray's death was announced in the Senate on the following day. See Cheney, p. 345, note 217 (and Evans 22740, p. 17).

17. On 13 November 1789, Thomas Wade was deprived of his seat due to public indebtedness. On 30 November, Lewis Lanier was seated in his place. See Cheney, p. 345, notes 213–14 (and Evans 22740, pp. 11, 25).

18. The House journal clearly lists a “John Ellison” as one of the representatives from Greene County (Evans 22739, p. 1). Whether the John Ellison, who served in the House of Commons is the same person as John Allison, who served in the ratifying Convention

in Fayetteville in 1789, cannot be determined from the available evidence. Alexander Outlaw, the other representative from Greene County, served in the Fayetteville Convention.

19. Cheney identifies William Porter as one of two representatives from Rockingham County (p. 223). But the House journal recorded the attendance of William Bethell (Evans 22739, p. 1). Porter served as a representative from Rutherford County, which Cheney accurately notes.

**The Ratification of the
Constitution by
the States**

**NORTH CAROLINA
[1]**

I.
**THE DEBATE OVER THE CONSTITUTION
IN NORTH CAROLINA
18 September–27 December 1787**

Introduction

The public debate over the Constitution in North Carolina developed slowly. Only two newspapers were published in North Carolina from September through December 1787—both in New Bern. Only three issues of these newspapers are extant. Out-of-state newspapers—particularly from New York City and Philadelphia—were slow to arrive in North Carolina. Consequently, few out-of-state commentaries on the Constitution were reprinted in North Carolina during the last four months of 1787. In its 19 December 1787 issue, Martin’s *North Carolina Gazette* printed Elbridge Gerry’s 18 October 1787 letter to the Massachusetts legislature outlining his objections to the Constitution (CC:227–A) and a false Antifederalist account that John Jay now opposed the Constitution (CC:290–A).

The *State Gazette of North Carolina* printed the Constitution and its accompanying documents on 4 October 1787. On 6 December the state legislature ordered that 1,500 copies of the Constitution be printed and given to legislators to be distributed among their constituents.

On 18 September 1787, the day after the Constitutional Convention adjourned, the North Carolina delegates to the Constitutional Convention sent a broadside printing of the Constitution to Governor Richard Caswell and requested that he transmit it to the legislature. The delegates indicated that they had done everything possible to favor the interests of North Carolina. In particular, they mentioned the proportional representation in the House of Representatives that would benefit North Carolina, because it had the fourth largest population among the thirteen states. The delegates also pointed out that the fugitive slave clause would assist slave owners in returning runaway slaves.

At the suggestion of their representatives in the state legislature, the inhabitants of Chowan County and the town of Edenton assembled at the Edenton courthouse on 8 November 1787 to discuss the Constitution and to instruct their representatives to call a state convention to ratify the Constitution. Responding to several “fellow-citizens,” Hugh Williamson gave a speech in which he defended the Constitution “as more free and more perfect than any form of government that ever has been adopted by any nation.” Williamson defended both what was in

and what was not in the Constitution, as well as the new federal-state relationship that the Constitution would establish. He condemned self-interested state officeholders and secret Loyalists as the only enemies of the Constitution. After Williamson's speech, the inhabitants approved resolutions supporting a strong Union, condemning the current anarchy and distress, praising the delegates to the Constitutional Convention, and advocating a state convention to ratify the Constitution. Williamson's speech was published serially in three issues of the *New York Daily Advertiser*, 25, 26, and 27 February 1788, and was reprinted in full in the Charleston *Columbian Herald*, 17 and 20 March, and the June issue of the monthly *Philadelphia American Museum*. No extant North Carolina printing has been located. An account of the Chowan County meeting, including its resolutions, was printed in the *State Gazette of North Carolina* on 29 November 1787.

Four days after the Chowan County meeting, the grand jury of the Edenton District signed a "presentment" endorsing the Constitution. The jurors alluded to the "very important Crisis in the affairs of America" in which the Union was "disordered and distracted." Congress unfortunately had "merely the shadow of authority without possessing one substantial property of power." Thus, there was "the necessity of a change." The Constitution offered "the present favourable opportunity . . . to establish a free and energetic Government" in which the proper jealousy of liberty was "mixed with a due regard to the necessity of a strong Authoritative Government." The jurors praised the provision for amendments and anticipated that the "all powerful Providence" would allow America to become "the Asylum for all the oppressed upon the Globe." Signed by eighteen jurors, the presentment was presumably written by James Iredell. It was printed in the *State Gazette of North Carolina* on 29 November 1787 and reprinted nine times from New Hampshire to South Carolina.

During the last four months of 1787, a couple of out-of-state newspapers, as well as a couple of North Carolina letter writers, briefly reported that North Carolina seemed strongly in favor of the Constitution. On 22 November, the *State Gazette of North Carolina* reported "that the Federal Constitution seemed to meet with an almost universal approbation." But William Dickson, clerk of the Court of Common Pleas of Duplin County, reported that North Carolina in general, and he in particular, had some misgivings about the Constitution.

The first major essay on the Constitution printed in North Carolina appeared in three installments in the *North Carolina Gazette* on 12, 19, and 26 December. Only the issue of 19 December is extant in which the author warned, "Let us with horror beware the precipice before

us!" The new Constitution, the writer said, might endanger the rights that had been enumerated in the Declaration of Independence. In the same issue of the *North Carolina Gazette*, a writer under the signature "Adieu" said that he had been somewhat neutral on the Constitution. Federalists, he wrote, saw "the finger of God himself writing" the Constitution, while Antifederalists viewed it as "drawn up in letters of fire, blood, and dispotism, through a black cloud, pregnant with horrors, and ready to burst on the cursed heads of its inventors." "Adieu," however, was "nearly converted to a warm Federalist," sensing that patriotism would provide "a clear conviction that the honor, welfare, glory and happiness of this country" would be provided by the Constitution.

North Carolina Delegates to the Constitutional Convention to Governor Richard Caswell, Philadelphia, 18 September 1787¹

This letter was written in accordance with the instructions that the North Carolina delegates to the Constitutional Convention received from the state legislature in January 1787. The legislature required that the delegates make report of any act of the Convention "to remove the defects of our federal union, and to procure the enlarged purposes which it was intended to effect" (Appendix II, RCS:N.C., 831).

In the Course of four Months' Severe and painful application and anxiety, the Convention have prepared a plan of Government for the United States of America which we hope will obviate the defects of the present Fœderal Union and procure the enlarged purposes which it was intended to effect. Inclosed we have the honor to send you a Copy, and when you are pleased to lay this plan before the General Assembly we entreat that you will do us the justice to assure that honorable body that no exertions have been wanting on our part to guard & promote the particular Interest of North Carolina. You will Observe that the representation in the Second Branch of the National Legislature is to be According to Numbers, that is to say, According to the whole Number of white Inhabitants added to three fifths of the blacks; You will also observe that during the first three years North Carolina is to have five Members in the House of Representatives, which is just one thirteenth part of the whole Number in that house and our Annual Quota of the National debt has not hitherto been fixed quite so high. Doubtless we have reasons to believe that the Citizens of North Carolina are more than a thirteenth part of the whole Number in the Union, but the State has never enabled its Delegates in Congress to prove this Opinion and hitherto they had not been Zealous to magnify the Number of their Constituents because their Quota of the National Debt

must have been Augmented Accordingly,² we had many things to hope from a National Government and the Chief thing we had to fear from such a Government was the Risque of unequal or heavy Taxation but we hope You will believe as we do that the Southern States in General and North Carolina in Particular are well Secured on that head by the Proposed System. It is provided in the 9th. Section of Article the first that no Capitation or other direct Tax shall be laid except in Proportion to the Number of Inhabitants, in which Number five Blacks are only Counted as three.—If a land Tax is laid we are to Pay at the Same Rate, for Example, fifty Citizens of North Carolina can be taxed no more for all their Lands than fifty Citizens in one of the eastern States. This must be greatly in our favour for as Most of their Farms are Small & many of them live in Towns, we certainly have, one with another, land of twice the Value that they Possess. When it is also considered that five Negroes are only to be charged the Same Poll Tax as three whites the advantage must be considerably increased Under the Proposed Form of Government The Southern States have also a much better Security for the Return of Slaves who might endeavour to escape than they had under the original Confederation³—It is expected a considerable Share of the National Taxes will be Collected by Imposts, Duties and Excises but You will find it provided in the 8th. Section of article the first that all duties, Imposts and, excises shall *be uniform* throughout the United States[.] While we were taking so much care to guard ourselves against being overreached and to form Rules of Taxation that might operate in our favour, it is not to be supposed that our Northern Brethren were inattentive to their Particular Interest.—A navigation Act or the Power to regulate Commerce in the Hands of the National Government by which American Ships and Seamen may be fully employed is the desirable weight that is thrown into the Northern Scale. This is what the Southern States have given in Exchange for the Advantages we Mentioned above;⁴ but we beg leave to Observe in the Course of this Interchange North Carolina does not Appear to us to have given *any thing*; for we are doubtless the most independent of the Southern States; we are able to carry our own Produce and if the Spirit of Navigation and Ship building is cherished in our State we Shall Soon be able to carry for our Neighbours—We have taken the liberty to mention the general Pecuniary Considerations which are involved in this Plan of Government, there are other Considerations of great Magnitude involved in the System but we cannot exercise Your Patience with a further Detail; but Submit it with the Utmost deference.

1. FC, Governors' Letterbooks & Papers, Nc-Ar. Addressed to Governor Richard Caswell, the report was signed by William Blount, Richard Dobbs Spaight, and Hugh Williamson. Governor Caswell had been elected to the Constitutional Convention but resigned. Caswell (1729–1789), a native of Maryland and a surveyor and lawyer, was a member of the colonial Assembly, 1754–71 (speaker, 1770, 1771), sometimes for Johnston County and other times for Dobbs County. He was also a member of three of the five provincial congresses, 1775–76. Caswell was a delegate to the Continental Congress, 1774–76; brigadier general, New Bern District, 1776; and president of the state constitutional convention, 1776. He was state governor, 1776–80, 1785–87; state senator, 1780–84, 1788–89 (speaker, 1789); and state comptroller, 1782–85. As governor, Caswell appointed William Blount to be a delegate to the Constitutional Convention in his place. He was elected to the Hillsborough Convention, 1788, but his seat was vacated because of irregularities in the Dobbs County election. He was elected to the Fayetteville Convention, 1789, but died several days before it convened.

2. Since each state in the Confederation Congress was entitled to only one vote, North Carolina's larger population would not have changed its representation. But a larger population would have increased North Carolina's quota of the congressional requisition apportioned among the states under an amendment to the Articles of Confederation proposed by Congress in April 1783. The amendment provided that federal expenses would be shared by population with three-fifths of slaves being included in the tabulation. Although approved by only eleven states, this amendment was used by Congress in apportioning its requisition in 1786 and 1787. For the text of the population amendment, see CDR, 148–50.

3. Article IV of the Articles of Confederation included a clause providing for the extradition from one state to another of persons "charged with treason, felony, or other high misdemeanor" (CDR, 87). No mention was made of runaway slaves. Article IV, section 2, clause 2, of the Constitution provided for the return of a runaway "person held to Service or Labour in one State, under the Laws thereof."

4. Delegates from the Southern States wanted a two-thirds vote in Congress to pass navigation acts. A few Southern delegates voted against the two-thirds requirement when a few Northern delegates voted to bar Congress from prohibiting the African slave trade before 1808. The three-fifths clause was not part of this compromise.

Editors' Note

The First Publication of the Constitution in North Carolina 4 October 1787

The Constitutional Convention adjourned on 17 September. Dunlap and Claypoole, the Convention's official printers and the publishers of the *Pennsylvania Packet*, quickly printed a six-page broadside of the Convention's report that included: (1) the Constitution, (2) the Convention's two resolutions of 17 September, and (3) a letter dated 17 September from George Washington, the Convention's president, to the president of Congress. Convention delegates were given several copies of this imprint. (See CC:76 for this imprint.) The North Carolina delegates to the Convention sent one of these broadsides to Governor

Richard Caswell asking him to transmit it to the legislature. On 4 October, the *State Gazette of North Carolina* printed the entire report of the Convention. On 6 December 1787 the North Carolina General Assembly ordered the printing of 1,500 copies of the Constitution to be given to legislators for distribution to their constituents.

John Rutherford to Samuel Johnston
Wilmington, N.C., 23 October 1787 (excerpt)¹

. . . Mr. McLaine is highly pleased with the proposal of the convention; & Colo: Spaight, whom I have seen, seems to think that the Northern States will endeavour to have the proposed Constitution adopted. . . .

1. RC, Hayes Collection #324, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill.

Samuel Johnston to Nathaniel Dukinfield
Hayes Plantation, N.C., 2 November 1787 (excerpt)¹

. . . had there been no change in our Government² your Estate here would have been a Noble provision for one of your younger Children by the time he came of age—

Our Politicians are attempting some changes in our government so as to bring it a little nearer to the British, which we still consider the most perfect model we can pursue. Present my most respectfull Compliments to Lady D. and believe me with the most sincere regard & esteem etc.

1. FC, Hayes Collection #324, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill. Johnston's plantation was located on Albemarle Sound near Edenton. Dukinfield (1746–1824) was the fifth baronet of Dukinfield, Cheshire, England. The rest of the letter deals with Johnston's unsuccessful attempt to obtain compensation for Dukinfield's confiscated property.

2. A reference to the independence of the American colonies from Great Britain.

John Sevier to Benjamin Franklin
State of Franklin, 2 November 1787 (excerpt)¹

. . . I am happy to hear of so much Unanimity in the late Convention & have sanguine Hopes you have adopted a plan of Government that will add dignity to the rising greatness And Happiness of our American Empire.

Permit me to inform your excellency that The people of this state pray your patronage And attention to such Matters as you May Judge Consistant with their interest, and the Nature of their Case May deserve; It might become a matter of Much regret should these People

be Unnoticed by Congress: they are firmly Attached to Continental Measures. And have Been particularly Active and serviceable in the late War; but at the present their Appears to be a general uneasiness among a number of the Western Americans through a jealousy their interest is Neglected. . . .

I have the Honour to be sir With great respect & Esteem

1. RC, Franklin Papers, American Philosophical Society. The letter was delivered by Major Alexander Dromgoole, who was seeking the appointment of superintendent of Indian affairs for the Southern Department. Sevier's letter sought Franklin's assistance in obtaining the appointment for Dromgoole. On 6 December, Franklin wrote to Secretary of Congress Charles Thomson (see Franklin to Thomson, 6 December, PCC, Item 56, Records Relating to Indian Affairs, 1765–89, p. 213, DNA). Franklin responded to Sevier on 16 December (RCS:N.C., 29). Sevier (1745–1815), a native of Virginia, moved to the Watauga area of N.C. in 1773. During the Revolution he supported the Patriot cause and served as a lieutenant colonel in the militia. In October 1780, Sevier led one of the four columns of frontiersmen in the American victory over the British at King's Mountain. He also led successful raids against the Indians. Along with several others he founded the State of Franklin in 1784 and was governor from 1785 to 1788. The government of North Carolina vigorously opposed this movement, which collapsed in 1788. Sevier was charged with treason, but he was pardoned. In 1789 he was elected to the state Senate from Washington County, and he was appointed brigadier general of the Washington District. As a member of the Fayetteville Convention, 1789, he represented Greene County and voted to ratify the Constitution. He was a member of the U.S. House of Representatives, 1789–91, 1811–15. When Tennessee was admitted to the Union in 1796, Sevier became governor, holding that position until 1801. He was elected governor again in 1803, serving until 1809.

Pennsylvania Herald, 3 November 1787¹

A gentleman from North-Carolina assures us that the citizens of that state are almost unanimously in favour of the new constitution, but that, notwithstanding what has been said respecting the conduct of Gov. Randolph and Mr. Mason,² there is great reason to expect Virginia will be one of the dissenting states on that important question.

1. This article was also printed in the Philadelphia *Evening Chronicle* on 3 November. The entire piece was reprinted fifteen times by 3 December: N.H. (2), Mass. (4), R.I. (2), Conn. (3), N.Y. (3), N.J. (1). Three newspapers also printed only the first clause on North Carolina: N.H. (1), Mass. (2).

2. The three non-signers of the Constitution in the Constitutional Convention (George Mason and Edmund Randolph of Virginia and Elbridge Gerry of Massachusetts) were repeatedly criticized in newspapers and private correspondence. For attacks on the three non-signers, see CC:171 A–C.

Norfolk and Portsmouth Journal, 7 November 1787¹

Extract of a letter from North Carolina.

“*To be, or not to be, is now the question.*”²

“The moment is at hand that will fix the fate of America, either to rise respected and affluent, or to sink into contempt, anarchy and perhaps a total dissolution of our short existence as a nation: had the collected wisdom of the universe been drawn into one centre to promote our happiness, it is evident they could not have devised more effectual means than the late Convention, whose proceedings resulted from a consummate knowledge and investigation of our present situation, as well as mutual sacrifices for the common end of the general government. Since their measures have become public, I have taken pains to mix among the different classes of mankind, and I am happy to assure you, the enthusiasm is general, and determined to support the constitution they offer us, as the only ultimatum upon which our commercial and political existence rests. I must however remark, that I have found some opposition, but in pressing their objections, they are lost in perplexity; hence it is evident, they are actuated by personal views, and divested of that pure *amor patriæ*, that ought to inspire the breast of every virtuous American in the present crisis; a crisis pregnant in events the most important America has ever witnessed; as it not only embraces the welfare of this generation, but of millions who are yet to rise out of the womb of futurity. I hope in God therefore, this illiberal junto will meet with that execration and contempt they so justly merit; for unless this new constitution is implicitly and speedily adopted, I tremble in anticipating the event, which cannot fall short of an immediate annihilation of our federal chain, and possibly some links of it devoted to foreign yokes.—May that Being who has brought us thus far into maturity dispose every heart with firmness to embrace cheerfully our only hope, is the ardent prayer of, dear sir, yours, &c.

— — — .”

1. Reprinted six times by 14 December: Mass. (1), Conn. (1), N.Y. (1), Pa. (2), S.C. (1). The Charleston *Columbian Herald*, 6 December, reprinted the piece under a dateline “Norfolk, November 7,” indicating that the no-longer-extant *Norfolk and Portsmouth Journal* of that date was probably the first newspaper to print this version of this extract of a letter from North Carolina. An alternative version of the letter was printed in the *Virginia Independent Chronicle*, 31 October (RCS:Va., 139–40), which was reprinted four times: Mass. (1), N.Y. (1), Pa. (1), S.C. (1).

2. A variant of Shakespeare, *Hamlet*, Act III, scene 1.

Hugh Williamson: Speech at Edenton, N.C., 8 November 1787

On 8 November 1787 “a respectable number of Inhabitants” of Chowan County and the town of Edenton, in answer to a call of their representatives in the state legislature, met at the courthouse at Edenton. Responding to a request from several “fellow-citizens,” Hugh Williamson delivered a lengthy speech. The meeting then adopted a number of resolutions that supported a

strong union, condemned the “anarchy, distress and dishonor” that followed the Revolution, praised the members of the Constitutional Convention (especially George Washington and Benjamin Franklin), and warned against any delays in ratifying the Constitution. The freemen asked their representatives to get the state legislature to call a state ratifying convention to meet at the earliest possible date. They thanked the state’s delegates to the Constitutional Convention and expressed their particular obligation to Hugh Williamson “for the able and useful information he has this day given on the subject of the new Constitution proposed.” (The resolutions of the Chowan County and Edenton meeting of 8 November are immediately below.)

The “substance” of Williamson’s speech printed here is from the New York *Daily Advertiser* of 25, 26, and 27 February 1788. The printer had intended to publish it in two parts but was obliged to do so in three. The *Advertiser*’s account was reprinted in full in the *Pennsylvania Packet*, 5 March; Charleston *Columbian Herald*, 17, 20 March; and the June issue of the Philadelphia *American Museum*. On 5 August the *Salem Mercury* printed two excerpts from the speech, each with a preface (see notes 11 and 15, RCS:N.C., 19, 20, for the reprinting of these excerpts).

The following Remarks on the New Plan of Government are handed us as the substance of Doctor WILLIAMSON’s Address to the Freemen of Edenton and the County of Chowan, in North-Carolina, when assembled to instruct their Representatives.

Though I am conscious that a subject of the greatest magnitude must suffer in the hands of such an advocate, I cannot refuse, at the request of my fellow-citizens, to make some observations on the new Plan of Government.

It seems to be generally admitted, that the system of Government which has been proposed by the late Convention, is well calculated to relieve us from many of the grievances under which we have been laboring. If I might express my particular sentiments on this subject, I should describe it as more free and more perfect than any form of government that ever has been adopted by any nation; but I would not say it has no faults. Imperfection is inseparable from every human device. Several objections were made to this system by two or three very respectable characters in the Convention, which have been the subject of much conversation;¹ and other objections, by citizens of this State, have lately reached our ears. It is proper that you should consider of these objections. They are of two kinds; they respect the things that are in the system, and the things that are not in it. We are told that there should have been a section for securing the Trial by Jury in Civil cases, and the Liberty of the Press: that there should also have been a Declaration of Rights. In the new system it is provided, that “*The Trial of all crimes, except in cases of Impeachment,*” shall be by Jury, but this provision could not possibly be extended to all *Civil* cases. For it is well

known that the Trial by Jury is not general and uniform throughout the United States, either in cases of Admiralty or of Chancery; hence it became necessary to submit the question to the General Legislature, who might accommodate their laws on this occasion to the desires and habits of the nation. Surely there is no prohibition in a case that is untouched.

We have been told that the Liberty of the Press is not secured by the New Constitution. Be pleased to examine the plan, and you will find that the Liberty of the Press and the laws of Mahomet are equally affected by it. The New Government is to have the power of protecting literary property; the very power which you have by a special act delegated to the present Congress.² There was a time in England, when neither book, pamphlet, nor paper could be published without a licence from Government. That restraint was finally removed in the year 1694 and by such removal, their press became perfectly free, for it is not under the restraint of any licence.³ Certainly the new Government can have no power to impose restraints. The citizens of the United States have no more occasion for a second Declaration of Rights, than they have for a section in favor of the press. Their rights, in the several States, have long since been explained and secured by particular declarations, which make a part of their several Constitutions. It is granted, and perfectly understood, that under the Government of the Assemblies of the States, and under the Government of the Congress, every right is reserved to the individual, which he has not expressly delegated to this, or that Legislature. The other objections that have been made to the new plan of Government, are: That it absorbs the powers of the several States: That the national Judiciary is too extensive: That a standing army is permitted: That Congress is allowed to regulate trade: That the several States are prevented from taxing exports, for their own benefit.

When Gentlemen are pleased to complain, that little power is left in the hands of the separate States; they should be advised to cast an eye upon the large code of laws, which have passed in this State since the peace. Let them consider how few of those laws have been framed, for the general benefit of the Nation. Nine out of ten of them, are domestic; calculated for the sole use of this State, or of particular citizens. There must still be use for such laws, though you should enable the Congress to collect a revenue for National purposes, and the collection of that revenue includes the chief of the new powers, which are now to be committed to the Congress.

Hitherto you have delegated certain powers to the Congress, and other powers to the Assemblies of the States. The portion that you have

delegated to Congress is found to have been useless, because it is too small, and the powers that are committed to the assemblies of the several States, are also found to be absolutely ineffectual for national purposes, because they can never be so managed as to operate in concert. Of what use is that small portion of reserved power? It neither makes you respectable nor powerful. The consequence of such reservation is national contempt abroad, and a state of dangerous weakness at home. What avails the claim of power, which appears to be nothing better than the empty whistling of a name? The Congress will be chosen by yourselves, as your Members of Assembly are. They will be creatures of your hands, and subject to your advice. Protected and cherished by the small addition of power which you shall put into their hands, you may become a great and respectable nation.

[26 February] It is complained that the powers of the national Judiciary are too extensive. This objection appears to have the greatest weight in the eyes of gentlemen who have not carefully compared the powers which are to be delegated with those that had been formerly delegated to Congress. The powers that are now to be committed to the national Legislature, as they are detailed in the 8th section of the first article, have already been chiefly delegated to the Congress under one form or another, except those which are contained in the first paragraph of that section. And the objects that are now to be submitted to the Supreme Judiciary, or to the Inferior Courts, are those which naturally arise from the constitutional laws of Congress. If there is a single new case that can be exceptionable, it is that between a foreigner and a citizen, or that between the citizens of different States. These cases may come up by appeal. It is provided in this system that there shall be no fraudulent tender in the payments of debts. Foreigners, with whom we have treaties, will trust our citizens on the faith of this engagement. And the citizens of different States will do the same. If the Congress had a negative on the laws of the several States, they would certainly prevent all such laws as might endanger the honor or peace of the nation, by making a tender of base money; but they have no such power, and it is at least possible that some State may be found in this Union, disposed to break the Constitution, and abolish private debts by such tenders. In these cases the Courts of the offending States would probably decide according to its own laws. The foreigner would complain; and the nation might be involved in war for the support of such dishonest measures. Is it not better to have a Court of Appeals in which the Judges can only be determined by the laws of the nation? This Court is equally to be desired by the citizens of different States. But we are told that justice will be delayed, and the poor will be drawn

away by the rich to a distant Court. The authors of this remark have not fully considered the question, else they must have recollected that the poor of this country have little to do with foreigners, or with the citizens of distant States. They do not consider that there may be an Inferior Court in every State; nor have they recollected that the appeals being *with such exceptions, and under such regulations* as Congress shall make,⁴ will never be permitted for trifling sums, or under trivial pretences, unless we can suppose that the national Legislature shall be composed of knaves and fools. The line that separates the powers of the national Legislature from those of the several States is clearly drawn. The several States reserve every power that can be exercised for the particular use and comfort of the State. They do not yield a single power which is not purely of a national concern; nor do they yield a single power which is not absolutely necessary to the safety and prosperity of the nation, nor one that could be employed to any effect in the hands of particular States. The powers of Judiciary naturally arise from those of the Legislature. Questions that are of a national concern, and those cases which are determinable by the general laws of the nation, are to be referred to the national Judiciary, but they have not any thing to do with a single case either civil or criminal, which respects the private and particular concerns of a State or its citizens.

The possibility of keeping regular troops in the public service has been urged as another objection against the new Constitution. It is very remarkable that the same objection has not been made against the original Confederation, in which the same grievance obtained without the same guards. It is now provided, that no appropriation of money for the use of the army shall be for a longer time than two years. Provision is also made for having a powerful militia, in which case there never can be occasion for many regular troops. It has been objected in some of the Southern States, that the Congress, by a majority of votes, is to have the power to regulate trade. It is universally admitted that Congress ought to have this power, else our commerce, which is nearly ruined, can never be restored; but some gentlemen think that the concurrence of two thirds of the votes in Congress should have been required.⁵ By the sundry regulations of commerce, it will be in the power of Government not only to collect a vast revenue for the general benefit of the nation, but to secure the carrying trade in the hands of citizens in preference to strangers [i.e., foreigners]. It has been alledged that there are few ships belonging to the Southern States, and that the price of freight must rise in consequence of our excluding many foreign vessels: but when we have not vessels of our own, it is certainly proper that we should hire those of citizens in preference to strangers; for our

revenue is promoted and the nation is strengthened by the profits that remain in the hands of citizens; we are injured by throwing it into the hands of strangers; and though the price of freight should rise for two or three years, this advantage is fully due to our brethren in the Eastern and middle States, who, with great and exemplary candor, have given us equal advantages in return. A small encrease in the price of freight would operate greatly in favor of the Southern States: it would promote the spirit of ship building; it would promote a nursery for native seamen, and would afford support to the poor who live near the sea coast; it would encrease the value of their lands, and at the same time it would reduce their taxes. It has finally been objected that the several States are not permitted to tax their exports for the benefit of their particular Treasuries. This strange objection has been occasionally repeated by citizens of this State. They must have transplanted it from another State, for it could not have been the growth of North-Carolina. Such have been the objections against the new Constitution.

Whilst the honest patriot, who guards with a jealous eye the liberties of his country, and apprehends danger under every form: the placeman in every State, who fears lest his office should pass into other hands; the idle, the factious, and the dishonest, who live by plunder or speculation on the miseries of their country; while these, assisted by a numerous body of secret enemies, who never have been reconciled to our Independence, are seeking for objections to this Constitution; it is a remarkable circumstance, and a very high encomium on the plan, that nothing more plausible has been offered against it; for it is an easy matter to find faults.

Let us turn our eyes to a more fruitful subject; let us consider the present condition of the United States, and the particular benefits that North Carolina must reap by the proposed form of Government. (Without money, no Government can be supported; and Congress can raise no money under the present Constitution: They have not the power to make commercial treaties, because they cannot preserve them when made. Hence it is, that we are the prey of every nation: We are indulged in such foreign commerce, as must be hurtful to us: We are prohibited from that which might be profitable,⁶ and we are accordingly told, that on the last two years, the Thirteen States have hardly paid into the Treasury, as much as should have been paid by a single State.⁷ Intestine commotions in some of the States: Paper Money in others, a want of inclination in some, and a general suspicion throughout the Union, that the burthen is unequally laid; added to the general loss of trade have produced a general bankruptcy, and loss of honor. We have borrowed money of Spain—she demands the principal, but we cannot pay

the interest. It is a circumstance perfectly humiliating, that we should remain under obligations to that nation: We are Considerably indebted to France but she is too generous to insist upon what she knows we cannot pay, either the principal or interest. In the hour of our distress, we borrowed money in Holland; not from the Government, but from private citizens.⁸ Those who are called the Patriots were our friends, and they are oppressed in their turn by hosts of enemies: They will soon have need of money: At this hour we are not able to pay the interests of their loan.⁹ What is to be done? Will you borrow money again from other citizens of that oppressed Republic, to pay the interest of what you borrowed from their brethren? This would be a painful expedient, but our want of Government may render it necessary. You have two or three Ministers abroad; they must soon return home, for they cannot be supported. You have four or five hundred troops scattered along the Ohio to protect the frontier inhabitants, and give some value to your lands; those troops are ill paid, and in a fair way for being disbanded. There is hardly a circumstance remaining; hardly one external mark by which you can deserve to be called a nation. You are not in a condition to resist the most contemptible enemy. What is there to prevent an Algerine Pirate from landing on your coast, and carrying your citizens into slavery? You have not a single sloop of war.¹⁰ Does one of the States attempt to raise a little money by imposts or other commercial regulations.—A neighboring State immediately alters her laws and defeats the revenue, by throwing the trade into a different channel. Instead of supporting or assisting, we are uniformly taking the advantage of one another. Such an assemblage of people are not a nation. Like a dark cloud, without cohesion or firmness, we are ready to be torn asunder and scattered abroad by every breeze of external violence, or internal commotion.)¹¹

[27 February] Is there a man in this State who believes it possible for us to continue under such a Government?—Let us suppose but for a minute, that such a measure should be attempted.—Let us suppose that the several States shall be required and obliged to pay their several quotas according to the original plan. You know that North-Carolina, on the last four years, has not paid one dollar into the Treasury for eight dollars that she ought to have paid.¹² We must increase our taxes exceedingly, and those taxes must be of the most grievous kind; they must be taxes on lands and heads; taxes that cannot fail to grind the face of the poor; for it is clear that we can raise little by imports and exports. Some foreign goods are imported by water from the Northern States, such goods pay a duty for the benefit of those States, which is

seldom drawn back; this operates as a tax upon our citizens. On this side, Virginia promotes her revenue to the amount of 25,000 dollars every year, by a tax on our tobacco that she exports: South-Carolina on the other side, may avail herself of similar opportunities. Two thirds of the foreign goods that are consumed in this State are imported by land from Virginia or South-Carolina; such goods pay a certain impost for the benefit of the importing States, but our Treasury is not profited by this commerce. By such means our citizens are taxed more than one hundred thousand dollars every year, but the State does not receive credit for a shilling of that money. Like a patient that is bleeding at both arms, North-Carolina must soon expire under such wasteful operations. Unless I am greatly mistaken, we have seen enough of the State of the Union, and of North-Carolina in particular, to be assured that another form of Government is become necessary. Is the form now proposed well calculated to give relief? To this, we must answer in the affirmative. All foreign goods that shall be imported into these States, are to pay a duty for the use of the nation. All the States will be on a footing, whether they have bad ports or good ones. No duties will be laid on exports; hence the planter will receive the true value of his produce, wherever it may be shipped. If excises are laid on wine, spirits, or other luxuries, they must be uniform throughout the States. By a careful management of imposts and excises, the national expences may be discharged without any other species of tax; but if a poll-tax, or land-tax shall ever become necessary, the weight must press equally on every part of the Union. For in all cases, such taxes must be according to the number of inhabitants. Is it not a pleasing consideration that North-Carolina, under all her natural disadvantages, must have the same facility of paying her share of the public debt as the most favored, or the most fortunate State? She gains no advantage by this plan, but she recovers from her misfortunes. She stands on the same footing with her sister States, and they are too generous to desire that she should stand on lower ground. When you consider those parts of the new System which are of the greatest import—those which respect the general question of liberty and safety, you will recollect that the States in Convention were unanimous; and you must remember that some of the members of that body have risked their lives in defence of liberty; but the system does not require the help of such arguments; it will bear the most scrupulous examination.

When you refer the proposed system to the particular circumstances of North-Carolina, and consider how she is to be affected by this plan; you must find the utmost reason to rejoice in the prospect of better

times—this is a sentiment that I have ventured with the greater confidence, because it is the general opinion of my late Honorable Colleagues, and I have the utmost reliance in their superior abilities.¹³ But if our constituents shall discover faults where we could not see any, or if they shall suppose that a plan is formed for abridging their liberties when we imagined that we had been securing both liberty and property on a more stable foundation; if they perceive that they are to suffer a loss where we thought they must rise from a misfortune; they will at least do us the justice to charge those errors to the head, and not to the heart.

(The proposed system is now in your hands, and with it the fate of your country. We have a common interest, for we are embarked in the same vessel. At present she is in a sea of troubles, without sails, oars, or pilot; ready to be dashed into pieces by every flaw of wind. You may secure a port, unless you think it better to remain at sea. 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.¹⁴

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.

But it is a Government, unless I am greatly mistaken, that gives the fairest promise of being firm and honorable; safe from Foreign Invasion or Domestic Sedition. A Government by which our commerce must be protected and enlarged; the value of our produce and of our lands must be increased; the labourer and the mechanic must be encouraged and supported. It is a form of Government that is perfectly fitted for protecting Liberty and Property, and for cherishing the good Citizen and the Honest Man.)¹⁵

1. Elbridge Gerry, George Mason, and Edmund Randolph refused to sign the Constitution at the conclusion of the Constitutional Convention. Gerry's objections were printed on 3 November, Mason's on 21, 22, and 23 November, and Randolph's around 27 December (CC:227-A, 276-A, 385).

2. On 2 May 1783 Congress adopted a committee report, in Williamson's handwriting, urging the states to secure copyright protection for authors (JCC, XXIV, 326-27). In

November 1785, Williamson, as a member of the North Carolina House of Commons, proposed a “Bill for securing Literary property.” This bill, incorporating the language of the congressional committee report, became law on 29 December 1785 (NCSR, XVII, 280; XXIV, 747–48). The law did not delegate the power of copyright protection to Congress, but provided protection to authors in other states that had passed similar laws.

3. The Printing Act of 1662 authorized the licensing of the press in England; it was renewed until 1679 and again in 1685 and 1692. In 1694 the House of Lords voted for renewal but the Commons opposed it, ending the licensing of the press (Fredrick S. Siebert, *Freedom of the Press in England, 1476–1776* [Urbana, Ill., 1952], 237–63).

4. Article III, section 2, of the Constitution provided for the appellate jurisdiction of the Supreme Court “both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.”

5. In the Constitutional Convention Williamson favored a two-thirds majority in Congress for passage of commercial legislation. He did not think it necessary, “but he knew the Southern people were apprehensive on this subject and would be pleased with the precaution” (Farrand, II, 450–51).

6. For a discussion of the restrictions placed on American commerce during the Confederation and attempts to retaliate, see CC:Vol. 1, pp. 24–30.

7. See the 28 September 1787 report of the Board of Treasury on the requisitions of Congress (JCC, XXXIII, 569–85).

8. During the Revolution, Spain provided about \$400,000 in subsidies, which were not considered loans and were never repaid, and \$248,000 in loans. French subsidies amounted to nearly \$2,000,000 and their loans to \$6,350,000. Between 1782 and 1787 Dutch bankers floated loans of about \$3,200,000 to the United States. Another loan of \$400,000 was made in 1788. In August 1788 Williamson served on a congressional committee that reported unpaid interest on the foreign debt of \$1,521,116 and principal payments due in 1787 and 1788 of \$925,925 (JCC, XXXIV, 435).

9. During the early and mid-1780s, The Netherlands was split between the Patriots, who supported a republic, and the Orangists, who advocated the return of the stadtholder, William V. The Patriots had been sympathetic to the American Revolution, and some of their leaders had been involved in the loans to America. In September 1787 Prussian forces invaded The Netherlands, routed the Patriots, and in October reinstated William V (Simon Schama, *Patriots and Liberators: Revolution in the Netherlands, 1780–1813* [New York, 1977], 64–135).

10. On 1 August 1785, Congress sold its last frigate, the *Alliance*.

11. The text in angle brackets was reprinted in the *Salem Mercury*, 5 August 1788, with this preface: “The following gloomy picture of ‘*the present condition of the United States*’ is taken from a late ‘address to the freemen of Edenton and County of Chowan, Northcarolina, by the Hon. HUGH WILLIAMSON, Esq. Delegate from said State to the late Continental Convention.’” This excerpt was reprinted by five newspapers with the excerpt cited in note 15, below: N.H. (1), Conn. (2), N.Y. (2).

12. On 4 May 1790 the secretary of the treasury reported that North Carolina had paid about 10.5 percent of its specie quota of the congressional requisitions of 1784, 1785, and 1786 (\$48,626 of \$463,906), while it paid none of its indents quota of \$674,739 (*American State Papers. Documents, Legislative and Executive, of the Congress of the United States* . . . [32 vols., Washington, D.C., 1832–1861], Finance, I, 56–57. See also a congressional committee report of September 1788 in JCC, XXXIV, 556–59. Williamson was a member of the committee.).

13. See North Carolina Delegates to Governor Richard Caswell, 18 September 1787 (RCS:N.C., 5–7n).

14. Charles Johnson of Chowan County alluded to this portion of the speech while expressing his concern about adopting the Constitution unamended: "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'" (to James Iredell, 14 January 1788, RCS:N.C., 60–61).

15. The text in angle brackets was reprinted in the *Salem Mercury*, 5 August 1788, with this preface: "In the conclusion of Mr. Williamson's address, we are relieved with a more pleasing representation than the foregoing [see note 11, above]—that of the probable benefits which the New Constitution is capable of affording." This excerpt was reprinted by five newspapers with the one cited in note 11: N.H. (1), Conn. (2), N.Y. (2). It was also reprinted alone in the Boston *Independent Chronicle*, 11 September; *New Hampshire Spy*, 13 September; Rhode Island *Newport Herald* and Providence *United States Chronicle*, 25 September.

Resolutions of Inhabitants of Chowan County and the Town of Edenton, Edenton, N.C., 8 November 1787¹

At a meeting of a respectable number of Inhabitants for the county of Chowan, and the Town of Edenton, at the Court-House in Edenton, on the 8th day of November, 1787, pursuant to an advertisement from their Representatives in the General Assembly.

THOMAS BENBURY, Esq. *Chairman.*

The following resolutions were unanimously agreed to.

Resolved,

That in the opinion of this Meeting, this state can have no prospect either of security or honor, but by a firm and indissoluble union with the other states in the Confederation.

That the benefits derived from union were most remarkably and providentially displayed by the glorious and successful termination of a war, in which we were for a long time very unequally engaged, and have been no less apparent from the state of anarchy, distress and dishonor, to which we have been exposed since the peace for want of a continental government of sufficient energy to answer all the purposes for which our Confederation can be of any real use to us.

That in our present situation, Congress being without either money, credit or resources, (for the voluntary and unanimous concurrence of thirteen states in any one measure, we are now convinced, is a futile dependence) it is full time, if we mean to be a united people, to establish such a government as can keep us together, otherwise that independence which we have obtained so hardly, and prize so much, will pass away like a shadow, and we shall be numbered among the visionary and unhappy of mankind.

That such being our situation, and when we had almost despaired of any material and honorable change, we view with admiration and gratitude, a system formed by the unanimous concurrence of twelve states,

which magnanimously disdaining petty competitions of local and private interests, embraced with patriotic ardour, the great object of an united Government, calculated, (to use their own excellent words) to establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.²

That amidst other circumstances which fill our hearts with joy on this important occasion, we cannot consider with indifference the distinguished part which our immortal General³ has taken in this great work, calculated to compleat the happiness of which he laid the foundation, and we consider it as an act of Providence for which we ought to be particularly thankful that he extended to so late a period the valuable life of that venerable man, Dr. Franklin, whose wisdom, fortitude and perseverance had so great a share in establishing the peace and independence of our country.

That it is in vain for us to expect for any abler assistance than that given by those and other illustrious characters in the late Convention, whose deliberations appear to have been conducted with a degree of temper and assiduity, suited to the difficult task they were engaged in, and therefore we think every hour of delay in carrying their propositions into effect is unnecessary for any good purpose, and by continuing the present evils of imbecillity, anarchy and national dishonor, may endanger the loss of all those blessings, for the sake of which any government can be of the least use, and a free government must be of the greatest.

Resolved therefore, That this meeting do earnestly desire that their members for this town and county, do use their utmost efforts to obtain a resolution of the General Assembly, appointing the choice and meeting of representatives of the people, in a Convention, pursuant to the recommendation of the late Convention held at Philadelphia, in order to deliberate on the new Constitution proposed, and that the time of holding the said Convention be appointed on as early a day as possible.

Resolved also, That this meeting entertain a very grateful sense of the eminent services rendered to this state by its Delegates in the late Convention; and are in particular obliged to Dr. Williamson for the able and useful information he has this day given on the subject of the new Constitution proposed.⁴

The meeting at the same time taking into consideration the great advantages which would result from improving the channel at Roanoke Inlet; request that their members for this county and town do endeavour to procure an act to be passed for that purpose.

By order of the meeting,

(Signed) THOMAS BENBURY, Ch.⁵

1. Printed: *State Gazette of North Carolina*, 29 November 1787. Reprinted: *Charleston City Gazette*, 15 December; *New York Independent Journal*, 26 December; *Pennsylvania Packet*, 1 January 1788; *Connecticut Journal*, 2 January; *Rhode Island Newport Herald*, 24 January; and the January 1788 issue of the *Philadelphia American Museum*.

2. Quoted from the Preamble to the Constitution.

3. George Washington.

4. For Williamson's speech in Edenton on 8 November, see immediately above.

5. Newspaper reprints in New York, Pennsylvania, Connecticut, and Rhode Island added a place and date after Benbury's name: "Edenton, Nov. 12, 1787." This could be an accidental reference to the Edenton grand jury presentment of 12 November (immediately below) that appeared in the same issue of the *State Gazette of North Carolina*, 29 November.

Edenton District: Grand Jury Presentment on the New Constitution Edenton, N.C., 12 November 1787¹

We the Grand Jury for the District of Edenton, considering the present as a very important Crisis in the affairs of America, and being deeply sensible of the necessity of a firm and lasting Union among the American States to ensure the common safety and liberty of all, hope it will not be deemed presuming in us, that we take this occasion to express our Sentiments on the subject of the new Constitution proposed by the late respectable Convention. We believe none can be so ignorant as not to know, and we hope few are so unfeeling as not to regret, the disordered and distracted State in which the affairs of the Union have been for a long time past. No sooner was the immediate danger of a Common Enemy removed, than the States immediately detached themselves from the general Concerns of the whole as if our future fate was out of the power of Fortune. The consequence has been our public Debts unpaid, the Treaty of Peace unfulfilled on both sides, our Commerce at the very verge of ruin, and all private Industry at a stand for want of an united vigorous Government. Quotas demanded which we can never pay, and Congress preserving merely the shadow of authority without possessing one substantial property of power. These Evils dictated the necessity of a change, and the same happy expedient of a Union of Counsels which formed our Confederation was adopted to remedy it's defects.² Experience had pointed these out, and we believe it would be difficult to draw together in any Country a body of abler Men than the Persons appointed on this important occasion. They were not only able Men, but entitled to the highest confidence which can be bestowed by any People upon illustrious and successful Leaders, and the same patriotism of character which formerly distinguished so many of them in the most trying scenes, was visible in the anxious and deep attention they employed on this momentous subject. A Work coming

from such Men, after such long deliberation, is entitled to the utmost respect, especially as all the States assembled were unanimous, a circumstance that strongly shews the purity of their intentions, their sense of the absolute necessity that a new Constitution should be immediately formed, and that little subordinate attentions to local Interests ought to give way to the great object of the general good. There is nothing we hold in greater disdain nor is there any thing more inconsistent with common prudence, as well as the most ordinary share of public spirit, than that we should cavil about trifles when our all is at stake that we should slight the present favourable opportunity (which may be the only one we may ever enjoy) to establish a free and energetic Government, when we now lie at the mercy of the most *inconsiderable Enemy*,³ and have a Union in nothing but in name. We admire in the new Constitution a proper Jealousy of Liberty mixed with a due regard to the necessity of a strong Authoritative Government. Such a one is as requisite for a confederated as for a single Government, since it would not be more ridiculous or futile for our own Assembly to depend for a Sanction to it's Laws on an unanimous concurrence of all the Counties in the State, than for Congress to depend for any necessary exertion of power on the unanimous concurrence of all the States in the Union. One weak, corrupted, or unprincipled State might in such a case destroy the whole. This Evil, the effects of which we have already felt,⁴ is (in our opinion) happily remedied by the Constitution proposed, with an advantageous addition of a Popular Representative of the People at large, accompanied with useful checks to guard against possible abuses. It is also a part of the Constitution that we observe with particular pleasure, that nine States may at any time make alterations,⁵ so that any changes which experience may point out can be made without the danger of such calamities as are incident upon changes of Government in all other Countries, where they can be only brought about by a civil war. Nor can we avoid dwelling with delight upon those many provisions, calculated to make us as much one People as possible, and to impress upon the minds of all, that useful and important truth, that our Strength consists in Union, and nothing can hurt us but Division. May this great truth, so important for us, so formidable to our Enemies, rest upon the minds of all Wellwishers to their Country, as the watch word of American Liberty and Safety.

The various attempts that were made to divide us during the War, and the danger of similar efforts being used on the present occasion to create distrust among us of our best and ablest Characters ought to put us upon our guard that we may not suffer ourselves to be the dupes of an insidious policy working for our destruction.

But we trust in God, that the same all powerful Providence which has hitherto so wonderfully preserved us will still continue to protect us from the machinations of all our enemies internal and external, and that by a wise use of the vast advantages in our possession this Country may become, as it seems destined to be, the Asylum for all the oppressed upon the Globe.—

Entertaining these Sentiments, which the warmth of our feelings hath carried to a greater length than we intended, we most earnestly wish that the General Assembly may appoint the meeting of a Convention on as early a day as possible, that no reproach of unnecessary delay may lie on us, when, in all human probability, upon our speedy adoption or rejection of this Constitution, it may depend, whether we shall be truly a nation, happy in ourselves and respected by the rest of Mankind, or an inconsiderable scattered People, perpetually driving to and fro, in search of a perfection which never can be found, amusing ourselves with visionary ideas when we might be enjoying real blessings, and at length doomed to feel the curse of all human discontent, the consciousness that by rejecting the means Providence had put into our power we had become both wretched and contemptible.—

Willm Bennett, Forem[an]	Foster Toms	James Wood
Christor Clark	Joseph Horne	Robert Gray
Thos Taylor	Roger Boyd	Edward Moore
Jonathon Frisel	John Brockett	Josiah Perry
Abraham Norfleet	James Roscoe	Henry Hill
Wm. Righton	Luke Lewis	Benja. Cook

1. RC, Legislative Papers, LP/76/Commons/Dec. 1787, Nc-Ar. The presentment was probably written by James Iredell. The document is endorsed: "Testimony of the grand Inquest for the District of Edenton respecting the new Plan of Govt." It was docketed: "The presentment of the Grand Jury of Edenton District relative to the new form of Government. December 1787." The entire presentment and the names of the jurors was printed in the *State Gazette of North Carolina* on 29 November. By 24 January it had been reprinted in full in eight newspapers: N.H. (1), R.I. (1), Conn. (1), N.Y. (1), Pa. (3), S.C. (1), and in the January 1788 issue of the *Philadelphia American Museum*. On 7 December 1787, Stephen Cabarrus "exhibited" the presentment to the North Carolina House of Commons, which ordered it to "lie on the table" (RCS:N.C., 50).

In November 1777 the legislature established a judiciary divided into five districts, each centered in a major town. The Edenton district consisted of the counties of Chowan, Perquimons, Pasquotank, Currituck, Bertie, Tyrrell, Hertford, and Camden. Each district court was to sit twice yearly. The Edenton district court was to meet "on the First Days of May and November." See *The Acts of Assembly of the State of North Carolina . . .* (New Bern, 1778), 10 (Evans 15943).

2. The Articles of Confederation were drafted by the Second Continental Congress and sent to the state legislatures for their unanimous approval. The new Constitution was drafted by the Constitutional Convention and sent to the Confederation Congress with a resolution recommending that Congress submit it to the state legislatures, which were asked to call specially elected conventions to ratify the Constitution.

3. The expression “*inconsiderable Enemy*” could refer to a generic enemy or to the Algerines, who had captured two American merchantmen in 1786 and held their crews captive.

4. A reference to Rhode Island’s rejection of the Impost of 1781.

5. Article V of the Constitution provided that proposed amendments to the Constitution needed to be ratified by three-quarters of the states.

James White to Governor Richard Caswell
New York, 13 November 1787 (excerpt)¹

. . . While I am writing to your Excellency at a time that all minds, & all conversations are turned towards the interesting question of changing the foederal system it may be expected from every one who is honored with the public confidence to shew some attention to that subject. But the gentlemen of the late delegation are so lately returned, as are also those who assisted at the convention, that I conceive it unnecessary to be very particular.² Yet, as those who have been the most conversant with the subject appear to me to be the most convinced of the necessity of an efficient foederal government; I feel myself disposed to remark, that “no system could be framed which a spirit of doubt, & jealousy, might not conceive to be fraught with danger: that this over-cautious temper may be pushed to excess, I think I may be excused if I cite our present confederation in evidence.” I must in candor confess, that I have regretted that the proposed constitution was not more explicit with respect to several essentials: but the great clamor is, that no express provision is made for the TRYAL BY JURY, and LIBERTY OF THE PRESS; things so interwoven with our political, or legal ideas, that I conceive the sacred immutability of these rights to be such, as never to have occurred as questionable objects to the convention. And can it indeed be supposed, that three distinct branches, originating from, & returning to the people, will combine to invade these inviolable first principles? Or would they expect to do it with impunity? The apprehension wears too pusilanimous a complexion. Whatever may be our wish in theory, we find in practice, by our own example, that states in confederacy, like individuals in society, must part with some of their privileges for the preservation of the rest. In proof of which, it cannot be denied that, for want of attention to, or knowledge of that maxim, these states are now tottering on the brink of anarchy.

1. RC, Gratz Collection, Old Congress, PHi. Printed: Smith, *Letters*, XXIV, 554–55. Caswell endorsed the letter as received on 26 November and as answered on 30 November. White represented North Carolina in Congress and was superintendent of Indian affairs for the Southern Department.

2. White refers to North Carolina’s delegates to Congress and to the Constitutional Convention. For the report of the Convention delegates dated 18 September, see RCS:N.C., 5–7n.

State Gazette of North Carolina, 22 November 1787¹

We hear from Tarborough, that both Houses of the General Assembly were expected to be formed on Monday last [19 November]; and that the Federal Constitution seemed to meet with an almost universal approbation.

1. The *State Gazette of North Carolina* for 22 November is not extant. The transcription is taken from the *Maryland Journal*, 14 December, the earliest reprinting. The *Maryland Journal* reprinting appeared immediately under a dateline for "Newbern, (North-Carolina) November 22." Reprinted in twenty-six newspapers by 15 January 1788: Vt. (1), N.H. (3), Mass. (6), R.I. (2), Conn. (6), N.Y. (3), N.J. (1), Pa. (2), Md. (1), Va. (1).

William Dickson to Robert Dickson

Goshen, Duplin County, N.C., 30 November 1787 (excerpt)¹

My Dear Cousin.

. . . During the course of the last Summer a Grand convention of Delegates from the Several States of America were Assembled at Philadelphia. The only Production of their Councils which I have yet seen Published is a Constitution for the United States of America, Submitted to the Legislature of Each State for their Approbation and concurrence, a Coppey or Pamphlet of which for your Amusement, I here inclose you,² our General Assembly for this State are now convened, and have it under consideration, We hear that Debates run high concerning it, the Populace also in the Country are divided in their opinions concerning it, for my own part I am but a Shallow Pollition, but there are some parts of it I do not like,—however I expect our Legislature will adopt it in full.

The Ancient Romans when they deposed their Kings and abolished the Regal Government, so Jealous of their liberties they wou'd not trust the Sovereign Power and command of their Armies to one Consul only, but for the better Security of the Republick, had always two Consuls with Eequal Powers, whence it cou'd Scarcely be Supposed that one cou'd lay any Plan to Usurp or Subvert the Government, without being opposed, or Rivalled by his Colleague, those Consuls were Annually Elected and were not Eligible to be Elected the ensuing Year. Yet Notwithstanding all their Precautions both Sylla and Cæsar, Each in their turn, found ways and means through the powers they had, to Hew their way through blood to the Imperial throne.

How much easier may it be for a President of the United States to Establish himself on a Throne here; Invested with Sovereign Power for the term of four Years at once, and Eligible to the same again at the expiration of that Term. Invested with the Sole command of all our

Armies, and no Rival to Circumvent him. I conceive the way is in a Manner laid open and plain before him, shou'd his Ambitious Views inspire him to Aim at Sovereign Power.—However the Constitution of an Empire is too deep and Extensive for my comprehension, therefore it does not become me to cavil with it. . . .

I remain Dear Cousin with Respect, and all dear Esteem,—your Sincere friend, and Affectionate Kinsman

1. RC, Dickson MSS, Nc-Ar. Printed: James O. Carr, comp. and ed., *The Dickson Letters* (Raleigh, N.C., 1901), 33–36. The letter has no addressee, but the salutation, contents, and closing of the letter indicate that it was probably written to the Reverend Robert Dickson, a Presbyterian clergyman in Narrow Water, County Down, Ireland. William Dickson (1739–1820), a native of Pennsylvania, represented Duplin County in the colonial Assembly, 1769, 1770–71, and in four of the five provincial congresses, 1774–76. During the Revolutionary War he served as an officer in the militia. From 1777 to 1819, Dickson was clerk of the Court of Common Pleas and Quarter Sessions for Duplin County. He represented Duplin County in the Hillsborough Convention, 1788, and voted not to ratify the Constitution without amendments. In 1795 he was a member of the state House of Commons. By 1790 Dickson changed his mind about the Constitution. See William Dickson to Robert Dickson, 28 December 1790 (Mfm:N.C.).

2. On 6 December 1787 the North Carolina legislature resolved that 1,500 copies of the Constitution be printed by the state printers to be dispersed by legislators among their constituents.

North Carolina Congressional Delegates to the North Carolina General Assembly, Tarborough, N.C., 15 December 1787¹

Gentlemen,

We received the commands of the hoñble the general assembly, last evening to lay before you this morning “The present State and circumstances of the Union.” And although the time limited to us is short yet, we shall endeavour to make such a statement as in our opinion may answer the Object of your request. The subject is of great latitude, But we have tryed to view it in the most interesting point of light.

All the resolutions of Congress with the letters of your delegates have been laid before you: And Mr. Hawkins attended at the opening of the Session expressly for the purpose of assisting in arranging of them and to throw such further light on them, as might serve to explain any ambiguities[.] But they were ordered to be committed without a reading.

A narrative of transactions other than the connecting of these papers together we feel ourselves bound to give and shall do it accordingly from notes which we must reserve to ourselves.

To describe the present State and circumstances of the Union, we may declare in one word that we are at the Eve of a Bankrupcy, and

of a total dissolution of Government. Since the close of the war there has not been paid into the general Treasury as much money as was necessary for one years interest of the domestic and Foreign debt and Congress have been reduced to the dreadful alternative of borrowing principal to pay interest. Our efforts at home to this end were ineffectual[.] abroad where we were not known and where enthusiasm for liberty had enrolled us among the most deserving of mankind we were more successful. The deception cannot be much longer kept up and unless something can be done before the close of the ensuing year we must cease to be a united government. Our friends must give us up and we shall become a laughing stock to our enemies.

The Annual requisitions are so partially attend[ed] to by the States that our foreign and domestic embarrassments have accumulated beyond the possibility of being retrieved by other means than the punctual compliance on the part of the States. Congress in their perseveraing desire of doing justice to their creditors and supporting the fœderal government have tryed every possible mean in their power. The sale of the western land has gone and will go a great way in discharge of our domestic debt, But our foreign debt is increasing and the best way of judging of the probability of soon discharging of it is by our own exertions in five years we have made one payment something less than forty thousand dollars. And the Schedule of requisitions will show the deficiencies of the States respectively.

On the Subject of the Treaty you have every thing necessary to be said in the circular letter accompanying the resolutions of the 13th of April, with which several of the States have complied.²

On the settlement of accompts you have the ordinance of the 13th of may and the subsequent resolutions of the 23rd. of July which will wind up the whole expences of the War on principles perfectly equitable. Several of the States are far advanced in their settlement and we have reason to expect the Commissioner for settling our accompts will very soon give us notice, of his attendance.

The Subject of the Navigation of the Mississipi is of so delicate a nature that we cannot commit it to paper. We are only at liberty to say that it has been seriously agitated, and that it has claimed and we presume it will continue to claim the serious attention of your Delegates. We can say in General the conduct of Spain on this subject is not liberal and we presume it would be very different if they thought us a more formidable neighbour.

Having mentioned the Western lands we must add that Sales already made will sink near five millions of Dollars of the principal of the Domestic debt. And that the States generally who have ceded Western

lands or who claim a share in them complain pointedly and heavily against North Carolina and Georgia for claiming a part of the lands in the possession of Congress without ceeding any part of their Claims.

To close our remarks, a Change of measures for the consolidation of the Union in which is involved our prosperity, felicity, safety and perhaps our National existance is so obvious, That the whole of the Union Rhode Island excepted have appointed their deputies in Convention for that purpose: The result of their deliberations you have had before you. Whether the plan adopted by them is the proper one will depend on the sense of a Convention of delegates in each State by the people thereof.

We have the Honor to be with great respect

1. RC, GLC 04842.06, The Gilder Lehrman Collection, courtesy of The Gilder Lehrman Institute of American History, at the New-York Historical Society. The report was signed by Robert Burton, William Blount, and Benjamin Hawkins.

2. For the Treaty of Peace as the law of the land, see “Marcus” III, 5 March 1788, note 3 (RCS:N.C., 91n–92n).

**Benjamin Franklin to John Sevier
Philadelphia, 16 December 1787 (excerpt)¹**

. . . I rejoice with you that so much Unanimity obtain'd in the general Convention. That of our particular State [i.e., Pennsylvania] ratify'd the Constitution a few Days since; and there is a Prospect of its being approv'd by all the States after some time. I hope yours will see the Advantage of acceding to it, as the best Means of securing the Interest of all the western Settlements. . . .

1. Draft, Franklin Papers, DLC. This undated draft of a letter, without a recipient's name, was signed “BF.” The first paragraph refers to Sevier's letter of 2 November (RCS:N.C., 8–9) that recommended Alexander Dromgoole as Indian superintendent for the Southern department.

North Carolina Gazette, 19 December 1787¹

AN ESSAY *on the Constitution proposed to the People of the U.S.*
BY THE FEDERAL CONVENTION.

*Si Populus vult decipi, decipiat.*²

(Continued from our last)

WE now come to the point which at once teems with numberless enormous innovations, by introducing strange and new courts, of almost any denomination, into any of the states, whereby our own courts

will soon be annihilated, and abolishing the only pledge of liberty, the trial by jury, to tyrants only formidable, in all civil cases, countenancing the greatest injustice to be lawfully, nay constitutionally, committed by the rich against their brave fellow citizens, whose only misfortune is to be, perhaps, not so rich as they, by dragging their law suits of any denomination, and of any sum, however small, if they choose, before the grand tribunal of appeal, to which the poor will be unable to follow, with their evidences and witnesses, and on account of the great expence. How distressfull will it not be for the industrious mechanic, who by his labour only maintains a numerous family, to be compelled to shut his shop, take shipping for a remote part of the continent, to attend the fœderal court, for months, perhaps for years, as a witness in a suit instituted for the recovery of a sum the payment of which might be less prejudicial to him than so long an attendance! How hard will it not be for the farmer to be subpoenaed out of the state in the very season his field requires his labour! Let us with horror beware the precipice before us! Let us oppose firmly that part of the fœderal constitution so destructive to the inestimable rights the more numerous part of middle circumstanced citizens now enjoy. Congress, in their appeal to the world,³ when they were about to dissolve the political bands which united us to Great Britain, reciting the grievances which prompted us to separate ourselves from her, complained that the inhabitants of America were under the necessity of crossing the seas to obtain justice.⁴

THEY also complained, as of a grievance too hard to be borne, that troops had been kept among us in time of peace⁵—That standing armies are an insult and dangerous to the liberty of the people is, I believe, a clause which is to be found in the bill of rights of every state in the union.⁶ It consequently appears extraordinary that, in so short space of time as a period of eleven years, a proposition should be made to the people of America to renounce a right they have shewn themselves so jealous of.

A TERRITORIAL legislation over the district where Congress reside ought not to be granted to them.⁷ It may be made a nursery out of which legions may be dragged to submit us to unlimited slavery, like ancient Rome. If such a sovereignty is given to them, over the smallest extent of territory, they will easily find the mean of removing the boundaries of their dominions. It is difficult to obtain power, but easy to augment it: it will grow by itself. If that territorial legislation is not to be given to congress, they ought to be denied, with more propriety an exclusive jurisdiction in the forts, arsenals, magazines, dock-yards, they may establish in different parts of the continent.

SOME persons have exclaimed that the omission of a clause respecting the liberty of the press in the fœderal constitution intimates that we are not to enjoy any longer that precious blessing—that Congress could constitutionally issue an ordinance forbidding the printers to publish their opinion on the conduct of that august body, or any of their officers. Whether such a consequence may be properly drawn will be left for the consideration of the reader—At all events it is to be when that as it has been thought proper to mention in the fœderal constitution, that the trial by jury and the writ of *Habeas Corpus* would always be preserved, a few words might have been added, to promote to the people of the United States, that under the new government, the liberty they now enjoy of publishing their ideas, would be held as sacred. As the Aristocratical, of all governments, is the most averse to the liberty of the press—“There,” says an elegant French writer “the magistrates are petty sovereigns, but no[t] great enough to despise affronts. If in a monarchy a satirical stroke is designed against the prince, he is placed in such an eminence that it does not reach him; but an aristocratical lord is pierced to the very heart.”⁸ Policy aimed to require that in proposing the adoption of an aristocratical government, assurances should be given us, that it should have no bad influence on our most sacred right. It was a compliment the American printers had a right to expect.—However conscious they may be of their being allowed to dabble [in] politics, they are fond of hearing the freedom of the press proclaimed, like the fair of being told of their beauty; and if they are to believe that, whenever a lady ceases to be told that she is a fine woman, the time is pretty near when she will no more be looked upon such, they may take the omission of a clause declaring that the press shall ever be free for a bad omen. (*To be continued.*)

1. This essay was begun in the issue of 12 December and carried over to the issues of 19 and 26 December. Only the 19 December issue is extant.

2. Latin: “If people will be deceived, let them.”

3. A reference to the Declaration of Independence.

4. One of the charges in the Declaration of Independence against the king and Parliament was that they had deprived Americans “in many cases, of the benefits of Trial by Jury:—For transporting us beyond Seas to be tried for pretended offences.”

5. The Declaration of Independence charged that the king “has kept among us, in times of peace, Standing Armies without the Consent of our legislatures.”

6. The state declarations of rights of Virginia, Pennsylvania, and North Carolina affirmed that standing armies in times of peace were dangerous to liberty and that they ought not to be raised or maintained. The declarations of Delaware, Maryland, Massachusetts, and New Hampshire specified that standing armies were dangerous to liberty and that they ought not to be raised or kept without the consent of the legislature

(Thorpe, V, 3083 [Pennsylvania]; *American Historical Review*, III [1898], 646 [Delaware]; RCS:Md., 773; RCS:Mass., 444; RCS:N.H., 469; RCS:N.C., 824; and RCS:Va., 531).

7. In the penultimate clause in Article I, section 8, the Constitution provides that Congress was "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 State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings."

8. Montesquieu, *Spirit of Laws*, I, Book XII, chapter XIII, 286.

Adieu

North Carolina Gazette, 19 December 1787

To our Readers.

The following curious Epistle, wrote by an old Spy, has accidentally fell into our hands.

"YES, my friend, I have been wavering, and in doubt, under what banners to enrol myself in the present contest between Federalists and Antifederalists, a small share of philosophy has buoyed me up to a neutral eminence, from whence I can contemplate the clashings of my fellow mortals below, and exult in my indifference as to what may happen One Hundred Years hence; at the same time I love America, and can clearly foresee that she will rise to a summit that will shake old Europe to its very centre, in spite of all their little arts to check our progress, the will of fate is in our favour, and her decrees are irrevokable; the hand of nature has laid off America upon a more copious scale than Europe; their Lakes in comparison to ours, are mere Ponds, Rivers, Brooks; Mountains, young Hills, and Trees reduced to Bushes. When it is considered that these immense regions are already overspread by English descendents, inheriting all their ancient enthusiasm for Liberty, and enterprizing almost to a fault, what may not be expected from such a people, in such a country, and doubling every fifteen or twenty years? I have now measured the ground of five States, from every mouth issues Constitution! Constitution! the enthusiasm of some of its pillars is such, that they fancy in their dreams that they see the finger of God himself writing it at large on the surface of the Heavens, that this and other worlds may read it and admire it at their leisure, the opposition, on the contrary, views it drawn up in letters of fire, blood, and dispotism, through a black cloud, pregnant with horrors, and ready to burst on the cursed heads of its inventors. Heavens, what a contrast! To descend a little, I must now tell you truly, I have made it the constant theme of my examination, and have examined with attention, every piece on the subject that has come within my reach;

and in fact, I am nearly converted to a warm Federalist. The sublime reasonings of a Hamlington [i.e., Hamilton], a Wilson, a Williamson and others, seem to bear down the lame arguments of their opposers. I have probed both sides to the bottom, and find the secret spring which actuates each to be this,—the Federalist is stimulated by patriotism, and a clear conviction that the honor, welfare, glory and happiness of this country is now upon a poize.—The Antifederalist carries in his front, a thin veil of patriotism, but in probing his heart, I found vile, sordid self views—weakness, and mean jealousy stalking at large, and poor Patriotism hardly discernable with a microscope in one corner. Under these circumstances, you must not be surprized should you hear that I am beating up for volunteers in the cause of the federalists. In these Northern States they have resumed the distinction of Whig and Tory, or Washingtonians and Shayites, to distinguish the opposite parties; I am very sorry for this, because I would rather wish the Shayites might be converted by arguments instead of being at last obliged to yield to the blessings which will probably flow from the Washingtonian faith.

James Sanders to Daniel Smith

Tarborough, N.C., 23 December 1787 (excerpts)¹

I Send you a Copy of the Federal Constitution with a Resolve of the General Assembly of the State of North Carolina.—

Congress Has Sayd that the States of North Carolina South Carolina and Georgia Might Treat with the Sothern Indiens and they Would Bare an Equal proportion of the Exspence this Has Been Layd Before the Assembly which they will not Agree to; the Land Office was Very near being Opened But By a Small Majority fell, there was An attempt made to Cede the western country to Congress which Could not be Done, there Behavior Shows they Are Tyard of yus, and would be Glad to Get Rid of us if they Could secure these lands. . . .

If times are peaseable I Shall Expect to See you or Capt Winchester at the Convention I Shall be there and will Serve if I Am Elected I am Not Certain what time I Shall Return to that Country, but Shall by that time be Able to Judg, as there is a number of Acquaintances Paths of Coming to that Country, nothing more at present But my Compliments to Mrs Smith and the Children. . . .

I am with great Esteem your Cencear friend and Honor[a]ble Servt

1. RC, Draper Collection, Tennessee Papers, XX, 4 XX 54, State Historical Society of Wisconsin. The letter was addressed to “Colo. Daniel Smith/North Carolina/Summer County” and “Honourd by Colo. Bledsoe.” Sanders (1764–1836), a planter and a native

of New Bern, N.C., was a colonel in the Orange County militia. He moved from Orange to Hendersonville in Sumner County, N.C. (later Tennessee), and represented that county in the House of Commons, 1787. His wife was a daughter of Smith. Smith (1748–1818), a native of Virginia and a surveyor and planter, attended the College of William and Mary but left when the Revolutionary War began. In the war he was a major and then a colonel in the militia. After the war he moved to Sumner County, N.C. In 1787 the North Carolina legislature appointed him a commissioner of Sumner County, and a year later he was appointed a brigadier general of the Mero District militia. He was a member of the conventions at Hillsborough, 1788, and Fayetteville, 1789, but there is no evidence that he attended the former. He voted to ratify the Constitution during the latter. In 1790 President George Washington appointed Smith as secretary of the newly formed Territory South of the River Ohio that had been ceded to the United States by North Carolina after it ratified the Constitution in November 1789. In 1796 he was a member of the Tennessee constitutional convention.

New York Journal, 27 December 1787¹

As for state conventions, every state in the union has appointed one, except SOUTH-CAROLINA, NEW-YORK, and RHODE-ISLAND; we have, however, no very authentic accounts of North-Carolina having agreed to one; the grand jury of Edenton, in that state, has PRESENTED the new constitution as a *gr*— *great* and important acquisition; and a respectable number of the county of *Chowan* are very *taken* with it.²

1. Reprinted: *Massachusetts Gazette*, 11 January 1788.

2. The Edenton District grand jury presentment and the resolutions of Chowan County and Edenton were reprinted in the New York *Independent Journal* on 29 and 26 December, respectively. See RCS:N.C., 20–25n.

II.
THE NORTH CAROLINA GENERAL ASSEMBLY
CALLS A STATE CONVENTION
19 November–22 December 1787

Introduction

On 19 November 1787 the General Assembly notified Governor Richard Caswell that it had convened and requested that he transmit to it “dispatches and other public matters.” The next day, Caswell sent a message to the Assembly in which he enclosed the public papers that he had received since the previous legislative session. These papers included (1) the congressional resolution of 21 February 1787 calling the Constitutional Convention, (2) the letter of the president of the Convention (George Washington) to the president of Congress, 17 September 1787, (3) the report and resolutions of the Convention, and (4) the congressional resolution of 28 September 1787 transmitting the Constitution to the states. Caswell also notified the legislature that he and Willie Jones had not accepted the legislature’s appointment as delegates to the Constitutional Convention. Caswell told the Assembly that he had appointed Hugh Williamson and William Blount as replacements.

On 21 November, the North Carolina Senate proposed to discuss the Constitution on 5 December. The House of Commons concurred. On 5 December the House of Commons proposed that the two houses meet in conference on the matter of the Constitution. On the same day the Senate considered the proposal and, after an objection by Thomas Person, decided to meet immediately in conference. The conference, on motion by Richard Dobbs Spaight, decided to go into a committee of the whole with Elisha Battle serving as chairman. The committee read and debated the Constitution before adopting resolutions calling a state convention to consider the Constitution. Battle reported that the committee of the whole had agreed on resolutions “but not having time to reduce them to form, desired until to-morrow to report.”

On 6 December, Battle reported the resolutions. The Senate read and agreed to the resolutions providing that on the last Friday and Saturday of March 1788 each county should elect “five suitable per-

sons” as convention delegates and each borough town should elect one. The election procedure was to follow that used in electing members to the General Assembly. Any North Carolina freeholder was eligible to serve in the ratifying convention. This provision expanded the number of people who could be elected to the convention to include people ineligible to sit in the legislature—the governor, delegates to Congress, clergy, and people not meeting the property qualification. The convention was to meet on the third Monday in July 1788. The House of Commons also agreed to the resolutions on 6 December.

After the concurrence with the resolutions in the Senate, Senators James Coor and Thomas Person moved that, if the convention found that the proposed Constitution endangered the “most valuable and indispensable rights, liberties and privileges, as expressed and secured” in the state bill of rights and constitution, the convention should report “their objections, and the necessary alterations” to the governor. The Senate defeated Coor and Person’s motion by a vote of 35 to 8.

The meeting place of the convention would be determined by a joint ballot of the legislature meeting in their separate houses at 4:00 P.M. that afternoon. The Senate nominated Hillsborough, Tarborough, New Bern, and Fayetteville as possible convention sites. The Commons agreed with the Senate’s slate of possible sites and added the town of Halifax as a potential meeting place. Hillsborough was chosen as the site of the convention. The Assembly also voted that 300 copies of the resolutions calling the convention be printed and given to members of the Assembly for distribution among their constituents and sent to Congress and the state legislatures and executives. Fifteen hundred copies of the Constitution were also ordered printed.

On 14 December the Senate sent a message to the Commons proposing that a joint committee be appointed to consider any necessary alterations to the state constitution that should then be considered by the ratifying convention. The Senate appointed James Gallaway, James Coor, Thomas Person, John Skinner, and Henry Hill as its members of such a committee. The House of Commons then by a vote of 44 to 39 rejected the Senate’s proposal on the same day. On 17 December the House of Commons considered a resolution recommending that the people instruct their delegates to the state ratifying convention to consider amendments to Articles II and III of the state constitution so as to make the legislature “less expensive” and “more stable and uniform.” The proposal was rejected on the same day by a vote of 44 to 39.

House of Commons Proceedings**Monday, 19 November 1787 (excerpts)¹**

Received from the senate the following message:

Mr. Speaker and Gentlemen,

The senate are now formed and ready to proceed on the public business.

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen,

This house are also formed and ready to proceed on the business of the public. . . .

Received from the senate the following message:

Mr. Speaker and Gentlemen,

We propose that the message which accompanies this be presented to his Excellency the Governor; should it meet your approbation, Mr. Overton and Mr. Skinner will on the part of this house attend and present him with the same.

At the same time received the message addressed to his Excellency the Governor; which being read was agreed to, and Mr. Polk and Mr. Cabarrus appointed on the part of this house to attend and present him with the same.

Received from the senate the following messages: . . .

Mr. Speaker and Gentlemen,

We propose that a joint committee of both houses be appointed to consider of and report as soon as possible what bills of a public and general nature are necessary to be passed into laws by the present Assembly; we have appointed on our part for this purpose, Gen. Jones, Mr. Coor, Mr. Johnston, Mr. Person, Mr. Kenan, Mr. Irwin, Mr. Lenoir and Mr. Bledsoe. . . .

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen, . . .

Your proposal for appointing a committee to consider of such bills of a public nature as are necessary to be passed into laws at the present session, we have received and acceded to, as also another for appointing a committee of propositions and grievances; for the first we have nominated Mr. Phifer, Mr. Baker, Mr. Cabarrus, Mr. Polk, Mr. Gowdy, Mr. Steele, Mr. Mebane, Mr. Horn, Mr. Harvey and Mr. Potts; for the latter, Mr. Thomas, Mr. Creecy, Mr. Ferebee, Mr. Smithwick and Mr. Montgomery.

The house adjourned till 4 o'clock, P. M.

1. Printed: *The Journal of the House of Commons* (Newbern, 1788) (Evans 21338), 1–2. Hereafter cited in Part II as *House Journal*.

Senate Proceedings, Monday, 19 November 1787 (excerpts)¹

On motion of Mr. Coor, *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

The senate are now formed and ready to proceed on the public business.

Received from the house of commons the following message:

Mr. Speaker and Gentlemen,

This house are also formed and ready to proceed on the business of the public.

On motion, *Ordered*, That the following message be sent to his Excellency the Governor, first being approved of by the house of commons.

To his Excellency RICHARD CASWELL,
Esq. Governor, Captain-General, &c. &c.

SIR,

The General Assembly inform your Excellency that they are now convened, and ready to receive such dispatches and other public matters as you may have to lay before them.

Ordered, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen, . . .

We propose that the message which accompanies this, be presented to his Excellency the Governor; should it meet your approbation, Mr. Overton and Mr. Skinner will on the part of this house, attend and present him with the same. . . .

On motion of Mr. Allen Jones, seconded by Mr. Clinton, *Ordered*, That Mr. Coor, Mr. Johnston, Mr. Person, Mr. Kenan, Mr. Lenoir, Mr. Bledsoe and Mr. Allen Jones, act on the part of this house with such gentlemen of the house of commons as may be appointed, to consider of and report what bills of a public nature are necessary to be passed into laws by the present Assembly; and that the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We propose that a joint committee of both houses be appointed, to consider of and report as soon as possible, what bills of a public and general nature are necessary to be passed into laws by the present Assembly; we have appointed on our part for the purpose, Mr. Allen Jones, Mr. Coor, Mr. Johnston, Mr. Person, Mr. Kenan, Mr. Irwin, Mr. Lenoir and Mr. Bledsoe. . . .

1. Printed: *The Journal of the Senate* (Newbern, 1788) (Evans 21339), 1. Hereafter cited in Part II as *Senate Journal*.

**Governor Richard Caswell to the North Carolina General Assembly
Tarborough, N.C., 20 November 1787 (excerpts)¹**

To the Honorable, the General Assembly
of the State of North Carolina.

Gentlemen.

Agreeably to your Message of Yesterday, I lay before you such of the Dispatches and other public papers as appear, to me, to be of importance and require your immediate consideration, as have come to my hands since the Close of the last Session. . . .

In another file endorsed, *Papers respecting the Federal Convention*, are contained, a Resolution of Congress recommending such Convention, the Report and Resolutions of the Convention, with a Letter to Congress and a Resolve of Congress for Transmitting the same to the several Legislatures in order to be submitted to a Convention of Delegates Chosen in each State by the people in Conformity to the Resolves of the said Convention, together with a Letter from the Deputies for this State in the said Convention;² And here it may be proper to inform you that Willie Jones esqr. who was appointed one of the Deputies to Attend the said Federal Convention in behalf of this State, declined going on that Service; And as I had the Honor of being also named, one of the Deputies, and from my bad State of Health about the Time appointed for the meeting of the Convention it was impracticable for me to Attend, it therefore became my Duty to nominate others to Supply the places of Mr. Jones & myself, accordingly Doctor Williamson & Mr. William Blount were appointed.³ . . .

1. MS, Legislative Papers, LP/75/Commons/Nov. 1787, Nc-Ar. Docketed: "Address to The Honble, the General Assembly. 20 Novr. 1787." Caswell was responding to the notice that the General Assembly had attained a quorum and a request for dispatches and other public papers. The House of Commons received the message on 21 November, and it was printed in its journal (*House Journal*, 4).

2. The papers sent included: the 21 February 1787 resolution of Congress calling the Constitutional Convention, the newly proposed Constitution and two resolutions of the Constitutional Convention, President of the Convention George Washington's letter to the president of the Confederation Congress dated 17 September 1787, the 28 September 1787 resolution of Congress transmitting the Constitution to the states, and the 18 September 1787 report of the North Carolina delegates to Governor Caswell (RCS:N.C., 5-7n, 833-46; CDR, 187, 340).

On 10 December Governor Caswell sent another message to the House of Commons enclosing the resolutions of the Virginia legislature calling a state convention, which Virginia Governor Edmund Randolph had sent to the state governors and legislatures on 14 November (RCS:Va., 118-19).

3. On 6 January 1787, the legislature appointed five delegates to the Constitutional Convention. The second paragraph of the act provided that, "in case of the death or

resignation of any of the said Deputies or of their declining their appointments” the governor was authorized to fill the vacancies. (See Appendix II, RCS:N.C., 831.)

House of Commons Proceedings

Wednesday, 21 November 1787 (excerpt)¹

Received from his Excellency the Governor the following message:
[Here appears Governor Caswell’s message (immediately above).]

Ordered, That the foregoing message together with the several dispatches from Congress and other papers therein referred to, be referred to the committee appointed to consider of and report such bills of a public nature as are necessary to be passed into laws this session.

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen,

We herewith transmit you a message this day received from his Excellency the Governor, together with sundry dispatches from Congress and other papers therein referred to, which we propose submitting to the consideration of the committee appointed to report what bills of a public nature are necessary to be passed into laws at the present session.

1. Printed: *House Journal*, 4.

Senate Proceedings, Wednesday, 21 November 1787 (excerpts)¹

Received also [from the House of Commons] the following message:

Mr. Speaker and Gentlemen,

We herewith transmit you a message this day received from his Excellency the Governor, together with sundry dispatches from Congress and other papers therein referred to, which we propose submitting to the consideration of the committee appointed to report what bills of a public nature are necessary to be passed into laws at the present session.

Whereupon it was *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We agree that the message from his Excellency the Governor, together with the papers accompanying it, be referred as by you proposed. . . .

On motion of Mr. Allen Jones, seconded by Mr. Macon, *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We propose that the General Assembly fix on Wednesday the fifth day of December next, as a time on which they will enter on the important business of the Federal Convention.

1. Printed: *Senate Journal*, 4–5.

House of Commons Proceedings
Wednesday, 21 November 1787 (excerpts)¹

Received from the senate the following message: [Here appears the Senate's message of 21 November (immediately above).]

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen,

We have received your message proposing a day for the consideration of the business of the late Federal Convention, and do approve thereof.

1. Printed: *House Journal*, 5.

House of Commons Proceedings
Thursday, 22 November 1787 (excerpt)¹

Received from the senate the following messages:

Mr. Speaker and Gentlemen,

We agree that the message from his Excellency the Governor, together with the papers accompanying it, be referred as by you proposed.

1. Printed: *House Journal*, 6.

House of Commons Proceedings
Monday, 26 November 1787 (excerpt)¹

Received from the senate the report of the joint committee appointed to consider of and report what bills of a public and general nature are necessary to be passed into laws this present Assembly; endorsed "In senate, read and concurred with;" which being read, was concurred with by this house and returned.

1. Printed: *House Journal*, 9.

Richard Dobbs Spaight to Levi Hollingsworth
Tarborough, N.C., 30 November 1787 (excerpt)¹

. . . I am at present attending our Genl. Assembly, who are in session at this place. I think there is not the least doubt but that the New Constitution will be referred to a Convention.

1. RC, Hollingsworth Papers, PHi. Except for minor differences in capitalization and abbreviations, this sentence alone was printed in the *Pennsylvania Mercury*, 10 January, as an “*Extract of a letter from Tarborough, (North-Carolina) dated November 30, 1787.*” It was reprinted in the Baltimore *Maryland Gazette*, 15 January. Hollingsworth (1739–1824) was a prominent Philadelphia merchant.

House of Commons and Senate Proceedings
Wednesday, 5 December 1787 (excerpt)¹

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen,

Agreeable to the resolution of the two houses of the General Assembly of the 20th of November, this day was set apart for taking under consideration the federal constitution; we therefore propose that the two houses meet in conference on this business in the commons room immediately.

Received from the senate the following message:

Mr. Speaker and Gentlemen,

We agree that the two houses adjourn into conference, in order to take under the consideration of the federal constitution as by you proposed.

The foregoing being read, the senate and house of commons convened in the conference room: Whereupon, on motion of Mr. Spaight,

Resolved, That the two houses form themselves into a committee of the whole, to take into consideration the proposed federal constitution; the two houses accordingly formed themselves into a committee of the whole, and chose Mr. Battle Chairman; whereupon the proposed federal constitution was read and debated, and after some time spent therein, Mr. Speaker resumed the Chair, and Mr. Chairman reported, that the committee had come to several resolutions on the subject to them referred, which he should first report to the senate.

The house taking this report into consideration, concurred therewith.

The house adjourned till to-morrow morning 10 o'clock.

1. Printed: *House Journal*, 25.

Senate Proceedings, Wednesday, 5 December 1787 (excerpt)¹

Received from the house of commons the following message:

Mr. Speaker and Gentlemen,

Agreeable to the resolution of the two houses of the General Assembly of the 21st of November, this day was set apart for taking under consideration the federal constitution; we therefore propose that the

two houses meet in conference on this business in the commons room immediately.

The foregoing being read, the proposition therein contained was objected to by Mr. Person, who arose and stated his objections to such a procedure. Mr. Person having spoken on this occasion as often as the rules of the house would permit, he was called to order by the Speaker;² then on motion of Mr. Person, seconded by Mr. Macon, it was ordered that the yeas and nays be taken, by way of determining whether Mr. Person should be again permitted to speak; which being accordingly done, were as follow, *viz.*

For granting permission—Messieurs Griffin, Sheppard, Lane, Coor, Hill, Moring, M’Cawley, H. Williams, Moore, Bledsoe, Winston, Macon, M’Alister, Irwin, Hendley, M’Dowall and Hargett—17.

For not granting leave to speak—Messieurs Battle, J. Williams, Overton, Allen Jones, Skinner, Ramsay, Warrington, Boon, Johnston, Gregory, Jordan, Lenoir, Clinton, Berger, Kenan, Long, Robertson,³ Relfe, Easton, Owen, Riddick, Miller, Willis, Crawford, Mayo, Mitchell, Kennedy and Wynns—28.

So Mr. Person was not permitted again to speak Whereupon it was *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We agree that the two houses adjourn into conference, in order to take under consideration the federal constitution as by you proposed.

The senate and house of commons now convened in the conference room: Whereupon, on motion of Mr. Spaight,

Resolved, That the two houses form themselves into a committee of the whole, to take into consideration the proposed federal constitution; the two houses accordingly formed themselves into a committee of the whole, and chose Elisha Battle, Esquire, Chairman; when the said constitution was read and debated, which being done, Mr. Chairman reported, that the committee had come to several resolutions, but not having time to reduce them to form, desired until to-morrow to report: Whereupon,

Ordered, That the Chairman report to-morrow morning.

The committee then arose, when the senate returned to their room, and Mr. Speaker resumed the Chair.

The house adjourned till to-morrow morning 10 o’clock.

1. Printed: *Senate Journal*, 21.

2. Senate rule fifteen provided that “No member shall speak more than twice, without leave, in the same question, unless it be in a Committee of the whole house” (*Senate Journal*, 3).

3. “Robinson” in the loose legislative papers.

Senate Proceedings, Thursday, 6 December 1787 (excerpts)¹

The house met according to adjournment.

Mr. Battle, Chairman of the committee of the whole of the two houses on the federal constitution, agreeably to the order of yesterday, delivered in the following, as being the proceedings of the said committee, *viz.*

Whereas the General Convention lately held in the city of Philadelphia, have agreed upon a constitution for the future government of the United States: And whereas Congress have unanimously resolved,² that the said constitution be transmitted to the several legislatures, in order to be submitted to a Convention of Delegates chosen in each state by the people thereof:

Resolved, That it be recommended to such of the inhabitants of this state as are entitled to vote for representatives of the house of commons, to meet in their respective counties on the last Friday and Saturday in March next, at the several places fixed by law for holding the annual elections, and elect five suitable persons to serve as Delegates from each county, and one person from each borough town in a state Convention, for the purpose of deliberating and determining on the said constitution; and that such election shall be conducted agreeably to the mode, and conformably to the rules and regulations prescribed by law for conducting the elections of members of the General Assembly; and any citizen within this state being a freeholder, shall be eligible to a seat in the Convention.

Resolved, That every person living in any one of the borough towns in this state, and having a freehold therein, shall have a right to vote for members to represent the county in which such town shall be.

Resolved, That the persons so elected to serve in the state Convention do assemble and meet together on the third Monday of July next, at a place to be appointed by joint ballot of both houses of the General Assembly, then and there to take into consideration the aforesaid constitution, and if approved of by them to confirm and ratify the same in behalf and on the part of this state, and make report thereof to the United States in Congress assembled, agreeably to the resolution annexed to the said constitution.

Resolved, That the Sheriffs in the several counties within this state, give as early notice as may be to the people in their respective counties and borough towns, of the time, place and purpose of holding said election.

Resolved, That three hundred copies of these resolutions, and fifteen hundred copies of the federal constitution, be immediately printed and

dispersed by the members of the General Assembly among their respective constituents; and that the Executive transmit a copy of them to Congress, and to the Legislative and Executive of the several states.³

ELISHA BATTLE, Ch.

The foregoing being read, was concurred with.

On reading and concurring with the foregoing resolutions, one of which is as follows, to wit, "*Resolved*, That the persons elected to serve in the state Convention do assemble and meet together on the third Monday of July next, at a place to be appointed by joint ballot of both houses of the General Assembly, then and there to take into consideration the federal constitution, and if approved of by them, to confirm and ratify the same in behalf and on the part of this state; and make report thereof to the United States in Congress assembled, agreeably to the resolution annexed to the said constitution." It was proposed by Mr. Coor, seconded by Mr. Person, that it be amended by expunging from the words *Congress assembled* to the end thereof and inserting the following, *viz.*—But in case they do not agree that the said constitution shall become binding on the people of this state, that then and in that case they report to the Executive authority of this state their objections, and the necessary alterations which should be made, so as to secure to the people of this state their most valuable and indispensable rights, liberties and privileges, as expressed and secured to them by the bill of rights and constitution of this state.—This being objected to, and the question called for and put was negatived; whereupon, on motion of Mr. Coor, seconded by Mr. Person, *Ordered*, That the yeas and nays be taken on this question; which are as follow, to wit,

For the proposed amendment—Messieurs Coor, Hill, H. Williams, Bledsoe, Winston, Person, Hendley and Gallaway—8.

Against the amendment—Messieurs Mayo, Battle, Griffin, J. Williams, Overton, Abram Jones, Sheppard, Lane, Allen Jones, Skinner, Ramsay, Warrington, Boon, Moring, M'Cawley, Johnston, Moor, Gregory, Jordan, Clinton, Berger, Macon, Kenan, M'Alister, Irwin, Relfe, Easton, Owen, Riddick, Willis, Crawford, M'Dowall, Kennedy, Hargett and Wynns 35. . . .

On motion, *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We propose that the General Assembly ballot at four o'clock this afternoon for the place at which the state Convention shall be held; we nominate for this purpose the towns of Hillsborough, Tarborough, Newbern and Fayetteville; we also propose that the place at which the next Assembly shall be held be made choice of at the same time, and

a Brigadier-General for the district of Halifax; we nominate the towns of Tarborough, Newbern and Fayetteville for holding the next Assembly at, and Thomas Eaton, Esq. for Brigadier-General—Should these propositions meet your approbation, Mr. Gallaway and Mr. Macon will superintend the balloting on the part of this house—we also propose that the ballots be taken in the respective houses. . . .

Received from the house of commons the following message:

Mr. Speaker and Gentlemen,

We have received your message proposing to ballot at four o'clock this evening for the places of holding the next Assembly and the Convention, &c. we agree to all the proposals therein except that of balloting for a Brigadier-General for the district of Halifax: We have added to the nomination for the place of holding the Convention the town of Halifax, for the Assembly the towns of Hillsborough and Salisbury; should you think proper to ballot for these places without balloting for a Brigadier-General, we will go into that business at four o'clock this evening as by you proposed. Mr. Cabarrus and Mr. Franklin are appointed to superintend the balloting.

The house adjourned till 4 o'clock, P.M.

Met according to adjournment.

Ordered, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We agree to ballot agreeable to your last message, and are now ready to enter on that business. . . .

Received likewise a resolution of the house of commons, recommending to the people to instruct their Delegates when met in Convention, to amend the constitution of this state; which being read, was concurred with and returned. . . .

Mr. Gallaway and Mr. Macon, from the joint balloting for a place at which the state Convention and the next Assembly shall be held, delivered in the following report:

That having executed the trust in them reposed, they find on casting up the scrolls that Hillsborough had a majority of votes for holding the Convention, and that no place had a majority for the next Assembly.

The house taking this report into consideration, concurred therewith.

The house adjourned till to-morrow morning 10 o'clock.

1. Printed: *Senate Journal*, 21–22, 23, 24.

2. On 28 September 1787 Congress “Resolved unanimously, That the said report with the resolutions and letter accompanying the same be transmitted to the several legislatures in order to be submitted to a convention of delegates chosen in each state by the people thereof in conformity to the resolves of the Convention made and provided in that case” (CDR, 340).

3. On 21 December 1787, a joint legislative committee recommended, in response to a “memorial” from Hodge and Blanchard, the state printers, that an additional £150 be paid to them for their extra work. The Commons and Senate agreed to the committee’s recommendation on 22 December (Mfm:N.C.).

House of Commons Proceedings **Thursday, 6 December 1787 (excerpts)¹**

Received from the senate the following resolutions, entered into on yesterday, by the senate and house of commons in conference, concurred with by that house, *viz.*

Whereas the General Convention lately held in the city of Philadelphia, have agreed upon a constitution for the future government of the United States: And whereas Congress have unanimously resolved, that the said constitution be transmitted to the several legislatures, in order to be submitted to a Convention of Delegates chosen in each state by the people thereof:

Resolved, That it be recommended to such of the inhabitants of this state as are entitled to vote for representatives of the house of commons, to meet in their respective counties on the last Friday and Saturday in March next, at the several places fixed by law for holding the annual elections, and elect five suitable persons to serve as Delegates from each county, and one person from each borough town in a state Convention, for the purpose of deliberating and determining on the said constitution; and that such election shall be conducted agreeably to the mode, and conformably to the rules and regulations prescribed by law for conducting the elections of members of the General Assembly; and any citizen within this state being a freeholder, shall be eligible to a seat in the Convention.

Resolved, That every person living in any one of the borough towns in this state, and having a freehold therein, shall have a right to vote for members to represent the county in which such town shall be.

Resolved, That the persons so elected to serve in the state Convention do assemble and meet together on the third Monday of July next, at a place to be appointed by joint ballot of both houses of the General Assembly, then and there to take into consideration the aforesaid constitution, and if approved of by them to confirm and ratify the same in behalf and on the part of this state, and make report thereof to the United States in Congress assembled, agreeably to the resolution annexed to the said constitution.

Resolved, That the Sheriffs in the several counties within this state, give as early notice as may be to the people in their respective counties

and borough towns, of the time, place and purpose of holding said election.

Resolved, That three hundred copies of these resolutions, and fifteen hundred copies of the federal constitution, be immediately printed and dispersed by the members of the General Assembly among their respective constituents; and that the Executive transmit a copy of them to Congress, and to the Legislative and Executive of the several states.

ELISHA BATTLE, Ch.

The house taking these resolutions into consideration, concurred therewith.

Resolved, That it be recommended to the people of this state to authorise and direct their respective representatives to be elected for the purpose of deliberating on the federal constitution, to fix on the place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the state, which, when fixed, shall be considered the unalterable seat of government for this state.

Resolved, That the public printer be directed by an express to be sent to him by the Speakers of the two houses, to print and transmit to the General Assembly on or before the 14th inst. three hundred copies of the resolutions of the General Assembly on the subject of the federal constitution, and fifteen hundred copies of the said constitution, to be dispersed by the members amongst their constituents as in the said resolution is directed, and that a copy of the said resolution be conveyed to him by the clerks of the two houses, authenticated by the signatures of the Speakers.² . . .

Received from the senate the following message:

Mr. Speaker and Gentlemen,

We propose that the General Assembly ballot at four o'clock this afternoon for the place at which the state Convention shall be held; we nominate for this purpose the towns of Hillsborough, Tarborough, Newbern and Fayetteville; we also propose that the place at which the next Assembly shall be held be made choice of at the same time, and a Brigadier-General for the district of Halifax; we nominate the towns of Tarborough, Newbern and Fayetteville for holding the next Assembly at, and Thomas Eaton, Esq. for Brigadier-General—Should these propositions meet your approbation, Mr. Gallaway and Mr. Macon will superintend the balloting on the part of this house—we also propose that the ballots be taken in the respective houses.

Ordered, That the following message be sent to the senate:

Mr. Speaker and Gentlemen,

We have received your message proposing to ballot at four o'clock this evening for the places of holding the next Assembly and the Convention, &c. we agree to all the proposals therein except that of balloting for a Brigadier-General for the district of Halifax: We have added to the nomination for the place of holding the Convention the town of Halifax, for the Assembly the towns of Hillsborough and Salisbury; should you think proper to ballot for these places without balloting for a Brigadier-General, we will go into that business at four o'clock this evening as by you proposed.

Received from the senate the following message:

Mr. Speaker and Gentlemen,

We agree to ballot agreeable to your last message, and are now ready to enter on that business. . . .

Ordered, That Mr. Cabarrus and Mr. Franklin be appointed on the part of this house to conduct the balloting.

Mr. Cabarrus from the joint balloting for the place at which the Convention, and the next General Assembly shall be held, reported,—That the Convention was to be held at Hillsborough—That no place in nomination for holding the next Assembly at had a majority of votes.³

The house taking this report into consideration, concurred therewith.

The house adjourned till to-morrow morning 10 o'clock.

1. Printed: *House Journal*, 25–26. The legislature's resolutions calling the state convention and ordering the printing of these resolutions and the U.S. Constitution were printed in the *Charleston City Gazette*, 29 December.

2. On 21 December the House of Commons resolved to pay Wych Goodwin £5 "for going express to Newbern, to carry to the printer the directions of the Assembly" for printing the resolutions and Constitution (*House Journal*, 52).

3. Two undated manuscripts among the legislative papers of the Senate indicate the balloting for sites for the Convention and the General Assembly. For the Convention, Hillsborough received 99 votes, Tarborough 41, New Bern 11, and Salisbury 6. For the General Assembly site, Tarborough received 69 votes, Hillsborough 2, Fayetteville 75, New Bern 9, and Halifax 2. Thus, Hillsborough was chosen as the site for the Convention, but no site for the legislature received a majority vote. For facsimiles of these documents, see Mfm:N.C.

House of Commons Proceedings

Friday, 7 December 1787 (excerpts)¹

The house met according to adjournment.

Received from the senate the resolve of this house, recommending to the people of this state to authorise their representatives in the Convention to be held at Hillsborough to deliberate on the federal constitution, to fix on a place for the future meetings of the General Assembly, &c. endorsed "Read and concurred with." . . .

Mr. Cabarrus exhibited the presentment of the grand jury of the late superior court held for the district of Edenton, expressive of their sentiments on the new proposed federal government.²

Ordered, That the said presentment lie on the table.

The house adjourned till to-morrow morning 10 o'clock.

1. Printed: *House Journal*, 26, 28.
2. For the presentment of the grand jury of Edenton District of 12 November 1787, see RCS:N.C., 22–25n.

House of Commons Proceedings, Monday, 10 December 1787¹

Received from his Excellency the Governor the following message:²
To the Honourable the General Assembly.

GENTLEMEN,

I have the honour to lay before you sundry resolutions of the commonwealth of Virginia concerning the federal constitution as transmitted to me by the Executive of that state, with a letter addressed to the honourable the Speaker of the house of commons.

RICHARD CASWELL.

Ordered, That the above message with its enclosures be sent to the senate.

1. Printed: *House Journal*, 29.
2. Governor Caswell transmitted a letter dated 14 November 1787 from Virginia Governor Edmund Randolph that enclosed a broadside printing of the Virginia legislature's resolutions calling a state convention to consider the Constitution (RCS:Va., 118–19).

Senate Proceedings, Friday, 14 December 1787¹

On motion, *Ordered*, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We propose that a joint committee be appointed, to consider of and report what alterations if any be necessary to be made in the present constitution of this state at the intended Convention; and have appointed on the part of this house for the above mentioned purposes, Mr. Gallaway, Mr. Coor, Mr. Person, Mr. Skinner and Mr. Hill.

1. Printed: *Senate Journal*, 34.

House of Commons Proceedings, Friday, 14 December 1787¹

Received from the senate the following message:

Mr. Speaker and Gentlemen,

We propose that a joint committee be appointed, to consider of and report what alterations if any be necessary to be made in the present constitution of this state at the intended Convention; and have appointed on the part of this house for the above mentioned purposes, Mr. Gallaway, Mr. Coor, Mr. Person Mr. Skinner and Mr. Hill.

On the question to agree to this message, it was resolved in the negative: Whereupon the yeas and nays were required by Mr. P. Hawkins; which are as follow, *viz.*

YEAS.—Messieurs Wood, Dauge, Copeland, Dickins, Sherod, Gowdy, Phifer, Yates, Waddell, Maxwell, Scott, Jones, Cabarrus, Campbell, Ferebee, Dawson, Hill, Henderson, J. Baker, Wynns, Smaw, Gardner, P. Hawkins, Yancey, Hays, Koen, Humphries, Dickson, Coffin, Tatham, Spaight, J. Sanders, Starkey, Whitfield, N. Bryan, Lewis, Webb, Pearson, Steele [39].

NAYS.—Messieurs Nixon, Lanier, Horn, Sawyer, Creecy, Rhodes, W. Baker, Montgomery, Smithwick, Polk, Mebane, Everagin, Williams, Carson, Bethell, Dodd, Alison, W. Taylor, B. Sanders, Franklin, Brown of Wilkes, Digges, Dolvin, B. Spruill, Marshall, Brown of Bladen, Fuller, Lindley, Tyson, M'Dowall, M'Dowall, jun. Thackston, M'Kinne, Devane, Bloodworth, Jenkins, Picket, Singleton, Gains, Withrow, Randall, Davie, Dupree, Cox [44].

1. Printed: *House Journal*, 36.

House of Commons Proceedings

Monday, 17 December 1787 (excerpt)¹

Mr. P. Hawkins moved and was seconded, that the house enter into the following resolution, to wit,

Resolved, That it be recommended to the people of this state to authorise and direct their representatives to be elected for the purpose of deliberating on the federal constitution, to take into their serious consideration the second and third articles of the constitution of this state,² and so to alter them that the legislature may be less expensive, and its measures be more stable and uniform.

The question, Will the house enter into this resolution or not? being put, was negative; whereupon, it was moved by Mr. Spaight and seconded by Mr. P. Hawkins, that the yeas and nays on said question be taken; which are as follows, *to wit*,

YEAS—Messieurs Ferebee, Dauge, Copeland, Dickins, Anderson, J. Bryan, Thomas, Scott, Jones, Brown of Wilkes, Harvey, Williams, Carson, Stanfield, Waddell, Maxwell, Cabarrus, Campbell, Vaughan, Hill, Henderson, W. Hawkins, J. Baker, Wynns, P. Hawkins, Jenkins, Spaight, A.

Sanders, J. Sanders, Whitfield, N. Bryan, Lewis, Hays, Yancey, Humphries, Koen, Person, Gardner, Coffin [39].

NAYS.—Messieurs Nixon, Lanier, Oliver, Horn, Sawyer, Jos. Stewart, Sheppard, Gowdy, W. Baker, Montgomery, Eborn, Smithwick, Phifer, Peebles, Dodd, Holmes, S. Spruill, B. Sanders, Franklin, Yates, Mebane, Everagin, Bethell, Steele, J. Tayler, Dolvin, Marshall, Smaw, Pickett, Singleton, Gains, Withrow, Jas. Stewart, Tatham, Randall, Davie, Dupre, Leonard, Cox, M'Dowall, jun. M'Kinne, Devane, Tyson, Lindley [44].

1. Printed: *House Journal*, 41.

2. Article I of the North Carolina constitution (1776) provided for a bicameral legislature with both houses elected by the people. Article II provided that each county could elect one senator to be chosen annually by ballot. Article III provided that each county would have two representatives in the House of Commons and each of six borough towns would have one representative. The members of the Commons were to be elected annually by ballot. (Thorpe, V, 2790.)

House of Commons Message to the Senate Monday, 17 December 1787¹

Mr. Speaker and Gentlemen

This House on a supposition that all the Copies of the Fœderal Constitution &c. were in our possession have proceeded to distribute them by Counties, by which means it has happened that there are some Counties which have not been furnished one third of them being in your House—we therefore propose that the Copies in your possession be sent to the Commons so that each County may be supplied with its proportion

Jno: Sitgreaves S.C.

By order

1. MS, Legislative Papers, LP/79/Senate/Dec 1787, Nc-Ar. On 6 December the legislature had resolved that 300 copies of its resolutions calling a state convention and 1,500 copies of the Constitution be printed and distributed by legislators to their constituents. The message was printed in the *Senate Journal* on 18 December (p. 39).

House of Commons Proceedings, Friday, 21 December 1787¹

Resolved, That Wych Goodwin be allowed the sum of five pounds for going express to Newbern, to carry to the printer the directions of the Assembly relative to his printing 1500 copies of the federal constitution, and 300 copies of the resolutions of the General Assembly thereon; that the public Treasurer pay him the same and be allowed.

1. Printed: *House Journal*, 52.

Senate Proceedings, Friday, 21 December 1787¹

Ordered, That the following message be sent to the house of commons:

Mr. Speaker and Gentlemen,

We have amended the resolution of your house, allowing members who shall attend the convention in July next a certain sum, and send it for your concurrence.

1. Printed: *Senate Journal*, 50.

**House of Commons Proceedings
Saturday, 22 December 1787 (excerpts)¹**

Resolved, That the members of the Convention hereafter to be elected, to meet on the third Monday in July next at Hillsborough, to determine on the proposed federal constitution, be allowed the sum of twenty shillings per day for their attendance at, going to and returning from the same; and that the Treasurer be directed to pay the same on a certificate signed by the President of the Convention. . . .

Received from the senate the resolution of this house for allowing the members of the Convention intended to be held at Hillsborough, twenty shillings per day, concurred with by that house. . . .

Received from the senate a resolution of that house, recommending to the people of this state to direct the Delegates appointed to attend the Convention to deliberate on the federal constitution, to make an amendment in the constitution of this state with respect to the number of representatives in General Assembly; which being read, was rejected.

1. Printed: *House Journal*, 54.

III.
THE DEBATE OVER THE CONSTITUTION
IN NORTH CAROLINA
1 January–6 August 1788

Introduction

Beginning in 1788, the public debate over the Constitution in North Carolina gained momentum. The state then had four newspapers—two in New Bern and one each in Edenton and Wilmington. Unfortunately, many of the issues for these newspapers are not extant. Items from some of these missing issues have been supplied from out-of-state newspapers, which reprinted the items under North Carolina datelines. Those datelines indicate the original place and date of printing. During the first seven months of 1788, ten lengthy articles originated in North Carolina newspapers—four by Federalists and six by Anti-federalists.

During the same period, many short items also appeared in North Carolina and out-of-state newspapers commenting on the prospects for North Carolina's ratification of the Constitution. Nine of these short items predicted that North Carolina would ratify. Three anticipated that the state convention would not ratify. While another suggested that the convention would propose an appropriate compromise of some sort. Several newspaper items and private correspondents suggested that North Carolina would follow Virginia's lead, while others confidently stated that North Carolina would not reject the Constitution if nine states had already adopted it before the North Carolina convention assembled. Others reported that the state was severely divided. Embarrassingly for Federalists, five short pieces between 5 and 18 February 1788 falsely announced that North Carolina had ratified the Constitution. Denials of these reports appeared in the *New York Journal* of 28 February and the *Pennsylvania Gazette* of 5 March.

Several Federalist pamphlets were also published during this time. In five unnumbered essays under the pseudonym "Marcus," James Iredell responded to George Mason's objections to the Constitution. The "Marcus" essays first appeared in the *Virginia Norfolk and Portsmouth Journal* on 20 and 27 February and 5, 12, and 19 March. At least one North Carolina newspaper reprinted the series, but none of the issues containing "Marcus" are extant. "Marcus" was also published as a pamphlet in New Bern by Hodge and Wills, the printers of the *State Gazette*

of *North Carolina*. In addition to the “Marcus” essays, the pamphlet included a lengthy Federalist piece written by Archibald Maclaine under the pseudonym “Publicola” and addressed to “the Freemen of the state of North-Carolina.”

A lengthy unpublished Federalist essay under the pseudonym “A North Carolina Citizen on the Federal Constitution” is also printed in this section. Reports in newspapers and in private letters appear in this section from Fayetteville, Halifax, and Wilmington celebrating the Fourth of July and the news of Virginia’s ratification. Wilmington also celebrated St. Tammany’s Day on the first of May, during which a number of Federalist toasts were offered.

Three North Carolina newspapers reprinted items from other states. On 9 April 1788, the *Edenton Intelligencer* reprinted Massachusetts Governor John Hancock’s speech to the state legislature on 27 February 1788 in which Hancock announced the state Convention’s ratification of the Constitution with nine recommendatory amendments. In early June, the *State Gazette of North Carolina* in a no-longer-extant issue probably reprinted excerpts from John Jay’s Federalist pamphlet signed by “A Citizen of New-York.” On 11 and 18 June, the *Wilmington Centinel* printed advertisements for the sale of three Antifederalist pamphlets: Luther Martin’s “Genuine Information,” Melancton Smith’s “A Plebeian,” and Mercy Otis Warren’s “A Columbian Patriot.”

Thirty-four letters appear in this section. Almost all were written by Federalists. Twenty-seven were written by North Carolinians. William R. Davie wrote five letters, Archibald Maclaine and William Hooper each wrote three, and Richard Dobbs Spaight and Governor Samuel Johnston each wrote two. James Iredell was the recipient of fourteen of the thirty-three letters. Most letter writers speculated about how North Carolina might vote on the Constitution. Several references related to Antifederalists’ support of state paper money as a means of cheating their creditors. Other letter writers commented on the election of North Carolina delegates to the state convention, the circulation of Federalist and Antifederalist literature, and ratification by other states.

As one of North Carolina’s most prominent Antifederalists, Timothy Bloodworth of New Hanover County responded in two letters to the overtures of the New York Federal Republican Committee in its effort to coordinate Antifederalist actions in states that had not yet ratified the Constitution. Chowan County planter Charles Johnson was uncertain about the Constitution, while Charles Pettigrew of Perquimans County felt that more restrictions on the powers of the federal government were needed.

A Hermit, 1788 (excerpt)¹

[missing text] Europe and America, and at length retired to a sequestered retreat free from the bustle of mankind, feels a strong impulse to step forward in the present crisis.

The contemptible figure we have made not only in the eye of nations, since peace, but among ourselves, must by this time convince to every thinking man the necessity of an efficient government—the only measure that can remedy the evils we have thus far groaned under. As the wisdom and respectability of the Continent, have been fairly collected to discuss these important points, I am sanguine that every State in the Union will liberally wave any clog that may partially affect her peculiar interest, since there is no State but must make some sacrifice for the good of the whole.

The vast magnitude of this constitution once fully established, must be obvious to all. It will immediately re-establish us in credit and respect in Europe, and hold out irresistible allurements to emigration from whence; especially in the present convulsed state of Holland, which I have observed since peace, and am well persuaded that many wealthy people from most parts of that country, would remove with their effects to America, if they saw their property would be secure under an effectual government. The fœderal revenue arising from importations would insensibly sponge off our foreign debt.—As commerce and agriculture tend mutually to invigorate each other, it will not only contribute to enliven both, but, in its consequence, give a fresh spring to population, *admitting* our progressive increase to continue doubling once in twenty years to the year 1887; we shall then find within the United States, ninety-six million of souls, equal to the population of all Europe. Let any liberal mind contemplate a just map of America, and reflect a moment that the happiness of so many millions may possibly rest upon the persevering virtue of the present age. I am sure he will blush for those little minds who cannot extend a generous thought beyond the present moment, or [perhaps?] had their particular interest, or the interest of the State they inhabit, affected [concerning?] inferior points.

Again, it will revive and enliven our coasting trade from State to State; and as no duties will be imposed upon our own manufactures, they will necessarily meet encouragement.

Idle sailors will find employ, and a constant nursery for new ones promoted. [while a hundred?] vessels now rotting inactive will be put in motion, at present the communication between the several States, meets with as many obstacles as if their vessels were owned by so many distinct nations; such an absurdity does not exist in the most despotic

Power in the Eastern hemisphere. To all these obvious and capital advantages, to say nothing of many others that might be urged, these same pitiful minds affect to object that too much power will be vested in Congress, at the same time the most violent do not hesitate to confess a change in our system *indispensable*.

No human (I might *almost* add divine) wisdom, could frame a constitution in all its parts adapted to the wishes of every State with a view of cementing the whole. I encourage any man who loves his country and acts upon liberal and honest principles, to say this constitution is generally exceptionable; if not, it ought to be adopted [— — —] opposite to objects of inferior magnitude.

Surely no man of abilities ever possessed a more happy æra to profit by the virtues and follies of past ages: In framing our constitution the Convention were assiduous to sift out a pure model from the excellencies and defects of different countries, and allowing for our local circumstances. In such an extensive Republic, I will venture to pronounce it the most pure and [perfect?] model to ensure human happiness that ever was invented by the ingenuity of man. I would recommend the example of the Citizens of Pennsylvania² to every Town and County on the Continent; that to assemble and petition their respective legislatures by this means the sense of the nation will be fairly understood.

1. This newspaper item, incomplete and partially mutilated, was cut out and pasted in Elkanah Watson's Commonplace Book, Vol. 12, Watson Papers, New York State Library. A notation in the margin reads: "This was wrote at Mount Sion on Meherin River in North Carolina where I resided alone & with a few Negroes in the winter of 1787-8." Watson also wrote articles for the *Edenton Intelligencer* in 1788. Another scrap from *Martin's North Carolina Gazette* from March 1788 also is pasted in Watson's Commonplace Book.

2. A reference to numerous petitions submitted in late September 1787 by freemen of the Philadelphia area to their Assembly advocating the speedy call of a convention to consider the Constitution (RCS:Pa., 62ff).

A Dispassionate Yankey Edenton Intelligencer, 1788¹

Mr. Printer. Every citizen of America has an indubitable priviledge to analyze, and define the principles of the new Constitution, in the most scrupulous manner; at the same time, no modest or sensible man, will presume to *hazard a decided opinion*, in opposition to the wisest assemblage of patriots, and statesmen, that ever was convened on this continent; at least without a due difference [i.e., deference] to their collected wisdom. The names of a *Washington*, a *Franklin*, and many other illustrious characters, who subscribed their deliberate sanction to this glorious *Magna Charta*, must relieve every mind yet tottering in doubt.

Some anonymous writers have made the most violent and illiberal attacks upon this constitution; holding it up to the people as fraught with all the horrors of despotism, painting it in the most frightful colours, under a sham mask of patriotism. An Angel descending from heaven, could not model a constitution to suit the caprice of every phlegmatic or designing character: why then are we to expect perfection beyond the limits prescribed to mortals? the SUN never yet enlightened a nation endowing a purer government than is now held out to us.

Since the revolution, the rights of the people are so well understood; that America need not dread the delegation of the powers recited in the constitution into the hands of Congress. It is a maxim universally established, that all power originates with the people, and that they have at all times a right to abridge, or extend any power already granted by them; add to this, that the people will elect the Congress every second year, the President every fourth year, and the whole constitution to undergo a general revisal in twenty one years.

Whence do all these imaginary dangers to our liberties arise, but in the brain of wicked or weak minds? surely, the sacred barriers against every innovation are forever in the hands of the people: but even admitting some clauses of the constitution should militate against some of our priviledges; let me ask any [man?] who *knows and feels* our present contemptible situation; if we had not better suffer partial innovations, that will eventually consolidate our union, and claim respect; then to be a prey to ourselves and to the world, whose insults we are obliged to digest with impunity.

If ever the maturity of this constitution should be realised; America will stand comparatively, like the dazzling SUN in the heavens—centre of light, and the wonder of the admiring world who will feel the influence of its rays: the persecuted will find ease and rest; and tortured virtue and exiled worth will penetrate among us from all the oppressed nations of the earth. Future generations will also mark the time of its adoption, the happy *Era* in which America became a great, free, and respectable nation.

1. This article, probably written by Elkanah Watson, was snipped from the *Edenton Intelligencer* and placed in a scrapbook belonging to Watson (Watson Papers, Common-place Book, Vol. 12, New York State Library). The date of the issue was not copied. The date "1788" was handwritten at the beginning of the article. Also pasted on the same page of the scrapbook is another newspaper article taken from *Martin's North Carolina Gazette*, 5–12 March (RCS:N.C., 92–93), which responded to another article written by Watson under the pseudonym "A true American" in a no-longer-extant issue of the *Edenton Intelligencer*. At the top of the scrapbook is written: "The following essays were written and published in the [Gazette?] of the United States by E. Watson commenced in 1787."

Philadelphia Independent Gazetteer, 5 January 1788¹

It has been said by persons not friendly to the new constitution, that it would not be well received in North-Carolina. This appears now to have been, *their own hope*, rather than a well grounded opinion. The people of Edenton, and of Rie County, of Chowan have declared in favor of it with great zeal, and the same disposition prevails in other parts.²

1. The *Gazetteer* reprinted this item on 8 January deleting the incorrect phrase “and of Rie County.” There was no Rie County in North Carolina. The corrected version was reprinted in the *Pennsylvania Packet*, 8 January; *Pennsylvania Gazette*, 9 January; and *New York Journal*, 12 January. The incorrect version was reprinted in the *Baltimore Maryland Gazette*, 11 January.

2. The grand jury of Edenton District endorsed the Constitution in its presentment on 12 November (RCS:N.C., 22–25n). See also the resolutions endorsing the Constitution adopted at a meeting of inhabitants of Chowan County and Edenton on 8 November (RCS:N.C., 20–22n).

Extract of a Letter from Washington, N.C., 13 January 1788¹

Extract of a letter from a gentleman in Washington, (North-Carolina) to his friend in this city, dated January 13, 1788.

“I assure you all talk of War.—Constitution goes down here.—Convention meet in July next.”

1. Printed: Middletown, Conn., *Middlesex Gazette*, 25 February 1788. Reprinted fifteen times by 20 March: N.H. (2), Mass. (5), R.I. (3), Conn. (3), N.Y. (1), Pa. (1). The reprint in the *Massachusetts Centinel*, 8 March, added: “we make haste slowly.” Four of the reprints added this statement: N.H. (1), Mass. (2), Conn. (1).

**Charles Johnson to James Iredell
Strawberry Hill, N.C., 14 January 1788 (excerpt)¹**

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*,² 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,³ 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."⁴ . . .

1. Printed: Kelly, *Iredell*, III, 371–73. 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. Johnson was a member of the Hillsborough Convention, 1788, and vice president of the Fayetteville Convention, 1789. He voted to ratify the Constitution in both conventions.

2. Johnson is possibly referring to issue 413 of the New York *Independent Journal*, 14 November 1787, which contained *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 (RCS:N.C., 12–20n). Near the end of his speech he said, "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."

Archibald Maclaine to James Iredell Wilmington, N.C., 15 January 1788¹

I had the pleasure of receiving yours of the 3d Instant this day, covering a letter for Mr Moore, whom I expect to see tomorrow, as he is yet in this neighborhood. From the purport of yours, I find you had not recd. mine on the same subject. Mr Moore had recollected the objection you make with respect to the seat of government, and consequently had abandoned the idea of proposing you for Brunswick—He has however offered his own services, & I make no doubt will be elected.²

I am happy to hear that Mr Johnston's elevation has been received in a manner suitable to his merit³—I had no doubt but this would be acknowledged at a future day, whether he was living or dead. I shall always endeavor to pay a proper deference to every man in office, but I request you will present to Mr Johnston, my sincere respects as a man.

The new constitution we are informed has been received and ratified in three States, and I have not a doubt but it will be received by nine, exclusive of our own—once the new government is set agoing, I am

convinced that any state which may be refractory, will be obliged to comply—Indeed from all the information I have had, there is little, or no doubt of our State. In New Hanover county, the people if left to themselves, are in favor of a change—Some demagogues of the people, a few persons who are in debt, and every public officer, except the clerk of the county court, are decidedly against any change;—at least against any that will answer the purpose—Our friend Huske is the loudest man in Wilmington against the new constitution⁴—Whether ambition, or avarice, or a compound of both, may be the cause, I leave you to judge.

Parson Tate has picked up all the arguments, good and bad, that have been published against the new form of government⁵—The only original objection he had, was the want of a mint in each state—This he alleges is a never-failing mark of sovereignty, & is to keep the money with us—He appears to be greatly distressed, that we shall be obliged to send our *bullion* to the seat of government. It is indeed truly distressing.

I am very happy to hear that Mr. Barker has made a proper provision for his daughter & her family; a circumstance of which I had some doubt.

Why do you pay the postage of your private correspondence? when the expense is chargeable to others in the way of business, it is well enough—otherwise I expect you will not do so in future.

I am with great truth very respectfully & sincerely yours

1. RC, Iredell Papers, Duke University.

2. Moore was not elected to the Convention. For Maclaine's idea of running Iredell for the Convention as a delegate from Brunswick County, see Maclaine to Iredell, 25 December (RCS:N.C., 176–78n).

3. Samuel Johnston had recently been elected governor of North Carolina.

4. John Huske of New Hanover County was elected as an Antifederalist to both the Hillsborough and Fayetteville conventions. In the former he was unseated; in the latter he led a walkout of Antifederalist delegates.

5. James Tate was a schoolmaster and Presbyterian minister in Wilmington. During the Revolutionary War he served as a chaplain.

William R. Davie to James Iredell
Halifax, N.C., 22 January 1788¹

My Dear Sir

We have nothing worth remarking here, but the dissemination of the Anti-foederal principles, Mr Jones continues to assail the Constitution, and the Virginia communications have strengthened his party; you know his opinion has great weight here, and that it is much easier to alarm people than to inform them.

Col. Geddy² who is a late convert, has announced himself a Candidate for the Convention and is a most furious zealot for what he calls *W. Jones's system*,³ which is indeed all he knows about it; but he has raised the old Cant that “the poor were to be ruined by Taxes, and no security for freedom of conscience &c” —

I have not yet heard what the N. Jersey Convention have done, however I think there is little doubt, but they will adopt the Government proposed—as its consequences are so highly favorable to the non-importing States⁴—The great deference this State has been accustomed to pay to the political opinions of the Old Dominion will I believe have a very bad effect on the Determination of this great question, this circumstance added to the opposition already formed, in my opinion renders its adoption in this State extremely doubtful.

The Governor writes me there have been 25 numbers of the Fœderalist printed, I will be obliged to you, to forward me as many as you can; especially as we are in greater want of its assistance here than you are at Edenton.

My Compts. to your Brother and declare me such the most sincere friendship

1. RC, Iredell Papers, Duke University. Endorsed: “Hon. by Mr. Dawson.”

2. John Geddy (1743–1799), a native of Virginia, a silver and goldsmith, and a watch repairer, moved to the town of Halifax in 1768 and represented it in the first and third provincial congresses, 1774 and 1775, respectively. During the Revolutionary War he rose to the rank of lieutenant colonel in the militia. Geddy represented Halifax in the House of Commons in 1783 and was sheriff of Halifax County, 1785 and 1786. About 1790 he moved to Franklin County.

3. According to Donna E. Kelly and Lang Baradell, the Jones system “included an independent and self-sufficient state; a democratic system adhering to the 1776 state constitution and its accompanying declaration of rights; and a commitment to improving educational opportunities” (Kelly, *Iredell*, III, 376n).

4. Most foreign goods sold in New Jersey were imported through New York City or Philadelphia, where state imposts were levied that produced considerable revenue. New Jersey consumers thus paid taxes to its neighboring states in the form of higher prices for the foreign imports. Under the Constitution, only Congress could levy an impost. Thus, the revenue would benefit the entire country.

Maryland Journal, 1 February 1788¹

The Legislature of the State of North-Carolina, at their late Session, have *resolved unanimously*, “That the Citizens of that State and the United States, have a full and indisputable Claim to the Navigation of the River Mississippi, as well by the clear and express Stipulations of Treaties, as by the great Law of Nature.”—They also *resolved*, at the same Time, “That the Delegates of that State be instructed to move in Congress

for a full and explicit Declaration, that the Right which the United States, and each of them, have to the Navigation of the Mississippi, is absolute and unalienable, in order that the Apprehensions and Fears of their Fellow-Citizens, on that Subject, might be entirely removed.”

1. Reprinted in nine newspapers by 24 March: Vt. (1), N.H. (1), Mass. (1), Conn. (1), N.Y. (2), N.J. (1), Pa. (2); and also in the February issues of the Philadelphia *American Museum* and the Philadelphia *Columbian Magazine*.

False Reports of North Carolina's Ratification of the Constitution, 5 February–5 March 1788

*Massachusetts Gazette, 5 February 1788*¹

It is with great satisfaction we announce to the publick the RATIFICATION of the New Constitution by the state of N. CAROLINA.—The intelligence of this happy event was received by capt. Kent, who arrived on Sunday last in ten days from Edenton, in that state. Capt. Kent says, that the ratification was unanimously agreed to on the 25th of Jan.—TWO only dissenting.—This is the SIXTH pillar.

*Massachusetts Centinel, 6 February 1788*²

SIXTH PILLAR raised.

Capt. Kent, who arrived here on Sunday afternoon, in ten days, from Edenton, North-Carolina, brought the pleasing intelligence, that on the 25th of January, the Convention of that State ASSENTED TO, and RATIFIED the FEDERAL CONSTITUTION; with only *two* dissenting voices.

*New York Journal, 14 February 1788*³

A last Wednesday's Boston paper announces “the ratification of the constitution by the convention of the state of North-Carolina, on the 25th Jan. with only two dissentients.” This account was handed the printer by captain Kent, in ten days from Edenton to Boston.—As our last accounts from North-Carolina mentioned, that the convention was not to meet until July next, it is presumed, that captain Kent was misinformed, or perhaps mistook the house of assembly *appointing a convention*, for the convention *adopting the constitution*.⁴

*Newport Herald, 14 February 1788*⁵

By a vessel arrived here last Tuesday, in five days from North-Carolina, we have a confirmation of the pleasing intelligence of that State's adopting the New Constitution by a very large majority.

Vermont Gazette, 18 February 1788

By a gentleman of undoubted veracity from Massachusetts, we are informed, that before he left that State, the news of the ratification of the Federal Convention [i.e., Constitution] by the State of North Carolina, had arrived. This makes the seventh grand pillar in the Federal Arch, raised under the new constitution.

New York Journal, 26 February 1788

The receipt of authentic intelligence from the southern states, beyond Philadelphia, has lately become a novelty, it is therefore with eagerness, that the public are positively informed, through a private letter from Wilmington, that the convention of that state, to take into consideration the new federal constitution, is not to meet until the 4th day of July next.

Pennsylvania Gazette, 5 March 1788⁶

The account of the adoption of the new Fœderal Constitution by the Convention of North-Carolina, said to have been received by way of Rhode-Island, must be a mistake, as the election of a Convention for that state has not yet taken place. We trust, however, that though the paragraph in the Rhode-Island paper is not yet true, there is every reason to expect it will prove to be PROPHEPIC.

1. Reprinted on 14 February in the Portland, Maine, *Cumberland Gazette*, the *Newport Herald*, and the *New Haven Gazette*, and on 20 February in the *New Jersey Journal*.

2. Reprinted eleven times by 25 February: Vt. (1), N.H. (3), Mass. (3), R.I. (1), Conn. (3).

3. Reprinted: *Pennsylvania Packet*, 18 February; Poughkeepsie, N.Y., *Country Journal*, 19 February; *Pennsylvania Journal*, 20 February; *Albany Gazette*, 21 February (summary); *Boston American Herald*, 3 March; *New Jersey Brunswick Gazette*, 4 March.

4. On 6 December the North Carolina legislature called a state convention, which was to meet on 21 July. The *New York Journal*, 17 January, reported: "It is said, that [the] North-Carolina convention are not to meet until July next." This report (slightly modified in the *Pennsylvania Packet*, 22 January) was reprinted five times by 20 February: N.H. (1), Mass. (2), Conn. (1), Pa. (1). The *Maryland Journal*, 29 February, stated that the Convention was scheduled to meet on 17 July. This account was reprinted in the March issue of the nationally circulated Philadelphia *American Museum* and the Philadelphia *Columbian Magazine* and in six newspapers by 27 March: R.I. (1), Conn. (1), Pa. (2), Va. (2). The Philadelphia *Freeman's Journal*, 12 March, printed a satirical Antifederalist letter from James de Caledonia (James Wilson) to James Bowdoin stating "Ha, Ha! I find you have had our plan adopted (in your papers) by North-Carolina; when in fact their convention do not meet till July; and all that state is almost opposed to us" (Mfm:Pa. 512). See also CC:647.

5. Reprints by 7 March (17): N.H. (5), Mass. (9), R.I. (1), N.Y. (1), Pa. (1). The reprint in the *Massachusetts Centinel*, 20 February, was headed: "SEVENTH PILLAR raised (if true)." After the reprint, the *Centinel* stated "(We wait with impatience for an official confirmation of

this happy event.)” Two New Hampshire reprints followed the *Centinel’s* example, while the *Pennsylvania Packet*, 4 March, included only the postscript.

6. Reprinted: *Pennsylvania Mercury*, 6 March; *New Jersey Journal*, 12 March; *Providence Gazette*, 22 March.

William R. Davie to Francis Child

Halifax, N.C., 6 February 1788 (excerpt)¹

. . . New Jersey ratified the Constitution on the 18th. of December unanimously, so that three States have now adopted it, and I think it is not improbable that *Nine* States will receive it before the meeting of our Convention; should this not be the case, I believe the parties will be pretty equally balanced in this State—All the old Demagogues, the Friends of *paper money*, and the men who expect to prosper by public trouble and commotion will be certainly opposed to it, these added to the ____ proselytes of opinion will compose a formidable group—pray how is the old Governor; it is of importance that a man of his influence and weight should be right?²—

My compliments to Mrs. Childs, I shall have the pleasure of seeing you both I hope at Hillsboro in Aprile next—Believe me with great respect

1. Copy, Preston Davie Collection, #3406, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill. Child (d. 7 August 1792) had served in the Continental Army rising to the rank of captain. He was captured by the British at Charleston in 1780 and retired from the army in January 1781. In November 1784 he was elected state comptroller succeeding Richard Caswell under whom he had served as a clerk.

2. A reference to Richard Caswell.

James Madison to George Washington

New York, 8 February 1788 (excerpt)¹

. . . I have seen a letter from N. Carolina of pretty late date which admits that a very formidable opposition exists, but leans towards a foederal result in that State. As far as I can discover, the state of the question in N. Carolina, is pretty analagous to that in Virginia. The body of the people are better disposed than some of a superior order. . . .

1. RC, Washington Papers, DLC. Printed: CC:512. Madison (1751–1836) recently returned to the Confederation Congress after serving three years in the Virginia House of Delegates. He served as a delegate to the Constitutional Convention, 1787; a U.S. representative, 1789–97; U.S. secretary of state, 1801–9; and U.S. president, 1809–17.

Edward Carrington to James Madison
Manchester, Va., 10 February 1788 (excerpt)¹

. . . I have lately seen a Gentleman who removed from my Neighbourhood to N. Carolina and is intelligent—He came directly from the Assembly—He says the postponement of the convention in that state by no means indicates a disposition to follow the politics of Virga.—on the contrary there is a decided opinion in favor of the Constitution—as an evidence of it, Willy Jones an opponent declines going into the Convention seeing that his opposition will be unavailing, and Allan Jones who is of the contrary party is to be a Member—Davie—Williamson—& Johnson, all for the Constitution. . . .

1. RC, Madison Papers, DLC. Printed: RCS:Va., 359–61. In the rest of the letter Carrington wrote about the prospects of ratification in Virginia, Massachusetts, and New York. Manchester, the town from which Carrington was writing, was in Chesterfield County across the James River from Richmond. Carrington (1748–1810) was a Virginia planter. He was active during the Revolutionary War serving as a deputy quartermaster general from 1781 to 1783. He served in the Virginia House of Delegates, 1784–86, 1788–90; as a Virginia delegate to Congress, 1786–88; and as U.S. marshal for Virginia, 1789–95.

William R. Davie to Hugh Williamson
Halifax, N.C., 12 February 1788 (excerpt)¹

. . . Georgia have ratified the federal constitution, our convention meets in July next, the paper-money advocates are extremely industrious against it, and as people are much easier alarmed than informed, have already made a formidable party.

Let me hear from you and believe me with great respect

1. RC, Hampton L. Carson Collection, Rare Book Room, Free Library of Philadelphia.

Benjamin Hawkins to James Madison
Warrenton, N.C., 14 February 1788¹

A neighbour of mine who is a Wheelwright called last monday to see me; he told me he had been reading for some days past the New Constitution and Richard Henry Lee's letter;² and he wished me to answer him some questions. They were the following literally

Is Mr. Lee thought to be a great man?

Is he not a proud passionate man?

Was he one of the Convention?³

Could it be from Ignorance or design that he declares Virginia has but a thirteenth vote in the election of a president?⁴ For I who am illiterate saw at the first reading he was [w]rong?

Is he fond of popularity?

Is he an enemy to General Washington and Dotr Franklin?

I informed you from Tarborough of the time appointed for the election and meeting, and working of our Convention. ~~Since which very little has~~ I believe the Constitution is daily gaining friends, as far as I have been able to know, it is certain that the honest part of the community whether mechanick or planters are for it. people in debt, and of dishonesty and cunning in their transactions are against it. this will apply universally to those of this class who have been members of the legislature.—If you or our friend Mr. Jefferson should publish any thing upon it, I wish you would send it to me; this you can readily do by the post to petersburg.—address to me in Warrenton via petersburg.

Adieu & god bless you!

1. RC, Madison Papers, DLC. Hawkins (1754–1816), a native of Warren County, N.C., was attending the College of New Jersey (Princeton) when the Revolutionary War began. The College suspended classes, and Hawkins, who was then a senior, became part of the staff of General George Washington, whom he served as French interpreter. He retired in 1778 with the rank of colonel. Hawkins served in the state House of Commons, 1778 and 1784, and was a delegate to the Confederation Congress, 1781–83 and 1787. In 1785 he was appointed one of several commissioners by Congress to negotiate treaties with Indians south of the Ohio River. The negotiations resulted in treaties in 1785 and 1786. In 1789 he voted to ratify the Constitution in the Fayetteville Convention. Hawkins was a U.S. senator, 1789–96. He was defeated for reelection in 1796, whereupon President Washington appointed him superintendent of Indian affairs for the tribes south of the Ohio River. He held that position until his death.

2. A reference to Richard Henry Lee's 16 October 1787 letter to Governor Edmund Randolph, which included a bill of rights that Lee wanted appended to the Constitution. Lee's letter and the attached bill of rights were widely printed in newspapers throughout America (see CC:325).

3. Although elected to the Constitutional Convention by Virginia, Lee turned down the appointment.

4. If all thirteen states ratified the Constitution, there would have been ninety-one presidential electors. Virginia would have had twelve, which is 13.19%. One thirteenth is only 7.69%.

John M^oLean to James Iredell

Norfolk, Va., 15 February 1788¹

Good Sir

About two days ago Mr. Ferguson favord me with a lengthy piece containing Mr Mason's Objections to the Fœderal System and also refutations to each,² accompanied with an half Joe for four Books of the Fœderalist,³ the remainder, as a small recompense for publishing the above Manuscript—since which I this moment—receivd by Capt Meredith some material omissions respecting it, which shall be strictly at-

tended to and inserted in their proper place—at the same time I must trespass on your goodness to inform the Author that every possible Attention Shall be paid the composition thereof tho' it will all lie on myself, having no Assistance but a boy to whom I cannot confide [a] Manuscript. I beg leave, (thro your kind Channel) to observe that the Publication of the above will be attended with some material disadvantages with respect to Advertisements which I must omit in the Course of this publication Several other political pieces have been also sent for Appearance in my next, but defective of Marcus' Merit and Argument, I shall take the liberty of laying them on the Shelf of "Old Maids". These considerations, I flatter myself, will have their due Weight with the Author, who, I make no doubt, is possessed of that liberal Spirit which his Writings enforce, and will at a proper time, make a suitable return, for the Attention and pecuniary disadvantages which must arise therefrom to his most Obedt. Servant

[P.S.] By the letter favord me by Capt Meredith I am instructed to address this to your Care which will apologize (I presume) for this liberty taken by J.M.

1. RC, Iredell Papers, Duke University. John and Archibald M'Lean printed the *Independent Journal* in New York City. Beginning in 1788, John M'Lean also printed the weekly *Norfolk and Portsmouth Journal* in Virginia.

2. See "Marcus" I, *Norfolk and Portsmouth Journal*, 20 February (RCS:N.C., 70–79n).

3. Between 16 and 30 January 1788, the *Norfolk and Portsmouth Journal* printed an advertisement announcing the forthcoming pamphlet publication of "Publius," *The Federalist*. The first volume of *The Federalist* was published by the M'Leans on 22 March 1788 (CC:639). A "half Joe" was a Portuguese gold coin equal to eight dollars.

Massachusetts Governor John Hancock to Governor Richard Caswell Boston, 16 February 1788¹

I have the honour of transmitting to your Excellency a Copy of the proceedings of the Convention of the people of this Commonwealth Lately assembled in this Town in Conformity to a Resolution of the General Court of the said Commonwealth with their assent to & ratification of the Constitution for the United States of America, reported to Congress by the Convention of Delegates from the said United States, together with certain amendments & Alterations recommended to be introduced into the said Constitution which we wish may meet with the Concurrence of your State.

I have the Honour to be with great Esteem & Respect

1. RC, Signers of the Articles of Confederation, Pierpont Morgan Library, New York City. A copy is in the Executive Letterbook, Nc-Ar. Unbeknown to Hancock, Samuel Johnston had replaced Caswell as North Carolina's governor. Hancock (1737–1793), a wealthy

Boston merchant and graduate of Harvard, had been president of the Second Continental Congress, 1775–77. He was governor of Massachusetts, 1780–85, 1787–93, and was president of the state Convention where he voted to ratify the Constitution in February 1788.

John C. Osborn to Jeremiah Wadsworth
New Bern, N.C., 18 February 1788 (excerpt)¹

. . . Every Friend to the New Constitution rejoices much in its adoption by the 6 States who have already ratified it, and they have not the smallest doubt of its favourable Reception in this State; The Delegates to a Convention for its Consideration are to be chosen in March, to meet in July.—

I am with the most grateful Esteem

1. RC, Wadsworth Papers, Connecticut Historical Society. Wadsworth (1743–1804), a wealthy Hartford merchant and currency speculator, served in the Connecticut House of Representatives, 1780–81, 1785–89, 1795; in the U.S. House of Representatives, 1789–95; and in the Connecticut Council, 1795–1801. He voted to ratify the U.S. Constitution in the Connecticut Convention in January 1788.

Marcus I
Norfolk and Portsmouth Journal, 20 February 1788

“Marcus,” a response to George Mason’s objections to the Constitution (CC:276), was written by James Iredell. Throughout the 1780s, Iredell opposed the issuance of paper money, the banishment of Loyalists and confiscation and sale of their property, and the refusal of North Carolina to honor the provisions of the Treaty of Peace concerning debts owed by Americans to British subjects and Loyalists.

In November 1787 Iredell had written the resolutions of the Chowan and Edenton meeting and the presentment of the Edenton grand jury (see RCS: N.C., 20–25n). In July 1789 he described some of the feelings that motivated his writings on the Constitution, including “Marcus”: “My Zeal I fear far outran my discretion, for I was fully convinced in my own mind that the fate of America depended on the adoption of the Constitution in that particular period, and I had long been ashamed of the disgraceful light in which we appeared, not only to every other Country in the world, but even to ourselves” (to Baron de Poellnitz, 25 July 1789, RCS:N.C., 665). In all likelihood, this feeling led him to accept his only elective office—delegate to the Hillsborough Convention—where, along with Archibald Maclaine and Governor Samuel Johnston, he led Federalists in their unsuccessful attempt to ratify the Constitution in July and August 1788.

George Mason’s objections to the Constitution, based on his criticisms in the Constitutional Convention, were originally published in the *Massachusetts Centinel*, 21 November, the *Virginia Journal*, 22 November, and the *Winchester*

Virginia Gazette, 23 November (CC:276). They were widely reprinted in newspapers, in a magazine, in two pamphlet anthologies, and as a broadside. The *Massachusetts Centinel* version, which had a wider circulation and was used by “Marcus,” omitted Mason’s objection to the constitutional provision allowing a simple majority of Congress to enact commercial legislation. The omission was noted in some newspapers, but “Marcus” never mentioned or answered this objection.

On 13 February John M’Lean, printer of the weekly *Norfolk and Portsmouth Journal*, received Iredell’s manuscript. Two days later M’Lean received “some material omissions respecting it.” These omissions were “strictly attended to and inserted in their proper place.” The manuscript, dated “January 1788,” was accompanied by “an half Joe for four Books of the Federalist” and a subsidy for printing the manuscript. (The New York City firm of John and Archibald M’Lean published *The Federalist*. An advertisement in the *Norfolk and Portsmouth Journal*, published in January, announced that the printer was taking subscriptions for *The Federalist* at a cost of one dollar.) A “half Joe” was equal to eight dollars. Thus, Iredell paid M’Lean four dollars for *The Federalist* and four dollars to publish “Marcus.” M’Lean informed Iredell that the length of the manuscript would force him to omit some advertising and that he was publishing “Marcus” in preference to “Several other political pieces [that] have been also sent for Appearance in my next, but defective of Marcus’ Merit and Argument.” Because of these factors, M’Lean had “no doubt” that Iredell would make further payments to compensate him for “the Attention and pecuniary disadvantages” of publication (M’Lean to Iredell, 15 February, RCS: N.C., 68–69).

M’Lean published the first of five unnumbered installments of “Marcus” in the *Norfolk and Portsmouth Journal* on 20 February; the subsequent installments appeared on 27 February, 5, 12, and 19 March (RCS:N.C., 79–85, 87–92n, 93–102, 102–6). The essay was reprinted in at least one North Carolina newspaper, but no copies are extant (see Iredell to Baron de Poellnitz, 15 April, RCS:N.C., 146–47n). The essay, without the author’s preface, was reprinted as a pamphlet by Hodge and Wills of New Bern. On 27 March, the printers advertised the sale of the pamphlet for two and a half shillings in their newspaper, the *State Gazette of North Carolina*. (Earlier advertisements might have appeared in no-longer-extant issues.) The twelve-page pamphlet, also containing “Publicola” by Archibald Maclaine (RCS:N.C., 106–18n), is entitled, *Answers to Mr. Mason’s Objections to the New Constitution Recommended by the Late Convention at Philadelphia. By Marcus. To Which Is Added, An Address to the Freeman of North-Carolina. By Publicola* (Evans 45276). There are no significant differences between the newspaper and pamphlet versions of “Marcus.” A copy of the pamphlet at Harvard University is annotated and corrected by James Iredell. Significant annotations have been noted in the internal footnotes.

David Witherspoon, a New Bern lawyer, praised the essay in a letter to Iredell on 3 April: “I have read with very great pleasure your answers to Mr. Mason’s objections, and surely every man who reads them & on whom Mr. Mason’s observations or indeed the arguments of those in opposition in general have had any effect, must be convinced that the objections to the constitution are

without foundation. . . . Your publication has been made I believe very correctly by Mr. Hodge I was sorry that my business called me out of Town while it was in hand You were very soon known to be the author by what means I do not know" (RCS:N.C., 141–42n).

MR. M'LEAN, *I beg the favour of you to publish in your paper, the following Answers to Mr. Mason's Objections to the New Constitution. Each objection is inserted in his own words (as taken from a printed newspaper) before the answer given to it, so that the merits of both will be fairly before the Public.—Nothing can be more easy than the business of objecting, and as mankind are generally much more apt to find fault than to approve its success is commonly proportionable; but I trust the good sense of America, at this awful period, will exert itself to judge coolly and impartially, especially as the dissenting gentlemen appear to differ as much from each other as from the respectable majority who have recommended the New Constitution to the public.—I am Sir, your very humble servant,*

The AUTHOR.

Answers to Mr. Mason's Objections to the New Constitution, Recommended by the late Convention at Philadelphia.

Ist. Objection.

"There is no declaration of rights, and the laws of the general government being paramount to the laws and constitutions of the several States, the declarations of rights in the separate States are no security; nor are the people secured even in the enjoyment of the benefit of the common law, which stands here upon no other foundation than its having been adopted by the respective acts forming the constitutions of the several States."

Answer.

1. *As to the want of a Declaration of Rights.*

The introduction of these in England, from which the idea was originally taken, was in consequence of usurpations of the Crown, contrary, as was conceived, to the principles of their government. But there, no original constitution is to be found, and the only meaning of a declaration of rights in that country is, that in certain particulars specified, the Crown had no authority to act. Could this have been necessary, had there been a Constitution in being, by which it could have been clearly discerned whether the Crown had such authority or not? Had the people by a solemn instrument delegated particular powers to the Crown at the formation of their government, surely the Crown which in that case could claim under that instrument only, could not have contended for more power than was conveyed by it. So it is in regard to the new Constitution here: The future government which may be formed under

that authority, certainly cannot act beyond the warrant of that authority. As well might they attempt to impose a King upon America, as go one step in any other respect beyond the terms of their institution. The question then only is, whether more power will be vested in the future government than is necessary for the general purposes of the Union. This may occasion a ground of dispute—but after expressly defining the powers that are to be exercised, to say that they shall exercise no other powers (either by a general or particular enumeration) would seem to me both nugatory and ridiculous. As well might a Judge when he condemns a man to be hanged, give strong injunctions to the Sheriff that he should not be beheaded.^(a)

2. As to the common law, it is difficult to know what is meant by that part of the objection. So far as the people are now entitled to the benefit of the common law, they certainly will have a right to enjoy it under the new constitution, till altered by the general Legislature, which even in this point has some cardinal limits assigned to it. What are most acts of Assembly but a deviation in some degree from the principles of the common law? The people are expressly secured (contrary to Mr. Mason's wishes) against *ex post facto* laws, so that the tenure of any property at any time held under the principles of the common law, cannot be altered by any act of the future general legislature. The principles of the common law, as they now apply, must surely always hereafter apply, except in those particulars in which express authority is given by this Constitution; in no other particular can the Congress have authority to change it, and I believe it cannot be shewn that any one power of this kind given is unnecessarily given, or that the power would answer its proper purpose if the Legislature was restricted from any innovations on the principles of the common law, which would not in all cases suit the vast variety of incidents that might arise out of it.

IId. Objection.

“In the House of Representatives there is not the substance but the shadow only of representation, which can never produce proper information in the Legislature, or inspire confidence in the people; the laws will therefore be generally made by men little concerned in, and unacquainted with, their effects and consequences.”

Answer.

This is a mere matter of calculation. It is said the weight of this objection was in a great measure removed by altering the number of 40000 to 30000 constituents. To shew the discontented nature of man, some have objected to the number of representatives as being too large. I leave to every man's judgment whether the number is not sufficiently

respectable, and whether if that number be sufficient it would have been right, in the very infancy of this government, to burthen the people with a great additional expence to answer no good purpose.^(b)

III. Objection.

“The Senate have the power of altering all money bills, and of originating appropriations of money, and the salaries of the officers of their own appointment, in conjunction with the President of the United States; although they are not the Representatives of the people, or amenable to them. These, with their other great powers (*viz.* their powers in the appointment of ambassadors and all public officers, in making treaties, and in trying all impeachments), their influence upon and connection with the Supreme Executive from these causes; their duration of office, and their being a constant existent body almost continually sitting, joined with their being one complete branch of the Legislature, will destroy any balance in the government, and enable them to accomplish what usurpations they please upon the rights and liberties of the people.”

Answer.

This objection respecting the dangerous power of the Senate, is of that kind which may give rise to a great deal of gloomy prediction, without any solid foundation. An imagination indulging itself in chimerical fears, upon the disappointment of a favourite plan may point out danger arising from any system of government whatever, even if Angels were to have the administration of it; since I presume, none but the Supreme Being himself is altogether perfect, and of course every other species of beings may abuse any delegated portion of power. This sort of visionary scepticism therefore will lead us to this alternative, either to have no government at all, or to form the best system we can, making allowance for human imperfection. In my opinion, the fears as to the power of the Senate are altogether groundless, as to any probability of their being either able or willing to do any important mischief. My reasons are—

1. Because tho' they are not immediately to represent the people, yet they are to represent the Representatives of the people, who are annually chosen, and it is therefore probable, the most popular, or confidential persons in each State, will be elected members of the Senate.

2. Because one third of the Senate are to be chosen as often as the immediate Representatives of the people, and as the President can act in no case from which any great danger can be apprehended without the concurrence of two-thirds, let us think ever so ill of the designs of

the President, and the danger of a combination of power among a standing body generally associated with him, unless we suppose every one of them to be base and infamous (a supposition, thank God, bad as human nature is, not within the verge of the slightest probability), we have reason to believe that the one third newly introduced every second year, will bring with them from the immediate body of the people a sufficient portion of patriotism and independence to check any exorbitant designs of the rest.

3. Because in their legislative capacity they can do nothing without the concurrence of the House of Representatives, and we need look no further than England for a clear proof of the amazing consequence which Representatives of the people bear in a free government. There the King (who is hereditary, and therefore not so immediately interested, according to narrow views of interest which commonly govern Kings, to consult the welfare of his people) has the appointment to almost every office in the government, many of which are of high dignity and great pecuniary value; has the creation of as many Peers as he pleases, is not restricted from bestowing places on the members of both Houses of Parliament, and has a direct negative on all bills, besides the power of dissolving the Parliament at his pleasure. In theory would not any one say this power was enormous enough to destroy any balance in the Constitution? Yet what does the history of that country tell us?— That so great is the natural power of the House of Commons (tho' a very imperfect representation of the people, and a large proportion of them actually purchasing their seats), that ever since the Revolution the Crown has continually aimed to corrupt them by the disposal of places and pensions; that without their hearty concurrence it found all the wheels of government perpetually clogged; and, that notwithstanding this, in great critical emergencies, the members have broke through the trammels of power and interest, and, by speaking the sense of the people (tho' so imperfectly representing them) either forced an alteration of measures, or made it necessary for the Crown to dissolve them. If their power under these circumstances, is so great, what would it be if their Representation was perfect and their members could hold no appointments, and at the same time had a security for their seats? The danger of a destruction of the balance would be perhaps on the popular side, notwithstanding the hereditary tenure and weighty prerogatives of the Crown, and the permanent station and great wealth and consequence of the Lords. Our Representatives therefore, being an adequate and fair representation of the people, and they being expressly excluded from the possession of any places, and not holding

their existence upon any precarious tenure must have vast influence; and considering that in every popular government the danger of faction is often very serious and alarming, if such a danger could not be checked in its instant operation by some other power more independent of the immediate passions of the people, and capable therefore of thinking with more coolness, the government might be destroyed by a momentary impulse of passion, which the very members who indulged it might for ever afterwards in vain deplore. The institution of the Senate seems well calculated to answer this salutary purpose. Excluded as they are from places themselves, they appear to be as much above the danger of personal temptation as they can be. They have no permanent interest as a body to detach them from the general welfare, since six years is the utmost period of their existence, unless their respective legislatures are sufficiently pleased with their conduct to re-elect them. This power of re-election is itself a great check upon abuse, because if they have ambition to continue members of the Senate, they can only gratify this ambition by acting agreeably to the opinion of their constituents. The House of Representatives, as immediately representing the people, are to originate all money bills. This I think extremely right, and it is certainly a very capital acquisition to the popular Representative. But what harm can arise from the Senate, who are nearly a popular Representative also, proposing amendments when those amendments must be concurred with by the original proposers? The wisdom of the Senate may sometimes point out amendments, the propriety of which the other House may be very sensible of, though they had not occurred to themselves. There is no great danger of any body of men suffering by too eager an adoption of any amendment proposed to any system of their own. The probability is stronger of their being too tenacious of their original opinion, however erroneous, than of their profiting by the wise information of any other persons whatever. Human nature is so constituted, and therefore I think we may safely confide in the admission of a free intercourse of opinion on the detail of business, as well as to taxation as to other points. Our House of Representatives surely could not have such reason to dread the power of a Senate circumstanced as ours must be, as the House of Commons in England the permanent authority of the Peers, and therefore a jealousy which may be well grounded in the one case, would be entirely ill directed in the other. For similar reasons, I dread not any power of originating appropriations of money as mentioned in the objection. While the concurrence of the other House must be had, and as that must necessarily be the most weighty in the government, I think no danger is to be apprehended. The Senate has no such authority as to

awe or influence the House of Representatives, and it will be as necessary for one as for the other that proper active measures should be pursued. And in regard to appropriations of money, occasions for such appropriations may, on account of their concurrence with the executive power, occur to the Senate, which would not to the House of Representatives; and therefore if the Senate were precluded from laying any such proposals before the House of Representatives, the government might be embarrassed, and it ought ever to be remembered, that in our views of distant and chimerical dangers we ought not to hazard our very existence as a people, by proposing such restrictions as may prevent the exertion of any necessary power.—The power of the Senate in the appointment of Ambassadors, &c. is designed as a check upon the President.—They must be appointed in some manner. If the appointment was by the President alone, or by the President and a Privy Council (Mr. Mason's favourite plan), an objection to such a system would have appeared much more plausible. It would have been said that this was approaching too much towards Monarchical power, and if this new Privy Council had been like all I have ever heard of it would have afforded little security against an abuse of power in the President. It ought to be shewn by reason and probability (not bold assertion) how this concurrence of power with the President can make the Senate so dangerous. It is as good an argument to say that it will not, as that it will.^(c) The power of making treaties is so important, that it would have been highly dangerous to vest it in the Executive alone, and would have been the subject of much greater clamour. From the nature of the thing, it could not be vested in the popular Representative. It must therefore have been provided for, with the Senate's concurrence, or the concurrence of a Privy Council (a thing which I believe nobody has been mad enough to propose), or the power, the greatest Monarchical power that can be exercised, must have been vested in a manner that would have excited universal indignation, in the President alone. As to the power of trying impeachments, let Mr. Mason shew where this power could more properly have been placed. It is a necessary power in every free government, since even the Judges of the Supreme Court of Judicature themselves may require a trial, and other public officers might have too much influence before an ordinary and common Court. And what probability is there that such a Court acting in so solemn a manner, should abuse its power (especially as it is wisely provided that their sentences shall extend only to removal from office and incapacitation) more than any other Court? The argument as to the possible abuse of power, as I have before suggested, will reach all delegation of power whatever, since all power may be abused where

fallible beings are to execute it; but we must take as much caution as we can, being careful at the same time not to be too wise to do any thing at all. The bold assertions at the end of this objection are mere declamation, and till some reason is assigned for them, I shall take the liberty to rely upon the reasons I have stated above, as affording a belief that the popular Representative must for ever be the most weighty in this government, and of course that apprehensions of danger from such a Senate are altogether ill founded.

(To be continued.)

(a) It appears to me a very just remark of Mr. Wilson in his celebrated speech,¹ that a Bill of Rights would have been dangerous, as implying that without such a reservation the Congress would have authority in the cases enumerated, so that if any had been omitted (and who would undertake to recite all the state and individual rights not relinquished by the new Constitution?) they might have been considered at the mercy of the general Legislature.

(b) I have understood it was considered at the Convention, that the proportion of one Representative to 30,000 Constituents, would produce at the very first nearly the number that would be satisfactory to Mr. Mason. So that I presume this reason was wrote before the material alteration was made from 40,000 to 30,000, which is said to have taken place the very last day, just before the signature.²

(c) It seems, by the letter which has been published of Mr. Elseworth and Mr. Sherman,³ as if one reason of giving a share in these appointments to the Senate was, that persons in what are called the lesser States might have an equal chance for such appointments, in proportion to their merit, with those in the larger, an advantage that could only be expected from a body in which the States were equally represented.

1. For James Wilson's speech on 6 October 1787, see CC:134.

2. For the change from 40,000 to 30,000, which took place on 17 September after the Constitution had been engrossed and read in the Convention, see "George Washington in the Constitutional Convention" (CC:233). Mason first wrote out his objections on the back of his copy of the Committee of Style report. The Committee had reported on 12 September. On 7 October, Mason sent a manuscript copy of his objections to Washington and added a footnote at the end of this objection, which was printed in the *Massachusetts Centinel* version of his objections and paraphrased in the *Virginia Journal* version: "This Objection has been in some Degree lessened by an Amendment, often before refused, and at last made by an Erasure, after the Engrossment upon

Parchment, of the word *forty*, and inserting *thirty*, in the 3d. Clause of the 2d. Section of the 1st. Article" (CC:138-B).

3. In a 26 September letter transmitting the Constitution to the governor of Connecticut, Constitutional Convention delegates Roger Sherman and Oliver Ellsworth wrote: "The equal representation of the states in the senate, and the voice of that branch in the appointment to offices, will secure the rights of the lesser as well as the greater states." The letter was printed on 25 October and widely reprinted (CC:192).

Marcus II

Norfolk and Portsmouth Journal, 27 February 1788¹

Answers to Mr. Mason's *Objections* to the New Constitution, Recommended by the late Convention at Philadelphia.

IVth. Objection.

"The Judiciary of the United States is so constructed and extended, as to absorb and destroy the Judiciaries of the several States; thereby rendering law as tedious, intricate and expensive; and justice as unattainable by a great part of the community as in England; and enabling the rich to oppress and ruin the poor."

Answer.

Mr. Mason has here asserted, "That the Judiciary of the United States is so constructed and extended, as to absorb and destroy the Judiciaries of the several States." How is this the case? Are not the State Judiciaries left uncontrouled as to all the affairs of *that State only*? In this, as in all other cases, where there is a wise distribution, power is commensurate to its object. With the mere internal concerns of a State, Congress are to have nothing to do. In no case but where the Union is in some measure concerned, are the Fœderal Courts to have any jurisdiction. The State Judiciary will be a satellite waiting upon its proper planet: That of the Union like the sun, cherishing and preserving a whole planetary system.

In regard to a possible ill construction of this authority, we must depend upon our future Legislature in this case, as well as others, in respect to which it is impracticable to define every thing; that it will be provided for so as to occasion as little expence and distress to individuals as can be. In parting with the coercive authority over the States, as States, there must be a coercion allowed as to individuals. The former power no man of common sense can any longer seriously contend for: The latter is the only alternative. Suppose an objection should be made, that the future Legislature should not ascertain salaries, because they might divide among themselves and their officers all the revenue of the Union:^(a) Will not every man see how irrational it is to expect that any government can exist, which is to be fettered in its most necessary operations, for fear of abuse?

Vth. Objection.

“The President of the United States, has no Constitutional Council (a thing unknown in any safe and regular government), he will therefore be unsupported by proper information and advice; and will generally be directed by minions and favorites—or he will become a tool to the Senate—or a Council of State will grow out of the principal officers of the great departments; the worst and most dangerous of all ingredients for such a Council in a free country; for they may be induced to join in any dangerous or oppressive measures; to shelter themselves, and prevent an enquiry into their own misconduct in office: Whereas, had a Constitutional Council been formed (as was proposed) of six Members, viz. two from the eastern, two from the middle, and two from the southern States; to be appointed by vote of the States in the House of Representatives, with the same duration and rotation of office as the Senate, the Executive would always have had safe and proper information and advice. The President of such a Council might have acted as Vice-President of the United States, *pro tempore*, upon any vacancy or disability of the Chief Magistrate; and long-continued Sessions of the Senate would, in a great measure have been prevented. From this fatal defect of a Constitutional Council, has arisen the improper power of the Senate, in the appointment of public officers, and the alarming dependence and connexion between that branch of the Legislature and the Supreme Executive. Hence also sprung that unnecessary and dangerous officer, the Vice-President; who, for want of other employment, is made President of the Senate; thereby dangerously blending the Executive and Legislative powers; besides always giving to some of the States an unnecessary and unjust pre-eminence over the others.”

Answer.

Mr. Mason here reprobates the omission of a particular Council for the President, as a thing contrary to the example of all safe and regular governments. Perhaps there are very few governments now in being, deserving of that character, if under the idea of safety, he means to include safety for a proper share of personal freedom, without which their safety and regularity in other respects would be of little consequence to a people so justly jealous of liberty as I hope the people in America ever will be. Since however Mr. Mason refers us to such authority, I think I cannot do better than to select for the subject of our enquiry in this particular, a government which must be universally acknowledged to be the most safe and regular of any considerable government now in being (though I hope, America will soon be able to

dispute that pre-eminence). Every body must know I speak of Great-Britain; and in this I think I give Mr. Mason all possible advantage; since, in my opinion, it is most probable he had Great-Britain principally in his eye when he made this remark. And in the very height of our quarrel with that country, so wedded were our ideas to the institution of a Council, that the practice was generally, if not universally followed, at the formation of our governments, though we instituted councils of a quite different nature; and so far as the little experience of the writer goes, have very little benefited by it. My enquiry into this subject shall not be confined to the actual present practice of Great-Britain. I shall take the liberty to state the constitutional ideas of Councils in England, as derived from their ancient laws subsisting long before the Union, not omitting however to shew what the present practice really is.—By the laws of England^(b) the King is said to have four Councils. 1. The High Court of Parliament. 2. The Peers of the Realm. 3. His Judges. 4. His Privy Council.—By the first, I presume, is meant in regard to the making of laws; because the usual introductory expressions in most acts of Parliament, viz. “By the King’s Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, &c.” shew, that in a constitutional sense, they are deemed the King’s laws, after a ratification in Parliament. The Peers of the Realm are, by their birth hereditary Counsellors of the Crown, and may be called upon for their advice either in time of Parliament, or when no Parliament is in being. They are called in some law books, *Magnum Concilium Regis*. (The King’s Great Council). It is also considered the privilege of every particular Peer, to demand an audience of the King, and to lay before him any thing he may deem of public importance. The Judges, I presume, are called “A Council of the King,” upon the same principle that the Parliament is, because the administration of justice is in his name, and the Judges are considered as his instruments in the distribution of it. We come now to the Privy Council, which I imagine, if Mr. Mason had any particular view towards England when he made this objection, was the one he intended as an example of a *Constitutional Council* in that kingdom. The Privy Council in that country is undoubtedly of very ancient institution; but it has one fixed property invariably annexed to it, that it is a mere creature of the Crown, dependent on its will both for number and duration, since the King may, whenever he thinks proper, discharge any particular Member, or the whole of it, and appoint another.^(c) If this precedent is of moment to us, merely as a precedent, it should be followed in all its parts; and then what would there be in the regulation to

prevent the President from being governed by “minions and favorites?” It would only be the means of rivetting them on constitutional ground. So far as precedents in England apply, the Peers being constitutionally the *Great Council of the King*, tho’ also a part of the Legislature, we have reason to hope, that there is by no means, such gross impropriety as has been suggested, in giving the Senate, tho’ a branch of the Legislature, a strong controul over the Executive. The only difference in the two cases is, that the Crown may or may not give this consequence to the Peers at its own pleasure; and accordingly we find, that for a long time past, this Great Council has been very seldom consulted: Under our Constitution, the President is allowed no option in respect to certain points, wherein he cannot act without the Senate’s concurrence. But we cannot infer from any example in England, that a concurrence between the Executive and a part of the Legislature is contrary to the maxims of their government, since their government allows of such a concurrence whenever the Executive pleases. The rule therefore from the example of the freest government in Europe, that the Legislative and Executive powers must be altogether distinct, is liable to exceptions. It does not mean that the Executive shall not form a part of the Legislature (for the King who has the whole Executive authority, is one entire branch of the Legislature; and this, Montesquieu,² who recognizes the general principle, declares is necessary): Neither can it mean (as the example above evinces) that the Crown must consult neither house as to any exercise of its Executive power: But its meaning must be, that one power shall not include *both authorities*: The King, for instance, shall not have the sole Executive, and sole Legislative authority also. He may have the former, but must participate the latter with the two Houses of Parliament. The rule also would be infringed were the three branches of the Legislature to share jointly the Executive power. But so long as the people’s Representatives are altogether distinct from the Executive authority, the liberties of the people may be deemed secure. And in this point, surely there can be no manner of comparison between the provisions by which the independence of our House of Representatives is guarded, and the condition in which the British House of Commons is left exposed to every species of corruption.—But Mr. Mason says, for want of a Council, the President may become “a tool to the Senate.” Why?—Because he cannot act without their concurrence. Would not the same reason hold for his being “a tool to the Council,” if he could not act without their concurrence, supposing a Council was to be imposed upon him without his own nomination (according to Mr. Mason’s plan)? As great care is taken to make him independent of the Senate, as I believe human precaution can provide.

Whether the President will be a tool to any persons, will depend upon the man; and the same weakness of mind which would make him pliable to one body of controul, would certainly attend him with another. But Mr. Mason objects, if he is not directed by minions and favorites, nor becomes a tool of the Senate, “A Council of State will grow out of the principal officers of the great department[s], the worst and most dangerous of all ingredients for such a Council, in a free country; for they may be induced to join in any dangerous or oppressive measures to shelter themselves, and prevent an inquiry into their own misconduct in office.” I beg leave again to carry him to my old authority, England, and ask him what efficient Council they have there, but one formed of their great officers? Notwithstanding their important *constitutional Council*, every body knows that the whole movements of their government, where a Council is consulted at all, are directed by their *Cabinet Council*, composed entirely of the principal officers of the great departments: That when a Privy Council is called, it is scarcely ever for any other purpose than to give a formal sanction to the previous determinations of the other; so much so that it is notorious that not one time in a thousand one Member of the Privy Council, except a known adherent of administration, is summoned to it. But though the President, under our Constitution, may have the aid of the “principal officers of the great departments,” he is to have this aid, I think, in the most unexceptionable manner possible. He is not to be assisted by a Council, summoned to a jovial dinner perhaps, and giving their opinions according to the nod of the President—but the opinion is to be given with the utmost solemnity, *in writing*.³ No after equivocation can explain it away. It must for ever afterwards speak for itself, and commit the character of the writer, in lasting colours either of fame or infamy, or neutral insignificance, to future ages, as well as the present. From those written reasons, weighed with care, surely the President can form as good a judgment as if they had been given by a dozen formal characters, carelessly met together on a slight appointment. And this further advantage would be derived from the proposed system (which would be wanting if he had constitutional advice to screen him) that the President must be *personally responsible* for every thing. For though an ingenious gentleman has proposed, that a Council should be formed, who should be responsible for *their opinions*; and the same sentiment of justice might be applied to these opinions of the great officers, I am persuaded it will in general be thought infinitely more *safe*, as well as more *just*, that the President who acts should be responsible for his *conduct*, following advice at his peril, than that there should be a danger of punishing any man for an erroneous opinion which might possibly

be sincere. Besides the morality of this scheme, which may well be questioned, its inexpediency is glaring, since it would be so plausible an excuse, and the insincerity of it so difficult to detect; the hopes of impunity this avenue to escape, would afford, would nearly take away all dread of punishment. As to the temptations mentioned to the officers joining in dangerous or oppressive measures to shelter themselves, and prevent an enquiry into their own misconduct in office, this proceeds upon a supposition that the President and the great officers may form a very wicked combination to injure their country; a combination that in the first place it is utterly improbable, in a strong respectable government, should be formed for that purpose; and in the next, with such a government as this Constitution would give us, could have little chance of being successful, on account of the great superior strength, and natural and jealous vigilance of one at least, if not both the two weighty branches of Legislation. This evil however, of the possible depravity of *all public officers*, is one that can admit of no cure, since in every institution of government, the same danger in some degree or other must be risked; it can only be guarded against by strong checks, and I believe it would be difficult for the objectors to our new Constitution, to provide stronger ones against any abuse of the Executive authority, than will exist in that. As to the Vice-President, it appears to me very proper he should be chosen much in the same manner as the President, in order that the States may be secure, upon any accidental loss by death or otherwise, of the President's service; of the services in the same important station of the man in whom they repose their second confidence. The complicated manner of election wisely prescribed, would necessarily occasion a considerable delay in the choice of another; and in the mean time the President of the Council, tho' very fit for the purpose of advising, might be very ill qualified, especially in a critical period, for an active executive department. I am concerned to see among Mr. Mason's other reasons, so trivial a one as the little advantage one State might accidentally gain by a Vice-President of their country having a seat, with merely a casting vote in the Senate. Such a reason is utterly unworthy that spirit of amity, and rejection of local views, which can alone save us from destruction. It was the glory of the late Convention, that by discarding such, they formed a general government upon principles that did as much honor to their hearts as to their understandings. God grant, that in all our deliberations, we may consider America as one body, and not divert our attention from so noble a prospect, to small considerations of partial jealousy and distrust. It is in vain to expect upon any system to secure an exact equilibrium of power for all the States. Some will occasionally have an advantage from the superior abilities of its Members; the field of emulation is

however open to all. Suppose any one should now object to the superior influence of Virginia (and the writer of this is not a citizen of that State) on account of the high character of General Washington, confessedly the greatest man of the present age, and perhaps equal to any that has existed in any period of time: Would this be a reason for refusing a union with her, though the other States can scarcely hope for the consolation of ever producing his equal?

(To be continued.)

(a) *When I wrote the above, I had not seen Governor Randolph's letter:⁴ Otherwise, I have so great a respect for that gentleman's character, I should have treated with more deference an idea in some measure countenanced by him. One of his objections relates to the Congress fixing their own salaries. I am persuaded, upon a little reflection, that gentleman must think this is one of those cases where a trust must unavoidably be reposed. No salaries could certainly be fixed now, so as to answer the various changes in the value of money, that in the course of time must take place. And in what condition would the Supreme Authority be, if their very subsistence depended on an inferior power? An abuse in this case too, would be so gross, that it is very unlikely to happen; but if it should, it would probably prove much more fatal to the authors, than injurious to the people.*

(b) *See Coke's Commentary upon Littleton, 110. I. Blackstone's Commentaries, 227 and seq.⁵*

(c) *I. Blackstone's Commentaries, 232.⁶*

1. For the authorship and circulation of "Marcus," see RCS:N.C., 70–72.

2. Montesquieu, *Spirit of Laws*, I, Book XI, chapter VI, 221–37, especially pp. 233–34.

3. Article II, section 2, of the Constitution reads: "he [the president] may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices."

4. In his letter to the speaker of the Virginia House of Delegates, Governor Edmund Randolph expressed the hope that Virginia would be joined by the other states "in incapacitating the Congress to determine their own salaries." The letter was published as a pamphlet in Richmond, Va., on or before 27 December 1787 and in Richmond newspapers as early as 2 January (CC:385).

5. Edward Coke, *The First Part of the Institutes of the Laws of England. Or, a Commentary upon Littleton . . .* (9th ed., London, 1684), Book II, chapter 10, section 164, p. 110; and Blackstone, *Commentaries*, Book I, chapter V, 227–32.

6. *Ibid.*, 232.

Extract of a Letter from North Carolina, 3 March 1788¹

*Extract of a letter from a gentleman of distinction
in North-Carolina, dated March 3.*

“The new constitution is the general topic in every company—in general it is exploded. You will perhaps remember, that when I had the pleasure of your company, I often observed, that we were on the eve of an aristocratic government.—The proposed constitution may prove a harbinger, and the fourth section of the first article is a proper foundation to erect the grand fabric.² Is it not impolitic to give the federal head legislative powers, as the local situation of the United States are so different, that no general regulation can pervade the whole, without being prejudicial to some part of the union? A government, within a government, will ever create a competition between the officers, and be productive of confusion and disorders. Unlimited powers, without a bill of rights to prove a criterion, is surely dangerous to the liberty of the citizens. A writer, by the signature of Aristides,³ has labored to gild the bitter pill, but no art or sophistry can alter the nature of things.”

1. Printed in the *New York Journal*, 3 April. Reprinted in the Philadelphia *Independent Gazetteer*, 7 April; Boston *American Herald*, 14 April; and Baltimore *Maryland Gazette*, 15 April.

2. Article I, section 4, gave Congress the power to regulate federal elections.

3. For Alexander Contee Hanson’s pamphlet signed “Aristides,” which was published in Annapolis, Maryland, on 31 January 1788, see CC:490.

Archibald Maclaine to James Iredell
Wilmington, N.C., 4 March 1788 (excerpt)¹

. . . I expect in a few weeks the Federalist in a volume. He is certainly a judicious and ingenious writer, though not well calculated for the common people.²

Your old friend Huske, and Col. Read, have joined all the low scoundrels in the county, and by every underhand means, are prejudicing the common people against the new constitution. The former is a candidate for the county; but although in the beginning he was ridiculously loud, and even clamorous, he has been taught prudence by his associates. As a proof that he is not actuated by principle, he condemned the whole, after having a slight view of one half only over the shoulders of another person. In truth his objections are a disgrace to his understanding as well as his principles, &c., &c.

1. Printed: Kelly, *Iredell*, III, 385–87n. In the first part of this letter Maclaine discusses the prospects for nine states adopting the Constitution, specifically mentioning New York, Massachusetts, New Hampshire, South Carolina, and Maryland. For a fuller text, see CC:591.

2. The first of two volumes of *The Federalist* was published in New York City on 22 March 1788. See CC:639.

Marcus III**Norfolk and Portsmouth Journal, 5 March 1788¹**

Answers to Mr. Mason's *Objections* to the New Constitution, Recommended by the late Convention at Philadelphia.

Vith. Objection.

“The President of the United States, has the unrestrained power of granting pardons for treason, which may be sometimes exercised to screen from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt.”

Answer.

Nobody can contend upon any rational principles, that a power of pardoning should not exist somewhere in every government, because it will often happen in every country, that men are obnoxious to a legal conviction, who yet are entitled, from some favorable circumstances in their case, to a merciful interposition in their favor. The advocates of monarchy have accordingly boasted of this, as one of the advantages of that form of government, in preference to a Republican; nevertheless this authority is vested in the Stadtholder in Holland, and I believe is vested in every Executive power in America. It seems to have been wisely the aim of the late Convention in forming a general government for America, to combine the acknowledged advantages of the British Constitution with proper Republican checks, to guard as much as possible against abuses; and it would have been very strange if they had omitted this which has the sanction of such great antiquity in that country, and if I am not mistaken, an universal adoption in America.^(a) Those gentlemen who object to other parts of the Constitution, as introducing innovations, contrary to long experience, with a very ill grace attempt to reject an experience so unexceptionable as this, to introduce an innovation (perhaps the first ever suggested) of their own. When a power is acknowledged to be necessary, it is a very dangerous thing to prescribe limits to it; for men must have a greater confidence in their own wisdom than I think any men are entitled to, who imagine they can form such exact ideas of all possible contingencies as to be sure that the restriction they propose will not do more harm than good. The probability of the President of the United States committing an act of treason against his country is very slight; he is so well guarded by the other powers of government, and the natural strength of the people at large must be so weighty, that in my opinion it is the most chimerical apprehension that can be entertained. Such a thing is however possible, and accordingly he is not exempt from a trial, if he should be guilty, or supposed guilty, of that or any other offence. I

entirely lay out of the consideration, the improbability of a man honored in such a manner by his country, risking, like General [Benedict] Arnold, the damnation of his fame to all future ages, though it is a circumstance of some weight in considering, whether, for the sake of such a remote and improbable danger as this, it would be prudent to abridge this power of pardoning in a manner altogether unexampled, and which might produce mischiefs, the extent of which, it is not perhaps easy at present to foresee. In estimating the value of any power it is possible to bestow, we have to chuse between inconveniences of some sort or other, since no institution of man can be entirely free from all. Let us now therefore consider some of the actual inconveniencies which would attend an abridgement of the power of the President in this respect. One of the great advantages attending a single Executive power is, the degree of secrecy and dispatch with which, on critical occasions, such a power can act. In war this advantage will often counterbalance the want of many others. Now suppose, in the very midst of a war of extreme consequence to our safety or prosperity, the President could prevail upon a gentleman of abilities to go into the enemy's country, to serve in the useful, but dishonorable character of a spy: Such are certainly maintained by all vigilant governments, and in proportion to the ignominy of the character, and the danger sustained in the enemy's country, ought to be his protection and security in his own. This man renders very useful services; perhaps, by timely information prevents the destruction of his country. Nobody knows of these secret services but the President himself; his adherence however to the enemy is notorious: He is afterwards intercepted in endeavouring to return to his own country, and having been perhaps a man of distinction before, he is proportionably obnoxious to his country at large for his supposed treason. Would it not be monstrous, that the President should not have it in his power to pardon this man? or that it should depend upon mere solicitation and favor, and perhaps, though the President should state the fact as it really was, some zealous partizan, with his jealousy constantly fixed upon the President, might insinuate that in fact the President and he were secret traitors together, and thus obtain a rejection of the President's application. It is a consideration also of some moment, that there is scarcely any accusation more apt to excite popular prejudice than the charge of treason. There is perhaps no country in the world where justice is in general more impartially administered than in England; yet let any man read some of the trials for treason in that country even since the Revolution, he will see sometimes a fury influencing the Judges, as well as the Jury, that is extremely disgraceful.

There may happen a case in our country, where a man in reality innocent, but with strong plausible circumstances against him, would be so obnoxious to popular resentment, that he might be convicted upon very slight and insufficient proof. In such a case it would certainly be very proper for a cool, temperate man of high authority, and who might be supposed uninfluenced by private motives, to interfere, and prevent the popular current proving an innocent man's ruin. I know men who write with a view to flatter the people, and not to give them honest information, may misrepresent this account, as an invidious imputation on the usual impartiality of Juries. God knows, no man more highly reverences that blessed institution than I do: I consider them the natural safeguard of the personal liberties of a free people, and I believe they would much seldomer err in the administration of justice, than any other tribunal whatever. But no man of experience and candor will deny the probability of such a case as I have supposed, sometimes, tho' rarely happening; and whenever it did happen, surely so safe a remedy as a prerogative of mercy in the chief magistrate of a great country, ought to be at hand. There is little danger of an abuse of such a power, when we know how apt most men are in a Republican government, to court popularity at too great an expence, rather than to do a just and beneficent action, in opposition to strong prevailing prejudices, among the people. But, says Mr. Mason, "The President may sometimes exercise this power to screen from punishment those whom he had secretly instigated to commit the crime, and thereby prevent a discovery of his own guilt." This is possible, but the probability of it is surely too slight to endanger the consequences of abridging a power which seems so generally to have been deemed necessary in every well regulated government. It may also be questioned, whether, supposing such a participation of guilt, the President would not expose himself to greater danger by pardoning, than by suffering the law to have its course. Was it not supposed, by a great number of intelligent men, that Admiral Byng's execution was urged on to satisfy a discontented populace, when the Administration, by the weakness of the force he was entrusted with, were, perhaps the real cause of the miscarriage before Minorca?²² Had he been acquitted, or pardoned he could perhaps have exposed the real fault: As a prisoner under so heavy a charge, his recrimination would have been discredited as merely the effort of a man in despair to save himself from an ignominious punishment. If a President should pardon an accomplice, that accomplice then would be an unexceptionable witness. Before, he would be a witness with a rope about his own neck, struggling to get clear of it at all events. Would any men of understanding, or at least ought they to credit an accusation from a person under such circumstances?^(b)

VIIIth. Objection.

“By declaring all treaties supreme laws of the land, the Executive and the Senate have in many cases an exclusive power of legislation, which might have been avoided by proper distinctions with respect to treaties, and requiring the assent of the House of Representatives, where it could be done with safety.”

Answer.

Did not Congress very lately unanimously resolve in adopting the very sensible letter of Mr. Jay, that a treaty when once made pursuant to the sovereign authority, *ex vi termini* became immediately the law of the land?³ It seems to result unavoidably from the nature of the thing, that when the constitutional right to make treaties is exercised, the treaty so made should be binding upon those who delegated authority for that purpose. If it was not, what foreign power would trust us? And if this right was restricted by any such fine checks as Mr. Mason has in his imagination, but has not thought proper to disclose, a critical occasion might arise, when for want of a little rational confidence in our own government, we might be obliged to submit to a master in an enemy. Mr. Mason wishes the House of Representatives to have some share in this business; but he is immediately sensible of the impropriety of it, and adds, “Where it could be done with safety.” And how is it to be known whether it can be done with safety or not, but during the pendency of a negotiation? Must not the President and Senate judge, whether it can be done with safety or not? If they are of opinion it is unsafe, and the House of Representatives of course not consulted, what becomes of this boasted check, since if it amounts to no more than that the President and Senate may consult the House of Representatives if they please, they may do this as well without such a provision as with it? Nothing would be more easy than to assign plausible reasons after the negotiation was over, to shew that a communication was unsafe, and therefore surely a precaution that could be so easily eluded, if it was not impolitic to the greatest degree, must be thought trifling indeed. It is also to be observed, that this authority so obnoxious in the new Constitution (which is unfortunate in having little power to please some persons, either as containing new things or old) is vested indefinitely and without restriction in our present Congress,⁴ who are a body constituted in the same manner as the Senate is to be; but there is this material difference in the two cases, that we shall have an additional check under the new system of a President of high personal character, chosen by the immediate body of the people.

(To be continued.)

(a) *I have since found, that in the Constitutions of some of the States, there are much stronger restrictions on the Executive authority, in this particular, than I was aware of. In others the restriction only extends to prosecutions carried on by the General Assembly, or the most numerous branch of Legislature; or a contrary provision by law: Virginia is in the latter class.⁵ But when we consider how necessary it is in many cases to make use of accomplices to convict their associates, and what little regard ought in general to be paid to a guilty man swearing to save his own life, we shall probably think that the jealousies which (by prohibiting pardons before conviction) ever disabled the Executive authority from procuring unexceptionable testimony of this sort, may more fairly be ascribed to the natural irritation of the public mind at the time when the Constitutions were formed, than to an enlarged and full consideration of the whole subject. Indeed, it could scarcely be avoided, that when arms were first taken up in the cause of liberty, to save us from the immediate crush of arbitrary power, we should lean too much rather to the extreme, of weakening than of strengthening the Executive power in our own government. In England, the only restriction upon this power in the King, in case of Crown prosecutions (one or two slight cases excepted) is, that his pardon is not pleadable in bar of an impeachment; but he may pardon after conviction, even on an impeachment; which is an authority not given to our President, who in cases of impeachment has no power either of pardoning or relieving.*

(b) *The evidence of a man confessing himself guilty of the same crime, is undoubtedly admissible; but it is generally, and ought to be always viewed with great suspicion, and other circumstances should be required to corroborate it.*

1. For the authorship and circulation of "Marcus," see RCS:N.C., 70–72.

2. British public opinion was outraged when Admiral John Byng (1704–1757) failed to reinforce the British garrison at Fort St. Philip during the French invasion of Minorca in 1756. Byng was court-martialed. Although acquitted of cowardice, he was convicted of not having done his utmost and was executed.

3. On 13 October 1786 Secretary for Foreign Affairs John Jay sent Congress a long report concerning infractions of the Treaty of Peace by both the British and the American states. Among other things, the report proposed a resolution stating that treaties could not be interpreted or limited by the states because once "constitutionally made, ratified and published, they become, in virtue of the Confederation, part of the law of the land, and are not only independent of the will and power of such Legislatures, but also binding and obligatory on them." This resolution was unanimously adopted by Congress on 21 March 1787 and was sent to the states on 13 April (JCC, XXXI, 869–70; XXXII, 124–25; Smith, *Letters*, XXIV, 220–21n). The resolution recommended that state legislatures enact a law making the Treaty of Peace the law of the land, which in turn would allow

state judiciaries through judicial review to overturn laws that violated the treaty. Ten states followed Congress' recommendation.

4. Article IX of the Articles of Confederation gave Congress "the sole and exclusive right and power of . . . entering into treaties and alliances, provided that no treaty" restrain the states from imposing the same imposts and duties on foreigners as their own people were charged or prohibiting the importation or exportation of any commodity (CDR, 89).

5. Every state constitution except South Carolina's provided for pardons. Four prohibited pardons in impeachments and five prior to conviction. In Rhode Island and Connecticut, pardons were granted by the legislature, and in the other states the power generally resided in the governor, sometimes shared with the council. In Maryland, the power to pardon was given to the governor "except in such cases where the law shall otherwise direct"; in Delaware, Virginia, and North Carolina, the governor could not issue pardons if the prosecution was done by the legislature or the lower house, or if the pardoning power was otherwise directed by law. In New York, Pennsylvania, and Georgia, the legislatures had the ultimate power to grant pardons in cases of treason, the governor being limited to issuing a reprieve and reporting to the legislature (Thorpe, I, 534, 563; II, 788; III, 1696, 1901; IV, 2464; V, 2596, 2633, 2791, 3087; VI, 3215; VII, 3817).

North Carolina Gazette, 5–12 March 1788 (excerpt)¹

WARRENTON, March 5, 1788.

To the Printer of the North Carolina Gazette.

SIR, Hard words and foul names may be used and given to any man under the shelter of an anonymous signature, though the person abused by opprobrious language knows not how particularly to reply: In this manner am I treated by the piece signed *A true American*, in the *Edenton Intelligencer* of the 27th ult. (February)² and as my endeavors to discover the author have hitherto proved ineffectual I can only *generally* observe on this malevolent and scurrilous publication, by saying that whatever have been my pursuits, since I came into this country, it is not in the power of any one to declare (who regards truth) that I have behaved ingenuously or conducted myself indecently. Had that *invidious* writer been actuated by similar principles, he would neither have *dishonored* himself, or aimed at the destruction of my character, which I am proud to assert is superior to [his?] malignity and cannot be injured by his detraction. The history he has fabricated respecting my observations on the constitution that is to be submitted to general consideration is *not* founded on *truth*:—[But if?] it was, the incoherence with which he has conducted it proves him inadequate to judge of my [— —] and incompetent to the task he has undertaken I should imagine was I to venture to accept the invitation he has given me, that I should become as contemptible as himself though it is not in my nature to be as indecent, for as men are usually judged of by the company they keep; it would be sufficient to be known as *his* correspondent to render me

ridiculous. The inhabitants of the county of Warren³ know my sentiments, if they should think proper to delegate me to the *important* and *arduous* business that is to be consulted on at Hillsborough it is my determination to act with fidelity, and zealously endeavor to preserve their interest by a *firm* and *resolute* opposition to every measure that may be obnoxious to their liberties or destructive of their rights, and in the discharge of this duty, I shall be *regardless* of the censure which may result from his *stupidity*.

His invective relative to the country I was born in is ridiculous, his assertion respecting the character I sustained there is dispicable, and none but such a *profligate* in words could suppose that by *mean base* and *unworthy* epithets he should be likely to change the sentiments of the respectable body he addresses. I have said that *many* parts of the proposals made by the general convention held in Philadelphia, appear to me *incompatible* with state governments and destructive of our chiefest security. I am still of the same opinion, but I never asserted. [missing text]

1. Only the first page of the issue is extant. It was cut from the rest of the issue and pasted into Elkanah Watson's scrapbook (Watson Papers, Commonplace Book, Vol. 12, New York State Library). The balance of the article appears on the second page. Everything that is extant is printed here. A handwritten note is appended to the article: "The foregoing was wrote by a Very Sensible Englishman residing at Warrington No. Carolina by the Name William Faulkner—A Violent pretended Antifed attack'd his principles & Moral Conduct [— —] View of Ridicule—which produced the foregoing—& personal Consequence [— —]—which Nearly occasioned being tar'd & feather'd at Edenton. Winter 1787."

2. The *Edenton Intelligencer* for 27 February 1788 is not extant. "A true American" was perhaps Elkanah Watson.

3. Faulkner was not elected to the Hillsborough Convention. Warren County elected five other Antifederalists to the Convention: Thomas Christmass, Wyatt Hawkins, John Macon, Henry Montfort, and James Payne.

Marcus IV

Norfolk and Portsmouth Journal, 12 March 1788¹

Answers to Mr. Mason's *Objections* to the New Constitution, Recommended by the late Convention at Philadelphia.

VIIIth. Objection.

"Under their own construction of the general clause at the end of the enumerated powers, the Congress may grant monopolies in trade and commerce, constitute new crimes, inflict unusual and severe punishments, and extend their power as far as they shall think proper; so that the State Legislatures have no security for the powers now presumed to remain to them, or the people for their rights. There is no

declaration of any kind for preserving the Liberty of the Press—the Trial by Jury in civil cases—nor against the danger of standing armies in time of peace.”

Answer.

The general clause at the end of the enumerated powers is as follows:—

“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 United States, or in any department or office² thereof.*”

Those powers would be useless, except acts of Legislation could be exercised upon them. It was not possible for the Convention, nor is it for any human body, to foresee and provide for all contingent cases that may arise. Such cases must therefore be left to be provided for by the general Legislature, as they shall happen to come into existence. If Congress, under pretence of exercising the power delegated to them, should, in fact, by the exercise of any other power, usurp upon the rights of the different Legislatures, or of any private citizens, the people will be exactly in the same situation as if there had been an express provision against such power in particular, and yet they had presumed to exercise it. It would be an act of tyranny, against which no parchment stipulations can guard; and the Convention surely can be only answerable for the propriety of the powers given, not for the future virtues of all with whom those powers may be entrusted. It does not therefore appear to me, that there is any weight in this objection more than in others—but, that I may give it every fair advantage, I will take notice of every particular injurious act of power which Mr. Mason points out as exerciseable by the authority of Congress, under this general clause.

The first mentioned is, “That the Congress may grant monopolies in trade and commerce.” Upon examining the Constitution, I find it expressly provided, “That no preference shall be given to the ports of one State over those of another;” and that “Citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.” These provisions appear to me to be calculated for the very purpose Mr. Mason wishes to secure. Can they be consistent with any monopoly in trade and commerce?^(a) I apprehend therefore, under this expression must be intended more than is expressed; and if I may conjecture from another publication of a gentleman of the same State and in the same party of opposition,³ I should suppose it arose from a jealousy of the Eastern States, very well known to be often expressed by some gentlemen of Virginia. They fear, that a majority of the States may establish regulations of commerce which will give great advantage to the carrying trade of America, and be a means of encouraging New

England vessels rather than old England.—Be it so.—No regulations can give such advantage to New England vessels, which will not be enjoyed by all other American vessels, and many States can build as well as New England, tho' not at present perhaps in equal proportion.^(b) And what could conduce more to the preservation of the union, than allowing to every kind of industry in America a peculiar preference! Each State exerting itself in its own way, but the exertions of all contributing to the common security, and increasing the rising greatness of our country! Is it not the aim of every wise country to be as much the carriers of their own produce as can be? And would not this be the means in our own of producing a new source of activity among the people, giving to our own fellow citizens what otherwise must be given to strangers, and laying the foundation of an independent trade among ourselves, and of gradually raising a navy in America, which, however distant the prospect, ought certainly not to be out of our sight. There is no great probability however that our country is likely soon to enjoy so glorious an advantage. We must have treaties of commerce, because without them we cannot trade to other countries. We already have such with some nations—we have none with Great-Britain; which can be imputed to no other cause but our not having a strong respectable government to bring that nation to terms. And surely no man who feels for the honor of his country, but must view our present degrading commerce with that country with the highest indignation, and the most ardent wish to extricate ourselves from so disgraceful a situation. This only can be done by a powerful government, which can dictate conditions of advantage to ourselves, as an equivalent for advantages to them; and this could undoubtedly be easily done by such a government, without diminishing the value of any articles of our own produce; or if there was any diminution it would be too slight to be felt by any patriot in competition with the honor and interest of his country.

As to the constituting of new crimes, and inflicting unusual and severe punishment, certainly the cases enumerated wherein the Congress are empowered either to define offences, or prescribe punishments, are such as are proper for the exercise of such authority in the general Legislature of the union. They only relate to “counterfeiting the securities and current coin of the United States; to piracies and felonies committed on the high seas, and offences against the law of nations, and to treason against the United States.” These are offences immediately affecting the security, the honor or the interest of the United States at large, and of course must come within the sphere of the Legislative authority which is entrusted with their protection. Beyond these authorities Congress can exercise no other power of this kind, except

in the enacting of penalties to enforce their acts of Legislation in the cases where express authority is delegated to them, and if they could not enforce such acts by the enacting of penalties, those powers would be altogether useless, since a legislative regulation without some sanction would be an absurd thing indeed. The Congress having, for these reasons, a just right to authority in the above particulars, the question is, whether it is practicable and proper to prescribe the limits to its exercise, for fear that they should inflict punishments unusual and severe? It may be observed in the first place, that a declaration against "cruel and unusual punishments," formed part of an article in the Bill of Rights at the Revolution in England, in 1688. The prerogative of the Crown having been grossly abused in some preceding reigns, it was thought proper to notice every grievance they had endured, and those declarations went to an abuse of power in the crown only, but were never intended to limit the authority of Parliament. Many of these articles of the Bill of Rights in England, without a due attention to the difference of the cases, were eagerly adopted when our Constitutions were formed, the minds of men then being so warmed with their exertions in the cause of liberty, as to lean too much perhaps towards a jealousy of power to repose a proper confidence in their own government. From these articles in the State Constitutions, many things were attempted to be transplanted into our new Constitution, which would either have been nugatory or improper: This is one of them. The expressions "unusual and severe," or "cruel and unusual," surely would have been too vague to have been of any consequence, since they admit of no clear and precise signification. If to guard against punishments being too severe, the Convention had enumerated a vast variety of cruel punishments, and prohibited the use of any of them, let the number have been ever so great, an inexhaustible fund must have been unmentioned, and if our government had been disposed to be cruel, their invention would only have been put to a little more trouble. If to avoid this difficulty, they had determined, not negatively, what punishments should not be exercised, but positively what punishments should, this must have led them into a labyrinth of detail which in the original constitution of a government would have appeared perfectly ridiculous, and not left a room for such changes according to circumstances, as must be in the power of every Legislature that is rationally formed. Thus, when we enter into particulars, we must be convinced that the proposition of such a restriction would have led to nothing useful, or to something dangerous, and therefore that its omission is not chargeable as a fault in the new Constitution. Let us also remember, that as

those who are to make those laws must, themselves be subject to them, their own interest and feelings will dictate to them not to make them unnecessarily severe; and that in the case of treason, which usually in every country exposes men most to the avarice and rapacity of government, care is taken that the innocent family of the offender shall not suffer for the treason of their relation. This is the crime with respect to which a jealousy is of the most importance, and accordingly it is defined with great plainness and accuracy, and the temptations to abusive prosecutions guarded against as much as possible. I now proceed to the three great cases:—The Liberty of the Press—The Trial by Jury in civil cases, and a Standing Army in time of peace.

The Liberty of the Press is always a grand topic for declamation; but the future Congress will have no other authority over this than to secure to authors for a limited time the exclusive privilege of publishing their works. This authority has long been exercised in England, where the press is as free as among ourselves, or in any country in the world, and surely such an encouragement to genius is no restraint on the liberty of the press, since men are allowed to publish what they please of their own; and so far as this may be deemed a restraint upon others it is certainly a reasonable one, and can be attended with no danger of copies not being sufficiently multiplied, because the interest of the proprietor will always induce him to publish a quantity fully equal to the demand—besides, that such encouragement may give birth to many excellent writings which would otherwise have never appeared.^(c) If the Congress should exercise any other power over the press than this, they will do it without any warrant from this Constitution, and must answer for it as for any other act of tyranny.

In respect to the trial by jury in civil cases, it must be observed, it is a mistake to suppose, that such a trial takes place in all civil cases now. Even in the common law Courts, such a trial is only had where facts are disputed between the parties, and there are even some facts triable by other methods. In the Chancery and Admiralty Courts, in many of the States, I am told, they have no Juries at all. The States in these particulars differ very much in their practice from each other: A general declaration therefore to preserve the trial by Jury in all civil cases, would only have produced confusion, so that the Courts afterwards in a thousand instances would not have known how to have proceeded. If they had added “as heretofore accustomed,” that would not have answered the purpose, because there has been no uniform custom about it. If therefore the Convention had interfered, it must have been by entering into a detail highly unsuitable to a fundamental constitution

of government: If they had pleased some States, they must have displeased others, by innovating upon modes of administering justice perhaps endeared to them by habit, and agreeable to their settled conviction of propriety. As this was the case it appears to me it was infinitely better, rather than endanger every thing by attempting too much, to leave this complicated business of detail, to the regulation of the future Legislature, where it can be adjusted coolly and at ease, and upon full and exact information.—There is no danger of the trial by Jury being rejected, when so justly a favorite of the whole people. The Representatives of the people surely can have no interest in making themselves odious for the mere pleasure of being hated; and when a Member of the House of Representatives is only sure of being so for two years, but must continue a citizen all his life, his interest as a citizen, if he is a man of common sense, to say nothing of his being a man of common honesty, must ever be uppermost in his mind. We know the great influence of the monarchy in the British government, and upon what a different tenure the Commons there have their seats in Parliament, from that prescribed to our Representatives. We know also, they have a large standing army. It is in the power of the Parliament if they dare to exercise it, to abolish the trial by jury altogether—but woe be to the man who should dare to attempt it—it would undoubtedly produce an insurrection that would hurl every tyrant to the ground who attempted to destroy that great and just favorite of the English nation. We certainly shall be always sure of this guard at least, upon any such act of folly or insanity in our Representatives: They soon would be taught the consequence of sporting with the feelings of a free people. But when it is evident that such an attempt cannot be rationally apprehended, we have no reason to anticipate displeasing emotions of that nature. There is indeed little probability, that any degree of tyranny which can be figured to the most discoloured imagination, as likely to arise out of our government, could find an interest in attacking the trial by Jury in civil cases; and in criminal ones, where no such difficulties intervened as in the other, and where there might be supposed temptations to violate the personal security of a citizen, it is sacredly preserved.

The subject of a standing army has been exhausted in so masterly a manner in two or three numbers of the *Fœderalist*⁴ (a work which I hope will soon be in every body's hands)⁵ that, but for the sake of regularity in answering Mr. Mason's objections, I should not venture upon the same topic; and shall only presume to do so, with a reference for fuller satisfaction to that able performance. It is certainly one of the most delicate and proper cases for the consideration of a free people, and so far as a jealousy of this kind leads to any degree of caution

not incompatible with the public safety, it is undoubtedly to be commended. Our jealousy of this danger has descended to us from our British ancestors: In that country they have a monarch, whose power being limited, and at the same time his prerogatives very considerable, a constant jealousy of him is both natural and proper. The two last of the Stuarts having kept up a considerable body of standing forces in time of peace, for the clear and almost avowed purpose of subduing the liberties of the people, it was made an article of the Bill of Rights at the Revolution, "That the raising or keeping a standing army within the kingdom in time of peace, unless it be with the consent of Parliament, is against law;" but no attempt was made, or I dare say, ever thought of, to restrain the Parliament from the exercise of that right. An army has been since kept on foot annually by authority of Parliament, and I believe ever since the Revolution they have had some standing troops; disputes have frequently happened about the number, but I don't recollect any objection by the most zealous patriot, to the keeping up of any at all. At the same time, notwithstanding the above practice of an annual vote (arising from a very judicious caution) it is still in the power of Parliament to authorise the keeping up of any number of troops for any indefinite time, and to provide for their subsistence for any number of years: Considerations of prudence, not constitutional limits to their authority, alone restrain such an exercise of it. Our Legislature however will be strongly guarded, though that of Great Britain is without any check at all. No appropriations of money for military service can continue longer than two years. Considering the extensive services the general government may have to provide for upon this vast continent, no forces with any serious prospect of success, could be attempted to be raised for a shorter time. Its being done for so short a period, if there were any appearances of ill designs in the government, would afford time enough for the real friends of their country to sound an alarm; and when we know how easy it is to excite jealousy of any government, how difficult for the people to distinguish from their real friends, those factious men, who in every country are ready to disturb its peace for personal gratifications of their own, and those desperate ones to whom every change is welcome, we shall have much more reason to fear that the government may be overawed by groundless discontents, than that it should be able, if contrary to every probability such a government could be supposed willing, to effect any designs for the destruction of their own liberties, as well as those of their constituents: For surely we ought ever to remember, that there will not be a man in the government but who has been either mediately or immediately recently chosen by the people, and that for too limited a time

to make any arbitrary designs, consistent with common sense, when every two years a new body of Representatives, with all the energy of popular feelings, will come to carry the strong force of a severe national controul, into every department of government; to say nothing of the one-third to compose the Senate, coming at the same time warm with popular sentiments from their respective Assemblies. Men may, to be sure, suggest dangers from any thing; but it may truly be said, that those who can seriously suggest the danger of a premeditated attack on the liberties of the people from such a government as this, could with ease assign reasons equally plausible for distrusting the integrity of any government formed in any manner whatever; and really it does seem to me, that all their reasons may be fairly carried to this position,—that in as much as any confidence in any men would be unwise, as we can give no power but what may be grossly abused, we had better give none at all, but continue as we are, or resolve into total anarchy at once, of which indeed, our present condition falls very little short. What sort of a government must that be, which, upon the most certain intelligence that hostilities were meditated against it, could take no method for its defence, till after a formal declaration, of war, or the enemy's standard was actually fixed upon the shore. The first has for some time been out of fashion; but if it had not, the restraint these gentlemen recommend, would certainly have brought it into disuse with every Power who meant to make war upon America. They would not be such fools as to give us the only warning we had informed them we would accept of, before we would take any steps to counteract their designs. The absurdity of our being prohibited from preparing to resist an invasion till after it had actually taken place,^(d) is so glaring that no man can consider it for a moment without being struck with astonishment, to see how rashly, and with how little consideration gentlemen, whose characters are certainly respectable, have suffered themselves to be led away by so delusive an idea. The example of other countries, so far from warranting any such limitation of power, is directly against it. That of England is particularly noticed. In our present articles of Confederation there is no such restriction. It has been observed by the Fœderalist, that Pennsylvania and North-Carolina appear to be the only States in the union, which have attempted any restraint of the Legislative authority in this particular, and that their restraint appears rather in the light of a caution than a prohibition; but, that notwithstanding that, Pennsylvania had been obliged to raise forces in the very face of that article of her Bill of Rights.⁶ That great writer, from the remoteness of his situation, did not know that North-Carolina had equally violated her Bill of Rights in a similar manner. The Legislature of that State, in November 1786,

passed an act for raising 201 men for the protection of a County called Davidson County, against hostilities from the Indians; they were to continue for *two years* from the time of their first rendezvous, unless sooner disbanded by the Assembly; and were to be “subject to the same rules with respect to their government as were established in the time of the late war by the Congress of the United States, for the government of the Continental army:”⁷⁷ These are the very words of the act. Thus, for the example of the only two countries in the world, that I believe ever attempted such a restriction, it appears to be a thing incompatible with the safety of government. Whether their restriction is to be considered as a caution or a prohibition, in less than five years after peace the caution has been disregarded, or the prohibition disobeyed.^(c) Can the most credulous or suspicious man, require stronger proof of the weakness and impolicy of such restraints?

(To be concluded in our next.)

(a) *One of the powers given to Congress is, “To promote the progress of science and useful arts, by securing for limited times to authors and inventors, the exclusive right to their respective writings and discoveries.” I am convinced Mr. Mason did not mean to refer to this clause. He is a gentleman of too much taste and knowledge himself to wish to have our government established upon such principles of barbarism as to be able to afford no encouragement to genius.*

(b) *Some might apprehend, that in this case as New England would at first have the greatest share of the carrying trade, that the vessels of that country might demand an unreasonable freight; but no attempt could be more injurious to them, as it would immediately set the Southern States to building, which they could easily do, and thus a temporary loss would be compensated with a lasting advantage to us. The very reverse would be the case with them; besides, that from that country alone there would probably be competition enough for freight to keep it upon reasonable terms.*

(c) *If this provision had not been made in the new Constitution, no author could have enjoyed such an advantage in all the United States, unless a similar law constantly subsisted in each of the States separately.*

(d) *Those gentlemen who gravely tell us the militia will be sufficient for this purpose, do not recollect that they themselves do not desire we should rely solely on a militia in case of actual war, and therefore in the case I have supposed, they cannot be deemed sufficient even by themselves, for when the enemy landed it would undoubtedly be*

a time of war, but the misfortune would be, that they would be prepared—we not. Certainly all possible encouragement should be given to the training of our militia, but no man can really believe that they will be sufficient without the aid of any regular troops, in a time of foreign hostility. A powerful militia may make fewer regulars necessary, but will not make it safe to dispense with them altogether.

(e) *I presume we are not to be deemed in a state of war whenever any Indian hostilities are committed on our frontiers. If that is the case, I don't suppose we have had six years of peace since the first settlement of the country, or shall have for fifty years to come. A distinction between peace and war would be idle indeed, if it can be frittered away by such pretences as those.*

1. For the authorship and circulation of "Marcus," see RCS:N.C., 70–72.

2. The word in the Constitution is "Officer." The italics were provided by "Marcus."

3. See Richard Henry Lee to Governor Edmund Randolph, 16 October, Petersburg *Virginia Gazette*, 6 December (CC:325).

4. See *The Federalist* 24–28, which were published in New York between 19 and 26 December (CC:355, 364, 366, 378, 381).

5. On 30 January the *Norfolk and Portsmouth Journal* printed an advertisement, dated 16 January, announcing that the printer was taking subscriptions for a pamphlet of *The Federalist*. (The *Journal* issues of 16 and 23 January are not extant.) For the publication of *The Federalist* in book form, see CC:406, and for Iredell's subscription to *The Federalist*, see the headnote to "Marcus" I, RCS:N.C., 71.

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

7. See NCSR, XXIV, 783–86.

Providence Gazette, 15 March 1788¹

A Letter from Wilmington, after mentioning the Federal Constitution, says, "it is indeed an Event that promises most happy Consequences—that America will now enjoy Peace, Liberty and Safety—be united at Home, and respectable abroad. My Hopes are enlivened. I look upon my Children with an increased Satisfaction, because their Lot in Life seems to me to be rendered more favourable by the Prospect of public Felicity."

1. Reprinted: Connecticut *Norwich Packet*, 27 March.

Marcus V

Norfolk and Portsmouth Journal, 19 March 1788¹

Answers to Mr. Mason's Objections to the New Constitution, Recommended by the late Convention at Philadelphia.

(Concluded from our last.)

IXth. Objection.

“The State Legislatures are restrained from laying export duties on their own exports.”

Answer.

Duties upon exports, though they may answer in some particulars a convenience to the country which imposes them, are certainly not things to be contended for, as if the very being of a State was interested in preserving them. Where there is a kind of monopoly this may sometimes be ventured upon, but even there perhaps more is lost by imposing such duties than is compensated for by any advantage. Where there is not a species of monopoly no policy can be more absurd. The American States are so circumstanced, that some of the States necessarily export part of the produce of neighbouring ones. Every duty laid upon such exported produce, operates in fact as a tax by the exporting State upon the non-exporting State. In a system expressly formed to produce concord among all, it would have been very unwise to have left such a source of discord open; and upon the same principle, and to remove as much as possible every ground of discontent, Congress itself are prohibited from laying duties on exports, because by that means those States which have a great deal of produce to export, would be taxed much more heavily than those which have little or none for exportation.

Xth. Objection.

“The general Legislature is restrained from prohibiting the further importation of slaves for twenty odd years, though such importations render the United States weaker, more vulnerable, and less capable of defence.”

Answer.

If all the States had been willing to adopt this regulation, I should, as an individual, most heartily have approved of it, because, even if the importation of slaves in fact rendered us stronger, less vulnerable, and more capable of defence, I should rejoice in the prohibition of it, as putting a stop to a trade which has already continued too long for the honor and humanity of those concerned in it. But as it was well known that South-Carolina and Georgia thought a further continuance of such importations useful to them, and would not perhaps otherwise have agreed to the new Constitution, those States which had been importing till they were satisfied, could not with decency have insisted upon their relinquishing advantages [which they] themselves had already enjoyed.² Our situation makes it necessary to bear the evil as it is. It will be left to the future Legislatures to allow such importations or not. If any, in violation of their clear conviction of the injustice of this trade, persist

in pursuing it, this is a matter between God and their own consciences. The interests of humanity will however have gained something by a prohibition of this inhuman trade, though at the distance of twenty odd years.

XIth. Objection.

“Both the general Legislature, and the State Legislatures are expressly prohibited making *ex post facto* laws, though there never was, nor can be a Legislature but must and will make such laws when necessity and the public safety require them; which will hereafter be a breach of all the Constitutions in the union, and afford precedents for other innovations.”

Answer.

My ideas of liberty are so different from those of Mr. Mason, that in my opinion this very prohibition is one of the most valuable parts of the new Constitution. *Ex post facto* laws may some times be convenient, but that they are ever absolutely necessary I shall take the liberty to doubt, till that necessity can be made apparent. Sure I am, they have been the instrument of some of the grossest acts of tyranny that were ever exercised, and have this never failing consequence, to put the minority in the power of a passionate and unprincipled majority, as to the most sacred things; and the plea of necessity is never wanting where it can be of any avail. This very clause, I think, is worth ten thousand Declarations of Rights, if this the most essential right of all was omitted in them. A man may feel some pride in his security, when he knows that what he does innocently and safely to-day, according to the laws of his country, cannot be tortured into guilt and danger to-morrow. But if it should happen, that a great and over-ruling necessity, acknowledged and felt by all, should make a deviation from this prohibition excusable, shall we not be more safe in leaving the excuse for an extraordinary exercise of power to rest upon the apparent equity of it alone, than to leave the door open to a tyranny it would be intolerable to bear? In the one case every one must be sensible of its justice, and therefore excuse it: In the other, whether its exercise was just or unjust, its being lawful would be sufficient to command obedience. Nor would a case like that, resting entirely on its own bottom, from a conviction of invincible necessity, warrant an avowed abuse of another authority where no such necessity existed or could be pretended.

I have now gone through Mr. Mason’s objections; one thing still remains to be taken notice of; his prediction, which he is pleased to express in these words: “This government will commence in a modern³ aristocracy; it is at present impossible to foresee, whether it will, in its operation, produce a monarchy or a corrupt oppressive aristocracy; it

will most probably vibrate some years between the two, and then terminate in the one or the other." From the uncertainty of this prediction, we may hope Mr. Mason was not divinely inspired when he made it, and of course that it may as fairly be questioned as any of his particular objections. If my answers to his objections are in general solid, a very different government will arise from the new Constitution if the several States should adopt it, as I hope they will. It will not probably be too much to flatter ourselves with, that it may present a spectacle of combined strength in government; and genuine liberty in the people the world has never yet beheld. In the mean time our situation is critical to the greatest degree. Those gentlemen who think we may at our ease go on from one Convention to another, to try if all objections cannot be conquered by perseverance, have much more sanguine expectations than I can presume to form. There are critical periods in the fate of nations, as well as in the life of man, which are not to be neglected with impunity. I am much mistaken if this is not such a one with us. When we were at the very brink of despair, the late excellent Convention, with an unanimity that none could have hoped for, generously discarding all little considerations, formed a system of government which I am convinced can stand the nicest examination, if reason and not prejudice is employed in viewing it. With a happiness of thought, which in our present awful situation ought to silence much more powerful objections than any I have heard, they have provided in the very frame of government a safe, easy and unexceptionable method of correcting any errors it may be thought to contain. These errors may be corrected at leisure; in the mean time the acknowledged advantages likely to flow from this Constitution may be enjoyed. We may venture to hold up our head among the other powers of the world. We may talk to them with the confidence of an independent people, having strength to resent insults, and avail ourselves of all our natural advantages. We may be assured of once more beholding justice, order and dignity taking place of the present anarchical confusion prevailing almost every where, and drawing upon us universal disgrace. We may hope, by proper exertions of industry, to recover thoroughly from the shock of the late war, and truly to become an independent, great and prosperous people. But if we continue as we now are, wrangling about every trifle, listening to the opinion of a small minority in preference to a large and most respectable majority of the first men in our country, and among them some of the first in the world; if our minds in short, are bent rather on indulging a captious discontent, than bestowing a generous and well-placed confidence in those who we have every reason to believe are entirely worthy of it, we shall too probably present a

spectacle for malicious exultation to our enemies, and melancholy dejection to our friends; and the honor, glory and prosperity which were just within our reach, will, perhaps be snatched from us for ever.

January, 1788.

1. For the authorship and circulation of "Marcus," see RCS:N.C., 70–72.
2. For the debate in the Constitutional Convention on the slave-trade clause, see Farand, II, 364–65, 369–74, 400, 414–17. During the debate, Hugh Williamson said "He thought the S. States could not be members of the Union if the clause should be rejected, and that it was wrong to force any thing down, not absolutely necessary, and which any State must disagree to" (*ibid.*, 373).
3. In Mason's objections the word is "moderate." The word is printed correctly in the pamphlet version of "Marcus."

**Publicola: An Address to the Freemen of North Carolina
State Gazette of North Carolina, 20, 27 March 1788**

"Publicola" was written by Archibald Maclaine. It first appeared in the New Bern *State Gazette of North Carolina* in two installments on 20 and 27 March. The former issue is not extant; the latter contains the concluding portion of the essay, which was prefaced: "Continued from our last." Hodge and Wills, printers of the *State Gazette*, also announced in their 27 March issue that they had published a pamphlet edition (Evans 45276) of "Marcus" and "Publicola." On 2 April, Maclaine wrote to James Iredell, the author of the "Marcus" essays, that "I perceive that Hodge has published in a pamphlet your answers to Mr Mason's objections, to which he has appended the piece I sent him" (RCS:N.C., 200). Maclaine was also identified as the author of "Publicola" by Iredell in a copy of the pamphlet now at the New-York Historical Society.

The text of "Publicola" printed below is taken from the pamphlet edition.

To the Freemen of the state of North-Carolina.

The constitution proposed by the late general Convention, being in some states opposed with great warmth, and uncommon perseverance; and among ourselves being a common topic of discussion, tho' apparently little understood; it becomes the duty of every citizen who conceives he can throw any light upon the subject, to communicate his sentiments to you.

We have among us some characters who have uniformly opposed giving Congress any additional powers—what idea such persons have of a government, which by its constitution is empowered to make treaties, contract debts and to demand monies from the several states, without being able to raise a single shilling, or inforce obedience to any one of its acts, they would do well to inform us. They had better acknowledge with candour, what they avow in principle, that we have no occasion for a federal government. Congress, in its present state of

imbecility, is a considerable expence to the states. If it cannot be rendered more useful, we had much better keep the money among ourselves, than part with it to so little purpose. Our present *form* of federal government (for it is no more) is the only one in the known world altogether without energy.

There are others who acknowledge that a reform is necessary, but at the same time start numerous objections to the remedy proposed. These objections are indeed so various and contradictory, that they destroy themselves—Scarcely any two of those who oppose the new constitution agree together; nor is there among the whole any thing proposed to substitute in the place of that which they reject. It is evident from this, that whatever may be their professions, they do not wish for any reform—Their strength lies in cavilling; convinced that if they can successfully oppose the proposed government, nothing better can be substituted in its place.

I very sincerely believe that there are many averse from the new constitution upon principle. They conceive that some parts of it may prove dangerous to liberty—It is to such I would wish to offer my remarks; for as to those who are opposed, without reasoning upon, or even reading, what they condemn, I consider them as incorrigible; and however respectable they may appear from station or capacity, I cannot view their conduct without discovering some degree of contempt for their selfish meanness.

Every man of common understanding, and common honesty, will readily acknowledge that something more than a bare federal union is necessary to make us a great and respectable nation—Mixed governments are universally acknowledged to be the best, as partaking of the different forms which are necessary for securing the rights of the people, and at the same time for promoting that dispatch and energy which is necessary for defence against enemies. The new government is partly federal, and partly national. The confederation still subsists, where it is not altered by the new form. To prove this, if it should be doubted, take part of the preamble to the latter: “We the people of the *United States* in order to form a *more perfect union*.” The constitution of the respective states, and the rights of the people, are to remain as under the confederation, excepting such parts as interfere with the express powers given to Congress by the new constitution. All the clamour therefore, which has been raised about the trial by jury, and the liberty of the press, might have been spared, as altogether unfounded. To those who wish to trust themselves under separate state-governments, which may, as they have hitherto done, disregard the recommendations

and requisitions of the union, I would recommend an attentive perusal of history, and as they do not seem to place any dependance on the reasoning of their fellow citizens, learn to be wise from the experience of past ages. They will find that in all countries, a strict union among the people, has been the only means of preserving liberty. Spain, composed of a number of kingdoms, principalities and provinces, which in the beginning of the reign of the Emperor Charles the Fifth, the first sovereign of that united country, enjoyed more liberty than any other country in Europe; but for want of union among the people, lost the whole; and their Kings from being the most limited, became in a few years to be some of the most absolute monarchs in Europe. At this day, there is not the shadow of liberty among them—every species of tyranny, which could be devised, has reduced the people to the most abject slavery. When people enter into society, they must, in order to obtain protection, give up some part of their natural liberty, in order to secure the rest—the more we retain in our hands, consistent with that protection, which is necessary for society, will be so much the better, and this is called civil liberty—In small states, the people generally retain more than in those which are extensive; but at the same time, they are more subject to violence and oppression, from their powerful neighbours. There is no possible way of uniting the force of a number of small states, but under one head. If each one is left to its own deliberations, it may determine, for want of knowing what is most salutary for the whole, contrary to the general interest; and thus defeat the purposes of the union—In all events, the very time taken in deliberating may prove fatal.—Instead of searching for objections against the new constitution, something should be proposed that will better answer the purpose, and at the same time secure the liberties of the people.—There are no powers granted by the new constitution, but what are necessary in all governments, and if we cannot entrust them in the hands of our own citizens; persons of our own choice, and whom we may remove at stated, and short periods, we must be contented to live without any effective government—We must be contented to remain at the mercy of the first foreign invader who may think us worth subduing; or, what will unquestionably be much worse, to fall into civil wars, and at last become the prey of the most daring desperado among ourselves. There is scarcely an objection made to the new constitution, but what will operate with equal force against any form of government that can be devised.

It is very remarkable that the principal opponents among us, are either those whose private interest may be affected by the proposed

constitution; or those who conceive that their importance may be lessened by the intended change. Had the interested and ambitious acted honestly, and taken as much pains to explain and elucidate, as they have done to prevent; those among you, who have little or no means of information but from your wealthy, or dignified neighbours, would not at this day have raised your voices against a work that does honour, even to the most celebrated of those names who assisted in forming it. The new constitution is not pretended to be a work of perfection—such is not to be expected from imperfect beings; but it is perfect, compared to what we had reason to expect, from the jarring interests, and dissonant opinions of those who composed it—It is not a work intended for this, or that state, but for the whole body of the union. But were it completely adapted to our present situation, so as to be unexceptionable to all, time would render it defective—Improvements in commerce and manufactures, in arts and sciences; an increase in population, and an alteration in manners, would render amendments to the new constitution necessary—nothing in this world can be permanent; but it has been truly and elegantly observed by one of the framers of the new constitution, that the seeds of reformation are sown in the work itself—there is express provision made for amendments, when its defects and imperfections shall be discovered in its operation.¹

There is reason to believe that those who are predetermined against the new constitution, have insidiously endeavoured to poison your minds so far, as to prevail on many of you to make it a previous condition with your representatives, to vote against it;—those who will take the trouble to reflect upon the consequences of such a measure, must be convinced of the absurdity, as well as the fatal tendency of it. It is putting a negative upon the proposed constitution before debate; and should your delegates be convinced hereafter, that it is worthy of adoption, they will be embarrassed with your instructions. The greatest part of you have not the means of information, and being unaccustomed to think of government, few of you are competent judges of it. Why do the people chuse representatives but to decide for them? Why do the representatives want instructions, but to give them a plausible pretext for voting against the conviction of their own minds? It must be a bad cause that will not admit of a free investigation. Instructions to reject the new constitution, defeats the very purpose for which the Convention is to meet. We are, by the resolves of the Congress and Assembly, to elect persons “for the purpose of *deliberating* and *determining* on the said constitution;”² not for the purpose either of adoption or rejection, without deliberation and debate. Were that to be the case, the members

of the Convention would have no more to do than to examine all the different instructions; to *count noses*, and by that summary method, to adopt, or reject. This method, if not the most rational, that might be adopted, will at least be equal to the *throw of a die*, or any other species of gaming; though by some persons it may not be thought altogether so eligible as that, which is authorised; of collecting the united wisdom of the state in order, to *deliberate* and *determine*.

The arguments which mislead you are as weak as they are dishonest. You are told that by adopting the new constitution, the dignity of the state will be lost; that you will be drained of your money by *foreign* taxes (for so the taxes of Congress are as *modestly as wisely* called) and be obliged to attend *foreign* Courts, at a great distance, and an enormous expence; whereas, say the objectors, we are able to support our own state; the taxes imposed by our legislature, will be consumed among ourselves; and we can have justice as well administered at home, as at six or seven hundred miles distance, and at a much cheaper rate. To those who do not look further, but consider this state, not only as the guardian of our liberties, but as [the] bulwark of defence, these are flattering arguments; and when they are applied to a man heated with zeal, he will be apt to set all the powers of Europe at defiance. If however he should happen to recollect that a handful of men during the late war, took possession of one of the principal ports of the state, and kept possession of it ten months, even when a body of militia, three times their number, advanced against them; and that, that very handful of men, marched a hundred miles through the country unmolested, and plundered a principal seaport before their return, it is possible he may begin to doubt his own prowess, and even question whether the state can be depended upon for a guard against the depredations of a single privateer.³ It is not material what resources we have—experience may teach us, that under our present government, we cannot make a proper use of them. The United States are, and for some years have been, without any national character—Foreigners say, and they say truly, that we have no government—Even in this state, our policy is so wretched, that we have lost all credit, the very soul of commerce. No foreigner, no not an individual of any of our sister states, will trust us with a shilling. Our paper money, and our judicial decisions, banish all confidence; and the former has banished all gold and silver—Let paper money be no longer a tender, and justice be done to those who have transactions with us, and I will venture to assert that we shall soon have among us, a pound value in gold and silver, for every shilling in paper which we now possess. Wherever depreciated money is a lawful tender, that which is good vanishes, as if by enchantment.⁴

I am astonished to hear that appeals are held up as a bugbear by men of understanding, if indeed they are in earnest. It is well known to every one who has looked into the new constitution, with any degree of attention, that the federal courts can have nothing to do with suits between citizens of the same state, unless where they claim lands under grants of different states. This [is] a power reserved by the confederation, and it is necessary for the purpose of giving each party a fair and impartial trial, before Judges who may be supposed indifferent to both states—The citizen of this state will have the benefit of this regulation, when he claims land in another state, either under a grant of that state, or his own. Appeals will be regulated by your own representatives in Congress, and will undoubtedly be confined to suits where the value contended for, will bear the expence and trouble. This is a sufficient security for us, as a great majority of the states must necessarily be at a considerable distance from the seat of government; and in framing laws the members will be attentive to the interest of their respective constituents. But I find some people are so strangely infatuated, as to think that Congress can, and therefore will, usurp powers not given them by the states, and do any thing, however oppressive and tyrannical. I know no good grounds for such a supposition, but this, that the legislative and judicial powers of the state have too often stepped over the bounds prescribed for them by the constitution; and yet, strange to tell, few of those, whose arguments I am now considering, think such measures censurable—The conclusion to be drawn here is obvious—The objectors hope to enjoy the same latitude of doing evil with impunity, and they are fearful of being restricted, if an efficient government takes place. But in truth many of the arguments used against the new constitution are utterly unaccountable; such for instance, that taxes are to be levied at the point of the bayonet—I would be glad to know the reason for this extraordinary assertion—Who has informed those worthy objectors all over the United States (for they catch at the arguments of each other) that the people would refuse to pay taxes for the support of the union? For to make soldiers necessary in the collection, resistance in the people is pre-supposed. That the people in this state should raise any objections to federal courts, and to appeals, is to me past all comprehension. After complaining for some years past, of the delays in our own courts, and of frequent decisions which have given great offence to the people in general, it would naturally occur that some reform should be thought necessary, and that any scheme that would effect such a salutary purpose, would readily be adopted.⁵ All criminal matters must be tried, and finally determined, in the state where the offence may be committed, even if it should be treason against

the United States; and though the federal courts must be confined to some particular cases specified in the new constitution, yet the rules of their conduct will have a powerful influence upon the courts of the state. If business is transacted in the former upon settled and uniform principles, and without unnecessary delays, the latter will be ashamed to neglect their duty. I am informed that our Judges see clearly that this will be one of the consequences of adopting the new constitution, and one of them, fearful of being restricted to do what is right, expressed his apprehensions, that the *great federal courts* would *overshadow* the courts of the state: So unwilling are men possessed of absolute power to relinquish any part of it.⁶ For this, and several reasons, altogether as good, our Judges are decidedly opposed to the new constitution. But I suppose no good citizen will think it any degradation to the state, that our courts should undergo a reform from the example of the courts of the union (of which we are a part) or even from the example of the courts of any other country. The apprehensions of paying taxes for the support of the union, should not influence our conduct in deciding whether we shall receive the new constitution—We should have paid them long since, towards discharging the interest of our debts, and had our government been judiciously conducted, we might have done it with ease.⁷ Taxes are necessary for the support of every government, and though we shall always have a state establishment to support, the taxes for the union will be applied for our protection and defence from foreign enemies—Besides they will be rated by our own immediate representatives, and they and their families will be equally liable with ourselves. But it is not probable, in our present situation, that the federal government will want any direct taxes from the states, for a considerable time to come—I am persuaded that nothing but a rupture with some foreign power will make taxation necessary; and if we are enabled to make good our past engagements, there will be little or no danger of a war on our parts—But if it should be unavoidable, it is certainly better for us to pay a moderate tax, in order to be prepared to repel an enemy, than to suffer the country to be invaded and plundered. We have had sufficient experience of that already, and no good man wishes for a repetition of it.—But the sale of the western territory, and the duties arising from imposts, will, in all probability, be more than equal to our wants while we continue in peace—These last will increase yearly beyond all exception, and our exports in proportion; so that every succeeding year we shall be the better able to pay. Much of the sums collected at the different ports will center among ourselves. The different federal departments must be supported, and commerce will make us ample returns for whatever

monies may be drawn from us. Exclusive of the advantages of a general trade, we must supply many, and might in time supply almost all of the materials necessary for equipping a navy.

[27 March] There is an objection made to the new constitution, which I believe originated in this state, as I have never seen it in print.—It is I believe a very powerful reason with many among us, for opposing any alterations in the federal government; in some from mistaken zeal, in others from interested motives.—The objection is this—that if the new government takes place, the debts due to British subjects will be recoverable, and the argument to shew the injustice of this, is, “That our citizens bore the expences of the war, and had their property torn from them for the support of it, whilst the subjects of Britain remained entirely at their ease, or were employed in attempting to rob and enslave us. It would therefore, it is said, be manifest injustice that we should, out of the little pittance which we have left, or from the fruit of our labours, pay debts to those who have contributed to oppress, and reduce us to poverty.” Perhaps in some instances, these reasons may be applicable; but we are to remember, that if any of us have been reduced to poverty by the war, nothing can be recovered of us, and the law will discharge us if we are insolvent.—The treaty of peace leaves the British subject open to recover his money, if the debtor is possessed of property; and it is shameless on our part, that it has not been executed with good faith.—This has given a plausible pretext for one breach on the part of the British, and for not making compensations for another.⁸ These are the favourite reasons of a learned Judge, which as he has used them publicly, as well as privately, are no secrets. With what propriety they come from one in his station, the public will determine. If it should appear hereafter, that any one who uses these arguments against adopting the new constitution, should be found to be deeply indebted to British subjects, what shall we think of his patriotism? we shall be apt to conclude that private interest is at the bottom of his objections. But if we should be told that such a one acquired the most valuable part of his property, by contracting debts with British subjects, and that the same property remains at this day entire, and even considerably improved (the loss of a tame deer excepted) shall we not be convinced that his resentment against our late enemies is excited by the love of wealth, to the attainment of which he sacrifices the national faith. I have been thus particular in order to warn you against those who would endeavour to rekindle your resentment for their own particular purposes. You should never forget that the treaty of peace will one day be enforced; if not by ourselves, it certainly will by our enemies. Few of you owe debts to British subjects, and therefore

I presume you will not readily consent to pay the debts of others. But if the courts are not speedily open for their recovery, you will either be taxed for the payment, or which is more probable they will be collected with much more certainty than federal taxes, and that too at the point of the bayonet.

Some of the most important considerations are yet to come. The states are now so feeble, that they are, by the confession of all, without any effective government—In case of attempts upon our independency, are Congress able to raise a regiment, or fit out a single ship of war? Can we in such an exigency, expect foreign assistance, while we are unwilling, or unable, to observe the treaties we have made, or to pay the monies we have borrowed? Six states have already adopted the new constitution, and there is every probability that three more, at the least, will come into the measure. What will become of North Carolina if we should refuse our assent? No man of the least knowledge in government will be so wild as to assert, that we can support ourselves. We shall unquestionably be deserted by South-Carolina, and most probably by Virginia; but if the latter should also refuse the new constitution, what would her strength avail us. Can we jointly repel a powerful enemy? Look back to the late war, and answer the question—Should we reject the new government we shall be the most contemptible state on the face of the earth—despised and ridiculed by all the nations in the world, and sunk even beneath the political character of Rhode-Island. The United States will treat us as foreigners, and will either preclude us from all commerce with them, or lay our trade under such severe restrictions, that the little we have now left will be totally annihilated; and in the end we shall be reduced to the mortification, of suing for admission into the union. Remember, my fellow citizens, it was by the strictest union we became independent. Our zeal during the war supplied the want of good government—Nothing but union can preserve us from destruction. Let every man make it his boast, that he continues a citizen of the United States—That was once a respectable appellation—Do not change it to be called a citizen of a single state however respectable. Whoever advises you to a measure so destructive, does not consider your honour, or your interest, but pursues his own selfish motives, and the gratification of a paltry and vicious ambition—The greatest part of you will, in such an event, remain obscure and unknown, whilst your advisers will exalt themselves upon the ruin of their country.

In some of the eastern states, those who oppose the new constitution, are branded as the emissaries of the British government; and accused of now endeavouring to bring about a reconciliation with our ancient

masters. If the charge is just, a better scheme could not have been adopted, than to keep us divided and feeble. But the case appears to be different here. Those among us who are the most industrious to prevent a reform, have been some of the warmest opposers of the British government—Their zeal has been little short of persecution; but if we look around us, we shall discover, that a considerable number of them are such as were unknown or as persons of no consequence, previous to the war—They have arisen by accident into power, and influence, and now dread the loss of it. They make a merit of their uniform attachment to the American cause, though in fact many of them had nothing to lose, and consequently ran no risk in the contest; and since the peace has taken place, most of them have been equally uniform in opposing such measures as were best adapted to allay the animosities of parties, and restore the community to order and tranquillity—To this opposition, throughout all the states, it is owing, that a reform in government becomes necessary.

If we look on the other hand, to those who appear favourable to the new constitution, we can scarcely suppose the bulk of them to be actuated by any improper motives. Few, very few of them, indeed, can expect to be individually benefited. The honour of sitting in Congress, will be confined to seven at present⁹—The number cannot be augmented until the population of the country is considerably increased. The profits attending a seat in the national Councils, can be no temptation; for the allowance must necessarily be moderate. In all events it cannot be such as to be a compensation to those who must, in a great measure, abandon the care of their private affairs. The officers of Congress in the state will be very few. The Collectors of the imposts at the different ports, and such as may be necessary to the administration of justice in the federal courts, will be almost the whole that will be necessary. The great number of respectable persons who are in favour of the new government, and the impossibility that the greatest part of them can derive any partial benefit from it, are irrefragable proofs that they act from conviction.

The enemies of the new form of government endeavour to persuade others, what I can scarcely think they believe themselves; that the President of the United States is only another name for King, and that we shall be subject to all the evils of a monarchical government. How a magistrate, who is removeable at a short period, can be compared to an hereditary monarch, whose family, to all succeeding generations, as well as himself must be maintained in pomp and splendour, at an enormous expence to the nation; and whose power and influence will be proportionably great, these honest guardians of the rights of the people

would do well to inform us—It needs no argument to prove that a government is the more forcible when the Executive department is in the hands of one, or a few. There can be no danger, where that one is liable to be removed every four years, and will be at all times responsible—It is a maxim in the British government that *the King can do no wrong*; that is, he is not amenable to the courts of justice, as the law has not provided any punishment for his misconduct; but the President of the United States will be liable to be impeached by the representatives of the people, and to be tried for his crimes—Yet we may remember that it was not the British form of government of which we complained; but the refusal on the part of the Legislature of that country, to let us participate of the rights which their other subjects enjoyed. Instead of the protectors of our privileges; King, Lords and Commons became our tyrants; and, animated by liberty, we spurned at their usurped authority, and threw off the yoke. Will our situation under the new government be similar? Can common sense, and common honesty view it in the same light? Exercise your own understandings, read and judge for yourselves; and you must necessarily be convinced, that those who would insidiously, under pretence of imaginary dangers, whisper you out of your senses, do not mean you well—The President, the Senators and Representatives in Congress, will be as much your own choice, and as much in your own power, as your Representatives in the General Assembly; with this difference, that they are not chosen so frequently. This became necessary to give stability to government—But they will be more in your power, if any of them abuse their trust,—you can impeach, and try them; but you cannot try a person impeached by your own Assembly. You have no constitutional provision for it; and your Judges have raised such a clamour about your ears, that no law can be obtained for the purpose. Yet I will do them justice. I verily believe that they would not object to a law for regulating trials upon impeachment, if the Assembly would graciously please to exempt their Honours from such trials.¹⁰

If after all you should be averse from receiving the new constitution, apprehending some danger to the liberties of the people, there is one certain rule, which cannot fail to point out the conduct which you ought to pursue. Attend to the conduct of the Judges on this great national question. If you find, as I am persuaded you will, that they are opposed to an alteration, your choice is made. All their maxims and all their actions, uniformly tend to encrease their own power. To avert the loss of that, they are now aiming at seats in the ensuing Convention—In opposing them, you can scarcely be wrong. If the present federal government remains, they will continue, as usual, to domineer

over you. Should the new form be adopted, they will sink into their original insignificancy. They have nothing now to support them but that degree of respectability which people are apt to annex to their persons, though it properly belongs to their station. When that comes to be lessened, they will once more become, Tom, Dick and Harry.

If, in the course of these remarks, I have discovered any asperity, it should be considered, that it has arisen from facts within my own observation. I have not the most distant idea of censuring those who upon principle differ from me in opinion, whatever I may think of the futility of their reasons for so doing. I am sensible that while human beings exist, there must be various and contradictory sentiments upon every speculative subject; and even upon such as are in appearance purely practical. I am therefore ready to shew that indulgence to the errors, and mistakes of others, which I am sensible my own require.

1. See James Wilson's 6 October speech, CC:134, p. 343.

2. The resolution of Congress, 28 September, recommended that the Constitution "be submitted to a convention of Delegates chosen in each state by the people thereof" (CC:95). The Assembly resolutions of 6 December called for the election of delegates "for the purpose of deliberating and determining on the said constitution" (RCS:N.C., 47).

3. Between January and November 1781, a British force occupied Wilmington and raided beyond New Bern. The North Carolina militia unsuccessfully challenged this force.

4. During the war North Carolina issued large amounts of paper money, which eventually became almost worthless. After the war, the state emitted a total of £200,000 in legal tender paper money in 1783 and 1785. These issues served as a medium of exchange within the state but depreciated as much as fifty percent by 1789.

5. In January 1787, Maclaine was chairman of a joint legislative committee that prepared charges against the judges of the Superior Court, and he was one of those who protested when the Assembly not only rejected the charges but also thanked the judges "for their long and faithful services" (NCSR, XVIII, 421–25, 428–29, 461, 476, 477–83). These proceedings are described in Peter Charles Hoffer and N. E. H. Hull, *Impeachment in America, 1635–1805* (New Haven, 1984), 87–91. See also note 10, below.

6. All three Superior Court judges—Samuel Ashe, Samuel Spencer, and John Williams—opposed ratification of the Constitution. In July and August 1788 Spencer was a leader of the Antifederalists at the Hillsborough Convention and argued that the federal courts would overwhelm the state courts.

7. See Hugh Williamson's speech at Edenton, 8 November (RCS:N.C., 19).

8. Article IV of the Treaty of Peace provided that "creditors on either side shall meet with no lawful impediment to the recovery of the full value in sterling money, of all bona fide debts heretofore contracted" (JCC, XXVI, 26). Article V called on Congress to recommend to the states that confiscated property of British subjects and Loyalists be returned. Article VII provided that the British would withdraw from all their posts on American soil and would not carry away the slaves in their possession when they evacuated. After the war, British subjects and Loyalists often found it impossible to collect their debts or have their confiscated property returned. This served as a pretext for the British to retain their western posts and to refuse to compensate Americans for the slaves who had been carried off when they evacuated.

9. North Carolina was allotted five representatives and two senators in the first federal Congress.

10. Although Article XXIII of the North Carolina constitution provided for impeachment of state officeholders by the legislature (RCS:N.C., 827), no procedures for impeachment had been enacted into law. In 1785 a bill was presented in the House of Commons to provide for “the trial of Judges of the Superior Courts of Law and Equity within this State for misdemeanor, or misbehaviour in office.” Maclaine was a member of the committee to which the bill was sent. The committee reported a bill providing for impeachment of all officers, including the Superior Court judges, but the bill was laid over to the next Assembly. In 1786 Maclaine reintroduced the bill, and once more it was not enacted (NCSR, XVII, 374, 389–91; XVIII, 340. See also note 5, above.).

State Gazette of North Carolina, 27 March 1788

For the STATE GAZETTE.

Come let us prepare,
 For patriots we are,
 'Tis time to have serious reflection,
 Let's join heart and hand,
 For the good of our land,
 And may Providence be our protection.
 For some worthy sages
 (There's some in all ages)
 Brave Washington was at their head,
 Much pains they bestow'd,
 To form a new mode,
 In which we will faithfully tread.
 They came to conclusion,
 Our old constitution,
 Was wanting in power, might and fame,
 As we had no source,
 Our laws to enforce,
 And the Congress was only a name.
 Much wisdom shone forth,
 In men of such worth,
 We compare them to Delphic Apollo,
 Whose oracles of old,
 As we have been told.
 All men would implicitly follow.
 Lycurgus and Solon,
 And more we could call on,
 Whose fame is enroll'd in the skies,
 Such fame will attend,
 Until the world's end,

Our Convention so good and so wise.
Of Greece and of Rome,
We all know their doom,
When tyrants made freemen their slaves,
A condition so base,
To all human race,
That our nature it quickly depraves.
But now the bright star,
Is seen from afar,
A new constitution and peace;
From this mode of ours,
Th' European pow'rs,
Their sneering forever may cease.
Some men evil-minded,
By int'rest blinded,
Against the form loudly do hawl,
From hence I conclude,
Their virtue's subdu'd,
And they wish to have no law at all.
All good people then,
All wise and true men,
Must wish the Convention to nourish
Our national peace,
And our same will encrease,
And art and industry will flourish.
Now every hour,
Will add to our power,
When rul'd by such excellent laws,
And with our own choice,
With freedom of voice,
We follow each section and clause.
Then adieu to all jars,
We're free from all wars,
And plenty will smile o'er the land,
For discord will cease,
And plenty and peace,
Will once again join hand in hand.
Now a bowl will be pleasing,
For this mighty blessing,
Our President's health shall go round,
And he who denies,
We all will despise,
And wish him six feet under ground.

Alonzo**State Gazette of North Carolina, 27 March 1788***LETTER to the People of North-Carolina.*“I also will shew mine opinion.” ELIHU.¹

Permit me, friends and countrymen, who am “one of the people,” to address you on the present momentous situation of our affairs.

Unconnected with party or faction, and not expecting or desiring to be one of the leaders of the people, but to be one of the governed, I wish only to enjoy the inestimable blessing of being governed well.

Opprest and vexed with many calamities and evils, we lately sent forth a chosen band of our best informed and most intelligent men, to consult and advise together, and agree on means whereby we might be relieved from those perplexities and troubles that so sorely have vexed us, and deprived our souls of rest.

With heartfelt joy, did every true friend to his country rejoice, to see this band of patriots assembled, and every patriotic mind exulted, that the day was near, when by their happy councils, our credit should be restored, our affairs again established, our grievances redressed, and security, peace and happiness once more smile around us.

These fathers of their country have met, they have with an unanimity, most devoutly to be wished for, but scarcely to have been expected, amongst men, given their advice, on those means, that in their opinion would accomplish the views for which they assembled; namely, the security of the people’s liberties, the security of the rights of property, the means to raise a productive public revenue, the means to give stability and energy to government, and to provide for the restoration of our languishing credit, and the improvement of our agriculture, manufactures, navigation and commerce; and the promotion of those arts of life amongst us, that serve to render mankind more virtuous, enlightened, comfortable and happy.

[Unreadable line] taken, as to persuade us not to accept the plan advised and recommended by these Deputies of the people?

Yes, it is possible, those are found who are trying to persuade us, to reject their councils.

Is it in vain then, that we have sent forth *our* Nestor, the venerable FRANKLIN, experienced in all the varied ways of men; who knew that his posterity living amongst us, were to be governed by the constitution then to be settled with his advice and concurrence.

Have we in vain sent forth the liberal-minded, the enlightened [Thomas] MIFFLIN?

Have we in vain delegated to the councils of his country, one of the first ornaments of the human race, the virtuous and disinterested WASHINGTON?

Has North-Carolina sent her BLOUNT, her SPAIGHT, her WILLIAMSON in vain?

No, my countrymen, let us not listen to a suggestion like this; let us display more understanding, let us not reject this system of freedom and security framed for us; least when at last subjected by our disunion and anarchy, to the despotic will of some tyrant, we can only vent our sighs that by our own folly we are slaves; and like Zanga, our curses on the villain that has made us so.²

What a singular felicity has attended us, that we have it in our power to choose at this day, our own constitution. We have not like most nations to accept a government imposed by the sword, but have delegated our wise men, to agree on rules for our government, such as the experience of mankind might suggest to be best, and such as reason should approve.

Let us then accept of this plan of government, and not wait for the visionary expectations of every dreamer to be satisfied, who are looking for what never will happen, and wishing for what never yet was, or can be.

Persuaded I am, that if the people should reject a plan of government proposed by such men as we have delegated for the purpose, they would reject one though promulgated by an Angel from Heaven.

Amongst the blessings that we shall instantly obtain under the proposed constitution, are the immediate restoration of public and private credit, and immediate relief from that cursed engine of fraud, oppression and vexation, PAPER MONEY.

This government, proposed, I believe will suit most of us, but I shall readily agree, that some there are whom it will not answer. Let us enquire for a moment whom it will and whom it will not suit.

It will suit the respectable *Planter*, the support, the strength of his country.

It will suit the *Merchant*, the planter's agent, who finds a market for his products, and procures for us many of the necessaries, the conveniences, and elegancies of life.

It will suit the hardy *Mariner*, braving for our service all the dangers of the deep.

It will suit the valuable *Artisan*, the man acquainted with the useful manual arts, that contributes so much to the accommodation, ease and comfort of our lives.

It will suit those who are of the learned professions, as it promises to afford all that good men can expect or wish for, under any government whatever.

But it will not suit the restless demagogue who afraid that his provincial consequence shall be lessened, would like an ambitious Roman in ancient time, rather be the first man in a village, than the second man in Rome.

Neither will it suit a needy placeman, a man of salary, who afraid that his emoluments will be endangered, would like Esau of old, give up his own and his children's rights for present gratification.³

Neither will it suit any dishonest debtor, who with a bundle of ragged depreciated paper in each hand, is bidding defiance to his creditor, and with unmanly fears dreading the day of account.

True it is that a few approved and disinterested patriots have appeared against some parts of this system, which has not exactly squared with their ideas; and we ought to respect their caution; but can we expect that any system of government that ever was or can be devised, will precisely answer the ideas of every man? Certainly no. Then why shall we hesitate to choose this, recommended by so many good and great characters?

Does not the constitution itself provide for amendments, if any are needed? Are not the men that are to rule us, the representatives of our own choice? Should they abuse their appointment, or attempt to oppress us, are they out of our reach? How soon can we demolish these Delegates [unreadable line] our arm and crushing them, placing in their stead, men more virtuous and more wise.

Should we reject the frame of government offered to us, what is before us but anarchy and confusion, paper money and fraud;—but if we accept of this happy plan of union, how pleasing is the prospect;—I anticipate the happy day—when, secure of the favour and smiles of Heaven from our growing virtue and goodness; secure from violence without, and from oppression within, having peace and plenty in all our borders, even our enemies when they look toward us, shall, like one formerly, have to say, “How goodly are thy tents, O Jacob, and thy tabernacles, O Israel! As the vallies are they spread forth, as gardens by the river's side, as the trees which the Lord hath planted, and as cedar-trees beside the waters.”⁴

To conclude, O that I could with a voice of thunder sound it in your ears! Beware of the arts and insinuations of those men, who like Lucifer of old, would rather reign in Hell, than submit to be ruled in Heaven.

Newbern, March, 1788.

1. Job 32:6.
2. Zanga was a villainous character in Edward Young's 1721 play *The Revenge*. Zanga, a Moor, and his white mistress were captured and enslaved. Zanga was obsessed with killing the slave trader who captured them.
3. Esau gave up his birthright to his younger brother Jacob for a bowl of lentil stew (Genesis 25:29–34).
4. Numbers 24:5–6.

Common Sense

Wilmington Centinel, c. April 1788¹

To the PEOPLE of NORTH-CAROLINA.

It is proper you should be reminded that most of you have taken an oath to support the present government, consistently with the constitution: By that constitution all the power of the government is vested in the general assembly, the governor and the chief judges. It is now proposed to you to adopt a new system, which gives every essential part of that power, that is, all legislative, executive, judicial, military and pecuniary authority to a Congress, who will sit at or near Philadelphia, 4 or 500 miles from you.—This I understand to be subverting our government, and consistent with the constitution, and therefore a plan which ought to be opposed by every citizen. If the oath has any force, its effect, I presume, is to restrict the people to adhere to the principles of the constitution, for instance, that they shall not agree to allow of a nobility, or to blend the legislative, executive and judicial powers together, or to suffer a citizen to be deprived of his life, liberty or property without a trial by jury; all of which being against those principles are to be strictly guarded against. If the oath does not bind the people to maintain a free government, for what was it devised, and why were we put to the trouble of taking it?

Some people may think that the adopting of the new system will not alter the government, because we shall have our assembly, governor and judges, but probably nobody will retain that opinion after reflecting that the government really is, where the supreme power is;—that the chief power will be in the Congress, and that what is to be left of our government, will be a mere shadow is plain, because a citizen may be deprived of the privilege of keeping arms for his own defence, he may have his property taken without a trial by jury, he may be ordered to march with the rest of the militia to New-Hampshire, or any where else, he may be forced to go to the new seat of government 500 miles off, to oppose an oppressive appeal in spite of our assembly, governor, and judges: These things are entirely contrary to our constitution, and the possibility of them by no means to be admitted.

1. This item was first printed in a no-longer-extant issue of the *Wilmington Centinel*. The transcription was taken from the *New York Journal*, 21 April, the first of two reprintings. The essay was also reprinted in the *Boston American Herald* on 8 May.

Thomas Tinsel

Wilmington Centinel, c. April 1788¹

Messrs. BOWEN & HOWARD, Who can dislike the new government that considers the glory we shall gain by it? Let us then adopt it directly. Then shall we Carolinians soon hear of the grandeur of our government at Vortex-Ville; how 1000 cannon were fired on the president's birth; how there was a grand procession, and a levee, a ball and an illumination; how an ambassador arrived, and was conveyed to his residence with proper pomp, between two ranks of federal soldiers—how he was mightily diverted with their brilliant appearance, and how he was visited by the great officers of state, and was entertained by the minister of finance at a dinner of 100 crowns. GLORIOUS hearing! And I hope we shall see it soon too; and we may flatter ourselves that we shall see the deputy financier with his deputies for each county and district; the commanders of the federal forts and federal lands in this state, and the federal commander in chief of the militia, all come among us in their grand coaches and grand coats. GLORIOUS rays of the glorious luminary that will speedily enlighten our country!

Can there be an American so sordid, as to hesitate at sacrificing his dirty cash to glory, especially for glory so certain as this?

1. This satirical item was first printed in a no-longer-extant issue of the *Wilmington Centinel*. The transcription was taken from the *New York Journal*, 23 April, the earliest reprinting. Other reprintings appeared in the *Philadelphia Independent Gazetteer*, 28 April; *Boston American Herald*, 5 May; and *Winchester Virginia Gazette*, 14 May, all with the indication that the reprinting was "From the (N.C.) WILMINGTON CENTINEL."

A North Carolina Citizen on the Federal Constitution April 1788¹

The author of this undated, incomplete, twenty-page manuscript at the North Carolina Archives is unknown. The manuscript ends abruptly indicating that the balance of the essay is missing. The essay was probably written in April 1788 because it alludes to the ratification of the Constitution by Massachusetts (6 February 1788) and the North Carolina election of Convention delegates (28–29 March 1788), but does not refer to the ratification of the Constitution by Maryland (26 April 1788). The author attempts to provide "fair and plain answers to all the objections that are capable of answer or explication." The manuscript was edited by Julian Parks Boyd in the *North Carolina Historical Review*, 16 (1939), 36–53.

Sir

At your request, as well as for my own satisfaction, I have taken a few leisure moments to review the Constitution, and the popular objections against it. Indeed I design to consider all the Objections I have ever heard; but especially those of the populace, who have shewn us at the late elections that they are much divided in their sentiments about it: and while they have discovered a spirit of liberty which gives me no small pleasure they have also shewn a temper not well prepared for receiving the Constitution if it should be received. This gives me pain.

Which way soever I turn myself the prospects [are] disagreeable. If the constitution be rejected the consequences are plain and obvious; and the rejectors ought most certainly to answer for them.—Our foreign creditors will immediately take measures to indemnify themselves.—The adopting States will call upon us for some security for our quota of the national debt—we shall be seperated from the Union—oblidged to maintain all the officers, and expenses of a seperate nation—and perhaps be refused admission to the Union when a foreign or domestic war may compel us to sue for it

We are by no means in the same situation in which we stood before the Constitution was formed. We seem to have passed the Rubicon; and I am yet to learn how we are to get back. We are not in the same situation, neither in the view of foreigners, nor of each other. A Creditor sees his debtor in a very different situation before he has made a grand effort to make payment and after that effort has proven totally abortive; and different debtors jointly and severally bound, see themselves in a different state, when they are making a [– – –] effort and after they have quarreled, parted, and gone to law with each other about their respective shares of the debt. I insist upon it that unanimity about a bad measure at this critical moment, provided that measure may be rectified hereafter is preferable to that division, and political distraction which will certainly attend delay.

Let us view on the other hand the consequences of adopting the Constitution. No man can account, or should be made accountable for forced unnatural consequences that cannot be easily or possibly foreseen: but I think according to the common course of events the following may be foreseen—respectability in the eyes of foreign nations,—the revival of commerce now almost expiring—national strength and vigour for a number of years at least—the advancement of literature and (unless some few alterations and ~~amendments~~ or rather explications be made especially in the military part of the constitution) some distant difficulties and dissensions about the true sense of certain Articles and sections. And finally a great deal of dissatisfaction in the minds of the

people at its first reception, for the effects of which I cannot account: Unless the opposers will promise to be generous & candid but will venture to say that according to present appearances they will not be worse, nor in my humble opinion half so pernicious as those of the final rejection of the Constitution, either by 9 States or but one of them.

These, my good friend, are my views of the subject on all sides: and this last the only immediate disagreeable consequence on the side of its reception. The other ill consequence[s] are I think remote, if this one can be gotten over, and may be altogether prevented by a few amendments.

But Sir there is no time nor way at present to make these amendments but by adoption. On this subject I am quite clear. I have many other reasons besides this one namely that 6 states have already adopted it: but this alone is sufficient.

It only remains then to make some attempts to prepare the minds especially of the populace for its reception by giving a fair and plain answer to all the objections that are capable of answer or explication; and candidly to acknowledge the force of those objections that appear to have their weight; and propose them for amendment: and if 9 States agree about any one matter, it must certainly be amended.

I confess that I have not read as much as the Author of Thoughts on the present State of affairs requires, in order to judge of the several parts of the Constitution: nor do I consider myself master of every part of so vastly extensive a subject: however by the assistance of the Essay on money² I consider myself fully master of that part of the subject, and it is by no means the least popular part. I shall now take the liberty of laying before you all the objections that I have ever thought of or heard in conversation, or collected from reading; not in the confused, and promiscuous order in which I have noted them down as they have occurred; but in the order in which the several parts of the Constitution will arrange them, leaving it with you, my honest friend, to make any use you may think proper of my thoughts on this important subject, a subject so important and extensive that I feel myself stung with some degree of self reproach for even complying with the request of a friend.

your request is one apology, another is that I have not been hasty in coming to a determination; I have been astonished at the behaviour of some men, who have, with very little reading or thinking, perhaps none at all, pronounced sentence of condemnation on the several parts of the Constitution as fast as they have heard or read them. I assure you that this has not been my conduct. I have viewed and reviewed the subject, attempted to divest myself of all prejudice and prepossession,

listened attentively to the objections, called in all my little reading to assist me in comparing it with other constitutions; and the result of the whole you find in the following objections acknowledgements, and answers.

The Objections are either general or particular and have become so numerous that their very number has added one more; for it is not long since I heard it urged as an Objection that there were so many Objections against the constitution. Some thing it is said must certainly be the matter with a constitution against which lie so many Objections. Our State Constitution was received without any.

This must be acknowledged in part; and in part only. I have compared the State and federal Constitutions, and I confess that I can see some difference: but this respects in my opinion, the manner or style, rather than the substance.

Besides more objections are naturally to be expected in the one case than in the other. It is much easier to consult the *interest* of one, than the *interest* of 13 men. The interest of individuals prepared them for *receiving* the State-Constitution; and for *Objecting* against the federal one. Men that have made fortunes or expect to make them by speculating on paper-money, or by Western territory—men that are involved in debt or that have long held places of profit or honour in the State may be expected to Object, for no man wants a master.

~~The character and conduct of the members of Convention have been urged as another Objection.~~

If it be said that there are more Objections against this than against the former federal plan, I reply that this also is to be expected; any government will be popular that leaves too little power in the hands of rulers, and when people have lived a while under such a government, they will cry out against one that gives rulers no more powers than are really sufficient to enable them to govern. This is very natural, and therefore may be expected.

I also confess that the new, is not as plain, nor expressed with as much precision in all its parts as the former Plan: but upon the whole I think it is preferable, I shall instance in a few particulars perhaps there may be others that do not occur at present.

1 The President and Vice-President are now chosen by the People.

2 The People have the choice of members of Congress. Each State in proportion to its numbers.

3 Provision is made for settling disputes between the United States, and respecting Ambassadors &c &c

4th The Legislative, judicial and Executive departments are now separated according to one of the first principles laid down in our State

Constitution. So that in general it is certainly more *popular* than the Old Plan, and this induces me to believe that men's minds were some how previously prepared to object; otherwise this would have hardly been overlooked; and yet I have seen very few who have observed it.

But another objection is taken from the conduct of the members of convention. It is said that they surpassed the powers granted to them. They were appointed to amend the old constitution they have formed a new one; and instead of calling for another convention to deliberate on this new constitution, alter or amend it. They have proposed it for adoption or rejection.

To this the short and I apprehend true answer is They saw what we now all see Viz, that some more efficacious Plan than that by which we were formerly governed was necessary; and that it was a saving of time and expence to hand it out to the people in the manner in which they have done: tho I think it is to be wished that another continental Convention had been called to alter amend ratify and confirm it: but on this subject I cannot be positive because I know not the reasons that induced the members to adopt the present mode of offering it to the consideration of each particular state. This is a subject about which I wish the members of convention would be pleased to inform us.

The Constitution is objected to because there is no bill of rights prefixed. To this I think the answer is plain short and easy. It is all a bill of Rights, and every right not there expressed is retained by the several States.

The Constitution itself passes without any particular objection till we come to Sect 4. Artic I

The times places and manner of holding elections &c &c. This is said to be an encroachment on the liberty of each State.

In answer to this it may be asked, why may not the citizens of this State as readily confide in men chosen by themselves to represent them in Congress as in men chosen also by themselves to represent them in Gen: Assembly? Some have openly declared that there is no sett of men on earth in whose wisdom and integrity less confidence need be placed than in the very men that generally form our Assemblies, and that it is nonsense to suppose that every right granted to one or two men is in danger of being lost; while every right granted to 2 or 3 men is perfectly secure, and yet this nonsensical objection is at the bottom of this and almost all the other objections against the Constitution

I do not like to speak evil of dignities: but I cannot forbear to think that our public affairs are at present in great confusion. There are more proofs of this than the state of our Western affairs; I believe that this confusion has arisen partly from ignorance, partly from knavery: but

originally from each State's being so much its own master, and subject to no superior controul; it is therefore the interest of every private citizen that our rulers should have one head: but it is their interest to be head themselves.

Why will not these men be satisfied with that power they already possess? Are they not authorized to chuse 2 men at the same time that the private citizens chuse 5. Why should they regulate the times of our elections (I speak as a private citizen, one of the populace of which number I really am) No; let them chuse the place of their own meeting i e let them chuse 2 Senators *wherever* they please: but let a superior power regulate all the rest, and why should we not confide in that power when chosen by us, and accountable to us?

But it will be asked what would be the consequence if Congress should make a law that there should be no elections for 7 years? I will answer this question by asking another as foolish as itself. Namely what would be the consequence if our Gen. Assembly should pass such a law?

It may be added, by way of explication, that there is propriety as well as justice in this Section; and that it was intended to fix the *place* of election in the centre of the electors, and to make the time uniform throughout the united States, to prevent that electioneering that might take place were the time, &c to be different. and that the laws might be uniform.

Another very popular objection lies against the 6th Section which gives the members of Congress a right to fix their own salaries. And the short answer is that the members of our Assembly exercise the same right. Here again I cannot but think that the minds of people were prepared for objecting; because they have taken no notice of Objections exactly para[1]lel in other cases, and the reasons of such a preparation or prepossession I have assigned above

The 8 Sect: has afforded another objection Viz that Congress shall have the power of both *laying* and *collecting* taxes, I answer have not each Assembly the same power? Is a power of laying without collecting any power at all? Let each State make the collection, and we are in our present wretched inefficacious condition exactly.

This same Sect. affords another objection. The purse and sword are in the same hands. This is too much. In England the king draws the Sword: but the commons hold the purse strings. This objection is very popular: but has arisen either from ignorance or inat[t]ention; for in Artic I Sect 7 It is expressly said that all bills for raising revenue shall originate in the house of Representatives; and Artic II Sect. 2 declares th[at] the President shall be commander in chief. These 2 Sections

shew that the purse and sword; so far from being in the same hands, are as far apart as they can possibly be placed.

This same 8 Sect. (a very unfortunate one indeed) has offered another objection Viz the *necessity* of raising a standing army. I reply that the *necessity* is absolutely denied, and only the *power* asserted; and I assert the absolute necessity of such a power existing in some *one* place in the 13 States.

What in the name of heaven is to be done on an invasion? Where are your arms amunition money? &c &c In 13 different places? or more probably in *no place* at all? Where are your leader or leaders? No less than 13 of them, and who shall command? Mean time the States are pillaged and plundered and before we are ready for action the foe is gone off with the booty. This may be an answer to

Another objection Viz: The claiming a right to a certain tract of soil in some of the States for keeping ~~Arsen[als]~~ military Stores &c.

Another objection is taken from the 9 Sect: Viz that foreigners migrating to any of the 13 States must be taxed.

Ans This is absolutely denied; and the whole has referrence only to servants of a certain Class, and slaves.

From the same Sect. State of public expenditures shall be made known from time to time. This is too vague. Ans It may refer to the *time* of appropriation which must be made by law. This answers

Another objection Viz: that money may be appropriated for 2 years, then 2 more &c &c for ever: but all this must be done by law, which supposes the concurrence of the very men with whom originates all money-bills See Section 7, and these men are chosen by the people.

But one of the most popular objections is that the Constitution will sweep off all our paper-currency, and leave no money at all for the payment of taxes. &c &c.

In answer to this, I will just take the liberty to compendize the Essay on Money, without adding many observations to it, for the author has given a systematic view of the Subject.

In the first ages, no money was needed. Commodity was bartered for commodity and all that was wanted was

1 A Standard of computation, equally known to both parties. This at first was the ox: as much as to say This article is worth an ox, yours is of equal value, let us exchange.

2nd Because some commodities were not portable, it became necessary that this Standard of computation should have a *Sign* This sign was at first the sign, or picture of the ox, stamped on some matterial gold silver leather &c Servius Tullius a Roman king stamped some pieces with the ox. Hence pecunia money from pecus cattle, and hence even in the 13 Century cattle were called viva pecunia live-money (See

magna charta, granted by king John of England. Charter of the Torist. Rapin. Vol II.) The language of all this was “Here is my Ox stamped on this matterial for your live-Ox. Individuals or society have agreed to give you an Ox for it, whenever you wish to exchange.[”]

3d It became necessary that the matter or substance of the sign should (without any respect to the stamp) have as many of the properties of the substance or thing signified as possible. That is to say ‘I have not the substance; but I have an article that is in intrinsic or commercial value altogether equal I have not the ox but I have something as good; something that will equally claim the confidence of society.’ Now the question is what article is that which will not only be a convenient sign: but also a saleable commodity, or substance when it is no sign or has no stamp on it at all? or what are the properties of the most saleable commodity? I answer the more any thing be possessed of the following properties the more saleable.

1 Valuable or useful in life

2 Rare or hard to find

3 Portable or easily carried

4 Divisible into small parts

5 Durable

6 Equable i e all its parts and parcels from whatever different places collected, equal in value.

The more any commodity possesses of these properties the more valuable it is as a substance, and the more convenient as a sign of substance. Now where shall we look for something possessed of these properties?

There are but 3 regions to which we can apply—the mineral—vegetable—and animal worlds. And accordingly signs of substance have been taken from each of these. From the Animal—Leather (as in Sweden See Rosseau) and Shells.—From the Vegetable, bark of trees and paper—And from the Mineral gold, silver, copper or brass (which is only a composition of copper and calomine clay) and iron.

Now the metallic substances have undoubtedly most of the above properties, and gold and silver, more of them than any other metals.

1 They have an intrinsic commercial value; not only as signs of substance; but as substance itself. They are really useful in life. This appears from their being passed by weight (see Zen XXIII, 16) perhaps before any impress was made on them by authority of society. ‘And indeed the stamp impress’d on coin is only to witness that the piece thus marked is of such a value’. Rosseau.

But paper iron &c have also their intrinsic commercial value. Ans, yes; and if you take them then to the blacksmith, silversmith or printer, you will find the respective value of each: your paper shall be 4 or 5/

the quire; your iron 15[d] or 1/ per lb: your silver about 1 Dollar per ounce; and your gold in proportion. And all this without any stamp of public authority on either one or other of these commodities.

2 Gold and silver are rare. They are so rare that the whole mass of them in all places of the earth; and in all their parts and parcels can be converted into money: and the whole mass not more than sufficient for a circulating medium all the world over; without confining them to one country and excluding them from another.

Now this could have been once said of Copper and iron, and then Copper or brass and iron were money: but this cannot now be predicated of them, nor of paper, nor any other article that I know of except gold and silver.

3 They are portable, especially gold. Silver indeed is becoming rather too plenty so that the value of any very valuable article in silver is not portable. One hundred dollars in value is about 8 lb in weight, and so on in proportion. And it may yet become all the world over as it was in judea ~~and a few other countries~~ 'Nothing counting of' see 1 Kings X 21. Even now if there were but half the quantity, one dollar would be equal to two.

This shews the folly of those who complain of the want of a circulating medium, and urge the scarcity of hard money as a reason for emitting a paper currency. There is a great want of industry and frugality: but no want of silver. The industrious frugal man in North Carolina can dig as much as he pleases out of the Spanish mines; and it is out of the power of the Spaniard to prevent it.

4 They are divisible in this respect they have no very peculiar advantage above paper iron or other signs. But

5 They are more durable than paper; or any thing else formed from the animal or vegetable world. And

6 They are said to be more equable than any other metal or perhaps any other thing. Iron tin or copper from different mines have different qualities, some coarse, some fine: but all gold and silver are said to be alike in quality, from whatever part of the globe they may have been brought.

The advocates for a paper currency will possibly own that paper is not in all these respects equal to Gold & silver: but they will say that it has properties sufficient to recommend it. As

1 It is confessed to have some intrinsic and commercial value as a commodity.

2 Tho the Universal quantity of paper be too great to be converted into money; yet the legislators may take only such a quantity as will be portable for that purpose, and leave all the rest to be, as it was before,

not a sign of substance but a commodity itself, or an article of commerce only.

3 That paper is divisible, and tho not durable, nor each kind equal in quality and value to other kinds: yet considering the vast quantity—the ease with which bills worn out can be replaced—and the firm quality with which paper can be formed for that purpose; it may be thought upon the whole to be no contemptable sign of wealth.

To all this it may be replied That tho paper has a commercial value: yet this is so inconsiderable that a valuable horse could scarcely carry his own price in it ~~and that~~. Nothing ought to be made money the whole of which in all places, and in all its *parts* and *parcels*, could not. Silver and gold ought not to be made money if *all* silver and gold were not money. Because it would open the door for counterfeiting speculating and other ills. Now let a man strike a counterfeit stamp on *any* gold or silver whatever; I care not, he gets nothing by the bargain; and I lose nothing. Gold is gold, and silver is silver. Let him strike his stamp on base metal, Archimedes has taught one how to detect the fraud: but let the false impress be made on paper; There is so much *other* paper—one impress may be so much like another—and one scrap of paper so much like another that there is danger imposition. This is thought to have been the reason why James II king of England could not enforce his base metal as good money. There was so much *other* base metal, and the counterfeiting therefore so easy that the people refused to give it credit.

It may be further objected that paper is capable of receiving a Legislative value. It can be *enforced* as a lawful tender, and the counterfeiting punished with death.

In answer to this it may be said that such laws are unwise—unjust—in a great degree impracticable—and pernicious as far as they can be carried into effect.

1—Unwise—a wise government studies to prevent crime. This lays temptations to commit them:—a wise government always tries to find a justification of the punishment in the feelings of the human heart; this does not and cannot find it—a wise government makes no unnecessary laws: these laws are unnecessary; there is more than a sufficient quantity of silver; a considerable part of it has ceased to be money, and has been converted into house furniture horse trappings and other decorations of a like nature.

2—Unjust—because they open a wide door for speculation. There are some men in this State who have encouraged the striking of paper-money—then contracted large debts—then depreciated the money—and finally paid off[f] their debts with about two thirds of their real

value in paper-bills. This has occasioned one of our ^(a)best politicians to say that government might with equal justice pass a law that debts should be actually paid with two thirds of their value; and that it should be by law put out of the creditor's power to recover any more of his just debt. The speculators are now the warmest advocates for paper-bills; tho some honest men have joined with them from mistaken principles.

Such laws are unjust because they destroy the nature of contracts, which always require that they be free and mutual. These contracts can subsist between individual and government, as well as between two individuals. Now where is the contract in this case? You shall receive this as a tender says Government. The individual has no choice.

3d Laws to keep up the value of paper-bills, and punish depreiators speculators & counterfeiters are impracticable; they are like the attempts to regulate commerce, which will regulate itself in spite of all laws. Such laws are impracticable, because there is nothing in the feelings of the human heart to justify the penalty: the punishment is therefore often evaded, and addresses to government in behalf of criminals are signed by those, whose feelings would rise up, and cry out 'Let a murderer die.'

If it be plead that paper-bills have been once current in this country, and are still so in other countries, I answer to this

1st The time *was*, and may return when ~~the memory~~ of this late war is totally forgotten, and we as before subject to a foreign government: but he is certainly a very puny politician who cannot see that the cases are altogether different, and that the former can never return.

With respect to other countries, their paper are only bills on banks—promissory notes—not even signs of substance: but only signs of signs; as signs of a certain sum of Gold and silver which can be called out at any time or sued for if detained.

These circumstances together with the convenience of carriage have given them in Holland an Agio or advance above even gold & silver themselves: but in no country have they been made a tender except in America, and it remains with the advocates for paper money to explain the reasons why a measure should be adopted here that has never been taken any where else.

4 Attempts to carry tender-laws into effect are attended with pernicious consequences. The

1st is the banishing of gold and silver, which must be made use of in all foreign payments, and which must be very considerable, especially in this State, where the ballance of trade is so much against us. The

2d is the increasing the price of domestic industry, not the price gotten for our industry from foreigners this were to be desired: but the price paid for it to domestics.

3d It discourages foreign commerce; merchants do not chuse to hazard their goods for a kind of money that will pass no where else, and those who have done it have been often forced to *run away* from their debtors for fear of payment. Whatever can produce such a monstrous effect as this must certainly be wrong at bottom.

But if we have no paper-money we shall have no money at all. I answer this is a great mistake, we shall only have less, and less will be sufficient. Four pence is as good as four shillings if it fetch me as much property. The English historian (Rosin) tells you that in the 13 Century in the reign of Henry Beauclerk king of England there was so great a dearth that a sheep was sold for four pence; and yet adds the historian there was, in common, a great plenty of all things in the reign of that prince.

Were there no other nation under heaven but America there would be but one or two weighty objections against paper money—it would be easily counterfeited—and therefore cruel to punish counterfeiting with death.

Or were this country properly peopled i e had we about 10 times our present number of inhabitants: paper-money would be an expedient to destroy foreign trade and encourage domestic manufacture. At present we have not hands who are able and willing to cultivate the soil much less to manufacture all its various productions.

But even the advocates for paper-money have in 2 or 3 instances condemned it themselves.

1 By making a tender-law, they owned that the money was not good in fact. Why make a law to oblige men to take money when it is offered? Are there any who refuse when it is good? If it be necessary to force them does not this demonstrate that it is not good?

2—By providing a sinking fund. Does not this admit that the bills will do evil if they continue to circulate? When you own gold and silver do you provide for sinking them?

3—By signing petitions in behalf of criminals condemned for passing counterfeit-bills; when the petition has set forth in express terms that there was no *proportion* between *crime* and *punishment*. This was perfectly right. It did honour to their humanity: for in signing such petitions they *felt* as men—but in passing or appraising of the law they only *reasoned* as legislators or statesmen.

I have now given you a short compend of the Essay, copies of which are very scarce. I wish a number were struck off by some of our printers.

Another objection arises from the II Article Sect 1. The President is not rendered ineligible at the end of his term of 4 years. This will make him at last a hereditary monarch, or Emperor or at least give him gradually the powers of the Stateholder in the 7 provinces.

I cannot here forbear to remark how well the people were once pleased with the British constitution, ~~government,~~ and how loudly they complained when deprived of it by a British ministry. Now be pleased to compare their constitution with ours.

1 The king, hereditary unless in extraordinary cases (See Blackstones Commentaries) the President chosen every 4 years.

2 The king, a negative on all laws—the power of making treaties—declaring war—concluding peace &c. The President alone not one of these powers.

3 The house of Lords hereditary. The senators chosen by the several legislatures.

4 The commons chosen by about one ninth part of the people (See Burg's Pol. Disq) The Representatives chosen, each one by 30,000 electors.

But the President will undoubtedly be a Stateholder at least, if he should not be a king.

The disputes between the Stateholder, and the patriotic party in Holland have happened in the very worst time in which they could possibly have fallen out to strike unthinking minds: who do not consider that debates may be at *any time*, and *in any* government on earth.

I think however it were to be wished that the President had been rendered ineligible at the end of 4 years, except in time of war, when his re-election might be necessary, especially if he should happen to be another Washington: in common when a man is thrown out of office by the constitution, he goes off with a good grace—he goes off without a struggle. When otherwise he feels himself neglected and injured; and will therefore make some struggles to hold his office.

Perhaps the most popular of all the objections has been raised against the military part of the constitution. It has been said

1 That the militia may be called out of the United States and 2d That they may be called out for any term of time, nay, even sold, say some of our Germans, to pay the national debt.

I confess that these 2 things are not as explicit as they ought to be for

1 Congress ought to be possessed of an express power to call the militia out of the United States in some cases, and these cases should be especially named. Suppose another war with Great Britain—suppose a British army from Nova Scotia—they ravage the country—the

militia are called from several northern states—the enemy retire beyond the line—they sit down quietly with their booty—the militia refuse to follow—they cannot be commanded—they return home—with the enemy at their heels for a 2d booty. To come nearer home you may suppose a Spanish war, and the same scene to be acted on the borders of Georgia.

2 The term of time for which the militia may be called out, ought also to have been explicit, and, the few cases of necessity defined in which they might be held longer than that term.

After all, I cannot see what motives might be supposed to induce a sett of men dependent on the people for their political existence, to drag that people into the field without necessity; and without necessity to hold them there.

Two things are as explicit as they can be: first That each State shall train its own militia 2d That the militia of each State shall be commanded by their own officers; and these I believe to be the two principal matters regarded by the militia in common.

With respect to the selling of them, it is a most extravagant idea; and as it is made by the Germans only: it is plain that it has arisen not from the constitution; but from the Hessians, who are commonly said to have been sold by their prince to the king of great Brittain in the late war.

Another Objection is raised against the whole of Artic; III, either

- 1 That Congress should appoint no judges; or
- 2 That their power should be far less; or
- 3 That they will interfere with the state-judges

To the first I reply that no legislative body can exist without judges to determine to what men the rewards and punishments should be distributed, and that these judges ought to be a sett of men distinct from the legislators. These are 2 political maxims so universally received throughout the states, that some prejudices must be operating on the mind to explode them in this particular case and admit them in all others.

As to the 2d, it does not appear that they have more power than the judges in each State. There shall be a “Trial of all crimes except in cases of impeachment, [”] by *jury*. And “Appellate jurisdiction both as to law and facts. [”] If I understand this, the meaning is, not that the supreme court, or judges alone, shall have original jurisdiction of law and fact, without jury; but that there may be an appeal (apellate is not original jurisdiction)—an appeal in cases both of law and fact; and the trial in the supreme court, on such appeal, may be either with a jury or without one, as the case may have been either a point of law, or of both law and fact.

3 It is finally alledged that these judges will interfere in their business with the State-judges

I answer No; the objects of their jurisdiction are ascertained with too much precision. The doubts suggested by Aristides³ do not respect the objects of jurisdiction: but only the mode of appeal, whether for instance a trial may be entered into the State-Court, or court of Congress at pleasure, whether an appeal will lie equally from each to the supreme Court of Congress &c. &c See Aristides all which I understand as he does, this I confess that he was the first who suggested the doubts to me: but

The sweeping objection is that each State gives away all its rights except two see Artic IV Sect 4.

1 That each shall have a republican form of government

2 That each shall have the common aid of all in case of insurrection or invasion.

As this is a question of facts it can be absolutely determined.

1 Then has the liberty of the Press been given away or the erection establishment or endowment of Universities, colleges, academies or other seats of learning?

It is my opinion that this last ought to be in the hands of Congress. We would no more see so many little petty seats of learning rising up to the total destruction of one another, no less than 6 or 7 chartered seminaries in this State, and half that number in So. Carolina, when both states are no more than able to support two. We would see some uniformity in our litterary measures were they conducted by one sett of men. The continent would assume a likeness of litterary features—the inhabitants would appear like children of the same family only educated in different places. And this would in my humble opinion be a firmer and more lasting cement of Union between the States than the Society of the Cincinnati.

With respect to military matters, each State has expressly retained the two important articles of training and officering their own militia.

As to commercial matters, I defy Congress to make them ~~much~~ worse than they have been made by each State. They ought to be in the hands of Congress, and they never will thrive till the[y] be placed there. Suppose 13 Parliaments in England: or suppose that each of the 3 kingdoms undertake to regulate their own commercial affairs. He ought not to be a member of the convention at Hillsborough who could not tell what would be the consequence.

We submitted the regulation of our commerce to the Britttish Parliament, a sett of men in whose election we had no choice and are now affraid to commit the same matter to men of our own chusing.

With respect to the legislative judicial and executive rights retained by each State: they are so many that it is easier to express those given away than those retained. This is the reason why there is no bill of rights prefaced to the constitution.

Two observations may be made here

1. That it is impossible to form a bond of Union without giving up some rights

2 That these very rights so given, are delivered into the hands of men as much dependent on the citizens of each State, as the members of their own respective assemblies.

There is another popular objection which I can hardly prevail on myself to mention. There is something in it that has the appearance of destroying the Union, and casting off all government. As it is gone abroad and as it has defeated its own purpose by making some converts to the constitution I will take the liberty to suggest it.

The objection (see Artic VI Sect 1.) is that the expenses incurred by the late war must be paid, if we adopt the Constitution: and it is the interest of N: Carolina to oppose on this principle, that Congress have refused to admit our State-accounts in the national debt.

There are not many of the people who understand the state of our public accounts. All they know is that Congress had authority by a majority of votes, to determine the quota of each State. And that this has been done; the members for this State being present: but they are told that they have no authority to compel this State to pay the quota apportioned by a *majority of votes* in Congress. Then how wretched our present form of government, says every sensible man and when will our public debts be paid when "Every State" may do that which is right in its own eyes?

The last objection is (see Artic VI) there is no religious test. I find more fault with the manner than matter of this Article. There is no distinction made between different kinds of religious tests.

There are in my opinion 2 kinds of tests 1 Particular, to discriminate one religious denomination or society of Christians from another. Such are the tests in England. These are invidious detestable, and ought by all means to be thrown out of all civil institutions.

But there are general tests by which we own the ~~Divinity~~ of truth of Christianity, and a future state. These 2 things are implied in the Oath of office, required by this Article, administered in the common form.

The members of Convention I doubt not had their eye on a particular test, why then did they not say "There shall be no particular test?["] This would have rendered the 2 parts of the Article consistent ~~with itself~~, and not liable to objection. At present it stands

1 Clause there shall be a general test for such is a [- - -] oath

2 Clause There shall be no test at all: But I profess I feel ashamed of myself for making this remark: tho I believe it to be just, it looks too much like a mere critique on words.

Aristides I have read with great pleasure. It ought to be reprinted, with the Essay on Money, which I have compend for you. Had Aristides come sooner to hand, I would have taken in some of his ideas. His objections are very different from those of the populace, and the excellencies he has pointed out in the constitution almost entirely overlooked by them.

To the reading of some parts of Montesquieu [and] Blackstone prescribed by him I beg leave to add the constitutions and history of ancient Greece and Rome, Venice Switzerland and the Seven Provinces. These should be read [and] understood especially by every man who is to form a public judgment for his country. And after he has read these with attention and candour and compared them with the new Plan and rules prefixed for [such] let him prove an Antifoederalist if he can.

But some of our farmers have not books and will not read or think: yet they will talk and judge and condemn. If a man would only compare with attention and candour the constitutions from the short accounts given in the Geography it would be some aid to him in judging.

The common people have unhappily taken up the idea that the system is formed for commerce, and not for them. Can the interest of the merchant and farmer then be separated? I confess I cannot tell how you will separate them. "The intercourse of the arts consists in the exchange of industry; that of commerce in the exchange of commodities; that of bankers, in the exchange of bills and money: all these things are *connected*." Rosseau.

Upon the whole, Sir, I shall wait with anxiety for the meeting of the Convention at Hillsborough; and if the constitution should be rejected I retract what I said when I [manuscript ends abruptly here]

(a) See Sylvius' Letters.⁴

1. MS, Miscellaneous Papers (PC-21), Nc-Ar.

2. A reference to Hugh Williamson's "Letters from Sylvius" addressed "to the freemen inhabitants of the United States. Containing some remarks on the scarcity of money; paper currency; national dress; foreign luxuries; the foederal debt; and public taxes." The seven letters were printed in the August 1787 issue of the Philadelphia *American Museum* and also as a pamphlet (Evans 20887).

3. For "Aristides" (Alexander Contee Hanson), *Remarks on the Proposed Plan of a Federal Government*, a forty-two-page pamphlet published in Annapolis, Maryland, see CC:490 or RCS:Md., 224-66n.

4. See note 2 (above).

Richard Dobbs Spaight to Levi Hollingsworth
New Bern, N.C., 3 April 1788 (excerpt)¹

. . . Every thing was done in our Assembly to have the meeting of our state convention at an earlier day than that which is appointed, but to no effect. however it may, perhaps, turn out for the best; I expect by that time we shall have a powerfull argument in its favor, that is that nine if not ten states will have adopted it before we meet—it meets with great opposition here from placemen & debtors & their dupes & adherents. . . .

1. RC, Hollingsworth Papers, PHI. The address page was annotated: “By the Industry/Capt. Hubbell.” Hollingsworth (1739–1824) was a Philadelphia merchant.

David Witherspoon to James Iredell
New Bern, N.C., 3 April 1788¹

I have read with very great pleasure your answers to Mr Masons objections,² and surely every man who reads them & on whom Mr. Masons observations or indeed the arguments of those in opposition in general have had any effect, must be convinced that the objections to the Constitution are without foundation.

If we expect a Constitution the principles of which cannot be violated, we had better, instead of amending that which is proposed, amend the hearts of men

I am affraid there will be a powerful opposition in this State but am happy in observing that the proportion of well informed men on that side will be very small

In Dobbs county, the federal men, finding that they were in danger of losing their election, raised a riot, put out the candles, knocked to pieces the boxes which contained the votes & destroyed the books.³

From this county & Town we have four federal men, Spaight, Leech, Neale, Sitgreaves, and on the other side Ben. Williams & Nixon

Your publication⁴ has been made I believe very correctly by Mr Hodge I was sorry that my business called me out of Town while it was in hand. You were very soon known to be the author by what means I do not know

For some months after last Superior Court I was in very ill health but am now perfectly well. With very great regard

1. RC, Iredell Papers, Duke University. Witherspoon (1760–1801), a native of Scotland and a lawyer, was a son of John Witherspoon, the president of the College of New Jersey (Princeton). He held a B.A., 1774, and M.A., 1778, from Princeton. In 1777 he served as a lieutenant in a militia company of Hampden-Sydney students summoned to protect

Virginia against Sir William Howe's forces. In 1780 he was a private secretary to Samuel Huntington, the president of the Continental Congress. Three years later he received his license to practice law in Virginia and began to practice law in New Bern, North Carolina. In October 1788 he married the widow of former North Carolina governor Abner Nash and became a wealthy slaveholder. In 1790 Witherspoon represented Jones County in the state House of Commons.

2. See Iredell's "Marcus" essays responding to Mason's objections to the Constitution (RCS:N.C., 70–85, 87–92n, 93–102, 102–6).

3. For the Dobbs County riot, see RCS:N.C., 183–97.

4. A reference to Hodge and Wills' pamphlet publication of Iredell's "Marcus" essay (Evans 45276) responding to George Mason's objections to the Constitution.

Portland, Maine, Cumberland Gazette, 3 April 1788

By Captain Hatch, who arrived here on Tuesday last, in 8 days from Edenton, North-Carolina, we are informed that the inhabitants of that State will, in all probability, adopt the proposed form of continental government.

Extract of a Letter from Washington, N.C., 6 April 1788¹

A letter from Washington (North-Carolina) dated April 6, 1788, says, "The topic in this state is the new proposed constitution—many are in favor of it;—more against it.—I rank myself among the federalists; but am afraid this state will not adopt it."

1. Printed: *New Jersey Journal*, 23 April.

Edenton Intelligencer, 9 April 1788

Extract of a letter from a gentleman of Massachusetts. Feb. 20

"Dear Sir, You have doubtless heard that our Convention have ratified the New-Constitution¹—I will confess to you without a blush, that I was in the Minority, and opposed this new fabric, from a jealousy of its ultimate consequences: this jealousy my friend, is the soul of Republican Governments—Perhaps I may have pushed my doubts too far: indeed I am consoled, and feel less anxiety from the assurances of our President, Governor Hancock, that the necessary amendments would doubtless be the first subject taken up by the New Congress.—In this case our political system will perhaps approach nearer perfection than any other in the world:² besides the minds of its present opposers will be calm'd; trade and agriculture will flourish, and every shoulder will be pushing on the wheels of Industry, and all joining hand in hand, in peace and harmony, for the common interests of the United States, without confining our views locally to the State we happen to inhabit. Many doubts arose with the Minority, that the Southern States were

more fully Represented in the Grand Convention, than the Northern States; and that of course they had obtained more advantages, but such illiberal jealousies ought I am sensible to be for ever done away.

Yours &c.”

1. The Massachusetts Convention ratified the Constitution on 6 February 1788.

2. In proposing nine recommendatory amendments to the Constitution for the consideration of the Massachusetts Convention, Governor John Hancock expressed his opinion that these amendments would be ratified according to the procedure provided for in Article V of the Constitution. In a speech to the Massachusetts legislature on 27 February, Hancock stated, “The amendments proposed by the Convention, are intended to obtain a constitutional security of the principles to which they refer themselves, and must meet the wishes of all the States. I feel myself assured, that they will very early become a part of the Constitution; and when they shall be added to the proposed plan, I shall consider it the most perfect System of government, as to the objects it embraces, that has been known amongst mankind” (RCS:Mass., 1381–82, 1668–69).

William Blount and the Constitution, 9, 17 April 1788¹

William Blount was one of North Carolina’s delegates to the Constitutional Convention. Although he signed the Constitution on 17 September 1787, his willingness to do so is uncertain. James Madison’s notes indicate that Blount’s signature only attested to the unanimity in the Convention and did not declare his support of the plan (Farrand, II, 645–46). But there is ample evidence that Blount was well pleased with the Constitution during its drafting by the Convention. Only in July did he express any displeasure with the proposed system. Writing from New York City to Governor Richard Caswell on 19 July 1787, Blount indicated that he was “not in sentiment with my Colleagues for as I have before said I still think We shall ultimately and not many Years first be separate and distinct Governments perfectly independent of each other” (Smith, *Letters*, XXIV, 362). At the same time other members of the state delegation were declaring that there was unanimity among them. As Hugh Williamson said, “There has not in a single important question been a division in our representation nor so much as one dissenting voice” (Mfm:N.C.). On 20 August 1787, Blount again wrote Governor Caswell declaring his belief that the plan would “be readily adopted by the several States because I believe it will be such as will be their respective Interest to adopt” (Smith, *Letters*, XXIV, 408–9). Other expressions exist of general approval and unanimity within the North Carolina delegation.

Blount was defeated for a seat in the North Carolina Convention that met in Hillsborough in July and August 1788. He voted to ratify the Constitution in the North Carolina Convention that met in Fayetteville in November 1789.

Pennsylvania Gazette, 9 April 1788²

We learn that the Honorable Mr. Blount, of North-Carolina, writes, as his opinion, that a great majority of the people of that state are in favor of the proposed constitution for the United States. So many reports, paragraphs and assertions have been circulated to the contrary,

that it is a particular satisfaction to have this fact ascertained on such respectable authority.

Philadelphia Independent Gazetteer, 17 April 1788³

A paragraph having appeared in most of the papers, stating the very favorable reception of the constitution in North-Carolina, as given by Mr. *Blount*; a correspondent observes that that gentleman did *once* entertain sentiments very different from those which now appear to pervade the majority of his countrymen. So far was he himself from approving the constitution proposed, that it was with great reluctance and considerable hesitation he consented to give it his name in the general convention.—An incontrovertible fact!

1. Blount (1749–1800), a native of North Carolina, was paymaster of the North Carolina Line during the Revolutionary War. He represented the town of New Bern in the state House of Commons, 1780, and Craven County, 1783–85 (speaker, 1784–85), and served in the Confederation Congress, 1782–83, 1786, and 1787. In 1787 he signed the Constitution as one of North Carolina's delegates to the Constitutional Convention. He was appointed to that body by Governor Richard Caswell, who refused his own election as a delegate. In 1788 and 1789, Blount represented Pitt County in the state Senate. Blount was a delegate to the Fayetteville Convention, 1789, where he voted to ratify the Constitution. In 1790 the territory south of the Ohio River was created, and Blount was appointed governor and superintendent of Indian affairs. In 1794 a legislature was formed for the territory, and two years later the territory had a sufficient population for statehood. Blount presided over a constitutional convention that drafted a state constitution. The new state of Tennessee was admitted to the Union in 1796, and Blount was elected to the U.S. Senate, holding that position until 1797, when he was expelled after he was found guilty of "a high misdemeanor."

2. Reprinted in twelve newspapers by 1 May: Mass. (1), R.I. (2), Conn. (4), N.Y. (1), Pa. (2), S.C. (2). On 11 April the *New York Packet* reprinted only the first sentence, and by 8 May six newspapers followed the *Packet's* lead: Mass. (3), R.I. (1), Md. (1), Va. (1).

3. Reprinted: *New York Journal*, 23 April.

**James Breckinridge to John Preston
Williamsburg, Va., 14 April 1788 (excerpt)¹**

Dear Johnny

... The news you give me from Franklin I was truly alarmed with & I fear it may end with consequences the most fatal to the union if it should become pretty general; at a period so critical as the present; if a calamity more dreadful than a civil commotion could not befall [I] a nation; the new constitution has a number of dangerous enemies & the old, I believe as many if not more; thus divided in opinion each having their partizans & their minds being extremely embittered and heated striving who shall get the better; nothing appears to me to be wanting but some intrepid, enterprising demagogue to involve us in

eternal anarchy and ruin—This instance argues the necessity of a strong federal head to be able to Quell such commotion, & makes examples of their leaders—

I had the paragraph of your letter which related to that unhappy dispute, put in the paper agreeable to your desire. . . .

1. RC, Preston Papers, Virginia Historical Society. The address page is annotated: “favd. by Mr. Streal.” The letter was signed: “Adieu my Frd. Breckinridge.” Breckinridge (1763–1833), a native of Virginia, a lawyer, and a 1785 graduate of the College of William and Mary, served in his uncle Colonel William Preston’s rifle regiment during the Revolutionary War. In 1788 Breckinridge, a supporter of the Constitution, attended the debates of the Virginia ratifying Convention. The next year he was admitted to the bar in Botetourt County. Between 1789 and 1824 he was often a member of the Virginia House of Delegates and was a Federalist member of the U.S. House of Representatives, 1809–17. Preston (1764–1827), the eldest son of Colonel William Preston and a cousin of James Breckinridge, was a planter in Botetourt County, Va. He was an officer in the Va. militia, attaining the rank of brigadier general. He represented Botetourt County in the Virginia House of Delegates in 1783 and Montgomery County in 1791 and 1803–4. Preston was a member of the Virginia Senate, 1792–99, and a presidential elector in 1801, 1805, and 1809. He was Virginia treasurer, 1810–19.

President of Congress Cyrus Griffin to Governor Samuel Johnston
New York, 14 April 1788 (excerpt)¹

. . . By the last Vessels from Europe we are told that the Netherlands are Still in Great confusion—that Russia is Carrying on the war against the Turks with uncommon Vigour, and perhaps will be powerfully assisted by the Emperor—that in all probability the horrid flame may be extended much further—and that in truth the Peace between France & England will not continue any considerable time

This being the Appearance of things abroad, I hope the United States at home will adopt a Constitution beautifull in theory and which will be found a Government of Safety, and of Energy—

I have the honour to be Dear Sir, with profound Esteem & regard,

1. FC, Governors’ Letterbooks & Papers, XXI, Nc-Ar. Printed: Smith, *Letters*, XXV, 52. Griffin was thanking Governor Johnston for his letter of 19 March congratulating Griffin on being “elected to the important Office of President of Congress.” Griffin (1748–1810), a lawyer, served in the Virginia House of Delegates, 1777–78, 1786, 1787; a delegate to Congress, 1778–80, 1787–88 (president, 1788); and U.S. district judge, 1789–1810.

William Hooper to James Iredell
Hillsborough, N.C., 15 April 1788 (excerpts)¹

My dear Sir

Very much do I thank you for your kind letter by Mr Hunt and the papers which accompanied it. I have read the latter with the greatest

pleasure and flatter myself that they will not fail to work conversions amongst the many political Infidels who have hitherto shut their eyes to the means of salvation held forth to them by the Convention. I am heartily in sentiment with you but alas! I fear those who favour the new constitution will be far outnumbered by their Adversaries. The Western country in general are devotedly opposed to it. Mr Moore and myself essayed in vain, for a seat in the convention, our sentiments had transpired previous to the Election. . . .

I shall have the happiness of seeing you at Edenton til then Adieu

1. RC, Iredell Papers, Duke University. Printed: Kelly, *Iredell*, III, 392–93. The address page was annotated: “By favour of The Attorney General.”

James Iredell to Baron de Poellnitz

15 April 1788 (excerpt)¹

. . . I am very glad to hear the new Constitution is so agreeable to your Principles. It is perfectly so to mine, so much so that I have become an Author on the subject, having undertaken to answer Mr. Mason’s Objections, ~~under the signature of Marcus~~ a publication which has appeared in some Norfolk & North Carolina news papers.² ~~There is a great division of sentiment in this State, but I think most Men of abilities & consequence are in its favour.~~ I am very impatient to see the whole of Colo. Hamilton’s *Federalist*,³ which is a work that will immortalize him and I rejoice to find that a Gentleman whose character I admire so much has been your particular Friend. Mr. Samuel Johnston, whom you knew here, & who is now our Governor, desired me to present you his most respectful Compliments, & to assure you he feels the strongest sympathy for your misfortunes. We are both Members of our Convention, that is to meet the 21st July. There are great divisions on the subject, but I flatter myself we shall have a maj[ori]ty, especially if 9 States agree before us—Mrs. Iredell joins in the most earnest wishes for you & your Family’s happiness

1. Printed: Kelly, *Iredell*, III, 393–94. Iredell was responding to a letter of 20 February in which Poellnitz told him that his wife Lady Anne had abandoned him and was trying to sue him for many debts that she had incurred in a previous marriage. (See Kelly, *Iredell*, III, 380–84.) Poellnitz (1734–1801), who had been “Lord Chamberlaine” to Frederick the Great, arrived in America in 1782 and lived for a brief period in Edenton, N.C., where he befriended James Iredell. From 1784 to 1790 the Baron lived in a mansion on a farm in the Murray Hill section of Manhattan Island, N.Y., where he carried on agricultural experiments. He also invented a threshing machine. In February and March 1790 he published several articles in the *Gazette of the United States* under the pseudonym “Rusticus,” in which he criticized the institution of slavery. The Baron also published a pamphlet entitled *Essay on Agriculture* (New York, 1790) (Evans 22805). After he sold his Murray Hill estate, he moved to Marlboro County, S.C., settling on a large parcel of land.

2. For Iredell's response to Mason, see "Marcus," RCS:N.C., 70–85, 87–92n, 93–102, 102–6.

3. *The Federalist* series was begun by Alexander Hamilton on 27 October (CC:201).

Edenton Intelligencer, 16 April 1788¹

A correspondent says, that he hopes when we have an effective federal government, that they will issue a continental paper medium, on as good a security as that on which our paper medium is issued; after which he hopes they will give every encouragement in their power to our own manufactures. He says, that when we manufacture as many dry goods, &c. as we want, that the whole of them may be paid for with our paper medium, whereas, all the dry goods we import must be paid for with our produce or with the specie we get for the produce we sell, which prevents our becoming a rich people. He says, if we manufacture our own dry goods, that then all produce will be sold for specie, which would bring an annual influx of wealth into the United States.

1. The *Edenton Intelligencer* for 16 April is not extant. The transcription is taken from the *Boston Gazette*, 26 May, the only reprinting that has been located, under the dateline "EDENTON, (N.C.) April 16."

Silas Cooke to Henry Marchant

New Bern, N.C., 20 April 1788 (excerpts)¹

Dear Brother

. . . The new constitution is the grand Subject of Speculation here at present, the poeple are much divided upon it and in some Counties the Elections have been so warm as to occasion bloodshed and Murder, the few Fœdral members that are constituted are competent men but I fear we shall fail in the Adoption of the Constitution here. however our Convention does not meet till July before which I feel an Assurance that Nine States will have acceded to that wholesome System. . . .

With Love to my dear Sister I remain Affectionately Your friend & Brother

1. RC, Marchant Papers, Rhode Island Historical Society. Cooke (1753–1798), a native of Rhode Island and a Newport merchant, was a patriot but refused to sign the Test Act. In 1781 he moved to New Bern, where his brother John was practicing law. He became clerk of the Superior Court of Law and Equity for the New Bern District, serving until his death. Marchant (1741–1796), a Newport, R.I., lawyer, jurist, and gentleman farmer, married Silas' sister Rebecca in 1765. He was a strong supporter of American independence. As a member of the Continental Congress he signed the Articles of Confederation in 1777. Marchant served as a U.S. district court judge, 1790–96. He voted to ratify the Constitution in the Rhode Island Convention in May 1790.

Massachusetts Gazette, 22 April 1788¹

Yesterday the Convention of North-Carolina was to meet² for the purpose of discussing the New-Constitution. The accounts from that state are so flattering, that we hope soon to announce the ratification.

1. Reprinted: Boston *Independent Chronicle*, 24 April; Hartford, Conn., *American Mercury*, 26 April; Springfield, Mass., *Hampshire Chronicle*, 30 April; and Northampton, Mass., *Hampshire Gazette*, 30 April.

2. Newspaper reprints replaced the phrase “Yesterday the Convention of North-Carolina was to meet” with the phrase “The Convention of North-Carolina was to meet on Monday last.”

Virginia Centinel, 23 April 1788

The last accounts from the state of Franklin mention, that the inhabitants of that self-created state are busily employed in furnishing themselves with implements of war, in order, they say, to protect their rights against the machinations of aspiring tyrants. They vainly imagine the United States have nothing to do with them—legal government they despise, of course are no friends to the new Constitution.

Winchester Virginia Gazette, 23 April 1788¹

All we have Yet seen from North-Carolina respecting the fate of the new government in that state, differ very materially. Some say, its adoption will meet with very little difficulty; others, that it will positively be rejected.

1. Reprinted: *Pennsylvania Packet*, 6 May.

**Archibald Maclaine to James Iredell
Wilmington, N.C., 29 April 1788 (excerpt)¹**

. . . Martin’s paper, which teems with anti-federalism, made General Washington lose his election for Fairfax county; but we since hear that he declined being a member that Federalists are chosen, and that Mr Mason was rejected.² We have also heard that many of the people in that State are changing in favor of the new constitution. This is said to be the case with several in this part of the country. It is however no very good sign that in some counties so many have been left out for their attachment to a form of government so well calculated to make the people happy—General Jones, Mr Blount, Mr Hooper, Mr. Moore, Governor Martin, and even Judge Williams (who was mistakenly supposed to conceal his sentiments) have been rejected.

I suppose you have heard of the doings in Dobbs—Thank God, we have had nothing like it in any other county—It is said there are several of both parties killed.³ We hear that Spencer is returned; so that we shall have the honor of *one* of the Judges among us. His honor Judge Ashe, who had by his friends as well as himself announced his inclination to serve the people on this important occasion, and who seemed so secure of being chosen, that he told one of his friends to whom it was inconvenient to attend the election, that he need not go, as he, the Judge, was certain of succeeding—had only Eight votes. This was the more remarkable, as the bulk of the people, were, like himself, anti-federalists. . . .

1. RC, Personal Misc. Papers, DLC. Printed: Kelly, *Iredell*, III, 395–97n.

2. Washington chose not to stand for election to the Virginia Convention. George Mason, as an Antifederalist, knew that he could not be elected to the Virginia Convention from Fairfax County. He was, however, elected a Convention delegate from Stafford County, where he owned property.

3. For the Dobbs County election riot, see RCS:N.C., 183–97.

Wilmington Celebrates St. Tammany's Day, 1 May 1788¹

Thursday last, the 1st day of May, being St. Tammany's day, the tutelary Saint of America, the FEDERAL CLUB met at Mr. Patrick Brannan's, agreeable to rule, where an elegant and sumptuous dinner was provided for the occasion.

They enjoyed the day in the greatest good humour and cheerfulness, and amity crowned the festive evening.

The following Toasts were given by their worthy and respectable President, A. Maclaine, Esq; which were drank with sincere energy by these Sons of St. Tammany.

1. United States.
2. St. Tammany, and the Friends of America.
3. General WASHINGTON.
4. Doctor FRANKLIN.
5. Unanimity and steadiness to the Councils of the United States.
6. The Friends of Liberty.
7. North-Carolina.
8. Governor JOHNSTON.
9. May industry and integrity characterise the inhabitants of North-Carolina.
10. Wilmington, and the trade of Cape Fear.
11. Our great men good, and good men great.
12. Injuries in dust, Friendships in marble.
13. The Federal Club.

An itinerant gentleman, who participated of the above agreeable entertainment, observes, that it was with the most pleasing satisfaction he saw so numerous a company, composed of men from all nations (the majority of whom were adopted sons of our tutelar Saint) unite to celebrate the first of May, in this Land of Liberty; and after truly enjoying the day, separating with spirits highly exhilarated, in the greatest unanimity and good humor, not the least symptom of discord appearing through the whole.

1. This item was first printed in the no-longer-extant 7 May issue of the *Wilmington Centinel*. It was reprinted under the dateline "WILMINGTON, (N.C.) May 7" in the *New York Daily Advertiser*, 21 May; *New York Journal*, 22 May; and *Pennsylvania Packet* and *Philadelphia Independent Gazetteer*, 24 May. The transcription is taken from the *Daily Advertiser* reprinting. Chief Tamanend of the Delaware Indians had befriended William Penn and early Pennsylvania settlers. Americans formed Tammany societies honoring the memory of Tamanend and the peaceful relations he represented, and they started holding annual celebrations on 1 May.

**Governor Samuel Johnston to James White
Edenton, N.C., 8 May 1788 (excerpts)¹**

I am this day favored with your Letter of the 20th of April and am much obliged to you for the important and interesting communications contained in it

I am particularly obliged to you for your attention to the Affairs of the Citizens on our Western Frontier it will be some satisfaction to them to know the Sentiments of the Spanish Minister and tho you know it has been my Wish to cede that Country to Congress yet as that measure was afterwards done away I shall do every thing in my power to serve the Interests of that People and to keep them in good humor for I perfectly agree with you that People seporate at so great a distance from the Seat of the Publick Offices must be governed more by securing their Attachment by kind Offices than by any exertions of Power. . . .

It is with great concern that I see the difficulties which the Delegates to Congress from this State sustain in negotiating an exchange of the paper Medium so as to afford them a decent support and should be happy to have it in my power to afford them relief, should the new form of Government take place the evil will be removed, otherwise it is to be hoped that the General Assembly will provide a Remedy, so that the minds of the Delegates may be freed from every kind of embarrassment other than what arises from the Duties of their Office. . . .

The several Counties of this State have elected ~~their~~ members to represent them in Convention except in the County of Dobbs where unfortunately a Riot took place at the time when the Sheriff was counting the Suffrages by which means the Ballots were destroyed and he

had it not in his power to decide who had the Majority of Votes.² I hope we shall still fall upon some means to procure a representation from that County

You have no Doubt heard of the unfortunate Affair which happened between Colo. Tipton & a Mr. Severe—I have reason to hope that no further mischief will take place in that manner and that the People will no longer be duped by the Artificies of a man, ~~Mr. Severe~~ who by his folly & presumption has reduced his Affairs ~~himself~~ to so desperate a situation that it is not convenient for him to live under any wholesome & well regulated Government—I shall be happy at all times to hear from you and remain with great Respect & Esteem

P.S. I have enclosed a letter in answer to the Minister of Spain which you will be pleased to do me the honor to deliver

1. FC, Governors' Papers, GP/16, Nc-Ar. White (1749–1809), a native of Philadelphia, a graduate of the University of Pennsylvania, and a physician-lawyer, moved to North Carolina after the Revolutionary War. He represented Chatham County in the House of Commons, 1784; Currituck County, 1784–85; and was a delegate to Congress, 1786–88. In 1786, Congress appointed him superintendent of Indian affairs for the Southern District. White represented Hawkins County (later Tennessee) in the House of Commons and in the Fayetteville Convention, 1789, where he voted to ratify the Constitution. In 1790, the territory south of the Ohio River (later Tennessee) was created, and in 1794 the new territorial legislature appointed him to represent the territory in the U.S. House of Representatives. He remained in that position until 1796, when Tennessee became a state. White moved to Louisiana in 1799.

2. See RCS:N.C., 183–97, for the riot.

William R. Davie to James Iredell
Halifax, N.C., 10 May 1788¹

My dear Sir

Yesterday I got home from Tarboro where I have been this week past, and have to day finished 25 pages of our little collection on the subject of the federal government—I was so constantly interrupted by people on business last week, that I am sure what is done is extremely imperfect, you will therefore have much to add, if in consulting the[m] you find there should be room in the compass of such a pamphlet as we propose.

On the subject of a religious test I have struck out a part of what we had written on that subject, you can however reinstate it if you think proper.

The Judiciary I have left entirely to *you*, as you have already wrote on that subject, and in possession of all the objections against it—

You will find many of the popular objections still omitted, which should be answered, if it can be done without swelling the publication to too great a size: I do not know whether the order and manner we

have adopted will meet your approbation; if it should not, I hope you will make no scruple to alter it in any manner you think proper—

In the hurry this business has been done I am apprehensive it may want considerable correction, I must therefore beg you and Mr. Moore to attend to this matter.

Mr. Sitgreaves² who will hand you this with the papers, will also assist in attending and correcting the press &c., and is extremely anxious for the success of our little publication—He brings with him Mr. Hawkins's subscription and his own and has promised me to have it considerably enlarged: so that I am in hopes five or six rream may be printed.

I congratulate you on the adoption of the constitution in Maryland by so respectable and decided a majority; I have some hopes, I think well grounded too, that So. Carolina and Virginia will put the government in motion before we meet in Convention.

It will be necessary to preface our pamphlet with a note, that it is not offered as an original production, but as a compilation from several fugitive pieces &c., which will excuse us to the author of Marcus and others for the liberties we have taken with them.

The *Address* and *title page* you will [observe?], I have left altogether to you—[Torn]

letter to Mr. Moore as to other particulars—

Make my Compliments to Mr. Hooper and believe me with great respect and regard

1. RC, Iredell Papers, Duke University. Addressed to Iredell "at Newbern Court." The letter was tendered "By Mr. Sitgreaves." Davie refers to a pamphlet that he and Iredell were preparing to publish.

2. John Sitgreaves (1757–1802), a lawyer, represented New Bern in the House of Commons, 1784, 1786–88. He was speaker of the Commons for two sessions, 1787–88. Sitgreaves was the federal district judge for North Carolina, 1790–1802.

Massachusetts Gazette, 13 May 1788¹

The Convention of N. Carolina, which are to meet on the 4th of July next, it is said, will not adopt the Constitution.—But there is yet HOPE!

1. Reprinted: Portland, Maine, *Cumberland Gazette*, 22 May, and Philadelphia *Independent Gazetteer*, 27 May.

Extract of a Letter from North Carolina, 14 May 1788¹

Extract of a Letter from North-Carolina, dated May 14, 1788.

"We are all in an anxious State of Suspence, waiting the Event of the new Constitution. I attended our Assembly last December, and from

the most accurate Statement we could make, Two-Thirds of the Members were in Favour of the Measure.—After which 3 or 4 designing Men, of Influence in the back Counties, whose Interest it is to promote a State of Anarchy, set out violently in Opposition to it—terrifying the People with an Idea that it was intended to establish a King—to bring us under French Government—to establish the Roman Catholic Religion—to suppress the Liberty of the Press—to build a high Wall round the 10 Mile Square (the intended Seat of Government) to be garrisoned by 100,000 Regulars—to subvert our Liberties—and many other like wicked and foolish Absurdities.—Such unfair Representations you may well suppose had the intended Effect with an ignorant and illiterate People.—The Consequence is, that the interior Counties are violently opposed to what is evidently calculated to promote their own Interest and Happiness. I have the Pleasure however to assure you, that the lower Counties are as warm on the other Side—so that the Balance hangs upon a Poize at present—but as Virginia and South-Carolina will undoubtedly adopt the Constitution; and as the most respectable Characters, and all the best Speakers in the State are elected on the Federal Side, I will venture to predict, that the Constitution will be adopted by a respectable Majority of this State—for our Convention will never be so mad as to *vote themselves out of the Union*, and think of standing upon their own Bottom, a distinct Nation, surrounded by powerful and confederated States—(this is the Alternative!—It is however clearly my Opinion, that unless we come peaceably into it, we shall be lashed into it, in the Events of Things, or suffer ourselves to be annihilated as a State.)”

1. Printed: Providence *United States Chronicle*, 5 June. Reprinted twenty-one times by 2 July: N.H. (2), Mass. (5), Conn. (4), N.Y. (3), N.J. (2), Pa. (4), Va. (1). The *Pennsylvania Mercury*, 19 June (one of the twenty-one reprintings) omitted the text in angle brackets.

Wilmington Centinel, 14 May 1788¹

It appears providential, says a correspondent, that the Conventions of those states which appear the most opposed to the Federal constitution, are not to meet until all the other states have discussed the subject; which will be a means of preventing any of them being guided by their decisions.

1. Reprinted: *Massachusetts Gazette*, 10 June; and Providence *United States Chronicle*, 19 June, under the dateline of Wilmington, N.C., 14 May. Because the *Wilmington Centinel* for 14 May is not extant, the text is taken from the *Massachusetts Gazette*, which reprinted it under the heading “By Saturday Night’s MAILS.”

Wilmington Centinel, 14 May 1788¹

The present is a period of momentous concern.—To be a united nation of importance, or petty anarchies, is now the question. The inefficacy of our present government is fully proved by the encroachments of our commerce, the decline of national honour, and the confusion pervading every state. Thus matured in knowledge by painful experience, we are called upon to adopt a system, produced and organized by the deliberations of men, whose virtues and abilities will be an immortal honor to America. Should any state reject this salutary system, unbiassed posterity will consign its name to eternal infamy.

1. The *Wilmington Centinel*, 14 May, is not extant. The transcription is taken from the *Charleston City Gazette*, 4 July, which reprinted this piece under a “Wilmington, May 14” dateline.

Pennsylvania Carlisle Gazette, 14 May 1788¹

A gentleman just from North-Carolina, informs us, that the elections throughout that state was finally closed before he left it, for representatives to deliberate on the establishment or rejection of the proposed constitution; and that there are at least four to one its advocates.

1. Reprinted: *Maryland Journal*, 23 May.

Pennsylvania Gazette, 14 May 1788¹

By a gentleman of respectable character and good information, just arrived from North-Carolina, we learn, that notwithstanding the opposition to the fœderal government in one or two counties, there is no doubt of its being adopted by that state—a great *majority* of the people being *decidedly* in its favor.

1. Reprinted twelve times by 12 June: N.H. (1), Mass. (5), N.Y. (1), Pa. (2), Md. (2), Va. (1). The reprinting in the *New Hampshire Spy*, 31 May, appended: “This is good news from a far country.”

**John Parkinson to Joel Lane
Portsmouth, Va., 18 May 1788 (excerpt)¹**

... this Country is looked upon as Nothing in the Eyes of Europe, they look on the New Constitution with Pleasure as they think it will involve us in Greater distress than at Present we labour under[.] I have her'd many debates about it since my Arrival here, tho' the People in General seem to wish it may take Place, in my Opinion it will be of

service to the Maritime Parts of this State & Carolina but it must certainly hurt the back Country as there Taxes will Inevitably be much higher, & their determination to Keep up a Respectable Fleet as well as a Standing Army will very much Inhance the expences of the different States, I understand that all the County's about you are much against it, & in my Opinion it will be to your Interest in the upper Parts if it dont Pass tho' am afraid it will as Seven States has already given their Approbation there is then only two wanting to compleat the Grand work as some People term [it] tho' God send they may not be Mistaken I am afraid before this Afair is Over this Continent will again feel all the Horrors of War as the People in general seem determin'd in their different Opinions. . . .

1. RC, John Walker Papers, 1735–1909, Nc-Ar. Lane, a planter, represented Wake County in the North Carolina Senate almost continuously from 1782 to 1795. He voted not to ratify the Constitution in the Hillsborough Convention in 1788 but voted to ratify in the Fayetteville Convention in 1789.

Extract of a Letter from New York, 18 May 1788¹

Extract of a letter from New-York, dated May 18.

“Dr. Williamson has lately arrived from North-Carolina—he thinks the Constitution will be adopted in that State—he being a very judicious man, I depend much on his information, though it is different from what we have generally had from that quarter.”

1. Printed: *Massachusetts Centinel*, 28 May. Reprinted nine times by 1 July: N.H. (1), Mass. (5), N.Y. (1), Pa. (1), S.C. (1).

John Lamb to Willie Jones New York, 19 May 1788¹

The importance of the Subject upon which we address you we trust will be a sufficient apology for the liberty we take.

The system of government proposed by the late Convention to the respective States for their Adoption, involves in it questions and consequences in the highest degree interesting to the People of these States.

While we see, in common with our Brethren of the other States, the necessity of making Alterations in the present existing federal government we cannot but apprehend that the one proposed in its room contains in it principles dangerous to public Liberty and Safety.

It would far exceed the bound of a Letter to detail to you our objections to the proposed Constitution. And it is the less necessary we should do it, as they are well stated in a publication which we take the

liberty of transmitting you in a series of Letters from the federal Farmer to the Republican.² We renounce all Ideas of local Objections, and confine ourselves only to such as effect the cause of general liberty, and are drawn from those genuine republican principles and maxims which we consider as the glory of our Country, and which gave rise to the late glorious revolution, and supported the Patriots of America in effecting it.

Impressed with these sentiments, we hold it a duty we owe our Country, our Posterity and the Rights of Mankind to use our best endeavours to promote amendments to the System previous to its adoption.

To accomplish this desirable event it is of importance that those States who have not yet acceded to the plan should open a Correspondence and maintain a communication. That they should understand one another on the Subject, and unite in the Amendments they propose.

With this view we address you on the Subject and request a free correspondence may be opened between such Gentlemen as are of opinion with us on the Subject of Amendments. We request your Opinion on the matter, and that you would state such Amendments as you judge necessary to be made.

As the Conventions of New Hampshire and Virg[inia] will be in Session at the same time ours will be, we have written to some of the members of those Conventions, who are opposed to the new Constitution in its present form, on the subject of opening a correspondence between the Conventions, which we hope will be effected, being convinced if put in execution, many good consequences will result.

It is not yet declared who are the Members elected for our Convention—The Ballots are to be counted the last Tuesday in this Month³—But, from the best Information received from the different Counties, we have not a doubt of their being a decided and considerable majority returned who will be opposed to the Constitution in its present form. A number of the leading and influential Characters who will compose the Opposition in our Convention are associated with us—We are anxious to form a Union with our Friends in the other States—and to manifest to the Continent, and to the World, that our opposition does not arise from an impatience under the restraint of good government—from local or state attachments—from interested motives or party Spirit—But from the purer sentiments of the love of liberty, an attachment to republican principles, and an Adherence to those Ideas which prevailed at the Commencement of the late Revolution, and which animated the most illustrious Patriots to undertake and persevere in the glorious but arduous Contest.

In behalf of the federal republican Committee I have
the honour to be Sir, Your most obedient Servant
John Lamb Chairman

1. RC, North Carolina State Papers (1788–1789), Duke University. Lamb also wrote letters to several other Antifederalists including Timothy Bloodworth and Thomas Person in North Carolina. Lamb (1735–1800) was active politically in the movement toward independence and in the army. Wounded several times (including the loss of an eye), Lamb was captured at Quebec in 1775. In 1783 he was breveted a brigadier general. He served as collector of customs for the Port of New York City, 1784–89, and as U.S. collector of the Port of New York, 1789–97. During the debate over ratifying the Constitution, Lamb was an active Antifederalist serving as chairman of the New York Federal Republican Committee. See Bloodworth’s responses of 23 June and 1 July (RCS:N.C., 163–64, 165–66).

2. *An Additional Number of Letters from the Federal Farmer to the Republican* . . . was offered for sale in New York City on 2 May 1788 (CC:723). It was a continuation of a pamphlet of five letters written by “Federal Farmer” and published in November 1787 (CC:242).

3. New York’s election law of February 1787 provided that the ballot boxes would be opened and counted four weeks after the election, which occurred between 29 April and 3 May.

**Thomas Iredell, Jr., to James Iredell
Edenton, N.C., 22 May 1788 (excerpt)¹**

My Dear Brother:

. . . Mr. Allen this morning read to me part of a letter he received from a gentleman of his acquaintance, who mentions a conversation he had with General Parsons,² the substance of which was, “*that General Washington was a damned rascal, and traitor to his country, for putting his hand to such an infamous paper as the new Constitution.*” Mr. Allen’s correspondent desires him to have it published; and, at the same time, to have it inserted “that any person who may be desirous to know his name, may be informed of it by the printer.” . . .

1. Printed: Kelly, *Iredell*, III, 398–99. Thomas Iredell, Jr. (1761–post-1796) was a native of England who amassed a large debt and was invited to America by his brother James Iredell. “Tommy” came to America in the late summer of 1784 and studied law in Edenton with his brother, eventually becoming a lawyer.

2. Probably Thomas Person.

New York Journal, 31 May 1788

Also arrived schooner General Washington, William Mead, master, in eight days from Wilmington, by whom we have received the Wilmington Centinels to the 21st instant.

These papers contain but little LOCAL intelligence of that country; but we are favoured with the opinions of some of the first characters

there, which are in brief as follow:—That in the trading towns in general, the political sentiments of the majority favor the new constitution; but that the country is greatly opposed to it. The most zealous advocates of that system, however, do not despair of making a sufficient number of proselytes for its final adoption in that state, to do which no means are left unessayed.

Providence Gazette, 7 June 1788¹

Yesterday Capt. Swaine arrived here in six days from Washington, North-Carolina, where he touched, and tarried only three or four days.—As that Port is distant from the Seat of Government, he brings nothing new, either federal or antifederal.

1. Reprinted: Connecticut *Norwich Packet*, 12 June.

**Governor Samuel Johnston to Hugh Williamson
Edenton, N.C., 10 June 1788¹**

I am favored with your Letters of the 23d & 26th of May and now send you the printed Sheet of the Acts of our last Session of Assembly containing the Act referred to in yours of the 26th.² I wish it may come up to the expectation of Congress. I expect shortly to see the Secretary and will get him to Certifie a Copy if it should be necessary, I have not yet been able to procure a Copy of the Journals, tho I have repeatedly applied for them, the printer has promised to send a Copy very soon when I will forward the extract you desire

I am very glad that you have set the publick right with respect to the Riot in Dobbs, I was very much hurt by Martins publication but did not then apprehend so extensive a circulation of it,³ I every day expect a Petition from the Inhabitants of that County for my Sanction to a New Election which I shall readily grant

It is with singular pleasure I congratuete you on the accession of the State of South Carolina to the new Constitution ~~and hope soon to be able to hear that Virginia has done the same~~ this I hope will have a happy effect on the disposition of the Western & Southern Inhabitants of this State and if Virginia likewise concurs I think there is reason to hope that this State will not hold out against it

I am very much pleased with the Pamphlet you were so obliging as to send me. Hodge had published the whole of it in his Gazette and it has been very well received⁴

I hope Mr. Swann will be with you before this and that there will be a sufficient number of States in Congress to enable them to proceed on business, at least if there is not that the fault will not be ours

I have the honor to be with great Respect

1. FC, Governors' Papers, GP/16, Nc-Ar.
2. In his letter of 26 May 1788, Williamson asked Governor Johnston to send him a copy of North Carolina's act of 22 December 1787 that made the Treaty of Peace the law of the land in North Carolina (Smith, *Letters*, XXV, 115).
3. A reference to the *North Carolina Gazette's* 16 April report of the Dobbs County riot and Williamson's response to that account published anonymously in the *New York Packet*, 20 May (RCS:N.C., 184–85, 187–88).
4. A reference to the pamphlet edition of Iredell's "Marcus" series that was also printed in Hodge and Wills' *State Gazette of North Carolina* (RCS:N.C., 71).

Hugh Williamson to James Iredell
New York, 11 June 1788 (excerpt)¹

The public Papers have not for many days afforded us any News, all Expectation is turned towards Virginia, We take for granted, I do at least, that N Carolina will follow Virginia in adopting or rejecting. I confess that my Hopes are not sanguine, but of this I do not consider myself bound to say all that I think.

Congress have before them sundry matters of considerable Import which have been eventing in the Course of seven Month, for there have been nine states on the floor for a few days last past only. Having come on here with a Resolution to indulge myself in as much Leisure as any other of my fellow Labourers, the Start I have some how been constrained to take has not fully accorded with my Plan, but I shall try to mend after a few Land Questions are determined. Those Questions are extremely weighty as the national Funds are concerned. At present I have not Leisure even to return Visits. . . .

1. RC, Iredell Papers, Duke University. Printed: Kelly, *Iredell*, III, 401–2. The letter was docketed as "Ansd. June 25th, 1788."

Nicholas Gilman to John Sullivan
New York, 12 June 1788 (excerpt)¹

. . . I believe there is now little or no reason to doubt the success of the question in North Carolina—The Honorable Mr. Williamson has lately arrived from that State and assures me that he has not been able to inform himself from what quarter the opposition is to come and that he entertains no doubt of the ratification by their Convention—

With the greatest Respect

1. RC, State Papers Relating to the Revolution, II (1785–89), 167–68, New Hampshire State Archives. Printed: Smith, *Letters*, XXV, 164. The portion of the letter omitted here, which concerns the prospects of ratification by Virginia, is printed in RCS:Va., 1614. Samuel A. Otis, another delegate to Congress, wrote that "North Carolina looks well at present, and will certainly join the list unless Virginia should be so unfortunate as to stand out, in which case N. Carolina may waver" (to Theodore Sedgwick, 6 June 1788,

Smith, *Letters*, XXV, 143). Gilman (1755–1814), a New Hampshire merchant, was a delegate to Congress, 1786–89; a delegate to the Constitutional Convention, 1787; a U.S. representative, 1789–97; and a U.S. senator, 1805–14. Sullivan (1741–1795), a lawyer, was a general in the Continental Line during the Revolutionary War. He was New Hampshire state attorney general, 1781–86; state representative, 1785–86, 1788–89 (speaker, 1785–86); state president, 1786–88, 1789–90; president of the state ratifying Convention, 1788; and U.S. district judge, 1789–95 (illness prevented him from serving during the last four years, although he did not resign).

Honestus

Wilmington Centinel, 18 June 1788¹

To the people of the state of North Carolina.

I am one that has not only served all the time of our late war, but shared with those brave men who took an active part in support of our cause, in all their heavy losses, occasioned by the necessary expences to support our army. When the war was over, I returned to the country and renewed my occupation as a farmer, fully persuaded, that our established united government, when properly supported and attended to, would maintain us in the obtained liberty and blessed tranquility of our independency. But to my great surprise, I found that after a few years were elapsed, a general clamour was raised all over the continent, “that Congress had not power enough to enable them to fulfil the engagements on their part, to support the nation.” To make the citizens sensible of this assertion, several runners, with verbal persuasions, and hiring writers, were let loose upon the public to create parties. This mode had the wished-for effect. A general meeting, called a convention, was agreed upon, and every state’s members were hurried away to Philadelphia. That ten out of one hundred citizens in each state, did not know at that time of such a proceeding, or even had heard of the great and serious points which were to be decided by their members, could be easily proved. After a long and expensive session, their whole production came out, which must have convinced the public, that the convention had formed quite a new government, which, in point of their mission, was contrary in several articles to our first and still existing federal government. The object of their consideration, was “to invest Congress with more power to raise the necessary revenues effectually, [”] &c. Since the appearance of the proposed plan, the public has been, and is still entertained from all quarters, with letters and pamphlets, holding out the great advantages and blessings which will be ours, after agreeing to the said plan, with all the new offices, &c. &c. However very few persons can be ignorant of the ill consequences which always have followed upon the establishment of such a government as the proposed one. And all the people of the ancient republics

lost their liberty, by being too liberal in bestowing too much power to their chosen leaders, though ever so virtuous and disinterested in their private life and situations, but when once granted, it is not so easily to be altered or recalled. The Romans were aware of this, and therefore made choice of their rulers every six months.

The plan of the convention did not meet the approbation of all the delegates, however those in opposition were over powered.

In several late petitions by respectable citizens, which have been presented against the new government, have been stated the great danger which could and perhaps might follow, in consequence of adopting the proposed plan. In Pennsylvania, several persons have complained, "that their active and great men had hurried them into a favourable opinion, and therefore would protest against the decision of their members,["'] &c. &c.²—The New-Jersey members did agree to the plan, but observed, that some alterations were essentially requisite, viz. That the president should not be elected for four years, but for one year only; nor should he have the power to keep a standing army or navy, neither the sole power to mint money for all the states, nor to establish that high and arbitrary court in law, nor the toleration act, by which every Jew or Infidel could come into an office.³

The governor of Virginia has openly declared to his present assembly, by a message, his reasons why he could not sign the instrument, or proposed constitution, although he was a member of the convention which formed the plan.⁴ He thought it was too dangerous for the present and future generations.—The state convention of Massachusetts have accepted the plan; but have proposed amendments.⁵ New-Hampshire did meet, but could not agree, and were obliged to adjourn to the 17th of this month, hoping that by that time their constituents would give up their opposition. Rhode Island has not yet agreed to the system. Maryland has adopted it, but with some alterations.⁶ South-Carolina has tacitly agreed to it, though several learned objections were made.⁷

The repetition of these proceedings, as also a true explanation from the beginning of this great affair, I thought absolutely necessary, to shew to those who live too remote to hear all news, and to see all the political letters, how the present troubles and expensive elections and meetings were brought upon us. As every individual will be obliged to pay his share in taxes for the occasioned expences, he also ought to know the true state thereof. All the writers have hitherto flourished with studied arguments in favour of the plan, and their opponents have been run down in the most illiberal manner, solely because they would not allow it to be the best government for this extensive country. As our state members will have their meeting at Hillsborough in July, and

have had time to hear the decision of all the other states, as also to take fully the sense of their constituents, it is to be hoped, that their acceding to the plan proposed, will be with such amendments as will prevent any encroachment on, but have our present established government for the foundation, to the future allowances, which expressly forbids to keep a standing army.⁸

It is highly necessary that Congress should have more power, in being allowed to raise those sums of money which are wanted to fulfill their made engagements during the late war, abroad and at home; likewise to fix a standard for the solid coin for all the states; but the minting the sums wanting in each state, according to its strength in trade, ought to be solely left to each state, as the profits of the mint will greatly lessen the taxes and free the good citizens of such a burden, which by the management of a general mint, would be brought upon them.

The army, navy, and a general mint, are the three greatest and most powerful objects which will enforce obedience against all resistance. Troops when once in pay and service, make no distinction, if employed against a foreign enemy or their own relations, when led on by their officers, though kept up by our taxes. We have no neighbours who can come and make war upon us, without our being informed in time, and then our militia is strong enough to oppose them, when properly trained and officered, which is an object that requires our attention.

1. On 11 June, the *Wilmington Centinel* announced that "HONESTUS is received, but was omitted for want of room; it shall be duly attended to in our next."

2. See William Findley's speech in the Pennsylvania Convention, 12 December 1787 (RCS:Pa., 587), and the "Dissent of the Minority of the Pennsylvania Convention," 18 December 1787 (RCS:Pa., 622).

3. No specific objections aired in the New Jersey ratifying Convention are extant. "Un-itas" in the *Pennsylvania Mercury*, 5 January 1788, alluded to the "doubts and difficulties" raised in the Convention that were effectively "cleared up" by David Brearley who had been a delegate to the Constitutional Convention (RCS:N.J., 194–95).

4. See Governor Edmund Randolph's letter to the Virginia House of Delegates, 10 October 1787 (CC:385), which was printed as a pamphlet in late December.

5. For the amendments recommended by the Massachusetts Convention, see CC:508.

6. The Maryland Convention considered recommendatory amendments to the Constitution but failed to approve them. See CC:716, and RCS:Md., 659–82.

7. For the amendments recommended by South Carolina, see CC:753.

8. Article XVII of the North Carolina Declaration of Rights specified that "as standing Armies in Time of Peace are dangerous to Liberty, they ought not to be kept up" (Appendix I, RCS:N.C., 824).

New York Journal, 19 June 1788 (excerpt)¹

*Extract of a letter from a gentleman in Richmond
to his friend in this city, dated June 9.*

... I can assure you, that North-Carolina is more decidedly opposed to the new government than Virginia. The people there seem ripe for hazarding all before they submit.”

1. For the full letter, see Mfm:Va. 298.

**Timothy Bloodworth to John Lamb
North Carolina, 23 June 1788¹**

On the 20th Inst. I was Honored with your Favor by Captain Meeds; those by the way of Virginia have not yet come to hand.

The power of Language is insufficient to describe the satisfaction experienced on this occasion; be assured I shall seize with avidity the pleasing proposition, and use every exertion in my power, that may be founded on the principles of Honor, to effect a purpose in itself so laudable and Essentially necessary for the welfare of the United States, as also the security of those unalienable rights and priviledges of mankind—

I have viewed with astonishment the blind enthusiasm of the intoxicated multitude in those States who have adopted, the new plan of Government, rejoicing with empty parade in a measure that may prove their total ruin and everlasting disgrace.

Fearful apprehensions has frequently exercised my troubled mind, when I discovered the rapid progress of the proposed System, lest similar to a raging torrent, it should burst over all bounds of opposition and restraint, and consign to oblivion the boasted priviledges of this once happy Country—

I confess my expectations on New-York were sanguine, from the small knowledge I had acquired of the disposition of that State in general, and a slight acquaintance with some of the leading Characters; (although you are not destitute of Gentlemen who thirst for domination) Yet I am happy to find that my expectations on that head were well founded—

Virginia has also shared a part of my confidence, with a mixture of Despondency lest their Judgment should be led astray by the lustre of that shining Character who presided in the Convention.²

With respect to the politics of North Carolina, my observations are founded more on current report and private opinion than certain knowledge, and just information, within the Circle of my acquaintance, there is a decided majority against the adoption of the proposed Government, and by current report it is the case throughout the State, which I believe to be true, from the knowledge I have of the disposition of the members in general. The Attorneys, Merchants, and Aristocratic

part of the community are in favor of the adoption with a few exceptions, but the body of the people, I may venture to say, are much opposed to the measure. Many of our Leading Characters have lost their Election by declaring their Sentiments in favor of the new System, while others shared the same fate through suspicion.

I have wrote to some of the Neighbouring Counties and sent part of the pamphlets,³ I have also proposed a Committee which is to meet next Saturday, at which period (I flatter myself,) we shall enter into a correspondence with your Committee, and give an answer to their proposals.⁴ should I give my opinion as an individual it appears to me advisable that the amendments proposed should originate from Your Quarter for several reasons which I forebear to [enumerate?]

Please to accept my sincere acknowledgments for the pamphlets, Communication, and polite address.

1. RC, Lamb Papers, NHi. Bloodworth was responding to the New York Federal Republican Committee's correspondence to leading Antifederalists whose states had not yet ratified the Constitution. Lamb's May letter to Bloodworth is not extant. The New Yorkers also wrote to Thomas Person and Willie Jones in North Carolina. For Lamb's 19 May letter to Jones, see RCS:N.C., 155–57.

2. A reference to George Washington presiding over the Constitutional Convention.

3. The pamphlets included the second and perhaps the first pamphlet by "Federal Farmer" (CC:242, 723), the pamphlets signed by "A Columbian Patriot" (CC:581) and "A Plebeian" (CC:689), and Luther Martin's "Genuine Information" (CC:678).

4. For the North Carolina committee of correspondence's answer to the proposals of the New York Federal Republican Committee, see Bloodworth to Lamb, 1 July (RCS:N.C., 165–67).

James Benton to Thomas Hart

Hartford, N.C., 29 June 1788 (excerpts)¹

. . . The only News we have here is the Subject of the New Federal Government. Our Citizens are generally against it, excepting such as understand something of the Nature of Governments, and very few of those in the upper part of the State could get into the Convention. Mr. Hooper & Col. Alfred Moore were left out in Orange Election. I dont know what our Foolish Members may do now the Government is adopted by nine States. They hate most D—nibly to be cut off from the means of Cheating their Creditors with fraudulent Paper Currency and all such like dishonourable advantages. . . .

Dr. Sir Your sincere Friend and most Obedt. Servt.

1. RC, Thomas J. Clay Papers, 1st Series, Vol. 2, 1787–1796, DLC. Addressed to Hart in "Hagers Town, Mary-Land" and annotated "Honoured by Mr E. Rice." Benton (1740–1825) speculated heavily in Tennessee lands obtained at depreciated prices from Revolutionary War soldiers. Hart (1729–1808), a native of Virginia, was a wealthy land spec-

ulator, merchant, and manufacturer. He moved from Virginia to Orange County, N.C., around 1757 and later to Kentucky in 1794. He was sheriff of Orange County, 1763–65, 1768. Hart represented the county in the colonial assembly, 1773–75; in the first three provincial congresses, 1774–75; and the state Senate, 1777. During the Revolutionary War, he was successively a captain, major, and lieutenant colonel.

Timothy Bloodworth to John Lamb
North Carolina, 1 July 1788¹

The importance of the subject on which you address us needs no apology, but confers an obligation on those patrons of Liberty whose attention to the public welfare merits our most candid acknowledgments.—

It affords us infinite satisfaction to discover your sentiments on the proposed system of Government, as they perfectly coincide with our ideas on that subject.—

Altho' additional powers to the confederated system, meet our fullest approbation, yet we cannot consent to the adoption of a Constitution, whose avenues lead to aristocratic tyranny, or monarchical despotism, and opens a door, wide as fancy can paint, for the introduction of dissipation, bribery, and corruption, to the exclusion of public virtue, whose luxuriant growth is only discoverable in the fertile soil of Republicanism, the only asylum for the Genius of Liberty, and where alone she can dwell in safety.

We perfectly agree with you in the Idea of local considerations, and cheerfully inlist in the cause of general liberty and republican principles, and leave the uncertain event to the allwise Governor of the universe, with the flattering hope of equal success with those memorable patriots, who effected the late Revolution in despite of the iron hand of power; to the astonishment of all Europe.—

We acknowledge the obligation to our Country, Posterity, and the rights of Mankind, and will join our feeble efforts to effect the ends you propose; but we are apprehensive that Virginia will accede to the Measure; by a late report we hear that a majority of Thirty are in favor of the adoption; should this be the case, it will probably have a prevailing influence on our State, a decided Majority of which, have hitherto appeared averse to the proposed Constitution, we shall notwithstanding pursue the attempt with unremitting ardor as far as the contracted period and opportunity will admit.

Permit us to observe that we deem it Expedient that the necessary amendments should originate with you, one obvious reason (to mention no more) is presented on a cursory view. Viz. it is impracticable to collect the sense of our Members before they are convened, your

State will be in session when this comes to hand and possibly the revision of the new System may have taken place,—

We request you would forward the proposed amendments, and we presume the two States will not differ materially on this Subject, being actuated by Similar motives, the Love of Liberty and an attachment to Republican principles, exclusive of sinister views

In behalf of the Committee of Correspondence I have the Honor to be Sir Your most Obedient Humble Servant

1. RC, Lamb Papers, NHi. Bloodworth signed this letter as “Chn” of “the Committee of Correspondence.” This is the committee that he had “proposed” in his 23 June letter to Lamb (RCS:N.C., 164).

William Hooper to James Iredell
Hillsborough, N.C., 2 July 1788 (excerpts)¹

My dear Sir,

We are kept in a state of anxious ignorance and suspense as to what may be the final result of the Virginia deliberations upon the New Constitution. To day we are flattered with a report of its being embraced by a large majority, to morrow we may possibly be mortified with accounts of its fate being in doubt or that it is utterly rejected.

People in this Western Country have become much more moderate, and many who were zealously opposed to it have changed their tones. It is said that the Mebanes advocate it unreservedly and endeavour to make converts. The quakers are for it & Oneals brother bullies in its favour. I have not a tittle of doubt but that our Convention will have a favourable issue. . . .

Adieu My dear friend

1. RC, Charles E. Johnson Collection, Nc-Ar. Printed: Kelly, *Iredell*, III, 403–5n. The address page was endorsed: “By favr of Mr. McKerrell.”

Richard Dobbs Spaight to Levi Hollingsworth
New Bern, N.C., 3 July 1788 (excerpts)¹

. . . I am glad to hear that New Hampshire is so favorably disposed towards the New Constitution: we have Just received accounts that Virginia has ratified by a Majority of ten; this I think gives the finishing strike to it, and I dont suppose any State will now reject it. This State I’m sure will follow the foot steps of Virginia. . . .

I am with great Regard Your obliged Hum. Sert.

1. RC, Hollingsworth Papers, PHi.

Fayetteville, N.C., Celebrates the Fourth of July 1788¹

FAYETTE-VILLE, July 5, 1788.

Yesterday being the anniversary of the Independence of the United States, the American flag was hoisted upon the new state house at day break, and the morning ushered in with the firing of cannon, and ringing of bells. At two o'clock an elegant table was set upon the exchange, about seventy feet in length, at which were seated nearly one hundred gentlemen, served up with every thing the heart could desire, either to pall a hungry appetite, or inspire the soul with liberal mirth, when the following toasts were drank, accompanied with the discharge of thirteen cannon.

- 1st. The independence of the United States.
- 2d. Congress.
- 3d. General Washington.
- 4th. The state of North-Carolina.
- 5th. Governor Johnston.
- 6th. His most Christian Majesty.²
- 7th. The Marquis de la Fayette.
- 8th. The memory of those brave officers and soldiers, who fell in defence of American liberty.

1. Printed: *Wilmington Centinel*, 23 July.

2. King Louis XVI of France.

**Halifax, N.C., Celebrates the Fourth of July 1788
and Ratification by Nine States¹**

HALIFAX, (N.C.) July 4

The morning of this memorable day was ushered in by nine discharges from the town Artillery, in honor of the nine states who had adopted the new Constitution. At eleven o'clock Captain Muir's troop of Horse, and the Artillery company under the command of Captain Pasteur, paraded on the commons in complete uniform: a variety of manœuvres were performed with great exactness and propriety by the cavalry who made a very elegant and martial appearance. At 2 o'clock the citizens of the town, with a number of gentlemen from the country, sat down to a dinner prepared perfectly in the military stile, in a grove adjoining the commons; and after dinner the follow[ing] toasts were drank, accompanied by separate discharges of cannon.

- 1st. The auspicious fourth of July, 1776.
- 2d. The United States.
- 3d. The powers of Europe in alliance with America.

4th. The state of North Carolina.

5th. The illustrious commander in chief of the late American army.

6th. His Excellency Samuel Johnston.

7th. The memory of those patriots who fell in the defence of American liberty.

8th. May the *Union* of America be as immortal as the memory of her Heroes.

9th. May the American flag be for ever the banner of liberty.

10th. The agriculture, manufacture, and commerce of America.

11th. May order and justice form the pillars of the American Government.

12th. May the citizens of America display as much wisdom in preserving their liberties as they have shewn fortitude in defending them.

13th. Peace and free Governments to all the nations of the earth.

The utmost festivity and good humour prevailed through the whole entertainment; and the evening was closed with a ball, which was honored by a numerous and splendid attendance of the ladies.

1. Printed: *Virginia Independent Chronicle*, 16 July. Reprinted: *Pennsylvania Packet*, 21 July; and *New York Journal*, 25 July. Halifax was celebrating the ratification of the Constitution by Virginia on 25 June 1788, not yet knowing that New Hampshire was the ninth state to ratify on 21 June 1788.

Editors' Note

Wilmington, N.C., Celebrates Ratification by Virginia, 4 July 1788

On 4 July 1788 Wilmington celebrated the ratification of the Constitution by Virginia. The *Wilmington Centinel* printed an account of the celebration on 9 July, but that issue is not extant. "An Inhabitant of Wilmington" in the *Wilmington Centinel*, 16 July (RCS:N.C., 172), questioned the accuracy of the report.

William R. Davie to James Iredell

Halifax, N.C., 9 July 1788¹

My Dear sir

I have the pleasure of acknowledging your letter of the 30th of last month with the Pennsylvania debates² and the 2d. Volume of the *Federalist*,³ for which you will please to accept my thanks—

The decision of Virginia has altered the tone of the *Antis* in this quarter very much—Mr [Willie] Jones says his object will now be to get the Constitution rejected in order to give weigh[t] to the proposed

amendments, and talks in high commendation of those made by Virginia⁴—they have reached you no doubt before this time—those that are of any consequence by affecting the operation of the principles of the Constitution are in my opinion quite inadmissible, particularly the 3d. and the Amendment to the Judiciary.⁵

Yesterday I saw a Mr. Lambert from Richmond⁶ who say'd Govr. Randolph informed him the day before he set out that New-Hampshire had ratified the Constitution—We spent the 4th. of July here in great good humor, notwithstanding our differences about the new Government—Please to have the enclosed inserted in your Gazette for us, and make my request to your brother to correct the press in this Article for us, or your Printer will make an entire different story of it—.

A Mr. Lamb as Chairman of a Committee in New York, which he stiles the “Federal Committee” has written to Mr. Jones, Thos Persons and Tim. Bloodworth recommending to them to be steadfast in the opposition, and enclosing a large Packet of Antifederal pamphlets to each of them.⁷—It is astonishing the pains these people have taken—Willie felt some mortification in finding himself in the company of Bloodworth and Persons—.

Adieu My Compt. to your Brother. We shall see you I suppose about Tuesday.

I am with much esteem

1. RC, Iredell Papers, Duke University.

2. The Pennsylvania Convention *Debates* were published in February 1788 (CC:511).

3. First published as eighty-five essays printed in New York City newspapers, *The Federalist* essays were compiled and published as two volumes in March and May 1788 (CC: 639; CC:Vol. 6, pp. 83–87). Essay numbers 78–85 appeared in the second volume before they were printed in the New York City newspapers.

4. The Virginia Convention unconditionally ratified the Constitution on 25 June 1788 and two days later recommended forty amendments to the Constitution (CC:790).

5. The Virginia Convention's third amendment prohibited the federal government levying direct taxes on people before Congress first laid requisitions on the states to contribute their assigned quota of the total tax levy. Virginia's fourteenth amendment specified the jurisdiction of the federal judiciary.

6. David Lambert was a Richmond merchant.

7. John Lamb was the chair of the New York Federal Republican Committee that tried to coordinate the interstate efforts of Antifederalists from the states that had not yet ratified the Constitution. See Lamb to Willie Jones, 19 May 1788 (RCS:N.C., 155–57).

Virginia Centinel, 9 July 1788

Our latest accounts from North-Carolina are in favor of federalism—No doubt but the New Constitution will be adopted there.

Springfield, Mass., Hampshire Chronicle, 9 July 1788



Charles Pettigrew to Peter Singleton

Perquimans County, N.C., 14 July 1788 (excerpt)¹

. . . In respect to the new federal Constitution I have had the pleasure to see that your Convention have adopted & ratified it,² but with a caution which does them honor, for I still think, though a friend to it upon the whole, that the (rights of the) people³ might have been better guarded from the future encroachments of ambition when stimulated by the infatuating influence of power—Our convention has not yet met, but will it is expected in a few days, the result of their deliberations will be I expect a concurrence with the other states who have adopted it; for although opposition is threatened it will not be so powerful as that which it met with in Virginia—besides they will not choose to risk the consequences of rejecting it. . . .

1. FC, Letterbook, Pettigrew Papers, Roll A, Southern Historical Collection, The Wilson Library, University of North Carolina at Chapel Hill. An earlier draft is in the Pettigrew Papers, Nc-Ar. An N.B. to this version states: "This is the first Rough Draft of the Letter I sent. C.P." Printed: Sarah M. Lemmon, ed., *The Pettigrew Papers* (2 vols., Raleigh, N.C., 1971), I, 58–60. The rough draft, which is the version Lemmon printed, and the letterbook version printed here differ in capitalization and punctuation. See note 3. Pettigrew was responding to a 10 June letter from Singleton (RCS:Va., 1593–94). Pettigrew (1744–1807), a native of Pennsylvania, a clergyman, and a planter, first moved with his family to Virginia and then to North Carolina in 1760. He was eventually appointed a school master at Edenton. Originally a Presbyterian, Pettigrew studied to be an Episcopal minister. In 1775, Pettigrew went to England, where he was ordained. After his return to

North Carolina he served as assistant at St. Paul's Church in Edenton; he then became pastor and was connected with the church for the rest of his life. A moderate Patriot during the Revolution, his Episcopalianism aroused suspicion. After the war, he helped to develop two plantations, and before he died he owned 34 slaves. He became a trustee of the University of North Carolina and was a strong Federalist. Singleton, a former justice of the peace and sheriff of Princess Anne County, Virginia, was a wealthy Kempsville planter. He was also a vestryman of Lynnhaven (Episcopal) Parish and had corresponded with the Reverend Pettigrew a few years earlier concerning a pastorate.

2. The Virginia Convention ratified the Constitution on 25 June and two days later recommended that forty amendments be considered by the first federal Congress.

3. The rough draft includes the words in angle brackets.

**Common Sense: To the People of North-Carolina
Wilmington Centinel, 16 July 1788¹**

To the people of North-Carolina.

In an act of your assembly, passed at Hillsborough, in 1784, for granting the five per cent. duty to Congress, there is the following paragraph—"And be it enacted, &c. that the United States in Congress shall have, and they are hereby invested with full power and authority to levy and collect the said duties, under such regulations as they shall direct—*provided, that such regulations shall not subject any person to be carried out of this state, nor to be sued in any other manner than the laws and constitution direct,*" &c.²

This limitation of the powers granted to Congress by the above law, was never complained of, that I have heard, as likely to confine or impede the levying of the impost, and yet, in those days it was deemed a necessary security to the liberty of the citizen; from which my inference is, that there are restrictions absolutely necessary in the adoption of the new constitution (if you will adopt it) as to some points that you should never give up, and that they may be introduced without disturbing, in the least, the operation of it, to every good purpose. There is a distinction to be taken as to those amendments which are essential and practicable, and those which are not. If North-Carolina were to insist, for instance, that there should be three senators from each state, or that the president should be elected for one year only, or the like, it might either produce disorder in the federal government, or amount to a rejection on the part of this state; but it fortunately happens, that some of the most essential rights, which the people ought at every hazard, to secure, may be established without any difficulty, by inserting proper provisoes; such as, that no citizen of this state shall be deprived of his property, without a trial by jury—that the liberty of the press shall not be restrained, and a few more of the same nature. If any person, disapproving of any limitation of the general government, should alledge, that it cannot be executed, unless the rights and duties of every

state under it are exactly the same, I say, that however necessary it may be for all the states to agree as to the plan or form of the government, the assertion will not hold as to the rights of individual states or persons. The practice of every country is palpably against it; our own may serve as an instance; before the war, the king and parliament had the government of the thirteen provinces as the Congress is to have of the states, but no two of them were subject to that government in the same manner: its dominion over them was various, according to the nature of their several characters, and yet it was not thereby hampered in the exercise of any proper authority over them. In England too, and in most governments, almost every province, county, and considerable town, has privileges peculiar to itself, which affect the operation of general law, in various manners and degrees; but still many of them go on well enough, as our's may do, even though it should happen, that some states may lose the trial by jury, and North-Carolina remain for ever secure in it.

1. For a response to "Common Sense," see "Mediator," *Wilmington Centinel*, 23 July (RCS:N.C., 173).

2. The North Carolina legislature passed this act adopting the Impost of 1783 on 2 June 1784.

An Inhabitant of Wilmington Wilmington Centinel, 16 July 1788

Messrs. *Bowen & Howard*, As you have published in your last paper,¹ a very fine account about public marks of joy, shewn in this town on account of the adoption of the constitution by Virginia, I wish you would tell who it was that illuminated, &c. because I believe there were only three houses so decorated, and I do not understand that three or four people should be called the town.

1. The 9 July issue of the *Wilmington Centinel* is not extant.

Charleston City Gazette, 22 July 1788 (excerpt)¹

. . . We also understand from gentlemen well acquainted in North Carolina, that from their knowledge of the members elected to serve in the convention, there cannot be a doubt but that the constitution will be ratified. . . .

1. This item is embedded in an article that announced New Hampshire's ratification of the Constitution (RCS:N.H., 409–10n).

Mediator**Wilmington Centinel, 23 July 1788¹**

Messrs. BOWEN & HOWARD,

I find, by your last paper, the filcher of that threadbare signature, COMMON SENSE, has been again intruding on your readers. They thought he had received his *quietas* before; but the more you *disturb* an empty vessel, the greater noise it makes. For the sake of the respectable public, I should therefore let him sink in the vibration of his own unmeaning phraseology; but on scrutin[i]zing the humble intention of Common Sense, *in decline*, they will with me compassionate this falling adversary, and ease his political exit; they will accept his *repentance*, though at *the late hour*, and receive his last effort as it was intended, “a peace offering.” It is not to be expected, my friends, that the dignity of man can at once submit to the humiliating acknowledgment of an error he has defended publicly; let us then be generous—let humanity induce us to receive his repentance, though late.

Since he has, Christian like, got over his hatred to our constitution, perhaps with management, we may, in time, attach him to it.

*“Indifference never can inflame to love,
Though hate may quickly alter to affection.”*

It is the infirmity of man, to wish to particularize himself.—Common Sense has fallen into this natural foible, but he finds his error, and wishes again to be admitted into society.—Let us receive him—The past will be a serviceable lesson to him—he will be too well informed of his own abilities, to again set up for a character.

As for this last effort, he could not well avoid making it; and you see he has so qualified his farewell[1], as to prevent the possibility of any bad effect from it. We ought not, therefore, to require any more humiliation from him, but at once admit him to a participation of our excellent constitution, and forgetting his past conduct, which only proceeded from vanity, so incidental on youth and inexperience, give him credit for what he is generally supposed to possess—a tolerably good natural understanding and integrity. But before I finish, let me advise his coadjutors, the mal-contents, in the words of the apostle, to “agree with their adversaries quickly, whilst they are in the way with them,”² as Common Sense has—or else—

Wishing to my fellow-citizens that prosperity and happiness our constitution offers to every good man,

I am respectfully, Your obedient servant, MEDIATOR.

1. “Mediator” is responding to “Common Sense,” *Wilmington Centinel*, 16 July (RCS: N.C., 171–72).

2. Matthew 5:25.

Massachusetts Centinel, 23 July 1788¹*Of NORTH-CAROLINA.*

A gentleman of information from North-Carolina, informs us, that he left that State since its Convention were in session—and that he had such information from several gentlemen belonging to the Convention, as warranted him to assure us, that a few days would give us the pleasing information of that State's having ADOPTED the CONSTITUTION.

1. Reprinted twenty-eight times by 23 August: Vt. (1), N.H. (3), Mass. (2), R.I. (2), Conn. (7), N.Y. (6), N.J. (2), Pa. (3), Md. (2).

Petersburg Virginia Gazette, 24 July 1788¹

On Monday last the Convention of the state of North-Carolina met at Hillsborough. We learn, there is a considerable majority of the members of that convention against the new government—but the supporters of it have great hopes, since this state has acceded to it. Had Virginia rejected the government, it is generally agreed, that North-Carolina would certainly have followed her; but that state having South-Carolina on one side and Virginia on the other, might it is feared, place herself in a disagreeable situation by rejecting the government altogether—it is therefore expected, that some mode of reconciliation will be concluded on, so as to render it more satisfactory to the opposition.

1. This item was reprinted in whole or in part in the July issue of the Philadelphia *American Museum* and in twenty-seven newspapers by 21 August: N.H. (1), Mass. (5), R.I. (3), Conn. (6), N.Y. (1), Pa. (10), Md. (1). Because the Petersburg *Virginia Gazette* for 24 July is not extant, this item has been transcribed from the Philadelphia *Independent Gazetteer*, 1 August, which reprinted the piece under a dateline of Petersburg, 24 July.

Wilmington Centinel, 6 August 1788

The northern papers present nothing to our view but accounts of processions in almost every town, in consequence of the adoption of the new constitution by ten states. The prospect of a most plentiful crop the ensuing season throughout the United States, together with the hopes of our being shortly united in the indissoluble ties of friendship, under an *efficient federal government*, cannot fail to inspire every patriotic breast with a due sense of the adorable goodness of the Creator of all things.

IV.
THE ELECTION OF DELEGATES
TO THE HILLSBOROUGH CONVENTION
28–29 March 1788

Introduction

The legislative resolutions calling a state convention to meet in Hillsborough on 21 July 1788 provided that the election of delegates should be held on 28–29 March, the last Friday and Saturday of the month. Each county could elect five delegates, while the borough towns could each elect one delegate. County sheriffs issued election notices in early February. (See the election notice for Craven County and New Bern dated 1 February 1788, RCS:N.C., 179.)

Federalists seemed particularly anxious to have James Iredell elected to the convention. The town of Edenton had recently defeated Iredell's bid for a seat in the House of Commons. Both Archibald Maclaine and William Hooper wrote to Iredell, suggesting that Federalists might run Iredell as a delegate from Brunswick County. The resolutions calling a convention provided that anyone could represent any county—no property or residence requirements were imposed. But Maclaine was concerned that Iredell might be elected from both Edenton and Brunswick, in which case Federalists would lose one vote in the convention. Federalist fears proved unwarranted. Iredell was elected to represent the town of Edenton. Shortly after the election, Iredell thanked the freemen of Edenton for electing him unanimously “without the least solicitation on my part.”

The election certificates for Iredell (Edenton) and for William R. Davie (town of Halifax) indicate that both men were unanimously elected. Archibald Maclaine was also unanimously elected for the town of Wilmington as indicated in a letter from him to the town's freemen published in the *Wilmington Centinel*, 16 July. In an extract of a letter from a gentleman from North Carolina printed in the *Philadelphia Independent Gazetteer*, 28 April 1788, it was reported that a tie vote between William Hooper and William McCauley in Orange County was decided when the sheriff “thought proper to throw out two tickets after they had been put into the box.” The letter indicated that Hooper said that the two removed tickets had been cast for him. In an election certificate dated 20 April 1788, Orange County sheriff John Nicholas reported that “Alexr. Mebane, William Mebane, William McCauley, William Sheppard, & Jonathan Linley Esqrs. were Duly Elected.”

Fracases occurred in two county elections. Before the elections, Baptist minister Lemuel Burkitt announced a meeting at his church in the Woodlands in Hertford County during which he intended to expound upon the dangers of the new Constitution. Federalist Elkanah Watson, along with two friends, attended the meeting and intentionally disrupted it. They succeeded. The next day, Watson and one of his friends prepared a caricature of Burkitt at a pulpit with the words “And lo, he brayeth!” spewing from his mouth. Watson hired some men to post and defend the caricature. “A battle ensued,” which, according to Watson, obstructed the voting. Burkitt, however, was elected.

More serious disturbances occurred in Dobbs County. After the election, the sheriff started to count the ballots on Saturday evening. When it became clear that the Antifederalist candidates would be elected, Federalists snuffed out the candles; clubbed election officials, Antifederalist candidates, and the sheriff; and destroyed the ballot box, scattering the ballots. No one was certified as elected. At a subsequent election, Federalist candidates were successful, but the elections committee at the Hillsborough Convention invalidated the election so that Dobbs County had no representation.

Two weeks after the election, violence again erupted in Dobbs County at which Colonel Benjamin Sheppard, the Federalist leader of the election fracas, was severely wounded. Attempting to defend his uncle, Captain Stephanus Sheppard was shot in both arms, one of which had to be amputated. At least three different accounts of the violence exist—one indicated that an Antifederalist had also been killed and another wounded.

A peacefully contested election occurred in New Hanover County. Thomas Devane was the Antifederalist candidate, but there were two other men in the county with the same name. Sheriff Thomas Wright ruled that Federalist John Huske—with 97 ballots—was the winner even though 172 ballots marked with Devane’s name had been cast. More than 80 ballots were specifically marked for “T. Devane, Sr. esqr.” The elections committee at the Hillsborough Convention reversed the sheriff’s ruling. Devane was officially seated as a delegate, while Huske was disallowed. The elections committee also disallowed the town of Fayetteville’s election of John Ingram, stating that the town was not authorized to elect a separate delegate.

Archibald Maclaine to James Iredell
Wilmington, N.C., 25 December 1787 (excerpts)¹

You will probably have heard before this time that we are to have a convention at Hillsborough in July—As any freeholder can be chosen

to represent any county, Mr Moore,² some time ago, upon that supposition, proposed to set you up for Brunswick county; doubting, I conceive whether you would be chosen in your own town or county. If you are of the same opinion I will certainly give in aid what little influence I have, not only from my own knowledge of your general principles, but as I wish to have as many of the friends of the new constitution as possible in the convention—There are a set of interested people, and petty tyrants (among whom are the Judges) that are and will be exerting all their influence, and straining every nerve, to prevent the new government taking place.

From the presentment of the Edenton Grand Jury,³ and the instructions of the town,⁴ I should conclude that you would be one of the members chosen, and in that case, if you should at the same time be elected here, we might lose a good vote—This is a matter of some consequence, and I wish to hear from you on the subject. I hope Mr Johnston will be chosen, which is no way incompatible with his new dignity⁵—I am indeed concerned that his promotion has been attended with a diminution of salary, which if we did not know our assembly-men so well, might be interpreted as an insult. No people ever more fully made good the old saying of “penny wise, and pound foolish”. I hope however this will not occasion him to decline the government, to which, in my opinion, he will give a dignity which it has generally wanted.

It is some comfort to me under the abuse of “A Farmer”, that the profession of the law, as well as myself, lie under his tremendous lash; and that your observations on Judge Ashe’s letter,⁶ have the honor to be placed beside that elegant performance in the same paper—I have been too much engaged to give it more than a slight reading—I would readily submit my conduct to men of sense and candor, without taking notice of the numerous falsities which that paltry scribbler has asserted; but unfortunately many of those who read have neither understanding nor honesty, or at best have but one of them—The difficulty with me is, how to disprove the assertions, without discovering a resentment, of which the writer is unworthy—I must endeavor to tone myself to a proper temper to turn him into ridicule. You will hear more of him soon relative to an affair that will place him in a still more contemptible and detestable point of view.

Oblige me with an answer as soon as your convenience will permit, to the first part of my letter. . . .

I am with sincere respect and esteem
[P.S.] Make my respectful congratulations acceptable to our Governor—
Compliments of the season &c

1. RC, Iredell Papers, Duke University. Printed: Kelly, *Iredell*, III, 336–38n.
2. Probably Alfred Moore of New Hanover County. Iredell had recently been defeated in the Edenton election for the House of Commons by Stephen Cabarrus. For Moore's objection to running Iredell for the Hillsborough Convention from Brunswick County, see Maclaine to Iredell, 15 January (RCS:N.C., 61).
3. For the Edenton grand jury presentment, 12 November, see RCS:N.C., 22–25n.
4. For the resolutions of the inhabitants of Chowan County and the town of Edenton, 8 November, see RCS:N.C., 20–22n.
5. Samuel Johnston was recently elected governor. The governor's salary was £750 annually, far lower than the income Johnston would have had from his law practice and plantation.
6. Judge Samuel Ashe's letter criticizing lawyers was printed in the *State Gazette of North Carolina*, November 1787, in a no-longer-extant issue. Iredell's letter in response was printed in the *North Carolina Gazette*, 26 November 1787. See Kelly, *Iredell*, III, 329–32n.

William Hooper to James Iredell
Point Repose, N.C., 31 December 1787 (excerpt)¹

My dear Iredell

. . . I am happy to hear that the Convention is so appointed that you can take a seat in it without interfering with your law engagements. Mr Moore has thoughts of proposing you for Brunswick lest by any possibility you should not be elected for Chowan or Edenton. Your Election for Chowan, I think, (if the Devil has not made himself an uniform inmate of the souls of the Voters for your County) must be certain. Make it so there or somewhere, for in the convention you must be. I shall exert my powers to be there but I conceive the chance very much against me—Watters proposes for the Town, if I divide against him Taylor goes—and Watters surely is to be preferred to him²—

The County members are opposed to me—some from interest—and from Ignorance oppose the new constitution—and I have been explicit & decided in my approbation of it. . . .

1. RC, Misc. Coll., EM 80, Huntington Library. Printed: Kelly, *Iredell*, III, 338–39. Hooper (1742–1790), a native of Boston and a lawyer, was a 1760 graduate of Harvard, who moved to Wilmington, N.C., in 1764 to practice law. He quickly established himself politically. Hooper represented Campbelton in the colonial Assembly, 1772, and Hanover County, 1773–74, 1775. An ardent Patriot, he also represented New Hanover in the first four provincial congresses, 1774–76. He did not attend the fifth provincial congress, in which he was elected from Wilmington. Hooper was a delegate to the First and Second Continental Congresses, 1774–77, and in August 1776 he signed the Declaration of Independence. In the provincial congresses and the Continental Congress, Hooper was often put on committees. He represented Wilmington in the House of Commons, 1777–82. He moved to Hillsborough in 1782 and represented that town in the Commons in 1784. In 1785 Hooper lost an election to the House of Commons, and in 1788 he failed to be elected to the Hillsborough Convention. He supported ratification of the Constitution.

2. Neither William Watters nor John Taylor were elected to the Hillsborough Convention.

**Election Notice for Craven County and New Bern, N.C.
1 February 1788¹**

NOTICE

Is hereby given to the Freeholders and Free men of the county of Craven, and town of Newbern, that a poll will be open at the Court-house in the town of Newbern, on the last Friday and Saturday in March next, for electing five Delegates for the county, and one for the town, to represent the said county and town in the State Convention—Of which all concerned are requested to take notice.

Feb. 1.

J. C. BRYAN, Sheriff.

1. This election notice, dated 1 February, was printed in the *State Gazette of North Carolina* on 6 February, which is no longer extant. The transcription is taken from the *Pennsylvania Packet*, 29 February, the first of six newspaper reprints by 15 March: Mass. (1), Conn. (1), N.Y. (2), Pa. (2). All of the reprints indicated that the original printing came from a New Bern newspaper.

**Elkanah Watson: Memoirs of Hertford County Election
Hertford County, N.C., 27–28 March 1788¹**

During this period of my residence in North Carolina, the State was strongly convulsed by the agitation of the question of adopting the Federal Constitution. I embarked, with great zeal and ardor, in advocating its adoption, personally and by numerous contributions to the press, in Virginia and North Carolina. A Baptist preacher, Mr. B.,² was a candidate for the State Convention, which was to decide, in that State, the great question of acceding to or rejecting the proposed Constitution. B. was a prominent leader of the opposition; and I had been engaged with him in many warm personal discussions, and in a public correspondence.

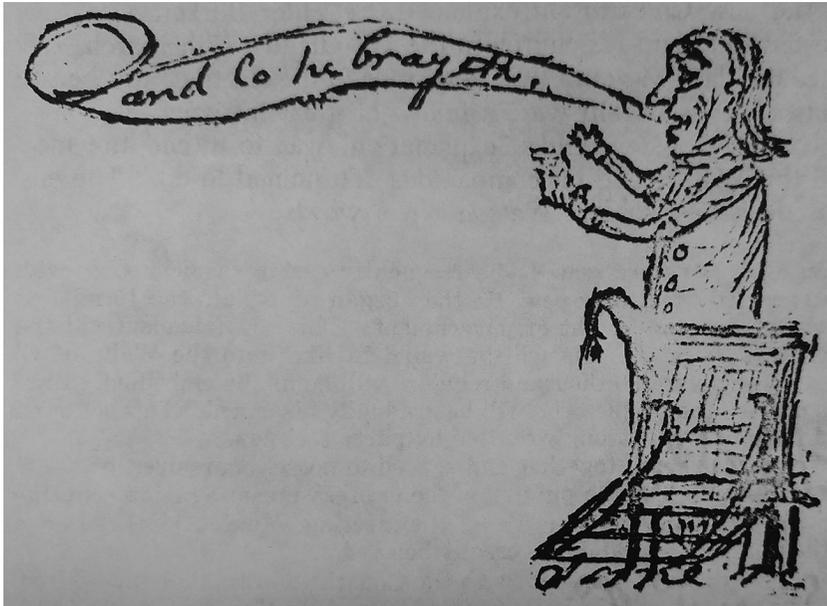
The week previous to the election, I was riding in company with Major [Hardy] Murfree, who has already been introduced to the reader, and with Dr. [Patrick] Garvey, a warm-hearted and energetic Irishman, several miles in the interior from Winton, where we noticed a paper pasted against a tree, which read as follows: “Notice!—On Wednesday next, at three o’clock, all persons desirous of hearing the new Constitution explained, by Elder B—t, are requested to attend his church in the Woodlands, 27th March, 1788.” The time appointed was only two days previous to the election. We felt indignant, at what we deemed an insidious attempt to deceive the community; and we determined to be present, in order to counteract his movement. On our arrival, we found a horse hitched to every tree about the church, and the interior of the building crowded. We pressed our way to seats, a little distance from

the pulpit. B—t had been some time at his nefarious work, explaining the Constitution to suit his unhallowed purposes. He frequently cast a suspicious and disconcerted eye at our pew. He then began to explain the object of the ten miles square, as the contemplated seat of the Government. “This, my friends,” said the preacher, “will be walled in or fortified. Here an army of fifty thousand, or, perhaps, a hundred thousand men, will be finally embodied, and will sally forth, and enslave the people, who will be gradually disarmed.” This absurd assumption set our blood in fermentation, strongly excited already by party feeling. We consulted a moment, and agreed to possess ourselves of the seat directly under the pulpit, and make an effort to discuss the subject, or break up the meeting. We arose together, Garvey with the Constitution in his hand, supported by Murfree on his right, and myself on his left. Garvey turned towards B—t, and said, in a loud voice:—“Sir, as to the ten miles square, you are”—here he was interrupted by a general movement and buzz, which instantly swelled into a perfect uproar. At this crisis, we were in a most critical situation, and only saved from violence, by the personal popularity of Murfree, who was universally beloved. We were glad to pass out with the torrent, get to our horses, and be off. We attained our object, however,—the meeting was dissolved.

The next day, Garvey and myself planned and executed a caricature; and, as it was a new exhibition among the people, we hoped it would have a good effect at the polls. A clergyman was represented in a pulpit, dressed in his bands, with a label proceeding from his mouth, having this inscription:—“And lo, he brayeth!”³ This we committed to some resolute fellows, with instructions to post it up at the door of the court-house, at the opening of the polls; they engaging to defend and protect it. Some of B—t’s friends, stung to the quick by the sarcasm, attempted to pull it down. Our gallant band defended it. A general battle ensued. This obstructed, as we desired, the voting. Candles were lighted in the court-house; these were extinguished in the *melée*, and both parties, in great confusion, were left in the dark, literally as well as politically. I embraced the opportunity of taking *French leave*.⁴ B—t gained the election, to our great annoyance; and the Constitution was rejected for that year, by North Carolina.

1. Printed: Winslow C. Watson, ed., *Men and Times of the Revolution; Or, Memoirs of Elkanah Watson . . .* (2nd ed., New York, 1861), 301–3. Watson (1758–1842), a merchant and canal promoter, moved to Edenton in 1785, where he purchased a plantation to establish an export-import business. He moved to New York in 1789.

2. Lemuel Burkitt of Hertford.



A caricature of Baptist minister Lemuel Burkitt, a member of the Hillsborough Convention, by Elkanah Watson and Patrick Garvey, from the Collections of the New York State Library, Manuscripts and Special Collections, Albany, New York.

3. MS, Box 3, Journal "D," p. 404, Papers of Elkanah Watson, 1773–1884, New York State Library.

4. "Taking French leave" referred to an unauthorized or unannounced departure.

James Iredell to the Freemen of Edenton
c. 29 March 1788¹

Gentlemen:

The distinguished honor of having been unanimously elected your Representative in the ensuing convention, without the least solicitation on my part, has made an impression on my heart which no time or circumstances can efface. My gratitude for it is inexpressible, but I am sensible will be shown in the most proper manner, by the zeal and fidelity with which it will be equally my duty and pleasure to execute this important trust. I shall have nothing to lament, but that my abilities will fall so far short of my ardent ambition to serve you. Under the conviction of my present sentiments, that the security of every thing

dear to us depends on our adoption of the proposed constitution, I consider it one of the most awful² subjects that was ever proposed for the consideration of a free people, and in giving it my utmost support (as I probably shall do), I shall have occasion for all the strength I can derive from the pleasing consciousness that in so doing I shall truly speak the respectable sense of my constituents. This will animate me beyond every thing in what I conceive the cause of Truth and Liberty. God forbid, indeed, that I should, by a blind admiration, imitate the conduct of those who indulge themselves in a blind rejection of it. The one would be as unworthy of the dignity of a free people, as the other is derogatory of those sentiments of respect and deference which we owe the great characters who formed it; and owe certainly as much for our own sakes, whose welfare they took so much pains to consult, as from the sentiments of gratitude with which every mind of sensibility must remember their former eminent services to their country. But I am convinced the more narrowly the constitution is examined by impartial minds, the more highly it must be approved; and from the consideration of our present critical situation, it will, perhaps, be deemed the only probable means of safety we have left.

I am, gentlemen, with the greatest respect and attachment, Your faithful and obedient servant,

1. Printed: Kelly, *Iredell*, III, 387–88n. The first and last sentences of the address appeared in the Philadelphia *Federal Gazette*, 19 April, as excerpts from the no-longer-extant 2 April issue of the *Edenton Intelligencer*. The *Gazette's* excerpts were reprinted ten times by 29 May: N.H. (1), Mass. (3), R.I. (1), N.Y. (3), Pa. (2).

2. In this context, the word “awful” meant “inspiring awe.”

Election Certificate for William R. Davie, 29 March 1788¹

State of North Carolina

Halifax County

This May Certify that at an Election held for the Town of Halifax on the last Fryday and Saturday in March agreeable to a Resolution of the General Assembly held at Tarborough, William R. Davie Esqr. was duly and Unanimously Elected to Represent the Said Borough of Halifax in the State Convention [to] be held at Hillsborough the third Monday of July Next for the Purpose of deliberating and determining on the Constitution proposed by the General Convention for the future Government of the United States

Given Under My hand at Halifax the last Saturday in March 1788

Whitaker Short

1. MS, Nc-Ar.

Dobbs County Elections of 28–29 March and 14–15 July 1788

Accounts of Dobbs County First Election and Violence 31 March–17 July 1788

Extract of a Letter from Dobbs County, 31 March 1788¹

Extract of a letter from Dobbs county, dated March 31, which by some accident was not received before last week.

“At an election lately held in the county of Dobbs for Delegates to the Convention, the candidates were Richard Caswell, James Glasgow, John Herritage, Benjamin Sheppard and Bryan Whitfield, who were looked upon by the people as federalists; and Abraham Baker, a Baptist preacher, Absalom Price, who occasionally exhorts, Moses Westbrooke, Isaac Croom and Jacob Johnston, (who returned home as soon as he had voted) antifederalists. The abilities of these different gentlemen, proposed as the guardians of the liberties and safety of the nation, I leave to the world to judge of.

About three hundred and seventy persons voted; there are upwards of seven hundred in the county; and it is more than probable that every person of the antifederalist party appeared, for they had been stirred up even from the pulpit (being mostly Baptists) and circular letters had passed from meeting to meeting, and from preacher to preacher. This scheme is said to have originated in the brain of a politician, in the full enjoyment at all times of one or more lucrative offices under this state, and that his most pious friend has been the principal agent.

On Saturday evening, as the tickets were counting out some disorder took place, by which means the lights were struck out, and in the confusion in the dark, the box which contained them was so misplaced that it seems the Sheriff will not be able to make return of any persons being duly elected. It is here remarked, that every person who was in the time of war called tories or luke warm whigs, are now strong antifederalists; and some of them have already the boldness to say aloud let North-Carolina reject the proposed constitution if all other states adopt it; and if she should not be able to stand alone, when she needs succor, no doubt but Great-Britain will assist.”

1. Printed in the *New York Daily Advertiser*, 30 June.

Martin’s North Carolina Gazette, 2 April 1788¹

We hear from Kingston, Dobbs county, that the party who advocate the new constitution, finding that their candidates, amongst whom was

General Caswell, the late Governor, stood not the least chance of being elected, blew out the candles, broke the box, scattered the tickets, and mistaking the sheriff, for a methodist preacher, who by his strong opposition to the constitution had almost secured his election, treated him rather roughly.

1. This account of the riot appeared in the no-longer-extant 2 April issue of *Martin's North Carolina Gazette*. The transcription is taken from the *Maryland Journal*, 29 April, the earliest reprinting. This paragraph was the second of three paragraphs concerning North Carolina and the Constitution in this issue of the *Gazette*. For the first and third paragraphs, see *Martin's North Carolina Gazette*, 2 April (RCS:N.C., 202). The second paragraph was reprinted thirteen times by 19 May: Mass. (1), N.Y. (2), N.J. (1), Pa. (6), Md. (1), Va. (1), S.C. (1).

Martin's North Carolina Gazette, 16 April 1788¹

Agreeable to the resolve of the General Assembly, the freemen of the county of Dobbs met at the Court-House in Kingston, on the last Friday and Saturday in March, in order to elect persons to represent them in Convention at Hillsborough, on the third Monday in July next; accordingly Richard Caswell, James Glasgow, John Herritage, Bryan Whitefield and Ben. Sheppard Esqrs. were candidates supposed to be in favour of the Federal Constitution; Jacob Johnston, Morris Westbrook; Isaac Groom, Abraham Baker, and Absalom Price, were Candidates supposed to be opposers of the Federal Constitution:—The whole number of voters were three hundred and seventy two; at sunset on Saturday the Poll was closed and the sheriff proceeded to call out the tickets; two hundred and eighty two tickets were called out, the hindmost in number on the Poll of the Antifederalists had one hundred and fifty five votes, the foremost in number of the Federalists had only one hundred and twenty one, and the tickets coming out fast in favour of the Antifederalists, the other party seemed fully convinced they should lose their election and appeared to be much exasperated at the same, especially Col. *B. Sheppard*, who, with sundry others cast out many aspersions and very degrading and abusive language to the other candidates, which was not returned by any of the candidates, or any person on their part with so much as one provoking word. At length Col. *A. Sheppard*² went upon the bench where the sheriffs, inspectors, and clerks were attending their business, and swore he would beat one of the inspectors who had been peaceably and diligently attending to his business, and having a number of clubs ready prepared, the persons holding the candles were suddenly knocked or pushed down and all the candles in the Court-House were instantly put out; many blows with clubs were heard to pass, (but it being dark they did the most damage

to the Federalists.) The Antifederal candidates being unapprized of such a violent assault, and expecting better treatment, from men who would wish to wear the character of gentlemen, were in no posture of defence, and finding their lives in danger, thought it most adviseable to retire privately in the dark, but one of them (to wit.) Isaac Groom was overtaken in the street, by a party of their men consisting of twelve or fifteen—with clubs, who fell on him and much abused him, in so much that he was driven to the necessity of mounting his horse and riding for his life; the sheriff also related that in the time of the riot in the Court House he received a blow by a club and that the ticket box was violently taken away.

1. This account of the riot appeared in the no-longer-extant 16 April issue of *Martin's North Carolina Gazette*. The transcription is taken from the *Virginia Norfolk and Portsmouth Journal*, 30 April, the earliest newspaper reprinting. The report was reprinted in twenty-six newspapers by 7 June: Mass. (3), R.I. (1), Conn. (6), N.Y. (4), Pa. (8), Md. (3), Va. (1).

2. All but one of the reprints changed the "A. Sheppard" to "B. Sheppard."

*Sheriff Benjamin Caswell Affidavit, 23 April 1788*¹

State of North Carolina. ss.

Personally appeared before me Charles Markland one of the Justices of the Peace for Dobbs County, Benjamin Caswell Sheriff of the said County and being Solemnly sworn, Deposeth and saith That in Pursuance of a Resolution of the General Assembly, in their Session held at Tarborough in December last He notified the Freeholders & Inhabitants of the said County to Attend at the Courthouse thereof on the last Friday & Saturday in March last to elect and Choose five Representatives duly qualified to sit and Vote in the State Convention agreeably to the said Resolution That He opened the poll on the first day when the election so far as was proceeded on that day was conducted agreeable to the Law for electing Members of the General Assembly that he again Opened the poll & continued the same open until Sunset on the Second day, that during that Time the business was conducted & Submitted to with order & decorum but on Casting up or Counting out the Tickets, three hundred & Seventy two Persons having Voted, Much confusion arose and by the Misconduct of a few individuals, when two hundred & eighty two Votes had been Counted out & Numbered, the lights were extinguished & the Box in which the remaining Tickets were, forcibly & Violently taken from him & Conveyed away so that he was not able to recover the same or is he able to make any regular return to the Convention, as none of the Candidates so far as he proceeded to Count, had a Majority of all the Votes, or had such a Number,

but that the remaining Ninety Votes when Counted might have given the Votes in favor of those who were not the highest in poll at the Time the Box was siezed

And further this Deponent saith not
Sworn the 23d day of April Anno Dom. 1788.

Benja Caswell Sheriff

Before
Cs Markland J.P.

1. MS, Papers of the Convention of 1788, Nc-Ar. Docketed: "Benja. Caswell's aff. respecting Election March 1788:/Referred by the Convention to the Committee on Elections/J Hunt/Presented by Mr. Spaight & Mr Cabarrus/rec'd & referred to the Come. on Elections."

*Sheriff Benjamin Caswell: Certification of Election, 23 April 1788*¹

[Here appears a poll list of the voting on 28–29 March. See Mfm: N.C. for a facsimile.]

I Benjamin Caswell Sheriff of Dobbs County Do hereby Certify that at the Time and place mentioned in the Caption of the foregoing List I opened the poll & Continued the same agreeably to the Law to which the General Assembly in their Resolution refers, And at Sun set of the Second day the poll was closed after three hundred & Seventy two persons had Voted whose names are mentioned in the foregoing List, That on examining two hundred & eighty two Tickets they appeared to be agreeable to the Marks in the said List; so far as that Number and the Respective Number of Votes given to each Candidate on examination I find to be as follows, That is to say, for

Richd. Caswell 120	James Glasgow 120
Bryan Whitfield 106	Benja Sheppard 118
John Herritage 98	Abraham Baker 154
Moses Westbrook 159	Absalom Price 156
Isaac Croom 157	Jacob Johnston 158

and Sundry other persons a Smaller Number as appears by the said List, that at this Time, to wit, after taking out the 282 Tickets, the Lights were suddenly extinguished & the Box forcibly taken from me in which were the remainder of the Tickets, by some Persons to me unknown, that there remained according to the foregoing Account Ninety Tickets uncounted, so that it was impossible for me to return any of the Number as duly elected, because there might have been a Sufficient Number in the Box, of the Ninety remaining to have given the Majority in favor of those who had not the highest Number so far as I had proceeded to Count.

I further Certify that the Box in which the Tickets were put was Originally calculated to receive Votes for the Senate & Commons, that

there was a division in it and two Sid[e]s; That the Votes on this Occasion had been all carefully put into One side only, During the reception of the Tickets the other side being Sealed up, But that on taking out the Tickets at the instance of some of the Candidates, the other side was opened and the Tickets when taken out & Counted put therein, to examine again to see if any Mistake should have appeared, and this was Occasioned by a dispute at a former Election where the Tickets had been torn in two & thrown away as Counted.

Thus I have stated the true Circumstances of the Case so far as I know or believe and presume the Convention will think me Justifiable in not making any return in the present instance

April 23d 1788.

Benja. Caswell Sheriff

Dobbs County April 23d 1788.

Personally appeared Benjamin Caswell sheriff before me and Made Oath that the foregoing Certificate contains a true State of the facts, of the late Election to the best of his remembrance

Benja. Caswell

Sworn Before.

Cs Markland J.P.

1. MS, Papers of the Convention of 1788, Nc-Ar. A copy of the poll list was made by Richard Croom. After the entry for the 282nd vote, an affidavit by Croom was written:

Personally appeared before us two of the Justices of the peace of Dobbs County Richard Croom being of full age, made Oath that he the said Richard Croom Did keep this Book During the Calling out of the Tickets so far as they were Call'd out and that to the best of his knowledge and belief it is a true State of the poll

Rd Croom

Sworn before us this 14th of July 1788

Robt. White J P

Ic Croom J P

New York Packet, 20 May 1788¹

We are authorised to inform our readers, that the account we published on the 16th inst. of a riot in Dobbs County, as taken from a Newbern paper, is calculated to beget false opinions in the public mind, concerning the parties to whom it refers. It should be observed that the State of North-Carolina does not contain less than 56 counties, and that some of those counties are large when compared to Dobbs; whence it will appear probable that the inhabitants of Dobbs are not very numerous. A private quarrel has unhappily subsisted for some time between certain families in that small county, which has been conducted with no small degree of asperity, and has not failed to mix itself with every political or public measure. At a late annual election for members

of the General Assembly, this very spirit operated so far as to prevent the return of a member, or to produce a false one, which had the same effect. No person in the State is now surprized when he hears of such altercations in that county; but the story of a late fracas is so caricatured and misrepresented, as to induce a general belief that disputes respecting the new Constitution have been indecently conducted in North-Carolina, and that some very respectable characters in that State have been attempting to govern by mobs, than which nothing can be less true. The gentlemen who are named as federal candidates in Dobbs, cannot reasonably be charged with a riot that happened after the close of the poll, and after they had chiefly withdrawn, as had most of the voters, from the Court-house. One of those gentlemen² has served the State both as a soldier and a chief magistrate, with so much ability and reputation that he has a claim to protection against the tongue of slander, and the citizens of the State in general have submitted with so much readiness to the government of laws, that they ought to be exempt from the charge of rioters. Though it is generally believed that in the eastern and southern part of the State, or those districts that are near the sea coast, or the post-road, the inhabitants are nearly unanimous in favor of the new Constitution; it is also believed that in the western and northern parts of the State, the inhabitants are considerably divided in their sentiments on this head, whether it is that they are more jealous concerning their liberties, or that they conceive themselves to have a different interest, that they understand the subject better, or that they have not hitherto had proper information, whatever may be the cause of difference in opinion, the conduct of the parties has generally been decent and proper; nor is it true, that the delegates on either side, are generally hampered with instructions. Their constituents, who frequently have not the best means of information, do not think proper to dictate to honest men, whose duty it is to consider the subject fully, and to determine as they may be convinced.

1. Reprinted ten times by 7 June: N.H. (1), Mass. (1), N.Y. (1), N.J. (1), Pa. (6). This account was written by Hugh Williamson. See his letter to John Gray Blount, 21 May (immediately below).

2. A reference to Richard Caswell.

Hugh Williamson to John Gray Blount
New York, 21 May 1788¹

From my Arrival in Philada: which was on the 11th Inst (for I came by Water from Portsmouth) I have been persecuted by a story that had

been published in Martins Paper & republished I think in every Paper from NC to this Place. Is it true that North Caroline is toren into factions? Are you generally governed by Mobs? and such other Questions were frequent and familiar. You know that in those Northern States which contain from 10 to 15 Counties each People think differently concerning the magnitude of a County from what we think in Carolina where a quarter Nag might cross a County in half an Hour. General Caswells Name being among the federal Candidates rendered the Story as published by Martin the more exceptionable; the Story was so told as to induce the Belief that the Candidates were all present & had effected a Riot. In this State of Intelligence & being thoroughly chagrined by a Story so obviously calculated to injure a very respectable Character & with him to injure the general Character of the State I thought it my Duty to prepare a Paragraph and cause it to be published which is thought by the Readers to put the Matter in a very different or in a new Point of Light. The inclosed paper contains The Paragraph² which if you think worth while you will forward to Govr: Caswell. As I had no particular Information concerning the circumstances of the Dobbs Riot you may presume that I could not directly and pointedly contradict every assertion of Mr Martin, I was therefore obliged to account for the Riot by reference to private disputes which otherwise I should have had no desire to mention, but even under this necessity you see that I have taken Care to cast no shade on the Character of any individual. I conceive that I am possessed of some Philosophy & Patience but still I have not patience sufficient to be silent or unconcerned when I conceive that the Character of a friend is injured.

1. RC, Blount Papers, Nc-Ar. Blount (1752–1833) was a merchant and large landowner. He and his brothers William and Thomas owned sawmills, gristmills, and cotton gins. He represented Beaufort County in the state House of Commons, 1782–93, and in the state senate, 1791, 1793, and 1795. He occasionally served on the Council of State. He represented Beaufort County in the state conventions, 1788, 1789, where he supported the Constitution. He moved to the Forks of the Tar River where he helped establish the town of Washington, where he served as postmaster, 1791–1815.

2. See Williamson's paragraph in the *New York Packet*, 20 May 1788 (immediately above this letter).

Petition of Dobbs County Inhabitants to the Hillsborough Convention
9 July 1788¹

To the Honourable The Convention of the State of No. Carolina at Hillsborough

The Petetion of a number of the inhabitants of Dobbs County Humbly sheweth, that Agreeable to the Resolution of the late Genl. Assembly at

Tarborough, a number of Your Petitioners did assemble on the last Friday and Saturday in March at the Court house in Kinston in order to Elect Persons to represent Sd. County in Convention When and where the Election was fairly Open'd and Peacably conducted until the Votes were so nearly taken out that there Appear'd not the least Doubt But that Messrs. Jacob Johnson Abram Baker Moses Westbrook Isaac Croom & Absalom Price would be return'd by a large Majority of Votes, At which time Sundry Persons that Appear'd not to be reconciled that the Election should terminate in favor of the above named Gentlemen Seem'd much Exasperated, and at length (it being dark) Put out the Candles and with Sticks Struck so Violently Amongst the Croud that Stood Around the Sherriff Inspectors and Clerks that soon broke up the Election and threw every thing into Confusion, in which time the Box that contain'd the few remaining Tickets (not Counted out) was taken away and broke up So that no further Proceedings could be had on the Election, Since which time some few of the Inhabitants of sd. County (Strongly suspected to have been either the Councillors or Actors of the before mention'd Riot) have taken upon themselves to Petition his Excellency Governor Johnson to Grant them an other Election, In Consequence of which your Petitioners are now Cited by the Sherriff's Advertisement to another Election on the 14th. & 15th. Instant, Which we are not well convinced of the Legality of it being without President [i.e., precedent] under the present Government, We are therefore Apprehensive that to attend an Election that we are not convinc'd is Strictly Lawful (calculated Purely to Gratify the Ambitious humour of a few individuals that cannot with coolness brook the Disappointment met with at the late Genl. Election) wd. be Unnecessary, We not being willing to enter into a General Riot in the County which we have the utmost reason to believe would be the case unless the Majority would Calmly give up to the Menority, We therefore rest our case with your Honourable Body, hoping upon your Examining the proofs Accompanying this Petetion you will Permit the above Named Jacob Johnson Abram Baker Moses Westbrook Isaac Croom & Absalom Price to take their Seats with you in Convention So that their Constituents may have the benefit of their Assistance

And we as in Duty Bound Shall ever Pray—
July 9th. 1788

1. MS, Papers of the Convention of 1788, Nc-Ar. The petition has 248 signatures. The document was docketed: "Referred by the Convention to the Committee on Elections. J. Hunt." For a facsimile of the petition, see Mfm:N.C.

*Robert White Affidavit, 14 July 1788*¹

The State of No Carolina Dobbs County

Personly Appeared before me one of the Justices to keep the peace for said County (Robert White Esqr. formerly Sheriff of Dobbs County for several years), and being duly Sworn on the Holy Evangelist of Almighty God diposeth and sayeth, that in the morning of the thirtieth day of March last being the day Succeeding the Election being Informed that the Election was broke up and the Box broke open and the Remaining Tickets Thrown on the ground at A Certain place near the Jaol this deponant went to the place and saw A part of the Box And near to it A number of Scrolls or Tickets which Appeared to be done up in the Manner they Commonly are when put in the box Curiosity led this deponant to Examine A number of them And on Examining to the Amount of Sixty three of these Scrolls there was sixty two of them had the names of Jacob Johnson Abram Baker Moses Westbrook Absalom Price & Isaac Croom Wrote on them

And further this deponant Sayeth Not

Robt. White

Sworn before me this 14 July 1788—

Ic Croom, J: P

1. MS, Papers of the Convention of 1788, Nc-Ar.

*Neal Hopkins Affidavit, 14 July 1788*¹

State of No Carolina Dobbs County

Personally Appeared before us two of the Justices of peace sd. County Neal Hopkins who being Sworn upon the holy Avenjelist of almighty God Deposeth and saith that he the said Deponant was one of the Inspectors of the poll at the Election in County aforesaid on the last fryday & Saturday in March last that he attended to the business of an Inspector until the greater part of the Tickets were Cal'd out, when he Conceiv'd himself to be in danger by the threats that were Repeatedly made & to Escape Danger he came of[f] the Bench & made his Escape out at a window & from the uproar he Amediately heard in the coart house he conceiv'd the Election was broke up in a Riot, & he Returned no more to the duty of his office—

And Further this Deponant say'th not—

Neall Hopkins

Sworn before us this 14th of July 1788—

Robt. White J.P.

Ic Croom J.P.

1. MS, Papers of the Convention of 1788, Nc-Ar.

*John Hartsfield, Jr., Affidavit, 14 July 1788*¹

State of North Carolina Dobbs County—ss.

Personally appeared before us two of the Justices assigned to keep the peace for said County John Hartsfield Junr. of full age and being duly sworn Deposeth & sayeth that he the said John Hartsfield Junr. did attend the election held for the County aforesd. on the last Saturday in March past; that being the last day of the Election for Deligates to the Convention—that said election appeared to be fairly Conducted in a peaceably manner untill the poll was closed & a number of the Tickets Counted out, that he this Deponant heard a General report that Abram Baker, Moses Westbrook, Jacob Johnston, Isaac Croom, & Absalom Price would be Elected, that he this Deponant was in Court House when all the candles was Instantly put out, & a Great uproar in the House; & further this Deponant sayeth not—

John Hartsfield Junr

Sworn before us this 14th of July 1788

Robt White J:P

Ic Croom J:P

1. MS, Papers of the Convention of 1788, Nc-Ar.

*William Croom Affidavit, 14 July 1788*¹

State No Carolina Dobbs County

Personally appeared before us two of the Justices of the peace for Dobbs County Wm. Croom of full age and being duely Sworn Deposeth & saith that he the sd. Wm. Croom attended the Election held for the County aforesaid on the last fryday & saturday in March last that the Candidates Supposed to be in favour of Fedl. Constitution were Richd. Caswell Jas. Glasgow Ben. Sheppard Bryan Whitfield & John Heritage Esqrs. that the Candidates Supposed to be Antifederalist were Mosses Westbrook Isaac Croom Abram Baker Jacob Johnston & Absalom Price—The Election appd. to be fairly conducted until the poll was Closed in the Evening of 2nd. day as the Tickets were Counting, upon which Sundry of the Opposite Party appeard to be much Exasperated & began to make use of abusive language in Degrading Expressions of the Antifedl. Candidates, & at length When the Tickets Appeared to be Coming out more & more in favour of the last Mentioned Candidates it did appear to this Deponant there was not the least doubt of the Election of the Antifedl. Candidates when the candles were Suddenly put out & Sundry blows appeared to be Struck with Sticks (it being Dark) at which time there was a great uproar in the Court house, on some persons attempting to bring in another candle it was immediately

Struck out & this Deponant Saw no [use] in a further proceeding upon the Election but heard it Reported that the box that Contained the remr. of the Tickets (not Counted) was gone & further this Deponant saith not

Wm. Croom

Sworn before us this 14th of July 1788

Robt. White

Ic Croom J:P

1. MS, Papers of the Convention of 1788, Nc-Ar.

Fredrick Baker Affidavit, 16 July 1788¹

State of No. Carolina Dobbs County

Personally Appear'd before me one of the Justices for sd. County Fredrick Baker of full age, And being Duely Sworn he Deposeth and Saith that he the Sd. Fredk. Baker did attend the Election held at Kinston for the County of Dobbs on the last Friday and Saturday in March last that the Candidates Supposed to be in favour of the Fedl. Constitution were Richd. Caswell James Glasgow Benja. Sheppard John Herriage & Bryant Whitfield Esqrs. that the Candidates Supposed to be Antifederalists were Moses Westbrook, Isaac Croom Abram Baker Jacob Johnson & Absalom Price that the Election appear'd to be fairly and Peacably Conducted till the Poll was Closed, that this Depona[n]t was Present and held one of the Candles at the Counting of the Tickets, that when the Tickets were chiefly taken out it appear'd to him to be the Genl. opi[ni]on of those present that the Antifederals would be Elected, that the Federal Candidates from their Expressions Appear'd to be fuly Convinc'd they should lose their Election, that he heard one of them express himself in the following manner POOR DOBBS POOR DOBBS PREACHER BAKER BEFORE GOVERNOR CASWELL, and made use of expressions to the same Purport respecting Some of the other Candidates, that those that Appear'd to him to be friends to the Federal Party Seem'd Generally Exasperated at the Prospect of their Disappointment and Sundry of them Made use of Abusive and Degrading language Mix'd with some threats of Blows to the Antifederal Candidates, at length one that Appear'd to be of their Party went upon the Bench in an Angry Manner and threaten'd to beat Neall Hopkins one of the Inspectors of the Election and About that Instant all the Candles in the Court house were Suddenly put out, this Deponant further Saith he knew the man that Struck the Candle out of his hand and he appear'd to be a great friend to the Federal Party, he this Deponant also says that while it was Dark he heard many blows pass, as he Supposed with

Sticks and a great Tumult and uproar there was and he also heard the Sherriff say the ticket Box was gone and this Deponant Continued at and about the Court house for a Considera[b]l[e] time afterward and Saw no further Proceeding on the Election And further this Deponant Saith not

Fredrick Baker

Sworn to July the 16th 1788

Before me J:Coward J:P

1. MS, Papers of the Convention of 1788, Nc-Ar.

Charles Markland, Jr., and Luther Spalding Affidavits, 16 July 1788¹

State of North Carolina Dobbs County—ss.

Personally appeared Charles Markland junr. before me one of the Justices of the Peace for the said County And made Oath That the morning next after the election at Kinston in March last, He was passing by the Goal near which he discovered the Box in peices, that the Tickets at the election had been received that Many of them were Open that others were rolled up, that he took them up or at least as many as he could conveniently Collect & carried them into Mr. Spaldings Tavern and delivered them to him that as well as this Deponent remembers & believes he Observed to Mr. Spalding that there were more tickets in favor of what were called the Federalists than the others that Mr. Spalding appeared to be Counting them and afterwards Signified to the Deponent that He thought, if the election had been broke up by those of the Federalist party, they were wrong as from these tickets he rather thought the Federalist Candidates would have been elected or words to that effect

Cs Markland jr.

Sworn the 16th. July 1788

Before Jn Herritage

Mr. Luther Spalding also appeared before me and being Solemnly Sworn declares that the foregoing affidavit of Charles Markland junr., so far as it relates to the said Deponent, as far as the deponent recollects or believes is true, to the best of his Knowledge

Luther Spalding

Sworn the 16th. July 1788

Before Jn Herritage J.P.

1. MS, Papers of the Convention of 1788, Nc-Ar. Docketed: "Cha Markland jr. & Luther Spaldings Affidavits—respecting elections in March 1788. Referred to the Convention to the Committee on Elections *J. Hunt.*/presented by Mr. Cabarrus."

*Job Smith Affidavit, 17 July 1788*¹

State of No. Carolina Dobbs County

Personally appear'd before me one of the Justices of the Peace for Sd. County Job Smith of full Age, and being Duely Sworn he Deposeth and Saith that he was at the Election that was held at Kinston for the sd County in order to Elect persons to repress. Sd. County in the Convention at Hillsborough, that he was present on Saturday evening at the Counting of the tickets, that it appear'd to him toward the last of calling the tickets out to be the General Opi[ni]on of those that were present that Antifederal Candidates would be Elected (to wit, Moses Westbrook Abram Baker Isaac Croom Jacob Johnson & Absalom Price) at which the Opposite party in General Appear'd to be Very Angry & at length Colo. Abraham Sheppard went upon the Bench in an Angry Manner and made use of Abusive and threatning Language, that he this Deponant at that time was standing Very near to Fredk. Baker who was holding one of the Candles that the Candle in sd. Bakers hand was well as all the other Candles in the Court house was Suddenly Struck out, that many blows as he Supposed with Sticks was Struck while it was Dark, that he Saw the Sherriff after he Came out of the Court house and heard him Say he had recd. a heavy blow and the Box that Contains the Tickets was gone and he Supposed kick'd or Stamp'd to Pieces, that he saw three Several Candles attempted to be brought into the Court house and were all put out, that after the Riot Ceased he heard Colo. Benja. Sheppard Say Well done Boys Now we'll have a new Election

Job Smith

Sworn to July the 17th 1788

Before J: Coward J:P

1. MS, Papers the Convention of 1788, Nc-Ar.

Accounts of Dobbs County Violence on 13 April 1788

*Woodruff Journal, 26 April 1788 (excerpt)*¹

. . . About three weeks before my Arrival here the Election for Members to the Convention for Dobbs County was held at this place, when the Fœderalists finding that the opposite party were likely to be returned—raised a Mob—broke into the Court House where the Sheriff was casting up the Poll—knocked down every Man that came in their Way—and destroyed all the Tickets that had been given in at the Election—a few Days after a Col. B. Shepherd the ringleader of the above

Riot had another Fracas with two Men of the Name of Barfield, who cut him down the Head with an Axe, and fired upon his Nephew who came to his Assistance, and wounded him in both Arms, one of which has since been obliged to be amputated—the Shepherds soon after being reinforced fired upon the Barfields, one of whom was killed and the other dangerously wounded. . . .

1. MS, Woodruff Journal, 1785–1788, p. 133, American Philosophical Society. Robert Woodruff toured several states as clerk to John Anstey, a British claims commissioner investigating Loyalists' claims. The journal was written after the trip was over from notes Woodruff had taken.

Wilmington Centinel, 30 April 1788¹

We learn from Dobb's county, in this state, that on Sunday the 13th inst. a fracas happened between Col. Benjamin Shepard, and Mr. William Barfield, which originated in a dispute relative to the proposed Constitution—the particulars of which are as follow:

Col. Shepard not agreeing in sentiments with Mr. Barfield, with respect to the new Constitution, and while discussing the subject (being irritated with Mr. Barfield) proceeded to chastise him with a whip, which an apprentice boy (of Mr. Barfield's) perceiving, took up a broad ax, and struck Col. Shepard on the cheek, and thereby cut off a side of his face, and broke his collar bone. A nephew of Col. Shepard, who happened to be present, rescued the ax from the youth, upon which he [i.e., the apprentice] took his master's raffle (it being then loaded) and shot at Col. Shepard's nephew, but providentially only wounded him in both arms, one of which has since been amputated. Our informant adds, that Col. Shepard has died of his wounds.

1. This item was first printed in the no-longer-extant 30 April issue of the *Wilmington Centinel*. The transcription is taken from the Charleston *Columbian Herald*, 12 May. Reprinted thirty-seven times by 23 June: Vt. (2), N.H. (2), Mass. (9), R.I. (3), Conn. (6), N.Y. (3), N.J. (1), Pa. (6), Md. (3), Va. (1), S.C. (1).

Wilmington Centinel, 14 May 1788¹

A correspondent, and subscriber to this paper, has sent us for publication, the following particulars of an unfortunate circumstance which lately happened, in North-Carolina; a mention of which was made under the Wilmington head, published in this paper of the 15th ult.

Colonel B. Shepherd, a man of considerable property and great influence in Dobb's county, a few weeks past, paid an evening's visit to one of his neighbours, with whom he had ever lived in the greatest friendship and harmony. Late in the evening, the new proposed con-

stitution became the subject of conversation. Colonel Shepherd, a declared federalist, gave his opinion with freedom, and declared his wish to see it adopted. His neighbour, an anti-federalist, opposed it with much warmth; but finding all his objections readily answered by the Colonel, became very warm and abusive. After receiving several gross insults, Colonel Shepherd, with his hand open, touched him on the cheek, and expressed himself in the following words: “Your language is too abusive to be submitted to; nothing but your age now protects you from that punishment which you should receive.” The antifederalist immediately ran out of the house, attended by some of his followers, who all armed themselves with axes—The Colonel, not knowing their design, left the house to return home; it being dark they waylaid him, and with an axe gave him a stroke on the head, which, from its violence, threw him on the ground—the blow was immediately repeated on his breast—One of his friends, who was in the house, hearing his voice, ran out, when he found Col. Shepherd on the ground, almost void of speech, and insensible, the blood running from his nose, mouth, and ears, in considerable quantities. The alarm was immediately given to Col. Shepherd’s neighbouring friends, who collected to resent his injury. The antifederal party hearing them approach the house, concealed themselves till they had nearly reached the door, when one of them fired a rifle, and wounded Captain Stephanus Shepherd dangerously in the arm. The federalists, being numerous, overpowered the other party, and with the rifle that had been fired, broke the arm of the antifederalist who fired it, and wounded him severely in several other places. The wounded remained in this situation for many hours; their friends despairing of their recovery—At length a Doctor Leigh, who resides in some part of the state arrived, and by his assiduity and attention, has restored them to perfect health, after amputating Capt. Shepherd’s arm. It seems that no reconciliation has yet taken place between the parties.

1. The no-longer-extant 14 May issue of the *Wilmington Centinel* printed this item. The transcription is taken from the Petersburg *Virginia Gazette*, 5 June. The account was reprinted six times by 28 July: R.I. (1), N.Y. (1), Pa. (2), Va. (1), S.C. (1).

Accounts of Dobbs County Second Election, 28 June–16 July 1788

*Governor Samuel Johnston to Sheriff Benjamin Caswell of Dobbs County
Edenton, N.C., 28 June 1788*¹

State of North Carolina

His Excellency Samuel Johnston Esquire, Governor, Captain General,
& Commander in Chief of the said State

To the Sheriff of Dobbs County.—Greeting.

Whereas it hath been made appear to me, that the Ballots taken by you at the late General Election for Delegates to the State Convention, were forceably & violently seized and taken from you by some riotous and disorderly persons, so that you had it not in your power to ascertain who were the persons who had the greatest number of Votes, and therefore cannot make a Return of any Persons as duly elected to serve as delegates in the said Convention: And whereas a number of respectable Inhabitants of the said County have by Petition, represented to me, that the Inhabitants of the said County are desirous that I should appoint another Day for the purpose of electing Delegates to represent them in the said Convention

I do therefore recommend to such of the Inhabitants of Dobbs County aforesaid, as are entitled to vote for Representatives in the house of Commons to meet at the Court House of the said County on the fourteenth & fifteenth days of July next, then and there to elect five Freeholders to represent them in the State Convention to be held at the Town of Hillsborough on the third Monday in July next, and I do hereby require you to give notice to the Inhabitants to meet accordingly, and that you attend at the same time & place and conduct the said Election in the manner prescribed by the Resolve of the last General Assembly held at Tarborough.

Given under my Hand & Seal at Arms at Edenton, this 28th day of June in the twelfth year of the Independence of America, & in the year of our Lord 1788.

Saml Johnston

By his Excellency's Command
Wm. Johnston Dawson P. Sy.—

1. FC, Papers of the Convention of 1788, Nc-Ar.

*Sheriff Benjamin Caswell: Certification of Election, 16 July 1788*¹

State of North Carolina Dobbs County—ss.

In obedience to the Within recommendation of his Excellency the Governor I Benjamin Caswell Sheriff of the County aforesaid did on Receipt of the same, to wit, on or about the second & third days of July instant, Notify the Inhabitants of the County aforesaid by putting up at the Court house and other public places in the said County Advertisements in the usual & Accustomed manner requiring the Freeholders & Freemen in the said County to attend at the Times and Place within mentioned for the Purpose within required And they did then & there

Choose and Elect Richard Caswell, James Glasgow, Winston Caswell, Benjamin Sheppard & Nathan Lassiter their Representatives duly Qualified to sit & Vote in the Convention of the State to be held in the Town of Hillsborough on the third Monday in July instant, agreeable to a Resolution of the General Assembly held at Tarborough in December last; and I do hereby return the said Richard Caswell, James Glasgow, Winston Caswell, Benjamin Sheppard & Nathan Lassiter, the Representatives of the said County accordingly

Benja. Caswell Sheriff

July 16th. 1788.

1. MS, Papers of the Convention of 1788, Nc-Ar.

*Sheriff Benjamin Caswell: Certification of Second Dobbs County Election
16 July 1788¹*

State of North Carolina.

At an Election held for the County of Dobbs on the 14th. & 15th. days of July 1788. at the Court House thereof for five representatives to sit & vote in Convention at Hillsborough on the third Monday of this Inst. Pursuant to a writ issued by the Governor.

[Here appears a poll list of the voting on 14–15 July. See Mfm:N.C. for a facsimile.]

I Benjamin Caswell sheriff of Dobbs County Certify that at the foregoing Election the Number of Voters were eighty six, that one of the Tickets was a Blank and that the Candidates had the respective Numbers following Viz:

Richd. Caswell	85.
James Glasgow	84.
Winston Caswel	81.
Benja Sheppard	74.
Nathan Lassiter	66.
Bryan Whitfield	16.
John Herritage	16.
Wm Sheppard	2.
Jesse Lassiter	1.

Tot. 425

85 by 5 is 425

July 16th. 1788.

Benja. Caswell Sheriff

1. MS, Papers of the Convention of 1788, Nc-Ar. After the first paragraph, a poll is recorded for the second Dobbs County election with the voters listed in the left-hand column and the nine men who received votes listed across the top in separate columns. The five votes cast by each voter were indicated in the appropriate column of the vote recipients.

Archibald Maclaine to James Iredell
Wilmington, N.C., 2 April 1788¹

I deferred answering your favor of the 11h. past until the election should determine who were to be our members. Below you will find a list of them in such of the counties as from which we have had any intelligence. From Sampson, Moore & Robeson, we have not heard. Our old friend Huske, who very early set his face against the new constitution, has discovered an inordinate ambition, which his friends for some time past, have observed to be growing very rapidly—When I mention this, you will not be surprised to hear that he descends to such humiliating methods of attaining his purpose, as you could not formerly have believed—The Sheriff² has declared him duly elected with 97 votes against T. Devane, who had 172. There are three men of the same name, the two youngest of them magistrates—The eldest of these two was the candidate, and in above 80 of the tickets was distinguished as T. Devane senr esqr. The others were simply T. Devane; but it is known that every voter meant the same person. It is remarkable that Mr Huske not only depended upon the interest of this man, but that in all his own tickets, many of them written by himself, the name T. Devane is not mentioned without any additions.³ Mr Wright sent to request my advice, and whether he should not make a special return, and though I advised him to this as the safest method, he thought proper to decide in favor of Mr Huske. The jist is that this gentleman dare not avow his motive; for his opponent is as much determined as himself in favor of the seat of government at Fayetteville, and against the new constitution. Ambition frequently is blind to it's own interest; for it is not impossible but a vote may be lost for Fayetteville; and Mr Hogg's family are deeply interested in the fate of that place.⁴

I perceive that Hodge has published in a pamphlet your answers to Mr Mason's objections, to which he has appended the piece I sent him⁵

Make my respectful compliments to the Governor and let him know I have just received his obliging letter and thank him for his attention to my recommendations. I have not now time to write him, which I hope he will excuse. I still hope he will be a member of the convention We are all well, and rejoicing at the long-expected appearance of Spring

New Hanover county	Cumberland
A. J. A. Campbell	F. Thomas Armstrong
A. Tim. Bloodworth	F. Wm. Barry Grove
J Pugh Williams	F. Alex. McAlester
F. James Bloodworth	F. _____ Eliot
A. John Huske	James Porterfield
Wilmington	Duplin
F. A Maclaine	F. James Kenan
Brunswick	William Dickson
A. Jacob Leonard	James Gillespie
A. Alexius M. Forster	_____ Oliver
F. Lewis Du Pre	A. Charles Ward
John Cains	Onslow
F. Benja. Smith	Robt. W. Snead
Bladen	Danl. Yates
F. Thomas Owen	Thos. Johnston
A. Thomas Brown	John Spicer
Saml. Cain	A. Edwd. Starkey
F. Gooden Elletson	
F. Joseph Gautier	

F. Federalist

A. Antifederalist. Those not marked, are doubtful, moderate anti-federalists, or such as I cannot form an opinion of. I am inclined to believe from circumstances that we shall have a decided majority, as most of those without any mark of distinction are honest dis interested men—Several of them positively refused to receive instructions The people of Fayetteville have elected Doctor Ingram on a presumption that under the old charter they have a right to a member. I think they are clearly mistaken.⁶

1. RC, Iredell Papers, Duke University.

2. Thomas Wright (d. 1813) served as sheriff of New Hanover County, 1782–98.

3. The elections committee in the Hillsborough Convention decided that all of the votes cast for Thomas Devane in New Hanover County were for the same person. Consequently, Devane was seated and John Huske was disqualified and did not vote on the final question.

4. James Hogg of Fayetteville was Huske's father-in-law.

5. For "Marcus," see RCS:N.C., 70–85, 87–92n, 93–102, 102–6. For "Publicola," see RCS:N.C., 106–18n.

6. On 25 July, John Ingram was unseated by the Hillsborough Convention's elections committee when it was determined that Fayetteville was not entitled to separate representation.

Martin's North Carolina Gazette, 2 April 1788 (excerpts)¹

The election of delegates to the convention of this state, which is to meet at Hillsborough, on the third Monday in July, took place on Friday and Saturday last. The majority of the delegates who were elected, in almost every county from which we have been able to obtain a return, have promised that the preservation of the civil and religious rights and liberties of their fellow-citizens, declared and secured under our *present* government, would be the ruling principle of their conduct. . . .

By a gentleman, who just now arrived from Hillsborough, we are told, that not one single friend to the new constitution has been elected in the counties of Wake, Johnson or Wayne.

1. Because *Martin's North Carolina Gazette* for 2 April is not extant, the transcription has been taken from the *Maryland Journal*, 29 April, the earliest found reprinting. The first paragraph was reprinted twenty-seven times by 27 May: Mass. (5), R.I. (2), Conn. (2), N.Y. (6), N.J. (2), Pa. (7), Md. (1), Va. (1), S.C. (1). The second paragraph printed here was reprinted twelve times by 27 May: Mass. (1), N.Y. (1), N.J. (1), Pa. (7), Md. (1), Va. (1). For the paragraph that the *Gazette* printed between the two paragraphs printed here, see RCS:N.C., 183–84.

**Hugh Williamson to John Gray Blount
Edenton, N.C., 9 April 1788 (excerpts)¹**

Yours of 3rd Inst came to hand by this days Post. I was in Cambden County on the friday of their Election, but shall as instructed send an Express to J Herring who is but just recovering from an illness that threatened his Life. . . .

I do not learn that any of the Members chosen in our District are Supposed to be antifederal except one in Gates and two in Hartford one of whom is the Beau Nephew of Genl Person. The Whirligig man it seems had not more than 10 or 12 Votes. This does some Honour to the County even though they are not federal. We have no Returns from Currituck. In Paper mony they used not to be guided, by the motives apparently honest. . . .

1. RC, Blount Papers, Nc-Ar. Printed: Keith, *Blount*, I, 386–87.

**Arthur Campbell to Virginia Governor Edmund Randolph
Washington, N.C., 12 April 1788 (excerpt)¹**

. . . The commotions in what was called Franklin has subsided, and Mr. Sevier is elected a Member for the N. Carolina Convention.

1. RC, Executive Papers, Box 53, Virginia State Library. Printed: William P. Palmer et al., eds., *Calendar of Virginia State Papers and Other Manuscripts* . . . (11 vols., Richmond, 1875–1893), IV, 424. The address page is annotated: “honor’d by Mr. Swingle.”

**Extract of a Letter from a Gentleman in North Carolina
Philadelphia Independent Gazetteer, 28 April 1788 (excerpts)**

Though he have heard that Mr. Hooper and Mr. Nixon lost their elections, we do not learn the names of the members for Orange, except Lindley. . . .

There is a letter just arrived from Mr. Hooper, but I have not seen it—I have only heard that he disputes the election for the town [i.e., Hillsborough], with Macenley [i.e., William McCauley], who was returned by the vote of the Sheriff, upon an equality; but it seems he thought proper to throw out two tickets after they had been put into the box, and Mr. Hooper says the voters were for him.

Extract of a Letter from Greenville, N.C., 1 June 1788¹

*Extract of a letter from a gentleman in Greenville
to his friend in this town, dated June 1, 1788.*

“Mr. Ambrose Jones arrived here in eighteen days from Nashville, *via* Kentucky. The election in the counties of Davidson and Sumner, for deputies to the convention, was much contested; in the former there were fifteen candidates. The majority of the elected in both places are federalists.—I am happy to learn by him, that notwithstanding the ‘daily murders and robberies committed at almost every point of the frontiers of Kentucky,’ the people of Cumberland are in perfect quiet.”

1. Printed in the *North Carolina Gazette*, 12 June, which is not extant. The transcription is taken from the *Pennsylvania Packet*, 3 July (the only known reprinting), which reprinted the letter extract under the dateline “New Bern. June 12.”

James Iredell: Election Certificate, Chowan County, 25 June 1788¹

State North Carolina }
Chowan County }

I Edmund Blount Sheriff of the County of Chowan do hereby certify, that pursuant to the Recommendation of the Honorable the General Assembly, an Election was held on the last Friday and Saturday in March in the present year—one thousand seven hundred & eighty eight at the Court house in the Town of Edenton in the said County (being the usual place for holding the annual Election of a Member of the General Assembly for the said Town) for the choice of a Delegate to Represent the said Town in the ensuing State Convention to be held

at the Town of Hillsborough on the third monday of July next when James Iredell Esquire was unanimously Elected for that purpose.

Given under my hand the 25th. day of June 1788

Ed Blount Sheriff C.C.

1. MS, Nc-Ar.

Depositions for the New Hanover Election, 8–19 July 1788¹

George Blyth Deposition, 8 July 1788

George Blyth One of the Inspectors of the Poll for Members of Convention held on Long Creek & wilmington[.] On the third friday and Saturday in March Last Deposeth and Sayeth that he was request[ed] by Many For tickets for Members among whome was named A Thos. Devaune that he said Blyth in Consequence Of Such Applycation wrote a Number of tickets Which Generally Contain'd a Devaune that he said Blyth Never distinguished the name of Devaune With any distinction or title Neither hearing or Suspecting any other of that Name Setting up Attribute the Matter in Dispute to a remissness Of thought in Sta-teing the Poll and farther Sayeth Not.—

George Blyth

Sworn to before me this 8th. July 1788.—

Morris Ward J.P.—

[A facsimile of the front and back of this deposition appears on the next two pages.]

The within a true State of the poll—Geo Blyth sworn to before me, 8th. July 1788

Morris Ward J.P.

[For a facsimile of this page and the tally on the reverse side, see pp. 207–8.]

George Blyth One of the Inspectors of the Poll for
 Members of Convention held on Long Creek & Wilmington
 On the third Friday and Saturday in March Last
 Deposed and Saith that he was request by many
 For tickets for Members among whom was named
 a Tho. Dewaine that he said Blyth in consequence
 of such Application wrote a number of tickets
 which generally contain'd a Dewaine that he said
 Blyth never distinguished the name of Dewaine
 with any distinction or title neither bearing or
 Suspecting any other of that name setting up
 Attribute the matter in Dispute to a remissness
 of thought in stating the poll and farther sayeth
 Not. _____ George Blyth

Sworn to before me this
 8th July 1788.

Marshall J. P. -

[Faint, mostly illegible handwritten text, likely bleed-through from the reverse side of the page.]

[A large, stylized flourish or signature mark, possibly a large letter 'H' or 'I', is visible in the lower middle section.]

[A vertical signature in the bottom right corner:]
Joseph D. ...
of ...

David James Deposition, 10 July 1788

The Within Contains the Number of Votes for the Persons Voted for the Convention and Is the Original Paper.

Votes for the Parties Disputing are as follows

Vizt.

For John Huske Ninety seven

For Thos. Devane Eighty seven

For Thos. Devane Senr. Eighty five

I Never heard that any Person Set up as a Member for the Convention of the Name of Devane but the Person I Expect Will be the Presenter of this Paper:

David James Insptr.

Sworn to the 10th. July 1788

Morris Ward J.P.

William Jones Deposition, 11 July 1788

State of No Carolina

New Hanover County

William Jones Deposeth that on the ___ of March last he being at an Election held in the County aforesaid for Members of the Convention in this State agreeable to Act of assembly in that case made. And that he the Said Jones then & there at the Request of a Number of the Inhabitants & Freemen of the Said County did Wright a considerable number of Tickets Wherein Thos: Devane Senr. Esqr. with other Candidates for Said Election was Mentiond. and he Said Jones further deposeth that he did not know or hear of any other of the Name of Devane being mention[ed] or offering as candidate for Said Election— And further Saith not—

W Jones

Sworn to before me this 11th Day of July 1788

D Jones J P—

Sheriff Thomas Wright Affidavit, 12 July 1788²

State of North Carolina

New Hanover County

to wit

Pursuant to the directions of the Honorable the General Assembly I warned the Freemen of said County and Town of Wilmington to meet on the third friday & Saturday in March last at the usual places of election in order to chuse five Members to represent the sd. County and one Member to represent the sd: Town in a General Convention of the State to be held at Hillsborough on the third Monday of this

Hillman 51
 W. H. Hillman 17
 July 8, 1788.
 Coolidge 1
 A. Newber 97
 W. Williams 185
 A. Campbell 188
 Tom B 179
 J. B 112
 W. Evans 1
 Wm. Farnum 11
 The D 87 = 172
 85
 F. Jones 12
 do Hill 1
 C. S. Johnson 11
 J. Walker 3
 J. D. ... 25
 G. Moore 1
 L. C. Hill 1

present July for the purposes of deliberating and determining on the adoption or rejection of the new Constitution proposed for the future Government of the United States, and to establish a permanent Seat of Government for this State; and having taken the Votes of the Freemen who attended for that purpose (Mr. George Blyth and Thomas Devane the younger esqr. being Inspectors of this poll) upon numbering the tickets it appeared that John Ablin Campbell, Timothy Bloodworth, John Pugh Williams and James Bloodworth esquires had a majority of Votes for the County, and that Archibald Maclaine esqr. was unanimously Chosen for the Town of Wilmington, and they were Accordingly declared duely elected, and among the tickets for the other Candidates, there appeared for Thos. Devane eighty Seven Votes, for Thos. Devane Senr. esqr. eighty five Votes, and for John Huske esqr. Ninety Seven; Whereupon conceiving that Thomas Devane and Thomas Devane Senr. esqr. must have been intended for two different persons, I declared that Mr. Huske was duely elected, but upon further information and reflecting that there are in New Hanover County three persons of the name of Thomas Devane, (the two youngest of whome are Justices,) and only one of that name, the eldest of the two Justices mentioned as a Candidate; & understanding and believing that the eldest Thomas Devane was not in Contemplation for a Member of the Convention, and the youngest being one of the inspectors of the Poll and disavowing his having offered himself as a Candidate, or having been put in Nomination for that purpose, I am apprehensive that I may be thought to have been too precipitate in making a decision—I have therefore Sealed up for inspection the tickets on which my present doubts Originated, and humbly Submit to the Honorable Convention whether Mr. Huske or Mr. Devane is duely elected.—

Wilmington July 12th. 1788

Principal Candidates		Thos: Wright Sheriff	
	Votes		
John Ablin Campbell		188	
John Pugh Williams		185	
Thos: Devane		87	
Timothy Bloodworth		179	
John Huske		97	
James Bloodworth		112	
Thos: Devane Senr esqr		85	

A true Copy

Thos. Wright Shff.

Samuel Buxton Deposition, 19 July 1788

State of No Carolina
New Hanover County

This day personally appeared Before me Thomas Devane Junr one of the state Justices of the Peace for the said County, Samuel Buxton of the Same County, Who made Oath Upon the Holy Evangelist of almighty God—

That he the said Samuel was at the last Election on the third friday in March last which was held for choosing Members for Convention. And that he the said Samuel was one of the persons who wrote Tickets for persons who Give in for Thomas Devanne Senr Esqr which at the Same time there was Tickets wrote and Give in, in the Name of Thomas Devane Esqr. Omiting the Term of Senior which the Said Samuel Says he made mention the time and day of Election that the difference of Writing the Tickets might Occasion Some Dispute who was Answered By Sundry people that it made no difference for no other person of his name or at least in the name of Devane Set up as a Candidate for a member of Convention. And the Said Samuel further Sayeth that he most Sincerely Believes that no other person of the Name of Devane was Voted for Except Thomas Devane Senr. Esqr and that he is Convinced that it was the Real Intention of the Greatest Majority on this day of Election to Give in Their Votes for the Said Thomas Devane Senr Esqr.—Altho there was a difference in the Term of the Tickets and further the Deponant Sayeth Not.

Sam'l. Buxton

Sworn to Before Me this 19th of July 1788—

Thomas Devane J P

1. MS, Papers of the Convention of 1788, Nc-Ar.

2. Another manuscript of Wright's affidavit is included among the Papers of the Convention of 1788, Nc-Ar. The two manuscripts differ slightly in punctuation and spelling. Wright also attached a three-page listing of all the voters in the election for both New Hanover County and the town of Wilmington. See Mfm:N.C.

**Archibald Maclaine to the Electors of Wilmington
Wilmington Centinel, 16 July 1788 (excerpt)¹**

To the Electors of the town of Wilmington.

Fellow-Citizens,

For some years past, I have been honoured with your confidence, and unsolicited, you have trusted me with your best interests. Though I have been opposed by different persons, and under different pre-

tences, by your uniform conduct in my favour, opposition had at last ceased, and its existence seemed to be no more.

The public business interfered so much with my professional duty, as well as with my private interest, that I was induced to decline all further thoughts of accepting a seat in the legislature; but the approaching convention being fixed at a time favourable to my private pursuits, a bare intimation was sufficient to ensure me your unanimous suffrages, to the most important of all trusts; yet as I knew that a continuance in office would be incompatible with my professional concerns, it became necessary to look forward to a proper representative for the town of Wilmington, in case Mr. Potts should decline the trust. . . .

1. The rest of Maclaine's letter to the Wilmington electors deals with the election to the state House of Commons.

V.
**THE FIRST NORTH CAROLINA CONVENTION:
HILLSBOROUGH
21 July–4 August 1788**

Introduction

On Monday, 21 July 1788, a majority of delegates attended the opening session of the North Carolina Convention that assembled in the old Episcopal church in Hillsborough. Convening daily except for Sundays, the delegates met for thirteen days until their final adjournment on Monday 4 August. On the first day, delegates elected Governor Samuel Johnston as Convention president, John Hunt and James Taylor as secretary and assistant secretary, and William Murfree, Peter Gooding, Nicholas Murfree, and James Mulloy as doorkeepers. Before adjourning for the day, the delegates selected committees to draft rules and to examine the validity of elections.

The next day the Convention read the rules twice as reported by the committee and, with the exception of one provision, agreed to them. (The deleted rule prohibited speaking more than twice without permission except in a committee of the whole.) The elections committee received a petition and several affidavits from Dobbs County concerning the riotous proceedings following the first election and the probable illegitimacy of the subsequent election. On the following day, 23 July, the elections committee returned its report, and the Convention agreed to void both elections and unseat the Dobbs County delegates. Two days later, the elections committee reported again, and the Convention agreed to unseat John Ingram of Fayetteville. (According to the committee's report, Fayetteville did not possess "the right of representation in this Convention.") The Convention, also based on the committee's report, confirmed the election of Thomas Devane of New Hanover. Following the Convention's action on the Dobbs County election, the motion was made and seconded that the Convention read North Carolina's bill of rights and constitution, the Articles of Confederation, the Confederation Congress' resolution of 21 February 1787 calling the Constitutional Convention, North Carolina's act of 6 January 1787 appointing delegates to the Constitutional Convention, Congress' resolution of 28 September 1787 transmitting the Constitution to the states, along with the entire report of the Constitutional Convention, and the previous North Carolina Assembly's resolutions of 6 December 1787 calling for elections to a state ratifying convention and

for the printing and wide distribution of the Constitution. President Johnston then submitted “official” accounts of the ratification of the Constitution by Massachusetts and South Carolina. James Gallaway of Rockingham County then moved that the Constitution be considered clause by clause. Willie Jones of Halifax County and Thomas Person of Granville argued that, because the delegates had already decided how to vote on the Constitution, it was unnecessary to consider the Constitution so thoroughly. Rather, an immediate vote on ratification should be taken. James Iredell of Edenton responded, stating that “the safety or ruin of our country” was at stake and that the North Carolina Convention should follow the example of other conventions and thoroughly consider the Constitution. Jones backed away from his demand for an immediate vote, and the Convention adjourned.

On 24 July, after some discussion, the delegates agreed to debate the Constitution in a committee of the whole, thus loosening the stringent rules of parliamentary procedure. Antifederalists, led by the Reverend David Caldwell of Guilford County, then argued in favor of establishing “fundamental principles” before examining the Constitution. Such an examination, Federalists argued, would be too time-consuming. By a vote of 163 to 90, delegates voted not to establish fundamental principles before proceeding with the debate. The Convention then agreed “by a great majority” to discuss the Constitution clause by clause.

The delegates started their discussion by looking at the first three words of the preamble—“We the People.” It took six days to complete the discussion of the entire Constitution. On 31 July, the committee of the whole agreed to a report that was submitted to the entire Convention, read, and laid on the clerk’s table. The Convention then adjourned to the next day.

On 1 August, the Convention read the report again. The report provided that a bill of rights and structural amendments to the Constitution be submitted to the Confederation Congress and to a second general convention (i.e., a second constitutional convention) before North Carolina would agree to ratification. The report included twenty rights-oriented amendments and twenty-six structural amendments. James Iredell, seconded by John Skinner, then moved that the report of the committee of the whole be dramatically altered. (Earlier on the same day, Iredell had withdrawn his motion in deference to Antifederalists so that “the resolution of the committee [of the whole] might be first entered on the journal, which had not been done.”) Iredell’s resolution, which replaced all but the first two words of the committee’s report, advocated unconditional ratification of the Constitution. The six proposed amendments constituting part of Iredell’s resolution were to

be considered only after the implementation of the Constitution and in accordance with the provisions of the Constitution's fifth article that specified the method of amending the Constitution. The delegates rejected Iredell's amendment by a vote of 184 to 84 and adjourned to six the next morning.

On Saturday, 2 August, the delegates balloted for a permanent location of the state capital and adjourned to 10:00 A.M., when it was determined that no location had received a majority of the ballots. The delegates again read the report of the committee of the whole, which was approved by a vote of 184 to 83. Willie Jones and James Galloway then proposed (1) that the North Carolina legislature enact an impost similar to what the new federal Congress would adopt and that the revenue therefrom be turned over to Congress and (2) that the state legislature take "effectual measures" to retire North Carolina's paper money. The delegates then instructed Convention President Johnston to inform Congress and the other twelve states of their choice to postpone the decision to ratify the Constitution. The Convention then adjourned to four that afternoon, at which time the ballots were counted determining that a site in Wake County should be the state capital. The delegates then adjourned to Monday, 4 August, when a dissent was registered to the ordinance for establishing the seat of government, which was afterwards "ratified in open convention." (The text of the ordinance does not appear in either the *Convention Journal* or the *Proceedings and Debates*. For a broadside printing of the ordinance, see Mfm:N.C., 4 August 1788.) The delegates then unanimously offered their thanks to President Samuel Johnston and ordered that the governor submit the Convention journal to the legislature after signing it as Convention president. The Convention then adjourned *sine die*.

Approximately 280 speeches were recorded in the printed *Proceedings and Debates of the Convention of North-Carolina, Convened at Hillsborough, on Monday the 21st Day of July, 1788 . . .* (Edenton, 1789) (Evans 22037) (150 by Federalists, and 130 by Antifederalists). Sometimes the note taker indicated that desultory debates had ensued, but no individual speakers were named. Thirty different men were recorded as speaking—twenty Antifederalists and only ten Federalists. Five Federalists spoke frequently, giving approximately 140 speeches. James Iredell spoke about forty-eight times, far more than anyone else. Other frequent Federalist speakers included Archibald Maclaine (32), Samuel Johnston (25), William R. Davie (19), and Richard Dobbs Spaight (17). Nine Antifederalists spoke frequently, giving around 110 speeches. Timothy Bloodworth spoke most frequently for Antifederalists with approximately

twenty-one speeches. Other frequent Antifederalist speakers included Samuel Spencer (20), Joseph M'Dowall (14), David Caldwell (12), James Gallaway (11), Joseph Taylor (11), Willie Jones (9), William Lenoir (7), and William Porter (5). The speakers often used "country" to refer to the state of North Carolina.

Delegates to the Hillsborough Convention

The following roster lists the delegates elected to the first North Carolina Convention. Unlike other states' convention rosters and the delegate roster for the second North Carolina Convention, this roster is *not* a record of delegates' support for or opposition to the Constitution, but a record of delegates' assent or dissent to the report of the committee of the whole, which made North Carolina's ratification contingent on Congress and a second general convention considering the rights-based and structural amendments proposed in the report. That report, which was approved 184 to 83 on 2 August, made no mention of North Carolina rejecting the Constitution, only that North Carolina would not ratify the Constitution without significant amendment. Votes in favor of the committee's report, signified by (Antifed.), represent votes by Antifederalists. Votes in opposition to the report, signified by (Fed.), represent votes by Federalists, who advocated unconditional ratification or ratification with recommendatory, not previous, amendments. Delegates who were absent at the time of the vote are signified by (A) and delegates who did not vote by (NV). Convention seats that were vacated by the committee on elections have been indicated as such. The spelling of names in this roster mostly conforms to the spelling in the vote on the committee report from the *Proceedings and Debates* (Evans 22037). Alternate names/spellings have been provided in brackets when thought to be helpful.

OFFICERS

President: Samuel Johnston
 Secretary: John Hunt
 Assistant Secretary: James Taylor
 Doorkeepers

William Murfree	Nicholas Murfree
Peter Gooding	James Mulloy

DELEGATES BY COUNTY

ANSON

Daniel Gould (Antifed.)
 Lewis Lanier (Antifed.)
 Samuel Spencer (Antifed.)
 Thomas Wade (Antifed.)
 Frame Wood (A)

BEAUFORT

Thomas Alderson (Fed.)
 John Gray Blount (Fed.)

James Bonner (Antifed.)
 Charles Crawford (A)
 Nathan Keais [Keas] (Fed.)

BERTIE

William Johnston Dawson (Fed.)
 William Gray (A)
 John Johnston (Fed.)
 Andrew Oliver (Fed.)
 David Tanner [Turner] (Fed.)

BLADEN

Thomas Brown (Antifed.)
 Samuel Cain (Antifed.)
 Goodwin Elleston [Elliston] (Fed.)
 Joseph R. Gautier [Gaitier] (Antifed.)
 Thomas Owen (Fed.)

BRUNSWICK

John Cains (Antifed.)
 Lewis Dupree [Louis; Dupre] (Antifed.)
 Alexious Medor Foster [Alexius;
 Forster] (Antifed.)
 Jacob Leonard (Antifed.)
 Benjamin Smith (Fed.)

BURKE

James Greenlee (Antifed.)
 Charles McDowell [McDowall] (Fed.)
 Joseph McDowell, Jr. [of Pleasant
 Gardens] (Antifed.)
 Joseph McDowell [of Quaker Meadows]
 (Antifed.)
 Robert Johnstone Miller [Johnston]
 (Antifed.)

CAMDEN

Henry Abbott (Fed.)
 Peter Dauge [Dozier] (Fed.)
 Charles Grandy (Fed.)
 Isaac Gregory (Fed.)
 Enoch Sawyer (Fed.)

CARTERET

William Borden or William Bordon, Jr.¹
 (Fed.)
 William Sheppard [Shepard, Shephard]
 (Fed.)
 Willis Styron [Wallace, Wallis; Stiron]
 (Fed.)
 David Wallace (A)

CASWELL

James Boswell (Antifed.)
 Robert Dickens [Dickins] (Antifed.)
 John Herndon Graves (Antifed.)
 George Roberts (Antifed.)
 John Womack [Wommack] (Antifed.)

CHATHAM

James Anderson (Antifed.)
 George Lucas (Fed.)
 Ambrose Ramsay [Ramsey] (Antifed.)
 Joseph Stewart (Antifed.)
 William Vestal (Antifed.)

CHOWAN

Nathaniel Allen (Fed.)
 Edmund Blount [Edmond] (Fed.)
 Stephen Cabarrus (Fed.)

Charles Johnson (Fed.)
 Michael Payne (Fed.)

CRAVEN

Joseph Leech (Fed.)
 Abner Neale (NV)
 Richard Nixon (Antifed.)
 Richard Dobbs Spaight (Fed.)
 Benjamin Williams (Antifed.)

CUMBERLAND

Thomas Armstrong (Antifed.)
 George Elliot (Fed.)
 William Barry Grove (Fed.)
 Alexander McAllister [McAlister,
 McAllaster] (Antifed.)
 James Porterfield (Fed.)

CURRITUCK

Joseph Ferebee (Fed.)
 William Ferebee (Fed.)
 John Humphries (Fed.)
 James Phillips (Fed.)

DAVIDSON

William Dobins [Dobbins] (Antifed.)
 William Donelson [Donaldson]
 (Antifed.)
 Thomas Evans (Antifed.)
 Thomas Hardiman [Hardeman]
 (Antifed.)
 Robert Weakley (Antifed.)

DOBBS²

Richard Caswell (Vacated)
 Winston Caswell (Vacated)
 James Glasgow (Vacated)
 Nathan Lassiter (Vacated)
 Benjamin Sheppard (Vacated)

DUPLIN

William Dickson (Antifed.)
 James Gillespie (Antifed.)
 James Kenan [Kennion] (Antifed.)
 Francis Oliver (Antifed.)
 Charles Ward (Antifed.)

EDGECOMBE

Elisha Battle (Antifed.)
 Bythel Bell (Antifed.)
 Robert Diggs (Antifed.)
 William Fort (Antifed.)
 Ethelred Gray [Etheldred] (Antifed.)

FRANKLIN

Durham Hall (Antifed.)
 Henry Hill (Antifed.)
 William Lancaster (Antifed.)
 John Norwood (Antifed.)
 Thomas Sherrod (Antifed.)

GATES

William Baker (Fed.)
 James Gregory (Fed.)
 Thomas Hunter (Fed.)
 Joseph Reddick [Riddick] (Fed.)

GRANVILLE

Howell Lewis, Jr. (Antifed.)
 Elijah Mitchell (Antifed.)
 Thomas Person (Antifed.)
 Joseph Taylor (Antifed.)
 Thornton Yancey [Thorton] (Antifed.)

GREENE

Ashakel Rawlings [Ashel, Rawlins]
 (Antifed.)
 James Roddy [Roddye] (Antifed.)
 James Wilson (Antifed.)

GUILFORD

John Anderson (Antifed.)
 David Caldwell (Antifed.)
 Daniel Gillespie [Gillaspie] (Antifed.)
 William Goudy [Gowdy] (Antifed.)
 John Hamilton (Antifed.)

HALIFAX

John Branch (Antifed.)
 Egbert Haywood (Antifed.)
 John Jones (Antifed.)
 Willie Jones (Antifed.)
 William Wooten [Wootten] (Antifed.)

HAWKINS

Stokely Donelson [Stockley;
 Donnelson] (Antifed.)
 Thomas King (Antifed.)
 William Marshall (Antifed.)

HERTFORD

Lemuel Burkitt (Antifed.)
 Samuel Harrell (Fed.)
 William Person Little (Antifed.)
 George Wynns (Fed.)
 Thomas Wynns (Fed.)

HYDE

John Eborn [Eborne] (Fed.)
 Caleb Foreman (Fed.)
 Seth Hovey (Fed.)
 James Jasper (Fed.)
 Abraham Jones [Abram] (Fed.)

JOHNSTON

Joseph Boon (Antifed.)
 William Bridges [Bridgers] (Fed.)
 John Bryan (Antifed.)
 William Farmer (Antifed.)

Everett Pearce [Everett; Pierce]
 (Antifed.)

JONES

John Hill Bryan (Antifed.)
 Nathan Bryan (Antifed.)
 Frederick Hargett (Antifed.)
 William Randle [Randall, Randel]
 (Antifed.)
 Edward Whitty (Antifed.)

LINCOLN

Robert Alexander (Antifed.)
 James Johnston (Antifed.)
 William Maclaine [Maclean, McLaine,
 McLean] (Fed.)
 John Moore (Fed.)
 John Sloan (Fed.)

MARTIN

Whitmill Hill [Whitmill] (Fed.)
 Thomas Hunter (Antifed.)
 William McKenzie (Fed.)
 Nathan Mayo (Fed.)
 William Slade (Fed.)

MECKLENBURG

Joseph Douglas (Antifed.)
 Joseph Graham (Antifed.)
 Robert Irwin (Fed.)
 Caleb Phifer (Antifed.)
 Zachias Wilson [Zaccheus] (Antifed.)

MONTGOMERY

Thomas Butler (Antifed.)
 William Kindall [Kendall] (Antifed.)
 William Loftin [Loften] (Antifed.)
 James McDonald (NV)
 Thomas Ussory (Antifed.)

MOORE

John Carroll (Antifed.)
 John Cox (Antifed.)
 Cornelius Dowd [Doud] (Antifed.)
 William Martin (Antifed.)
 Thomas Tyson (Antifed.)

NASH

John Bonds (Antifed.)
 Redman Bunn [Redmond] (Antifed.)
 Howell Ellen [Ellin] (Antifed.)
 William Skipwith Marnes [Mearnes,
 Mearns] (Antifed.)
 David Pridgen (Antifed.)

NEW HANOVER

James Bloodworth (Antifed.)
 Timothy Bloodworth [Timothy]
 (Antifed.)

- John Ablen Campbell (Antifed.)
 Thomas Devane³ (Antifed.)
 John Huske (vacated)
 John Pugh Williams (Antifed.)
- NORTHAMPTON**
 John Manley Binford [Bentford]
 (Antifed.)
 Robert Peebles [Peoples] (Antifed.)
 John Peterson (A)
 James Vaughan (Antifed.)
 James Vinson (Antifed.)
- ONSLAW**
 Thomas Johnston (Antifed.)
 Robert Whitehurst Snead (A)
 John Spicer, Jr. (Antifed.)
 Edward Starkey (A)
 Daniel Yates [Yeates] (Antifed.)
- ORANGE**
 Jonathan Lindley (Antifed.)
 William McCauley (Antifed.)
 Alexander Mebane (Antifed.)
 William Mebane (Antifed.)
 William Sheppard [Shepperd,
 Shepherd] (Antifed.)
- PASQUOTANK**
 Devotion Davis (Fed.)
 Edward Everagin [Everagain] (Fed.)
 John Lane (Fed.)
 Thomas Reading [Reding] (Fed.)
 Enoch Relfe (Fed.)
- PERQUIMANS**
 Thomas Harvey (Fed.)
 Samuel Johnston (Fed.)
 John Skinner (Fed.)
 Joshua Skinner (Fed.)
 William Skinner (Fed.)
- PITT**
 Sterling Dupree (Antifed.)
 Arthur Forbes (Antifed.)
 Richard Moye (Antifed.)
 David Perkins (Fed.)
 Robert Williams (Antifed.)
- RANDOLPH**
 William Bowdon [Bowdown] (NV)
 Thomas Dougan (Antifed.)
 Jesse Henley (NV)
 Edmund Waddell (Antifed.)
 Zebedee Wood (Antifed.)
- RICHMOND**
 Benjamin Covington (Antifed.)
 John McAllister (Antifed.)
- Charles Robinson [Robertson,
 Robeson] (Antifed.)
 Edward Williams (Antifed.)
- ROBESON**
 Elias Barnes (Fed.)
 Neill Brown (Fed.)
 John Cade (Fed.)
 John Regan (Antifed.)
 John Willis (Fed.)
- ROCKINGHAM**
 William Bethel (Antifed.)
 Charles Galloway [Galloway] (Antifed.)
 James Galloway [Galloway] (Antifed.)
 John May (Antifed.)
 Abraham Phillips [Abram; Philips]
 (Antifed.)
- ROWAN**
 George Henry Berger [Barringer]
 (Antifed.)
 James Brannon [Brandon] (Antifed.)
 Thomas Carson (Antifed.)
 Matthew Lock [Locke] (Antifed.)
 Griffith Rutherford (Antifed.)
- RUTHERFORD**
 George Ledbetter (Antifed.)
 George Moore (Antifed.)
 William Porter (Antifed.)
 Richard Singleton (Antifed.)
 James Whiteside (Antifed.)
- SAMPSON**
 Richard Clinton (Antifed.)
 David Dodd (Antifed.)
 Hardy Holmes (Antifed.)
 Lewis Holmes (Antifed.)
 Curtis Ivey (Antifed.)
- SULLIVAN**
 John Dunkin [Duncan] (Antifed.)
 David Looney (Antifed.)
 Joseph Martin (A)
 John Scott (Antifed.)
 John Sharpe [Sharp] (Antifed.)
- SUMNER**
 Edward Douglas (A)
 Daniel Smith (A)
 William Stokes (Fed.)
 David Wilson (A)
 James Winchester (Fed.)
- SURRY**
 Absalom Bostick (Antifed.)
 Matthew Brooks (Antifed.)
 James Gaines [Gains] (Antifed.)

Charles McAnnelly [McAnally] (Antifed.)	Henry Montfort (Antifed.)
Joseph Winston (Antifed.)	James Payne [Paine] (Antifed.)
TYRRELL	WASHINGTON
Edmund Blount (Fed.)	Robert Allison (Antifed.)
Josiah Collins, Sr. (Fed.)	John Blair (Antifed.)
Hezekiah Spruill (A)	James Stuart [Stewart] (Antifed.)
Simeon Spruill (Fed.)	John Tipton (Antifed.)
Thomas Stewart [Stuart] (Fed.)	Joseph Tipton (Antifed.)
WAKE	WAYNE
Thomas Hines (Fed.)	Andrew Bass (Antifed.)
James Hinton (Antifed.)	James Handley (Antifed.)
Nathaniel Jones (Fed.)	Richard McKinne [McKinne] (Antifed.)
Joel Lane (Antifed.)	Burwell Mooring (Antifed.)
Brittain Sanders [Saunders] (Antifed.)	William Taylor (Antifed.)
WARREN	WILKES
Thomas Christmas (Antifed.)	Richard Allen (Antifed.)
Wyatt Hawkins (Antifed.)	John Brown (Antifed.)
John Macon (Antifed.)	James Fletcher (Antifed.)
	Joseph Herndon (Antifed.)
	William Lenoir (Antifed.)

DELEGATES BY BOROUGH

EDENTON	NEW BERN
James Iredell (Fed.)	John Sitgreaves (Fed.)
FAYETTEVILLE	SALISBURY
John Ingram ⁴ (Vacated)	John Steele (Fed.)
TOWN OF HALIFAX	WILMINGTON
William R. Davie (Fed.)	Archibald Maclaine (Fed.)
HILLSBOROUGH	
Absalom Tatum	
[Tatum] (Antifed.)	

1. Either William Borden or William Borden, Jr., attended the Hillsborough Convention. Both men were probably elected as delegates to the Convention, but only one seems to have been in attendance; the one who attended did so as a supporter of the Constitution.

2. On 16 April *Martin's North Carolina Gazette* (New Bern) reported on the election of delegates to the Hillsborough Convention from Dobbs County, N.C., and on the violence that followed. (The election was held 28–29 March; the violence followed the closing of the polls on 29 March.) Federalists, disturbed that the election had gone against them, abused Antifederalist candidates and assaulted one of the election inspectors. The seats of Richard and Winston Caswell, Glasgow, Lassiter, and Sheppard, all Federalists, were vacated because of the election irregularities. See The Dobbs County elections and violence, 29 March, 13 April, 14–15 July 1788 (RCS:N.C., 183–200n). See also “The New York Reporting of the Election Riot in Dobbs County, N.C.,” 20 May 1788 (RCS:N.Y., 1106–7).

3. The committee on elections ruled that Thomas Devane had been duly elected to the Convention and seated him on 25 July. Two sets of election returns—one for Thomas Devane, the other for Thomas Devane, Sr.—had been presented to the Convention. The committee accepted that they were the same person and seated Devane. John Huske was

disqualified and did not vote. See the depositions taken for the New Hanover elections (RCS:N.C., 204–12).

4. John Ingram's seat was vacated on 25 July; the Convention decided that Fayetteville was not entitled to representation.

Hillsborough Convention

Monday

21 July 1788

Convention Proceedings, 21 July 1788 (excerpt)¹

[The text of the U.S. Constitution, the resolutions of the Constitutional Convention, and the 17 September 1787 letter of George Washington as president of the Convention to the president of Congress appear here (Appendix III, RCS:N.C., 833–46).]

At a Convention begun and held at Hillsborough, on the twenty first day of July, in the year of our Lord one thousand seven hundred and eighty-eight, and of the independence of the United States of America the thirteenth, in pursuance of a resolution of the last General Assembly, for the purposes of deliberating and determining on the proposed plan of Federal Government, and for fixing the unalterable seat of government of this state.

The returning officers for the several Counties certified, that the following persons were duly elected as members to this Convention, viz. [A list of members by county and borough town follows here.]

Pursuant to which, the following members appeared and took their seats, viz. His Excellency Samuel Johnston, esq.; the hon. Samuel Spencer, esq.; Messrs. Lewis Lanier, Thomas Wade, Daniel Gould, Nathan Keais, John G. Blount, James Bonner, Thomas Alderson, John Johnston, Andrew Oliver, Wm. Johnston Dawson, Alexious M. Forster, Lewis Dupree, Thomas Brown, Goodwin Elleston, Charles M'Dowall, James Greenlee, Joseph M'Dowall, Robert Miller, Richard D. Spaight, Abner Neale, Benjamin Williams, Richard Nixon, Thomas Armstrong, Wm. B. Grove, James Porterfield, Alexander M'Callister, George Elliot, Willis Styron, William Sheppard, James Phillips, John Humphries, William Ferebee, Joseph Ferebee, Michael Payne, Charles Johnson, Stephen Carrus, Edmund Blount, Henry Abbot, Isaac Gregory, Peter Dauge, Charles Grandy, Enoch Sawyer, Robert Dickins, George Roberts, John Womack, Ambrose Ramsey, Jas. Anderson, Joseph Stewart, George Lucas, William Vestall, Richard Caswell, Winston Caswell, Nathan Lasseter, Thomas Evans, Thomas Hardiman, Robert Weakley, William Donaldson, William Dobins, Robert Digges, Bythel Bell, Elisha Battle, William

Fort, Etheldred Gray, William Lancaster, Thomas Sherrod, John Norwood, Sterling Dupree, Robert Williams, Richard Moye, Arthur Forbes, David Caldwell, William Goudy, Daniel Gillespie, John Anderson, John Hamilton, Thomas Person, Joseph Taylor, Thornton Yancey, Howel Lewis, junr. Elijah Mitchell, Geo. Moore, Geo. Ledbetter, Wm. Porter, Wm. Bowdon, Zebedee Wood, Edmund Waddell, James Gallaway, William Bethel, Abraham Phillips, John May, Charles Gallaway, John Willis, John Cade, Joseph Tipton, Elias Barnes, Neil Brown, John Regan, Joseph Winston, James Gains, Charles M'Annely, Absalom Bostick, Joseph Martin, John Scott, John Dunkin, David Dodd, Curtis Ivey, Lewis Holmes, Richard Clinton, Hardy Holmes, James Winchester, William Stokes, Thomas Stewart, Josiah Collins, Robert Allison, James Stuart, John Tipton, John Blair, John Macon, Thomas Christmas, Henry Montfort, William Taylor, James Handley, Thomas Hines, Nathaniel Jones, Brittain Sanders, Wm. Lenoir, Richard Allen, John Brown, Joseph Hernon, James Fletcher, John Steele, Absalom Tatom, Wm. R. Davie, James Iredell, John Sitgreaves, Archibald Maclaine, William Baker, Joseph Reddick, James Gregory, Thomas Hunter, Thomas Wynns, Lemuel Burkitt, William Little, Abraham Jones, John Eborne, James Jasper, Caleb Foreman, Seth Hovey, Stokely Donelson, Thomas King, Nathan Bryan, John Hill Bryan, Edward Whitty, Robert Alexander, James Johnson, John Sloane, John Moore, William Maclaine, John Cox, John Carrell, Cornelius Doud, Thomas Tyson, William Martin, Nathan Mayo, William Slade, Thomas Hunter (Martin), William M'Kinzie, Joseph Graham, Robert Irwin, Wm. Loftin, William Kindall, James M'Donald, Thomas Ussory, Thomas Butler, John Benford, James Vaughan, Robert Peebles, James Vinson, William S. Marnes, Howel Ellin, Redman Bunn, John Bonds, David Pridgen, Daniel Yates, Thomas Johnston, John Spicer, Alexander Mebane, William Mebane, William M'Cauley, William Shepard, Jonathan Lindley, John Lane, Thomas Reading, Edward Everegain, Enoch Relfe, Devotion Davis, William Skinner, Joshua Skinner, Thos. Harvey, John Skinner, Samuel Harrell, Wyot Hawkins, and James Payne.

Mr. Person proposed for President his excellency Samuel Johnston, esq; who was unanimously elected, and conducted to the chair accordingly.

On motion, John Hunt was appointed Secretary, and James Taylor Assistant Secretary.

At the same time William Murfree, Peter Gooding, Nicholas Murfree, and James Mulloy were appointed door keepers.

Mr. John Graves, one of the members for Caswell county, appeared and took his seat. . . .

Adjourned until to-morrow morning 11 o'clock.

1. Printed: *The Journal of the Convention of North-Carolina* (Hillsborough, 1788) (Evans 21337), 1–4. Hereafter cited in Part V as *Journal*.

Convention Debates, 21 July 1788¹

At a Convention, begun and held at Hillsborough, the 21st day of July, in the year of our Lord one thousand seven hundred and eighty-eight, and of the independence of America the thirteenth, in pursuance of a resolution of the last General Assembly,² for the purpose of deliberating and determining on the proposed plan of Federal Government—

A majority³ of those who were duly elected as Members for this Convention, being met at the Church,⁴ they proceeded to the election of a President, when his Excellency SAMUEL JOHNSTON, Esquire, was unanimously chosen, and conducted to the chair accordingly.

The House then elected Mr. John Hunt and Mr. James Taylor, Clerks to the Convention; and also appointed Door-Keepers, &c.

The House then appointed a select committee to prepare and propose certain rules and regulations for the government of the Convention in the discussion of the Constitution.

The committee consisted of Messrs. Davie, Person, Iredell, J. M'Donald, Battle, Spaight, and the Honourable Samuel Spencer, Esquire.

The Convention then appointed a committee of three Members from each district, as a committee of privileges and elections, consisting of Messrs. Spencer, Irwin, Caldwell, Person, A. Mebane, Joseph Taylor, M'Dowall, J. Brown, J. Johnston, Davie, Peebles, E. Gray, Gregory, Iredell, Cabarrus, J. G. Blount, Keais, B. Williams, T. Brown, Maclaine, Forster, Clinton, J. Willis, Grove, J. Stewart, Martin, and Tipton.

The Convention then adjourned till to-morrow morning.

1. Printed: *Proceedings and Debates of the Convention of North-Carolina, Convened at Hillsborough, on Monday the 21st Day of July, 1788 . . .* (Edenton, 1789) (Evans 22037), 19–20. Hereafter cited in Part V as *Proceedings and Debates*.

2. For the 6 December 1787 resolutions of the North Carolina Senate and House of Commons calling the state's first ratifying convention, see RCS:N.C., 47–48. The resolutions stated that elections were to be held on “the last Friday and Saturday in March next” (i.e., 28–29 March 1788) to choose five delegates for each county and one for each borough town. The resolutions also identified “the third Monday of July” (i.e., 21 July) as the day on which elected delegates would meet in convention. The place of meeting was to be determined by “joint ballot of both houses of the General Assembly.”

3. The Convention *Journal* lists 206 delegates in attendance on 21 July.

4. The church mentioned, the first church in Hillsborough, N.C., was the Anglican (Episcopal) parish church. Established during the colonial period, the church was frequented by William Tryon, the royal governor. Located on the corner of Churton and Tryon Streets, the original building was destroyed by fire and the property passed to a Presbyterian congregation in the early nineteenth century. A church still stands on the site.

Hillsborough Convention
Tuesday
22 July 1788

Convention Proceedings, 22 July 1788 (excerpts)¹

Met according to adjournment.

Mr. James Boswell, one of the members for Caswell county, Mr. William S. Marnes, one of the members for Nash county, Mr. John M'Callaster, one of the members for Richmond county, Mr. Joseph Leech, one of the members for Craven county, Mr. David Looney, and Mr. John Sharpe, two of the members for Sullivan county, Mr. Joseph Gaitier, one of the members for Bladen county, Mr. John A. Campbell, Mr. John Pugh Williams, and Mr. John Huske, three of the members for New Hanover county, Mr. William Marshall, one of the members for Hawkins county, Mr. Charles Robertson, one of the members for Richmond county, Mr. James Gillespie, and Mr. Charles Ward, two of the members for Duplin county, Mr. William Bridges, one of the members for Johnston county, Mr. William Randall, and Mr. Frederick Harget, two of the members for Jones county, Mr. Richard M'Kinne, one of the members for Wayne county, Mr. John Cains, and Mr. Jacob Leonard, two of the members for Brunswick county, Mr. Thomas Carson, one of the members for Rowan county, Mr. William Borden, junr. one of the members for Carteret county, Mr. Richard Singleton, and Mr. James Whiteside, two of the members for Rutherford county, Mr. Caleb Phifer, Mr. Zachias Wilson, and Mr. Joseph Douglass, three of the members for Mecklinburg county, Mr. Thomas Dougan, and Mr. Jesse Henley, two of the members for Randolph county, Mr. James Kenan, one of the members for Duplin county, Messrs. John Jones, Egbert Haywood, William Wootten, and John Branch, four of the members for Halifax county, and Mr. Henry Hill, one of the members for Franklin county, appeared and took their seats. . . .

Adjourned until to-morrow morning 10 o'clock.

1. Printed: *Journal*, 4–5, 6.

Convention Debates, 22 July 1788¹

The Convention met according to adjournment.

The committee appointed for that purpose, reported certain rules and regulations for the government of the Convention; which were

twice read, and, with the exception of one article, were agreed to, and are as follow, *viz.*²

1. When the President assumes the chair, the Members shall take their seats.

2. At the opening of the Convention, each day, the minutes of the preceding day shall be read, and be in the power of the Convention to be corrected, after which any business addressed to the chair may be proceeded upon.

3. No Member shall be allowed to speak but in his place, and after rising and addressing himself to the President, shall not proceed until permitted by the President.³

4. No Member speaking shall be interrupted but by a call to order by the President, or by a Member through the President.

5. No person shall pass between the President and the person speaking.

6. No person shall be called upon for any words of heat but on the day on which they were spoken.

7. No Member to be referred to in debate by name.

8. The President shall be heard without interruption, and when he rises, the member up shall sit down.

9. The President himself, or by request, may call to order any Member who shall transgress the rules; if a second time, the President may refer to him by name; the Convention may then examine and censure the Member's conduct, he being allowed to extenuate or justify.

10. When two or more Members are up together, the President shall determine who rose first.

11. A motion made and seconded, shall be repeated by the President. A motion shall be reduced to writing if the President requires it. A motion may be withdrawn by the Member making it, before any decision is had upon it.

12. The name of him who makes, and the name of him who seconds, a motion, shall be entered upon the minutes.

13. No Member shall depart the service of the House without leave.

14. Whenever the House shall be divided upon any question, two or more Tellers shall be appointed by the President, to number the Members on each side.

15. No Member shall come into the House, or remove from one place to another, with his hat on, except those of the Quaker profession.⁴

16. Every Member of a committee shall attend at the call of his Chairman.

17. The yeas and nays may be called and entered on the minutes, when any two members require it.

18. Every Member actually attending the Convention, shall be in his place at the time to which the Convention stands adjourned, or within half an hour thereof.

Mr. *Lenoir* moved, and was seconded by Mr. *Person*, that the return for Dobbs county should be read; which was accordingly read: Whereupon Mr. *Lenoir* presented the petition of sundry of the inhabitants of Dobbs county, complaining of an illegal election in the said county,⁵ and praying relief; which being also read, on motion of Mr. *Lenoir*, seconded by Mr. *Davie*, *Resolved*, That the said petition be referred to the committee of elections.

Mr. *Spaight* presented the deposition of Benjamin Caswell, Sheriff of Dobbs county, and a copy of the poll of an election held in the said county for members to this Convention; and the depositions of William Croom, Neil Hopkins, Robert White, John Hartsfield, Job Smith and Frederick Baker; which being severally read, were referred to the committee of elections.

Mr. *Cabarrus* presented the depositions of Charles Markland, jun. and Luther Spalding, relative to the election of Dobbs county; which being read, were referred to the committee of elections.

The Convention then adjourned to ten o'clock to-morrow morning.

1. Printed: *Proceedings and Debates*, 20–22.

2. An incomplete manuscript draft of the rules is in Conventions Concerning the United States Constitution, SS 289, Nc-Ar (Mfm:N.C.), and a second incomplete manuscript draft, part of a report by the rules committee, is in Papers of the Convention of 1788, Nc-Ar. The first manuscript draft of the rules contains a rule not listed in the *Journal* or the *Proceedings and Debates*: “No Member shall speak more than twice to a question without leave, except in a Committee of the whole house ~~when any member may speak as often as he pleases.~~”

3. The Convention *Journal* report of the rules added seven words to the end of rule number 3: “or by a member through the president.” This phrase appeared at the end of rule number 4 and does not appear in the two extant draft versions of the rules. The addition at the end of rule 3 was probably inadvertent by the *Journal*'s printer.

4. In addition to their rejection of titles and other markers of respectability, Quakers typically refused customs that signaled, or even implied, a hierarchy among people. Doffing, or removing, one's hat was such a custom.

5. For the petition protesting the second Dobbs County election and various accounts of the Dobbs County violence, see RCS:N.C., 183–95.

Hillsborough Convention
Wednesday
23 July 1788

Convention Proceedings, 23 July 1788 (excerpts)¹

Met according to adjournment.

Mr. Edmund Blount, and Mr. Simeon Spruill, two of the members for Tyrrel county, Mr. Andrew Bass, one of the members for Wayne county, Mr. Joseph Boon, Mr. Wm. Farmer, and Mr. John Bryan, three of the members for Johnston county, Mr. Edward Williams, one of the members for Richmond county, Mr. Francis Oliver, one of the members for Duplin county, Mr. Matthew Brooks, one of the members for Surry county, Mr. David Turner, one of the members for Bertie county, and Mr. Willie Jones, one of the members for Halifax county, appeared and took their seats. . . .

On a motion made by Mr. Person, seconded by Mr. Jones, Resolved, That the convention will to-morrow determine on what principles, and in what manner they will proceed to take up and debate on the proposed Federal Constitution.

Mr. Griffith Rutherford and Mr. George Henry Barringer, two of the members for Rowan county, appeared and took their seats.

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 6, 7.

Convention Debates, 23 July 1788¹

The House met according to adjournment.

Mr. *Gregory*, from the committee of elections, to whom were referred the return from Dobbs county, and sundry other papers, and the petition of sundry of the inhabitants of Dobbs county relative to the election of the said county, delivered in a report; which being read, was agreed to in the following words, *viz.*²

Resolved, That it is the opinion of this committee, that the sitting members returned from the county of Dobbs, vacate their seats, as it does not appear that a majority of the county approved of a new election under the recommendation of his Excellency the Governor, but the contrary is more probable.

That it appears to this committee, that there was a disturbance and riot at the first election (which was held on the days appointed by the resolve of the General Assembly) before all the tickets could be taken out of the box, and the box was then taken away by violence, at which

time it appears there were a sufficient number of tickets remaining in the box to have given a majority of the whole poll to five others of the candidates, besides those who had a majority of the votes at the time when the disturbance and riot happened. It is therefore the opinion of this committee, that the Sheriff could have made no return of any five Members elected; nor was there any evidence before the committee by which they could determine with certainty, which candidates had a majority of votes of the other electors.

The committee are therefore of opinion that the first election is void, as well as the latter.

On a motion made by Mr. *Galloway*,³ seconded by Mr. *Macon*,

Resolved, That the Bill of Rights and Constitution of this state, the Articles of Confederation, the resolve of Congress of the 21st of February, 1787, recommending a Convention of Delegates to meet at Philadelphia the 2d Monday in May, 1787, for the purpose of revising the said articles of confederation, together with the act of Assembly of this state, passed at Fayetteville the 6th day of January, 1787, entitled "An act for appointing Deputies from this state to a Convention proposed to be held in the city of Philadelphia in May next, for the purpose of revising the federal Constitution:" As also the resolve of Congress of the 28th September last accompanying the report of the federal Convention, together with the said report, and the resolution of the last General Assembly, be now read.⁴

The Bill of Rights and Constitution of this state, the Articles of Confederation, the act of Assembly of this state above referred to, and the resolution of Congress of the 28th September last, were accordingly read.

The Honourable the President then laid before the Convention official accounts of the states of Massachusetts and South-Carolina;⁵ which were ordered to be filed with the Secretary, subject to the perusal of the members.

Mr. *James Galloway* moved that the Constitution should be discussed clause by clause.

Mr. *Willie Jones* moved that the question upon the Constitution should be immediately put. He said that the Constitution had so long been the subject of the deliberation of every man in this country, and that the members of the Convention had had such ample opportunity to consider it, that he believed every one of them was prepared to give his vote then upon the question: That the situation of the public funds would not admit of lavishing the public money, but required the utmost economy and frugality: That as there was a large representation from this state, an immediate decision would save the country a considerable

sum of money.⁶ He thought it therefore prudent to put the question immediately.

He was seconded by Mr. *Person*, who added to the reasoning of Mr. *Jones*, that he should be sorry if any man had come hither without having determined in his mind a question which must have been so long the object of his consideration.

Mr. *Iredell* then arose and addressed the President thus:

Mr. President, I am very much surprised at the motion which has been made by the gentleman from Halifax [Willie Jones]. I am greatly astonished at a proposal to decide immediately, without the least deliberation, a question which is perhaps the greatest that ever was submitted to any body of men. There is no instance of any Convention upon the continent, in which the subject has not been fully debated, except in those states which adopted the Constitution unanimously. If it be thought proper to debate at large an act of Assembly, trivial in its nature, and the operation of which may continue but a few months, are we to decide on this great and important question without a moment's consideration? Are we to give a dead vote⁷ upon it? If so, I would wish to know why we are met together? If it is to be resolved now by dead votes, it would have been better that every elector, instead of voting for persons to come here, should in their respective counties have voted or balloted for or against the Constitution. A decision by that mode would have been as rational and just as by this, and would have been better on economical principles, as it would have saved the public the expence of our meeting here. This is a subject of great consideration. It is a Constitution which has been formed after much deliberation. It has had the sanction of men of the first characters for their probity and understanding. It has also had the solemn ratification of ten states in the union.⁸ A Constitution like this, Sir, ought not to be adopted or rejected in a moment. If in consequence of either we should involve our country in misery and distress, what excuse could we make for our conduct? Is it reconcilable with our duty to our constituents? Would it be a conscientious discharge of that trust which they have so implicitly reposed in us? Shall it be said, Sir, of the Representatives of North-Carolina, that near three hundred of them, assembled for the express purpose of deliberating upon the most important question that ever came before a people, refused to discuss it, and discarded all reasoning as useless? It is undoubtedly to be lamented that any addition should be made to the public expence, especially at this period when the public funds are so low; but if it be ever necessary on any occasion, it is necessary on this, when the question perhaps involves the safety or ruin of our country. For my own part I should not choose to determine on

any question without mature reflection, and on this occasion my repugnance to a hasty decision is equal to the magnitude of the subject. A gentleman [Thomas Person] has said, he should be sorry if any Member had come here without having determined in his mind on a subject he had so long considered. I should be sorry, Sir, that I could be capable of coming to this House predetermined for or against the Constitution. I readily confess my present opinion is strongly in its favour. I have listened to every objection that I had an opportunity of hearing with attention; but have not yet heard any that I thought would justify its rejection, even if it had not been adopted by so many states. But notwithstanding this favourable opinion I entertain of it, I have not come here resolved at all events to vote for its adoption. I have come here for information, and to judge, after all that can be said upon it, whether it really merits my attachment or not. My constituents did me the honour to elect me unanimously, without the least solicitation on my part.⁹ They probably chose me because my sentiments were the same with their own. But highly as I value this honour, and much as I confess my ambition prompted me to aspire to it, had I been told that I should not be elected unless I promised to obey their directions, I should have disdained to serve on such dishonourable terms. Sir, I shall vote perfectly independent, and shall certainly avow a change of my present opinion, if I can be convinced it is a wrong one. I shall not, in such a case, be restrained by the universal opinion of the part of the country from which I came; I shall not be afraid to go back and tell my constituents, "Gentlemen, I have been convinced I was in an error. I found, on consideration, that the opinion which I had taken up, was ill founded, and have voted according to my sincere sentiments at the time, though contrary to your wishes." I know that the honour and integrity of my constituents are such, that they would approve of my acting on such principles, rather than any other. They are the principles, however, I think it my duty to act upon, and shall govern my conduct.

This constitution ought to be discussed in such a manner that every possible light may be thrown upon it. If those gentlemen who are so sanguine in their opinion that it is a bad government, will freely unfold to us the reasons on which their opinion is founded, perhaps we may all concur in it. I flatter myself that this Convention will imitate the conduct of the Conventions of other states, in taking the best possible method of considering its merits, by debating it article by article. Can it be supposed that any gentlemen here are so obstinate and tenacious of their opinion, that they will not recede from it when they hear strong reasons offered? Has not every gentleman here almost, received useful

knowledge from a communication with others? Have not many of the Members of this House, when Members of Assembly, frequently changed their opinions on subjects of legislation? If so, surely a subject of so complicated a nature, and which involves such serious consequences as this, requires the most ample discussion, that we may derive every information that can enable us to form a proper judgment. I hope, therefore, that we shall imitate the laudable example of the other states, and go into a committee of the whole House, that the Constitution may be discussed clause by clause.

I trust we shall not go home and tell our constituents, that we met at Hillsborough; were afraid to enter into a discussion of the subject; but precipitated a decision without a moment's consideration.

Mr. *Willie Jones*—Mr. President, My reasons for proposing an immediate decision were, that I was prepared to give my vote, and believed that others were equally prepared as myself. If gentlemen differ from me in the propriety of this motion, I will submit. I agree with the gentleman, that economical considerations are not of equal importance with the magnitude of the subject. He said, that it would have been better at once for the electors to vote in their respective counties than to decide it here without discussion. Does he forget that the act of Assembly points out another mode?

Mr. *Iredell* replied, that what he meant, was, that the Assembly might as well have required that the electors should vote or ballot for or against the Constitution in their respective counties, as for the Convention to decide it in this precipitate manner.

Mr. *James Gallaway*—Mr. President, I had no supposition that the gentleman on my right (Mr. Jones) was afraid of a discussion: It is not so with me, nor do I believe that it is so with any gentleman here. I do not like such reflections, and am surprised that gentlemen should make them.

Mr. *Iredell* declared, that he meant not to reflect on any gentleman; but, for his part, he would by no means choose to go home and tell his constituents that he had voted without any previous consideration.

After some desultory conversation the Convention adjourned till tomorrow, ten o'clock.

1. Printed: *Proceedings and Debates*, 22–27.

2. The manuscript report concerning the Dobbs County election is in Papers of the Convention of 1788, Nc-Ar.

3. James Gallaway (c. 1743–1798), a native of Scotland, was a merchant and planter. He represented Guilford County in the state House of Commons, 1783–84, and in the state Senate, 1784–85. He represented Rockingham County in the state Senate, 1786–89. In the Senate in November 1787 he opposed calling a convention to ratify the U.S. Constitution. As a Rockingham County delegate to both the Hillsborough and Fayetteville

conventions, 1788 and 1789, he voted against ratifying the U.S. Constitution. He was a nephew and business partner of Charles Galloway, another Antifederalist delegate to the Hillsborough Convention.

4. For the North Carolina Declaration of Rights and Constitution (1776), see Appendix I, RCS:N.C., 823–29. See CDR, 86–94, for the Articles of Confederation. For Congress' resolution of 21 February 1787, see CC:1. On North Carolina's appointment of delegates to the Constitutional Convention of 1787, see Appendix II, RCS:N.C., 830–32. For the congressional resolution of 28 September 1787 transmitting the Constitution to the state legislatures and requesting that they call ratifying conventions, see CDR, 340.

5. Massachusetts and South Carolina ratified the Constitution on 6 February and 23 May 1788, respectively. On 16 February, Massachusetts Governor John Hancock, who served as president of his state's ratifying Convention, forwarded copies of that state's form of ratification to the state executives. South Carolina Governor Thomas Pinckney, who also served as president of his state's ratifying Convention, sent his circular letter to state executives on 24 May. For Massachusetts' form of ratification and Governor Hancock's circular letter, see RCS:Mass., 1468–71, 1607–8. For South Carolina's form of ratification and Governor Pinckney's circular letter, see RCS:S.C., 399–401n, 406–7.

6. On the payment of delegates for their attendance at the Hillsborough Convention, see RCS:N.C., 473–81n.

7. A vote without any preceding discussion or debate.

8. New York did not ratify the Constitution until 26 July 1788. Virginia, the tenth ratifying state, had ratified on 25 June.

9. On 25 June, Edmund Blount, sheriff of Chowan County, reported that "James Iredell Esquire was unanimously Elected" to attend the Hillsborough Convention. For the certificate reporting Iredell's election, see RCS:N.C., 203–4.

Committee on Elections Report on Dobbs County Election 23 July 1788¹

The committee on Elections to wit

Mr. Gregory	Mr Gray
Mr. Spencer	Mr. Gregory
Mr. Irwin	Mr. Iredell
Mr Caldwell	Mr Cabarrus
Mr. Person	Mr. J. G Blount
Mr. A Mebane	Mr. Keais
Mr. Taylor	Mr. Williams
Mr McDowell	Mr Brown
Mr J Brown	Mr. McLaine
Mr J. Johnston	Mr Foster
Mr. Davie	Mr. Clinton
Mr Peebles	Mr. Willis
Mr Grove	Mr Stewart
Mr Martin	Mr. Tipton

The depositions relative to the Dobbs Election being read, on motion of Mr. Cabarrus seconded by Mr: Groves,

Resolved that the Election of Dobbs County appointed by resolve 2 &ca: for the purpose of appointing delegates to serve in the Convention of this State appears to this Committee to be void.

On motion of Mr. Cabarrus seconded by Mr Groves

1 Resolved Unan[imously] that the returned members for Dobbs county vacate their seats, it appearing to this committee that the Eleciton was not legal

1. MS, Papers of the Convention of 1788, Nc-Ar.

Hillsborough Convention Thursday 24 July 1788

Convention Proceedings, 24 July 1788 (excerpts)¹

Met according to adjournment.

Mr. Timothy Bloodworth, one of the members for New Hanover county, Mr. Everet Pearce, one of the members for Johnston county, Mr. Whitmill Hill, one of the members for Martin county, Mr. Asahel Rawlings, Mr. James Wilson and Mr. James Roddy, three of the members for Greene county, Mr. Samuel Cain, one of the members for Bladen county, Mr. James Bloodworth, one of the members for New-Hanover county, Mr. John Ingram, a member for the town of Fayetteville, Mr. Benj. Covington, one of the members for Richmond county, Mr. Joseph M'Dowall, junr. one of the members for Burke county, and Mr. Durham Hall, one of the members for Franklin county, appeared and took their seats. . . .

On a motion made by Mr. Macon, and seconded by Mr. Porter, Resolved, That a committee be appointed to confer with a printer in this town on the subject of printing the journal of this convention: The members appointed are, Mr. Alexander Mebane, Mr. Macon, and Mr. Person.

Adjourned until to-morrow morning 10 o'clock.

1. Printed: *Journal*, 7–8.

Convention Debates, 24 July 1788¹

The Convention met according to adjournment.

On a motion made by Mr. *Bloodworth*, and seconded by Mr. *Maclaine*, *Resolved*, That the special return made by the Sheriff of New-Hanover county, of the election for Members of this Convention, be referred to the committee of elections.²

On a motion made by Mr. *Person*, and seconded by Mr. *Iredell*,
Resolved, That the return for a Member for the town of Fayetteville,
 be referred to the committee of elections.³

Reverend Mr. [*David*] *Caldwell*—Mr. President, The subject before us is of a complicated nature. In order to obviate the difficulty attending its discussion, I conceive that it will be necessary to lay down such rules or maxims as ought to be the fundamental principles of every free government; and after laying down such rules, to compare the Constitution with them, and see whether it has attended to them: For if it be not founded on such principles, it cannot be proper for our adoption. (Here he read those rules which he said appeared to him most proper.)

Mr. *James Gallaway*—Mr. President, I had the honour yesterday of proposing the mode which I thought most eligible for our proceeding.⁴ I wish the subject to be fairly, coolly, and candidly discussed; that we may not go away without knowing why we came hither. My intention is, that we should enter into a committee of the whole House, where we shall be at liberty to discuss it. Though I do not object to the proposition of the Honourable Member, as the ground-work of our proceeding, I hope he will withdraw his motion, and I shall second him in the committee.

Mr. *Caldwell* had no objection to that proposition.

Mr. [*Thomas*] *Person* opposed the motion of entering into a committee. He conceived it would be an useless waste of time, as they would be obliged to reconsider the whole Constitution in Convention again.

Mr. [*William R.*] *Davie* largely expatiated on the necessity of entering into a committee. He said that the Legislature in voting so large a representation, did not mean that they should go away without investigating the subject, but that their collective information should be more competent to a just decision. That the best means was, to deliberate and confer together like plain, honest men. He did not know how the ardour of opposition might operate upon *some* gentlemen, yet he trusted that others had temper and moderation. He hoped that the motion of the member from Rockingham [*James Gallaway*] would be agreed to, and that the Constitution would be discussed clause by clause. He then observed, that if they laid down a number of original principles, they must go through a double investigation. That it would be necessary to establish these original principles and compare them with the Constitution. That it was highly improbable that they should agree on those principles. That he had a respect for the understanding of the Honourable Member, and trusted he would reflect, that difference in opinion arose from the nature of things; and that a great deal of time might

be taken up to no purpose, if they should neither agree on those principles nor their application. He said he hoped they would not treat this important business like a military enterprize, but proceed upon it like a deliberative body, and that the debates would be conducted with decency and moderation.

The Convention then resolved itself into a committee of the whole House, Mr. *Elisha Battle* in the chair.

Mr. *Caldwell*—Mr. Chairman, Those maxims which I conceive to be the fundamental principles of every safe and free government, are, 1st. A government is a compact between the rulers and the people. 2d. Such a compact ought to be lawful in itself. 3d. It ought to be lawfully executed. 4th. Unalienable rights ought not to be given up if not necessary. 5th. The compact ought to be mutual. And, 6th. It ought to be plain, obvious, and easily understood. Now, Sir, if these principles be just, by comparing the Constitution with them, we shall be able to judge whether it is fit for our adoption.

Mr. [*James*] *Iredell*—Mr. Chairman, I concur entirely in the sentiments lately urged by the gentleman from Halifax [*William R. Davie*], and am convinced we shall be involved in very great difficulties if we adopt the principles offered by the gentleman from Guilford [*David Caldwell*]. To shew the danger and impolicy of this proceeding, I think I can convince the committee in a moment, that his very first principle is erroneous. In other countries, where the origin of government is obscure, and its formation different from ours, government may be deemed a contract between the rulers and the people. What is the consequence? A compact cannot be annulled but by the consent of both parties; therefore, unless the rulers are guilty of oppression, the people, on the principle of a compact, have no right to new model their government. This is held to be the principle of some monarchical governments in Europe. Our government is founded on much nobler principles. The people are known with certainty to have originated it themselves. Those in power are their servants and agents, and the people without their consent may new model their government whenever they think proper, not merely because it is oppressively exercised, but because they think another form will be more conducive to their welfare. It is upon the footing of this very principle that we are now met to consider of the Constitution before us. If we attempt to lay down any rules here, it will take us as much time to establish their validity as to consider the system itself.

Mr. *Caldwell* observed, that though this government did not resemble the European governments, it still partook of the nature of a compact.

That he conceived those principles which he proposed to be just, but was willing that any others which should be thought better, should be substituted in their place.

Mr. [*Archibald*] *Maclaine*—Mr. Chairman, The gentleman has taken his principles from sources which cannot hold here. In England the government is a compact between the King and the people. I hope it is not so here. We shall have no officers in the situation of a King. The people here are the origin of all power. Our governors are elected temporarily. We can remove them occasionally, and put others in their stead. We do not bind ourselves. We are to consider whether this system will promote our happiness.

Mr. [*William*] *Goudy*⁵—Mr. Chairman, I wonder that these gentlemen learned in the law should quibble upon words. I care not whether it be called a compact, agreement, covenant, bargain or what: Its intent is a concession of power on the part of the people to their rulers. We know that private interest governs mankind generally. Power belongs originally to the people, but if rulers be not well guarded, that power may be usurped from them. People ought to be cautious in giving away power. These gentlemen say there is no occasion for general rules. Every one has one for himself. Every one has an unalienable right of thinking for himself. There can be no inconvenience from laying down general rules. If we give away more power than we ought, we put ourselves in the situation of a man who puts on an iron glove, which he can never take off till he breaks his arm. Let us beware of the iron glove of tyranny. Power is generally taken from the people by imposing on their understanding or by fetters. Let us lay down certain rules to govern our proceedings. It will be highly proper in my opinion, and I very much wonder that gentlemen should object to it.

Mr. *Iredell*—Mr. Chairman, The gentleman who spoke last mistook what the gentleman from Wilmington [*Archibald Maclaine*] and myself have said. In my opinion there ought to be a line drawn, as accurately as possible, between the power which is given and that which is retained. In this system the line is most accurately drawn by the positive grant of the powers of the general government. But a compact between the rulers and the ruled, which gentlemen compare this government with, is certainly not the principle of our government. Will any man say, that if there be a compact, it can be altered without the consent of both parties? Those who govern, unless they grossly abuse their trust (which is held an implied violation of the compact, and therefore a dissolution of it) have a right to say they do not choose the government should be changed. But have any of the officers of our government a

right to say so if the people choose to change it? Surely they have not. Therefore, as a general principle, it can never apply to a government where the people are avowedly the fountain of all power. I have no manner of objection to the most explicit declaration that all power depends upon the people, because, though it will not strengthen their rights it may be a means of fixing them on a plainer foundation. One gentleman [William Goudy] has said that we were quibbling upon words. If I know my own heart, I am incapable of quibbling on words. I act on as independent principles as any gentleman upon the floor. If I make use of quibbles, there are gentlemen here who can correct me. If my premises are wrong, let them be attacked. If my conclusions be wrong, let me be put right. I am sorry that in debating on so important a subject, it could be thought that we were disputing about words. I am willing to apply as much time as is necessary for our deliberations. I have no objection to any regular way of discussing the subject; but this way of proceeding will waste time, and not answer any purpose. Will it not be in the power of any gentleman in the course of the debates, to say that this plan militates against those principles which the reverend gentleman [David Caldwell] recommends? Will it not be more proper to urge its incompatibility with those principles during that discussion, than to attempt to establish their exclusive validity previous to our entering upon the new plan of government? By the former mode, those rules and the Constitution may be considered together. By the latter, much time may be wasted to no purpose. I trust therefore that the reverend gentleman will withdraw his motion.

Mr. [*Griffith*] *Rutherford*—Mr. Chairman, I conceive those maxims will be of utility. I wish as much as any one, to have a full and free discussion of the subject. To facilitate this desirable end, it seems highly expedient that some ground-work should be laid, some line drawn to guide our proceedings: I trust then, that the reverend gentleman's proposal will be agreed to.

Mr. [*Samuel*] *Spencer*—I conceive that it will retard the business to accede to the proposal of the learned gentleman. The observation which has been made in its behalf does not apply to the present circumstances. When there is a King or other Governor, there is a compact between him and the people. It is then a covenant; but in this case, in regard to the government which it is proposed we should adopt, there are no governors or rulers, we being the people who possess all power. It strikes me, that when a society of free people agree on a plan of government, there are no governors in existence, but those who administer the government are their servants. Although several of these

principles are proper, I hope they will not be part of our discussion; but that every gentleman will consider and discuss the subject with all the candour, moderation, and deliberation which the magnitude and importance of the subject requires.

Mr. *Caldwell* observed, that he would agree that any other word should be substituted to the word compact; but after all that had been said, the Constitution appeared to him to be of the nature of a compact. It could not be fully so called till adopted and put in execution; when so put in execution, there were actual Governors in existence.

Mr. *Davie*—Mr. President, What we have already said, may convince the reverend gentleman [David Caldwell] what a long time it will take us to discuss the subject in the mode which he has proposed. Those few solitary propositions which he has put on paper, will make but a small part of the principles of this Constitution. I wish the gentleman to reflect how dangerous it is to confine us to any particular rules. This system is most extensive in its nature, involving not only the principles of governments in general, but the complicated principles of federal governments. We should not perhaps in a week lay down all the principles essential to such a Constitution. Any gentleman may, in the course of the investigation, mention any maxims he thinks proper, and compare them with the Constitution. It would take us more time to establish these principles, than to consider the Constitution itself. It will be wrong to tie any man's hands. I hope the question will be put.

Mr. *Person* insisted on the propriety of the principles, and that they ought to be laid on the table with the Declaration of Rights, Constitution of the state, and the Confederation.

Mr. [*William*] *Lenoir* approved of the principles, but disapproved of being bound by any rules.

Mr. *Maclaine* was of the same opinion as to the impropriety of being bound.

Mr. *James Gallaway* wished to leave the hands of the Members free, but he thought these principles were unexceptionable. He saw no inconvenience in adopting them, and wished they would be agreed to.

Mr. *Lenoir* answered, that the matter had been largely debated. He said, that he thought the previous question ought to be put, whether they should lay down certain principles to be governed by, or leave every man to judge as his own breast suggested.

After some little altercation the previous question was put—For the principles 90. Against them 163. Majority against them 73.

His Excellency Governor [*Samuel*] *Johnston* then moved to discuss it [i.e., the Constitution] by sections.—This was opposed because it would take up too much time.

After some altercation about the mode of considering the Constitution, Mr. *Iredell* arose, and spoke as follows:

Mr. President, Whatever delay may attend it, a discussion is indispensable. We have been sent hither by the people to consider and decide this important business for them. This is a sacred trust, the honour and importance of which I hope are deeply impressed on every member here. We ought to discuss this Constitution thoroughly in all its parts. It was useless to come hither, and dishonourable unless we discharge that trust faithfully. God forbid that any one of us should be determined one way or the other. I presume that every man thinks it his duty to hold his mind open to conviction, that whatsoever he may have heard, whether against or for the Constitution, he will recede from his present opinion, if reasons of sufficient validity are offered. The gentleman from Granville [Thomas Person] has told us, that we had since March to consider it,⁶ and that he hoped every member was ready to give his vote upon it. 'Tis true, we have had since that time to consider it, and I hope every Member has taken pains to inform himself. I trust they have conscientiously considered it, that they have read on both sides of the question, and are resolved to vote according to the dictates of their consciences. I can truly say, that I believe there are few members in this House who have taken more pains to consider it than myself. But I am still by no means confident that I am right. I have scarcely ever conversed on the subject with any man of understanding, who has not thrown some new light upon the subject which escaped me before. Those gentlemen who are so self sufficient, that they believe they are never in the wrong, may arrogate infallibility to themselves, and conclude deliberation to be useless. For my part, I have often known myself to be in the wrong, and have ever wished to be corrected. There is nothing dishonourable in changing an opinion. Nothing is more fallible than human judgment. No gentleman will say that his is not fallible: Mine I am sure has often proved so. The serious importance of the subject merits the utmost attention. An erroneous decision may involve truly awful and calamitous consequences. It is incumbent on us therefore to decide it with the greatest deliberation. The Constitution is at least entitled to a regular discussion. It has had the sanction of many of the best and greatest men upon the continent;⁷ of those very men to whom perhaps we owe the privilege of debating now. It has also been adopted by ten states since. Is it probable that we are less fallible than they are? Do we suppose our knowledge and wisdom to be superior to their aggregate wisdom and information? I agree that this question ought to be determined on the footing of reason, and not on that of authority; and if it be found defective and unwise,

I shall be for rejecting it: but it is neither decent nor right to refuse it a fair trial. A system supported by such characters merits at least a serious consideration. I hope therefore, that the Constitution will be taken up paragraph by paragraph. It will then be in the power of any gentleman to offer his opinion on every part, and by comparing it with other opinions he may obtain useful information. If the Constitution be so defective as it is represented, then the enquiry will terminate in favour of those who oppose it: But if, as I believe and hope, it be discovered to be so formed as to be likely to promote the happiness of our country, then I hope the decision will be accordingly in its favour. Is there any gentleman so indifferent to an union with our sister states, as to hazard disunion rashly without considering the consequences? Had my opinion been different from what it is, I am sure I should have hesitated and reflected a long time before I had offered it against such respectable authorities. I am sorry for the expence which may be incurred, when the community is so distressed; but this is a trivial consideration compared to the consequences of a rash proceeding upon this important question. Were any member to determine against it without proper consideration, and afterwards upon his return home, on an impartial consideration, to be convinced it was a good system, his reflections on the temerity and precipitation of his conduct might destroy his peace of mind forever. I doubt not the members in general who condemn it, do so from a sincere believe [i.e., belief] that the system is a bad one: But at the same time, I believe there are many who are ready to relinquish that opinion, if they can be convinced it is erroneous, and that they sincerely wish for a fair and full discussion of the subject. For these reasons I am of opinion that the motion made by the Honourable Member [Samuel Johnston] is proper to be adopted.

Mr. *Rutherford* was surprised at the arguments used by gentlemen, and wished to know how they should vote; whether on the paragraphs, and how the report should be made when the committee rose.

His Excellency Governor *Johnston*—If we reject any one part we reject the whole. We are not to *form* a constitution, but to say whether we shall adopt a constitution to which ten states have already acceded. If we think it a bad government, it is not binding on us; we can reject it. If it be proper for our adoption, we may adopt it. But a rejection of a single article, will amount to a rejection of the whole.⁸

Mr. *Rutherford*—The honourable gentleman has mistaken me. Sorry I am that it is so late taken up by North-Carolina, if we are to be influenced and persuaded in this manner. I am unhappy to hear gentlemen of learning and integrity preach up the doctrine of adoption by ten states. Sir, it is my opinion that we ought to decide it as if no state had

adopted it. Are we to be thus intimidated into a measure, of which we may disapprove?

The question was then put, and carried by a great majority, to discuss the Constitution clause by clause.

The preamble of the Constitution was then read.

Mr. *Caldwell*—Mr. Chairman, If they mean by *We, the People*—the people at large, I conceive the expression is improper. Were not they who framed this Constitution, the Representatives of the Legislatures of the different states?⁹ In my opinion they had no power from the people at large to use their name, or to act for them. They were not delegated for that purpose.

Mr. *Maclaine*—The reverend gentleman [David Caldwell] has told us, that the expressions, *We, the People*, are wrong, because the gentlemen who framed it, were not the Representatives of the people. I readily grant that they were delegated by states. But they did not think that they were the people, but intended it for the people at a future day. The sanction of the state Legislature was in some degree necessary. It was to be submitted by the Legislatures to the people. So that when it is adopted, it is the act of the people. When it is the act of the people, their name is certainly proper. This is very obvious and plain to any capacity.

Mr. *Davie*—Mr. Chairman, The observation of the reverend gentleman is grounded, I suppose, on a supposition that the federal Convention exceeded their powers. This objection has been industriously circulated, but I believe, on a candid examination, the prejudice on which this error is founded, will be done away. As I had the honour, Sir, to be a member of the Convention, it may be expected I would answer an objection personal in its nature, and which contains rather a reflection on our conduct, than an objection to the merits of the Constitution. After repeated and decisive proofs of the total inefficiency of our general government, the states deputed the Members of the Convention to *revise* and *strengthen* it: And permit me to call to your consideration, that whatever form of confederate government they might devise, or whatever powers they might propose to give this new government, no part of it was binding until the whole Constitution had received the solemn assent of the people. What was the object of our mission? “To decide upon the most effectual means of removing the defects of our federal union.”¹⁰ This is a general, discretionary authority to propose any alteration they thought proper or necessary. Were not the state Legislatures afterwards to review our proceedings? Is it not immediately through their recommendation that the plan of the Convention is submitted to the people? And this plan must still remain a dead letter, or

receive its operation from the fiat of this Convention. Although the federal Convention might recommend the concession of the most extensive powers, yet they could not put one of them in execution. What have the Convention done that can merit this species of censure? They have only recommended a plan of government containing some additional powers to those enjoyed under the present feeble system, amendments not only necessary, but which were the express object of the deputation. When we investigate this system candidly and accurately, and compare all its parts with one another, we shall find it absolutely necessary to confirm these powers, in order to secure the tranquility of the states and the liberty of the people. Perhaps it may be necessary to form a true judgment of this important question, to state some events, and develop some of those defects which gave birth to the late Convention, and which have produced this revolution in our federal government. With the indulgence of the committee I will attempt this detail with as much precision as I am capable of. The general objects of the union, are, 1st. To protect us against foreign invasion. 2d. To defend us against internal commotions and insurrections. 3d. To promote the commerce, agriculture and manufactures of America. These objects are requisite to make us a safe and happy people, and they cannot be attained without a firm and efficient system of union.

As to the first, we cannot obtain any effectual protection from the present Confederation. It is indeed universally acknowledged that its inadequacy in this case, is one of its greatest defects. Examine its ability to repel invasion. In the late glorious war its weakness was unequivocally experienced: It is well known that Congress had a *discretionary right* to raise men and money, but they had *no power* to do either. In order to preclude the necessity of examining the whole progress of its imbecility, permit me to call to your recollection one single instance. When the last great stroke was made which humbled the pride of Britain, and put us in possession of peace and independence, so low were the finances and credit of the United States, until the Minister of his most Christian Majesty was prevailed upon to draw bills to defray the expence of the expedition: These were not obtained on the credit or interest of Congress, but by the personal influence of the Commander in Chief.¹¹ Had this great project miscarried, what fatal events might have ensued? It is a very moderate presumption, that what has once happened may happen again. The next important consideration which is involved in the external powers of the union, are *treaties*. Without a power in the federal government to compel the performance of our engagements with foreign nations, we shall be perpetually involved in destructive wars. The Confederation is extremely defective in this point also. I shall only

mention the British treaty, as a satisfactory proof of this melancholy fact. It is well known, that although this treaty was ratified in 1784, it required the sanction of a law of North-Carolina, in 1787:¹² And that our enemies, presuming on the weakness of our federal government, have refused to deliver up several important posts within the territories of the United States, and still hold them, to our shame and disgrace.¹³ It is unnecessary to reason on facts, the perilous consequences of which must in a moment strike every mind capable of reflection.

The next head under which the general government may be considered, is the regulation of commerce. The United States should be empowered to compel foreign nations into commercial regulations, that were either founded on the principles of justice or reciprocal advantages. Has the present Confederation effected any of these things? Is not our commerce equally unprotected abroad by arms and negotiation? Nations have refused to enter into treaties with us. What was the language of the British Court on a proposition of this kind? Such as would insult the pride of any man of feeling and independence—"You can make engagements, but you cannot compel your citizens to comply with them; we derive greater profits from the present situation of your commerce, than we could expect under a treaty; and you have no kind of power that can compel us to surrender any advantage to you." This was the language of our enemies; and while our government remains as feeble as it has been, no nation will form any connexion with us, that will involve the relinquishment of the least advantage. What has been the consequence? a general decay of trade, the rise of imported merchandise, the fall of produce, and an uncommon decrease of the value of lands. Foreigners have been reaping the benefits and emolument which our citizens ought to enjoy. An unjustifiable perversion of justice has pervaded almost all the states, and every thing presenting to our view a spectacle of public poverty and private wretchedness.

While this is a true representation of our situation, can our general government recur to the ordinary expedient of *loans*? During the late war, large sums were advanced to us by foreign states and individuals. Congress have not been enabled to pay even the interest of these debts with honour and punctuality. The requisitions made on the states have been every where unproductive, and some of them have not paid a stiver.¹⁴ These debts are a part of the price of our liberty and independence; debts which ought to be regarded with gratitude and discharged with honour. Yet many of the individuals who lent us money in the hour of our distress, are now reduced to indigence in consequence of our delinquency. So low and hopeless are the finances of the United States, that the year before last Congress were obliged to borrow money

even to pay the interest of the principal which we had borrowed before. This wretched resource of turning interest into principal, is the most humiliating and disgraceful measure that a nation could take, and approximates with rapidity to absolute ruin: Yet it is the inevitable and certain consequence of such a system as the existing Confederation.

There are several other instances of imbecility in that system. It cannot secure to us the enjoyment of our own territories, nor even the navigation of our own rivers.¹⁵ The want of power to establish an uniform rule of naturalization through the United States is also no small defect, as it must unavoidable be productive of disagreeable controversies with foreign nations. The general government ought in this, as in every other instance, to possess the means of preserving the peace and tranquility of the union. A striking proof of the necessity of this power lately happened in Rhode-Island: A man who had run off with a vessel and cargo, the property of some merchants in Holland, took sanctuary in that place; application was made for him as a citizen of the United Netherlands by the Minister, but as he had taken the oath of allegiance, the state refused to deliver him up, and protected him in his villainy. Had it not been for the peculiar situation of the states at that time, fatal consequences might have resulted from such a conduct, and the contemptible state of Rhode-Island might have involved the whole union in a war.

The encroachments of some states on the rights of others, and of all on those of the confederacy, are incontestible proofs of the weakness and imperfection of that system. Maryland lately passed a law granting exclusive privileges to her own vessels, contrary to the articles of the Confederation:¹⁶ Congress had neither power nor influence to alter it, all they could do, was to send a contrary recommendation. It is provided by the 6th article of the Confederation, that no compact shall be made between two or more states without the consent of Congress; yet this has been recently violated by Virginia and Maryland,¹⁷ and also by Pennsylvania and New-Jersey.¹⁸ North-Carolina and Massachusetts have had a considerable body of forces on foot, and those in this state raised for two years, notwithstanding the express provision in the Confederation that no forces should be kept up by any state in time of peace.¹⁹

As to internal tranquility, without dwelling on the unhappy commotions in our own back counties,²⁰ I will only add, that if the rebellion in Massachusetts²¹ had been planned and executed with any kind of ability, that state must have been ruined, for Congress were not in a situation to render them any assistance.

Another object of the federal union is, to promote the agriculture and manufactures of the states; objects in which we are so nearly concerned. Commerce, Sir, is the nurse of both. The merchant furnishes

the planter with such articles as he cannot manufacture himself, and finds him a market for his produce. Agriculture cannot flourish if commerce languishes; they are mutually dependant on each other. Our commerce, as I have before observed, is unprotected abroad, and without regulation at home, and in this and many of the states ruined, by partial and iniquitous laws—laws which, instead of having a tendency to protect property and encourage industry, led to the depreciation of the one, and destroyed every incitement to the other—laws which basely warranted and legalised the payment of just debts by *paper*,²² which represents nothing, or property of very trivial value.

These are some of the leading causes which brought forward this new Constitution. It was evidently necessary to infuse a greater portion of strength into the national government: But Congress were but a single body, with whom it was dangerous to lodge additional powers. Hence arose the necessity of a different organization. In order to form some balance, the departments of government were separated, and as a necessary check the legislative body was composed of *two branches*. Steadiness and wisdom are better ensured when there is a second branch to balance and check the first. The stability of the laws will be greater, when the popular branch, which might be influenced by local views, or the violence of party, is checked by another, whose longer continuance in office will render them more experienced, more temperate and more competent to decide rightly.

The Confederation derived its sole support from the state Legislatures:²³ this rendered it weak and ineffectual: It was therefore necessary that the foundations of this government should be laid on the broad basis of the people. Yet the state governments are the pillars upon which this government is extended over such an immense territory, and are essential to its existence. The House of Representatives are immediately elected by the people. The Senators represent the sovereignty of the states; they are directly chosen by the state Legislatures, and no legislative act can be done without their concurrence. The election of the Executive is in some measure under the controul of the Legislatures of the states, the Electors being appointed under their direction.

The difference in point of magnitude and importance in the members of the confederacy, was an additional reason for the division of the Legislature into two branches, and for establishing an equality of suffrage in the Senate. The protection of the small states against the ambition and influence of the larger members, could only be effected by arming them with an equal power in one branch of the Legislature. On a contemplation of this matter, we shall find, that the jealousies of the states could not be reconciled any other way. The lesser states would

never have concurred unless this check had been given them, as a security for their political existence against the power and encroachments of the great states. It may be also proper to observe, that the Executive is separated in its functions from the Legislature as well as the nature of the case would admit, and the Judiciary from both.

Another radical vice in the old system, which was necessary to be corrected, and which will be understood without a long deduction of reasoning, was, that it legislated on states instead of individuals; and that its powers could not be executed but by fire or by the sword; by military force, and not by the intervention of the civil magistrate. Every one who is acquainted with the relative situation of the states, and the genius of our citizens, must acknowledge, that if the government was to be carried into effect by military force, the most dreadful consequences would ensue. It would render the citizens of America the most implacable enemies to one another. If it could be carried into effect against the small states, yet it could not be put in force against the larger and more powerful states. It was therefore absolutely necessary that the influence of the magistrate should be introduced, and that the laws should be carried home to individuals themselves.

In the formation of this system, many difficulties presented themselves to the Convention. Every member saw that the existing system would ever be ineffectual, unless its laws operated on individuals, as military coercion was neither eligible nor practicable. Their own experience was fortified by their knowledge of the inherent weakness of all confederate governments: They knew that all governments merely federal, had been short-lived; or had existed from principles extraneous from their constitutions; or from external causes which had no dependence on the nature of their governments. These considerations determined the Convention to depart from that solecism in politicks, the principle of legislation for states in their political capacities.

The great extent of country appeared to some a formidable difficulty; but a confederate government appears at least in theory, capable of embracing the various interests of the most extensive territory: Founded on the state governments solely, as I have said before, it would be tottering and inefficient. It became therefore necessary to bottom it on the people themselves, by giving them an immediate interest and agency in the government. There was however, some real difficulty in conciliating a number of jarring interests, arising from the incidental, but unalterable, difference in the states in point of territory, situation, climate, and rivalry in commerce. Some of the states are very extensive, others very limited: Some are manufacturing states, others merely agricultural: Some of these are exporting states, while the carrying and navigation

business are in the possession of others. It was not easy to reconcile such a multiplicity of discordant and clashing interests. Mutual concessions were necessary to come to any concurrence. A plan that would promote the exclusive interests of a few states, would be injurious to others. Had each state obstinately insisted on the security of its particular local advantages, we should never have come to a conclusion; each therefore amicably and wisely relinquished its particular views. The federal Convention have told you, that the Constitution which they formed, "was the result of a spirit of amity, and of that mutual deference and concession, which the peculiarity of their political situation rendered indispensable."²⁴ I hope the same laudable spirit will govern this Convention in their decision on this important question.

The business of the Convention was to amend the Confederation by giving it *additional powers*. The present form of Congress being a single body, it was thought unsafe to augment its powers, without altering its organization. The act of the Convention is but a mere proposal, similar to the production of a private pen. I think it a government which, if adopted, will cherish and protect the happiness and liberty of America; but I hold my mind open to conviction; I am ready to recede from my opinion if it be proved to be ill-founded. I trust that every man here is equally ready to change an opinion he may have improperly formed. The weakness and inefficiency of the old Confederation produced the necessity of calling the federal Convention: Their plan is now before you, and I hope on a deliberate consideration every man will see the necessity of such a system. It has been the subject of much jealousy and censure out of doors. I hope gentlemen will now come forward with their objections, and that they will be thrown out and answered with candour and moderation.

Mr. *Caldwell* wished to know why the gentlemen who were delegated by the states, stiled themselves *We, the People*. He said that he only wished for information.

Mr. *Iredell* answered, that it would be easy to satisfy the gentleman. That the stile *We, the People*, was not to be applied to the Members themselves, but was to be the stile of the Constitution when it should be ratified in their respective states.

Mr. *Joseph Taylor*—Mr. Chairman, The very wording of this Constitution seems to carry with it an assumed power. *We, the People*, is surely an assumed power. Have they said, *We, the Delegates of the people*? It seems to me, that when they met in Convention they assumed more power than was given them.²⁵ Did the people give them the power of using their name? This power was in the people: They did not give it up to the Members of the Convention. If therefore they had not this

power, they assumed it. It is the interest of every man who is a friend to liberty, to oppose the assumption of power as soon as possible. I see no reason why they assumed this power. Matters may be carried still farther. This is a consolidation of all the states. Had it said, *We, the States*, there would have been a federal intention in it. But, Sir, it is clear that a consolidation is intended. Will any gentleman say that a consolidated government will answer this country? It is too large. The man who has a large estate cannot manage it with convenience. I conceive, that in the present case, a consolidated government can by no means suit the genius of the people. The gentleman from Halifax (Mr. Davie) mentioned reasons for such a government. They have their weight no doubt, but at a more convenient time we can shew their futility. We see plainly that men who come from New-England, are different from us: They are ignorant of our situation: They do not know the state of our country: They cannot with safety legislate for us. I am astonished that the servants of the Legislature of North-Carolina should go to Philadelphia, and instead of speaking of the state of North-Carolina, should speak of the people. I wish to stop power as soon as possible, for they may carry their assumption of power to a more dangerous length. I wish to know where they found the power of saying, *We, the People*, and of consolidating the states.

Mr. *Maclaine*—Mr. Chairman, I confess myself astonished to hear objections to the preamble. They say that the Delegates to the federal Convention assumed powers which were not granted them: That they ought not to have used the words, *We, the People*. That they were not the Delegates of the people is universally acknowledged. The Constitution is only a mere proposal. Had it been binding on us, there might be a reason for objecting. After they had finished the plan, they proposed that it should be recommended to the people by the several state Legislatures. If the people approve of it, it becomes their act. Is not this merely a dispute about words, without any meaning whatever? Suppose any gentleman of this Convention had drawn up this government, and we thought it a good one; we might respect his intelligence and integrity, but it would not be binding upon us. We might adopt it, if we thought it a proper system, and then it would be our act. Suppose it had been made by our enemies, or had dropt from the clouds, we might adopt it if we found it proper for our adoption. By whatever means we found it, it would be our act as soon as we adopted it. It is no more than a blank till it be adopted by the people. When that is done here, is it not the people of the state of North-Carolina that do it, joined with the people of the other states who have adopted it? The expression is then right. But the gentleman [Joseph Taylor] has gone

further, and says, that the people of New-England are different from us. This goes against the union altogether. They are not to legislate for us; we are to be represented as well as they. Such a futile objection strikes at all union. We know that without union, we should not have been debating now. I hope to hear no more objections of this trifling nature, but that we shall enter into the spirit of the subject at once.

Mr. *Caldwell* observed, that he only wished to know why they had assumed the name of the people.

Mr. *James Gallaway*—Mr. Chairman, I trust we shall not take up more time on this point. I shall just make a few remarks on what has been said by the gentleman from Halifax [William R. Davie]. He has gone through our distresses, and those of the other states. As to the weakness of the Confederation, we all know it. A sense of this induced the different states to send Delegates to Philadelphia. They had given them certain powers; we have seen them, they are now upon the table. The result of their deliberations [i.e., the Constitution] is now upon the table also. As they have gone out of the line which the states pointed out to them, we, the people are to take it up and consider it. The gentlemen who framed it, have exceeded their powers, and very far. They will be able perhaps to give reasons for so doing. If they can shew us any reasons, we will no doubt take notice of them. But, on the other hand, if our civil and religious liberties are not secured, and proper checks provided, we have the power in our own hand to do with it as we think proper. I hope gentlemen will permit us to proceed.

The Clerk then read the first section of the first article.

Mr. *Caldwell*—Mr. Chairman, I am sorry to be objecting; but I apprehend, that all the legislative powers granted by this Constitution, are not vested in a Congress consisting of the Senate and the House of Representatives, because the Vice-President has a right to put a check on it. This is known to every gentleman in the Convention. How can all the legislative powers, granted in that Constitution, be vested in the Congress, if the Vice-President is to have a vote in case the Senate is equally divided? I ask for information, how it came to be expressed in this manner, when this power is given to the Vice-President?

Mr. *Maclaine* declared, that he did not know what the gentleman meant.

Mr. *Caldwell* said, that the Vice-President is made a part of the legislative body, although there was an express declaration, that all the legislative powers were vested in the Senate and House of Representatives, and that he would be glad to know how these things consisted together.

Mr. *Maclaine* expressed great astonishment at the gentleman's criticism. He observed, that the Vice-President had only a casting vote, in

case of an equal division in the Senate. That a provision of this kind was to be found in all deliberative bodies. That it was highly useful and expedient. That it was by no means of the nature of a check which impedes or arrests, but calculated to prevent the operation of the government from being impeded. That if the gentleman could shew any legislative power to be given to any but the two Houses of Congress, his objection would be worthy of notice.

Some other gentlemen said they were dissatisfied with Mr. *Maclaine's* explanation. That the Vice-President was not a Member of the Senate, but an officer of the United States, and yet had a legislative power; and that it appeared to them inconsistent. That it would have been more proper to have given the casting vote to the President.

His Excellency Governor *Johnston* added to Mr. *Maclaine's* reasoning, that it appeared to him a very good and proper regulation. That if one of the Senate was to be appointed Vice-President, the state which he represented would either lose a vote if he was not permitted to vote on every occasion, or if he was he might in some instances have two votes. That the President was already possessed of the power of preventing the passage of a law by a bare majority: Yet laws were not said to be made by the President, but by the two Houses of Congress exclusively.

Mr. *Lenoir*—Mr. Chairman, I have a greater objection on this ground, than that which has just been mentioned. I mean, Sir, the legislative power given to the President himself. It may be admired by some, but not by me.—He, Sir, with the Senate, is to make treaties, which are to be the supreme law of the land. This is a legislative power given to the President, and implies a contradiction to that part which says, that all legislative power is vested in the two Houses.

Mr. [*Richard Dobbs*] *Spaight* answered, that it was thought better to put that power into the hands of the Senators as Representatives of the states; that thereby the interest of every state was equally attended to in the formation of treaties; but that it was not considered as a legislative act at all.

Mr. *Iredell*—Mr. Chairman, This is an objection against the inaccuracy of the sentence. I humbly conceive it will appear accurate on a due attention. After a bill is passed by both Houses, it is to be shewn to the President. Within a certain time he is to return it. If he disapproves of it, he is to state his objections in writing; and it depends on Congress afterwards to say, whether it shall be a law or not. Now, Sir, I humbly apprehend, that, whether a law passes by a bare majority, or by two-thirds, which are required to concur after he shall have stated objections, what gives active operation to it is, the will of the Senators and

Representatives. The President has no power of legislation. If he does not object, the law passes by a bare majority; and if he objects, it passes by two-thirds. His power extends only to cause it to be reconsidered, which secures a great probability of its being good. As to his power with respect to treaties, I shall offer my sentiments on it when we come properly to it.

Mr. *Maclaine* intimated, that if any gentleman was out of order,^(a) it was the gentleman from Wilkes. (Mr. Lenoir.) That treaties were the supreme law of the land in all countries, for the most obvious reasons. That laws, or legislative acts, operated upon individuals; but that treaties acted upon states. That unless they were the supreme law of the land, they could have no validity at all. That the President did not act in this case a legislator, but rather in his executive capacity.

Mr. *Lenoir* replied, that he wished to be conformable to the rules of the House; but he still thought the President was possessed of legislative powers, while he could make treaties joined with the Senate.

Mr. *Iredell*—Mr. Chairman, I think the gentleman is in order. When treaties are made, they become as valid as legislative acts I apprehend, that every act of the government, legislative, executive, or judicial, if in pursuance of a constitutional power, is the law of the land.—These different acts become the acts of the state by the instrumentality of its officers. When, for instance, the Governor of this state grants a pardon, it becomes the law of the land, and is valid. Every thing is the law of land, let it come from what power it will, provided it be consistent with the Constitution.

Mr. *Lenoir* answered, that that comparison did not hold.

Mr. *Iredell* continued—If the Governor grants a pardon; it becomes a law of the land. Why? Because he has power to grant pardons by the Constitution. Suppose this Constitution is adopted, and a treaty is made—that treaty is the law of the land. Why? Because the Constitution grants the power of making treaties.

Several Members expressed dissatisfaction at the inconsistency (as they conceived it) of the expressions; when

Mr. *James Gallaway* observed, that their observations would be made more properly when they come to that clause which gave the casting vote to the Vice-President, and the qualified negative to the President.

The first three clauses of the second section read.

Mr. *Maclaine*—Mr. Chairman, As many objections have been made to biennial elections, it will be necessary to obviate them. I beg leave to state their superiority to annual elections. Our elections have been annual for some years. People are apt to be attached to old customs. Annual elections may be proper in our state governments, but not in

the general government. The seat of government is at a considerable distance; and in case of a disputed election, it would be so long before it could be settled, that the state would be totally without representation. There is another reason, still more cogent, to induce us to prefer biennial to annual elections; the objects of state legislation are narrow and confined, and a short time will render a man sufficiently acquainted with them; but those of the general government are infinitely more extensive, and require a much longer time to comprehend them. The Representatives to the general government, must be acquainted not only with the internal situation and circumstances of the United States, but also with the state of our commerce with foreign nations, and our relative situation to those nations. They must know the relative situation of those nations to one another, and be able to judge with which of them, and in what manner our commerce should be regulated. These are good reasons to extend the time of elections to two years. I believe you remember, and perhaps every Member here remembers, that this country was very happy under biennial elections. In North-Carolina the Representatives were formerly chosen by ballot biennially.²⁶ It was changed under the royal government, and the mode pointed out by the King. Notwithstanding the contest for annual elections, perhaps biennial elections would still be better for this country. Our laws would certainly be less fluctuating.

Mr. [William] Shepperd [of Orange County] observed, that he could see no propriety in the friends of the new system making objections, when none were urged by its opposers. That it was very uncommon for a man to make objections and answer them himself: And that it would take an immense time to mention every objection which had been mentioned in the country.

Mr. *Maclaine*—It is determined already by the Convention, to debate the Constitution section by section. Are we then to read it only? Suppose the whole of it is to be passed over without saying any thing, will not that amount to a dead vote?²⁷ Sir, I am a Member of this Convention, and if objections are made here I will answer them to the best of my ability. If I see gentlemen pass by in silence such parts as they vehemently decry out of doors, or such parts as have been loudly complained of in the country, I shall answer them also.

After some desultory conversation, Mr. *Willie Jones* observed, that he would easily put the friends of the Constitution in a way of discussing it. Let one of them (said he) make objections and another answer them.

Mr. *Davie*—Mr. Chairman, I hope that reflections of a personal nature will be avoided as much as possible. What is there in this business

should make us jealous of each other? We are all come hither to serve one common cause of one country. Let us go about it openly and amicably: There is no necessity for the employment of underhanded means. Let every objection be made. Let us examine the plan of government submitted to us thoroughly. Let us deal with each other with candour. I am sorry to see so much impatience so early in the business.

Mr. *Shepperd* answered, that he spoke only because he was averse to unnecessary delays, and that he had no finesse or design at all.

Mr. *Rutherford* wished the system to be thoroughly discussed. He hoped that he should be excused in making a few observations in the Convention after the committee rose, and that he trusted gentlemen would make no reflections.

Mr. [*Timothy*] *Bloodworth* declared, that every gentleman had a right to make objections in both cases, and that he was sorry to hear reflections made.

Mr. *Goudy*—Mr. Chairman, This clause of taxation will give an advantage to some states over the others. It will be oppressive to the southern states. Taxes are equal to our representation. To augment our taxes and encrease our burthens, our negroes are to be represented.²⁸ If a state has fifty thousand negroes, she is to send one Representative for them. I wish not to be represented with negroes, especially if it encreases my burthens.

Mr. *Davie*—Mr. Chairman, I will endeavour to obviate what the gentleman last up has said. I wonder to see gentlemen so precipitate and hasty on a subject of such awful importance. It ought to be considered, that *some of us* are slow of apprehension, not having those quick conceptions, and luminous understandings, of which other gentlemen may be possessed. The gentleman “does not wish to be represented with negroes.” This, Sir, is an unhappy species of population, but we cannot at present alter their situation. The eastern states had great jealousies on this subject: They insisted that their cows and horses were equally entitled to representation; that the one was property as well as the other. It became our duty on the other hand, to acquire as much weight as possible in the legislation of the union; and as the northern states were more populous in whites, this only could be done by insisting that a certain proportion of our slaves should make a part of the computed population. It was attempted to form a rule of representation from a compound ratio of wealth and population; but on consideration it was found impracticable to determine the comparative value of lands, and other property, in so extensive a territory, with any degree of accuracy; and population alone was adopted as the only practicable rule or criterion of representation. It was urged by the Deputies of the eastern

states, that a representation of two-fifths would be of little utility, and that their entire representation would be unequal and burthensome: That in a time of war slaves rendered a country more vulnerable, while its defence devolved upon its *free* inhabitants. On the other hand, we insisted that in time of peace, they contributed by their labour to the general wealth as well as other members of the community: That as rational beings they had a right of representation, and in some instances might be highly useful in war. On these principles the eastern states gave the matter up, and consented to the regulation as it has been read. I hope these reasons will appear satisfactory. It is the same rule or principle which was proposed some years ago by Congress, and assented to by twelve of the states.²⁹ It may wound the delicacy of the gentleman from Guilford (Mr. Goudy) but I hope he will endeavour to accommodate his feelings to the interest and circumstances of his country.

Mr. *James Gallaway* said, that he did not object to the representation of negroes, so much as he did to the fewness of the number of Representatives. He was surprised how we came to have but five, including those intended to represent negroes: That in his humble opinion North-Carolina was entitled to that number independent of the negroes.

Mr. *Spaight* endeavoured to satisfy him, that the Convention had no rule to go by in this case: That they could not proceed upon the ratio mentioned in the Constitution, till the enumeration of the people was made: That some states had made a return to Congress of their numbers, and others had not: That it was mentioned that we had had time, but made no return: That the present number was only temporary: That in three years the actual census would be taken, and our number of Representatives regulated accordingly.

His Excellency Governor *Johnston* was perfectly satisfied with the temporary number. He said that it could not militate against the people of North-Carolina, because they paid in proportion: That no great inconvenience could happen in three years from their paying less than their full proportion: That they were not very flush of money; and that he hoped for better times in the course of three years.

The rest of the second section read.

Mr. *Joseph Taylor* objected to the provision made for impeaching. He urged that there could be no security from it, as the persons accused were triable by the Senate, who were a part of the Legislature themselves: That while men were fallible, the Senators were liable to errors, especially in a case where they were concerned themselves.

Mr. *Iredell*—Mr. Chairman, I was going to observe that this clause, vesting the power of impeachment in the House of Representatives, is one of the greatest securities for a due execution of all public offices.

Every government requires it. Every man ought to be amenable for his conduct, and there are no persons so proper to complain of the public officers as the Representatives of the people at large. The Representatives of the people know the feelings of the people at large, and will be ready enough to make complaints. If this power were not provided the consequences might be fatal. It will be not only the means of punishing misconduct, but it will prevent misconduct. A man in public office who knows that there is no tribunal to punish him, may be ready to deviate from his duty; but if he knows that there is a tribunal for that purpose, although he may be a man of no principle, the very terror of punishment will perhaps deter him. I beg leave to mention that every man has a right to express his opinion, and point out any part of the Constitution which he either thinks defective, or has heard represented to be so. What will be the consequence if they who have objections do not think proper to communicate them, and they are not to be mentioned by others? Many gentlemen have read many objections, which perhaps have made impressions on their minds, though they are not communicated to us. I therefore apprehend that the Member was perfectly regular in mentioning the objections made out of doors. Such objections may operate upon the minds of gentlemen, who, not being used to convey their ideas in public, conceal them out of diffidence.

Mr. *Bloodworth* wished to be informed, whether this sole power of impeachment given to the House of Representatives, deprived the state of the power of impeaching any of its Members.

Mr. *Spaight* answered, that this impeachment extended only to the officers of the United States. That it would be improper if the same body that impeached, had the power of trying: That therefore the Constitution had wisely given the power of impeachment to the House of Representatives, and that of trying impeachments to the Senate.

Mr. *Joseph Taylor*—Mr. Chairman, The objection is very strong. If there be but one body to try, where are we? If any tyranny or oppression should arise, how are those who perpetrated such oppression, to be tried and punished? By a tribunal consisting of the very men who assist in such tyranny. Can any tribunal be found in any community, who will give judgment against their own actions? Is it the nature of man to decide against himself? I am obliged to the worthy member from New-Hanover [Timothy Bloodworth] for assisting me with objections. None can impeach but the Representatives, and the impeachments are to be determined by the Senators, who are one of the branches of power which we dread under this constitution.

His Excellency Governor *Johnston*—Mr. Chairman, The worthy Member from Granville [Joseph Taylor] surprises me by his objection. It has been explained by another Member [Richard Dobbs Spaight], that

only officers of the United States were impeachable. I never knew any instance of a man being impeached for a legislative act; nay, I never heard it suggested before. No Member of the House of Commons in England has ever been impeached before the Lords, nor any Lord for a legislative misdemeanor. A Representative is answerable to no power but his constituents—He is accountable to no being under heaven, but the people who appointed him.

Mr. *Taylor* replied, that it now appeared to him in a still worse light than before.

Mr. *Bloodworth* observed, that as this was a Constitution for the United States, he should not have made the observation he did, had the subject not been particularly mentioned. That the words, “sole power of impeachment,”³⁰ were so general, and might admit of such a latitude of construction, as to extend to every legislative Member upon the continent, so as to preclude the Representatives of the different states from impeaching.

Mr. *Maclaine*—Mr. Chairman, If I understand the gentleman rightly, he means, that Congress may impeach all the people or officers of the United States. If the gentleman will attend he will see, that this is a government for confederated states; that consequently it can never intermeddle where no power is given. I confess I can see no more reason to fear in this case than from our own General Assembly. A power is given to our own state Senate to try impeachments. Is it not necessary to point out some tribunal to try great offences? Should there not be some mode of punishment for the offences of the officers of the general government? Is it not necessary that such officers should be kept within proper bounds? The officers of the United States are excluded from offices of honour, trust or profit under the United States, on impeachment for, and conviction of, high crimes and misdemeanors. This is certainly necessary. This exclusion from offices is harmless in comparison with the regulation made in similar cases in our own government.³¹ Here [i.e., in the U.S. Constitution] it is expressly provided how far the punishment shall extend, and that it shall extend no farther. On the contrary, the limits are not marked in our own Constitution, and the punishment may be extended too far. I believe it is a certain and known fact, that Members of the legislative body are never, as such, liable to impeachment, but are punishable by law for crimes and misdemeanors in their personal capacity. For instance, the Members of Assembly are not liable to impeachment, but, like other people, are amenable to the law for crimes and misdemeanors committed as individuals. But in Congress, a Member of either House can be no officer.

Governor *Johnston*—Mr. Chairman, I find that making objections is useful. I never thought of the objection made by the Member from New-Hanover [Timothy Bloodworth]. I never thought that impeachments extended to any but officers of the United States. When you look at the judgment to be given on impeachments, you will see, that the punishment goes no farther than to remove and disqualify civil officers of the United States, who shall, on impeachment, be convicted of high misdemeanors. Removal from office is the punishment—to which is added, future disqualification. How could a man be removed from office who had no office? An officer of this state is not liable to the United States. Congress could not disqualify an officer of this state. No body can disqualify but that body which creates. We have nothing to apprehend from that article. We are perfectly secure as to this point. I should laugh at any judgment they should give against any officer of our own.

Mr. *Bloodworth*—From the complection of the paragraph, it appeared to me to be applicable only to officers of the United States; but the gentleman's own reasoning convinces me that he is wrong. He says he would laugh at them. Will the gentleman laugh when the extention of their powers takes place? It is only by our adoption they can have any power.

Mr. *Iredell*—Mr. Chairman, The argument of the gentleman last up, is founded upon misapprehension. Every article refers to its particular object. We must judge of expressions from the subject-matter concerning which they are used. The sole power of impeachment extends only to objects of the Constitution. The Senate shall only try impeachments arising under the Constitution. In order to confirm and illustrate that position, the gentleman who spoke before, explained it in a manner perfectly satisfactory to my apprehension. "Under this Constitution."—What is the meaning of these words? They signify, those arising under the government of the United States. When this government is adopted, there will be two governments to which we shall owe obedience.—To the government of the union, in certain defined cases—To our own state government, in every other case. If the general government were to disqualify me from any office which I held in North-Carolina under its laws, I would refer to the Constitution, and say, that they violated it, as it only extended to officers of the United States.

Mr. *Bloodworth*—The penalty is only removal from office. It does not mention from what office. I do not see any thing in the expression that convinces me that I was mistaken. I still consider it in the same light.

Mr. [*William*] *Porter*³² wished to be informed if every officer, who was a creature of that Constitution, was to be tried by the Senate? Whether

such officers, and those who had complaints against them, were to go from the extreme parts of the continent to the seat of government to adjust disputes?

Mr. *Davie* answered, that impeachments were confined to cases under the Constitution, but did not descend to petty offices. That if the gentleman meant, that it would be troublesome and inconvenient to recur to the federal courts in case of oppressions by officers, and to carry witnesses such great distances, that he would satisfy the gentleman, that Congress would remove such inconveniences, as they had the power of appointing inferior tribunals, where such disputes would be tried.³³

Mr. *J. Taylor*—Mr. Chairman, I conceive that if this Constitution be adopted, we shall have a large number of officers in North-Carolina under the appointment of Congress. We shall undoubtedly, for instance, have a great number of tax-gatherers. If any of these officers shall do wrong, when we come to fundamental principles, we find that we have no way to punish them, but by going to Congress at an immense distance, whither we must carry our witnesses. Every gentleman must see in these cases that oppressions will arise. I conceive that they cannot be tried elsewhere. I consider that the Constitution will be explained by the word “sole.” If they did not mean to retain a general power of impeaching, there was no occasion for saying the “sole power.” I consider therefore that oppressions will arise. If I am oppressed I must go to the House of Representatives to complain. I consider that when mankind are about to part with rights, they ought only to part with those rights which they can with convenience relinquish, and not such as must involve them in distresses.

In answer to Mr. *Taylor*, Mr. *Spaight* observed, that tho’ the power of impeachment was given, yet it did not say that there was no other manner of giving redress. That it was very certain and clear, that if any man was injured by an officer of the United States he could get redress by a suit at law.

Mr. *Maclaine*—Mr. Chairman, I confess I never heard before that a tax-gatherer was worthy of impeachment. It is one of the meanest and least offices: Impeachments are only for high crimes and misdemeanors. If any one is injured in his person or property, he can get redress by a suit at law. Why does the gentleman talk in this manner? It shews what wretched shifts gentlemen are driven to. I never heard in my life of such a silly objection. A poor, insignificant, petty officer amenable to impeachment!

Mr. *Iredell*—Mr. Chairman, The objection would be right if there was no other mode of punishing. But it is evident that an officer may be

tried by a court of common law. He may be tried in such a court for common law offences, whether impeached or not. As it is to be presumed that inferior tribunals will be constituted, there will be no occasion for going always to the supreme court, even in case where the federal courts have exclusive jurisdiction. Where this exclusive cognizance is not given them, redress may be had in the common law courts in the state, and I have no doubt such regulations will be made as will put it out of the power of officers to distress the people with impunity.

Governor *Johnston* observed, that men who were in very high offices could not be come at by the ordinary course of justice, but when called before this high tribunal and convicted, they would be stripped of their dignity, and reduced to the rank of their fellow-citizens, and then the courts of common law might proceed against them.

The committee now rose—Mr. President resumed the chair, and Mr. Battle reported, that the committee had, according to order, had the proposed constitution under their consideration, but not having time to go through the same, had directed him to move the Convention for leave to sit again.

Resolved, That this Convention will to-morrow again resolve itself into a committee of the whole Convention, on the said proposed plan of government.

The Convention then adjourned to ten o'clock to-morrow morning.

(a) Something had been said about order, which was not distinctly heard.

1. Printed: *Proceedings and Debates*, 27–58.

2. For the report of the committee concerning the election of a delegate from New Hanover County, see *Convention Debates*, 25 July (RCS:N.C., 262).

3. For the report of the committee concerning the election of a delegate from Fayetteville, see *Convention Debates*, 25 July (RCS:N.C., 262).

4. During the previous day, 23 July, Galloway moved that the Constitution be discussed “clause by clause” (RCS:N.C., 228).

5. Goudy (1747–1795), a native of Lancaster, Pa., and a planter, represented Guilford County in the state House of Commons, 1780–82, 1787–88, and in the state Senate, 1786–87, 1789. In the Hillsborough and Fayetteville conventions, 1788 and 1789, he voted against ratifying the U.S. Constitution. Goudy was a member of the Council of State in 1791.

6. Elections to North Carolina’s first ratifying Convention were held on 28–29 March.

7. Probably a reference to George Washington and Benjamin Franklin. Federalists frequently cited the two men’s support for the Constitution as evidence of its worthiness. Some Antifederalist writers, particularly “Centinel” (Samuel Bryan), believed that Washington had been duped in the Convention and that Franklin was too old to know what he had been doing. See “Centinel” I, Philadelphia *Independent Gazetteer*, 5 October 1787 (CC:133, p. 330, at note 3 and note 3). Other Antifederalists argued that the endorsement of great men was not a valid reason to adopt the Constitution.

8. Antifederalists in other states, such as New York, which was in the final days of its ratifying Convention, had considered ratifying the Constitution with conditional amendments. On 15 July, during the New York Convention debates, Antifederalist Melancton Smith moved for a conditional ratification (RCS:N.Y., 2177–78). Federalists, however, argued that a conditional ratification would not be acceptable to Congress. In Federalists' minds, to adopt the Constitution conditionally was simply "a gilded Rejection." (See Abraham Bancker to Evert Bancker, 12 July 1788 [RCS:N.Y., 2148].)

9. For the North Carolina General Assembly's appointment of delegates to the Constitutional Convention, see Appendix II, RCS:N.C., 830–32.

10. A reference to North Carolina's act of 6 January 1787 authorizing the election of delegates to the Constitutional Convention (Appendix II, RCS:N.C., 831). The wording in the act is as follows: "to discuss and decide upon the most effectual means to remove the defects of our foederal union, and to procure the enlarged purposes which it was intended to effect."

11. On 9 April 1781, General George Washington sent a letter to John Laurens, who was dispatched to France by Congress to attempt to negotiate additional loans to support the American cause. In that letter, Washington candidly reported on the beleaguered state of his army and the likely failure of the American cause without French aid: "While I give it decisively as my opinion, that without a foreign loan our present force (which is but the remnant of an Army) cannot be kept together this Campaign; much less will it be increased, and in readiness for another. . . . And if France delays, a timely, and powerful aid in the critical posture of our affairs it will avail us nothing should she attempt it hereafter" (Washington Papers, DLC).

12. In response to a 21 March 1787 resolution of the Confederation Congress, the North Carolina General Assembly, on 22 December, passed "An Act declaring the treaty of peace between the United States of America and the King of Great-Britain to be part of the law of the land." See *The Laws of North Carolina . . .* (Newbern, [1788]) (Evans 21340), chapter I, 1.

13. A reference to the British refusal to evacuate the Northwest posts in violation of the Treaty of Peace (1783).

14. A small coin in use in The Netherlands valued at $\frac{1}{20}$ of a guilder; about the equivalent of a penny in English; a trifling sum.

15. The free navigation of the Mississippi River was a point of contention between Great Britain, France, and Spain since the Treaty of Paris (1763), which settled the Seven Years' War. The matter was also an issue for Americans following independence from Britain. Early in the fall of 1779, Congress appointed John Jay to negotiate an alliance with Spain against Britain and instructed him to insist upon the American right to the free navigation of the Mississippi. Jay's negotiations were not fruitful in this regard. By March 1784, Spain officially prohibited Americans from navigating the Mississippi, closing what many western inhabitants viewed as an essential means of commerce and transportation. On 16 September 1788, the Confederation Congress entrusted the matter to the government under the new Constitution. For a lengthier account of Jay's negotiations and their importance to the Southern States, see "The Debate in the Virginia Convention on the Navigation of the Mississippi River," 12–13 June 1788 (RCS:Va., 1179–83).

16. See Article IV of the Articles of Confederation (CDR, 87).

17. The violation by Virginia and Maryland is likely a reference to the Mount Vernon Conference (1785), which concerned the jurisdiction over the Potomac River. The two states had competing claims on the river that dated to the colonial period. Maryland and Virginia did not actively dispute the jurisdiction over the river until the break with Great Britain, when several controversies arose concerning the Potomac. In 1785, the two states resolved their differences at the Mount Vernon Conference. The Mount Vernon Com-

pact, which was ratified by both states, provided that the Potomac River “shall be considered as a common High Way, for the purpose of Navigation and Commerce to the Citizens of Virginia and Maryland and of the United States and to all other Persons in amity with the said States trading to or from Virginia or Maryland” (Robert A. Rutland, ed., *The Papers of George Mason, 1725–1792* [3 vols. Chapel Hill, 1970], II, 818).

18. No compact between Pennsylvania and New Jersey can be identified. Perhaps Davie was incorrectly referring to the Trenton Decree of 1783 in which a federal commission ruled in favor of Pennsylvania against the claim of independence by Connecticut settlers in the Wyoming Valley of northeastern Pennsylvania.

19. See Article VI of the Articles of Confederation (CDR, 88).

20. A reference either to conflicts between western settlers and Indians or to the separatist movement in the breakaway state of Franklin.

21. Shays’s Rebellion (1786–87).

22. A reference to tender laws.

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

24. See George Washington’s letter as president of the Constitutional Convention to the president of Congress, 17 September 1787 (Appendix III, RCS:N.C., 833).

25. On the power given by North Carolina to its delegates to the Constitutional Convention, see note 10 (above).

26. Perhaps a reference to “An Act Relating to the Biennial and other Assemblies and Regulating Elections and Members,” commonly called the Biennial Law, of 1715.

27. A vote without any preceding discussion or debate.

28. A reference to the three-fifths clause of the Constitution (Article I, section 2), which counted three-fifths of slaves for purposes of representation and direct taxation.

29. For the proposed 1783 amendment to the Articles of Confederation, which would have altered the manner in which expenses were apportioned among the states, abandoning valuation of land in favor of population (with three-fifths of the slaves being counted), see CDR, 148–50. The population amendment was ratified by every state except New Hampshire and Rhode Island.

30. See Article I, section 2.

31. Likely a reference to Article XXIII of the North Carolina constitution (1776), in which officers of the state could be impeached for “violating any Part of this Constitution, Mal-Administration, or Corruption” (Appendix I, RCS:N.C., 827).

32. William Porter (1746–1817), a native of Pennsylvania and a farmer, served with the North Carolina militia at the Battle of Kings Mountain, 1780, and reached the rank of lieutenant colonel. He represented Rutherford County in the state Senate, 1780–81, 1796, and in the state House of Commons, 1788–96, 1799, 1803, 1805, 1807, 1811–12, 1814–16 (a total of seventeen years). In the Hillsborough Convention, 1788, he voted against ratifying the U.S. Constitution, but in the Fayetteville Convention, 1789, he voted in favor of ratification.

33. See Article III, section 1.

Hillsborough Convention Friday 25 July 1788

Convention Proceedings, 25 July 1788 (excerpts)¹

Met according to adjournment.

. . . Mr. Mebane, one of the committee appointed to confer with the printer on the subject of printing the journal of this convention, Reported, That Mr. Ferguson offered to print three hundred copies of the journal, and such other business as may be deemed absolutely necessary for the sum of sixty pounds, which offer the committee accepted of. . .

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 8–9.

Convention Debates, 25 July 1788¹

The Convention met according to adjournment.

Mr. *Gregory*, from the committee of elections, delivered in a report: which being read, was agreed to as follows:

[“]The committee proceeded to have read the return of the Sheriff of Cumberland county, for the town of Fayetteville in said county, wherein John Ingram was returned to represent said town in the Convention.

[“]It is the opinion of this committee, that the said town possesses not the right of representation in this Convention, and that therefore the said John Ingram hath no right to a seat in the same.

[“]It appearing to this committee, that the votes given for Thomas Devane, sen. Esq. and Thomas Devane, were intended and meant for the same person:

[“]*Resolved*, therefore, That the said Thomas Devane, sen. Esq. is duly elected to represent the county of New-Hanover in this present Convention, and that he take his seat accordingly.[”]²

The order of the day, for taking into further consideration the proposed Constitution for the future government of the United States, the Convention agreeable thereto, resolved itself into a committee of the whole House. Mr. Battle in the chair.

First article of the third section read.

Mr. [*Stephen*] *Cabarrus* wished to be informed of the reason why the Senators were to be elected for so long a time.

Mr. [*James*] *Iredell*—Mr. Chairman, I have waited for some time in hopes that a gentleman better qualified than myself, would explain this part. Every objection to every part of this Constitution ought to be answered as fully as possible.

I believe, Sir, it was the general sense of all America, with the exception only of one state, in forming their own state Constitutions, that the legislative body should be divided into two branches, in order that the people might have a double security.³ It will often happen that in a single body a bare majority will carry exceptionable and pernicious

measures. The violent faction of a party may often form such a majority in a single body, and by that means the particular views or interests of a part of the community may be consulted, and those of the rest neglected or injured. Is there a single gentleman in this Convention, who has been a member of the Legislature, who has not found the minority in the most important questions to be often right? Is there a man here, who has been in either House, who has not at sometimes found the most solid advantages from the co-operation or opposition of the other? If a measure be right, which has been approved of by one branch, the other will probably confirm it: If it be wrong, it is fortunate that there is another branch to oppose or amend it. These principles probably formed one reason for the institution of a Senate in the form of government before us. Another arose from the peculiar nature of that government, as connected with the governments of the particular states.

The general government will have the protection and management of the general interests of the United States. The local and particular interests of the different states are left to their respective Legislatures. All affairs which concern this state only are to be determined by our Representatives coming from all parts of the state: All affairs which concern the union at large, are to be determined by Representatives coming from all parts of the union. Thus then the general government is to be taken care of, and the state governments to be preserved. The former is done by a numerous representation of the people of each state, in proportion to its importance: The latter is effected by giving each state an equal representation in the Senate. The people will be represented in one House: The state Legislatures in the other.

Many are of opinion that the power of the Senate is too great, but I cannot think so, considering the great weight which the House of Representatives will have. Several reasons may be assigned for this. The House of Representatives will be more numerous than the Senate: They will represent the immediate interests of the people: They will originate all money bills, which is one of the greatest securities in any republican government. The respectability of their constituents, who are the free citizens of America, will add great weight to the Representatives. For a power derived from the people is the source of all real honour, and a demonstration of confidence which a man of any feeling would be more ambitious to possess, than any other honour or any emolument whatever. There is therefore always a danger of such a House becoming too powerful, and it is necessary to counteract its influence by giving great weight and authority to the other. I am warranted by well known facts, in my opinion, that the Representatives of the people at large will have more weight, than we should be induced to believe from a slight

consideration. The British government furnishes a very remarkable instance to my present purpose. In that country, Sir, is a King, who is hereditary; a man, who is not chosen for his abilities, but who, though he may be without principle or abilities, is by birth their Sovereign, and may impart the vices of his character to the government. His influence and power are so great, that the people would bear a great deal before they would attempt to resist his authority. He is one complete branch of the Legislature, may make as many Peers as he pleases, who are immediately members of another branch; he has the disposal of almost all offices in the kingdom, commands the army and navy, is head of the church, and has means of corrupting a large proportion of the Representatives of the people, who form the third branch of the Legislature. The House of Peers, which forms the second branch, is composed of Members who are hereditary, and except as to money bills (which they are not allowed either to originate or alter) hath equal authority with the other House. The Members of the House of Commons, who are considered to represent the people, are elected for seven years, and they are chosen by a small proportion of the people, and I believe I may say, a large majority of them by actual corruption. Under these circumstances, one would suppose their influence, compared to that of the King and Lords, was very inconsiderable. But the fact is, that they have by degrees increased their power to an astonishing degree, and when they think proper to exert it can command almost any thing they please. This great power they enjoy, by having the name of Representatives of the people, and the exclusive right of originating money bills. What authority then will our Representatives not possess, who will really represent the people, and equally have the right of originating money bills?

The manner in which our Senate is to be chosen, gives us an additional security. Our Senators will not be chosen by a King, nor tainted by his influence. They are to be chosen by the different Legislatures in the union. Each is to choose two. It is to be supposed that in the exercise of this power the utmost prudence and circumspection will be observed. We may presume that they will select two of the most respectable men in the state, two men who had given the strongest proofs of attachment to the interests of their country. The Senators are not to hold estates for life in the Legislature, nor to transmit them to their children. Their families, friends and estates, will be pledges for their fidelity to their country. Holding no office under the United States, they will be under no temptation of that kind to forget the interests of their constituents. There is every probability that men elected in this

manner, will in general do their duty faithfully. It may be expected therefore, that they will co-operate in every laudable act, but strenuously resist those of a contrary nature. To do this to effect, their station must have some permanency annexed to it.

As the Representatives of the people may probably be more popular, and it may be sometimes necessary for the Senate to prevent factious measures taking place, which may be highly injurious to the real interest of the public, the Senate should not be at the mercy of every popular clamour. Men engaged in arduous affairs, are often obliged to do things which may for the present be disapproved of, for want of full information of the case, which it is not in every man's power immediately to obtain. In the mean time every one is eager to judge, and many to condemn; and thus many an action is for a time unpopular, the true policy and justice of which afterwards very plainly appears. These observations apply even to acts of legislation concerning domestic policy: They apply much more forcibly to the case of foreign negotiations, which will form one part of the business of the Senate. I hope we shall not be involved in the labyrinths of foreign politicks. But it is necessary for us to watch the conduct of European powers, that we may be on our defence, and ready in case of an attack. All these things will require a continued attention: And in order to know whether they were transacted rightly or not, it must take up a considerable time.

A certain permanency in office is in my opinion useful for another reason. Nothing is more unfortunate for a nation, than to have its affairs conducted in an irregular manner. Consistency and stability are necessary to render the laws of any society convenient for the people. If they were to be entirely conducted by men liable to be called away soon, we might be deprived in a great measure of their utility: Their measures might be abandoned before they were fully executed, and others of a less beneficial tendency substituted in their stead. The public also would be deprived of that experience which adds so much weight to the greatest abilities.

The business of a Senator will require a great deal of knowledge, and more extensive information than can be acquired in a short time. This can be made evident by facts well known. I doubt not the gentlemen of this House who have been Members of Congress, will acknowledge that they have known several instances of men who were Members of Congress, and were there many months before they knew how to act, for want of information of the real state of the union. The acquisition of full information of this kind, must employ a great deal of time; since a general knowledge of the affairs of all the states, and of the relative

situation of foreign nations, would be indispensable. Responsibility also would be lessened by a short duration; for many useful measures require a good deal of time, and continued operations, and no man should be answerable for the ill success of a scheme which was taken out of his hands by others.

For these reasons I hope it will appear, that six years are not too long a duration for the Senate: I hope also it will be thought, that so far from being injurious to the liberties and interest of the public, it will form an additional security to both, especially when the next clause is taken up, by which we shall see that one third of the Senate is to go out every second year, and two-thirds must concur in the most important cases; so that if there be only one honest man among the two-thirds that remain, added to the one-third which has recently come in, this will be sufficient to prevent the rights of the people being sacrificed to any unjust ambition of that body.

I was in hopes some other gentleman would have explained this paragraph, because it introduces an entire change in our system, and every change ought to be founded on good reasons, and those reasons made plain to the people. Had my abilities been greater I should have answered the objection better: I have however done it in the best manner in my power, and I hope the reasons I have assigned will be satisfactory to the committee.

Mr. [*Archibald*] *Maclaine*—Mr. Chairman, A gentleman yesterday [David Caldwell] made some objections to the power of the Vice-President, and insisted that he was possessed of legislative powers. That in case of equality of voice in the Senate, he had the deciding vote, and that of course he, and not the Senate, legislated. I confess I was struck with astonishment at such an objection, especially as it came from a gentleman of character. As far as my understanding goes, the Vice-President is to have no acting part in the Senate, but a mere casting vote. In every other instance he is merely to preside in the Senate in order to regulate their deliberations. I think there is no danger to be apprehended from him in particular, as he is to be chosen in the same manner with the President, and therefore may be presumed to possess a great share of the confidence of all the states. He has been called an useless officer: I think him very useful, and I think the objection very trifling. It shews the uniform opposition gentlemen are determined to make. It is very easy to cavil at the finest government that ever existed.

Mr. [*William R.*] *Davie*—Mr. Chairman, I will state to the committee the reasons upon which this officer was introduced. I had the honour to observe to the committee before, the causes of the particular formation of the Senate; that it was owing with other reasons, to the *jealousy* of the states, and particularly to the extreme jealousy of the lesser

states, of the power and influence of the larger members of the confederacy. It was in the Senate that the several political interests of the states were to be preserved, and where all their powers were to be perfectly balanced. The commercial jealousy between the eastern and southern states had a principal share in this business. It might happen in important cases, that the voices would be equally divided. Indecision might be dangerous or inconvenient to the public. It would then be necessary to have some person who should determine the question as impartially as possible. Had the Vice-President been taken from the representation of any of the states, the vote of that state would have been diminished in the first instance, and he would have been under local influence in the second: It is true he must be chosen from some state; but from the nature of his election and office, he represents no one state in particular, but all the states. It is impossible that any officer could be chosen more impartially: He is in consequence of his election, the creature of no particular district or state, but the officer and representative of the union. He must possess the confidence of the states in a very great degree, and consequently be the most proper person to decide in cases of this kind. These I believe are the principles upon which the Convention formed this officer.

Sixth clause of the third section read.

Mr. *James Gallaway* wished gentlemen to offer their objections. That they must have made objections to *it*, and that they ought to mention them here.

Mr. *John Blount* said, that the sole power of impeachment had been objected to yesterday, and that it was urged, officers were to be carried from the furthest parts of the states to the seat of government: He wished to know if gentlemen were satisfied.

Mr. *Maclaine*—Mr. Chairman, I have no inclination to get up a second time, but some gentlemen think this subject ought to be taken notice of. I recollect it was mentioned by one gentleman [*Joseph Taylor*], that petty officers might be impeached. It appears to me, Sir, to be the most horrid ignorance to suppose, that every officer, however trifling his office, is to be impeached for every petty offence; and that every man who should be injured by such petty officers, could get no redress but by this mode of impeachment, at the seat of government, at the distance of several hundred miles, whither he would be obliged to summon a great number of witnesses. I hope every gentleman in this committee must see plainly, that impeachments cannot extend to inferior officers of the United States. Such a construction cannot be supported without a departure from the usual and well-known practice both in England and America. But this clause empowers the

House of Representatives, which is the grand inquest of the union at large, to bring great offenders to justice. It will be a kind of state trial for high crimes and misdemeanors. I remember it was objected yesterday, that the House of Representatives had the sole power of impeachment: The word "sole," was supposed to be so extensive as to include impeachable offences against particular states. Now for my part, I can see no impropriety in the expression. The word relates to the general objects of the union. It can only refer to offences against the United States, nor can it be tortured so as to have any other meaning, without a perversion of the usual meaning of language. The House of Representatives is to have the sole power of impeachment, and the Senate the sole power of trying. And here is a valuable provision, not to be found in other governments. In England, the Lords, who try impeachments, declare solemnly upon honour, whether the persons impeached be guilty or not. But here the Senators are on oath. This is a very happy security. It is further provided, that when the President is tried (for he is also liable to be impeached) the Chief-Justice shall preside in the Senate: Because it might be supposed, that the Vice-President might be connected, together with the President, in the same crime, and would therefore be an improper person to judge him. It would be improper for another reason. On the removal of the President from office, it devolves on the Vice-President. This being the case, if the Vice-President should be Judge, might he not look at the office of President, and endeavour to influence the Senate unjustly against him. This is a most excellent caution. It has been objected by some, that the President is in no danger from a trial by the Senate, because he does nothing without its concurrence. It is true, he is expressly restricted not to make treaties without the concurrence of two-thirds of the Senators present, nor appoint officers without the concurrence of the Senate (not requiring two-thirds). The concurrence of all the Senators however, is not required in either of those cases. They may be all present when he is impeached, and other Senators in the mean time introduced. The Chief-Justice we ought to presume, would not countenance a collusion. One dissenting person might divulge their misbehaviour. Besides he is impeachable for his own misdemeanors, and as to their concurrence with him, it might be effected by misrepresentations of his own, in which case they would be innocent, though he guilty. I think therefore the Senate a very proper body to try him. Notwithstanding the mode pointed out for impeaching and trying, there is not a single officer but may be tried and indicted at common law. For it is provided, that a judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office

of honour, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law. Thus you find that no offender can escape the danger of punishment. Officers however cannot be oppressed by an unjust decision of a bare majority. For it farther provides, that no person shall be convicted without the concurrence of two-thirds of the members present. So that those gentlemen who formed this government, have been particularly careful to distribute every part of it as equally as possible. As the government is solely instituted for the United States, so the power of impeachment only extends to officers of the United States. The gentleman who is so much afraid of impeachment by the federal Legislature, is totally mistaken in his principles.

Mr. *J[oseph] Taylor*—Mr. Chairman, My apprehension is, that this clause is connected with the other which gives the sole power of impeachment, and is very dangerous. When I was offering an objection to this part, I observed that it was supposed by some, that no impeachments could be preferred but by the House of Representatives. I concluded that perhaps the collectors of the United States, or gatherers of taxes, might impose on individuals in this country, and that these individuals might think it too great a distance to go to the seat of federal government to get redress, and would therefore be injured with impunity. I observed that there were some gentlemen whose abilities are great, who construe it in a different manner. They ought to be kind enough to carry their construction not to the mere letter, but to the meaning. I observe that when these great men are met in Congress, in consequence of this power, they will have the power of appointing all the officers of the United States. My experience in life shews me, that the friends of the Members of the Legislature will get the offices. These Senators and Members of the House of Representatives, will appoint their friends to all offices. These officers will be great men, and they will have numerous deputies under them. The Receiver-General of the taxes of North-Carolina, must be one of the greatest men in the country. Will he come to me for my taxes? No. He will send his deputy, who will have special instructions to oppress me. How am I to be redressed? I shall be told that I must go to Congress to get him impeached. This being the case, who am I to impeach? A friend of the Representatives of North-Carolina. For unhappily for us, these men will have too much weight for us; they will have friends in the government who will be inclined against us, and thus we may be oppressed with impunity. I was sorry yesterday to hear personal observations drop from a gentleman in this House [*Archibald Maclaine*]. If we are not of equal ability with the gentleman,

he ought to possess charity towards us, and not lavish such severe reflections upon us in such a declamatory manner. These are considerations I offer to the House. These oppressions may be committed by these officers. I can see no mode of redress. If there be any, let it be pointed out. As to personal aspersions with respect to me, I despise them. Let him convince me by reasoning, but not fall on detraction or declamation.

Mr. *Maclaine*—Mr. Chairman, If I made use of any asperity to that gentleman yesterday, I confess I am sorry for it. It was because such an observation came from a gentleman of his profession. Had it come from any other gentleman in this Convention who is not of his profession, I should not be surprised. But I was surprised that it should come from a gentleman of the law, who must know the contrary perfectly well. If his memory had failed him, he might have known by consulting his library. His books would have told him, that no petty officer was ever impeachable. When such trivial, ill-founded objections were advanced, by persons who ought to know better, was it not sufficient to irritate those who were determined to decide the question by a regular and candid discussion? Whether or not there will be a Receiver-General in North-Carolina, if we adopt the Constitution, I cannot take upon myself to say. I cannot say how Congress will collect their money. It will depend upon laws hereafter to be made. These laws will extend to other states as well as us. Should there be a Receiver-General in North-Carolina, he certainly will not be authorised to oppress the people. His deputies can have no power that he could not have himself. As all collectors and other officers will be bound to act according to law, and will in all probability be obliged to give security for their conduct, we may expect they will not dare to oppress. The gentleman has thought proper to lay it down as a principle, that these same Receivers-General will give special orders to their deputies to oppress the people. The President is the superior officer, who is to see the laws put in execution. He is amenable for any mal-administration in his office. Were it possible to suppose, that the President should give wrong instructions to his deputies, whereby the citizens would be distressed, they would have redress in the ordinary courts of common law. But says he, parties injured must go to the seat of government of the United States, and get redress there. I do not think it will be necessary to go to the seat of the general government for that purpose. No persons will be obliged to attend there, but on extraordinary occasions; for Congress will form regulations so as to render it unnecessary for the inhabitants to go thither, but on such occasions. My reasons for this conclusion are these, I look upon it as the interest of all the people of America, except

those in the vicinity of the seat of government, to make laws as easy as possible for the people, with respect to local attendance. They will not agree to drag their citizens unnecessarily six or seven hundred miles from their homes. This would be equally inconvenient to all except those in the vicinity of the seat of government, and therefore will be prevented. But says the gentleman from Granville [Joseph Taylor], what redress have we when we go to that place? These great officers will be the friends of the Representatives of North-Carolina. It is possible they may or they may not. They have the power to appoint officers for each state from what place they please. It is probable they will appoint them out of the state in which they are to act. I will however admit, for the sake of argument, that those federal officers who will be guilty of misdemeanors in this state, will be near relations of the Representatives and Senators of North-Carolina. What then? Are they to be tried by them only? Will they be the near friends of the Senators and Representatives of the other states? If not, his objection goes for nothing. I do not understand what he says about detraction and declamation. My character is well known. I am no declaimer, but when I see a gentleman ever so respectable, betraying his trust to the public, I will publish it loudly; and I say this is not detraction or declamation.

Governor [Samuel] Johnston—Mr. Chairman, Impeachment is very different in its nature from what the learned gentleman from Granville [Joseph Taylor] supposes it to be. If an officer commits an offence against an individual, he is amenable to the courts of law. If he commits crimes against the state, he may be indicted and punished. Impeachment only extends to high crimes and misdemeanors in a *public office*. It is a mode of trial pointed out for great misdemeanors against the public. But I think neither that gentleman or any other person need be afraid that officers who commit oppressions, will pass with impunity. It is not to be apprehended, that such officers will be tried by their cousins and friends. Such cannot be on the jury at the trial of the cause; it being a principle of law, that no person interested in a cause, or who is a relation of the party, can be a juror in it. This is the light in which it strikes me. Therefore the objection of the gentleman from Granville, must necessarily fall to the ground on that principle.

Mr. Maclaine—Mr. Chairman, I must obviate some objections which have been made. It was said by way of argument, that they could impeach and remove any officer, whether of the United States, or any particular state. This was suggested by the gentleman from New-Hanover [Timothy Bloodworth]. Nothing appears to me more unnatural than such a construction. The Constitution says in one place, that the House of Representatives shall have the sole power of impeachment. In the

clauses under debate it provides, that the Senate shall have the sole power to try all impeachments, and then subjoins, that judgment in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honour, trust or profit under the United States. And in the fourth section of the second article, it says, that the President, Vice-President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. Now, Sir, what can be more clear and obvious than this? The several clauses relate to the same subject, and ought to be considered together. If considered separately and unconnectedly, the meaning is still clear. They relate to the government of the union altogether. Judgment on impeachment only extends to removal from office, and future disqualification to hold offices *under the United States*. Can those be removed from offices, and disqualified to hold offices under the United States, who actually held no office under the United States? The fourth section of the second article provides expressly for the removal of the President, Vice-President and all civil officers of the United States, on impeachment and conviction. Does not this clearly prove, that none but officers of the United States are impeachable. Had any other been impeachable, why was not provision made for the case of their conviction? Why not point out the punishment in one case as well as in others? I beg leave to observe, that this is a Constitution which is not made with any reference to the government of any particular state, or to officers of particular states, but to the government of the United States at large. We must suppose, that every officer here spoken of, must be an officer of the United States. The words discover [i.e., disclose] the meaning as plainly as possible. The sentence which provides, that "judgment in cases of impeachment, shall not extend further than to removal from office," is joined by a conjunction copulative to the other sentence, "and disqualification to hold and enjoy any office of honour, trust or profit *under the United States*," which incontrovertibly proves, that officers of the United States are only referred to. No other grammatical construction can be put upon it. But there is no necessity to refer to grammatical constructions, since the whole plainly refers to the government of the United States at large. The general government cannot intermeddle with the internal affairs of the state governments. They are in no danger from it. It has been urged, that it has a tendency to a consolidation. On the contrary it appears, that the state Legislatures must exist in full force, otherwise the general government cannot exist itself. A consolidated government would never secure the happiness of the people of this country. It would be the interest of the people

of the United States, to keep the general and individual governments as separate and distinct as possible.

Mr. [*Timothy*] *Bloodworth*—Mr. Chairman, I confess I am obliged to the honourable gentleman for his construction. Were he to go to Congress he might put that construction on the Constitution. But no one can say what construction Congress will put upon it. I do not distrust him, but I distrust them. I wish to leave no dangerous latitude of construction.

The first clause of the fourth section read.

Mr. [*Samuel*] *Spencer*—Mr. Chairman, It appears to me that this clause, giving this controul over the time, place and manner of holding elections, to Congress, does away [with] the right of the people to choose the Representatives every second year, and impairs the right of the state Legislatures to choose the Senators. I wish this matter to be explained.

Governor *Johnston*—Mr. Chairman, I confess that I am a very great admirer of the new Constitution, but I cannot comprehend the reason of this part. The reason urged is, that every government ought to have the power of continuing itself, and that if the general government had not this power, the state Legislatures might neglect to regulate elections, whereby the government might be discontinued. As long as the state Legislatures have it in their power not to choose the Senators, this power in Congress appears to me altogether useless; because they can put an end to the general government by refusing to choose Senators. But I do not consider this such a blemish in the Constitution, as that it ought for that reason, to be rejected. I observe that every state which has adopted the Constitution and recommended amendments, has given directions to remove this objection, and I hope if this state adopts it, she will do the same.

Mr. *Spencer*—Mr. Chairman, It is with great reluctance that I rise upon this important occasion. I have considered with some attention the subject before us. I have paid attention to the Constitution itself, and to the writings on both sides. I considered it on one side as well as on the other, in order to know whether it would be best to adopt it or not. I would not wish to insinuate any reflections on those gentlemen who formed it. I look upon it as a great performance. It has a great deal of merit in it, and it is perhaps as much as any set of men could have done. Even if it be true what gentlemen have observed, that the gentlemen who were Delegates to the federal Convention, were not instructed to form a new Constitution, but to amend the Confederation.⁴ This will be immaterial, if it be proper to be adopted. It will be of equal benefit to us, if proper to be adopted in the whole, or in such parts as will be necessary, whether they were expressly delegated for that purpose or not. This appears to me to be a reprehensible clause;

because it seems to strike at the state Legislatures, and seems to take away that power of elections, which reason dictates they ought to have among themselves. It apparently looks forward to a consolidation of the government of the United States, when the state Legislatures may entirely decay away. This is one of the grounds which have induced me to make objections to the new form of government. It appears to me that the state governments are not sufficiently secured, and that they may be swallowed up by the great mass of powers given to Congress. If that be the case, such power should not be given; for from all the notions which we have concerning our happiness and well-being, the state governments are the basis of our happiness, security and prosperity. A large extent of country ought to be divided into such a number of states, as that the people may conveniently carry on their own government. This will render the government perfectly agreeable to the genius and wishes of the people. If the United States were to consist of ten times as many states, they might all have a degree of harmony. Nothing would be wanting but some cement for their connection. On the contrary, if all the United States were to be swallowed up by the great mass of powers given to Congress, the parts that are more distant in this great empire would be governed with less and less energy. It would not suit the genius of the people to assist in the government. Nothing would support government in such a case as that but military coercion. Armies would be necessary in different parts of the United States. The expence which they would cost, and the burdens which they would make necessary to be laid upon the people, would be ruinous. I know of no way that is likely to produce the happiness of the people, but to preserve, as far as possible, the existence of the several states, so that they shall not be swallowed up. It has been said, that the existence of the state governments is essential to that of the general government, because they choose the Senators. By this clause it is evident, that it is in the power of Congress to make any alterations, except as to the place of choosing Senators. They may alter the time from six to twenty years, or to any time; for they have an unlimited controul over the time of elections. They have also an absolute controul over the election of the Representatives. It deprives the people of the very mode of choosing them. It seems nearly to throw the whole power of election into the hands of Congress. It strikes at the mode, time and place of choosing Representatives. It puts all but the place of electing Senators, into the hands of Congress. This supercedes the necessity of continuing the state Legislatures. This is such an article as I can give no sanction to, because it strikes at the foundation of the government on which depends the happiness of the states, and the general government. It is

with reluctance I make the objection. I have the highest veneration for the characters of the framers of this Constitution. I mean to make objections only which are necessary to be made. I would not take up time unnecessarily. As to this matter, it strikes at the foundation of every thing. I may say more when we come to that part which points out the mode of doing without the agency of the state Legislatures.

Mr. *Iredell*—Mr. Chairman, I am glad to see so much candour and moderation. The liberal sentiments expressed by the honourable gentleman who spoke last [Samuel Spencer], command my respect. No time can be better employed than in endeavouring to remove, by fair and just reasoning, every objection which can be made to this Constitution. I apprehend, that the honourable gentleman is mistaken as to the extent of the operation of this clause. He supposes, that the controul of the general government over elections looks forward to a consolidation of the states; and that the general word, *time*, may extend to twenty, or any number of years. In my humble opinion, this clause does by no means warrant such a construction. We ought to compare other parts with it. Does not the Constitution say, that Representatives shall be chosen every second year? The right of choosing them, therefore, reverts to the people every second year. No instrument of writing ought to be construed absurdly, when a rational construction can be put upon it. If Congress can prolong the election to any time they please, why is it said, that Representatives shall be chosen every second year? *They must be chosen every second year*; but whether in the month of March or January, or any other month, may be ascertained at a future time, by regulations of Congress. The word *time*, refers only to the particular month and day within the two years. I heartily agree with the gentleman, that if any thing in this Constitution tended to the annihilation of the state governments, instead of exciting the admiration of any man, it ought to excite his resentment and execration. No such wicked intention ought to be suffered. But the gentlemen who formed the Constitution had no such object; nor do I think there is the least ground for that jealousy. The very existence of the general government depends on that of the state governments. The state Legislatures are to choose the Senators. Without a Senate there can be no Congress. The state Legislatures are also to direct the manner of choosing the President. Unless, therefore, there are state Legislatures to direct that manner, no President can be chosen. The same observation may be made as to the House of Representatives, since, as they are to be chosen by the electors of the most numerous branch of each state Legislature. If there are no state Legislatures, there are no persons to choose the House of Representatives. Thus it is evident, that the very existence of

the general government depends on that of the state Legislatures, and of course, that their continuance cannot be endangered by it.

An occasion may arise when the exercise of this ultimate power in Congress may be necessary: As for instance, if a state should be involved in war, and its Legislature could not assemble, as was the case of South-Carolina, and occasionally of some other states, during the late war.⁵ It might also be useful for this reason—lest a few powerful states should combine, and make regulations concerning elections, which might deprive many of the electors of a fair exercise of their rights, and thus injure the community, and occasion great dissatisfaction: And it seems natural and proper that every government should have in itself the means of its own preservation. A few of the great states might combine to prevent any election of Representatives at all, and thus a majority might be wanting to do business; but it would not be so easy to destroy the government by the non-election of Senators, because one-third only are to go out at a time, and all the states will be equally represented in the Senate. It is not probable this power would be abused; for if it should be, the state Legislatures would immediately resent it; and their authority over the people will always be extremely great. These reasons induce me to think, that the power is both necessary and useful. But I am sensible great jealousy has been entertained concerning it: And as, perhaps, the danger of a combination, in the manner I have mentioned, to destroy or distress the general government, is not very probable, it may be better to incur this risk, than occasion any discontent, by suffering the clause to continue as it now stands. I should, therefore, not object to the recommendation of an amendment similar to that of other states, that this power in Congress should only be exercised when a state Legislature neglected, or was disabled from making the regulations required.

Mr. *Spencer*—Mr. Chairman, I did not mean to insinuate, that designs were made by the honourable gentlemen who composed the federal Constitution, against our liberties. I only meant to say, that the words in this place were exceeding vague. It may admit of the gentleman's construction; but it may admit of a contrary construction. In a matter of so great moment, words ought not to be so vague and indeterminate. I have said, that the states are the basis on which the government of the United States ought to rest, and which must render us secure. No man wishes more for a federal government than I do. I think it necessary for our happiness: But at the same time, when we form a government which must entail happiness or misery on posterity, nothing is of more consequence than settling it so as to exclude animosity and

a contest between the general and individual governments. With respect to the mode here mentioned, they are words of very great extent. This clause provides, that a Congress may at any time alter such regulations, except as to the places of choosing Senators. These words are so vague and uncertain, that it must ultimately destroy the whole liberty of the United States. It strikes at the very existence of the states, and supercedes the necessity of having them at all. I would therefore wish to have it amended in such a manner, as that the Congress should not interfere but when the states refused or neglected to regulate elections.

Mr. *Bloodworth*—Mr. Chairman, I trust that such learned arguments as are offered to reconcile to our minds such dangerous powers will not have the intended weight. The House of Representatives is the only democratical branch. This clause may destroy representation entirely. What does it say? 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. Now, Sir, does not this clause give an unlimited and unbounded power to Congress over the times, places and manner of choosing Representatives? They may make the time of election so long, the place so inconvenient, and the manner so oppressive, that it will entirely destroy representation. I hope gentlemen will exercise their own understanding on this occasion, and not let their judgment be led away by these shining characters, for whom, however, I have the highest respect. This Constitution, if adopted in its present mode, must end in the subversion of our liberties. Suppose it takes place in North-Carolina, can farmers elect then? No, Sir. The elections may be in such a manner that men may be appointed who are not Representatives of the people. This may exist, and it ought to be guarded against. As to the place, suppose Congress should order the elections to be held in the most inconvenient place, in the most inconvenient district; could every person entitled to vote attend at such a place? Suppose they should order it to be laid off into so many districts, and order the election to be held within each district; yet may not their power over the manner of election enable them to exclude from voting every description of men they please? The democratic branch is so much endangered, that no arguments can be made use of to satisfy my mind to it. The honourable gentleman [James Iredell] has amused us with learned discussions, and told us he will condescend to propose amendments. I hope the Representatives of North-Carolina will never swallow the Constitution till it is amended.

Mr. [*William*] *Goudy*—Mr. Chairman, The invasion of the states is urged as a reason for this clause. But why did they not mention that it should be only in cases of invasion? But that was not the reason in my humble opinion. I fear it was a combination against our liberties. I ask, when we give them the purse in one hand, and the sword in another, what power have we left? It will lead to an aristocratical government, and establish tyranny over us. We are freemen, and we ought to have the privileges of such.

Governor *Johnston*—Mr. Chairman, I do not impute any impure intentions to the gentlemen who formed this Constitution. I think it unwarrantable in any one to do it. I believe, that were there twenty Conventions appointed, and as many Constitutions formed, we never could get men more able and disinterested than those who formed this, nor a Constitution less exceptionable than that which is now before you. I am not apprehensive that this article will be attended with all the fatal consequences, which the gentleman conceives. I conceive that Congress can have no other power than the states had. The states, with regard to elections, must be governed by the articles of the Constitution; so must Congress. But, I believe, the power, as it now stands, is unnecessary. I should be perfectly satisfied with it in the mode recommended by the worthy Member on my right hand: Although I should be extremely cautious to adopt any Constitution that would endanger the rights and privileges of the people. I have no fear in adopting this Constitution, and then proposing amendments. I feel as much attachment to the rights and privileges of my country as any man in it; and if I thought any thing in this Constitution tended to abridge these rights, I would not agree to it. I cannot conceive that this is the case. I have not the least doubt but it will be adopted by a very great majority of the states: For states who have been as jealous of their liberties as any in the world, have adopted it; and they are some of the most powerful states. We shall have the assent of all the states in getting amendments. Some gentlemen have apprehensions, that Congress will immediately conspire to destroy the liberties of their country. The men, of whom Congress will consist, are to be chosen from among ourselves. They will be in the same situation with us. They are to be bone of our bone, and flesh of our flesh.⁶ They cannot injure us without injuring themselves. I have no doubt but we shall choose the best men in the community. Should different men be appointed, they are sufficiently responsible. I therefore think, that no danger is to be apprehended.

Mr. [*Joseph*] *M'Dowall*—Mr. Chairman, I have the highest esteem for the gentleman who spoke last. He has amused us with the fine characters of those who formed that government. Some were good; but

some were very imperious, aristocratical, despotic and monarchical. If parts of it are extremely good, other parts are very bad. The freedom of election is one of the greatest securities we have for our liberty and privileges. It was supposed by the Member from Edenton [James Iredell], that the controul over elections was only given to Congress to be used in case of invasion. I differ from him. That could not have been their intention, otherwise they could have expressed it. But, Sir, it points forward to the time when there will be no state Legislatures—to the consolidation of all the states. The states will be kept up as boards of elections. I think the same men would make a better Constitution; for good government is not the work of a short time. They only had their own wisdom. Were they to go now, they would have the wisdom of the United States. Every gentleman who must reflect on this, must see it. The adoption of several other states is urged. I hope every gentleman stands for himself—will act according to his own judgment—and will pay no respect to the adoption by the other states. It may embarrass us in some political difficulties; but let us attend to the interest of our constituents.

Mr. *Iredell* answered, that he stated the case of invasion as only one reason out of many, for giving the ultimate controul over elections to Congress.

Mr. *Davie*—Mr. Chairman, A consolidation of the states, is said by some gentlemen to have been intended. They insinuate that this was the cause of their giving this power over elections. If there were any seeds in this Constitution which might one day produce a consolidation, it would, Sir, with me, be an insuperable objection; I am so perfectly convinced that so extensive a country as this, can never be managed by one consolidated government. The federal Convention were as well convinced as the Members of this House, that the state governments were absolutely necessary to the existence of the federal government: They considered them as the great *massy pillars*⁷ on which this political fabric was to be extended and supported, and were fully persuaded, that when they were removed or should moulder down by time, the general government must tumble into ruins. A very little reflection will shew, that no department of it can exist without the state governments.

Let us begin with the House of Representatives. Who are to vote for the federal Representatives? Those who vote for the state Representatives. If the state government vanishes, the general government must vanish also. This is the foundation on which this government was raised, and without which it cannot possibly exist.

The next department is the Senate. How is it formed? By the states themselves. Do they not choose them? Are they not created by them? And will they not have the interest of the states particularly at heart? The states, Sir, can put a final period to the government, as was observed by a gentleman who thought this power over elections unnecessary. If the state Legislatures think proper, they may refuse to choose Senators, and the government must be destroyed. Is not this government a nerveless mass, a dead carcass, without the Executive power? Let your Representatives be the most vicious demons that ever existed, let them plot against the liberties of America, let them conspire against its happiness—all their machinations will not avail if not put in execution. By whom are their laws and projects to be executed? By the President. How is he created? By Electors appointed by the people under the direction of the Legislatures—by an union of the interest of the people and the state governments. The state governments can put a *veto*, at any time, on the general government, by ceasing to continue the Executive power. Admitting the Representatives or Senators could make corrupt laws; they can neither execute them themselves, nor appoint the Executive. Now, Sir, I think it must be clear to every candid mind, that no part of this government can be continued after the state governments lose their existence, or even their present forms. It may also be easily proved, that all federal governments possess an inherent weakness which continually tends to their destruction. It is to be lamented that all governments of a federal nature have been short-lived. Such was the fate of the Achæan league, the Amphyctionic council, and other ancient confederacies;⁸ and this opinion is confirmed by the uniform testimony of all history. There are instances in Europe of confederacies subsisting a considerable time, but their duration must be attributed to circumstances exterior to their government. The Germanic confederacy would not exist a moment, were it not for the fear of the surrounding powers, and the interest of the Emperor. The history of this confederacy is but a series of factions, dissensions, bloodshed and civil war. The confederacies of the Swiss and United Netherlands, would long ago have been destroyed from their imbecility, had it not been for the fear, and even the policy, of the bordering nations. It is impossible to construct such a government in such a manner as to give it any probable longevity. But, Sir, there is an excellent principle in this proposed plan of federal government, which none of these confederacies had, and to the want of which in a great measure their imperfections may be justly attributed. I mean the principle of representation. I hope that by the agency of this principle, if it be not immortal, it will at least be long-lived. I thought it necessary to say this much to detect⁹ the

futility of that unwarrantable suggestion, that we are to be swallowed up by a great consolidated government. Every part of this federal government is dependent on the continuation of the state Legislatures for its existence. The whole, Sir, can never swallow up its parts. The gentleman from Edenton (Mr. Iredell) has pointed out the reasons of giving this controul over elections to Congress, the principal of which was, to prevent a dissolution of the government by designing states. If all the states were equally possessed of absolute power over their elections, without any controul of Congress, danger might be justly apprehended where one state possesses as much territory as four or five others, and some of them being thinly peopled now, will daily become more numerous and formidable. Without this controul in Congress, those large states might successfully combine to destroy the general government. It was therefore necessary to controul any combination of this kind. Another principal reason was, that it would operate in favour of the people against the ambitious designs of the federal Senate. I will illustrate this by matter of fact. The history of the little state of Rhode-Island is well known. An abandoned faction have seized on the reins of government, and frequently refused to have any representation in Congress.¹⁰ If Congress had the power of making the law of elections operate throughout the United States, no state could withdraw itself from the national councils, without the consent of a majority of the Members of Congress. Had this been the case, that trifling state would not have with-held its representation. What once happened may happen again, and it was necessary to give Congress this power to keep the government in full operation. This being a federal government, and involving the interests of several states; and some acts requiring the assent of more than a majority, they ought to be able to keep their representation full. It would have been a solecism, to have a government without *any means* of self-preservation. The Confederation is the only instance of a government without such means, and is a nerveless system, as inadequate to every purpose of government as it is to the security of the liberties of the people of America. When the councils of America have this power over elections, they can, in spite of any faction in any particular state, give the people a representation. Uniformity in matters of election is also of the greatest consequence. They ought all to be judged by the same law and the same principles, and not be different in one state from what they are in another. At present the manner of electing is different in different states. Some elect by ballot and others *viva voce*. It will be more convenient to have the manner uniform in all the states. I shall now answer some observations made by the gentleman from Mecklinburg. He has stated, that this

power over elections, gave to Congress power to lengthen the time for which they were elected. Let us read this clause coolly, all prejudice aside, and determine whether this construction be warrantable. The clause runs thus: "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 choosing Senators." I take it as a fundamental principle, which is beyond the reach of the general or individual governments to alter, that the Representatives shall be chosen every second year, and that the tenure of their offices shall be for two years—that Senators shall be chosen every sixth year, and that the tenure of their offices shall be for six years. I take it also as a principle, that the electors of the most numerous branch of the state Legislatures, are to elect the federal Representatives. Congress has ultimately no power over elections, but what is primarily given to the state Legislatures. If Congress have the power of prolonging the time, &c. as gentlemen observe, the same powers must be completely vested in the state Legislatures. I call upon every gentleman candidly to declare, whether the state Legislatures have the power of altering the time of elections for Representatives from two to four years, or Senators from six to twelve; and whether they have the power to require any other qualifications than those of the most numerous branch of the state Legislatures, and also whether they have any other power over the manner of elections any more than the mere mode of the act of choosing, or whether they shall be held by Sheriffs as contradistinguished to any other officer, or whether they shall be by votes as contradistinguished from ballots or any other way. If gentlemen will pay attention they will find, that in the latter part of this clause, Congress has no power but what was given to the states in the first part of the same clause. They may alter the manner of holding the election, but cannot alter the tenure of their office. They cannot alter the nature of the elections, for it is established as fundamental principles, that the electors of the most numerous branch of the state Legislature shall elect the federal Representatives, and that the tenure of their office shall be for two years; and likewise, that the Senators shall be elected by the Legislatures, and that the tenure of their office shall be for six years. When gentlemen view the clause accurately, and see that Congress have only the same power which was in the state Legislature, they will not be alarmed. The learned Doctor on my right (Mr. Spencer) has also said, that Congress might lengthen the time of elections. I am willing to appeal to grammatical construction and punctuation. Let me read this as it stands on paper. (*Here he reads the clause different ways, expressing*

the same sense.) Here in the first part of the clause, this power over elections is given to the states, and in the latter part the same power is given to Congress, and extending only to the time of *holding*, the place of *holding*, and the manner of *holding* the elections. Is this not the plain, literal and grammatical construction of the clause? Is it possible to put any other construction on it, without departing from the natural order, and without deviating from the general meaning of the words and every rule of grammatical construction? Twist it, torture it as you may, Sir, it is impossible to fix a different sense upon it. The worthy gentleman from New-Hanover [Timothy Bloodworth], whose ardour for the liberty of his country I wish never to be damped, has insinuated, that high characters might influence the Members on this occasion. I declare for my own part, I wish every man to be guided by their own conscience and understanding, and by nothing else. Every man has not been bred a politician nor studied the science of government; yet when a subject is explained, if the mind is unwarped by prejudice and not in the leading-strings of other people, gentlemen will do what is right. Were this the case I would risk my salvation on a right decision.

Mr. [David] Caldwell—Mr. Chairman, Those things which can be, may be. We know that in British government, the Members of Parliament were eligible only for three years. They determined they might be chosen for seven years.¹¹ If Congress can alter the time, manner and place, I think it will enable them to do what the British Parliament once did. They have declared, that the elections of Senators are for six years, and of Representatives for two years. But they have said there was an exception to this general declaration, *viz.* that Congress can alter them. If the Convention only meant that they should alter them in such a manner as to prevent a discontinuation of the government, why have they not said so? It must appear to every gentleman in this Convention, that they can alter the elections to what time they please: And if the British Parliament did once give themselves the power of sitting four years longer than they had a right to do, Congress, having a standing army, and the command of the militia, may, with the same propriety, make an act to continue the Members for twenty years, or even for their natural lives. This construction appears perfectly rational to me. I shall therefore think that this Convention will never swallow such a government, without securing us against danger.

Mr. *Maclaine*—Mr. Chairman, The reverend gentleman from Guilford [David Caldwell], has made an objection which astonishes me more than any thing I have heard. He seems to be acquainted with the history of England, but he ought to consider whether his historical references apply to this country. He tells us of triennial elections being

changed to septennial elections. This is a historical fact we well know, and the occasion on which it happened, is equally well known. They talk as loudly of constitutional rights and privileges in England, as we do here, but they have no written constitution. They have a common law, which has been altered from year to year, for a very long period—Magna Charta, and Bill of Rights. These they look upon as their constitution. Yet this is such a constitution as it is universally considered Parliament can change. Blackstone, in his admirable Commentaries, tells us, that the power of the Parliament is transcendent and absolute, and can do and undo every thing that is not naturally impossible.¹² The act, therefore, to which the reverend gentleman alludes, was not unconstitutional. Has any man said that the Legislature can deviate from this Constitution? The Legislature is to be guided by the Constitution. They cannot travel beyond its bounds. The reverend gentleman says, that though the Representatives are to be elected for two years, they may pass an act prolonging their appointment for twenty years, or for natural life, without any violation of the Constitution. Is it possible for any common understanding or sense, to put this construction upon it? Such an act, Sir, would be a palpable violation of the Constitution. Were they to attempt it, Sir, the country would rise against them. After such an unwarrantable suggestion as this, any objection may be made to this Constitution. It is necessary to give power to the government. I would ask that gentleman who is so afraid it will destroy our liberties, why he is not as much afraid of our state Legislature? For they have much more power than we are now proposing to give this general government. They have an unlimited controul over the purse and sword—yet no complaints are made. Why is he not afraid that our Legislature will call out the militia to destroy our liberties? Will the militia be called out by the general government to enslave the people—to enslave their friends, their families, themselves? The idea of the militia being made use of as an instrument to destroy our liberties, is almost too absurd to merit a refutation. It cannot be supposed that the Representatives of our general government will be worse men than the Members of our state government. Will we be such fools as to send our greatest rascals to the general government? We must be both fools as well as villains to do so.

Governor *Johnston*—Mr. Chairman, I shall offer some observations on what the gentleman said. A parallel has been drawn between the British Parliament and Congress. The power of Congress are all circumscribed, defined, and clearly laid down. So far they may go, but no farther. But, Sir, what are the powers of the British Parliament? They have no written Constitution in Britain. They have certain fundamental

principles and legislative acts, securing the liberty of the people: But these may be altered by their Representatives, without violating their Constitution, in such manner as they may think proper. Their Legislature existed long before the science of government was well understood. From very early periods you find their Parliament in full force. What is their Magna Charta? It is only an act of Parliament. Their Parliament can at any time, alter the whole, or any part of it. In short, it is no more binding on the people than any other act which has passed. The power of the Parliament is, therefore, unbounded. But, Sir, can Congress alter the Constitution? They have no such power. They are bound to act by the Constitution. They dare not recede from it. At the moment that the time for which they are elected expires, they may be removed. If they make bad laws, they *will* be removed, for they will be no longer worthy of confidence. The British Parliament can do every thing they please. Their Bill of Rights is only an act of Parliament, which may be at any time altered or modified, without a violation of the Constitution. The people of Great-Britain have no Constitution to controul their Legislature.—The King, Lords and Commons can do what they please.

Mr. *Caldwell* observed, that whatever nominal powers the British Parliament might possess, yet they had infringed the liberty of the people in the most flagrant manner, by giving themselves power to continue four years in Parliament longer than they had been elected for—That though they were only chosen for three years by their constituents, yet they passed an act, that Representatives should, for the future, be chosen for seven years—That this Constitution would have a dangerous tendency—That this clause would enable them to prolong their continuance in office as long as they pleased—And that if a Constitution was not agreeable to the people, its operation could not be happy.

Governor *Johnston* replied, that the act to which allusion was made by the gentleman, was not unconstitutional: But that if Congress were to pass an act, prolonging the terms of elections of Senators or Representatives, it would be clearly unconstitutional.

Mr. *Maclaine* observed, that the act of Parliament referred to was passed on urgent necessity, when George I. ascended the throne, to prevent the Papists from getting into Parliament; for parties ran so high at that time, that Papists enough might have got in to destroy the act of settlement,¹³ which excluded the Roman Catholics from the succession to the throne.

Mr. *Spencer*—The gentleman from Halifax [William R. Davie] said, that the reason of this clause was, that some states might be refractory. I profess, that, in my opinion, the circumstances of Rhode-Island do

not appear to apply. I cannot conceive the particular cause why Rhode-Island should not send Representatives to Congress. If they were united in one government, is it presumed that they would waive the right of representation? I have not the least reason to doubt they would make use of the privilege. With respect to the construction that the worthy Member put upon the clause, were that construction established, I would be satisfied; but it is susceptible of a different explanation. They may alter the mode of election so as to deprive the people of the right of choosing. I wish to have it expressed in a more explicit manner.

Mr. *Davie*—Mr. Chairman, The gentleman has certainly misconceived the matter, when he says, “that the circumstances of Rhode-Island do not apply.” It is a fact well known, of which perhaps he may not be possessed, that the state of Rhode-Island has not been regularly represented for several years, owing to the character and particular views of the prevailing party. By the influence of this faction, who are in possession of the state government, the people have been frequently deprived of the benefit of a representation in the union, and Congress often embarrassed by their absence.¹⁴ The same evil may again result from the same cause; and Congress ought therefore to possess constitutional power to give the people an opportunity of electing Representatives, if the states neglect or refuse to do it. The gentleman from Anson [Samuel Spencer] has said, “that this clause is susceptible of an explanation different from the construction I put upon it.” I have a high respect for his opinion; but that alone, on this important occasion, is not satisfactory: We must have some *reasons* from him to support and sanction this opinion. He is a professional man, and has held an office many years—the nature and duties of which would enable him to put a different construction on this clause, if it is capable of it.

This clause, Sir, has been the occasion of much groundless alarm, and has been the favourite theme of declamation out of doors. I now call upon the gentlemen of the opposition to shew that it contains the mischiefs with which they have alarmed and agitated the public mind, and I defy them to support the construction they have put upon it by one single plausible reason. The gentleman from New-Hanover [Timothy Bloodworth] has said in objection to this clause, “That Congress may appoint the most inconvenient place in the most inconvenient district, and make the manner of election so oppressive, as entirely to destroy representation.” If this is considered as possible, he should also reflect that the state Legislatures may do the same thing. But this can never happen, Sir, until the whole mass of the people become corrupt, when all parchment securities will be of little service. Does that gentleman, or any other gentleman who has the smallest acquaintance with

human nature or the spirit of America, suppose that the people will passively relinquish privileges, or suffer the usurpation of powers unwarranted by the Constitution? Does not the right of electing Representatives revert to the people every second year? There is nothing in this clause that can impede or destroy this reversion; and although the particular time of year, the particular place in a county or a district, or the particular mode in which elections are to be held, as whether by vote or ballot, be left to Congress to direct; yet this can never deprive the people of the *right* or *privilege* of election. He has also added, that the “democratical branch was in danger from this clause;” and with some other gentlemen took it for granted, that an aristocracy must arise out of the general government. This, I take it, from the very nature of the thing, can never happen. Aristocracies grow out of the combination of a few powerful families, where the country or people upon which they are to operate are immediately under their influence; whereas the interest and influence of this government are too weak, and too much diffused ever to bring about such an event. The confidence of the people, acquired by a wise and virtuous conduct, is the only influence the members of the federal government can ever have. When aristocracies are formed, they will arise within the individual states; it is therefore absolutely necessary that Congress should have a constitutional power to give the people at large a representation in the government, in order to break and controul such dangerous combinations. Let gentlemen shew when and how this aristocracy they talk of, is to arise out of this Constitution. Are the first members to perpetuate themselves? Is the Constitution to be attacked by such absurd assertions as these, and charged with defects with which it has no possible connection?

Mr. *Bloodworth*—Mr. Chairman, The gentleman has mistaken me. When we examine the gentleman’s arguments, they have no weight. He tells us, that it is not probable “that an aristocracy can arise.” I did not say that it would. Various arguments are brought forward in support of this article. They are vague and trifling. There is nothing that can be offered to my mind, which will reconcile me to it, while this evil exists—while Congress have this controul over elections. It was easy for them to mention, that this controul should be only exerted when the state would neglect or refuse, or be unable in case of invasion, to regulate elections—If so, why did they not mention it expressly?

It appears to me, that some of their general observations imply a contradiction. Do they not tell us, that there is no danger of a consolidation? That Congress can exist no longer than the states—the massy pillars on which it is said to be raised? Do they not also tell us, that the state governments are to secure us against Congress? At another time

they tell us, that it was necessary to secure our liberty by giving them power to prevent the state governments from oppressing us. We know that there is a corruption in human nature. Without circumspection and carefulness we shall throw away our liberties. Why is this general expression used on this great occasion? Why not use expressions that were clear and unequivocal? If I trust my property with a man I take security, shall I then barter away my rights?

Mr. *Spencer*—Mr. Chairman, This clause may operate in such a manner as will abridge the liberty of the people. It is well known that men in power are apt to abuse it, and extend it if possible. From the ambiguity of this expression, they may put such construction on it as may suit them. I would not have it in such a manner as to endanger the rights of the people. But it has been said, that this power is necessary to preserve their existence. There is not the least doubt but the people will keep them from loosing their existence, if they shall behave in such a manner as will merit it.

Mr. *Maclaine*—Mr. Chairman, I thought it very extraordinary, that the gentleman [Samuel Spencer] who was last on the floor, should say that Congress could do what they please with respect to elections, and be warranted by this clause. The gentleman from Halifax (Mr. Davie) has put that construction upon it which *reason* and *common sense* will put upon it. Lawyers will often differ on a point of law, but people will seldom differ about so very plain a thing as this. The clause enables Congress to alter such regulations as the states shall have made with respect to elections. What would he infer from this? What is it to alter? It is to alter the time, place and manner established by the Legislatures, if they do not answer the purpose. Congress ought to have power to perpetuate the government, and not the states, who might be otherwise inclined. I will ask the gentleman, and I wish he may give me a satisfactory answer, if the whole is not in the power of the people, as well when the elections are regulated by Congress, as when by the states? Are not both the agents of the people amenable to them? Is there any thing in this Constitution which gives them the power to perpetuate the sitting Members? Is there any such strange absurdity? If the Legislature of this state has the power to fix the time, place and manner of holding elections, why not place the same confidence in the general government? The members of the general government, and those of the state Legislature, are both chosen by the people. They are both from among the people, and are in the same situation. Those who served in the state Legislature are eligible, and may be sent to Congress. If the elections be regulated in the best manner in the state government, can it be supposed that the same man will lose all his virtue, his

character and principles, when he goes into the general government, in order to deprive us of our liberty?

The gentleman from New Hanover [Timothy Bloodworth] seems to think it possible, Congress will so far forget themselves, as to point out such improper seasons of the year, and such inconvenient places for elections, as to defeat the privilege of the democratic branch altogether. He speaks of inconsistency in the arguments of the gentlemen, I wish he would be consistent himself. If I do not mistake the politicks of that gentleman, it is his opinion that Congress had sufficient power under the Confederation. He has said without contradiction, that we should be better without the union than with it: That it would be better for us to be by ourselves than be in the union. His antipathy to a general government, and to the union, is evidently inconsistent with his predilection for a federal democratic branch. We should have no democratic part of government at all, under such a government as he would recommend. There is no such part in the old Confederation. The body of the people had no agency in that system. The Members of the present general government are selected by the state Legislatures,¹⁵ and have the power of the purse and other powers, and are not amenable to the people at large. Although the gentleman may deny my assertions, yet this argument of his, is inconsistent with his other assertions and doctrines. It is impossible for any man in his senses to think that we can exist by ourselves, separated from our sister states. Whatever gentlemen may pretend to say on this point, it must be a matter of serious alarm to every reflecting mind, to be disunited from the other states.

Mr. *Bloodworth* begged leave to wipe of[f] the aspersion of the gentleman. That he could not account for any expression which he might drop among a laughing, jocose people, but that it was well known he was for giving power to Congress to regulate the trade of the United States: That he had said, that Congress had exercised power not given them by the Confederation; and that he was accurate in the assertion: that he was a freeman and was under the controul of no man.

Mr. *Maclaine* replied, that he meant no aspersions: That he only meant to point out a fact: That he had committed mistakes himself in argument, and that he supposed the gentleman not more infallible than other people.

Mr. *J. Taylor* wished to know why the states had controul over the place of electing Senators, but not over that of choosing the Representatives.

Mr. [*Richard Dobbs*] *Spaight* answered, that the reason of that reservation was, to prevent Congress from altering the places for holding the legislative Assemblies in the different states.

Mr. *James Gallaway*—Mr. Chairman, In the beginning I found great candour in the advocates of this government, but it is not so towards the last. I hope the gentleman from Halifax [William R. Davie] will not take it amiss, if I mention how he brought the motion forward. They began with dangers. As to Rhode-Island being governed by a faction, what has that to do with the question before us? I ask what has the state governments left for them, if the general government is to be possessed of such extensive powers, without controul or limitation, without any responsibility to the states? He asks, how is it possible for the members to perpetuate themselves? I think I can shew how they can do it. For instance, were they to take the government as it now stands organized. We send five Members to the House of Representatives in the general government. They will go no doubt from or near the seaports. In other states also, those near the sea will have more interest, and will go forward to Congress; and they can, without violating the Constitution, make a law continuing themselves, as they have controul over the place, time and manner of elections. This may happen, and where the great principles of liberty are endangered, no general, indeterminate, vague expression ought to be suffered. Shall we pass over this article as it is now? They will be able to perpetuate themselves as well as if it had expressly said so.

Mr. [*John*] *Steele*¹⁶—Mr. Chairman, The gentleman [James Gallaway] has said, that the five Representatives which this state will be entitled to send to the general government, will go from the sea-shore. What reason has he to say they will go from the sea-shore? The time, place and manner of holding the elections are to be prescribed by the Legislatures. Our Legislature is to regulate the first election at any event.—They will regulate it as they think proper. They may, and most probably will, lay the state off into districts. Who are to vote for them? Every man who has a right to vote for a Representative to our Legislature, will ever have a right to vote for a Representative to the general government. Does it not expressly provide, that the electors in each state shall have the qualifications requisite for the most numerous branch of the state Legislature? Can they, without a most manifest violation of the Constitution, alter the qualifications of the electors? The power over the manner of elections, does not include that of saying who shall vote. The Constitution expressly says, that the qualifications which entitle a man to vote for a state Representative, will enable him to vote for a federal Representative. It is, then, clearly and indubitably fixed and determined *who* shall be the electors; and the power over the manner only enables them to determine *how* these electors shall elect—whether by ballot or by vote, or by any other way. Is it not a maxim of

universal jurisprudence, of reason and common sense, that an instrument or deed of writing shall be so construed as to give validity to all parts of it, if it can be done without involving any absurdity? By construing it in the plain obvious way I have mentioned, all parts will be valid. By the way gentlemen suggest, the most palpable contradiction and absurdity will follow. To say that they shall go from the sea-shore, and be able to perpetuate themselves, is a most extravagant idea. Will the Members of Congress deviate from their duty without any prospect of advantage to themselves? What interest can they have to make the place of elections inconvenient? The judicial power of that government is so well constructed as to be a check. There was no check in the old Confederation. Their power was in principle and theory transcendent. If the Congress make laws inconsistent with the Constitution, independent Judges will not uphold them, nor will the people obey them. A universal resistance will ensue. In some countries the arbitrary disposition of rulers may enable them to overturn the liberties of the people; but in a country like this, where every man is his own master, and where almost every man is a freeholder, and has right of election, the violations of a Constitution will not be passively permitted. Can it be supposed, that in such a country the rights of suffrage will be tamely surrendered? Is it to be supposed, that 30,000 free persons will send the most abandoned wretch in the district to legislate for them in the general Legislature? I should rather think they would choose men of the most respectable characters.

Mr. President now resumed the chair, and Mr. *Battle* reported, that the committee had, according to order, again had the said proposed Constitution under their consideration, but not having time to go through the same, had directed him to move the Convention for leave to sit again.

Resolved, That this Convention will again to-morrow resolve itself into a committee of the whole Convention, on the said proposed plan of government.

The Convention then adjourned to ten o'clock to-morrow morning.¹⁷

1. Printed: *Proceedings and Debates*, 58–94.

2. A manuscript copy of the report is in Papers of the Convention of 1788, Nc-Ar. It begins with a list of members of the committee of elections. Between the two pieces of business in the report—the election in Cumberland County and the election in New Hanover County—appear the following words: “Mr. Willis took his seat.”

3. The Pennsylvania constitution (1776) and the Georgia constitution (1777) provided for unicameral legislatures.

4. See the Confederation Congress’ resolution of 21 February 1787 (CDR, 185–88n).

5. On 12 May 1780, Charleston was occupied by British forces under the command of Sir Henry Clinton. Though most of South Carolina returned to Patriot control by the

summer of 1781, Charleston did not. Because of the British presence, the state legislature could not meet in Charleston in 1781 or 1782 and met instead in Jacksonborough, thirty-five miles to the west. (See “Postwar Challenges” in RCS:S.C., xxxvii–xxxviii, for further details.)

6. Genesis 2:23: “And Adam said, This is now bone of my bones, and flesh of my flesh: she shall be called Woman, because she was taken out of Man.”

7. “Massie Pillars” appears twice in John Milton’s poem “Samson Agonistes.” (*Paradise Regain’d. A Poem. In Four Books. To which is added Samson Agonistes. . . .* [Sixth Edition, Corrected, London, 1725], 127, lines 1639, 1650.

8. For a discussion of ancient confederacies, see *The Federalist* 18–20 (CC:330, 333, 340). Essays 18–20 were written by James Madison with the assistance of Alexander Hamilton.

9. At this time “detect” meant to uncover, lay bare, or expose.

10. At the state election in April 1786, Rhode Islanders voted overwhelmingly for a new policy to address the financial problems of the Confederation years. The Country party, running on a pledge “To Relieve the Distressed,” swept the elections for governor, deputy governor, and the legislature. Federalists, while unsurprised at Rhode Island’s direction, decried the state’s plan to redeem its wartime debt with depreciated paper money, an action viewed as unjust to creditors. For more on Rhode Island’s economic woes, the state election of 1786, and Rhode Island’s absence from the Constitutional Convention, see RCS:R.I., xxviii–xxxvii. For Rhode Island’s attendance in Congress, see Smith, *Letters*, XXVI, pp. xxxviii–xl.

11. Following the election of 1715, the Whig party controlled the House of Commons. In 1716 Whigs in Parliament obtained passage of the Septennial Act in order to strengthen their tenure of power and to avoid the turmoil of another election so soon after the Jacobite uprising of 1715. The Septennial Act of 1716 provided that parliaments could last for as long as seven years, thereby overriding the Triennial Act of 1694. Instead of taking place in 1718, the next election would take place in 1722. Under the Septennial Act, the Parliament that passed the act also extended its own tenure by four years. Parliament’s authority to pass the Septennial Act was not questioned, but many thought that it was unconstitutional for the sitting members of the House of Commons elected for three years to extend their tenures to seven years. Critics of this political act were not able to shorten the tenure of parliaments until 1911, when it was reduced to five years.

12. William Blackstone, drawing on the jurist Sir Edward Coke, wrote, “The power and jurisdiction of parliament . . . is so transcendent and absolute, that it cannot be confined, either for causes or persons, within any bounds. . . . It [i.e., Parliament] hath sovereign and uncontrolable authority in making, confirming, enlarging, restraining, abrogating, repealing, reviving, and expounding of laws, concerning matters of all possible denominations, ecclesiastical, or temporal, civil, military, maritime, or criminal: this being the place where that absolute despotic power, which must in all governments reside somewhere, is entrusted by the constitution of these kingdoms” (Blackstone, *Commentaries*, Book I, chapter II, 156).

13. Parliament passed the Act of Settlement (1701) to regulate the succession to the English throne. Largely a response to efforts to restore James II, a Catholic, to the throne, the act provided for a Protestant monarchy. The crown eventually came to George I through this act.

14. See note 10 (above).

15. Article V of the Articles of Confederation provided that delegates to Congress “shall be annually appointed in such manner as the legislature of each state shall direct” (CDR, 87). Only in Rhode Island and Connecticut were delegates to Congress elected directly by the people. In the other eleven states, the state legislatures elected congressional delegates.

16. Steele (1764–1815), a native of Salisbury, N.C., was a cotton planter and country merchant. In 1784 he became assessor for the Salisbury District. Steele represented the town of Salisbury in the state House of Commons, 1787–88, 1793–95, 1806, 1811–13. In the Hillsborough and Fayetteville conventions, 1788, 1789, he voted to ratify the U.S. Constitution. He was a special commissioner from North Carolina to treat with the Cherokee and Chickasaw Indians, 1788–90. He was a member of the U.S. House of Representatives, 1789–93, and comptroller of the U.S. Treasury, 1796–1802. From 1794 to 1796 he was a major general in the state militia.

17. The Convention *Journal* indicates that the Convention adjourned “until to-morrow morning 9 o’clock” (RCS:N.C., 262).

Hillsborough Convention Saturday 26 July 1788

Convention Proceedings, 26 July 1788 (excerpts)¹

Met according to adjournment.

Mr. Nathaniel Allen, one of the members for Chowan county, and Mr. William Dickson, one of the members for Duplin county, appeared and took their seats. . . .

Adjourned until Monday morning 9 o’clock.

1. Printed: *Journal*, 9.

Convention Debates, 26 July 1788¹

The Convention met according to adjournment, and then resolved itself into a committee of the whole Convention, to take into farther consideration the said proposed Constitution of government—Mr. *Kenan* [i.e., Kenan] in the chair.

The fifth section of the first article read.

Mr. [*John*] *Steele* observed, that he had heard objections to the third clause of this section, with respect to the periodical publication of the journals, the entering the yeas and nays on them, and the suppression of such parts as required secrecy. That he had no objection himself, for that he thought the necessity of publishing their transactions was an excellent check, and that every principle of prudence and good policy, pointed out the necessity of not publishing such transactions as related to military arrangements and war. That this provision was exactly similar to that which was in the old Confederation.²

Mr. [*Joseph*] *Graham*³ wished to hear an explanation of the words “from time to time,” whether it was a short or a long time, or how often they should be obliged to publish their proceedings.

Mr. [*William R.*] *Davie* answered, that they would be probably published after the rising of Congress, every year. That if they sat two or three times, or oftener, in the year, they might be published every time they rose. That there could be no doubt of their publishing them as often as it would be convenient and proper, and that they would conceal nothing but what it would be unsafe to publish. He further observed, that some states had proposed an amendment, that they should be published annually;⁴ but he thought it very safe and proper as it stood. That it was the sense of the Convention that they should be published at the end of every session. The gentleman from Salisbury [*John Steele*] had said, that in this particular it resembled the old Confederation. Other gentlemen have said that there was no similarity at all. He therefore wished the difference to be stated.

Mr. [*James*] *Iredell* remarked, that the provision in the clause under consideration, was similar in meaning and substance to that in the Confederation. That in time of war it was absolutely necessary to conceal the operations of government, otherwise no attack on an enemy could be premeditated with success, for the enemy could discover our plans soon enough to defeat them. That it was no less imprudent to divulge our negotiations with foreign powers, and the most salutary schemes might be prevented, by imprudently promulgating all the transactions of the government indiscriminately.

Mr. [*James*] *Galloway* wished to obviate what gentlemen had said with regard to the similarity of the old Confederation to the new system, with respect to the publication of their proceedings. He remarked, that at the desire of one Member from any state the yeas and nays were to be put on the journals and published by the Confederation,⁵ whereas by this system the concurrence of one-fifth was necessary.

To this it was answered, that the alteration was made because experience had shewed, when any two Members could require the yeas and nays, they were taken on many trifling occasions: And there was no doubt one-fifth would require them on every occasion of importance.

The sixth section read without any observations.

First clause of the seventh section likewise read without any observations.

Second clause read.

Mr. *Iredell*—Mr. Chairman, This is a novelty in the Constitution, and is a regulation of considerable importance. Permit me to state the reasons for which I imagine this regulation was made. They are such as in my opinion, fully justify it.

One great alteration proposed by the constitution, and which is a capital improvement on the Articles of Confederation is, that the executive, legislative, and judicial powers should be separate and distinct.

The best writers, and all the most enlightened part of mankind, agree that it is essential to the preservation of liberty, that such distinction and separation of powers should be made. But this distinction would have very little efficacy, if each power had not means to defend itself against the encroachment of the others.

The British Constitution, the theory of which is much admired, but which, however, is in fact liable to many objections, has divided the government into three branches. The King, who is hereditary, forms one branch, the Lords and Commons the two others; and no bill passes into a law without the King's consent. This a great constitutional support of his authority. By the proposed Constitution, the President is of a very different nature from a Monarch. He is to be chosen by Electors appointed by the people—to be taken from among the people—to hold his office only for the short period of four years—and to be personally responsible for any abuse of the great trust reposed in him.

In a republican government it would be extremely dangerous to place it in the power of one man to put an absolute negative on a bill proposed by two houses, one of which represented the people, the other the states of America. It therefore became an object of consideration, how the Executive could defend itself without being a component part of the Legislature. This difficulty was happily remedied by the clause now under our consideration. The Executive is not entirely at the mercy of the Legislature; nor is it put in the power of the Executive entirely to defeat the acts of those two important branches. As it is provided in this clause, if a bare majority of both Houses should pass a bill which the President thought injurious to his country, it is in his power—to do what? Not to say in an arbitrary, haughty manner, that he does not approve of it; but, if he thinks it a bad bill, respectfully to offer his reasons to both Houses; by whom, in that case, it is to be reconsidered, and not to become a law unless two-thirds of both Houses shall concur; which they still may, notwithstanding the President's objection. It cannot be presumed that he would venture to oppose a bill under such circumstances, without very strong reasons. Unless he was sure of a powerful support in the Legislature, his opposition would be of no effect; and as his reasons are to be put on record, his fame is committed both to the present times and to posterity. The exercise of this power in a time of violent factions, might be possibly hazardous to himself, but he can have no ill motive to exert it in the face of a violent opposition. Regard to his duty alone could induce him to oppose when, it was probable two-thirds would at all events over-rule him. This power may be usefully exercised, even when no ill intention prevails in the Legislature. It might frequently happen, that where a bare majority had carried a pernicious bill, if there was an authority to suspend it, upon

a cool statement of reasons many of that majority, on a reconsideration, might be convinced, and vote differently. I therefore think the method proposed, is a happy medium between the possession of an absolute negative, and the Executive having no controul whatever, on acts of legislation: And at the same time that it serves to protect the Executive from ill designs in the Legislature, it may also answer the purpose of preventing many laws passing which would be immediately injurious to the people at large. It is a strong guard against abuses in all, that the President's reasons are to be entered at large on the journals, and if the bill passes notwithstanding, that the yeas and nays are also to be entered. The public therefore can judge fairly between them.

The first clause of the eighth section read.

Mr. [*Samuel*] *Spencer*—Mr. Chairman, I conceive this power to be too extensive, as it embraces all possible powers of taxation, and gives up to Congress every possible article of taxation that can ever happen. By means of this, there will be no way for the states of receiving or collecting taxes at all, but what may interfere with the collections of Congress. Every power is given over our money, to those over whom we have no immediate controul. I would give them powers to support the government, but would not agree to annihilate the state governments in an article which is most essential to their existence. I would give them power of laying imposts; and I would give them power to lay and collect excises. I confess that this is a kind of tax so odious to a free people, that I would with great reluctance agree to its exercise. But it is obvious, that unless such excises were admitted, the public burthen will be all borne by those parts of the community which do not manufacture for themselves. So manifest an inequality would justify a recurrence to this species of taxes.

How are direct taxes to be laid? By a poll-tax, assessments on land or other property? Inconvenience and oppression will arise from any of them. I would not be understood that I would not wish to have an efficient government for the United States. I am sensible that laws operating on individuals, cannot be carried on against states; because if they do not comply with the general laws of the union, there is no way to compel a compliance but force. There must be an army to compel them. Some states may have some excuse for non-compliance. Others will feign excuses. Several states may perhaps be in the same predicament. If force be used to compel them, they will probably call for foreign aid, and the very means of defence will operate to the dissolution of the system, and to the destruction of the states. I would not therefore deny that Congress ought to have the power of taking out of the pockets of the individuals at large, if the states fail to pay those taxes in

convenient time. If requisitions were to be made on the several states, proportionate to their abilities, the several state Legislatures, knowing the circumstances of their constituents, and that they would ultimately be compelled to pay, would lay the tax in a convenient manner, and would be able to pay their quotas at the end of the year. They are better acquainted with the mode in which taxes can be raised, than the general government can possibly be.

It may happen, for instance, that if ready money cannot be immediately received from the pockets of individuals for their taxes, their estates, consisting of lands, negroes, stock, and furniture, must be set up and sold at vendue. We can easily see, from the great scarcity of money at this day, that great distresses must happen. There is no hard money in the country. It must come from some other parts of the world. Such property would sell for one tenth part of its value. Such a mode as this would, in a few years, deprive the people of their estates. But on the contrary, if such articles as are proper for exportation, were either specifically taken for their taxes immediately by the state Legislature, or if the collection should be deferred till they had disposed of such articles, no oppression or inconvenience would happen. There is no person so poor but who can raise something to dispose of. For a great part of the United States, those articles which are proper for exportation would answer the purpose. I would have a tax laid on estates where such articles could not be had, and such a tax to be by installments for two or more years.

I would admit that if the quotas were not punctually paid at the end of the time, that Congress might collect taxes, because this power is absolutely necessary for the support of the general government. But I would not give it in the first instance, for nothing would be more oppressive, as in a short time people would be compelled to part with their property. In the other case they would part with none but in such a manner as to encourage their industry. On the other hand if requisitions, in cases of emergency, were proposed to the state Assemblies, it would be a measure of convenience to the people, and would be a means of keeping up the importance of the state Legislatures, and would conciliate their affections; and their knowledge of the ultimate right of Congress to collect taxes, would stimulate their exertions to raise money. But if the power of taxation be given in the first instance to Congress, the state Legislatures will be liable to be counteracted by the general government, in all their operations. These are my reasons for objecting to this article.

Governor [*Samuel*] *Johnston*—Mr. Chairman, This clause is objected to, and it is proposed to alter it in such a manner that the general

government shall not have power to lay taxes in the first instance, but shall apply to the states, and in case of refusal, that direct taxation shall take place. That is to say, that the general government should pass an act to levy money on the United States, and if the states did not within a limited time pay their respective proportions, the officers of the United States should proceed to levy money on the inhabitants of the different states. This question has been agitated by the Conventions of different states, and some very respectable states have proposed that there should be an amendment in the manner which the worthy Member last up [Samuel Spencer] has proposed.⁶ But, Sir, although I pay very great respect to the opinions and decisions of the gentlemen who composed those Conventions, and although they were wise in many instances, I cannot concur with them in this particular. It appears to me that it will be attended with many inconveniences. It seems to me probable, that the money arising from duties and excises, will be in general sufficient to answer all the ordinary purposes of government; but in cases of emergency it will be necessary to lay direct taxes. In cases of emergency it will be necessary that these taxes should be a responsible and established fund to support the credit of the United States: For it cannot be supposed that from the ordinary sources of revenue, money can be brought into our treasury in such a manner as to answer pressing dangers; nor can it be supposed that our credit will enable us to procure any loans, if our government is limited in the means of procuring money. But if the government have it in their power to lay those taxes, it will give them credit to borrow money on that security, and for that reason it will not be necessary to lay so heavy a tax; for if the tax is sufficiently productive to pay the interest, money may always be had in consequence of that security. If the state Legislatures must be applied to, they must lay a tax sufficient for the full sum wanting. This will be much more oppressive than a tax laid by Congress; for I presume that no state Legislature will have as much credit individually, as the United States conjointly; therefore viewing it in this light, a tax laid by Congress will be much easier than a tax laid by the states. Another inconvenience which will attend this proposed amendment is, that these emergencies may happen a considerable time before the meeting of some state Legislatures, and previous to their meeting the schemes of the government may be defeated by this delay. A considerable time will elapse before the state can lay the tax, and a considerable time before it be collected, and perhaps it cannot be collected at all.—One reason which the worthy Member [Samuel Spencer] has offered in favour of the amendment was, that the general Legislature cannot lay a tax without interfering with the taxation of the state Legislature. It may happen, that the taxes

of both may be laid on the same article; but I hope and believe that the taxes to be laid on by the general Legislature, will be so very light, that it will be no inconvenience to the people to pay them; and if you attend to the probable amount of the impost, you must conclude that the small addition to the taxes will not make them so high as they are at this time. Another reason offered by the worthy Member in support of the amendment, is, that the state Legislature may direct taxes to be paid in specific articles. We had full experience of this in the late war.⁷ I call on the House to say, whether it was not the most oppressive, and least productive tax ever known in the state. Many articles were lost, and many could not be disposed of so as to be of any service to the people. Most articles are perishable, and cannot therefore answer. Others are difficult to transport, expensive to keep, and very difficult to dispose of. A tax payable in tobacco would answer very well in some parts of the country, and perhaps would be more productive than any other; yet we see that great losses have been sustained by the public on this article. A tax payable in any kind of grain would answer very little purpose—grain being perishable. A tax payable in pitch and tar would not answer. A mode of this kind would not be at all eligible in this state: The great loss on the specific articles, and inconvenience in disposing of them, would render them productive of very little.

He says, that this would be a means of keeping up the importance of the state Legislatures. I am afraid it would have a different effect. If requisitions should not be complied with at the time fixed, the officers of Congress would then immediately proceed to make their collections. We know that several causes would inevitably produce a failure. The state would not, or could not comply. In that case, the state Legislature would be disgraced. After having done every thing for the support of their credit and importance without success, would they not be degraded in the eyes of the United States? Would it not cause heart-burnings between particular states and the United States? The inhabitants would oppose the tax-gatherers. They would say, “We are taxed by our own state Legislature for the proportionate quota of our state, we will not pay you also.” This would produce insurrections and confusion in the country. These are the reasons which induce me to support this clause. It is perhaps particularly favourable to this state. We are not an importing country—very little is here raised by imposts. Other states who have adopted the Constitution import for us. Massachusetts, South-Carolina, Maryland and Virginia, are great importing states. From them we procure foreign goods, and by that means they are generally benefited. For it is agreed upon by all writers, that the consumer pays the impost. Do we not then pay a tax in support of their

revenue in proportion to our consumption of foreign articles? Do we not know that this, in our present situation, is without any benefit to us? Do we not pay a second duty when these goods are imported into this state? We now pay double duties. It is not to be supposed that the merchant will pay the duty without wishing to get interest and profit on the money he lays out. It is not to be presumed that he will not add to the price a sum sufficient to indemnify himself for the inconvenience of parting with the money he pays as a duty. We therefore now pay a much higher price for European manufactures than the people do in the great importing states. Is it not laying heavy burthens on the people of this country, not only to compel them to pay duties for the support of the importing states, but to pay a second duty on the importation into this state by our own merchants? By adoption we shall participate in the amounts of the imposts.—Upon the whole, I hope this article will meet with the approbation of this committee, when they consider the necessity of supporting the general government, and the many inconveniences, and probable if not certain inefficacy, of requisitions.

Mr. *Spencer*—Mr. Chairman, I cannot, notwithstanding what the gentleman has advanced, agree to this clause unconditionally. The most certain criterion of happiness that any people can have, is, to be taxed by their own immediate Representatives—By those Representatives who intermix with them, and know their circumstances—not by those who cannot know their situation. Our federal Representatives cannot sufficiently know our situation and circumstances. The worthy gentleman [Samuel Johnston] said, that it would be necessary for the general government to have the power of laying taxes, in order to have credit to borrow money. But I cannot think, however plausible it may appear, that his argument is conclusive. If such emergency happens as will render it necessary for them to borrow money, it will be necessary for them to borrow before they proceed to lay the tax. I conceive the government will have credit sufficient to borrow money in the one case as well as the other. If requisitions be punctually complied with, no doubt they can borrow, and if not punctually complied with, Congress can ultimately lay the tax.

I wish to have the most easy way for the people to pay their taxes. The state Legislature will know every method and expedient by which the people can pay, and they will recur to the most convenient. This will be agreeable to the people, and will not create insurrections or dissensions in the country. The taxes might be laid on the most productive articles: I wish not, for my part, to lay them on perishable articles. There are a number of other articles besides those which the

worthy gentleman enumerated. There are besides tobacco, hemp, indigo, and cotton. In the northern states, where they have manufactures, a contrary system from ours would be necessary. There the principal attention is paid to the giving their children trades. They have few articles for exportation. By raising the tax in this manner, it will introduce such a spirit of industry as cannot fail of producing happy consequences to posterity. He objects to the mode of paying taxes in specific articles: May it not be supposed that we shall gain something by experience, and avoid those schemes and methods which shall be found inconvenient and disadvantageous? If expences should be incurred in keeping and disposing of such articles, could not those expences be reimbursed by a judicious sale? Cannot the Legislature be circumspect as to the choice and qualities of the objects to be selected for raising the taxes due to the continental treasury? The worthy gentleman has mentioned, that if the people should not comply to raise the taxes in this way, that then if they were subject to the law of Congress, it would throw them into confusion. I would ask every one here, if there be not more reason to induce us to believe that they would be thrown into confusion in case the power of Congress was exercised by Congress in the first instance, than in the other case. After having so long a time to raise the taxes, it appears to me that there could be no kind of doubt of a punctual compliance. The right of Congress to lay taxes ultimately, in case of non-compliance with requisitions, would operate as a penalty, and would stimulate the states to discharge their quotas faithfully. Between these two modes there is an immense difference. The one will produce the happiness, ease, and prosperity of the people; the other will destroy them, and produce insurrection.

Mr. [*Richard Dobbs*] *Spaight*—Mr. Chairman, It was thought absolutely necessary for the support of the general government, to give it power to raise taxes. Government cannot exist without certain and adequate funds. Requisitions cannot be depended upon. For my part, I think it indifferent whether I pay the tax to the officers of the continent, or to those of the state. I would prefer paying to the continental officers, because it will be less expensive.

The gentleman last up [*Samuel Spencer*], has objected to the propriety of the tax being laid by Congress, because they could not know the circumstances of the people. The state Legislature will have no source or opportunity of information which the Members of the general government may not have. They can avail themselves of the experience of the state Legislatures. The gentleman acknowledges the inefficacy of requisitions, and yet recommends them. He has allowed

that laws cannot operate upon political bodies without the agency of force. His expedient of applying to the states in the first instance, will be productive of delay, and will certainly terminate in a disappointment to Congress. But the gentleman has said that we had no hard money, and that the taxes might be paid in specific articles. It is well known that if taxes are not raised in medium, the state loses by it. If the government wishes to raise one thousand pounds, they must calculate on a disappointment by specific articles, and will therefore impose taxes more in proportion to the expected disappointment. An individual can sell his commodities much better than the public at large. A tax payable in *any* produce would be less productive, and more oppressive to the people, as it would enhance the public burthens by its inefficiency. As to abuses by the continental officers, I apprehend the state officers will more probably commit abuses than they. Their conduct will be more narrowly watched, and misconduct more severely punished. They will be therefore more cautious.

Mr. *Spencer*, in answer to Mr. *Spaight*, observed, that in case of war, he was not opposed to this article, because if the states refused to comply with requisitions, there was no way to compel them but military coercion, which would induce refractory states to call for foreign aid, which might terminate in a dismemberment of the empire. But he said that he would not give the power of direct taxation to Congress in the first instance, as he thought the states would lay the taxes in a less oppressive manner.

Mr. *Whitmill Hill*^s—Mr. Chairman, The subject now before us is of the highest importance. The object of all government is the protection, security, and happiness of the people. To produce this end, government must be possessed of the necessary means.

Every government must be empowered to raise a sufficient revenue; but I believe it will be allowed on all hands, that Congress has been hitherto altogether destitute of that power so essential to every government. I believe also that it is generally wished that Congress should be possessed of power to raise such sums as are requisite for the support of the union, though gentlemen may differ with regard to the mode of raising them.

Our past experience shews us, that it is in vain to expect any possible efficacy from requisitions. Gentlemen recommend these as if their inutility had not been experienced. But do we not all know what effects they have produced? Is it not to them that we must impute the loss of our credit and respectability? It is necessary, therefore, that government have recourse to some other mode of raising a revenue. Had, indeed, every state complied with requisitions, the old Confederation would not

have been complained of; but as the several states have already discovered such a repugnancy to comply with federal engagements, it must appear absolutely necessary to free the general government from such a state of dependence.

The debility of the old system, and the necessity of substituting another in its room, are the causes of calling this Convention.

I conceive, Sir, that the power given by that clause,⁹ is absolutely necessary to the existence of the government. Gentlemen say that we are in such a situation that we cannot pay taxes. This, Sir, is not a fair representation in my opinion. The honest people of this country acknowledge themselves sufficiently able and willing to pay them. Were it a private contract they would find means to pay them. The honest part of the community complain of the acts of the Legislature. They complain that the Legislature makes laws, not to suit their constituents, but themselves. The Legislature, Sir, never means to pay a just debt, as their constituents wish to do. Witness, the laws made in this country.—I will, however, be bold enough to say, that it is the wish of the honest people, to pay those taxes which are necessary for the support of the government. We have for a long time waited, in hope that our Legislature would point out the manner of supporting the general government, and relieving us from our present ineligible situation. Every body was convinced of the necessity of this, but how is it to be done? The Legislature have pointed out a mode—their old favourite mode—they have made paper money—purchased tobacco at an extravagant price, and sold it at a considerable loss—they have received about a dollar in the pound. Have we any ground to hope that we shall be in a better situation?

Shall we be bettered by the alternative proposed by gentlemen—by levying taxes in specific articles? How will you dispose of them? Where is the merchant to buy them? Your business will be put into the hands of a Commissioner, who, having no business of his own, grasps at it eagerly, and *he* no doubt will *manage* it. But if the payment of the tax be left to the people—if individuals are told that they must pay such a certain proportion of their income to support the general government, then each will consider it as a debt—he will exert his ingenuity and industry to raise it—He will use no agent, but depend upon himself. By these means the money will certainly be collected. I will pledge myself for its certainty. As the Legislature has never heretofore called upon the people, let the general government apply to individuals—It cannot *depend* upon states. If the people have articles, they can receive money for them. Money is said to be scarce—But, Sir, it is the want of industry which is the source of our indigence and difficulties. If people

would be but active, and exert every power, they might certainly pay, and be in easy circumstances—And the people are disposed to do so—I mean the good part of the community, which, I trust, is the greater part of it.

Were the money to be paid into our treasury first, instead of remitting it to the continental treasury, we should apply it to discharge our own pressing demands; by which means, a very small proportion of it would be paid to Congress. And if the tax were to be laid and collected by the several states, what would be the consequence? Congress must depend upon twelve funds for its support. The general government must depend on the contingency of succeeding in twelve different applications to twelve different bodies! What a slender and precarious dependence would this be! The states, when called upon to pay these demands of Congress, would fail: They would pay every other demand before those of Congress. They have hitherto done it. Is not this a true statement of facts? How is it with the continental treasury? The true answer to this question must hurt every friend to his country.

I came in late; but I believe that a gentleman (Governor Johnston) said, that if the states should refuse to pay requisitions, and the continental officers were sent to collect, the states would be degraded, and the people discontented. I believe this would be the case. The states, by acting dishonestly, would appear in the most odious light; and the people would be irritated at such an application, after a rejection by their own Legislature. But if the taxes were to be raised of individuals, I believe they could, without any difficulty, be paid in due time.

But, Sir, the United States wish to be established and known among other nations. This will be a matter of great utility to them. We might then form advantageous connections. When it is once known among foreign nations, that our general government and our finances are upon a respectable footing, should emergencies happen, we can borrow money of them without any disadvantage. The lender would be sure of being reimbursed in time. This matter is of the highest consequence to the United States. Loans must be recurred to sometimes. In case of war they would be necessary. All nations borrow money on pressing occasions.

The gentleman who was last up [Samuel Spencer], mentioned many specific articles which could be paid by the people in discharge of their taxes. He has, I think, been fully answered. He must see the futility of such a mode. When our wants would be greatest, these articles would be least productive—I mean in time of war. But we still have means—such means as honest and assiduous men will find. He says, that Congress cannot lay the tax to suit us. He has forgot that Congress are acquainted with us—go from us—are situated like ourselves. I will be

bold to say, that it will be most their own interest to behave with propriety and moderation. Their own interest will prompt them to lay taxes moderately; and nothing but the last necessity will urge them to recur to that expedient.

This is a most essential clause. Without money government will answer no purpose. Gentlemen compare this to a foreign tax. It is by no means the case. It is laid by ourselves. Our own Representatives will lay it, and will, no doubt, use the most easy means of raising it possible. Why not trust our own Representatives? We might no doubt have confidence in them on this occasion, as well as every other. If the continental treasury is to depend on the states as usual, it will be always poor. But gentlemen are jealous, and unwilling to trust government, though they are their own Representatives. Their maxim is, trust them with no power. This holds against all government. Anarchy will ensue, if government be not trusted. I think that I know the sentiments of the honest, industrious part of the community, as well as any gentleman in this house. They wish to discharge these debts, and are able. If they can raise the interest of the public debt, it is sufficient. They will not be called upon for more than the interest, till such time as the country be rich and populous. The principal can then be paid with ease. The interest can now be paid with great facility.

We can borrow money with ease, and on advantageous terms, when it shall be known, that Congress will have that power which all governments ought to have. Congress will not pay their debts in paper money. I am willing to trust this article to Congress, because I have no reason to think that our government will be better than it has been. Perhaps I have spoken too liberally of the Legislature before; but I do not expect that they will ever, without a radical change of men and measures, wish to put the general government on a better footing. It is not the poor man who opposes the payment of those just debts to which we owe our independence and political existence—but the rich miser. Not the poor, but the rich, shudder at the idea of taxes. I have no dread that Congress will distress us; nor have I any fear that the tax will be embezzled by officers. Industry and economy will be promoted, and money will be easier got than ever it has been yet. The taxes will be paid by the people when called upon. I trust, that all honest, industrious people will think with me, that Congress ought to be possessed of the power of applying immediately to the people for its support, without the interposition of the state Legislatures. I have no confidence in the Legislature—The people do not suppose them to be honest men.

Mr. *Steele* was decidedly in favour of the clause. A government without revenue, he compared to a poor, forlorn, dependent individual, and said, that the one would be as helpless and contemptible as the other.

He wished the government of the union to be on a respectable footing. Congress, he said, shewed no disposition to tax us. That it was well known, that a poll-tax of eighteen pence per poll, and six pence per hundred acres of land, were appropriated and offered by the Legislature to Congress:¹⁰ That Congress was solicited to send the officers to collect those taxes, but they refused: That if this power was not given to Congress, the people must be oppressed, especially in time of war: That during the last war, provisions, horses, &c. had been taken from the people by force, to supply the wants of government:¹¹ That a respectable government would not be under the necessity of recurring to such unwarrantable means: That such a method was unequal and oppressive to the last degree. The citizens, whose property was pressed from them, paid all the taxes—the rest escaped. The press-masters went often to the poorest, and not to the richest citizens, and took their horses, &c. This disabled them from making a crop next year. It would be better, he said, to lay the public burthens equally upon the people. Without this power, the other powers of Congress would be nugatory. He added, that it would, in his opinion, give strength and respectability to the United States in time of war—would promote industry and frugality—and would enable the government to protect and extend commerce, and consequently increase the riches and population of the country.

Mr. *Joseph M'Dowall*—Mr. Chairman, This is a power I will never agree to give up from the hands of the people of this country. We know that the amount of the imposts will be trifling, and that the expences of this government will be very great; consequently the taxes will be very high. The tax-gatherers will be sent, and our property will be wrested out of our hands. The Senate is most dangerously constructed. Our only security is the House of Representatives. They may be continued at Congress eight or ten years. At such a distance from their homes, and for so long a time, they will have no feeling for, nor any knowledge of, the situation of the people. If elected from the sea-ports, they will not know the western part of the country, and *vice versa*. Two co-operative powers cannot exist together. One must submit. The inferior must give up to the superior. While I am up, I will say something to what has been said by the gentleman to ridicule the General Assembly. He represents the Legislature in a very approbious [i.e., opprobrious] light. It is very astonishing that the people should choose men of such characters to represent them. If the people be virtuous, why should they put confidence in men of a contrary disposition. As to paper money, it was the result of necessity. We were involved in a great war. What money had been in the country, was sent to other parts of the world. What would have been the consequence if paper money had not been

made? We must have been undone. Our political existence must have been destroyed. The extreme scarcity of specie, with other good causes, particularly the solicitation of the officers to receive it at its nominal value, for their pay, produced subsequent emissions—He tells us that all the people wish this power to be given—that the mode of payment need only be pointed out, and that they will willingly pay. How are they to raise the money? Have they it in their chests? Suppose, for instance, there be a tax of two shilling per hundred laid on land—where is the money to pay it? We have it not. I am acquainted with the people. I know their situation. They have no money. Requisitions may yet be complied with. Industry and frugality may enable the people to pay moderate taxes, if laid by those who have a knowledge of their situation, and a feeling for them. If the tax-gatherers come upon us, they will, like the locusts of old, destroy us.¹² They will have pretty high salaries, and will exert themselves to oppress us. When we consider these things, we should be cautious. They will be weighed, I trust, by the House. Nothing said by the gentlemen on the other side, has obviated my objections.

Governor *Johnston*—Mr. Chairman, The gentleman who was last up [Joseph M'Dowall], still insists on the great utility which would result from that mode which has been hitherto found ineffectual. It is amazing that past experience will not instruct him. When a merchant follows a similar mode—when he purchases dear and sells cheap, he is called a swindler, and must soon become a bankrupt. This state deserves that most disgraceful epithet. We are swindlers—we gave three pounds per hundred weight for tobacco, and sold it at three dollars per hundred weight, after having paid very considerable expences for transporting and keeping it. The United States are bankrupts. They are considered such in every part of the world. They borrow money, and promise to pay—they have it not in their power, and they are obliged to ask of the people to whom they owe, to lend them money to pay the very interest. This is disgraceful and humiliating. By these means we are paying compound interest. No private fortune, however great—no state, however affluent, can stand this most destructive mode. This has proceeded from the inefficacy of requisitions. Shall we continue the same practice? Shall we not rather struggle to get over our misfortunes? I hope we shall.

Another Member on the same side [Samuel Spencer], says, that it is improper to take the power of taxation out of the hands of the people. I deny that it is taken out of their hands by this system. Their immediate Representatives lay these taxes. Taxes are necessary for every government. Can there be any danger when these taxes are laid by the Representatives of the people? If there be, where can political safety be

found? But it is said that we have a small proportion of that representation. Our proportion is equal to the proportion of money we shall have to pay. It is therefore a full proportion, and unless we suppose that all the Members of Congress shall combine to ruin their constituents, we have no reason to fear. It is said (I know not from what principle) that our Representatives will be taken from the sea-coast, and will not know in what manner to lay the tax to suit the citizens of the western part of the country. I know not whence that idea arose. The gentlemen from the westward are not precluded from voting for Representatives. They have it therefore in their power to send them from the westward, or the middle parts of the state. They are more numerous, and can send them or the greater part of them. I do not doubt but they will send the most proper, and men in whom they can put confidence, and will give them, from time to time, instructions to enlighten their minds.

Something has been said with regard to paper money. I think very little can be said in favour of it; much may be said, very justly, against it.

Every man of property—every man of considerable transactions—whether a merchant, planter, mechanic, or of any other condition, must have felt the baneful influence of that currency. It gave us relief for a moment. It assisted us in the prosecution of a bloody war. It is destructive however, in general, in the end. It was struck in the last instance, for the purpose of paying the officers and soldiers.¹³ The motive was laudable. I then thought, and still do, that those gentlemen might have had more advantage by not receiving that kind of payment. It would have been better for them and for the country, had it not been emitted. We have involved ourselves in a debt of £200,000. We have not, with this sum, honestly and fairly paid £50,000. Was this right? But, say they, there was no circulating medium. This want was necessary to be supplied. It is a doubt with me whether the circulating medium be increased by an emission of paper currency. Before the emission of the paper money, there was a great deal of hard money among us. For thirty years past I had not known so much specie in circulation as we had at the emission of paper money, in 1783.¹⁴ That medium was increasing daily. People from abroad bring specie, for, thank God, our country produces articles which are every where in demand. There is more specie in the country than is generally imagined, but the proprietors keep it locked up. No man will part with his specie. It lies in his chest. It is asked, why not lend it out? The answer is obvious: That should he once let it get out of his power, he never can recover the whole of it. If he bring suit, he will obtain a verdict for one half of it. This is the reason of our poverty. The scarcity of money must be in

some degree owing to this, and the specie which is now in this country, might as well be in any other part of the world. If our trade was once on a respectable footing, we should find means of paying that enormous debt.

Another observation was made, which has not yet been answered, viz. that the demands of the United States will be smaller than those of the states, for this reason—the United States will only make a demand of the interest of the public debts; the states must demand both principal and interest: For I presume no state can on an emergency produce, without the aid of individuals, a sum sufficient for that purpose; but the United States can borrow on the credit of their funds, arising from their power of laying taxes, such sums as will be equal to the emergency.

There will be always credit given where there is a good security. No man who is not a miser, will hesitate to trust where there is a respectable security; but credulity itself would not trust where there was no kind of security, but an absolute certainty of losing. Mankind wish to make their money productive; they will therefore lend it where there is a security and certainty of recovering it, and no longer keep it hoarded in strong boxes.

This power is essential to the very existence of the government. Requisitions are fruitless and idle. Every expedient proposed as an alternative, or to qualify this power, is replete with inconvenience. It appears to me therefore, upon the whole, that this article stands much better as it is, than in any other manner.

Mr. *Iredell*—Mr. Chairman, I do not presume to rise to discuss this clause, after the very able, and, in my opinion, unanswerable arguments which have been urged in favour of it; but merely to correct an error which fell from a very respectable Member (Mr. M'Dowall) on the other side. It was, that Congress, by interfering with the mode of elections, might continue themselves in office. I thought that this was sufficiently explained yesterday. There is nothing in the Constitution to empower Congress to continue themselves longer than the time specified. It says expressly, that the House of Representatives shall consist of Members chosen for two years, and that the Senate shall be composed of Senators chosen for six years. At the expiration of these terms, the right of election reverts to the people and the states. Nor is there any thing in the Constitution to warrant a contrary supposition. The clause alluded to, has no reference to the duration of Members in Congress, but merely as to the time and manner of their election.

Now that I am up, Sir, I beg leave to take notice of a suggestion, that Congress could as easily borrow money when they had the ultimate power of laying taxes, as if they possessed it in the first instance. I

entirely differ from that opinion. Had Congress the immediate power, there would be no doubt the money would be raised. In the other mode, doubts might be entertained concerning it. For can any man suppose, that if for any reasons, the state Legislatures did not think proper to pay their quotas, and Congress should be compelled to lay taxes, that it would not raise alarms in the state? Is it not reasonable to think that the people would be more apt to side with their state Legislature, who indulged them, than with Congress, who imposed taxes upon them? They would say, "Had we been able to pay, our state Legislature would have raised the money. They know and feel for our distresses, but Congress have no regard for our situation, and have imposed taxes on us we are unable to bear." This is, Sir, what would probably happen. Language like this, would be the high road to popularity: In all countries, and particularly in free ones, there are many ready to catch at such opportunities of making themselves of consequence with the people. General discontent would probably ensue, and a serious quarrel take place between the general and the state governments. Foreigners, who would view our situation narrowly before they lent their money, would certainly be less willing to risk it on such contingencies as these, than if they knew there was a direct fund for their payment, from which no ill consequences could be apprehended. The difference between a people who are able to borrow, and those who are not, is extremely great. Upon a critical emergency, it may be impossible to raise the full sum wanted immediately upon the people: In this case, if the public credit is good, they may borrow a certain sum, and raise for the present only enough to pay the interest, deferring the payment of the principal till the public is more able to bear it. In the other case, where no money can be borrowed, there is no resource if the whole sum cannot be raised immediately. The difference may perhaps be stated as twenty to one. An hundred thousand pounds therefore may be wanted in the one case: Five thousand pounds may be sufficient for the present, in the other. Surely this is a difference of the utmost moment. I should not have risen at all, were it not for the strong impression which might have been made by the error committed by the worthy gentleman on the other side. I hope I shall be excused for the time I have taken up with the additional matter, though it was only stating what had been urged with great propriety before.

Mr. [William] Goudy—Mr. Chairman, This is a dispute whether Congress shall have great enormous powers. I am not able to follow these learned gentlemen through all the labyrinths of their oratory. Some represent us as rich and not honest; and others again represent us as honest and not rich. We have no gold or silver, no substantial money

to pay taxes with. This clause, with the clause of elections, will totally destroy our liberties. The subject of our consideration therefore is, whether it be proper to give any man or set of men, an unlimited power over our purse, without any kind of controul. The purse strings are given up by this clause. The sword is also given up by this system. Is there no danger in giving up both? There is no danger we are told. It may be so, but I am jealous and suspicious of the liberties of mankind: And if it be a character which no man wishes but myself, I am willing to take it. Suspicions in small communities, are a pest to mankind; but in a matter of this magnitude, which concerns the interest of millions yet unborn, suspicion is a very noble virtue. Let us see, therefore, how far we give power, for when it is once given, we cannot take it away. It is said that those who formed this Constitution, were great and good men. We do not dispute it. We also admit that great and learned people have adopted it. But I have a judgment of my own, and though not so well informed always as others, yet I will exert it when manifest danger presents itself. When the power of the purse and the sword are given up, we dare not think for ourselves. In case of war, the last man and the last penny would be extorted from us. That the Constitution has a tendency to destroy the state governments, must be clear to every man of common understanding. Gentlemen, by their learned arguments, endeavour to conceal the danger from us. I have no notion of this method of evading arguments, and of clouding them over with rhetoric, and I must say, sophistry too. But I hope no man will be led astray with them.

Governor *Johnston* observed, that if any sophistical arguments had been made use of, they ought to be pointed out; and no body could doubt that it was in the power of a learned divine (alluding to Mr. Caldwell) to shew their sophistry.

Governor *Johnston* being informed of his mistake in taking Mr. Goudy for Mr. Caldwell, apologized for it.

Mr. [*William*] *Porter*—Mr. Chairman, I must say that I think the gentleman last up was wrong, for the other gentleman was, in my opinion, right. This is a money clause. I would fain know whence this power originates. I have heard it said that the Legislature were villains, and that this power was to be exercised by the Representatives of the people. When a building is raised, it should be on solid ground—Every gentleman must agree that we should not build a superstructure on a foundation of villains. Gentlemen say that the mass of the people are honest—I hope gentlemen will consider that we should build the structure on the people, and not on the Representatives of the people. Agreeably to the gentleman's argument (Mr. Hill) our Representatives

will be mere villains. I expect that very learned arguments, and powerful oratory will be displayed on this occasion. I expect that the great cannon from Halifax (meaning Mr. Davie) will discharge fire balls among us, but large batteries are often taken by small arms.

Mr. [*Timothy*] *Bloodworth* wished that gentlemen would desist from making personal reflections. He was of opinion that it was wrong to do so, and incompatible with their duty to their constituents. That every man had a right to display his abilities, and he hoped they would no longer reflect upon one another.

From the second to the eighth clause read without any observation. Ninth clause read.

Several Members wished to hear an explanation of this clause. Mr. [*Archibald*] *Maclaine* looked upon this clause as a very valuable part of the Constitution, because it consulted the ease and convenience of the people at large: For that if the Supreme Court were at one fixed place, and no other tribunals established, nothing could possibly be more injurious. That it was therefore necessary that Congress should have power to constitute tribunals in different states, for the trial of common causes, and to have appeals to the Supreme Court in matters of more magnitude: That that was his idea, but if not satisfactory, he trusted other gentlemen would explain it. That it would be more explained when they came to the Judiciary.

The tenth and eleventh clauses read without any observation.

Twelfth clause read.

Mr. *Iredell*—Mr. Chairman, This clause is of so much importance, that we ought to consider it with the most serious attention. It is a power vested in Congress, which, in my opinion, is absolutely indispensable; yet there have been, perhaps, more objections made to it, than any other power vested in Congress. For my part, I will observe generally, that so far from being displeased with that jealousy and extreme caution with which gentlemen consider every power proposed to be given to this government, they give me the utmost satisfaction. I believe the passion for liberty is stronger in America than in any other country in the world: Here every man is strongly impressed with its importance, and every breast glows for the preservation of it. Every jealousy, not incompatible with the indispensable principles of government, is undoubtedly to be commended: But these principles must, at all events, be observed. The powers of government ought to be competent to the public safety. This, indeed, is the primary object of all governments. It is the duty of gentlemen who form a Constitution, to take care that no power should be wanting which the safety of the community requires. The exigencies of the country must be provided for, not only in respect

to common and usual cases, but for occasions which do not frequently occur. If such a provision is not made, critical occasions may arise, when there must be either an usurpation of power, or the public safety eminently endangered; for besides the evils attending the frequent change of a Constitution, the case may not admit of so slow a remedy. In considering the powers that ought to be vested in any government, possible abuses ought not to be pointed out, without at the same time considering their use. No power of any kind or degree can be given, but what may be abused: We have therefore only to consider, whether any particular power is absolutely necessary. If it be, the power must be given and we must run the risk of the abuse, considering our risk of this evil, as one of the conditions of the imperfect state of human nature, where there is no good without the mixture of some evil. At the same time it is undoubtedly our duty to guard against abuses as much as possible. In America, we enjoy peculiar blessings: The people are distinguished by the possession of freedom in a very high degree, unmixed with those oppressions the freest countries in Europe suffer. But we ought to consider that in this country as well as others, it is equally necessary to restrain and suppress internal commotions, and to guard against foreign hostility. There is I believe, no government in the world without a power to raise armies. In some countries in Europe, a great force is necessary to be kept up to guard against those numerous armies maintained by many sovereigns there; where an army belonging to one government alone, sometimes amounts to two hundred thousand or four hundred thousand men. Happily we are situated at a great distance from them, and the inconsiderable power to the north of us is not likely soon to be very formidable. But though our situation places us at a remote danger, it cannot be pretended we are in no danger at all. I believe there is no man who has written on this subject, but has admitted that this power of raising armies is necessary in time of war; but they do not choose to admit of it in a time of peace. It is to be hoped that in time of peace, there will not be occasion at any time, but for a very small number of forces; possibly a few garrisons may be necessary to guard the frontiers, and an insurrection like that lately in Massachusetts,¹⁵ might require some troops. But a time of war is the time when the power would probably be exerted to any extent. Let us, however, consider the consequences of a limitation of this power to a time of war only. One moment's consideration will shew the impolicy of it in the most glaring manner. We certainly ought to guard against the machinations of other countries. We know not what designs may be entertained against us; but surely when known, we ought to endeavour to counteract their effects; such designs may be entertained in a time of

profound peace as well as after a declaration of war. Now suppose, for instance, our government had received certain intelligence that the British government had formed a scheme to attack New-York next April, with ten thousand men; would it not be proper immediately to prepare against it? and by so doing the scheme might be defeated. But if Congress had no such power, because it was a time of peace, the place must fall the instant it was attacked, and it might take years to recover what might at first have been seasonably defended. This restriction, therefore, cannot take place with safety to the community, and the power must of course be left to the direction of the general government. I hope there will be little necessity for the exercise of this power; and I trust that the universal resentment and resistance of the people will meet every attempt to abuse this or any other power. That high spirit for which they are distinguished, I hope will ever exist, and it probably will as long as we have a republican form of government. Every man feels a consciousness of personal equality and independence: Let him look at any part of the continent, he can see no superiors. This personal independence is the surest safe-guard of the public freedom. But is it probable that our own Representatives, chosen for a limited time, can be capable of destroying themselves, their families, and fortunes, even if they have no regard to their public duty? When such considerations are involved, surely it is very unlikely that they will attempt to raise an army against the liberties of their country. Were we to establish an hereditary nobility, or a set of men who were to have exclusive privileges, then indeed our jealousy might be well grounded. But fortunately we have no such. The restriction contended for, of no standing army in time of peace, forms a part of our own state Constitution.¹⁶ What has been the consequence? In December, 1786, the Assembly flagrantly violated it, by raising two hundred and one men for two years, for the defence of Davidson county.¹⁷ I do not deny that the intention might have been good, and that the Assembly really thought the situation of that part of the country required such a defence. But this makes the argument still stronger against the impolicy of such a restriction, since our own experience points out the danger resulting from it: For I take it for granted, that we could not at that time be said to be in a state of war. Dreadful might the condition of this country be, without this power. We must trust our friends or trust our enemies. There is one restriction on this power, which I believe is the only one that ought to be put upon it. Though Congress are to have the power of raising and supporting armies, yet they cannot appropriate money for that purpose for a longer time than two years. Now we will suppose that the majority of the two Houses should be capable of making a bad

use of this power, and should appropriate more money to raise an army than is necessary. The appropriation we have seen cannot be constitutional for more than two years: Within that time it might command obedience. But at the end of the second year from the first choice, the whole House of Representatives must be re-chosen, and also one-third of the Senate. The people being inflamed with the abuse of power of the old Members, would turn them out with indignation. Upon their return home they would meet the universal execrations of their fellow-citizens—Instead of the grateful plaudits of their count[r]y, so dear to every feeling mind, they would be treated with the utmost resentment and contempt:—Their names would be held in everlasting infamy; and their measures would be instantly reprobated and changed by the new Members. In two years, a system of tyranny certainly could not succeed in the face of the whole people; and the appropriation could not be with any safety for less than that period. If it depended on an annual vote, the consequence might be, that at a critical period, when military operations were necessary, the troops would not know whether they were entitled to pay or not, and could not safely act till they knew that the annual vote had passed. To refuse this power to the government, would be to invite insults and attacks from other nations. Let us not, for God's sake, be guilty of such indiscretion as to trust to our enemies mercy, but give, as is our duty, a sufficient power to government to protect their country, guarding at the same time against abuses as well as we can. We well know what this country suffered by the ravages of the British army during the war. How could we have been saved but by an army? Without that resource we should soon have felt the miserable consequences; and this day, instead of having the honour, the greatest any people ever enjoyed, to choose a government which our reason recommends, we should have been groaning under the most intolerable tyranny that was ever felt. We ought not to think these dangers are entirely over. The British government is not friendly to us: They dread the rising glory of America: They tremble for the West-Indies, and their colonies to the north of us: They have counteracted us on every occasion since the peace. Instead of a liberal and reciprocal commerce, they have attempted to confine us to a most narrow and ignominious one. Their pride is still irritated with the disappointment of their endeavours to enslave us. They know that on the record of history their conduct towards us must appear in the most disgraceful light. Let it also appear on the record of history, that America was equally wise and fortunate in peace as well as in war. Let it be said, that with a temper and unanimity unexampled, they corrected the vices of an imperfect government, and framed a new one on the basis of justice and liberty:

That though all did not concur in approving the particular structure of this government, yet that the minority peaceably and respectfully submitted to the decision of the greater number. This is a spectacle so great, that if it should succeed, this must be considered the greatest country under Heaven; for there is no instance of any such deliberate change of government in any other nation that ever existed. But how would it gratify the pride of our enemy to say: "We could not conquer you, but you have ruined yourselves. You have foolishly quarrelled about trifles. You are unfit for any government whatever. You have separated from us, when you were unable to govern yourselves, and you now deservedly feel all the horrors of anarchy." I beg pardon for saying so much. I did not intend it when I began. But the consideration of one of the most important parts of the plan excited all my feelings on the subject. I speak without any affectation in expressing my apprehension of foreign dangers—the belief of them is strongly impressed on my mind. I hope therefore the gentlemen of the committee will excuse the warmth with which I have spoken. I shall now take leave of the subject. I flatter myself that gentlemen will see that this power is absolutely necessary, and must be vested somewhere; that it can be vested no where so well as in the general government, and that it is guarded by the only restriction which the nature of the thing will admit of.

Mr. [Thomas] *Hardiman*¹⁸ desired to know, if the people were attacked or harrassed in any part of the state, if on the frontiers for instance, whether they must not apply to the state Legislature for assistance?

Mr. *Iredell* replied, that he admitted that application might be immediately made to the state Legislature, but that by the plan under consideration, the strength of the union was to be exerted to repel invasions of foreign enemies and suppress domestic insurrections; and that the possibility of an instantaneous and unexpected attack in time of profound peace, illustrated the danger of restricting the power of raising and supporting armies.

The rest of the eighth section read without any observation.

First clause of the ninth section read.

Mr. *J. M'Dowall* wished to hear the reasons of this restriction.

Mr. *Spaight* answered, that there was a contest between the northern and southern states: That the southern states, whose principal support depended on the labour of slaves, would not consent to the desire of the northern states to exclude the importation of slaves absolutely: That South-Carolina and Georgia insisted on this clause as they were now in want of hands to cultivate their lands: That in the course of twenty years they would be fully supplied: That the trade would be abolished then, and that in the mean time some tax or duty might be laid on.

Mr. *MDowall* replied, that the explanation was just such as he expected, and by no means satisfactory to him, and that he looked upon it as a very objectionable part of the system.

Mr. *Iredell*—Mr. Chairman, I rise to express sentiments similar to those of the gentleman from Craven [Richard Dobbs Spaight]. For my part, were it practicable to put an end to the importation of slaves immediately, it would give me the greatest pleasure, for it certainly is a trade utterly inconsistent with the rights of humanity, and under which great cruelties have been exercised. When the entire abolition of slavery takes place, it will be an event which must be pleasing to every generous mind, and every friend of human nature; but we often wish for things which are not attainable. It was the wish of a great majority of the Convention to put an end to the trade immediately, but the states of South-Carolina and Georgia would not agree to it. Consider then what would be the difference between our present situation in this respect, if we do not agree to the Constitution, and what it will be if we do agree to it. If we do not agree to it, do we remedy the evil? No, Sir, we do not. For if the Constitution be not adopted, it will be in the power of every state to continue it forever. They may or may not abolish it at their discretion. But if we adopt the Constitution the trade must cease after twenty years if Congress declare so, whether particular states please so or not; surely then we gain by it. This was the utmost that could be obtained. I heartily wish more could have been done. But as it is, this government is nobly distinguished above others by that very provision. Where is there another country in which such a restriction prevails? We therefore, Sir, set an example of humanity, by providing for the abolition of this inhuman traffic, though at a distant period. I hope therefore that this part of the Constitution will not be condemned, because it has not stipulated for what was impracticable to obtain.

Mr. *Spaight* further explained the clause. That the limitation of this trade to the term of twenty years, was a compromise between the eastern states and the southern states. South-Carolina and Georgia wished to extend the term. The eastern states insisted on the entire abolition of the trade. That the state of North-Carolina had not thought proper to pass any law prohibiting the importation of slaves, and therefore its Delegates in the Convention did not think themselves authorised to contend for an immediate prohibition of it.

Mr. *Iredell* added to what he had said before, That the states of Georgia and South-Carolina, had lost a great many slaves during the war, and that they wished to supply the loss.

Mr. *Galloway*—Mr. Chairman, The explanation given to this clause, does not satisfy my mind. I wish to see this abominable trade put an

end to. But in case it be thought proper to continue this abominable traffic for twenty years, yet I do not wish to see the tax on the importation extended to all persons whatsoever. Our situation is different from the people to the north. We want citizens. They do not. Instead of laying a tax, we ought to give a bounty, to encourage foreigners to come among us. With respect to the abolition of slavery, it requires the utmost consideration. The property of the southern states consists principally of slaves. If they mean to do away [with] slavery altogether, this property will be destroyed. I apprehend it means to bring forward manumission. If we manumit our slaves, what country shall we send them to? It is impossible for us to be happy, if after manumission they are to stay among us.

Mr. *Iredell*—Mr. Chairman, The worthy gentleman, I believe, has misunderstood this clause,¹⁹ which runs in the following words, “The migration or importation of such persons as any of the states now existing, shall think proper to admit, shall not be prohibited by the Congress, prior to the year 1808, but a tax or duty may be imposed on *such importation*, not exceeding ten dollars for each person.” Now, Sir, observe that the eastern states, who long ago have abolished slavery, did not approve of the expression *slaves*, they therefore used another that answered the same purpose. The Committee will observe the distinction between the two words migration and importation. The first part of the clause will extend to persons who come into the country as free people or are brought as slaves. But the last part extends to slaves only. The word *migration* refers to free persons; but the word *importation* refers to slaves, because free people cannot be said to be imported. The tax therefore is only to be laid on slaves who are imported, and not on free persons who migrate. I further beg leave to say, that the gentleman is mistaken in another thing. He seems to say that this extends to the abolition of slavery. Is there any thing in this Constitution which says that Congress shall have it in their power to abolish the slavery of those slaves who are now in the country? Is it not the plain meaning of it, that after twenty years they may prevent the future importation of slaves? It does not extend to those now in the country. There is another circumstance to be observed. There is no authority vested in Congress to restrain the states in the interval of twenty years, from doing what they please. If they wish to inhibit such importation, they may do so. Our next Assembly may put an entire end to the importation of slaves.

The rest of the ninth section read without any observation.

Article second, section first.

Mr. *Davie*—Mr. Chairman, I must express my astonishment at the precipitancy with which we go through this business. Is it not highly

improper to pass over in silence any part of this Constitution, which has been loudly objected to? We go into a committee to have a freer discussion. I am sorry to see gentlemen hurrying us through and suppressing their objections, in order to bring them forward at an unseasonable hour. We are assembled here to deliberate for our own common welfare, and to decide upon a question of infinite importance to our country. What is the cause of this silence and gloomy jealousy in gentlemen of the opposition? This department has been universally objected to by them. The most virulent invectives, the most opprobrious epithets, and the most indecent scurrility, have been used and applied against this part of the Constitution. It has been represented as incompatible with any degree of freedom. Why, therefore, do not gentlemen offer their objections now, that we may examine their force, if they have any? The clause meets my entire approbation. I only rise to shew the principle on which it was formed. The principle is, the separation of the executive from the legislative—a principle which pervades all free governments. A dispute arose in the Convention, concerning the re-eligibility of the President. It was the opinion of the deputation from this state, that he should be elected for five or seven years, and be afterwards ineligible. It was urged, in support of this opinion, that the return of public officers into the common mass of the people, where they would feel the tone they had given to the administration of the laws, was the best security the public had for their good behaviour: That it would operate as a limitation to his ambition, at the same time that it rendered him more independent: That when once in possession of that office, he would move Heaven and earth to secure his re-election, and perhaps become the cringing dependent of influential men. That our opinion was supported by some experience of the effects of this principle in several of the states.²⁰ A large and very respectable majority were of the contrary opinion. It was said, that such an exclusion would be improper for many reasons; that if an enlightened, upright man, had discharged the duties of the office ably and faithfully, it would be depriving the people of the benefit of his ability and experience, though they highly approved of him. That it would render the President less ardent in his endeavours to acquire the esteem and approbation of his country, if he knew that he would be absolutely excluded after a given period. And that it would be depriving a man of singular merit, even of the rights of citizenship. It was also said, that the day might come, when the confidence of America would be put in one man, and that it might be dangerous to exclude such a man from the service of his country. It was urged likewise, that no undue influence could take place in his election. That as he was to be

elected on the same day throughout the United States, no man could say to himself, *I am to be the man*. Under these considerations, a large, respectable majority voted for it as it now stands. With respect to the unity of the Executive, the superior energy and secrecy wherewith one person can act, was one of the principles on which the Convention went: But a more predominant principle was, the more obvious responsibility of one person. It was observed, that if there were a plurality of persons, and a crime should be committed, when their conduct came to be examined, it would be impossible to fix the fact on any one of them: But that the public were never at a loss when there was but one man. For these reasons, a great majority concurred in the unity, and re-eligibility also, of the Executive. I thought proper to shew the spirit of the deputation from this state. However, I heartily concur in it as it now stands, as the mode of his election precludes every possibility of corruption or improper influence of any kind.

Mr. *Joseph Taylor* thought it improper to object on every trivial case. That this clause had been argued on in some degree before, and that it would be an useless waste of time to dwell any longer upon it. That if they had the power of amending the Constitution, that every part need not be discussed, as some were not objectionable. And that for his own part, he would object when any essential defect came before the House.

Second, third and fourth clauses read.

Mr. *J. Taylor* objected to the power of Congress to determine the time of choosing the Electors, and to determine the time of electing the President, and urged that it was improper to have the election on the same day throughout the United States. That Congress, not satisfied with their power over the time, place and manner of elections of Representatives, and over the time and manner of elections of Senators, and their power of raising an army, wished likewise to controul the election of the Electors of the President. That by their army, and the election being on the same day in all the states, they might compel the electors to vote as they please.

Mr. *Spaight* answered, that the time of choosing the Electors was to be determined by Congress, for the sake of regularity and uniformity. That if the states were to determine it, one might appoint it at one day, and another at another, &c. and that the election being on the same day in all the states would prevent a combination between the Electors.

Mr. *Iredell*—Mr. Chairman, It gives me great astonishment to hear this objection, because I thought this to be a most excellent clause. Nothing is more necessary than to prevent every danger of influence. Had the time of election been different in different states, the Electors

chosen in one state might have gone from state to state and conferred with the other Electors, and the election might have been thus carried on under undue influence. But by this provision, the Electors must meet in the different states on the same day, and cannot confer together. They may not even know who are the Electors in the other states. There can be therefore no kind of combination. It is probable, that the man who is the object of the choice of thirteen different states, the Electors in each voting unconnectedly with the rest, must be a person who possesses in a high degree the confidence and respect of his country.

Governor *Johnston* expressed doubts with respect to the persons by whom the Electors were to be appointed. Some, he said, were of opinion that the people at large were to choose them, and others thought the state Legislatures were to appoint them.

Mr. *Iredell* was of opinion, that it could not be done with propriety by the state Legislatures, because as they were to direct the manner of appointing, a law would look very awkward, which should say "They gave the power of such appointments to themselves."

Mr. *Maclaine* thought the state Legislatures might direct the Electors to be chosen in what manner they thought proper, and they might direct it to be done by the people at large.

Mr. *Davie* was of opinion, that it was left to the wisdom of the Legislatures to direct their election in whatever manner they thought proper.

Mr. *Taylor* still thought the power improper with respect to the time of choosing the Electors. This power appeared to him to belong properly to the state Legislatures, nor could he see any purpose it could answer but that of an augmentation of the Congressional powers, which he said were too great already. That by this power they might prolong the elections to seven years, and that though this would be in direct opposition to another part of the Constitution, sophistry would enable them to reconcile them.

Mr. *Spaight* replied, that he was surprised that the gentleman [Joseph Taylor] objected to the power of Congress to determine the time of choosing the Electors, and not to that of fixing the day of the election of the President. That the power in the one case could not possibly answer the purpose of uniformity without having it in the other. That the power in both cases could be exercised properly only by one general superintending power. That if Congress had not this power, there would be no uniformity at all, and that a great deal of time would be taken up in order to agree upon the time.

The committee now rose. Mr. President resumed the chair, and Mr. Kennion [i.e., Kenan] reported, that the committee had, according [to

the] order, again had the said proposed Constitution under their consideration, and had made a further progress therein, but not having time to go through the same, had directed him to move for leave to sit again.

Resolved, That this Convention will on Monday next, again resolve itself into a committee of the whole Convention on the said proposed plan of government.

The Convention then adjourned until Monday next, nine o'clock.

1. Printed: *Proceedings and Debates*, 94–129.

2. The Articles of Confederation provided that the journal of Congress should be published monthly “except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy” (CDR, 92).

3. Graham (1759–1836), a native of Chester County, Pa., and a Mecklenburg County farmer, was a strong supporter of the revolutionary movement against Great Britain and served in the North Carolina militia, 1778–81, rising to the rank of major. In the battle to defend Charlotte he received nine wounds. In 1784–85, Graham was county sheriff. During the Hillsborough Convention, 1788, Graham voted against ratifying the U.S. Constitution, but he voted to ratify during the Fayetteville Convention, 1789. Graham was a member of the state Senate, 1788–93.

4. Both Virginia and New York included among their recommendatory amendments the provision that Congress publish its journals at least once each year. Both states provided exceptions for any business that, in the opinion of either house of Congress, was sensitive, such as treaty negotiations or military operations. New York went even further in supporting transparency by providing that “both Houses of Congress shall always keep their Doors open during their Sessions,” again with a secrecy provision for sensitive business. For these provisions in Virginia’s and New York’s recommendatory amendments, see RCS:Va., 1548–49, and RCS:N.Y., 2332.

5. The Articles of Confederation provided that “any delegate” could request “the yeas and nays of the delegates of each state on any question . . . be entered on the Journal” (CDR, 92).

6. As part of their official ratification documents, five states included amendments that would have deprived the U.S. Congress of the power to lay direct taxes before seeking a public revenue through other means, such as imposts, excises, and requisitions. In their order of ratification, the five states were: Massachusetts (RCS:Mass., 1469–70), South Carolina (RCS:S.C., 400), New Hampshire (RCS:N.H., 377), Virginia (RCS:Va., 1548), and New York (RCS:N.Y., 2330).

7. At least four tax laws were passed in North Carolina during the Revolutionary War that provided for the payment of taxes in sundry articles. These laws included “An act for levying a specific provision tax on all the inhabitants of this state, for the support of the army and navy of this and the united states in the southern department” (Evans 16914, chapter I, pp. 1–3); “An act for levying a money and specific provision tax for the year one thousand seven hundred and eighty one” (Evans 17279, chapter III, pp. 5–8); “An act for levying a specific provision tax, for defraying contingencies, and supporting the armies of the united states, for the year one thousand seven hundred and eighty two” (Evans 17644, chapter VIII, pp. 22–25); and “An act for raising a revenue for the support of government” (Evans 17644, chapter X, pp. 25–27). These laws were published in *Acts of Assembly of the State of North Carolina . . . between 1780 and 1782*. Evans numbers have been provided above.

8. Hill (1743–1797), a native of Bertie County, N.C., and a planter, graduated from the University of Pennsylvania in 1760. He served as lieutenant colonel in the Martin County militia, 1775–78, and as colonel upon his superior’s resignation. He represented Martin County in the third, fourth, and fifth provincial congresses, 1775, 1776. Hill was a member of the Provincial Council, 1775–76, and the Council of Safety, 1777. He sat in the state House of Commons, 1777, and the state Senate, 1778 (speaker), 1783–86, 1788. Hill was a delegate to the Continental Congress, 1778–80. In 1781 he was appointed to the Council of State. In the Hillsborough Convention, 1788, Hill supported the ratification of the U.S. Constitution.

9. The first clause of Article I, section 8.

10. A reference to “An act for levying a tax for the purpose therein mentioned, and for investing the United States in Congress assembled with a power to collect the same,” *Acts of Assembly of the State of North-Carolina . . .* (Halifax, [1784]) (Evans 18660), chapter VII, 14–17. In an effort to discharge its proportion of the wartime debt, North Carolina gave the Confederation Congress power to collect “Six-pence currency on every hundred acres of land, one shilling and six pence [i.e., eighteen pence] upon every poll, and one shilling and six-pence upon every hundred pounds value of town lots with their improvements.”

11. See “An act to indemnify such persons as have acted in defence of the state, and for the preservation of peace during the late war, from vexatious suits and prosecutions,” *Acts of Assembly of the State of North-Carolina . . .* (Halifax, 1783) (Evans 18069), chapter V, 12–13. The act protected those who “seized and used horses, arms, and other articles, and also impressed divers waggons, carriages, horses, arms, provisions and other things essentially necessary for supplying troops in the service of the *United States*, or of this state.”

12. Likely a reference to the plague of locusts (Exodus 10:1–20).

13. Probably a reference to “An Act for emitting One hundred thousand Pounds paper Currency, for the Purposes therein expressed,” *The Laws of the State of North-Carolina, Passed at Newbern, December 1785* (Newbern, 1786) (Evans 19870), chapter V, 8–9. Citing the “pressing circumstances” of both domestic and foreign debt, the act provided for the payment of North Carolina’s proportion of the foreign debt of the United States and other “current expenses” of the Confederation government. The act also provided for paying North Carolina’s civil list (that is, the officers of the state) and for the redemption of “due-bills” issued by commissioners appointed to settle with North Carolina’s officers and soldiers of the Continental Line.

14. See “An Act for emitting One Hundred Thousand Pounds in paper currency, for the purposes of government for seventeen hundred and eighty three . . .,” *Acts of Assembly of the State of North-Carolina . . .* ([Halifax, 1783]) (Evans 18069), chapter I, 1–4.

15. Shays’s Rebellion (1786–87).

16. Article XVII of the North Carolina Declaration of Rights (1776) disallowed standing armies “in Time of Peace” as a danger to liberty. This article also established the authority of “the civil Power” over the military and the right of the people “to bear Arms; for the Defence of the State” (Appendix I, RCS:N.C., 824).

17. See “An Act for raising Troops for the protection of the inhabitants of Davidson county,” *The Laws of North-Carolina . . .* (Fayetteville, [1787]) (Evans 20596), chapter I, 1–3. The troops were raised as a response to “frequent acts of hostility committed by the Indians.”

18. Hardiman (1750–1833), a native of Pittsylvania County, Va., settled in the “Watauga Country” of North Carolina in 1777 and was a soldier in Colonel John Sevier’s regiment at the Battle of Kings Mountain, 1780. He moved to Davidson County (later Tennessee) in 1783. He represented Davidson in the Hillsborough Convention, 1788, where he voted

against the ratification of the U.S. Constitution, and in the state House of Commons, 1788. He was a delegate to the Tennessee state constitutional convention, 1796, and the Tennessee General Assembly, 1797–99.

19. The first clause of Article I, section 9.

20. Some state constitutions, such as those of Massachusetts (1780) and New York (1777), put no conditions on the re-eligibility of their state executives. The North Carolina constitution (1776) provided for a one-year term for the governor, “who shall not be eligible to that Office longer than three Years; in six successive Years” (Article XV, Appendix I, RCS:N.C., 827).

Hillsborough Convention Monday 28 July 1788

Convention Proceedings, 28 July 1788 (excerpts)¹

Met according to adjournment.

Mr. Burwell Mooring, one of the members for Wayne county, and Mr. Thos. Owen, one of the members for Bladen county, appeared and took their seats. . . .

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 9.

Convention Debates, 28 July 1788¹

The Convention met according to adjournment, and immediately resolved itself into a committee of the whole Convention, to take into further consideration the proposed Constitution of government for the United States.

The second section of the second article read.

Mr. [*James*] *Iredell*—Mr. Chairman, This part of the Constitution has been much objected to. The office of superintending the execution of the laws of the union, is an office of the utmost importance. It is of the greatest consequence to the happiness of the people of America, that the person to whom this great trust is delegated should be worthy of it. It would require a man of abilities and experience: It would also require a man who possessed in a high degree the confidence of his country. This being the case, it would be a great defect in forming a Constitution for the United States, if it was so constructed that by any accident an improper person could have a chance to obtain that office. The Committee will recollect, that the President is to be elected by Electors appointed by each state, according to the number of Senators and Representatives to which the state may be entitled in the Congress:

That they are to meet on the same day throughout all the states, and vote by ballot for two persons, one of whom shall not be an inhabitant of the same state with themselves. These votes are afterwards to be transmitted under seal to the seat of the general government. The person who has the greatest number of votes, if it be a majority of the whole, will be the President. If more than one have a majority, and equal votes, the House of Representatives are to choose one of them. If none have a majority of votes, then the House of Representatives are to choose which of the persons they think proper, out of the five highest on the list. The person having the next greatest number of votes is to be the Vice President, unless two or more should have equal votes, in which case the Senate is to choose one of them for Vice-President. If I recollect right, these are the principal characteristics. Thus, Sir, two men will be in office at the same time. The President, who possesses in the highest degree the confidence of his country; and the Vice-President, who is thought to be the next person in the union most fit to perform this trust. Here, Sir, every contingency is provided for. No faction or combination can bring about the election. It is probable, that the choice will always fall upon a man of experienced abilities and fidelity. In all human probability, no better mode of election could have been devised.

The rest of the first section read without any observations.

Second section read.

Mr. *Iredell*—Mr. Chairman, I was in hopes that some other gentleman would have spoken to this clause. It conveys very important powers, and ought not to be passed by. I beg leave in as few words as possible to speak my sentiments upon it. I believe most of the Governors of the different states, have powers similar to those of the President. In almost every country the Executive has the command of the military forces. From the nature of the thing, the command of armies ought to be delegated to one person only. The secrecy, dispatch and decision which are necessary in military operations, can only be expected from one person. The President therefore is to command the military forces of the United States, and this power I think a proper one; at the same time it will be found to be sufficiently guarded. A very material difference may be observed between this power, and the authority of the King of Great-Britain under similar circumstances. The King of Great-Britain is not only the Commander in Chief of the land and naval forces, but has power in time of war to raise fleets and armies. He has also authority to declare war. The President has not the power of declaring war by his own authority, nor that of raising fleets and armies. These powers are vested in other hands. The power [of] declaring war

is expressly given to Congress, that is, to the two branches of the Legislature, the Senate composed of Representatives of the state Legislatures, the House of Representatives deputed by the people at large. They have also expressly delegated to them, the powers of raising and supporting armies, and of providing and maintaining a navy.

With regard to the militia, it must be observed, that though he [i.e., the President] has the command of them when called into the actual service of the United States, yet he has not the power of calling them out. The power of calling them out, is vested in Congress, for the purpose of executing the laws of the union. When the militia are called out for any purpose, some person must command them; and who so proper as that person who has the best evidence of his possessing the general confidence of the people? I trust therefore, that the power of commanding the militia when called forth into the actual service of the United States, will not be objected to.

The next part which says, "That he may require the opinion in writing of the principal officers," is in some degree substituted for a Council. He is only to consult them if he thinks proper. Their opinion is to be given him in writing. By this means he will be aided by their intelligence, and the necessity of their opinions being in writing, will render them more cautious in giving them, and make them responsible should they give advice manifestly improper. This does not diminish the responsibility of the President himself. They might otherwise have coluded, and opinions have been given too much under his influence.

It has been the opinion of many gentlemen, that the President should have a Council. This opinion probably has been derived from the example in England. It would be very proper for every gentleman to consider attentively, whether that example ought to be imitated by us. Altho' it be a respectable example, yet in my opinion very satisfactory reasons can be assigned for a departure from it in this Constitution.

It was very difficult, immediately on our separation from Great-Britain, to disengage ourselves entirely from ideas of government we had been used to. We had been accustomed to a Council under the old government, and took it for granted we ought to have one under the new. But examples ought not to be implicitly followed; and the reasons which prevail in Great-Britain for a Council, do not apply equally to us. In that country the executive authority is vested in a magistrate who holds it by birth-right. He has great powers and prerogatives; and it is a constitutional maxim, *that he can do no wrong*.² We have experienced that he can do wrong, yet no man can say so in his own country. There are no courts to try him for any crimes; nor is there any constitutional method of depriving him of his throne. If he loses it, it must be by a

general resistance of his people contrary to *forms* of law, as at the revolution which took place about a hundred years ago.³ It is therefore of the utmost moment in that country, that whoever is the instrument of any act of government should be personally responsible for it, since the King is not; and for the same reason, that no act of government should be exercised but by the instrumentality of some person, who can be accountable for it. Every thing therefore that the King does must be by some *advice*, and the adviser of course answerable. Under our Constitution we are much happier. No man has an authority to injure another with impunity. No man is better than his fellow-citizens, nor can pretend to any superiority over the meanest man in the country. If the President does a single act, by which the people are prejudiced, he is punishable himself, and no other man merely to screen him. If he commits any misdemeanor in office, he is impeachable, removable from office, and incapacitated to hold any office of honour, trust or profit. If he commits any crime, he is punishable by the laws of his country, and in capital cases may be deprived of his life. This being the case, there is not the same reason here for having a Council, which exists in England. It is, however, much to be desired, that a man who has such extensive and important business to perform, should have the means of some assistance to enable him to discharge his arduous employment. The advice of the principal executive officers, which he can at all times command, will in my opinion answer this valuable purpose. He can at no time want advice, if he desires it, as the principal officers will always be on the spot. Those officers from their abilities and experience, will probably be able to give as good, if not better advice, than any Counsellors would do; and the solemnity of the advice in writing, which must be preserved, would be a great check upon them.

Besides these considerations, it was difficult for the Convention to prepare a Council that would be unexceptionable. That jealousy which naturally exists between the different states, enhanced this difficulty. If a few Counsellors were to be chosen from the northern, southern or middle states, or from a few states only, undue preference might be given to those particular states from which they should come. If to avoid this difficulty, one Counsellor should be sent from each state, this would require great expence, which is a consideration at this time of much moment, especially as it is probable, that by the method proposed, the President may be equally well advised without any expence at all.

We ought also to consider, that had he a Council, by whose advice he was bound to act, his responsibility in all such cases must be destroyed. You surely would not oblige him to follow their advice, and

punish him for obeying it. If called upon on any occasion of dislike, it would be natural for him to say, "You know my Council are men of integrity and ability: I could not act against their opinions, though I confess my own was contrary to theirs." This, Sir, would be pernicious. In such a situation, he might easily combine with his Council, and it might be impossible to fix a fact upon him. It would be difficult often to know, whether the President or Counsellors were most to blame. A thousand plausible excuses might be made, which would escape detection. But the method proposed in the Constitution creates no such embarrassment. It is plain and open. And the President will personally have the credit of good, or the censure of bad measures; since, though he may ask advice, he is to use his own judgment in following or rejecting it. For all these reasons I am clearly of opinion, that the clause is better as it stands than if the President were to have a Council. I think every good that can be derived from the institution of a Council, may be expected from the advice of these officers, without its being liable to the disadvantages to which it appears to me the institution of a Council would be.

Another power that he has is to grant pardons, except in cases of impeachment. I believe it is the sense of a great part of America, that this power should be exercised by their Governors. It is in several states on the same footing that it is here.⁴ It is the genius of a republican government, that the laws should be rigidly executed without the influence of favour or ill-will: That when a man commits a crime, however powerful he or his friends may be, yet he should be punished for it; and on the other hand, though he should be universally hated by his country, his real guilt alone as to the particular charge is to operate against him. This strict and scrupulous observance of justice is proper in all governments, but it is particularly indispensable in a republican one; because in such a government, the law is superior to every man, and no man is superior to another. But though this general principle be unquestionable, surely there is no gentleman in the committee, who is not aware that there ought to be exceptions to it; because there may be many instances, where though a man offends against the *letter* of the law, yet peculiar circumstances in his case may entitle him to mercy. It is impossible for any general law to foresee and provide for all possible cases that may arise, and therefore an inflexible adherence to it in every instance, might frequently be the cause of very great injustice. For this reason, such a power ought to exist somewhere; and where could it be more properly vested, than in a man who had received such strong proofs of his possessing the highest confidence of the people? This power however only refers to offences against the United States, and

not against particular states. Another reason for the President possessing this authority, is this: It is often necessary to convict a man by means of his accomplices: We have sufficient experience of that in this country. A criminal would often go unpunished, were not this method to be pursued against him. In my opinion, till an accomplice's own danger is removed, his evidence ought to be regarded with great diffidence. If in civil causes of property, a witness must be entirely disinterested, how much more proper is it he should be so in cases of life and death! This power is naturally vested in the President, because it is his duty to watch over the public safety, and as that may frequently require the evidence of accomplices to bring great offenders to justice, he ought to be entrusted with the most effectual means of procuring it.

I beg leave farther to observe, that for another reason I think there is a propriety in leaving this power to the general discretion of the executive magistrate, rather than to fetter it in any manner which has been proposed. It may happen, that many men, upon plausible pretences, may be seduced into very dangerous measures against their country. They may aim by an insurrection to redress imaginary grievances, at the same time believing, upon false suggestions, that their exertions are necessary to save their country from destruction. Upon cool reflection however, they possibly are convinced of their error, and clearly see thro' the treachery and villainy of their leaders. In this situation, if the President possessed the power of pardoning, they probably would immediately throw themselves on the equity of the government, and the whole body be peaceably broke up. Thus, at a critical moment, the President might prevent perhaps a civil war. But if there was no authority to pardon, in that delicate exigency, what would be the consequence? The principle of self-preservation would prevent their parting. Would it not be natural for them to say, "We shall be punished if we disband. Were we sure of mercy we would peaceably part. But we know not that there is any chance of this. We may as well meet one kind of death as another. We may as well die in the field as at the gallows." I therefore submit to the committee, if this power be not highly necessary for such a purpose. We have seen a happy instance of the good effect of such an exercise of mercy in the state of Massachusetts, where very lately there was so formidable an insurrection.⁵ I believe a great majority of the insurgents were drawn into it by false artifices. They at length saw their error, and were willing to disband. Government, by a wise exercise of lenity, after having shewn its power, generally granted a pardon; and the whole party were dispersed. There is now as much peace in that country as in any state in the union.

A particular instance which occurs to me, shews the utility of this power very strongly. Suppose we were involved in war. It would be then necessary to know the designs of the enemy. This kind of knowledge cannot always be procured but by means of *spies*, a set of wretches whom all nations despise, but whom all employ; and as they would assuredly be used against us, a principle of self defence would urge and justify the use of them on our part. Suppose therefore the President could prevail upon a man of some importance to go over to the enemy, in order to give him secret information of his measures. He goes off privately to the enemy. He feigns resentment against his country for some ill usage, either real or pretended, and is received possibly into favour and confidence. The people would not know the purpose for which he was employed. In the mean time he secretly informs the President of the enemy's designs, and by this means, perhaps those designs are counteracted, and the country saved from destruction. After his business is executed, he returns into his own country, where the people, not knowing he had rendered them any service, are naturally exasperated against him for his supposed treason. I would ask any gentleman whether the President ought not to have the power of pardoning this man. Suppose the concurrence of the Senate, or any other body was necessary, would this obnoxious person be properly safe? We know in every country there is a strong prejudice against the executive authority. If a prejudice of this kind, on such an occasion, prevailed against the President, the President might be suspected of being influenced by corrupt motives, and the application in favour of this man be rejected. Such a thing might very possibly happen when the prejudices of party were strong, and therefore no man so clearly entitled as in the case I have supposed, ought to have his life exposed to so hazardous a contingency.

The power of impeachment is given by this Constitution, to bring great offenders to punishment. It is calculated to bring them to punishment for crimes which it is not easy to describe, but which every one must be convinced is a high crime and misdemeanor against the government. This power is lodged in those who represent the great body of the people, because the occasion for its exercise will arise from acts of great injury to the community, and the objects of it may be such as cannot be easily reached by an ordinary tribunal. The trial belongs to the Senate, lest an inferior tribunal should be too much awed by so powerful an accuser. After a trial thus solemnly conducted, it is not probable that it would happen once in a thousand times, that a man actually convicted, would be entitled to mercy; and if the President had the power of pardoning in such a case, this great check upon high officers of state would lose much of its influence. It seems therefore

proper, that the general power of pardoning should be abridged in this particular instance. The punishment annexed to conviction on impeachment, can only be removal from office, and disqualification to hold any place of honour, trust or profit. But the person convicted is further liable to a trial at common law, and may receive such common law punishment as belongs to a description of such offences, if it be one punishable by that law. I hope, for the reasons I have stated, that the whole of this clause will be approved by the committee. The regulations altogether, in my opinion, are as wisely contrived as they could be. It is impossible for imperfect beings to form a perfect system. If the present one may be productive of possible inconveniences, we are not to reject it for that reason, but inquire whether any other system could be devised which would be attended with fewer inconveniences, in proportion to the advantages resulting. But we ought to be exceedingly attentive in examining, and still more cautious in deciding, lest we should condemn what may be worthy of applause, or approve of what may be exceptionable. I hope, that in the explanation of this clause, I have not improperly taken up the time of the committee.

Mr. *[Robert] Miller*⁶ acknowledged, that the explanation of this clause by the Member from Edenton [*James Iredell*], had obviated some objections which he had had to it: But still he could not entirely approve of it. He could not see the necessity of vesting this power in the President. He thought that his influence would be too great in the country, and particularly over the military, by being the Commander in Chief of the army, navy and militia. He thought he could too easily abuse such extensive powers; and was of opinion, that Congress ought to have power to direct the motions of the army. He considered it as a defect in the Constitution, that it was not expressly provided that Congress should have the direction of the motions of the army.

Mr. *[Richard Dobbs] Spaight* answered, that it was true that the command of the army and navy was given to the President: But that Congress, who had the power of raising armies, could certainly prevent any abuse of that authority in the President. That they alone had the means of supporting armies, and that the President was impeachable if he in any manner abused his trust. He was surprised that any objection should be made to giving the command of the army to one man: That it was well known, that the direction of an army could not be properly exercised by a numerous body of men: That Congress had in the last war given the exclusive command of the army to the Commander in Chief; and that if they had not done so, perhaps the independence of America would not have been established.

Mr. [William] Porter—Mr. Chairman, There is a power vested in the Senate and President to make treaties, which shall be the supreme law of the land. Which among us can call them to account? I always thought that there could [be] no proper exercise of power, without the suffrage of the people: Yet the House of Representatives has no power to intermeddle with treaties. The President and seven Senators, as nearly as I can remember, can make a treaty⁷ which will be of great advantage to the northern states, and equal injury to the southern states. They might give up the rivers and territory of the southern states: Yet in the preamble of the Constitution, they say, *all the People* have done it. I should be glad to know what power there is of calling the President and Senate to account.

Mr. Spaight answered, that under the Confederation, two-thirds of the states might make treaties. That if the Senators from all the states attended when a treaty was about to be made, two-thirds of the states would have a voice in its formation. He added, that he would be glad to ask the gentleman, what mode there was of calling the present Congress to account.

Mr. Porter repeated his objection. He hoped that gentlemen would not impose on the House. That the President could make treaties with two-thirds of the Senate: That the President in that case, voted rather in a legislative, than in an executive capacity, which he thought impolitic.

Governor [Samuel] Johnston—Mr. Chairman, In my opinion, if there be any difference between this Constitution and the Confederation, with respect to treaties, the Constitution is more safe than the Confederation. We know that two Members from each state, have a right by the Confederation to give the vote of that state, and two-thirds of the states have a right also to make treaties. By this Constitution two-thirds of the Senators cannot make treaties without the concurrence of the President. Here is then an additional guard. The calculation that seven or eight Senators, with the President, can make treaties, is totally erroneous. Fourteen is a quorum. Two-thirds of which are ten. It is upon the improbable supposition that they will not attend, that the objection is founded, that ten men with the President can make treaties. Can it be reasonably supposed that they will not attend when the most important business is agitated; when the interests of their respective states are most immediately affected.

Mr. [Archibald] Maclaine observed, that the gentleman [William Porter] was out of order with his objection. That they had not yet come to the clause which enables the Senate and President to make treaties.

The second clause of the second section read.

Mr. [*Samuel*] *Spencer*—Mr. Chairman, I rise to declare my disapprobation of this likewise. It is an essential article in our Constitution, that the legislative, the executive and the supreme judicial powers of government, ought to be forever separate and distinct from each other. The Senate in the proposed government of the United States, are possessed of the legislative authority in conjunction with the House of Representatives. They are likewise possessed of the sole power of trying all impeachments, which not being restrained to the officers of the United States, may be intended to include all the officers of the several states in the union. And by this clause they possess the chief of the executive power—they are in effect to form treaties, which are to be the law of the land, and they have obviously in effect the appointment of all the officers of the United States; the President may nominate, but they have a negative upon his nomination, till he has exhausted the number of those he wishes to be appointed: He will be obliged finally to acquiesce in the appointment of those which the Senate shall nominate, or else no appointment will take place. Hence it is easy to perceive, that the President, in order to do any business, or to answer any purpose in his department of his office, and to keep himself out of perpetual hot water, will be under a necessity to form a connection with that powerful body, and be contented to put himself at the head of the leading members who compose it. I do not expect at this day, that the outline and organization of this proposed government will be materially altered. But I cannot but be of opinion, that the government would have been infinitely better and more secure, if the President had been provided with a standing Council, composed of one Member from each of the states, the duration of whose office might have been the same as that of the President's office, or for any other period that might have been thought more proper. For it can hardly be supposed, that if two Senators can be sent from each state, who are fit to give counsel to the President, that one such cannot be found in each state, qualified for that purpose. Upon this plan, one half the expence of the Senate, as a standing Council to the President in the recess of Congress, would evidently be saved; each state would have equal weight in this Council, as it has now in the Senate: And what renders this plan the more eligible is, that two very important consequences would result from it, which cannot result from the present plan. The first is, that the whole executive department, being separate and distinct from that of the legislative and judicial, would be amenable to the justice of the land—the President and his Council, or either or any of them, might be impeached, tried and condemned for any misdemeanor in office. Whereas on the present

plan proposed, the Senate who are to advise the President, and who in effect are possessed of the chief executive power, let their conduct be what it will, are not amenable to the public justice of their country; if they may be impeached, there is no tribunal invested with jurisdiction to try them. It is true that the proposed Constitution provides, that when the President is tried the Chief-Justice shall preside. But I take this to be very little more than a farce. What can the Senate try him for? For doing that which they have advised him to do, and which without their advice he would not have done. Except what he may do in a military capacity, when I presume he will be entitled to be tried by a court-martial of General officers, he can do nothing in the executive department without the advice of the Senate, unless it be to grant pardons, and adjourn the two Houses of Congress to some day to which they cannot agree to adjourn themselves, probably to some term that may be convenient to the leading Members of the Senate. I cannot conceive therefore, that the President can ever be tried by the Senate with any effect, or to any purpose, for any misdemeanor in his office, unless it should extend to high treason, or unless they should wish to fix the odium of any measure on him, in order to exculpate themselves; the latter of which I cannot suppose will ever happen.

Another important consequence of the plan I wish had taken place, is, that the office of the President being thereby unconnected with that of the legislative, as well as the judicial, he would enjoy that independence which is necessary to form the intended check upon the acts passed by the Legislature before they obtain the sanction of laws. But on the present plan, from the necessary connection of the President's office with that of the Senate, I have little ground to hope, that his firmness will long prevail against the overbearing power and influence of the Senate, so far as to answer the purpose of any considerable check upon the acts they may think proper to pass in conjunction with the House of Representatives. For he will soon find, that unless he inclines to compound with them, they can easily hinder and controul him in the principal articles of his office. But if nothing else could be said in favour of the plan of a standing Council to the President, independent of the Senate, the dividing the power of the latter would be sufficient to recommend it; it being of the utmost importance toward the security of the government, and the liberties of the citizens under it. For I think it must be obvious to every unprejudiced mind, that the combining in the Senate, the power of legislation with a controuling share in the appointment of all the officers of the United States, except those chosen by the people, and the power of trying all impeachments that may be found against such officers, invests the Senate at once with such an

enormity of power, and with such an overbearing and uncontrollable influence, as is incompatible with every idea of safety to the liberties of a free country, and is calculated to swallow up all other powers, and to render that body a despotic aristocracy.

Mr. *Porter* recommended the most serious consideration when they were about to give away power. That they were not only about to give away power to legislate or make laws of a supreme nature, and to make treaties, which might sacrifice the most valuable interests of the community; but to give a power to the general government to drag the inhabitants to any part of the world as long as they pleased. That they ought not to put it in the power of any man or any set of men to do so; and that the representation was defective, being not a substantial immediate representation. He observed that as treaties were the supreme law of the land, the House of Representatives ought to have a vote in making them, as well as in passing them.

Mr. *J[oseph] M'Dowall*—Mr. Chairman, Permit me, Sir, to make a few observations, to shew how improper it is to place so much power in so few men, without any responsibility whatever. Let us consider what number of them is necessary to transact the most important business. Two-thirds of the members present, with the President, can make a treaty. Fourteen of them are a quorum, two-thirds of which are ten. These ten may make treaties and alliances. They may involve us in any difficulties, and dispose of us in any manner they please. Nay eight is a majority of a quorum, and can do every thing but make treaties. How unsafe are we, when we have no power of bringing those to an account. It is absurd to try them before their own body. Our lives and property are in the hands of eight or nine men. Will these gentlemen entrust their rights in this manner?

Mr. *[William R.] Davie*—Mr. Chairman, Altho' treaties are mere conventional acts between the contracting parties, yet by the law of nations they are the supreme law of the land to their respective citizens or subjects. All civilized nations have concurred in considering them as paramount to an ordinary act of legislation. This concurrence is founded on the reciprocal convenience and solid advantages arising from it. A due observance of treaties makes nations more friendly to each other, and is the only means of rendering less frequent those mutual hostilities, which tend to depopulate and ruin contending nations. It extends and facilitates that commercial intercourse, which founded on the universal protection of private property, has in a measure made the world one nation.

The power of making treaties has in all countries and governments been placed in the executive departments. This has not only been

grounded on the necessity and reason arising from that degree of secrecy, design and dispatch, which are always necessary in negotiations between nations, but to prevent their being impeded, or carried into effect, by the violence, animosity and heat of parties, which too often infect numerous bodies. Both of these reasons preponderated in the foundation of this part of the system. It is true, Sir, that the late treaty between the United States and Great-Britain, has not, in some of the states, been held as the supreme law of the land. Even in this state an act of Assembly passed to declare its validity.⁸ But no doubt that treaty was the supreme law of the land without the sanction of the Assembly; because, by the Confederation, Congress had power to make treaties. It was one of those original rights of sovereignty which were vested in them; and it was not the deficiency of constitutional authority in Congress to make treaties, that produced the necessity of a law to declare their validity; but it was owing to the intire imbecility of the Confederation. On the principle of the propriety of vesting this power in the executive department, it would seem that the whole power of making treaties ought to be left to the President, who, being elected by the people of the United States at large, will have their general interest at heart. But that jealousy of executive power which has shewn itself so strongly in all the American governments, would not admit this improvement. Interest, Sir, has a most powerful influence over the human mind, and is the basis on which all the transactions of mankind are built. It was mentioned before, that the extreme jealousy of the little states, and between the commercial states and the non-importing states, produced the necessity of giving an equality of suffrage to the senate. The same causes made it indispensable to give to the Senators, as Representatives of states, the power of making, or rather ratifying, treaties. Although it militates against every idea of just proportion, that the little state of Rhode-Island should have the same suffrage with Virginia, or the great commonwealth of Massachusetts; yet the small states would not consent to confederate, without an equal voice in the formation of treaties. Without the equality, they apprehended that their interest would be neglected or sacrificed in negociations. This difficulty could not be got over. It arose from the unalterable nature of things. Every man was convinced of the inflexibility of the little states in this point: It therefore became necessary to give them an absolute equality in making treaties.

The learned gentleman on my right (Mr. Spencer) after saying that this was an enormous power, and that blending the different branches of government was dangerous, said, that such accumulated powers were inadmissible and contrary to all the maxims of writers. It is true, the

great Montesquieu and several other writers, have laid it down as a maxim not to be departed from, that the legislative, executive and judicial powers, should be separate and distinct. But the idea that these gentlemen had in view, has been misconceived or misrepresented. An absolute and complete separation is not meant by them. It is impossible to form a government upon these principles. Those states who had made an absolute separation of these three powers their leading principle, have been obliged to depart from it. It is a principle in fact, which is not to be found in any of the state governments. In the government of New-York, the Executive and Judiciary have a negative similar to that of the President of the United States. This is a junction of all the three powers, and has been attended with the most happy effects.⁹ In this state and most of the others, the executive and judicial powers are dependent on the Legislature. Has not the Legislature of this state the power of appointing the Judges? Is it not in their power also to fix their compensation?¹⁰ What independence can there be in persons who are obliged to be obsequious and cringing for their office and salary? Are not our Judges dependent on the Legislature for every morsel they eat? It is not difficult to discern what effect this may have on human nature. The meaning of this maxim I take to be this, that the whole legislative, executive, and judicial powers, should not be exclusively blended in any one particular instance. The Senate try impeachments. This is their only judicial cognizance. As to the ordinary objects of a judiciary, such as the decision of controversies, the trial of criminals, &c. the judiciary is perfectly separate and distinct from the legislative and executive branches. The House of Lords in England, have great judicial powers, yet this is not considered as a blemish in their Constitution. Why? Because they have not the whole legislative power. Montesquieu, at the same time that he laid down this maxim, was writing in praise of the British government. At the very time he recommended this distinction of powers, he passed the highest eulogium on a Constitution wherein they were *all* partially blended. So that the meaning of the maxim, as laid down by him and other writers, must clearly be, that these three branches must not be entirely blended in one body. And this system before you, comes up to the maxim more completely than the favourite government of Montesquieu. The gentleman from Anson [Samuel Spencer] has said, that the Senate destroys the independence of the President, because they must confirm the nomination of officers. The necessity of their interfering in the appointment of officers, resulted from the same reason which produced the equality of suffrage. In other countries, the Executive or Chief Magistrate alone nominates and appoints

officers. The small states would not agree that the House of Representatives should have a voice in the appointment to offices; and the extreme jealousy of all the states, would not give it to the President alone. In my opinion, it is more proper as it is than it would be in either of those cases. The interest of each state will be equally attended to in appointments, and the choice will be more judicious by the junction of the Senate to the President. Except in the appointments of officers, and making of treaties, he is not joined with them in any instance. He is perfectly independent of them in his election. It is impossible for human ingenuity to devise any mode of election better calculated to exclude undue influence. He is chosen by Electors appointed by the people. He is elected on the same day in every state, so that there can be no possible combination between the Electors. The affections of the people can be the only influence to procure his election. If he make a judicious nomination, is it to be presumed that the Senate will not concur in it? Is it to be supposed the Legislatures will choose the most depraved men in the states to represent them in Congress? Should he nominate unworthy characters, can it be reasonably concluded that they will confirm it? He then says, that the Senators will have influence to get themselves re-elected, nay, that they will be perpetually elected. I have very little apprehension on this ground. I take it for granted, that the man who is once a Senator, will very probably be out for the next six years. Legislative influence changes—Other persons rise, who have particular connections to advance them to office. If the Senators stay six years out of the state governments, their influence will be greatly diminished. It will be impossible for the most influential character to get himself re-elected after being out of the country so long. There will be an entire change in six years. Such futile objections I fear proceed from an aversion to any general system. The same learned gentleman says, that it would be better, were a Council consisting of one from every state, substituted to the Senate. Another gentleman [Joseph M'Dowall] has objected to the smallness of this number. This shews the impossibility of satisfying all men[']s minds. I beg this committee to place these two objections together, and see their glaring inconsistency. If there were thirteen Counsellors, in the manner he proposes, it would destroy the responsibility of the President. He must have acted also with a majority of them. A majority of them is seven, which would be a quorum—a majority of these would be four, and every act to which the concurrence of the Senate and the President is necessary, could be decided by these four. Nay, less than a majority, even one would suffice to enable them to do the most important acts. This, Sir, would be the effect of this Council. The dearest interests of the community would be trusted

to two men. Had this been the case, the loudest clamours would have been raised, with justice, against the Constitution, and these gentlemen would have loaded their own proposition with the most virulent abuse.

On a due consideration of this clause, it appears that this power could not have been lodged as safely any where else as where it is. The honourable gentleman (Mr. M'Dowall) has spoken of a consolidation in this government. That is a very strange inconsistency, when he points out at the same time, the necessity of lodging the power of making treaties, with the Representatives, where the idea of a consolidation can alone exist; and when he objects to placing it in the Senate, where the federal principle is completely preserved. As the Senate represents the sovereignty of the states, whatever might affect the states in their political capacity, ought to be left to them. This is a certain means of preventing a consolidation. How extremely absurd is it to call that disposition of power a consolidation of the states, which must to all eternity prevent it? I have only to add the principle upon which the General Convention went.—That the power of making treaties could no where be so safely lodged as in the President and Senate; and the extreme jealousy subsisting between some of the states, would not admit of it elsewhere. If any man will examine the operation of that jealousy, in his own breast, as a citizen of North-Carolina, he will soon feel the inflexibility that results from it, and perhaps be induced to acknowledge the propriety of this arrangement.

Mr. *M'Dowall* declared that he was of the same opinion as before, and that he believed the observations which the gentleman had made on the apparent inconsistency of his remarks, would have very little weight with the committee. That giving such extensive powers to so few men in the Senate, was extremely dangerous; and that he was not the more reconciled to it from its being brought about by the inflexibility of the small, pitiful states to the north. He supposed, that eight Members in the Senate from those states, with the President, might do the most important acts.

Mr. *Spaight*—Mr. Chairman, The gentleman objects to the smallness of the number, and to their want of responsibility. He argues as if the Senators were never to attend, and as if the northern Senators were to attend more regularly than those from the south. Nothing can be more unreasonable than to suppose, that they will be absent on the most important occasions. What responsibility is there in the present Congress that is not in the Senate? What responsibility is there in our state Legislature? The Senators are as responsible as the Members of our Legislature. It is to be observed, that though the Senators are not impeachable, yet the President is. He may be impeached and punished

for giving his consent to a treaty, whereby the interest of the community is manifestly sacrificed.

Mr. *Spencer*—Mr. Chairman, The worthy gentleman from Halifax [William R. Davie] has endeavoured to obviate my objections against the want of responsibility in the President and Senators, and against the extent of their power. He has not removed my objections. It is totally out of their power to shew any degree of responsibility. The Executive is tried by his advisers. The reasons I urged are so cogent and strong with me, that I cannot approve of this clause. I can see nothing of any weight against them. (Here Mr. Spencer spoke so low that he could not be distinctly heard.) I would not give the President and Senators power to make treaties, because it destroys their responsibility. If a bad treaty be made, and he be impeached for it, the Senate will not pronounce sentence against him, because they advised him to make it. If they had legislative power only, it would be unexceptionable; but when they have the appointment of officers, and such extensive executive powers, it gives them such weight as is inadmissible. Notwithstanding what gentlemen have said in defence of the clause, the influence of the Senate still remains equally formidable to me. The President can do nothing unless they concur with him. In order to obtain their concurrence, he will compromise with them. Had there been such a Council as I mentioned, to advise him, the Senate would not have had such dangerous influence, and the responsibility of the President would have been secured. This seems obviously clear to be the case.

Mr. *Porter*—Mr. Chairman, I only rise to make one observation on what the gentleman [Richard Dobbs Spaight] has said. He told us, that if the Senators were not amenable the President was—I beg leave to ask the gentleman, if it be not inconsistent that they should punish the President, whom they advised themselves to do what he is impeached for. My objection still remains. I cannot find it in the least obviated.

Mr. [*Timothy*] *Bloodworth* desired to be informed whether treaties were not to be submitted to the Parliament in Great-Britain before they were valid.

Mr. *Iredell*—Mr. Chairman, The objections to this clause deserve great consideration. I believe it will be easy to obviate the objections against it, and that it will be found to have been necessary, for the reasons stated by the gentleman from Halifax [William R. Davie], to vest this power in some body composed of Representatives of states, where their voices should be equal: For in this case the sovereignty of the states is particularly concerned; and the great caution of giving the states an equality of suffrage in making treaties, was for the express purpose of taking care of that sovereignty, and attending to their interests, as political bodies, in foreign negotiations. It is objected to as improper,

because if the President or Senate should abuse their trust, there is not sufficient responsibility, since he can only be tried by the Senate, by whose advice he acted; and the Senate cannot be tried at all. I beg leave to observe, that when any man is impeached, it must be for an error of the heart, and not of the head. God forbid, that a man in any country in the world, should be liable to be punished for want of judgment. This is not the case here. As to errors of the heart there is sufficient responsibility. Should these be committed, there is a ready way to bring him to punishment. This is a responsibility which answers every purpose that could be desired by a people jealous of their liberty. I presume that if the President, with the advice of the Senate, should make a treaty with a foreign power, and that treaty should be deemed unwise, or against the interest of the country, yet if nothing could be objected against it but the difference of opinion between them and their constituents, they could not justly be obnoxious to punishment. If they were punishable for exercising their own judgment, and not that of their constituents, no man who regarded his reputation would accept the office either of a Senator or President. Whatever mistake a man may make, he ought not to be punished for it, nor his posterity rendered infamous. But if a man be a villain, and wilfully abuses his trust, he is to be held up as a public offender, and ignominiously punished.

A public officer ought not to act from a principle of fear. Were he punishable for want of judgment, he would be continually in dread. But when he knows that nothing but real guilt can disgrace him, he may do his duty firmly if he be an honest man, and if he be not, a just fear of disgrace, may perhaps, as to the public, have nearly the effect of an intrinsic principle of virtue. According to these principles, I suppose the only instances in which the President would be liable to impeachment, would be where he had received a bribe, or had acted from some corrupt motive or other. If the President had received a bribe without the privity or knowledge of the Senate, from a foreign power, and had, under the influence of that bribe, had address enough with the Senate, by artifices and misrepresentations, to seduce their consent to a pernicious treaty—if it appeared afterwards that this was the case, would not that Senate be as competent to try him as any other persons whatsoever? Would they not exclaim against his villainy? Would they not feel a particular resentment against him for their being made the instrument of his treacherous purposes? In this situation, if any objection could be made against the Senate as a proper tribunal, it might more properly be made by the President himself, lest their resentment should operate too strongly, rather than by the public, on the ground of a supposed partiality. The President must certainly be punishable for

giving false information to the Senate. He is to regulate all intercourse with foreign powers, and it is his duty to impart to the Senate every material intelligence he receives. If it should appear that he has not given them full information, but has concealed important intelligence which he ought to have communicated, and by that means induced them to enter into measures injurious to their country, and which they would not have consented to had the true state of things been disclosed to them—In this case, I ask whether, upon an impeachment for a misdemeanor upon such an account, the Senate would probably favour him? With respect to the impeachability of the Senate, that is a matter of doubt. There have been no instances of impeachment for legislative misdemeanors: And we shall find, upon examination, that the inconveniences resulting from such impeachments, would more than preponderate the advantages. There is no greater honour in the world, than being the representative of a free people—There is no trust on which the happiness of the people has a greater dependence. Yet, whoever heard of impeaching a Member of the Legislature for any legislative misconduct? It would be a great check on the public business, if a Member of the Assembly was liable to punishment for his conduct as such. Unfortunately it is the case, not only in other countries but even in this, that divisions and differences in opinion will continually arise. On many questions, there will be two or more parties. These often judge with little charity of each other, and attribute every opposition to their own system to an ill motive. We know this very well from experience; but, in my opinion, this constant suspicion is frequently unjust. I believe in general, both parties really think themselves right, and that the majority of each commonly act with equal innocence of intention. But, with the usual want of charity in these cases, how dangerous would it be to make a Member of the Legislature liable to impeachment! A mere difference of opinion might be interpreted by the malignity of party, into a deliberate, wicked action. It, therefore, appears to me at least very doubtful, whether it would be proper to render the Senate impeachable at all; especially as in the branches of executive government, where their concurrence is required, the President is the primary agent, and plainly responsible; and they in fact are but a Council to validate proper, or restrain improper, conduct in him.—But if a Senator is impeachable, it could only be for corruption, or some other wicked motive; in which case, surely those Senators who had acted from upright motives, would be competent to try him. Suppose there had been such a Council as was proposed, consisting of thirteen, one from each state, to assist the President in making treaties, &c. more general alarm would have been excited, and stronger opposition made to this

Constitution, than even at present—The power of the President would have appeared more formidable, and the states would have lost one half of their security; since, instead of two Representatives, which each has now for those purposes, they would have had but one. A gentleman from New-Hanover [Timothy Bloodworth] has asked, whether it is not the practice in Great-Britain to submit treaties to Parliament, before they are esteemed valid. The King has the sole authority, by the laws of that country, to make treaties. After treaties are made, they are frequently discussed in the two Houses of Parliament; where, of late years, the most important measures of government have been narrowly examined. It is usual to move for an address of approbation; and such has been the complaisance of Parliament for a long time, that this seldom hath been with-held. Sometimes they pass an act in conformity to the treaty made: But this I believe is not for the mere purpose of confirmation, but to make alterations in a particular system, which the change of circumstances requires. The constitutional power of making treaties is vested in the crown; and the power with whom a treaty is made, considers it as binding without any act of Parliament, unless an alteration by such is provided for in the treaty itself, which I believe is sometimes the case. When the treaty of peace was made in 1763, it contained stipulations for the surrender of some islands to the French. The islands were given up, I believe, without any act of Parliament. The power of making treaties is very important, and must be vested somewhere, in order to counteract the dangerous designs of other countries, and to be able to terminate a war when it is begun. Were it known that our government was weak, two or more European powers might combine against us. Would it not be politic to have some power in this country, to obviate this danger by a treaty? If this power was injudiciously limited, the nations where the power was possessed without restriction, would have greatly the advantage of us in negotiation; and every one must know, according to modern policy, of what moment an advantage in negotiation is. The honourable Member from Anson [Samuel Spencer] said, that the accumulation of all the different branches of power in the Senate, would be dangerous. The experience of other countries shews that this fear is without foundation. What is the Senate of Great-Britain opposed to the House of Commons, although it be composed of an hereditary nobility, of vast fortunes, and entirely independent of the people? Their weight is far inferior to that of the Commons. Here is a strong instance of the accumulation of powers of the different branches of government without producing any inconvenience. That Senate, Sir, is a separate branch of the Legislature, is the great constitutional Council of the Crown, and decides on lives and

fortunes in impeachments, besides being the ultimate tribunal for trying controversies respecting private rights. Would it not appear that all these things should render them more formidable than the other House? Yet the Commons have generally been able to carry every thing before them. The circumstance of their representing the great body of the people, alone gives them great weight. This weight has great authority added to it, by their possessing the right (a right given to the people's Representatives in Congress) of exclusively originating money bills. The authority over money will do every thing. A government cannot be supported without money. Our Representatives may at any time compel the Senate to agree to a reasonable measure, by with-holding supplies till the measure is consented to. There was a great debate in the Convention, whether the Senate should have an equal power of originating money bills. It was strongly insisted by some that they should; but at length a majority thought it unadviseable, and the clause was passed as it now stands. I have reason to believe our own Representatives had a great share in establishing this excellent regulation,¹¹ and in my opinion they deserve the public thanks for it. It has been objected, that this power must necessarily injure the people, inasmuch as a bare majority of the Senate might alone be assembled, and eight would be sufficient for a decision. This is on a supposition that many of the Senators would neglect attending. It is to be hoped that the gentlemen who will be honored with seats in Congress, will faithfully execute their trust, as well in attending as in every other part of their duty. An objection of this sort, will go against all government whatever. Possible abuse and neglect of attendance, are objections which may be urged against any government which the wisdom of man is able to construct. When it is known of how much importance attendance is, no Senator would dare to incur the universal resentment of his fellow-citizens, by grossly absenting himself from his duty. Do gentlemen mean that it ought to have been provided by the Constitution, that the whole body should attend before particular business was done? Then it would be in the power of a few men, by neglecting to attend, to obstruct the public business, and possibly bring on the destruction of their country. If this power be improperly vested, it is incumbent on gentlemen to tell us in what body it could be more safely and properly lodged. I believe, on a serious consideration, it will be found that it was necessary, for the reasons mentioned by the gentleman from Halifax [William R. Davie], to vest the power in the Senate or in some other body representing equally the sovereignty of the states, and that the power, as given in the Constitution, is not likely to be attended with the evils which some gentlemen apprehend. The only real security of liberty in

any country, is the jealousy and circumspection of the people themselves. Let them be watchful over their rulers. Should they find a combination against their liberties, and all other methods appear insufficient to preserve them, they have, thank God, an ultimate remedy. That power which created the government, can destroy it. Should the government, on trial, be found to want amendments, those amendments can be made in a regular method, in a mode prescribed by the Constitution itself. Massachusetts, South-Carolina, New-Hampshire, and Virginia, have all proposed amendments; but they all concurred in the necessity of an immediate adoption. A constitutional mode of altering the Constitution itself, is perhaps, what has never been known among mankind before.¹² We have this security, in addition to the natural watchfulness of the people, which I hope will never be found wanting. The objections I have answered, deserved all possible attention, and for my part I shall always respect that jealousy which arises from the love of public liberty.

Mr. *Spencer*—Mr. Chairman, I think that no argument can be used to shew that this power is proper. If the whole legislative body—if the House of Representatives do not interfere in making treaties, I think they ought at least to have the sanction of the whole Senate. The worthy gentleman last up [James Iredell], has mentioned two cases wherein he supposes that impeachments will be fairly tried by the Senators. He supposes a case where the President had been guilty of corruption, and by that means had brought over and got the sanction of two-thirds of the Senators, and that if it should be afterwards found that he brought them over by artifices, that they would be a proper body to try him. As they will be ready to throw the odium off their own shoulders on him, they may pronounce sentence against him. He mentions another case, where, if a majority was obtained by bribing some of the Senators, that those who were innocent might try those who were guilty. I think that these cases will happen but rarely in comparison to other cases, where the Senators may advise the president to deviate from his duty, and where a majority of them may be guilty. And should they be tried by their own body when thus guilty, does not every body see the impropriety of it? It is universally disgraceful, odious, and contemptible to have a trial where the Judges are accessory [i.e., accessory] to the misdemeanor of the accused. Whether the accusation against him be true or not, if afraid for themselves, they will endeavour to throw the odium upon him. There is an extreme difference between the case of trying this officer and that of trying their own Members. They are so different that I consider they will always acquit their own Members, and if they condemn the President, it will be to exonerate themselves. It appears

to me, that the powers are too extensive, and not sufficiently guarded. I do not wish that an aristocracy should be instituted. An aristocracy may arise out of this government, though the Members be not hereditary. I would therefore wish that every guard should be placed, in order to prevent it. I wish gentlemen would reflect that the powers of the Senate are so great in their legislative and judicial capacities, that when added to their executive powers, particularly their interference in the appointment of all officers in the continent, that they will render their power so enormous as to enable them to destroy our rights and privileges. This, Sir, ought to be strictly guarded against.

Mr. *Iredell*—Mr. Chairman, The honourable gentleman [Samuel Spencer] must be mistaken. He suggests that an aristocracy will arise out of this government. Is there any thing like an aristocracy in this government? This insinuation is uncandidly calculated to alarm and catch prejudices. In this government there is not the least symptom of an aristocracy, which is, where the government is in a select body of men entirely independent of the people; as for instance, an hereditary nobility, or a Senate for life filling up vacancies by their own authority. Will any Member of this government hold his station by any such tenure? Will not all authority flow, in every instance, directly or indirectly from the people? It is contended by that gentleman [Samuel Spencer], that the addition of the power of making treaties, to their other powers, will make the Senate dangerous: That they would be even dangerous to the Representatives of the people. The gentleman has not proved this in theory. Whence will he adduce an example to prove it? What passes in England, directly disproves his assertion. In that country the Representatives of the people are chosen under undue influence; frequently by direct bribery and corruption. They are elected for seven years, and many of the Members hold offices under the crown, some during pleasure, others for life. They are also not a genuine representation of the people, but, from a change of circumstances, a mere shadow of it. Yet under these disadvantages, they having the sole power of originating money bills, it has been found that the power of the King and Lords is much less considerable than theirs. The high prerogatives of the King, and the great power and wealth of the Lords, have been more than once mentioned in the course of the debates. If under such circumstances, such Representatives, mere shadows of Representatives, by having the power of the purse, and the sacred name of the people to rely upon, are an over match for the King and Lords, who have such great hereditary qualifications, we may safely conclude that our own Representatives, who will be a genuine representation of the people, and have equally the right of originating money bills, will

at least be a match for the Senate, possessing qualifications so inferior to those of the House of Lords in England. It seems to be forgotten that the Senate is placed there for a very valuable purpose—as a guard against any attempt of consolidation. The Members of the Convention were as much averse to consolidation as any gentleman on this floor; but without this institution (I mean the Senate, where the suffrages of the states are equal) the danger would be greater. There ought to be some power given to the Senate to counteract the influence of the people by their biennial representation in the other House, in order to preserve completely the sovereignty of the states. If the people through the medium of their Representatives possessed a share in making treaties and appointing officers, would there not be a greater balance of power in the House of Representatives than such a government ought to possess? It is true that it would be very improper if the Senate had authority to prevent the House of Representatives from protecting the people. It would be equally so, if the House of Representatives were able to prevent the Senate from protecting the sovereignty of the states—it is probable that either House would have sufficient authority to prevent much mischief. As to the suggestion of a tendency to aristocracy, it is totally groundless. I disdain every principle of aristocracy. There is not a shadow of an aristocratical principle in this government. The President is only chosen for four years—liable to be impeached—and dependent on the people at large for his re-election. Can this mode of appointment be said to have an aristocratical principle in it? The Senate is chosen by the Legislatures. Let us consider the example of other states, with respect to the construction of their Senate. In this point most of them differ; though they almost all concur in this, that the term of election for Senators is longer than that for Representatives. The reason of this is, to introduce stability into the laws, and to prevent that mutability which would result from annual elections of both branches. In New-York they are chosen for three years. In Virginia they are chosen for four years; and in Maryland they are chosen for five years. In this Constitution, although they are chosen for six years, one-third go out every second year (a method pursued in some of the state Constitutions) which at the same time secures stability to the laws, and a due dependence on the state Legislatures. Will any man say that there are any aristocratical principles in a body who have no power independent of the people, and whereof one-third of the Members are chosen every second year, by a wise and select body of Electors? I hope, therefore, that it will not be considered that there are any aristocratical principles in this government, and that it will be given up as a point not to be contended for. The gentleman contends that a Council ought to

be instituted in this case. One objection ought to be compared with another. It has been objected against the Constitution, that it will be productive of great expence. Had there been a Council, it would have been objected, that it was calculated for creating new offices and increasing the means of undue influence. Though *he* approves of a Council, *others* would not. As to offices, the Senate has no other influence but a restraint on improper appointments. The President proposes such a man for such an office—The Senate has to consider upon it—If they think him improper, the President must nominate another, whose appointment ultimately again depends upon the Senate. Suppose a man [be] nominated by the President, with what face would any Senator object to him without a good reason? There must be some decorum in every public body. He would not say, “I do not choose this man, because a friend of mine wants the office.” Were he to object to the nomination of the President, without assigning any reason, his conduct would be reprobated, and still might not answer his purpose. Were an office to be vacant, for which an hundred men on the continent were equally well qualified, there would be an hundred chances to one, whether his friend would be nominated to it. This in effect, is but a restriction on the President. The power of the Senate would be more likely to be abused were it vested in a Council of Thirteen, of which there would be one from each state. One man could be more easily influenced than two. We have therefore a double security. I am firmly of opinion, that if you take all the powers of the President and Senate together, the vast influence of the Representatives of the people, will preponderate against them in every case where the public good is really concerned.

Mr. *Bloodworth*—Mr. Chairman, I confess I am sorry to take up any time; I beg leave to make a few observations, for it would be an Herculean task, and disagreeable to this committee, to mention every thing. It has indeed been objected and urged, that the responsibility of the Senate was not sufficient to secure the states. When we consider the length of the term for which they are elected, and the extent of their powers, we must be persuaded that there is no real security. A gentleman has said that the Assembly of North-Carolina are rogues.¹³ It is then probable that they may be corrupted. In this case we have not a sufficient check on those gentlemen who are gone six years. A parallel is drawn between them and the Members of our Assembly; but if you reflect a moment, you will find that the comparison is not good. There is a responsibility in the Members of the Assembly, at the end of a year they are liable to be turned out. This is not the case with the Senators. I beg gentlemen to consider the extreme difference between the two

cases. Much is said about treaties. I do not dread this so much as what will arise from the jarring interests of the eastern, southern, and the middle states. They are different in soil, climate, customs, produce and every thing. Regulations will be made evidently to the disadvantage of some part of the community, and most probably to ours. I will not take up more of the time of the committee.

Third clause of the second section of the second article read.

Mr. *Maclaine*—It has been objected to this part, that the power of appointing officers was something like a monarchical power. Congress are not to be sitting at all times; they will only sit from time to time as the public business may render it necessary. Therefore the Executive ought to make temporary appointments, as well as receive Ambassadors and other Public Ministers. This power can be vested no where but in the Executive, because he is perpetually acting for the public. For though the Senate is to advise him in the appointment of officers, &c. yet, during their recess, the President must do this business or else it will be neglected, and such neglect may occasion public inconveniences. But there is an objection made to another part, that has not yet been read. His power of adjourning both Houses when they disagree, has been by some people construed to extend to any length of time. If gentlemen look at another part of the Constitution, they will find that there is a positive injunction that the Congress must meet at *least once* in every year: So that he cannot, were he so inclined, prevent their meeting within a year. One of the best provisions contained in it is, that he shall commission all officers of the United States, and shall take care that the laws be faithfully executed. If he takes care to see the laws faithfully executed, it will be more than is done in any government on the continent, for I will venture to say that our government, and those of the other states, are, with respect to the execution of the laws, in many respects, mere cyphers.

Rest of the article read without any observations.

Article third, first and second sections read.

Mr. *Spencer*—Mr. Chairman, I have objections to this article. I object to the exclusive jurisdiction of the Federal Court in all cases of law and equity arising under the Constitution and the laws of the United States, and to the appellate jurisdiction of controversies between the citizens of different states, and a few other instances. To these I object because I believe they will be oppressive in their operation. I would wish that the Federal Court should not interfere or have any thing to do with controversies, to the decision of which the state judiciaries might be fully competent, nor with such controversies as must carry the people a great way from home. With respect to the jurisdiction of cases arising

under the Constitution, when we reflect on the very extensive objects of the plan of government—the manner in which they may arise—and the multiplicity of laws that may be made with respect to them, the objection against it will appear to be well founded. If we consider nothing but the articles of taxation, duties, and excises, and the laws that might be made with respect to these, the cases will be almost infinite. If we consider that it is in contemplation that a stamp duty shall take place throughout the continent; that all contracts shall be on stamp paper; that no contracts should be of validity but what would be thus stamped; these cases will be so many that the consequences would be dreadful. It would be necessary to appoint Judges to the Federal Supreme Court, and other inferior departments, and such a number of inferior courts in every district and county, with a correspondent number of officers, that it would cost an immense expence without any apparent necessity; which must operate to the distress of the inhabitants.—There will be, without any manner of doubt, clashings and animosities between the jurisdiction of the Federal Courts and of the state courts, so that they will keep the country in hot water. It has been said that the impropriety of this was mentioned by some in the Convention. I cannot see the reasons of giving the Federal Courts jurisdiction in these cases, but I am sure it will occasion great expence unnecessarily. The state judiciaries will have very little to do. It will be almost useless to keep them up. As all officers are to take an oath to support the general government, it will carry every thing before it. This will produce that consolidation through the United States which is apprehended. I am sure that I do not see that it is possible to avoid it. I can see no power that can keep up the little remains of the power of the states. Our rights are not guarded. There is no declaration of rights, to secure to every member of the society those unalienable rights which ought not to be given up to any government. Such a bill of rights would be a check upon men in power. Instead of such a bill of rights, this Constitution has a clause, which may warrant encroachments on the power of the respective state Legislatures.¹⁴ I know it is said that what is not given up to the United States will be retained by the individual states.¹⁵ I know it ought to be so, and should be so understood; but, Sir, it is not *declared* to be so. In the confederation it is expressly declared that all rights and powers, of any kind whatever, of the several states, which are not given up to the United States, are expressly and absolutely retained to be enjoyed by the states.¹⁶ There ought to be a bill of rights, in order that those in power may not step over the boundary between the powers of government and the rights of the people, which they may do, when there is nothing to prevent them. They may

do so without a bill of rights; notice will not be readily taken of the encroachments of rulers, and they may go a great length, before the people are alarmed. Oppressions may therefore take place by degrees, but if there were express terms and bounds laid down, when these were passed by, the people would take notice of them, and oppressions would not be carried on to such a length. I look upon it therefore that there ought to be something to confine the power of this government within its proper boundaries. I know that several writers have said that a bill of rights is not necessary in this country;¹⁷ that some states had them not, and that others had. To these I answer, that those states that have them not as bills of right, strictly so called, have them in the frame of their constitution, which is nearly the same.

There has been a comparison made of our situation with Great-Britain. We have no crown or prerogative of a King like the British Constitution. I take it, that the subject has been misunderstood. In Great-Britain, when the King attempts to usurp the rights of the people, the declaration and bill of rights are a guard against him. A bill of rights would be necessary here to guard against our rulers. I wish to have a bill of rights, to secure those unalienable rights, which are called by some respectable writers the *residuum* of human rights,¹⁸ which are never to be given up. At the same time that it would give security to individuals, it would add to the general strength. It might not be so necessary to have a bill of rights in the government of the United States, if such means had not been made use of, as endanger a consolidation of all the states; but at any event it would be proper to have one, because though it might not be of any other service, it would at least satisfy the minds of the people. It would keep the states from being swallowed up by a consolidated government. For the reasons I before gave, I think that the jurisdiction of the Federal Court, with respect to all cases in law and equity, and the laws of Congress, and the appeals in all cases between citizens of different states, &c. is inadmissible. I do not see the necessity that it should be vested with the cognizance of all these matters. I am desirous, and have no objection to their having one Supreme Federal Court for general matters; but if the Federal courts have cognizance of those subjects which I mentioned, very great oppressions may arise. Nothing can be more oppressive than the cognizance with respect to controversies between citizens of different states. In all cases of appeal, those persons who are able to pay, had better pay down in the first instance, though it be unjust, than be at such a dreadful expence, by going such a distance to the Supreme Federal Court. Some of the most respectable states have proposed by way of amendment, to strike out a great part of these two clauses.¹⁹ If they be admitted as they

are, it will render the country entirely unhappy. On the contrary, I see no inconvenience from reducing the power as has been proposed. I am of opinion that it is inconsistent with the happiness of the people to admit these two clauses. The state Courts are sufficient to decide the common controversies of the people, without distressing them by carrying them to such far distant tribunals. If I did not consider these two clauses to be dangerous, I should not object to them. I mean not to object to any thing that is not absolutely necessary. I wish to be candid, and not be prejudiced or warped.

Mr. *Spaight*—Mr. Chairman, The gentleman [Samuel Spencer] insinuates that differences existed in the Federal Convention respecting the clauses which he objects to. Whoever told him so was wrong, for I declare, that in that Convention, the unanimous desire of all, was to keep separate and distinct the objects of the jurisdiction of the federal from that of the state judiciary. They wished to separate them as judiciously as possible, and to consult the ease and convenience of the people. The gentleman objects to the cognizance of all cases in law and equity arising under the Constitution and the laws of the United States. This objection is very astonishing. When any government is established, it ought to have power to enforce its laws, or else it might as well have no power. What but that is the use of a Judiciary? The gentleman, from his profession,²⁰ must know that no government can exist without a Judiciary to enforce its laws, by distinguishing the disobedient from the rest of the people, and imposing sanctions for securing the execution of the laws. As to the inconvenience of distant attendance, Congress has power of establishing inferior tribunals in each state, so as to accommodate every citizen. As Congress have it in their power will they not do it? Are we to elect men who will wantonly and unnecessarily betray us?

Mr. *Maclaine*—Mr. Chairman, I hoped that some gentleman more capable than myself, would have obviated the objections to this part. The objections offered by the gentleman [Samuel Spencer], appear to me totally without foundation. He told us that these clauses tended to a consolidation of the states. I cannot see how the states are to be consolidated by establishing these two clauses. He enumerated a number of cases which would be involved within the cognizance of the Federal Courts; customs, excises, duties, stamp duties, a stamp on every article, on every contract, in order to bring all persons into the Federal Court; and said that there would be necessarily courts in every district and county, which would be attended with enormous and needless expence, for that the state courts could do every thing. He went on further, and said that there would be a necessity of having sheriffs and other

officers in these inferior departments. A wonderful picture indeed, drawn up in a wonderful manner! I will venture to say that the gentleman's suggestions are not warranted by any reasonable construction of the Constitution. The laws can, in general, be executed by the officers of the states. State courts and state officers will, for the most part, probably answer the purpose of Congress as well as any other. But the gentleman says that the state courts will be swallowed up by the Federal Courts. This is only a general assertion, unsupported by any probable reasons or arguments. The objects of each are separate and distinct. I suppose that whatever courts there may be, they will be established according to the convenience of the people. This we must suppose from the mode of electing and appointing the Members of the government. State officers will as much as possible be employed, for one very considerable reason, I mean to lessen the expence. But he imagines that the oath to be taken by officers, will tend to the subversion of our state governments and of our liberty. Can any government exist without fidelity in its officers? Ought not the officers of every government to give some security for the faithful discharge of their trust? The officers are only to be sworn to support the Constitution, and therefore will only be bound by their oath so far as it shall be strictly pursued. No officer will be bound by his oath to support any act that would violate the principles of the Constitution.

The gentleman has wandered out of his way, to tell us what has so often been said out of doors; that there is no declaration of rights, that consequently all our rights are taken away. It would be very extraordinary to have a bill of rights, because the powers of Congress are expressly defined, and the very definition of them is as valid and efficacious a check as a bill of rights could be, without the dangerous implication of a bill of rights.²¹ The powers of Congress are limited and enumerated. We say we have given them those powers, but we do not say we have given them more. We retain all those rights which we have not given away to the general government. The gentleman is a professional man. If a gentleman had made his last will and testament, and devised or bequeathed to a particular person the sixth part of his property, or any particular specific legacy, could it be said that that person should have the whole estate? If they can assume powers not enumerated, there was no occasion for enumerating any powers. The gentleman is learned: Without recurring to his learning, he may only appeal to common sense, it will inform him, that if we had all power before, and give away but a part, we still retain the rest. It is as plain a thing as possibly can be, that Congress can have no power but what we expressly give them. There is an express clause, which, however disingenuously it has

been perverted from its true meaning, clearly demonstrates that they are confined to those powers which are given them.²² This clause enables them 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 any department or officers thereof. This clause specifies that they shall make laws to carry into execution, *all the powers vested*²³ by this Constitution, consequently they can make no laws to execute any other power. This clause gives no new power, but declares that those already given are to be executed by proper laws. I hope this will satisfy gentlemen.

Governor *Johnston*—Mr. Chairman, The learned member from Anson [Samuel Spencer] says, that the Federal Courts have exclusive jurisdiction of all cases in law and equity arising under the Constitution and the laws of the United States. The opinion which I have always entertained is, that they will in these cases, as well as in several others, have concurrent jurisdiction with the state Courts, and not exclusive jurisdiction. I see nothing in this Constitution which hinders a man from bringing suit wherever he thinks he can have justice done him. The jurisdiction of these courts is established for some purposes with which the state courts have nothing to do, and the Constitution takes no power from the state courts which they now have. They will have the same business which they have now, and if so, they will have enough to employ their time. We know that the gentlemen who preside in our Superior Courts, have more business than they can determine. Their complicated jurisdiction, and the great extent of country, occasions them a vast deal of business. The addition of the business of the United States would be no manner of advantage to them. It is obvious to every one, that there ought to be one Supreme Court for national purposes. But the gentleman says that a bill of rights was necessary. It appears to me, Sir, that it would have been the highest absurdity to undertake to define what rights the people of the United States were entitled to: For that would be as much as to say, they were entitled to nothing else. A bill of rights may be necessary in a monarchical government, whose powers are undefined. Were we in the situation of a monarchical country? No, Sir. Every right could not be enumerated, and the omitted rights would be sacrificed, if security arose from an enumeration.²⁴ The Congress cannot assume any other powers than those expressly given them, without a palpable violation of the Constitution. Such objections as this, I hope will have no effect on the minds of any Members in this House. When gentlemen object generally, that it tends to consolidate the states and destroy the state Judiciaries, they ought to be explicit,

and explain their meaning. They make use of contradictory arguments. The Senate represents the states, and can alone prevent this dreaded consolidation: Yet the powers of the Senate are objected to. The rights of the people, in my opinion, cannot be affected by the Federal Courts. I do not know how inferior courts will be regulated. Some suppose the state courts will have this business. Others have imagined that the continent would be divided into a number of districts, where courts would be held so as to suit the convenience of the people. Whether this or some other mode will be appointed by Congress, I know not, but this I am sure of, that the state judiciaries are not divested of their present judicial cognizance, and that we have every security that our ease and convenience will be consulted. Unless Congress had this power, their laws could not be carried into execution.

Mr. *Bloodworth*—Mr. Chairman, The worthy gentleman up last [Samuel Johnston], has given me information on the subject, which I had never heard before. Hearing so many opinions, I did not know which was right. The honorable gentleman has said that the state courts and the Courts of the United States, would have concurrent jurisdiction. I beg the committee to reflect what would be the consequences of such measures. It has ever been considered that the trial by jury was one of the greatest rights of the people. I ask whether, if such causes go into the Federal Court, the trial by jury is not cut off, and whether there is any security that we shall have justice done us. I ask if there be any security that we shall have juries in civil causes. In criminal cases there are to be juries, but there is no provision made for having civil causes tried by jury. This concurrent jurisdiction is inconsistent with the security of that great right. If it be not, I would wish to hear how it is secured. I have listened with attention to what the learned gentlemen have said, and have endeavoured to see whether their arguments had any weight, but I found none in them. Many words have been spoken, and long time taken up, but with me they have gone in at one ear and out at the other. It would give me much pleasure to hear that the trial by jury was secured.

Mr. *J. M'Dowall*—Mr. Chairman, The objections to this part of the Constitution have not been answered to my satisfaction yet. We know that the trial by a jury of the vicinage, is one of the greatest securities for property. If causes are to be decided at such a great distance, the poor will be oppressed; in land affairs particularly, the wealthy suitor will prevail. A poor man, who has a just claim on a piece of land, has not substance to stand it. Can it be supposed that any man, of common circumstances, can stand the expence and trouble of going from Georgia to Philadelphia, there to have a suit tried? And can it be justly

determined without the benefit of a trial by jury? These are things which have justly alarmed the people. What made the people revolt from Great-Britain? The trial by jury, that great safeguard of liberty, was taken away, and a stamp duty was laid upon them.²⁵ This alarmed them, and led them to fear that greater oppressions would take place. We then resisted. It involved us in a war, and caused us to relinquish a government which made us happy in every thing else. The war was very bloody, but we got our independence. We are now giving away our dear bought rights. We ought to consider what we are about to do before we determine.

Mr. *Spaight*—Mr. Chairman, The trial by jury was not forgotten in the Convention; the subject took up a considerable time to investigate it. It was impossible to make any one uniform regulation for all the states, or that would include all cases where it would be necessary. It was impossible, by one expression, to embrace the whole. There are a number of equity and maritime cases in some of the states, in which jury trials are not used. Had the Convention said, that all causes should be tried by a jury, equity and maritime cases would have been included. It was therefore left to the Legislature to say in what cases it should be used; and as the trial by jury is in full force in the state courts, we have the fullest security.

Mr. *Iredell*—Mr. Chairman, I have waited a considerable time, in hopes that some other gentleman would fully discuss this point. I conceive it to be my duty to speak on every subject, whereon I think I can throw any light, and it appears to me that some things ought to be said which no gentleman has yet mentioned. The gentleman from New-Hanover [Timothy Bloodworth] said, that our arguments went in at one ear and out at the other. This sort of language, on so solemn and important an occasion, gives me pain. (Mr. *Bloodworth* here declared, that he did not mean to convey any disrespectful idea by such an expression—that he did not mean an absolute neglect of their arguments, but that they were not sufficient to convince him—that he should be sorry to give pain to any gentleman—that he had listened, and still would listen with attention to what would be said. Mr. *Iredell* then continued.) I am by no means surprised at the anxiety which is expressed by gentlemen on this subject. Of all the trials that ever were instituted in the world, this, in my opinion, is the best, and that which I hope will continue the longest. If the gentlemen who composed the Convention had designedly omitted it, no man would be more ready to condemn their conduct than myself. But I have been told, that the omission of it arose from the difficulty of establishing one uniform unexceptionable mode; this mode of trial being different in many particulars in the several

states. Gentlemen will be pleased to consider, that there is a material difference between an article fixed in the constitution, and a regulation by law. An article in the constitution, however inconvenient it may prove by experience, can only be altered by altering the Constitution itself, which manifestly is a thing that ought not to be done often. When regulated by law, it can easily be occasionally altered, so as best to suit the conveniences of the people. Had there been an article in the Constitution taking away that trial, it would justly have excited the public indignation. It is not taken away by the Constitution. Though that does not provide expressly for a trial by jury in civil cases, it does not say that there shall not be such a trial. The reasons of the omission have been mentioned by a Member of the late General Convention, (Mr. Spaight). There are different practices in regard to this trial in different states. In some cases they have no juries in admiralty and equity cases; in others they have juries in these cases, as well as in suits at common law. I beg leave to say, that if any gentleman of ability, and knowledge of the subject, will only endeavour to fix upon any one rule, that would be pleasing to all the states under the impression of their present different habits, he will be convinced that it is impracticable. If the practice of any particular state had been adopted, others probably, whose practice had been different, would have been discontented. This is a consequence that naturally would have ensued, had the provision been made in the Constitution itself. But when the regulation is to be by law, as that law when found injudicious can be easily repealed, a majority may be expected to agree upon some method, since some method or other must be first tried, and there is a greater chance of the favourite method of one state being in time preferred. It is not to be presumed, that the Congress would dare to deprive the people of this valuable privilege. Their own interest will operate as an additional guard, as none of them could tell how soon they might have occasion for such a trial themselves. The greatest danger from ambition is in criminal cases. But here they have no option. The trial must be by jury in the state wherein the offence is committed, and the writ of *habeas corpus* will in the mean time secure the citizen against arbitrary imprisonment, which has been the principal source of tyranny in all ages.

As to the clause respecting cases arising under the Constitution and the laws of the union, which the honourable Member [Samuel Spencer] objected to, it must be observed, that laws are useless unless they are executed. At present Congress have powers which they cannot execute. After making laws which affect the dearest interests of the people, in the constitutional mode, they have no way of enforcing them. The situation of those gentlemen who have lately served in Congress must

have been very disagreeable. Congress have power to enter into negotiations with foreign nations, but cannot compel the observance of treaties that they make. They have been much distressed by their inability to pay the pressing demands of the public creditors. They have been reduced so low as to borrow principal to pay interest. Such are the unfortunate consequences of this unhappy situation! These are the effects of the pernicious mode of requisitions. Has any state fully paid its quota? I believe not, Sir. Yet I am far from thinking that this has been owing altogether to an unwillingness to pay the debts. It may have been in some instances the case, but I believe not in all. Our state Legislature has no way of raising any considerable sum but by laying direct taxes. Other states have imports of consequence. These may afford them a considerable relief, but our state perhaps could not have raised its full quota by direct taxes, without imposing burthens too heavy for the people to bear. Suppose in this situation, Congress had proceeded to enforce their requisitions, by sending an army to collect them; what would have been the consequence? *Civil war*; in which the innocent must have suffered with the guilty. Those who were willing to pay, would have been equally distressed with those who were unwilling. Requisitions thus having failed of their purpose, it is proposed by this Constitution, that instead of collecting taxes by the sword, application shall be made by the government to the individual citizens. If any individual disobeys, the courts of justice can give immediate relief. This is the only natural and effectual method of enforcing laws. As to the danger of concurrent jurisdictions, has any inconvenience resulted from the concurrent jurisdictions, in sundry cases, of the superior and county courts of this state? The inconvenience of attending at a great distance, which has been so much objected to, is one which would be so general, that there is no doubt but that a majority would always feel themselves and their constituents personally interested in preventing it. I have no doubt, therefore, that proper care will be taken to lessen this evil as much as possible, and in particular, that an appeal to the Supreme Court will not be allowed, but in cases of great importance, where the object may be adequate to the expence. The Supreme Court may possibly be directed to sit alternately in different parts of the union.

The propriety of having a Supreme Court in every government, must be obvious to every man of reflection. There can be no other way of securing the administration of justice uniformly in the several states. There might be otherwise as many different adjudications on the same subject, as there are states. It is to be hoped, that if this government be established, connexions still more intimate than the present, will

subsist between the different states. The same measure of justice therefore, as to the objects of their common concern, ought to prevail in all. A man in North-Carolina for instance, if he owed £.100 here, and was compellable to pay it in good money, ought to have the means of recovering the same sum, if due to him, in Rhode-Island, and not merely the nominal sum, at about an eighth or tenth part of its intrinsic value. To obviate such a grievance as this, the Constitution has provided a tribunal to administer equal justice to all.

A gentleman [Joseph M'Dowall] has said, that the stamp-act, and the taking away of the trial by jury, were the principal causes of resistance to Great-Britain, and seemed to infer, that opposition would therefore be justified to this part of the system. The stamp-act was much earlier than the immediate cause of our independence. But what was the great ground of opposition to the stamp-act? Surely it was, because the act was not passed by our own Representatives, but by those of Great-Britain. Under this Constitution, taxes are to be imposed by our own Representatives in the General Congress. The fewness of their number will be compensated by the weight and importance of their characters. Our Representatives will be in proportion to those of the other states. This case is certainly not like that of taxation by a foreign Legislature. In respect to the trial by jury, its being taken away in certain cases, was to be sure one of the causes assigned in the declaration of independence.²⁶ But that was done by a foreign Legislature, which might continue it so forever, and therefore jealousy was justly excited. But this Constitution has not taken it away, and it is left to the discretion of our own Legislature, to act in this respect, as their wisdom shall direct. In Great-Britain the people speak of the trial by jury with admiration. No Monarch or Minister, however arbitrary in his principles, would dare to attack that noble palladium of liberty. The enthusiasm of the people in its favour would in such a case produce general resistance. That trial remains unimpaired there, although they have a considerable standing army, and their Parliament has authority to abolish it if they please. But woe be to those who should attempt it! If it be secure in that country, under these circumstances, can we believe that Congress either would or could take it away in this? Were they to attempt it, their authority would be instantly resisted. They would draw down on themselves the resentment and detestation of the people. They and their families, so long as any remained in being, would be held in eternal infamy, and the attempt prove as unsuccessful as it was wicked.

With regard to a bill of rights, this is a notion originating in England, where no written Constitution is to be found, and the authority of their

government is derived from the most remote antiquity. Magna Charta itself is no Constitution, but a solemn instrument ascertaining certain rights of individuals, by the Legislature for the time being, and every article of which the Legislature may at any time alter. This, and a bill of rights also,²⁷ the invention of later times, were occasioned by great usurpations of the crown, contrary, as was conceived, to the principles of their government, about which there was a variety of opinions. But neither that instrument or any other instrument ever attempted to abridge the authority of Parliament, which is supposed to be without any limitation whatever.²⁸ Had their Constitution been fixed and certain, a bill of rights would have been useless, for the Constitution would have shewn plainly the extent of that authority which they were disputing about. Of what use therefore can a bill of rights be in this Constitution, where the people expressly declare how much power they do give, and consequently retain all they do not?²⁹ It is a declaration of particular powers by the people to their Representatives for particular purposes. It may be considered as a great power of attorney, under which no power can be exercised but what is expressly given. Did any man ever hear before that at the end of a power of attorney it was said, that the Attorney should not exercise more power than was there given him? Suppose for instance a man had lands in the counties of Anson and Caswell, and he should give another a power of attorney to sell his lands in Anson; would the other have any authority to sell the lands in Caswell? or could he without absurdity say, "'Tis true you have not expressly authorised me to sell the lands in Caswell, but as you had lands there, and did not say I should not, I thought I might as well sell those lands as the other." A bill of rights, as I conceive, would not only be incongruous, but dangerous. No man, let his ingenuity be what it will, could enumerate all the individual rights not relinquished by this Constitution. Suppose therefore an enumeration of a great many, but an omission of some, and that long after all traces of our present disputes were at an end, any of the omitted rights should be invaded, and the invasion be complained of; what would be the plausible answer of the government to such a complaint? Would they not naturally say, "We live at a great distance from the time when this Constitution was established. We can judge of it much better by the ideas of it entertained at the time, than by any ideas of our own. The bill of rights passed at that time, shewed that the people did not think every power retained which was not given, else this bill of rights was not only useless, but absurd. But we are not at liberty to charge an absurdity upon our ancestors, who have given such strong proofs of their good sense, as well as their attachment to liberty. So long as the rights enumerated in the bill of

rights remain unviolated, you have no reason to complain. This is not one of them." Thus a bill of rights might operate as a snare, rather than a protection. If we had formed a General Legislature, with undefined powers, a bill of rights would not only have been proper, but necessary; and it would have then operated as an exception to the legislative authority in such particulars. It has this effect in respect to some of the American Constitutions, where the powers of legislation are general. But where they are powers of a particular nature, and expressly defined, as in the case of the Constitution before us, I think, for the reasons I have given, a bill of rights is not only unnecessary, but would be absurd and dangerous.

Mr. *J. M'Dowall*—Mr. Chairman, The learned gentleman [James Iredell] made use of several arguments to induce us to believe, that the trial by jury in civil cases was not in danger, and observed, that in criminal cases it is provided, that the trial is to be in the state where the crime was committed. Suppose a crime is committed at the Mississippi—the man may be tried at Edenton. They ought to be tried by the people of the vicinage; for when the trial is at such an immense distance, the principal privilege attending the trial by jury is taken away: Therefore the trial ought to be limited to a district or certain part of the state. It has been said by the gentleman from Edenton [James Iredell], that our Representatives will have virtue and wisdom to regulate all these things. But it would give me much satisfaction, in a matter of this importance, to see it absolutely secured. The depravity of mankind militates against such a degree of confidence. I wish to see every thing fixed.

Governor *Johnston*—Mr. Chairman, The observations of the gentleman last up, confirm what the other gentleman [James Iredell] said. I mean, that as there are dissimilar modes with respect to the trial by jury in different states, there could be no general rule fixed to accommodate all. He says that this clause is defective, because the trial is not to be by a jury of the vicinage. Let us look at the state of Virginia, where, as long as I have known it, the laws have been executed so as to satisfy the inhabitants, and I believe as well as in any part of the union. In that country juries are summoned every day from the bystanders. We may expect less partiality, when the trial is by strangers; and were I to be tried for my property or life, I would rather be tried by disinterested men, who were not biassed, than by men who were perhaps intimate friends of my opponent. Our mode is different from theirs, but whether theirs be better than ours or not, is not the question. It would be improper for our Delegates to impose our mode upon

them, or for theirs to impose their mode upon us. The trial will probably be in each state as it has been hitherto used in such state, or otherwise regulated as conveniently as possible for the people. The Delegates who are to meet in Congress will, I hope, be men of virtue and wisdom. If not, it will be our own fault. They will have it in their power to make necessary regulations to accommodate the inhabitants of each state. In the Constitution, the general principles only are laid down. It will be the object of the future legislation of Congress, to make such laws as will be most convenient for the people. With regard to a bill of rights so much spoken of, what the gentleman from Edenton [James Iredell] has said, I hope will obviate the objections against the want of it. In a monarchy, all power may be supposed to be vested in the Monarch, except what may be reserved by a bill of rights. In England, in every instance where the rights of the people are not declared, the prerogative of the King is supposed to extend. But in this country we say, that what rights we do not give away remain with us.

Mr. *Bloodworth*—Mr. Chairman, The footing on which the trial by jury is in the Constitution, does not satisfy me. Perhaps I am mistaken, but if I understand the thing right, the trial by jury is taken away. If the Supreme Federal Court has jurisdiction both as to law and fact, it appears to me to be taken away. The honourable gentleman [Richard Dobbs Spaight] who was in the Convention, told us, that the clause, as it now stands, resulted from the difficulty of fixing the mode of trial. I think it was easy to have put it on a secure footing. But if the genius of the people of the United States is so dissimilar, that our liberties cannot be secured, we can never hang long together. Interest is the band of social union, and when this is taken away, the union itself must dissolve.

Mr. *Maclaine*—Mr. Chairman, I do not take the interests of the states to be so dissimilar; I take them to be all nearly alike, and inseparably connected. It is impossible to lay down any constitutional rule for the government of all the different states in each particular. But it will be easy for the Legislature to make laws to accommodate the people in every part of the union, as circumstances may arise. Jury trial is not taken away in such cases where it may be found necessary. Altho' the Supreme Court has cognizance of the appeal, it does not follow but that the trial by jury may be had in the court below, and the testimony transmitted to the Supreme Court, who will then finally determine on a review of all the circumstances. This is well known to be the practice in some of the states. In our own state indeed, when a cause is instituted in the county court, and afterwards there is an appeal upon it, a new trial is had in the superior court, as if no trial had been had before.

In other countries however, when a trial is had in an inferior court, and an appeal is taken, no testimony can be given in the court above, but the court determines upon the circumstances appearing upon the record. If I am right, the plain inference is, that there may be a trial in the inferior courts, and that the record including the testimony may be sent to the Supreme Court. But if there is a necessity for a jury in the Supreme Court, it will be a very easy matter to empanel a jury at the bar of the Supreme Court, which may save great expence and be very convenient to the people. It is impossible to make every regulation at once. Congress, who are our own Representatives, will undoubtedly make such regulations as will suit the convenience and secure the liberty of the people.

Mr. *Iredell* declared it as his opinion, that there might be juries in the superior court as well as in the inferior courts, and that it was in the power of Congress to regulate it so.

Mr. President now resumed the Chair, and Mr. Kennion [i.e., Kenan] reported, That the committee had, according to the order of the day, again had the proposed Constitution under consideration, and had made further progress therein, but not having time to go through the same, had desired him to move to the Convention for leave to sit again.

Resolved, That this Convention will to-morrow again dissolve itself into a committee of the whole House, to take into further consideration the proposed plan of government.

The Convention then adjourned until to-morrow morning, nine o'clock.

1. Printed: *Proceedings and Debates*, 129–76.

2. Latin: *Rex non potest peccare* (“the king can do no wrong”). William Blackstone wrote: “That the king can do no wrong, is a necessary and fundamental principle of the English constitution: meaning only . . . that, in the first place, whatever may be amiss in the conduct of public affairs is not chargeable personally on the king; nor is he, but his ministers, accountable for it to the people: and, secondly, that the prerogative of the crown extends not to do any injury; for, being created for the benefit of the people, it cannot be exerted to their prejudice” (*Commentaries*, Book III, chapter XVII, 254–55).

3. The Glorious Revolution (1688–89), which led to the ouster of Stuart king James II.

4. For provisions in state constitutions granting the pardon power to state executives, see Thorpe (citations refer to volume and page numbers): New Hampshire (IV, 2464), Massachusetts (III, 1901–2), New York (V, 2632–33), New Jersey (V, 2596), Pennsylvania (V, 3087–88), Delaware (I, 563), Maryland (III, 1696), Virginia (VII, 3816–17), and North Carolina (V, 2791–92).

During the Revolutionary era, Rhode Island and Connecticut continued to operate under their colonial charters, which included pardon provisions (Thorpe, VI, 3215, and I, 534, respectively). The Georgia constitution (1777) explicitly denied the pardon power to the governor: “The governor shall, with the advice of the executive council, exercise the executive powers of government, according to the laws of this State and the constitution thereof, save only in the case of pardons and remission of fines, which he shall in

no instance grant; but he may relieve a criminal, or suspend a fine, until the meeting of the assembly, who may determine therein as they shall judge fit" (Thorpe, II, 781).

Some state constitutions gave the pardon power to state executives "by and with the advice of Council," or similar wording. The South Carolina constitutions (1776, 1778) made no mention of the pardon power. However, the South Carolina constitution (1790) included the pardon power (Thorpe, VI, 3262).

5. Shays's Rebellion (1786–87).

6. Miller (1758–1834), a native of Scotland, came to Massachusetts in 1774. He served in the Continental Army during the Revolutionary War, seeing action at the Battles of Long Island, Brandywine, and White Plains. He was with General Washington at Valley Forge, Pa., and later at Yorktown, Va. Taking up residence in Virginia after the war, Miller re-settled in Franklin County, N.C., in 1785, and then in Lincoln County the next year. In 1787 he married Mary Perkins. His father-in-law gave him a plantation in Burke County, which Miller called "Mary's Grove." Shortly after the wedding, Miller moved to Burke County, where he became a lay reader to an Episcopal congregation. He was ordained as a Lutheran minister in 1794. In 1821, Miller was ordained an Episcopal priest and resigned his ministry among the Lutherans. He represented Burke County in the Hillsborough Convention, 1788, where he voted against ratification of the U.S. Constitution.

7. Rutherford delegate William Porter's math is incorrect, which Perquimans delegate and Convention president Samuel Johnston addresses in his next speech. If all thirteen states eventually entered the Union, twenty-six senators would sit in Congress. At least fourteen senators—fifty percent plus one—would be needed for a quorum, the threshold for doing business. At least ten senators, two-thirds of those attending, would be necessary to concur with the president to ratify treaties.

8. On 21 March 1787, Congress approved three resolutions asserting that treaties were "part of the law of the land," declaring that all state acts or parts of acts that were "repugnant to the treaty of Peace ought to be forthwith repealed," and recommending that the state legislatures pass general acts of repeal rather than specifying each act repealed. Congress sent these resolutions to the states on 13 April. Between September 1787 and February 1788, nine states (New Hampshire, Massachusetts, Connecticut, Maryland, Rhode Island, Virginia, North Carolina, Delaware, and New York) enacted legislation. For North Carolina's act, which was passed on 22 December 1787, see "An Act declaring the treaty of peace between the United States of America and the King of Great Britain to be part of the law of the land," *The Laws of North Carolina . . .* (Newbern, [1788]) (Evans 21340), chapter I, 1.

9. A reference to New York's Council of Revision, which was composed of the governor, the chancellor, and the three judges of the Supreme Court. The Council of Revision had the power to review bills passed by the two houses of the legislature. At least a majority of the Council had to concur in the specific reasons for its disapproval of a bill. The Council would then return its judgment, in writing, to the house that originated the bill. If a two-thirds majority in both houses overrode the veto, the bill became a law. If the Council did not render a judgment on a bill within ten days, the bill would automatically become a law. For the constitutional provision governing the Council of Revision, see Article III of the New York constitution (1777), RCS:N.Y., 501.

10. On the appointment of judges and the provision for their salaries, see Articles XIII and XXI of the North Carolina constitution (1776) (Thorpe, V, 2791, 2792).

11. On 2 July 1787, in the midst of the Constitutional Convention, Charles Cotesworth Pinckney of South Carolina suggested that "a Committee consisting of a member from each State" handle disagreements concerning representation in the House of Representatives and the Senate. The states were "exactly divided on the question for an equality of votes in the 2d. branch [i.e., the Senate]." A committee of eleven was selected, including William R. Davie of North Carolina, to consider the eighth and parts of the

seventh resolution of the report of the Committee of the Whole (i.e., the revised Virginia Plan), which dealt with matters of representation and the origination of money bills, specifically which house should originate such bills and whether the house not originating the bills, probably the Senate, would be able to amend them. Pinckney had hopes that the states might reach a compromise (Farrand, I, 511).

On 5 July, Elbridge Gerry of Massachusetts “delivered in” the report of the committee of eleven to the Constitutional Convention. The Convention took up the matter of money bills in earnest on 6 July, deciding, either on 6 or 7 July (there is some confusion on this point), that the clause in the committee of eleven’s report confining the origination of money bills to “the first branch of the Legislature” (i.e., the House of Representatives) should stand (5 ayes, 3 noes, and 3 divided, which was judged an affirmative decision) (Farrand, I, 524, 538–39).

The issue of the origination of money bills continued to appear in the course of the Constitutional Convention, particularly whether the Senate could amend such bills. On 16 July, as part of the Connecticut Compromise, the Convention accepted proportional representation in the House of Representatives, equal suffrage in the Senate, and the House’s prerogative to originate money bills that were not subject to amendment by the Senate. On 8 August, the entire provision for the origination of money bills was struck from the Committee of Detail’s report with George Mason objecting. On the following day, Edmund Randolph of Virginia also objected, convinced that such an alteration jeopardized the compromise. Randolph noted that he would “move for a reconsideration of the vote [on money bills].” Hugh Williamson of North Carolina supported Randolph’s move (Farrand, II, 16, 224, 230).

The Constitutional Convention further considered the matter on 13 August, defeating a proposal (7 states to 4) that would have allowed the Senate to amend the House’s money bills. The question was finally settled when, on 8 September, the Convention agreed, without a dissenting vote, that the Senate could “propose or concur with amendments as on other bills.” On the requirement that money bills originate in the House of Representatives, the states voted overwhelmingly in favor of the proposal (9 ayes, 2 noes) (Farrand, II, 280, 545).

12. Article XIII of the Articles of Confederation provided for amendments to the Confederation government. Amending the Articles required the agreement of Congress and the concurrence of the legislatures of “every state” (CDR, 93). Some Revolutionary-era state constitutions—the Massachusetts constitution (1780), for example (Thorpe, III, 1911)—also included amendment provisions. Other state constitutions providing for amendments included: New Hampshire (IV, 2470), Pennsylvania (V, 3082, 3092), Delaware (I, 568), Maryland (III, 1701), South Carolina (VI, 3248, 3257), and Georgia (II, 785) (citations refer to Thorpe).

13. Possibly a reference to Federalist Whitmill Hill of Martin County, who had, during Saturday’s debates, spoken disparagingly of requisitions as a means of sustaining a general government. During Hill’s speech, which he used to argue in favor of Congress’ power to collect taxes (Article I, section 8), Hill supposed that the “honest people of this country [i.e., North Carolina]” supported and would find a means of paying taxes for the general good. Hill also suggested the displeasure of honest members of the community at the General Assembly, which, according to Hill, made laws “not to suit their constituents, but themselves.” Hill derided the Assembly for not settling its just debts and scorned paper money. He closed his speech with a final stinging rebuke: “I have no confidence in the Legislature—The people do not suppose them to be honest men.” (See *Convention Debates*, 26 July, RCS:N.C., 302–5.)

14. A reference to the supremacy clause (Article VI, clause 2).

15. On 6 October 1787, Pennsylvania Federalist James Wilson gave a speech in defense of the Constitution at a public meeting in Philadelphia. Wilson was the first delegate to

the Constitutional Convention to defend publicly the new plan of government. In the course of that speech, Wilson addressed Antifederalists' objections, principal among them that the new Constitution ceded too much authority to the general government with no bill of rights. Wilson claimed that the authority enshrined in the Constitution was based on "the positive grant expressed in the instrument of union." The state constitutions, Wilson claimed, gave all powers to state governments that were not explicitly reserved. The opposite was true in creating the federal government: "every thing which is not given, is reserved [to the states]." The Constitution created a government of delegated powers, which eliminated the need for a bill of rights. In Wilson's estimation, the introduction of a bill of rights into the new Constitution could possibly be a danger if, through poor construction, it indicated, or even implied, that the federal government had power to delimit those fundamental rights that Wilson believed to be suitably guarded by the states, and in some cases enshrined in state constitutions. For the text of Wilson's speech of 6 October and details on its circulation, see CC:134.

16. Article II of the Articles of Confederation reserved to the states "every Power, Jurisdiction and right" that was not "expressly delegated" to the Confederation government (CDR, 86).

17. See note 15 (above).

18. The words "residuum of human rights," attributed to Sir William Blackstone, were used by Richard Henry Lee in a letter to Edmund Randolph of 16 October 1787 (RCS:Va., 62, at note 2). Lee's letter to Randolph was later published in the Petersburg *Virginia Gazette* on 6 December (CC:325). Blackstone made reference to "that *residuum* of natural liberty, which is not required by the laws of society to be sacrificed to public convenience" (*Commentaries*, Book I, chapter I, 125). In a letter to Samuel Adams of 5 October 1787, Lee accurately quoted Blackstone, though in this instance he did not attribute the words to Blackstone (RCS:Va., 37). See also the *New York Journal*, 23 January 1788 (RCS:N.Y., 639–44, at note 5 and note 5). The writer in the *Journal* quoted Blackstone further, identifying "that *residuum* of natural liberty" with "three primary articles": "The right of personal security; the right of personal liberty; and the right of private property."

19. The seventh of Massachusetts' nine recommendatory amendments stipulated that cases involving citizens of different states that might come before the Supreme Court had to be valued at three thousand dollars or more. Furthermore, the federal judicial power would not extend to any matters involving the citizens of different states if valued at less than fifteen hundred dollars. The eighth amendment provided for a jury trial for common law actions involving citizens of different states if either party requested it (RCS:Mass., 1470).

Like Massachusetts, New Hampshire also recommended what it believed to be necessary protections from the federal judiciary. The seventh amendment proposed by New Hampshire's state ratifying Convention provided that all common law cases involving citizens of different states were to commence in the courts of the citizens' respective states. The amendment also placed a three thousand dollar minimum on matters allowed to proceed in the federal courts. New Hampshire's eighth amendment was identical to that of Massachusetts (RCS:N.H., 377).

While Massachusetts' and New Hampshire's respective amendments most nearly address the matters raised by Samuel Spencer, specifically the federal judiciary's "cognizance with respect to controversies between citizens of different states," other states, such as Virginia and New York, also recommended amendments to Article III. See RCS:Va., 1555, and RCS:N.Y., 2332–34.

20. Samuel Spencer served as a judge of North Carolina's Superior Court of Law and Equity from 1778 until his death in 1794.

21. Maclaine was re-stating the Federalist view, first expressed publicly by James Wilson on 6 October 1787, that the Constitution created a government of delegated powers. See note 15 (above).

22. A reference to the necessary and proper clause (Article I, section 8, clause 18).

23. Maclaine misquotes the necessary and proper clause. The text of the Constitution refers to “the foregoing Powers, and all *other* Powers” (italics not in original).

24. See note 15 (above).

25. A reference to the Revenue Act of 1764 (the “Sugar Act”), which strengthened the customs service. Under earlier navigation acts, seizures were tried in colonial vice admiralty courts or common law courts where the seizures took place. The Revenue Act of 1764 allowed cases involving seizures to be tried under a vice admiralty court to be established in Halifax, Nova Scotia, far from the reach of colonial juries. There were no jury trials in vice admiralty courts. The Revenue Act also protected customs officials from civil suits in colonial courts. Other vice admiralty courts were established in New York City, Philadelphia, and Charleston. Also a reference to the Stamp Act of 1765.

26. Among the “repeated injuries and usurpations” leveled against “the present King of Great Britain” in the Declaration of Independence was his deprivation of the “benefits of Trial by Jury” (CDR, 73–74). See also note 25 (above).

27. The English Bill of Rights (1689).

28. Blackstone, *Commentaries*, Book I, chapter II, 156. See also *Convention Debates*, 25 July, at note 12 and note 12 (RCS:N.C., 284, 292n).

29. See note 15 (above).

Hillsborough Convention Tuesday 29 July 1788

Convention Proceedings, 29 July 1788 (excerpts)¹

Met according to adjournment.

Mr. Matthew Lock, one of the members for Rowan county, appeared and took his seat.

Ordered, That Mr. James M'Donald have leave to absent himself from the service of this house until Saturday. . . .

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 9–10.

Convention Debates, 29 July 1788¹

The Convention met according to adjournment, and resolved itself into a committee of the whole Convention, to take into further consideration the proposed plan of government.

Mr. Kennion [i.e., Kenan] in the Chair.

Mr. [Samuel] Spencer—Mr. Chairman, I hope to be excused for making some observations on what was said yesterday, by gentlemen in

favour of these two clauses. The motion which was made that the committee should rise, precluded me from speaking then. The gentlemen have shewed much moderation and candour in conducting this business: But I still think that my observations are well founded, and that some amendments are necessary. The gentlemen [Samuel Johnston and James Iredell] said all matters not given up by this form of government, were retained by the respective states. I know that it ought to be so; it is the general doctrine, but it is necessary that it should be expressly declared in the Constitution, and not left to mere construction and opinion. I am authorised to say it was heretofore thought necessary. The Confederation says expressly, that all that was not given up by the United States, was retained by the respective states.² If such a clause had been inserted in this Constitution, it would have superceded the necessity of a bill of rights. But that not being the case, it was necessary that a bill of rights, or something of that kind, should be a part of the Constitution. It was observed, that as the Constitution is to be a delegation of power from the several states to the United States, a bill of rights was unnecessary. But it will be noticed that this is a different case. The states do not act in their political capacities, but the government is proposed for individuals. The very caption of the Constitution shews that this is the case. The expression, "We the people of the United States," shews that this government is intended for individuals; there ought therefore to be a bill of rights. I am ready to acknowledge that the Congress ought to have the power of executing its laws. Heretofore, because all the laws of the Confederation were binding on the states in their political capacities, courts had nothing to do with them; but now the thing is entirely different. The laws of Congress will be binding on individuals, and those things which concern individuals will be brought properly before the courts. In the next place, all the officers are to take an oath to carry into execution this general government, and are bound to support every act of the government, of whatever nature it may be. This is a fourth reason for securing the rights of individuals. It was also observed, that the Federal Judiciary and the courts of the states under the federal authority, would have concurrent jurisdiction with respect to any subject that might arise under the Constitution. I am ready to say that I most heartily wish that whenever this government takes place, the two jurisdictions and the two governments, that is, the general and the several state governments, may go hand in hand, and that there may be no interference, but that every thing may be rightly conducted. But I will never concede that it is proper to divide the business between the two different courts. I have no doubt but there is wisdom enough in this state to decide the business in a proper

manner, without the necessity of federal assistance to do our business. The worthy gentleman from Edenton [James Iredell], dwelt a considerable time on the observations on a bill of rights, contending that they were proper only in monarchies, which were founded on different principles from those of our government; and therefore, though they might be necessary for others, yet they were not necessary for us. I still think that a bill of rights is necessary. This necessity arises from the nature of human societies. When individuals enter into society, they give up some rights to secure the rest. There are certain human rights that ought not to be given up, and which ought in some manner to be secured. With respect to these great essential rights, no latitude ought to be left. They are the most inestimable gifts of the great Creator, and therefore ought not to be destroyed, but ought to be secured. They ought to be secured to individuals in consideration of the other rights which they give up to support society.

The trial by jury has been also spoken of. Every person who is acquainted with the nature of liberty, need not be informed of the importance of this trial. Juries are called the bulwarks of our rights and liberty; and no country can ever be enslaved as long as those cases which affect their lives and property, are to be decided in a great measure, by the consent of twelve honest, disinterested men, taken from the respectable body of yeomanry. It is highly improper that any clause which regards the security of the trial by jury should be any way doubtful. In the clause that has been read, it is ascertained that criminal cases are to be tried by jury, in the states wherein they are committed. It has been objected to that clause, that it is not sufficiently explicit. I think that it is not. It was observed, that one may be taken at a great distance. One reason of the resistance to the British government was, because they required that we should be carried to the country of Great-Britain, to be tried by juries of that country.³ But we insisted on being tried by juries of the vicinage in our own country. I think it therefore proper, that something explicit should be said with respect to the vicinage.

With regard to that part that the Supreme Court shall have appellate jurisdiction both as to law and fact, it has been observed, that though the Federal Court might decide without a jury, yet the court below, which tried it, might have a jury. I ask the gentleman [James Iredell] what benefit would be received in the suit by having a jury trial in the court below, when the verdict is set aside in the Supreme Court. It was intended by this clause that the trial by jury should be suppressed in the superior and inferior courts. It has been said in defence of the omission concerning the trial by jury in civil cases, that one general

regulation could not be made—that in several cases the Constitution of several states did not require a trial by jury; for instance, in cases of equity and admiralty, whereas in others it did; and that therefore it was proper to leave this subject at large. I am sure that for the security of liberty they ought to have been at the pains of drawing some line. I think that the respectable body who formed the Constitution, should have gone so far as to put matters on such a footing as that there should be no danger. They might have provided that all those cases which are now triable by a jury, should be tried in each state by a jury, according to the mode usually practised in such state. This would have been easily done if they had been at the trouble of writing five or six lines. Had it been done, we should have been entitled to say that our rights and liberties were not endangered. If we adopt this clause as it is, I think, notwithstanding what gentlemen have said, that there will be danger. There ought to be some amendments to it, to put this matter on a sure footing. There does not appear to me to be any kind of necessity that the Federal Court should have jurisdiction in the body of the country. I am ready to give up that in the cases expressly enumerated, an appellate jurisdiction, except in one or two instances, might be given. I wish them also to have jurisdiction in maritime affairs, and to try offences committed on the high seas. But in the body of a state, the jurisdiction of the courts in that state might extend to carry into execution the laws of Congress. It must be unnecessary for the Federal Courts to do it, and would create trouble and expence which might be avoided. In all cases where appeals are proper, I will agree that it is necessary there should be one Supreme Court. Were those things properly regulated, so that the Supreme Court might not be oppressive, I should have no objection to it.

Mr. [William R.] Davie—Mr. Chairman, Yesterday and to-day I have given particular attention to the observations of the gentleman last up [Samuel Spencer]. I believe, however, that before we take into consideration these important clauses, it will be necessary to consider in what manner laws can be executed. For my own part, I know but two ways in which the laws can be executed by any government. If there be any other, it is unknown to me. The first mode is coercion by military force, and the second is coercion through the judiciary. With respect to coercion by force, I shall suppose that it is so extremely repugnant to the principles of justice and the feelings of a free people, that no man will support it. It must in the end terminate in the destruction of the liberty of the people. I take it, therefore, that there is no rational way of enforcing the laws but by the instrumentality of the Judiciary. From these premises we are left only to consider how far the jurisdiction of the

Judiciary ought to extend. It appears to me that the Judiciary ought to be competent to the decision of any question arising out of the Constitution itself. On a review of the principles of all free governments, it seems to me also necessary that the judicial power should be co-extensive with the legislative. It is necessary in all governments, but particularly in a federal government, that its judiciary should be competent to the decision of all questions arising out of the Constitution. If I understand the gentleman right, his objection was not to the defined jurisdiction, but to the general jurisdiction, which is expressed thus, "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,"⁴ and also to the appellate jurisdiction in some instances. Every Member who has read the Constitution with attention, must observe that there are certain fundamental principles in it, both of a positive and negative nature, which, being intended for the general advantage of the community, ought not to be violated by any future legislation of the particular states. Every Member will agree that the positive regulations ought to be carried into execution, and that the negative restrictions ought not to be disregarded or violated. Without a Judiciary, the injunctions of the Constitution may be disobeyed, and the positive regulations neglected or contravened. There are certain prohibitory provisions in this Constitution, the wisdom and propriety of which must strike every reflecting mind, and certainly meet with the warmest approbation of every citizen of this state. It provides, "That no state shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws—that no preference shall be given by any regulation of commerce or revenue, to the ports of one state over those of another—and that no state shall emit bills of credit—make any thing but gold and silver coin a tender in payments of debts—pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts."⁵ These restrictions ought to supercede the laws of particular states. With respect to the prohibitory provisions, that no duty or impost shall be laid by any particular state, which is so highly in favour of us and the other non-importing states, the importing states might make laws laying duties notwithstanding, and the Constitution might be violated with impunity, if there were no power in the general government to correct and counteract such laws. This great object can only be safely and completely obtained by the instrumentality of the Federal Judiciary. Would not Virginia, who has raised many thousand pounds out of our citizens by her imposts, still avail herself of the same advantage if there were no constitutional power

to counteract her regulations? If cases arising under the Constitution were left to her own courts, might she not still continue the same practices? But we are now to look for justice to the controuling power of the Judiciary of the United States. If the Virginians were to continue to oppress us by laying duties, we can be relieved by a recurrence to the general Judiciary. This restriction in the Constitution, is a fundamental principle which is not to be violated, but which would have been a dead letter were there no Judiciary constituted to enforce obedience to it. Paper money and private contracts were in the same condition. Without a general controuling Judiciary, laws might be made in particular states to enable its citizens to defraud the citizens of other states. Is it probable that if a citizen of South-Carolina owed a sum of money to a citizen of this state, that the latter would be certain of recovering the full value in their courts? That state might in future, as they have already done, make pine-barren acts to discharge their debts.⁶ They might say that our citizens should be paid in sterile inarable lands, at an extravagant price. They might pass the most iniquitous instalment laws, procrastinating the payment of debts due from their citizens, for years—nay, for ages. Is it probable that we should get justice from their own judiciary, who might consider themselves obliged to obey the laws of their own state? Where then are we to look for justice? To the Judiciary of the United States. Gentlemen must have observed the contracted and narrow minded regulations of the individual states, and their predominant disposition to advance the interests of their own citizens to the prejudice of others. Will not these evils be continued if there be no restraint? The people of the United States have one common interest—they are all members of the same community, and ought to have justice administered to them equally in every part of the continent, in the same manner, with the same dispatch, and on the same principles. It is therefore absolutely necessary that the Judiciary of the union, should have jurisdiction in all cases arising in law and equity under the Constitution. Surely there should be somewhere a constitutional authority for carrying into execution constitutional provisions, otherwise, as I have already said, they would be a dead letter.

With respect to their having jurisdiction of all cases arising under the laws of the United States, although I have a very high respect for the gentleman [Samuel Spencer], I heard his objection to it with surprise. I thought, if there were any political axiom under the sun, it must be that the judicial power ought to be co-extensive with the legislative. The federal government ought to possess the means of carrying the laws into execution. This position will not be disputed. A govern-

ment would be a *felo de se*⁷ to put the execution of its laws under the controul of any other body. If laws are not to be carried into execution by the interposition of the Judiciary, how is it to be done? I have already observed, that the mind of every honest man who has any feeling for the happiness of his country, must have the highest repugnance to the idea of military coercion. The only means then, of enforcing obedience to the legislative authority, must be through the medium of the officers of peace. Did the gentleman carry his objection to the extension of the judicial power to treaties? It is another principle which I imagine will not be controverted, that the general Judiciary ought to be competent to the decision of all questions which involve the general welfare or the peace of the union. It was necessary that treaties should operate as laws upon individuals. They ought to be binding upon us the moment they are made. They involve in their nature, not only our own rights but those of foreigners. If the rights of foreigners were left to be decided ultimately by thirteen distinct judiciaries, there would necessarily be unjust and contradictory decisions. If our courts of justice did not decide in favour of foreign citizens and subjects when they ought, it might involve the whole union in a war. There ought, therefore, to be a paramount tribunal, which should have ample power to carry them into effect. To the decision of all causes which might involve the peace of the union, may be referred also, that of controversies between the citizens or subjects of foreign states and the citizens of the United States. It has been laid down by all writers, that the denial of justice is one of the just causes of war. If these controversies were left to the decision of particular states, it would be in their power at any time, to involve the whole continent in a war, usually the greatest of all national calamities. It is certainly clear, that where the peace of the union is affected, the general Judiciary ought to decide. It has generally been given up, that all cases of admiralty and maritime jurisdiction should also be determined by them. It has been equally ceded by the strongest opposers to this government, that the Federal Courts should have cognizance of controversies between two or more states; between a state and the citizens of another state, and between the citizens of the same state claiming lands under the grant of different states. Its jurisdiction in these cases is necessary, to secure impartiality in decisions, and preserve tranquility among the states. It is impossible that there should be impartiality when a party affected is to be Judge.

The security of impartiality is the principal reason for giving up the ultimate decision of controversies between citizens of different states. It is essential to the interest of agriculture and commerce, that the

hands of the states should be bound from making paper money, instalment laws, or *pine-barren acts*.⁸ By such iniquitous laws the merchant or farmer may be defrauded of a considerable part of his just claims. But in the federal court real money will be recovered with that speed which is necessary to accommodate the circumstances of individuals. The tedious delays of judicial proceedings at present in some states, are ruinous to creditors. In Virginia many suits are twenty or thirty years spun out by legal ingenuity, and the defective construction of their judiciary. A citizen of Massachusetts or this country might be ruined before he could recover a debt in that state. It is necessary therefore in order to obtain justice, that we recur to the Judiciary of the United States, where justice must be equally administered, and where a debt may be recovered from the citizen of one state as soon as from the citizen of another.

As to a bill of rights, which has been brought forward in a manner I cannot account for, it is unnecessary to say any thing. The learned gentleman [Samuel Spencer] has said, that by a concurrent jurisdiction the laws of the United States must necessarily clash with the laws of the individual states, in consequence of which the laws of the states will be obstructed, and the state governments absorbed. This cannot be the case. There is not one instance of a power given to the United States, whereby the internal policy or administration of the states is affected. There is no instance that can be pointed out, wherein the internal policy of the state can be affected by the Judiciary of the United States. He mentioned impost laws. It has been given up on all hands, that if there was a necessity of a Federal Court, it was on this account. Money is difficult to be got into the treasury. The power of the Judiciary to enforce the federal laws is necessary to facilitate the collection of the public revenues. It is well known in this state with what reluctance and backwardness Collectors pay up the public monies. We have been making laws after laws to remedy this evil and still find them ineffectual. Is it not therefore necessary to enable the general government to compel the delinquent receivers to be punctual? The honourable gentleman admits that the general government ought to legislate upon individuals instead of states. Its laws will otherwise be ineffectual, but particularly with respect to treaties. We have seen with what little ceremony the states violated the peace with Great-Britain. Congress had no power to enforce its observance. The same cause will produce the same effect. We need not flatter ourselves that similar violations will always meet with equal impunity. I think he must be of opinion upon more reflection, that the jurisdiction of the federal Judiciary could not have been

constructed otherwise with safety or propriety. It is necessary that the Constitution should be carried into effect, that the laws should be executed, justice equally done to all the community, and treaties observed. These ends can only be accomplished by a general paramount Judiciary. These are my sentiments, and if the honourable gentleman will prove them erroneous, I shall readily adopt his opinions.

Mr. [*Archibald*] *Maclaine*—Mr. Chairman, I beg leave to make a few observations. One of the gentleman's [Samuel Spencer's] objections to the Constitution now under consideration is, that it is not the act of the states but of the people; but that it ought to be the act of the states, and he instances the delegation of power by the states to the Confederation at the commencement of the war as a proof of this position. I hope, Sir, that all power is in the people and not in the state governments. If he will not deny the authority of the people to delegate power to agents, and to devise such a government as a majority of them think will promote their happiness, he will withdraw his objection. The people, Sir, are the only proper authority to form a government. They, Sir, have formed their state governments, and can alter them at pleasure. Their transcendent power is competent to form this or any other government which they think promotive of their happiness. But the gentleman contends that there ought to be a bill of rights, or something of that kind—something declaring expressly, that all power not expressly given to the Constitution, ought to be retained by the states, and he produces the Confederation as an authority for its necessity. When the Confederation was made, we were by no means so well acquainted with the principles of government as we are now. We were then jealous of the power of our rulers, and had an idea of the British government when we entertained that jealousy. There is no people on earth so well acquainted with the nature of government as the people of America generally are. We know now, that it is agreed upon by most writers, and men of judgment and reflection, that all power is in the people and immediately derived from them. The gentleman surely must know, that if there be certain rights which never can nor ought to be given up; these rights cannot be said to be given away, merely because we have omitted to say that we have not given them up. Can any security arise from declaring that we have a right to what belongs to us? Where is the necessity of such a declaration? If we have this inherent, this unalienable, this indefeasible title to those rights, if they are not given up, are they not retained? If Congress should make a law beyond the powers and the spirit of the Constitution, should we not say to Congress, "You have no authority to make this law. There are limits beyond

which you cannot go. You cannot exceed the power prescribed by the Constitution. You are amenable to us for your conduct. This act is unconstitutional. We will disregard it, and punish you for the attempt.”

But the gentleman [Samuel Spencer] seems to be most tenacious of the judicial power of the states. The honourable gentleman must know, that the doctrine of reservation of power not relinquished, clearly demonstrates that the judicial power of the states is not impaired. He asks, with respect to the trial by jury, when the cause has gone up to the Superior Court, and the verdict is set aside, what benefit arises from having had a jury trial in the Inferior Court? I would ask the gentleman, what is the reason, that on a special verdict or case agreed, the decision is left to the court? There are a number of cases where juries cannot decide. When a jury finds the fact specially, or when it is agreed upon by the parties, the decision is referred to the court. If the law be against the party, the court decides against him; if the law be for him, the court judges accordingly. He as well as every gentleman here must know, that under the Confederation Congress set aside juries. There was an appeal given to Congress, did Congress determine by a jury? Every party carried his testimony in writing to the Judges of Appeal, and Congress determined upon it.

The distinction between matters of law and of fact, has not been sufficiently understood, or has been intentionally misrepresented. On a demurrer in law, in which the facts are agreed upon by the parties, the law arising thereupon is referred to the court. An inferior court may give an erroneous judgment; and appeal may be had from this court to the Supreme Federal Court, and a right decision had. This is an instance wherein it can have cognizance of matter of law solely. In cases where the existence of facts has been first disputed by one of the parties, and afterwards established as in a special verdict, the consideration of these facts, blended with the law, is left to the court. In such cases Inferior Courts may decide contrary to justice and law, and appeals may be had to the Supreme Court. This is an instance wherein it may be said they have jurisdiction both as to law and fact. But where facts only are disputed, and where they are once established by a verdict, the opinion of the judges of the Supreme Court cannot, I conceive, set aside these facts, for I do not think they have power so to do by this construction.

The Federal Court has jurisdiction only in some instances. There are many instances in which no court but the state courts can have any jurisdiction whatsoever, except where parties claim land under the grant of different states, or the subject of dispute arises under the Constitution itself. The state courts have exclusive jurisdiction over every other

possible controversy that can arise between the inhabitants of their own states; nor can the Federal Courts intermeddle with such disputes either originally or by appeal. There is a number of other instances where though jurisdiction is given to the Federal Courts, it is not taken away from the state courts. If a man in South-Carolina owes me money, I can bring suit in the courts of that state, as well as in any inferior Federal Court. I think gentlemen cannot but see the propriety of leaving to the general government the regulation of the inferior federal tribunals. This is a power which our own state Legislature has. We may trust Congress as well as them.

Mr. *Spencer* answered, That the gentleman last up [Archibald Maclaine] had misunderstood him. He did not object to the caption of the Constitution, but he instanced it to shew that the United States were not, merely as states, the objects of the Constitution; but that the laws of Congress were to operate upon individuals and not upon states. He then continued—I do not mean to contend, that the laws of the general government should not operate upon individuals. I before observed that this was necessary, as laws could not be put in execution against states, without the agency of the sword, which instead of answering the ends of government would destroy it.—I endeavoured to shew, that as the government was not to operate against states but against individuals, the rights of individuals ought to be properly secured. In order to constitute this security, it appears to me there ought to be such a clause in the Constitution as there was in the Confederation, expressly declaring, that every power, jurisdiction and right, which are not given up by it, remain in the states.⁹ Such a clause would render a bill of rights unnecessary. But as there is no such clause I contend, that there should be a bill of rights, ascertaining and securing the great rights of the states and people. Besides my objection to the revision of facts by the Federal Court, and the insecurity of jury trial, I consider the concurrent jurisdiction of those courts with the state courts, as extremely dangerous. It must be obvious to every one, that if they have such a concurrent jurisdiction, they must in time take away the business from the state courts entirely. I do not deny the propriety of having Federal Courts; but they should be confined to federal business, and ought not to interfere in those cases where the state courts are fully competent to decide. The state courts can do their business without federal assistance. I do not know how far any gentleman may suppose, that I may from my office¹⁰ be biassed in favour of the state jurisdiction. I am no more interested than any other individual. I do not think it will affect the respectable office which I hold. Those courts will not take place immediately, and even when they do, it will be a long time

before their concurrent jurisdiction will materially affect the state judiciaries—I therefore consider myself as disinterested. I only wish to have the government so constructed as to promote the happiness, harmony and liberty of every individual at home, and render us respectable as a nation abroad. I wish the question to be decided coolly and calmly, with moderation, candour and deliberation.

Mr. *Maclaine* replied, That the gentleman's [Samuel Spencer's] objections to the want of a bill of rights, had been sufficiently answered. That the federal jurisdiction was well guarded, and that the Federal Courts had not, in his opinion, cognizance in any one case where it could be alone vested in the state judiciaries with propriety or safety. The gentleman, he said, had acknowledged that the laws of the union could not be executed under the existing government, and yet he objected to the Federal Judiciary's having cognizance of such laws, though it was the only probable means whereby they could be enforced. The treaty of peace with Great-Britain was the supreme law of the land, yet it was disregarded for want of a Federal Judiciary. The state judiciaries did not enforce an observance of it. The state courts were highly improper to be entrusted with the execution of the federal laws, as they were bound to judge according to the state laws, which might be repugnant to those of the union.

Mr. [*James*] *Iredell*—Mr. Chairman, I beg leave to make a few observations on some remarks that have been made on this part of the Constitution. The honourable gentleman [Samuel Spencer] said that it was very extraordinary that the Convention should not have taken the trouble to make an addition of five or six lines, to secure the trial by jury in civil cases. Sir, if by the addition, not only of five or six lines, but of five or six hundred lines, this invaluable object could have been secured, I should have thought the Convention criminal in omitting it; and instead of meriting the thanks of their country, as I think they do now, they might justly have met with its resentment and indignation. I am persuaded that the omission arose from the real difficulty of the case. The gentleman says that a mode might have been provided, whereby the trial by jury might have been secured satisfactorily to all the states. I call on him to shew that mode—I know of none—nor do I think it possible for any man to devise one to which some states would not have objected. It is said indeed, that it might have been provided that it should be as it had been heretofore. Had this been the case, surely it would have been highly incongruous.—The trial by jury is different in different states. It is regulated in one way in the state of North-Carolina, and in another way in the state of Virginia. It is established in a different way from either in several other states. Had it then been inserted

in the Constitution, that the trial by jury should be as it had been heretofore, there would have been an example, for the first time in the world, of a Judiciary belonging to the same government being different in different parts of the same country. What would you think of an act of Assembly which should require the trial by jury to be had in one mode in the county of Orange, in another mode in Granville, and in a manner different from both in Chatham? Such an act of Assembly, so manifestly injudicious, impolitic and unjust, would be repealed next year. But what would you say of our Constitution, if it authorised such an absurdity? The mischief then could not be removed without altering the Constitution itself. It must be evident therefore, that the addition contended for would not have answered the purpose. If the method of any particular state had been established, it would have been objected to by others, because whatever inconveniences it might have been attended with, nothing but a change in the Constitution itself could have removed them; whereas, as it is now, if any mode established by Congress is found inconvenient, it can easily be altered by a single act of legislation. Let any gentleman consider the difficulties in which the Convention was placed. And union was absolutely necessary. Every thing could be agreed upon except the regulation of the trial by jury in civil cases. They were all anxious to establish it on the best footing, but found they could fix upon no permanent rule that was not liable to great objections and difficulties. If they could not agree among themselves, they had still less reason to believe that all the states would have unanimously agreed to any one plan that could be proposed. They therefore thought it better to leave all such regulations to the Legislature itself, conceiving there could be no real danger in this case from a body composed of our own Representatives, who could have no temptation to undermine this excellent mode of trial in civil cases, and who would have indeed a personal interest in common with others, in making the administration of justice between man and man secure and easy. In criminal cases, however, no latitude ought to be allowed. In these the greatest danger from any government subsists, and accordingly it is provided, that there shall be a trial by jury in all such cases in the state wherein the offence is committed. I thought the objection against the want of a bill of rights had been obviated unanswerably. It appears to me most extraordinary. Shall we give up any thing but what is positively granted by that instrument? It would be the greatest absurdity for any man to pretend, that when a Legislature is formed for a particular purpose, it can have any authority but what is so expressly given to it, any more than a man acting under a power of attorney could depart from the authority it conveyed to him, according to an instance

which I stated when speaking on the subject before.¹¹ As for example— If I had three tracts of land, one in Orange, another in Caswell, and another in Chatham, and I gave a power of attorney to a man to sell the two tracts in Orange and Caswell, and he should attempt to sell my land in Chatham, would any man of common sense suppose he had authority to do so? In like manner, I say, the future Congress can have no right to exercise any power but what is contained in that paper. Negative words, in my opinion, could make the matter no plainer than it was before. The gentleman [Samuel Spencer] says that unalienable rights ought not to be given up. Those rights which are unalienable are not alienated. They still remain with the great body of the people. If any right be given up that ought not to be, let it be shewn. Say it is a thing which affects your country, and that it ought not to be surrendered—this would be reasonable. But when it is evident that the exercise of any power not given up would be an usurpation, it would be not only useless but dangerous to enumerate a number of rights which are not intended to be given up; because it would be implying in the strongest manner, that every right not included in the exception might be impaired by the government without usurpation, and it would be impossible to enumerate every one. Let any one make what collection or enumeration of rights he pleases, I will immediately mention twenty or thirty more rights not contained in it.¹²

Mr. [Timothy] Bloodworth—Mr. Chairman, I have listened with attention to the gentleman's [James Iredell's] arguments, but, whether it be for want of sufficient attention, or from the grossness of my ideas, I cannot be satisfied with his defence of the omission with respect to the trial by jury. He says that it would be impossible to fall on any satisfactory mode of regulating the trial by jury, because there are various customs relative to it in the different states. Is this a satisfactory cause for the omission? Why did it not provide that the trial by jury should be preserved in civil cases? It has said that the trial should be by jury in criminal cases, and yet this trial is different in its manner in criminal cases in the different states. If it has been possible to secure it in criminal cases, notwithstanding the diversity concerning it, why has it not been possible to secure it in civil cases? I wish this to be cleared up. By its not being provided for, it is expressly provided against. I still see the necessity of a bill of rights. Gentlemen use contradictory arguments on this subject, if I recollect right. Without the most express restrictions, Congress may trample on your rights. Every possible precaution should be taken when we grant powers. Rulers are always disposed to abuse them. I beg leave to call gentlemen's recollection to what happened under our Confederation. By it nine states are required to make a

treaty, yet seven states said that they could, with propriety, repeal part of the instructions given our secretary for foreign affairs, which prohibited him from making a treaty to give up the Mississippi to Spain, by which repeal the rest of his instructions enabled him to make such treaty:¹³ Seven states actually did repeal the prohibitory part of these instructions, and they insisted it was legal and proper. This was in fact a violation of the Confederation. If gentlemen thus put what construction they please upon words, how shall we be redressed if Congress shall say that all that is not expressed is given up, and they assume a power which is expressly inconsistent with the rights of mankind. Where is the power to pretend to deny its legality? This has occurred to me, and I wish it to be explained.

Mr. *Spencer*—Mr. Chairman, The gentleman [James Iredell] expresses admiration as to what we object with respect to a bill of rights, and insists that what is not given up in the Constitution, is retained. He must recollect I said yesterday, that we could not guard with too much care, those essential rights and liberties which ought never to be given up. There is no express negative—no fence against their being trampled upon. They might exceed the proper boundary without being taken notice of. When there is no rule but a vague doctrine, they might make great strides and get into possession of so much power, that a general insurrection of the people would be necessary to bring an alteration about. But if a boundary were set up, when the boundary is passed, the people would take notice of it immediately. These are the observations which I made, and I have no doubt that when he coolly reflects, he will acknowledge the necessity of it. I acknowledge, however, that the doctrine is right. But if that Constitution is not satisfactory to the people, I would have a bill of rights, or something of that kind, to satisfy them.

Mr. [*Matthew*] *Locke*¹⁴—Mr. Chairman, I wish to throw some particular light upon the subject according to my conceptions. I think the Constitution neither safe nor beneficial, as it grants powers unbounded, without restrictions. One gentleman [Archibald Maclaine] has said, that it was necessary to give cognizance of causes to the Federal Court, because there was partiality in the Judges of the states; that the state Judges could not be depended upon in causes arising under the Constitution and laws of the union. I agree that impartiality in Judges is indispensable. But I think this alteration will not produce more impartiality than there is now in our courts, whatever evils it may bring forth. Must there not be Judges in the Federal Courts—and those Judges taken from some of the states? The same partiality therefore may be in them. For my part I think it

derogatory to the honour of this state to give this jurisdiction to the Federal Courts. It must be supposed that the same passions, dispositions, and failings of humanity which attend the state Judges, will be equally the lot of the Federal Judges. To justify giving this cognizance to those courts, it must be supposed that all justice and equity are given up at once in the state. Such reasoning is very strange to me. I fear greatly for this state and other states. I find there has a considerable stress been laid upon the injustice of laws made heretofore. Great reflections are thrown on South-Carolina for passing *pine-barren* and *instalment laws*,¹⁵ and on this state for making paper money. I wish those gentlemen who made those observations, would consider the necessity which compelled us in a great measure to make such money. I never thought the law which authorised it, a good law. If the evil could have been avoided, it would have been a very bad law. But necessity, Sir, justified it in some degree. I believe I have gained as little by it as any in this house. If we are to judge of the future by what we have seen, we shall find as much or more injustice in Congress than in our Legislature. Necessity compelled them to pass the law in order to save vast numbers of people from ruin. I hope to be excused in observing, that it would have been hard for our late continental army to lay down their arms, with which they had valiantly and successfully fought for their country, without receiving or being promised and assured of some compensation for their past services. What a situation would this country have been in, if they had had the power over the *purse and sword*? If they had had the powers given up by this Constitution, what a wretched situation would this country have been in? Congress was unable to pay them, but passed many resolutions and laws in their favour, particularly one, that each state should make up the depreciation of the pay of the continental line, who were distressed for the want of an adequate compensation for their services. This state could not pay her proportion in specie. To have laid a tax for that purpose, would have been oppressive. What was to be done? The only expedient was to pass a law to make paper money, and make it a tender. The continental line was satisfied, and approved of the measure; it being done at their instance in some degree. Notwithstanding it was supposed to be highly beneficial to the state, it is found to be injurious to it. Saving expence is a very great object, but this incurred much expence. This subject has for many years embroiled the state. But the situation of the country is such, and the distresses of the people so great, that the public measures must be accommodated to their circumstances with peculiar delicacy and caution, or another insurrection may be the consequence. As to what the gentleman [James Iredell] said of the trial by jury—it surprises me

much to hear gentlemen of such great abilities, speak such language. It is clearly insecure, nor can ingenuity and subtle arguments prove the contrary. I trust this country is too sensible of the value of liberty, and her citizens have bought it too dearly to give it up hastily.

Mr. *Iredell*—Mr. Chairman, I hope that some other gentleman will answer what has been said by the gentlemen who have spoken last. I only rise to answer the question of the Member from New-Hanover [Timothy Bloodworth], which was, If there was such a difficulty in establishing the trial by jury in civil cases, that the Convention could not concur in any mode, why the difficulty did not extend to criminal cases? I beg leave to say, that the difficulty in this case does not depend so much on the mode of proceeding, as on the difference of the subjects of controversy, and the laws relative to them. In some states there are no juries in admiralty and equity cases. In other states there are juries in such cases. In some states there are no distinct courts of equity, though in most states there are. I believe, that if an uniform rule had been fixed by the Constitution, it would have displeased some states so far that they would have rejected the Constitution altogether. Had it been declared generally, as the gentleman mentioned, it would have included equity and maritime cases, and created a necessity of deciding them in a manner different from that in which they have been decided heretofore in many of the states; which would very probably have met with the disapprobation of those states. We have been told, and I believe this was the real reason why they could not concur in any general rule. I have great respect for the characters of those gentlemen who formed the Convention, and I believe they were not capable of overlooking the importance of the trial by jury, much less of designedly plotting against it. But I fully believe that the real difficulty of the thing was the cause of the omission. I trust sufficient reasons have been offered, to shew that it is in no danger. As to criminal cases, I must observe, that the great instrument of arbitrary power is criminal prosecutions. By the privilege of the *habeas corpus* no man can be confined without enquiry, and if it should appear he has been committed contrary to law, he must be discharged. That diversity which is to be found in civil controversies, does not subsist in criminal cases. That diversity which contributes to the security of property in civil cases, would have pernicious effects in criminal ones. There is no other safe mode to try these but by a jury. If any man had the means of trying another his own way; or were it left to the controul of arbitrary Judges, no man would have that security for life and liberty which every freeman ought to have. I presume that in no state on the continent is a man tried on a criminal accusation but by a jury. It was necessary therefore that it

should be fixed in the Constitution, that the trial should be by jury in criminal cases, and such difficulties did not occur in this as in the other case. The worthy gentleman [Timothy Bloodworth] says, that by not being provided for in civil cases it is expressly provided against, and that what is not expressed is given up. Were it so, no man would be more against this Constitution than myself. I should detest and oppose it as much as any man. But, Sir, this cannot be the case. I beg leave to say that that construction appears to me absurd and unnatural. As it could not be fixed either on the principles of uniformity or diversity, it must be left to Congress to modify it. If they establish it in any manner by law, and find it inconvenient, they can alter it. But I am convinced that a majority of the Representatives of the people, will never attempt to establish a mode oppressive to their constituents, as it will be their own interest to take care of this right. But it is observed that there ought to be a fence provided against future encroachments of power. If there be not such a fence it is a cause of objection. I readily agree there ought to be such a *fence*. The instrument ought to contain such a definition of authority as would leave no doubt, and if there be any ambiguity it ought not to be admitted. He says this construction is not agreeable to the people, though he acknowledges it is a right one. In my opinion there is no man of any reason at all, but must be satisfied with so clear and plain a definition. If the Congress should claim any power not given them, it would be as bare an usurpation as making a King in America. If this Constitution be adopted, it must be presumed the instrument will be in the hands of every man in America, to see whether authority be usurped; and any person by inspecting it may see if the power claimed be enumerated. If it be not, he will know it to be an usurpation.

Mr. *Maclaine*—Mr. Chairman, a gentleman lately up, (Mr. Locke) has informed us of his doubts and fears respecting the Federal Courts. He is afraid for this state and other states. He supposes that the idea of giving cognizance of the laws of the union to Federal Courts, must have arisen from suspicions of partiality and want of common integrity in our state Judges. The worthy gentleman is mistaken in his construction of what I said. I did not personally reflect on the members of our state judiciary. Nor did I impute the impropriety of vesting the state judiciaries with exclusive jurisdiction over the laws of the union, and cases arising under the Constitution, to any want of probity in the Judges. But if they be Judges of the local or state laws, and receive emoluments for acting in that capacity, they will be improper persons to judge of the laws of the union. A federal Judge ought to be solely governed by the laws of the United States, and receive his salary from the treasury

of the United States. It is impossible for any Judges, receiving pay from a single state, to be impartial in cases where the local laws or interests of that state clash with the laws of the union, or the general interests of America. We have instances here which prove this partiality in such cases. It is also so in other states. The gentleman has thrown out something very uncommon. He likens the powers given by this Constitution to giving the late army the purse and the sword. I am much astonished that such an idea should be thrown out by that gentleman, because his respectability is well known. If he considers but a moment, he must see that his observation is bad, and that the comparison is extremely absurd and improper. The purse and the sword must be given to every government. The sword is given to the Executive Magistrate; but the purse remains by this Constitution in the Representatives of the people. We know very well that they cannot raise one shilling but by the consent of the Representatives of the people. Money bills do not even originate in the Senate; they originate solely in the other house. Every appropriation must be by law. We know therefore that no Executive Magistrate or officer, can appropriate a shilling but as he is authorised by law. With respect to paper money, the gentleman has acted and spoken with great candour. He was against paper money from the first emission. There was no other way to satisfy the late army but by paper money, there being not a shilling of specie in the state. There were other modes adopted by other states, which did not produce such inconveniences. There was however a considerable majority of that Assembly who adopted the idea, that not one shilling more, paper money, should be made, because of the evil consequences that must necessarily follow. The experience of this country for many years has proved that such emissions involve us in debts and distresses, destroy our credit and produce no good consequence; yet contrary to all good policy the evil was repeated.

With respect to our public security and paper money, the apprehensions of gentlemen are groundless. I believe this Constitution cannot affect them at all. In the 10th section of the first article, it is provided among other restrictions, "that no state shall emit bills of credit, make any thing but gold or silver coin a tender in payment of debts, or pass any law impairing the obligation of contracts." Now, Sir, this has no retrospective view. It looks to futurity.—It is conceived by many people, that the moment this new Constitution is adopted, our present paper money will sink to nothing. For my part, I believe that instead of sinking it will appreciate. If we adopt, it will rise in value, so that twenty shillings of it will be equal to two Spanish milled dollars and an half. Paper money is as good as gold and silver where there are proper funds to

redeem it, and no danger of its being increased. Before the late war our paper money fluctuated in value. Thirty-six years ago, when I came into the country, our paper money was at seven shillings to the dollar. A few years before the late war, the merchants of Great-Britain remonstrated to the Ministry of that country, that they lost much of their debts by paper money losing its value. This caused an order to be made through all the states not to pass any money bills whatever.¹⁶ The effect of this was that our money appreciated. At the commencement of the war, our paper money in circulation was equal to gold or silver. But it is said that on adoption, all debts contracted heretofore, must then be paid in gold or silver coin. I believe that if any gentleman will attend to the clause above recited, he will find that it has no retrospective but a prospective view. It does not look back but forward. It does not destroy the paper money which is now actually made, but prevents us from making any more. This is much in our favour, because we may pay in the money we contracted for (or such as is equal in value to it) and the very restriction against an increase of it will add to its value. It is in the power of the Legislature to establish a scale of depreciation to fix the value of it: There is nothing against this in the Constitution; on the contrary it favours it. I should be much injured if it was really to be the case that the paper money should sink. After the Constitution was adopted, I should think myself, as a holder of our paper money, possessed of continental security. I am convinced our money will be good money, and if I was to speculate in any thing, I would in paper money, though I never did speculate. I should be satisfied that I should make a profit. Why say that the state security will be paid in gold and silver after all these things are considered? Every real, actual debt of the state, ought to be discharged in real, and not nominal value, whether the Constitution be adopted or not.

Mr. [Andrew] Bass¹⁷ took a general view of the original and appellate jurisdiction of the Federal Court. He considered the Constitution neither necessary nor proper. He declared that the last part of the first paragraph of the second section, appeared to him totally inexplicable. He feared that dreadful oppression would be committed by carrying people too great a distance to decide trivial causes. He observed that gentlemen of the law and men of learning did not concur in the explanation or meaning of this Constitution. For his part, he said, he could not understand it, although he took great pains to find out its meaning, and although he flattered himself with the possession of common sense and reason. He always thought that there ought to be a compact between the governors and governed: Some called this a com-

pact, others said it was not. From the contrariety of opinions, he thought the thing was either uncommonly difficult, or absolutely unintelligible. He wished to reflect on no gentleman, and apologized for his ignorance, by observing that he never went to school, and had been born blind; but he wished for information, and supposed that every gentleman would consider his desire as laudable.

Mr. *Maclaine* first, and then Mr. *Iredell*, endeavoured to satisfy the gentleman by a particular explanation of the whole paragraph. It was observed, that if there should be a controversy between this state and the Kings of France or Spain, it must be decided in the Federal Court. Or if there should arise a controversy between the French King or any other foreign power, or one of their subjects or citizens, and one of our citizens, it must be decided there also. The distinction between the words *citizen* and *subject* was explained—that the former related to individuals of popular governments; the latter to those of monarchies. As for instance, a dispute between this state or a citizen of it, and a person in Holland. The word foreign citizen would properly refer to such person. If the dispute was between this state and a person in France or Spain, the word foreign subject would apply to this—and all such controversies might be decided in the Federal Court—That the words *citizens* or *subjects* in that part of the clause, could only apply to *foreign citizens* or *foreign subjects*, and another part of the Constitution made this plain, by confining disputes in general between citizens of the same state, to the single case of their claiming lands under grants of different states.

The last clause of the second section under consideration.¹⁸

Mr. *Maclaine*—Mr. Chairman, An objection was made yesterday by a gentleman [Joseph M'Dowall] against this clause, because it confined the trial to the state; and he observed, that a person on the Mississippi might be tried in Edenton. Gentlemen ought to consider that it was impossible for the Convention, when devising a general rule for all the states, to descend to particular districts. The trial by jury is secured generally, by providing that the trial shall be in the state where the crime was committed. It is left to Congress to make such regulations by law, as will suit the circumstances of each state. It would have been impolitic to fix the mode of proceeding, because it would alter the present mode of proceeding in such cases, in this state or in several others. For there is such a dissimilarity in the proceedings of different states, that it would be impossible to make a general law which would be satisfactory to the whole. But as the trial is to be in the state, there is no doubt but it will be in the usual and common mode practised in the state.

Third section read without any observation.

Article fourth. The first section, and two first clauses of the second section, read without any observation.

The last clause read.

Mr. *Iredell* begged leave to explain the reason of this clause. In some of the northern states they have emancipated all their slaves. If any of our slaves, said he, go there and remain there a certain time, they would by the present laws, be entitled to their freedom; so that their masters could not get them again. This would be extremely prejudicial to the inhabitants of the southern states, and to prevent it, this clause is inserted in the Constitution.—Though the word *slave* be not mentioned, this is the meaning of it. The northern Delegates, owing to their particular scruples on the subject of slavery, did not choose the word *slave* to be mentioned.

The rest of the fourth article read without any observation.

Article fifth.

Mr. *Iredell*—Mr. Chairman, This is a very important clause. In every other constitution of government that I have ever heard or read of, no provision is made for necessary amendments. The misfortune attending most constitutions which have been deliberately formed, has been, that those who formed them thought their wisdom equal to all possible contingencies, and that there could be no error in what they did. The gentlemen who framed this Constitution thought with much more diffidence of their own capacities; and undoubtedly without a provision for amendment it would have been more justly liable to objection, and the characters of its framers would have appeared much less meritorious. This indeed is one of the greatest beauties of the system, and should strongly recommend it to every candid mind. The Constitution of any government which can not be regularly amended when its defects are experienced reduces the people to this dilemma—they must either submit to its oppressions, or bring about amendments more or less by a civil war. Happy this, the country we live in! The Constitution before us, if it be adopted, can be altered with as much regularity and as little confusion, as any act of Assembly—not indeed quite so easily, which would be extremely impolitic; but it is a most happy circumstance, that there is a remedy in the system itself for its own fallibility, so that alterations can without difficulty be made agreeable to the general sense of the people. Let us attend to the manner in which amendments may be made: The proposition for amendments may arise from Congress itself, when two-thirds of both Houses shall deem it necessary. If they should not, and yet amendments be generally wished for by the people, two-thirds of the Legislatures of the different states may require

a general Convention for the purpose, in which case Congress are under the necessity of convening one. Any amendments which either Congress shall propose, or which shall be proposed by such General Convention, are afterwards to be submitted to the Legislatures of the different states, or Conventions called for that purpose, as Congress shall think proper; and upon the ratification of three-fourths of the states, will become a part of the Constitution. By referring this business to the Legislatures, expence would be saved; and in general it may be presumed, they would speak the genuine sense of the people. It may, however, on some occasions, be better to consult an immediate delegation for that special purpose. This is therefore left discretionary. It is highly probable that amendments agreed to in either of these methods, would be conducive to the public welfare, when so large a majority of the states consented to them. And in one of these modes, amendments that are now wished for, may in a short time be made to this Constitution by the states adopting it.

It is however to be observed, that the first and fourth clauses in the ninth section of the first article, are protected from any alteration till the year 1808. And in order that no consolidation should take place, it is provided, that no state shall, by any amendment or alteration, be ever deprived of an equal suffrage in the Senate without its own consent. The two first prohibitions are with respect to the census, according to which direct taxes are imposed, and with respect to the importation of slaves. As to the first, it must be observed, that there is a material difference between the northern and southern states. The northern states have been much longer settled, and are much fuller of people than the southern, but have not land in equal proportion nor scarcely any slaves. The subject of this article was regulated with great difficulty, and by a spirit of concession which it would not be prudent to disturb for a good many years. In twenty years there will probably be a great alteration, and then the subject may be reconsidered with less difficulty, and greater coolness. In the mean time the compromise was upon the best footing that could be obtained. A compromise likewise took place in regard to the importation of slaves. It is probable that all the members reprobated this inhuman traffic, but those of South-Carolina and Georgia would not consent to an immediate prohibition of it; one reason of which was, that during the last war they lost a vast number of negroes, which loss they wish to supply. In the mean time it is left to the states to admit or prohibit the importation, and Congress may impose a limited duty upon it.

Mr. *Bass* observed, that it was plain, that the introduction of amendments depended altogether on Congress.

Mr. *Iredell* replied, that it was very evident that it did not depend on the will of Congress: For that the Legislatures of three-fourths of the states were authorised to make application for calling a Convention to propose amendments,¹⁹ and on such application, it is provided that Congress *shall* call such Convention, so that they will have no option.

Article sixth. First clause read without any observation.

Second clause read.

Mr. *Iredell*—This clause is supposed to give too much power, when in fact it only provides for the execution of those powers which are already given in the foregoing articles. What does it say? 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.” What is the meaning of this, but that as we have given power we will support the execution of it? We should act like children to give power and deny the legality of executing it. It is saying no more than that when we adopt the government we will maintain and obey it; in the same manner as if the Constitution of this state had said, that when a law is passed in conformity to it we must obey that law. Would this be objected to? Then when the Congress passes a law consistent with the Constitution, it is to be binding on the people. If Congress under pretence of executing one power, should in fact usurp another, they will violate the Constitution. I presume therefore that this explanation, which appears to me the plainest in the world, will be entirely satisfactory to the committee.

Mr. *Bloodworth*—Mr. Chairman, I confess his explanation is not satisfactory to me—I wish the gentleman had gone further. I readily agree, that it is giving them no more power than to execute their laws. But how far does this go? It appears to me to sweep off all the Constitutions of the states. It is a total repeal of every act and Constitution of the states. The Judges are sworn to uphold it. It will produce an abolition of the state governments. Its sovereignty absolutely annihilates them.

Mr. *Iredell*—Mr. Chairman, Every power delegated to Congress, is to be executed by laws made for that purpose. It is necessary to particularise the powers intended to be given in the Constitution, as having no existence before. But after having enumerated what we give up, it follows of course, that whatever is done by virtue of that authority, is legal without any new authority or power. The question then under this clause, will always be—whether Congress has exceeded its authority? If it has not exceeded it we must obey, otherwise not. This Constitution

when adopted will become a part of our state Constitution, and the latter must yield to the former only in those cases where power is given by it. It is not to yield to it in any other case whatever. For instance, there is nothing in the Constitution of this state establishing the authority of a Federal Court. Yet the Federal Court when established, will be as constitutional as the Superior Court is now under our Constitution.—It appears to me merely a general clause, the amount of which is, that when they pass an act, if it be in the execution of a power given by the Constitution, it shall be binding on the people, otherwise not. As to the sufficiency or extent of the power, that is another consideration, and has been discussed before.

Mr. *Bloodworth*, This clause will be the destruction of every law which will come in competition with the laws of the United States. Those laws and regulations which have been or shall be made in this state, must be destroyed by it if they come in competition with the powers of Congress. Is it not necessary to define the extent of its operation? Is not the force of our tender laws destroyed by it? The worthy gentleman from Wilmington [Archibald Maclaine] has endeavoured to obviate the objection as to the Constitution's destroying the credit of our paper money and paying debts in coin, but unsatisfactorily to me. A man assigns by legal fiction a bond to a man in another state—Could that bond be paid by money? I know it is very easy to be wrong. I am conscious of being frequently so. I endeavour to be open to conviction. This clause seems to me too general, and I think its extent ought to be limited and defined. I should suppose every reasonable man would think some amendment to it was necessary.

Mr. *Maclaine*—Mr. Chairman, That it will destroy the state sovereignty is a very popular argument. I beg leave to have the attention of the committee. Government is formed for the happiness and prosperity of the people at large. The powers given it are for their own good. We have found by several years experience, that government taken by itself nominally, without adequate power, is not sufficient to promote their prosperity. Sufficient powers must be given to it. The powers to be given the general government, are proposed to be withdrawn from the authority of the state governments, in order to protect and secure the union at large. This proposal is made to the people. No man will deny their authority to delegate powers and recall them, in all free countries.

But, says the gentleman last up [Timothy Bloodworth], the construction of the Constitution is in the power of Congress, and it will destroy the sovereignty of the state governments. It may be justly said, that it diminishes the power of the state Legislatures, and the diminution is necessary to the safety and prosperity of the people. But it may be fairly

said, that the members of the general government, the President, Senators and Representatives whom we send thither by our free suffrages to consult our common interest, will not wish to destroy the state governments, because the existence of the general government will depend on that of the state governments. But what is the sovereignty, and who is Congress? One branch—the people at large, and the other branch the states by their Representatives. Do people fear the delegation of power to themselves—to their own Representatives? But he objects, that the laws of the union are to be the supreme laws of the land. Is it not proper that their laws should be the law of the land, and paramount to those of any particular state? Or is it proper that the laws of any particular state should controul the laws of the United States? Shall a part controul the whole? To permit the local laws of any state to controul the laws of the union, would be to give the general government no powers at all. If the Judges are not to be bound by it, the powers of Congress will be nugatory. This is self-evident and plain. Bring it home to every understanding; it is so clear it will force itself upon it. The worthy gentleman says, in contradiction to what I have observed, that the clause which restrains the states from emitting paper money, &c. will operate upon the present circulating paper money, and that gold and silver must pay paper contracts. The clause cannot possibly have a retrospective view. It cannot affect the existing currency in any manner, except to enhance its value by the prohibition of future emissions. It is contrary to the universal principles of jurisprudence, that a law or Constitution should have a retrospective operation, unless it be expressly provided that it shall. Does he deny the power of the Legislature to fix a scale of depreciation as a criterion to regulate contracts made for depreciated money? As to the question he has put of an assigned bond, I answer that it can be paid with paper money. For this reason—the assignee can be in no better situation than the assignor. If it be regularly transferred, it will appear what person had the bond originally, and the present possessor can recover nothing but what the original holder of it could. Another reason which may be urged is, that the Federal Courts could have no cognizance of such a suit. Those courts have no jurisdiction in cases of debt between the citizens of the same state. The assignor being a citizen of the same state with the debtor, and assigning it to a citizen of another state to avoid the intent of the Constitution, the assignee can derive no advantage from the assignment, except what the assignor had a right to, and consequently the gentleman's objection falls to the ground.

Every gentleman must see the necessity for the laws of the union to be paramount to those of the separate states; and that the powers given

by this Constitution must be executed. What, shall we ratify a government and then say it shall not operate? This would be the same as not to ratify. As to amendments, the best characters in the country, and those whom I most highly esteem, wish for amendments. Some parts of it are not organized to my wish. But I apprehend no danger from the structure of the government. One gentleman (Mr. Bass) said he thought it neither necessary nor proper. For my part, I think it essential to our very existence as a nation, and our happiness and prosperity as a free people. The men who composed it were men of great abilities and various minds. They carried their knowledge with them. It is the result, not only of great wisdom and mutual reflection, but of "mutual deference and concession."²⁰ It has trifling faults, but they are not dangerous. Yet at the same time I declare, that if gentlemen propose amendments, if they be not such as would destroy the government entirely, there is not a single Member here more willing to agree to them than myself.

Mr. *Davie*—Mr. Chairman, Permit me, Sir, to make a few observations on the operation of the clause so often mentioned. This Constitution, as to the powers therein granted, is constantly to be the supreme law of the land. Every power ceded by it must be executed, without being counteracted by the laws or Constitutions of the individual states. Gentlemen should distinguish that it is not to be the supreme law in the exercise of a power not granted. It can be supreme only in cases consistent with the powers specifically granted, and not in usurpations. If you grant any power to the federal government, the laws made in pursuance of that power, must be supreme and uncontrouled in their operation. This consequence is involved in the very nature and necessity of the thing. The only rational enquiry is, whether those powers are necessary, and whether they are properly granted. To say that you have vested the federal government with power to legislate for the union, and then deny the supremacy of the laws, is a solecism in terms. With respect to its operation on our own paper money, I believe that a little consideration will satisfy every man that it cannot have the effect asserted by the gentleman from New-Hanover [Timothy Bloodworth]. The Federal Convention knew that several states had large sums of paper money in circulation, and that it was an interesting property, and they were sensible that those states would never consent to its immediate destruction, or ratify any system that would have that operation. The mischief already done could not be repaired; all that could be done was to form some limitation to this great political evil. As the paper money had become private property, and the object of numberless contracts, it could not be destroyed or intermeddled with in that

situation, although its baneful tendency was obvious and undeniable; it was, however, effecting an important object to put bounds to this growing mischief. If the states had been compelled to sink the paper money instantly, the remedy might have been worse than the disease. As we could not put an immediate end to it, we were content with prohibiting its future increase, looking forward to its entire extinguishment when the states that had an emission circulating, should be able to call it in by a gradual redemption. In Pennsylvania, their paper money was not a tender in discharge of private contracts; in South-Carolina their bills became eventually a tender; and in Rhode-Island, New-York, New-Jersey, and North-Carolina the paper money was made a legal tender in all cases whatsoever.²¹ The other states were sensible that the destruction of the circulating paper, would be a violation of the rights of private property, and that such a measure would render the accession of those states to the system absolutely impracticable. The injustice and pernicious tendency of this disgraceful policy were viewed with great indignation by the states which adhered to the principles of justice. In Rhode-Island the paper money had depreciated to eight for one, and a hundred per cent. with us. The people of Massachusetts and Connecticut had been great sufferers by the dishonesty of Rhode-Island, and similar complaints existed against this state [i.e., North Carolina]. This clause, because in some measure a preliminary with the gentlemen who represented the other states, "You have," said they, "by your iniquitous laws and paper emissions, shamefully defrauded our citizens. The Confederation prevented our compelling you to do them justice, but before we confederate with you again, you must not only agree to be honest, but put it out of your power to be otherwise." Sir, a Member from Rhode-Island itself, could not have set his face against such language. The clause was, I believe, unanimously assented to; it has only a future aspect, and can by no means have a retrospective operation. And I trust the principles upon which the Convention proceeded, will meet the approbation of every honest man.

Mr. [Stephen] Cabarrus—Mr. Chairman, I contend that the clause which prohibits the states from emitting bills of credit, will not affect our present paper money. The clause has no retrospective view. This Constitution declares in the most positive terms, that no *ex post facto law* shall be passed by the general government. Were this clause to operate retrospectively, it would clearly be *ex post facto*, and repugnant to the express provision of the Constitution. How then in the name of God, can the Constitution take our paper money away? If we have contracted for a sum of money we ought to pay according to the nature of our

contract. Every honest man will pay in specie who engaged to pay it. But if we have contracted for a sum of paper money, it must be clear to every man in this committee, that we shall pay in paper money. This is a Constitution for the *future* government of the United States. It does not look back. Every gentleman must be satisfied on the least reflection, that our paper money will not be destroyed. To say that it will be destroyed, is a popular argument, but not founded in fact in my opinion. I had my doubts, but on consideration I am satisfied.

Mr. *Bloodworth*—Mr. Chairman, I beg leave to ask, if the payment of sums now due be *ex post facto*? Will it be an *ex post facto* law, to compel the payment of money now due in silver coin? If suit be brought in the Federal Court against one of our citizens for a sum of money, will paper money be received to satisfy the judgment? I enquire for information—my mind is not yet satisfied. It has been said that we are to send our own gentlemen to represent us, and that there is not the least doubt they will put that construction on it which will be most agreeable to the people they represent. But it behoves us to consider, whether they can do so if they would when they mix with the body of Congress. The northern states are much more populous than the southern ones. To the north of the Susquehannah there are thirty-six Representatives, and to the south of it only twenty-nine; they will always out-vote us. Sir, we ought to be particular in adopting a Constitution which may destroy our currency, when it is to be the supreme law of the land, and prohibits the emission of paper money. I am not, for my own part, for giving an indefinite power. Gentlemen of the best abilities differ in the construction of the Constitution. The Members of Congress will differ too. Human nature is fallible. I am not for throwing ourselves out of the union. But we ought to be cautious by proposing amendments. The majority in several great adopting states was very trifling.²² Several of them have proposed amendments, but not in the mode most satisfactory to my mind. I hope this Convention never will adopt it till the amendments are actually obtained.

Mr. *Iredell*—Mr. Chairman, With respect to this clause, it cannot have the operation contended for. There is nothing in the Constitution which affects our present paper money. It prohibits for the future the emitting of any, but it does not interfere with the paper money now actually in circulation in several states. There is an express clause which protects it. It provides that there shall be no *ex post facto* law. This would be *ex post facto*, if the construction contended for were right, as has been observed by another gentleman [Stephen Cabarrus]. If a suit were brought against a man in the Federal Court, and execution should go

against his property, I apprehend, he would, under this Constitution, have a right to pay our paper money, there being nothing in the Constitution taking away the validity of it. Every individual in the United States, will keep his eye watchfully over those who administer the general government, and no usurpation of power will be acquiesced in. The possibility of usurping powers ought not to be objected against it. Abuse may happen in any government. The only resource against usurpation, is the inherent right of the people to prevent its exercise. This is the case in all free governments in the world. The people will resist if the government usurp powers not delegated to it. We must run the risk of abuse. We must take care to give no more power than is necessary, but having given that we must submit to the possible dangers arising from it. With respect to the great weight of the northern states, it will not, on a candid examination, appear so great as the gentleman [Timothy Bloodworth] supposes. At present the regulation of our representation is merely temporary. Whether greater or less it will hereafter depend on actual population. The extent of this state is very great, almost equal to that of any state in the union. And our population will probably be in proportion. To the north of Pennsylvania there are twenty-seven votes. To the south of Pennsylvania there are thirty votes, leaving Pennsylvania out. Pennsylvania has eight votes. In the division of what is called the northern and southern interests, Pennsylvania does not appear to be decidedly in either scale. Though there may be a combination of the northern states, it is not certain that the interest of Pennsylvania will coincide with theirs. If at any time she joins us, we shall have thirty-eight against twenty-seven. Should she be against us, they will have only thirty-five to thirty. There are two states to the northward who have, in some respect, a similarity of interests with ourselves. What is the situation of New-Jersey? It is in one respect similar to ours. Most of the goods which they use come through New-York, and they pay for the benefit of New-York, as we pay for that of Virginia. It is so with Connecticut,²³ so that in every question between importing and non-importing states, we may expect that two of the northern states would probably join with North-Carolina. It is impossible, perhaps, to destroy altogether this idea of separate interests. But the difference between the states does not appear to me so great as the gentleman imagines; and I beg leave to say, that in proportion to the increase of population, the southern states will have greater weight than the northern, as they have such large quantities of land still uncultivated, which is not so much the case to the north. If we should suffer a small temporary inconvenience, we shall be compensated for it by having the weight of population in our favour in future.

Mr. *Bloodworth*—Mr. Chairman, When I was in Congress, the southern and northern interests divided at Susquehanna. I believe it is so now. The advantage to be gained by future population is no argument at all. Do we gain any thing when the other states have an equality of Members in the Senate, notwithstanding the increase of Members in the House of Representatives? This is no consequence at all. I am sorry to mention it, but I can produce an instance which will prove the facility of misconstruction. (Here Mr. *Bloodworth* cited an instance which took place in Congress with respect to the Indian trade, which not having been distinctly heard is omitted.)

They may trample on the rights of the people of North-Carolina if there be not sufficient guards and checks. I only mentioned this to shew that there may be misconstructions, and that in so important a case as a Constitution, every thing ought to be clear and intelligible, and no ground left for disputes.

Mr. [*David*] *Caldwell*—Mr. Chairman, It is very evident that there is a great necessity for perspicuity. In the sweeping clause there are words which are not plain and evident. It says, that “this Constitution and the laws of the United States which shall be made in pursuance thereof, &c. shall be the supreme law of the land.” The word *pursuance* is equivocal and ambiguous; a plainer word would be better. They may pursue *bad* as well as *good* measures, and therefore the word is improper—it authorises bad measures. Another thing is remarkable, that gentlemen as an answer to every improper part of it, tell us that every thing is to be done by our own Representatives, who are to be good men. There is no security that they will be so, or continue to be so. Should they be virtuous when elected, the laws of Congress will be unalterable. These laws must be annihilated by the same body which made them. It appears to me that the laws which they make, cannot be altered without calling a Convention. (Mr. *Caldwell* added some reasons for this opinion, but spoke too low to be heard.)

Governor [*Samuel*] *Johnston*—Mr. Chairman, I knew that many gentlemen in this Convention were not perfectly satisfied with every article of this Constitution, but I did not expect so many would object to this clause. The Constitution must be the supreme law of the land, otherwise it will be in the power of any one state to counteract the other states, and withdraw itself from the union. The laws made in pursuance thereof by Congress, ought to be the supreme law of the land, otherwise any one state might repeal the laws of the union at large. Without this clause, the whole Constitution would be a piece of blank paper. Every treaty should be the supreme law of the land; without this, any one state might involve the whole union in war. The worthy member

who was last up [David Caldwell], has started an objection which I cannot answer. I do not know a word in the English language so good as the word *pursuance*, to express the idea meant and intended by the Constitution. Can any one understand the sentence any other way than this? When Congress makes a law in virtue of their constitutional authority, it will be an actual law. I do not know a more expressive or a better way of representing the idea by words. Every law consistent with the Constitution, will have been made in pursuance of the powers granted by it. Every usurpation or law repugnant to it, cannot have been made in pursuance of its powers. The latter will be nugatory and void. I am at a loss to know what he means, by saying the laws of the union will be unalterable. Are laws as immutable as Constitutions? Can any thing be more absurd than assimilating the one to the other? The idea is not warranted by the Constitution, nor consistent with reason.

Mr. *J[oseph] M'Dowall* wished to know how the taxes are to be paid which Congress were to lay in this state. He asked if paper money would discharge them. He calculated that the taxes would be higher, and did not know how they could be discharged. For says he, every man is to pay so much more, and the poor man has not the money locked up in his chest. He was of opinion that our laws could be repealed entirely by those of Congress.

Mr. *Maclaine*—Mr. Chairman, Taxes must be paid in gold or silver coin, and not in imaginary money. As to the subject of taxation, it has been the opinion of many intelligent men that there will be no taxes laid immediately, or if any, that they will be very inconsiderable. There will be no occasion for it, as proper regulations will raise very large sums of money. We know that Congress will have sufficient power to make such regulations. The moment that the Constitution is established, Congress will have credit with foreign nations. Our situation being known they can borrow any sum. It will be better for them to raise any money they want at present by borrowing than by taxation. It is well known that in this country gold and silver vanish when paper money is made. When we adopt, if ever, gold and silver will again appear in circulation. People will let their hard money go, because they know that paper money cannot repay it. After the war we had more money in gold and silver in circulation, than we have nominal paper money now. Suppose Congress wished to raise a million of money more than the imposts: Suppose they borrow it. They can easily borrow it in Europe at four per cent. The interest of that sum will be but 40,000£. So that the people instead of having the whole 1,000,000£ to pay, will have but 40,000£ to pay, which will hardly be felt. The proportion of

40,000£ for this state, would be a trifle. In seven years time the people would be able, by only being obliged to pay the interest annually, to save money, and pay the whole principal perhaps afterwards without much difficulty. Congress will not lay a single tax when it is not to the advantage of the people at large. The western lands will also be a considerable fund. The sale of them will aid the revenue greatly, and we have reason to believe the impost will be productive.

Mr. *J. M'Dowall*—Mr. Chairman, Instead of reasons and authorities to convince me, assertions are made. Many respectable gentlemen are satisfied that the taxes will be higher. By what authority does the gentleman say that the impost will be productive, when our trade is come to nothing? Sir, borrowing money is detrimental and ruinous to nations. The interest is lost money. We have been obliged to borrow money to pay interest! We have no way of paying additional and extraordinary sums. The people cannot stand them. I should be extremely sorry to live under a government which the people could not understand, and which it would require the greatest abilities to understand. It ought to be plain and easy to the meanest capacity. What would be the consequence of ambiguity? It may raise animosity and revolutions, and involve us in bloodshed.—It becomes us to be extremely cautious.

Mr. *Maclaine*—Mr. Chairman, I would ask the gentleman what is the state of our trade? I do not pretend to a very great knowledge in trade, but I know something of it. If our trade be in a low situation, it must be the effect of our present weak government. I really believe that Congress will be able to raise almost what sums they please by the impost. I know it will, though the gentleman may call it assertion. I am not unacquainted with the territory or resources of this country. The resources, under proper regulations, are very great. In the course of a few years we can raise money without borrowing a single shilling. It is not disgraceful to borrow money. The richest nations have recurred to loans on some emergencies. I believe, as much as I do in my existence, that Congress will have it in their power to borrow money if our government be such as people can depend upon. They have been able to borrow now under the present feeble system: If so, can there be any doubt of their being able to do it under a respectable government?

Mr. *M'Dowall* replied, that our trade was on a contemptible footing—That it was come almost to nothing—and lower in North-Carolina than any where—That therefore little could be expected from the impost.

Mr. *J[ames] Gallaway*—Mr. Chairman, I should make no objection to this clause were the powers granted by the Constitution sufficiently defined: For I am clearly of opinion that it is absolutely necessary for

every government, and especially for a general government, that its laws should be the supreme law of the land. But I hope the gentlemen of the committee will advert to the 10th section of the first article. This is a negative which the Constitution of our own state does not impose upon us. I wish the committee to attend to that part of it which provides that no state shall pass any law which will impair the obligation of contracts. Our public securities are at a low ebb, and have been so for many years. We well know that this country has taken those securities as specie. This hangs over our heads as a contract. There is a million and a half in circulation at least. That clause of the Constitution may compel us to make good the nominal value of these securities. I trust this country never will leave it to the hands of the general government to redeem the securities which they have already given. Should this be the case, the consequence will be, that they will be purchased by speculators, when the citizens will part with them perhaps for a very trifling consideration. Those speculators will look at the Constitution, and see that they will be paid in gold and silver. They will buy them at a half crown in the pound, and get the full nominal value for them in gold and silver. I therefore wish the committee to consider whether North-Carolina can redeem those securities in the manner most agreeable to her citizens, and justifiable to the world, if this Constitution be adopted.

Mr. *Davie*—Mr. Chairman, I believe neither the tenth section cited by the gentleman, nor any other part of the Constitution has vested the general government with power to interfere with the public securities of any state. I will venture to say, that the last thing which the general government will attempt to do, will be this. They have nothing to do with it. The clause refers merely to contracts between individuals. That section is the best in the Constitution. It is founded on the strongest principles of justice. It is a section in short, which I thought would have endeared the Constitution to this country. When the worthy gentleman [James Gallaway] comes to consider, he will find that the general government cannot possibly interfere with such securities. How can it? It has no negative clause to that effect. Where is there a negative clause, operating negatively on the states themselves? It cannot operate retrospectively, for this would be repugnant to its own express provisions. It will be left to ourselves to redeem them as we please. We wished we could put it on the shoulders of Congress, but could not. Securities may be higher, but never less. I conceive, Sir, that this is a very plain case, and that it must appear perfectly clear to the committee, that the gentleman's alarms are groundless.

The committee now rose, Mr. President resumed the chair, and Mr. Kenan²⁴ reported, that the committee had, according to order, again

had the said proposed Constitution under their consideration, but not having had time to go through the same, had directed him to move for leave to sit again to-morrow.

Resolved, That this Convention will again to-morrow resolve itself into a committee of the whole Convention on the said proposed Constitution.

The Convention then adjourned until to-morrow morning nine o'clock.

1. Printed: *Proceedings and Debates*, 177–217.

2. Article II of the Articles of Confederation reserved to the states “every Power, Jurisdiction and right” that was not “expressly delegated” to the Confederation government (CDR, 86).

3. A reference to the Administration of Justice Act (20 May 1774), one of the four “Intolerable Acts” passed between 31 March and 2 June 1774. Three of the four acts—the Boston Port Act, the Massachusetts Government Act, and the Administration of Justice Act—were directed at Massachusetts, where revolutionary fervor was greatest in response to British policies. Under the Administration of Justice Act, British customs officials on trial could be removed to another British colony or Great Britain, which would put them beyond the reach of American juries. Witnesses in such proceedings could also be compelled to attend.

4. Article III, section 2.

5. See Article I, section 9, clause 6, and Article I, section 10, clauses 1–2.

6. On the Pine Barren Act, see “An Act for regulating Sales under Executions, and for other Purposes therein mentioned,” *Acts and Ordinances of the State of South Carolina* ([Charleston, 1785]) (Evans 19251), 5–7. See also Walter B. Edgar, *South Carolina: A History* (Columbia, S.C., 1998), 247–48. So-called “pine barren acts” allowed debtors to pay creditors with land instead of cash. Creditors had to make the difficult decision of accepting land, oftentimes poor or backcountry land, in payment of debts or extending debts to a future date. Any debtor’s property sold in fulfillment of debts could not be sold for less than three-fourths of its appraised value.

7. Latin: A self-murderer; suicidal.

8. See note 6 (above).

9. See note 2 (above).

10. Samuel Spencer served as a judge of North Carolina’s Superior Court of Law and Equity from 1778 until his death in 1794.

11. See Iredell’s speech on 28 July (RCS:N.C., 360).

12. For the first major Federalist response to fears about the Constitution’s lack of a bill of rights, see the note about James Wilson’s speech of 6 October 1787 (RCS:N.C., 365–66, note 15).

13. Since 1779 John Jay engaged in negotiations with the Spanish government in Spain and France. When Jay returned to the United States he was appointed secretary for foreign affairs. Negotiations continued with the arrival of Spanish envoy Don Diego de Gardoqui in New York in 1786. In 1784, the Spanish government prohibited Americans from navigating the Mississippi River. Without American acceptance of this prohibition, Spain would not agree to a commercial treaty with the United States. Jay asked Congress to alter his instructions, allowing him to give up the American right to navigate the Mississippi River for twenty-five years in exchange for commercial privileges for American merchants in Spanish ports. Jay had the support of the Northern States in Congress, but

the five Southern States could defeat any proposed treaty because the Articles of Confederation required that at least nine states had to approve treaties as well as all other important actions of Congress.

14. Locke (1730–1801), a native of Ireland and a former resident of Lancaster, Pa., was a Rowan County planter. He represented the county in the colonial Assembly, 1771, 1773–75. A strong supporter of the revolutionary movement against Great Britain, Locke served in the third, fourth, and fifth provincial congresses, 1775, 1776. During the war, he procured supplies for the army and was appointed brigadier general pro tempore for the Salisbury District. Locke served in the state House of Commons, 1777–80, 1783–84, 1785, 1789–93, and the state Senate, 1782, 1784–85. In November 1788 he was elected a delegate to the Confederation Congress but did not attend. In the Hillsborough and Fayetteville conventions, 1788, 1789, he voted against ratification of the U.S. Constitution. In 1793 he defeated incumbent John Steele, a Federalist, for a seat in the U.S. House of Representatives, serving from 1793 to 1799. Locke was defeated for reelection in 1798.

15. See note 6 (above).

16. The Currency Act (1764) prohibited the colonies from issuing paper money. Taxes and debts owed to British creditors were to be paid in British currency.

17. Bass (1734–1791), a physician, planter, and mill owner in Waynesborough, N.C., represented Dobbs County in the third and fifth provincial congresses, 1775, 1776, and in the state House of Commons, 1777. He represented Wayne County in the state Senate, 1780–82, and in the Hillsborough Convention, 1788, where he voted against ratifying the U.S. Constitution.

18. Article III, section 2.

19. Iredell either misspoke or he was misquoted. Article V provides that two-thirds, not three-fourths, of the state legislatures could apply to Congress to call a convention for proposing amendments to the Constitution. Iredell accurately conveyed this point previously (RCS:N.C., 388–89).

20. For this expression, see Washington's 17 September 1787 cover letter transmitting the Constitution to the president of Congress (Appendix III, RCS:N.C., 833).

21. In New York's paper money emission of 1786, paper money was made legal tender only in cases where a creditor brought suit against a debtor. This legal tender provision represented a compromise in the Assembly and avoided the extremes of other states, where paper money was made legal tender in all cases. The compromise protected debtors in the direst of situations, serving somewhat as a stay act. See John P. Kaminski, *Paper Politics: The Northern State Loan-Offices During the Confederation, 1783–1790* (New York, 1989), 147–48.

22. Massachusetts ratified the Constitution 187 to 168, Virginia ratified 89 to 79, and New York ratified 30 to 27.

23. For New York's dominance over the commerce of New Jersey and Connecticut, see RCS:N.Y., Vol. 1, xxxvii.

24. James Kenan (1740–1810), a native of Turkey, N.C., was Duplin County sheriff, 1762–66, 1785–86, and one of the county's delegates to the colonial Assembly, 1773–74. A strong supporter of the revolutionary movement against Great Britain, he sat in the first, third, and fifth provincial congresses, 1774, 1775, 1776, and chaired the Duplin County committee of safety. During the war, Kenan was colonel of the Duplin County militia and saw action at the Battle of Moore's Creek, 1776, and in South Carolina and North Carolina, 1780–81. He was made brigadier general of the Wilmington District in 1785. Kenan was a member of the state Senate, 1777–79, 1781–83, 1787–88, 1790–94. He was a member of the Council of State, 1784 (president pro tempore), 1794, 1802, 1805, 1808–9. In the Hillsborough and Fayetteville conventions, 1788 (chairman of the committee of the whole) and 1789, he voted against ratification of the U.S. Constitution.

Hillsborough Convention
Wednesday
30 July 1788

Convention Proceedings, 30 July 1788 (excerpts)¹

Met according to adjournment.

Mr. George Wynns, one of the members for Hertford county appeared and took his seat. . . .

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 10.

Convention Debates, 30 July 1788¹

The Convention met according to adjournment, and then resolved into a committee of the whole Convention, to take into further consideration the said proposed Constitution.—Mr. Kenan in the chair.

The last clause of the sixth article read.

Mr. *Henry Abbot*, after a short exordium which was not distinctly heard, proceeded thus—Some are afraid, Mr. Chairman, that should the Constitution be received, they would be deprived of the privilege of worshipping God according to their consciences; which would be taking from them a benefit they enjoy under the present Constitution. They wish to know if their religious and civil liberties be secured under this system, or whether the general government may not make laws infringing their religious liberties. The worthy member from Edenton [James Iredell] mentioned sundry political reasons why treaties should be the supreme law of the land. It is feared by some people, that by the power of making treaties, they might make a treaty engaging with foreign powers to adopt the Roman catholic religion in the United States, which would prevent the people from worshipping God according to their own consciences. The worthy member from Halifax [William R. Davie] has in some measure satisfied my mind on this subject. But others may be dissatisfied. Many wish to know what religion shall be established. I believe a majority of the community are Presbyterians. I am for my part against any exclusive establishment, but if there were any, I would prefer the Episcopal. The exclusion of religious tests is by many thought dangerous and impolitic. They suppose that if there be no religious test required, Pagans, Deists and Mahometans might obtain offices among us, and that the Senate and Representatives might all be Pagans. Every person employed by the general and state governments is to take an oath to support the former. Some are desirous to know how, and by

whom they are to swear, since no religious tests are required—whether they are to swear by Jupiter, Juno, Minerva, Proserpine or Pluto. We ought to be suspicious of our liberties. We have felt the effects of oppressive measures, and know the happy consequences of being jealous of our rights. I would be glad some gentleman would endeavour to obviate these objections, in order to satisfy the religious part of the society. Could I be convinced that the objections were well founded, I would then declare my opinion against the Constitution. (Mr. *Abbot* added several other observations, but spoke too low to be heard.)

Mr. [*James*] *Iredell*—Mr. Chairman, Nothing is more desirable than to remove the scruples of any gentleman on this interesting subject: Those concerning religion are entitled to particular respect. I did not expect any objection to this particular regulation, which in my opinion, is calculated to prevent evils of the most pernicious consequences to society. Every person in the least conversant in the history of mankind, knows what dreadful mischiefs have been committed by religious persecutions. Under the colour of religious tests the utmost cruelties have been exercised. Those in power have generally considered all wisdom centered in themselves, that they alone had a right to dictate to the rest of mankind, and that all opposition to their tenets was profane and impious. The consequence of this intolerant spirit has been, that each church has in turn set itself up against every other, and persecutions and wars of the most implacable and bloody nature have taken place in every part of the world. America has set an example to mankind to think more modestly and reasonably; that a man may be of different religious sentiments from our own, without being a bad member of society. The principles of toleration, to the honour of this age, are doing away those errors and prejudices which have so long prevailed even in the most intolerant countries. In the Roman catholic countries, principles of moderation are adopted, which would have been spurned at a century or two ago. I should be sorry to find, when examples of toleration are set even by arbitrary governments, that this country, so impressed with the highest sense of liberty, should adopt principles on this subject, that were narrow and illiberal. I consider the clause under consideration as one of the strongest proofs that could be adduced, that it was the intention of those who formed this system, to establish a general religious liberty in America. Were we to judge from the examples of religious tests in other countries, we should be persuaded that they do not answer the purpose for which they are intended. What is the consequence of such in England? In that country no man can be a Member in the House of Commons, or hold any office under the Crown, without taking the sacrament according to the rites of the

church. This in the first instance must degrade and profane a rite, which never ought to be taken but from a sincere principle of devotion. To a man of base principles, it is made a mere instrument of civil policy. The intention was to exclude all persons from offices, but the members of the church of England. Yet it is notorious, that Dissenters qualify themselves for offices in this manner, though they never conform to the church on any other occasion; and men of no religion at all, have no scruple to make use of this qualification. It never was known that a man who had no principles of religion, hesitated to perform any rite when it was convenient for his private interest. No test can bind such a one. I am therefore clearly of opinion, that such a discrimination would neither be effectual for its own purposes, nor if it could, ought it by any means to be made. Upon the principles I have stated, I confess the restriction on the power of Congress in this particular has my hearty approbation. They certainly have no authority to interfere in the establishment of any religion whatsoever, and I am astonished that any gentleman should conceive they have. Is there any power given to Congress in matters of religion? Can they pass a single act to impair our religious liberties? If they could, it would be a just cause of alarm. If they could, Sir, no man would have more horror against it than myself. Happily no sect here is superior to another. As long as this is the case, we shall be free from those persecutions and distractions with which other countries have been torn. If any future Congress should pass an act concerning the religion of the country, it would be an act which they are not authorised to pass by the Constitution, and which the people would not obey. Every one would ask, "Who authorised the government to pass such an act? It is not warranted by the Constitution, and is a barefaced usurpation." The power to make treaties can never be supposed to include a right to establish a foreign religion among ourselves, though it might authorise a toleration of others.

But it is objected, that the people of America may perhaps chuse Representatives who have no religion at all, and that Pagans and Mahometans may be admitted into offices. But how is it possible to exclude any set of men, without taking away that principle of religious freedom which we ourselves so warmly contend for? This is the foundation on which persecution has been raised in every part of the world. The people in power were always in the right, and every body else wrong. If you admit the least difference, the door to persecution is opened. Nor would it answer the purpose, for the worst part of the excluded sects would comply with the test, and the best men only be kept out of our counsels. But it is never to be supposed that the people of America will trust their dearest rights to persons who have no religion at all, or a

religion materially different from their own. It would be happy for mankind if religion was permitted to take its own course, and maintain itself by the excellence of its own doctrines. The divine author of our religion never wished for its support by worldly authority. Has he not said, *that the gates of hell shall not prevail against it?*² It made much greater progress for itself, than when supported by the greatest authority upon earth.

It has been asked by that respectable gentleman (Mr. Abbot) what is the meaning of that part, where it is said, that the United States shall *guarantee* to every state in the union a republican form of government, and why a *guarantee* of *religious freedom* was not included. The meaning of the guarantee provided was this—There being thirteen governments confederated, upon a republican principle, it was essential to the existence and harmony of the confederacy that each should be a republican government, and that no state should have a right to establish an aristocracy or monarchy. That clause was therefore inserted to prevent any state from establishing any government but a republican one. Every one must be convinced of the mischief that would ensue, if any state had a right to change its government to a monarchy. If a monarchy was established in any one state, it would endeavour to subvert the freedom of the others, and would probably by degrees succeed in it. This must strike the mind of every person here who recollects the history of Greece when she had confederated governments. The King of Macedon by his arts and intrigues got himself admitted a member of the Amphycionian council, which was the superintending government of the Grecian republics, and in a short time he became master of them all. It is then necessary that the members of a confederacy should have similar governments. But consistently with this restriction the states may make what change in their own governments they think proper. Had Congress undertaken to guarantee *religious freedom*, or any particular species of it, they would then have had a pretence to interfere in a subject they have nothing to do with. Each state, so far as the clause in question does not interfere, must be left to the operation of its own principles.

There is a degree of jealousy which it is impossible to satisfy. Jealousy in a free government ought to be respected: But it may be carried to too great an extent. It is impracticable to guard against all *possible* danger of people's chusing their officers indiscreetly. If they have a right to chuse, they may make a bad choice. I met by accident with a pamphlet this morning, in which the author states as a very serious danger, that the Pope of Rome might be elected President. I confess this never struck me before, and if the author had read all the qualifications of

a President, perhaps his fears might have been quieted. No man but a native, and who has resided fourteen years in America, can be chosen President. I know not all the qualifications for a Pope, but I believe he must be taken from the college of Cardinals, and probably there are many previous steps necessary before he arrives at this dignity. A native of America must have very singular good fortune, who after residing fourteen years in his own country, should go to Europe, enter into Romish orders, obtain the promotion of Cardinal, afterwards that of Pope, and at length be so much in the confidence of his own country, as to be elected President. It would be still more extraordinary if he should give up his Popedom for our Presidency. Sir, it is impossible to treat such idle fears with any degree of gravity. Why is it not objected, that there is no provision in the Constitution against electing one of the Kings of Europe President? It would be a clause equally rational and judicious.

I hope that I have in some degree satisfied the doubts of the gentleman [Henry Abbot]. This article is calculated to secure universal religious liberty, by putting all sects on a level, the only way to prevent persecution. I thought nobody would have objected to this clause, which deserves in my opinion the highest approbation. This country has already had the honour of setting an example of civil freedom, and I trust it will likewise have the honour of teaching the rest of the world the way to religious freedom also. God grant both may be perpetuated to the end of time.

Mr. *Abbot*, after expressing his obligations for the explanation which had been given, observed that no answer had been given to the question he put concerning the form of an oath.

Mr. *Iredell*—Mr. Chairman, I beg pardon for having omitted to take notice of that part which the worthy gentleman has mentioned. It was by no means from design, but from its having escaped my memory, as I have not the conveniency of taking notes. I shall now satisfy him in that particular in the best manner in my power.

According to the modern definition of an oath, it is considered a “solemn appeal to the Supreme Being for the truth of what is said, by a person who believes in the existence of a Supreme Being, and in a future state of rewards and punishments, according to that form which will bind his conscience most.” It was long held, that no oath could be administered but upon the New Testament, except to a Jew, who was allowed to swear upon the old. According to this notion, none but Jews and Christians could take an oath, and Heathens were altogether excluded. At length, by the operation of principles of toleration, these narrow notions were done away. Men at length considered, that there

were many virtuous men in the world who had not had an opportunity of being instructed either in the Old or New Testament, who yet very sincerely believed in a Supreme Being, and in a future state of rewards and punishments. It is well known that many nations entertain this belief who do not believe either in the Jewish or Christian religion. Indeed there are few people so grossly ignorant or barbarous as to have no religion at all. And if none but Christians or Jews could be examined upon oath, many innocent persons might suffer for want of the testimony of others. In regard to the form of an oath, that ought to be governed by the religion of the person taking it. I remember to have read an instance which happened in England, I believe in the time of Charles the second: A man who was a material witness in a cause, refused to swear upon the book, and was admitted to swear with his uplifted hand. The jury had a difficulty in crediting him, but the Chief Justice told them, he had, in his opinion, taken as strong an oath as any of the other witnesses, though had he been to swear himself, he should have kissed the book. A very remarkable instance also happened in England about forty years ago, of a person who was admitted to take an oath according to the rights of his own country, though he was an Heathen. He was an East-Indian, who had a great suit in Chancery, and his answer upon oath to a bill filed against him, was absolutely necessary. Not believing either in the Old or New Testament, he could not be sworn in the accustomed manner, but was sworn according to the form of the Gentoo religion, which he professed, by touching the foot of a Priest.³ It appeared, that according to the tenets of this religion, its members believed in a Supreme Being, and in a future state of rewards and punishments. It was accordingly held by the Judges, upon great consideration, that the oath ought to be received; they considering that it was probable those of that religion were equally bound in conscience by an oath according to their form of swearing, as they themselves were by one of theirs; and that it would be a reproach to the justice of the country, if a man, merely because he was of a different religion from their own, should be denied redress of an injury he had sustained. Ever since this great case, it has been universally considered, that in administering an oath, it is only necessary to enquire if the person who is to take it, believes in a Supreme Being, and in a future state of rewards and punishments. If he does, the oath is to be administered according to that form which it is supposed will bind his conscience most. It is, however, necessary that such a belief should be entertained, because otherwise there would be nothing to bind his conscience that could be relied on, since there are many cases where the terror of punishment in this world for perjury, could not be dreaded.

I have thus endeavoured to satisfy the committee. We may, I think, very safely leave religion to itself; and as to the form of the oath, I think this may well be trusted to the general government, to be applied on the principles I have mentioned.

Governor [*Samuel*] *Johnston* expressed great astonishment that the people were alarmed on the subject of religion. This, he said, must have arisen from the great pains which had been taken to prejudice men[']s minds against the Constitution. He begged leave to add the following few observations to what had been so ably said by the gentleman last up [*James Iredell*].

I read the Constitution over and over, but could not see one cause of apprehension or jealousy on this subject. When I heard there were apprehensions that the Pope of Rome could be the President of the United States, I was greatly astonished. It might as well be said that the King of England or France, or the Grand Turk could be chosen to that office. It would have been as good an argument. It appears to me that it would have been dangerous, if Congress could intermeddle with the subject of religion. True religion is derived from a much higher source than human laws. When any attempt is made by any government to restrain men[']s consciences, no good consequence can possibly follow. It is apprehended that Jews, Mahometans, Pagans, &c. may be elected to high offices under the government of the United States. Those who are Mahometans, or any others, who are not professors of the Christian religion, can never be elected to the office of President or other high office but in one of two cases. First, if the people of America lay aside the Christian religion altogether, it may happen. Should this unfortunately take place, the people will chuse such men as think as they do themselves. Another case is, if any persons of such a description, should, notwithstanding their religion, acquire the confidence and esteem of the people of America by their good conduct and practice of virtue, they may be chosen. I leave it to gentlemen[']s candour to judge what probability there is of the people's chusing men of different sentiments from themselves.

But great apprehensions have been raised as to the influence of the eastern states. When you attend to circumstances, this will have no weight. I know but two or three states where there is the least chance of establishing any particular religion. The people of Massachusetts and Connecticut are mostly Presbyterians.⁴ In every other state, the people are divided into a great number of sects. In Rhode-Island the tenets of the Baptists I believe prevail. In New-York they are divided very much: the most numerous are the Episcopalians and the Baptists. In New-Jersey they are as much divided as we are. In Pennsylvania, if any sect

prevails more than another it is that of the Quakers. In Maryland the Episcopalians are most numerous, though there are other sects. In Virginia there are many sects; you all know what their religious sentiments are. So in all the southern states they differ; as also in New-Hampshire.⁵ I hope therefore that gentlemen will see there is no cause of fear that any one religion shall be exclusively established.

Mr. [*David*] *Caldwell* thought that some danger might arise. He imagined it might be objected to in a political as well as in a religious view. In the first place, he said there was an invitation for Jews, and Pagans of every kind, to come among us. At some future period, said he, this might endanger the character of the United States. Moreover, even those who do not regard religion, acknowledge that the Christian religion is best calculated of all religions to make good members of society, on account of its morality. I think then, added he, that in a political view, those gentlemen who formed this Constitution, should not have given this invitation to Jews and Heathens. All those who have any religion are against the emigration of those people from the eastern hemisphere.

Mr. [*Samuel*] *Spencer* was an advocate for securing every unalienable right, and that of worshipping God according to the dictates of conscience in particular. He therefore thought that no one particular religion should be established. Religious tests, said he, have been the foundation of persecutions in all countries. Persons who are conscientious will not take the oath required by religious tests, and will therefore be excluded from offices, though equally capable of discharging them as any member of the society. It is feared, continued he, that persons of bad principles, Deists, Atheists, &c. may come into this country, and there is nothing to restrain them from being eligible to offices. He asked if it was reasonable to suppose that the people would chuse men without regarding their characters. Mr. *Spencer* then continued thus—Gentlemen urge that the want of a test admits the most vicious characters to offices. I desire to know what test could bind them. If they were of such principles, it would not keep them from enjoying those offices. On the other hand, it would exclude from offices conscientious and truly religious people, though equally capable as others. Conscientious persons would not take such an oath, and would be therefore excluded. This would be a great cause of objection to a religious test. But in this case as there is not a religious test required, it leaves religion on the solid foundation of its own inherent validity, without any connexion with temporal authority, and no kind of oppression can take place. I confess it strikes me so. I am sorry to differ from the worthy gentleman [*David Caldwell*]. I cannot object to this part of the Constitution. I wish every other part was as good and proper.

Governor *Johnston* approved of the worthy member's candour. He admitted a possibility of Jews, Pagans, &c. emigrating to the United States; yet, he said, they could not be in proportion to the emigrations of Christians who should come from other countries; that in all probability the children even of such people would be Christians; and that this, with the rapid population of the United States, their zeal for religion and love of liberty, would, he trusted, add to the progress of the Christian religion among us.

The seventh article read without any objection against it.

Governor *Johnston*, after a short speech which was not distinctly heard, made a motion to the following effect:

That this committee having fully deliberated on the Constitution proposed for the future government of the United States of America, by the Federal Convention lately held at Philadelphia, on the 17th day of September last, and having taken into their serious and solemn consideration the present critical situation of America, which induces them to be of opinion, that though certain amendments to the said Constitution may be wished for, yet that those amendments should be proposed subsequent to the ratification on the part of this state, and not previous to it: They therefore recommend that the Convention do ratify the Constitution, and at the same time propose amendments, to take place in one of the modes prescribed by the Constitution.

Mr. [*William*] *Lenoir*—Mr. Chairman, I conceive that I shall not be out of order to make some observations on this last part of the system, and take some retrospective view of some other parts of it. I think it not proper for our adoption, as I consider that it endangers our liberties. When we consider this system collectively, we must be surprised to think, that any set of men who were delegated to amend the Confederation, should propose to annihilate it. For that and this system are utterly different, and cannot exist together. It has been said that the fullest confidence should be put in those characters who formed this Constitution. We will admit them in private and public transactions to be good characters. But, Sir, it appears to me and every other Member of this committee, that they exceeded their powers. Those gentlemen had no sort of power to form a new Constitution altogether, neither had the citizens of this country such an idea in their view. I cannot undertake to say what principles actuated them. I must conceive they were mistaken in their politics, and that this system does not secure the unalienable rights of freemen. It has some aristocratical and some monarchical features, and perhaps some of them intended the establishment of one of these governments.⁶ Whatever might be their intent, according to my views, it will lead to the most dangerous aristocracy that ever was thought of. An aristocracy established on a constitutional

bottom!—I conceive (and I believe most of this committee will likewise) that this is so dangerous, that I should like as well to have no Constitution at all. Their powers are almost unlimited.

A Constitution ought to be understood by every one. The most humble and trifling characters in the country have a right to know what foundation they stand upon. I confess I do not see the end of the powers here proposed, nor the reasons for granting them. The principal end of a Constitution is to set forth what must be given up for the common benefit of the community at large, and to secure those rights which ought never to be infringed. The proposed plan secures no right, or if it does, it is in so vague and undeterminate a manner, that we do not understand it. My constituents instructed me to oppose the adoption of this Constitution. The principal reasons are as follow. The right of representation is not fairly and explicitly preserved to the people; it being easy to evade that privilege as provided in this system, and the terms of election being too long. If our General Assembly be corrupt, at the end of the year we can make new men of them by sending others in their stead.⁷ It is not so here. If there be any reason to think that human nature is corrupt, and that there is a disposition in men to aspire to power, they may embrace an opportunity during their long continuance in office, by means of their powers, to take away the rights of the people. The Senators are chosen for six years, and two-thirds of them with the President have most extensive powers. They may enter into a dangerous combination. And they may be continually re-elected. The President may be as good a man as any in existence, but he is but a man. He may be corrupt. He has an opportunity of forming plans dangerous to the community at large. I shall not enter into the minutiae of this system, but I conceive that whatever may have been the intention of its framers, that it leads to a most dangerous aristocracy. It appears to me that instead of securing the sovereignty of the states, it is calculated to melt them down into one solid empire. If the citizens of this state like a consolidated government, I hope they will have virtue enough to secure their rights. I am sorry to make use of the expression, but it appears to me to be a scheme to reduce this government to an aristocracy. It guarantees a republican form of government to the states; when all these powers are in Congress it will only be a form. It will be past recovery when Congress has the power of the purse and the sword. The power of the sword is in explicit terms given to it. The power of direct taxation gives the purse. They may prohibit the trial by jury, which is a most sacred and valuable right. There is nothing contained in this Constitution to bar them from it. The Federal Courts have also appellate cognizance of law and fact: the sole cause

of which is to deprive the people of that trial, which it is optional in them to grant or not. We find no provision against infringement on the rights of conscience. Ecclesiastical courts may be established, which will be destructive to our citizens. They may make any establishment they think proper. They have also an exclusive legislation in their ten miles square, to which may be added their power over the militia, who may be carried thither and kept there for life. Should any one grumble at their acts, he would be deemed a traitor, and perhaps taken up and carried to the exclusive legislation, and there tried without a jury. We are told there is no cause to fear. When we consider the great powers of Congress, there is great cause of alarm. They can disarm the militia. If they were armed, they would be a resource against great oppressions. The laws of a great empire are difficult to be executed. If the laws of the union were oppressive they could not carry them into effect, if the people were possessed of proper means of defence.

It was cried out that we were in a most desperate situation, and that Congress could not discharge any of their most sacred contracts. I believe it to be the case. But why give more power than is necessary? The men who went to the Federal Convention, went for the express purpose of amending the government, by giving it such additional powers as were necessary. If we should accede to this system, it may be thought proper by a few designing persons to destroy it in a future age in the same manner that the old system is laid aside. The Confederation was binding on all the states.⁸ It could not be destroyed but with the consent of all these states. There was an express article to that purpose. The men who were deputed to the Convention, instead of amending the old, as they were solely empowered and directed to do, proposed a new system. If the best characters departed so far from their authority, what may not be apprehended from others who may be agents in the new government.

It is natural for men to aspire to power. It is the nature of mankind to be tyrannical, therefore it is necessary for us to secure our rights and liberties as far as we can. But it is asked why we should suspect men who are to be chosen by ourselves, while it is their interest to act justly, and while men have self-interest at heart? I think the reasons which I have given are sufficient to answer that question. We ought to consider the depravity of human nature; the predominant thirst of power which is in the breast of every one; the temptations our rulers may have, and the unlimited confidence placed in them by this system. These are the foundation of my fears. They would be so long in the general government that they would forget the grievances of the people of the state.

But it is said we shall be ruined if separated from the other states, which will be the case if we do not adopt. If so, I would put less confidence in those states. The states are all bound together by the Confederation, and the rest cannot break from us, without violating the most solemn compact. If they break that, they will this.

But it is urged that we ought to adopt because so many other states have. In those states which have patronized and ratified it, many great men have opposed it. The motives of those states I know not. It is the goodness of the Constitution we are to examine. We are to exercise our own judgments, and act independently. And as I conceive we are not out of the union, I hope this Constitution will not be adopted till amendments are made. Amendments are wished for by the other states. It was urged here, that the President should have power to grant reprieves and pardons. This power is necessary with proper restrictions. But the President may be at the head of a combination against the rights of the people, and may reprieve or pardon the whole. It is answered to this that he cannot pardon in cases of impeachment. What is the punishment in such cases? Only removal from office and future disqualification. It does not touch life or property. He has power to do away punishment in every other case. It is too unlimited in my opinion. It may be exercised to the public good, but may also be perverted to a different purpose. Should we get those who will attend to our interest, we should be safe under any Constitution, or without any. If we send men of a different disposition we shall be in danger. Let us give them only such powers as are necessary for the good of the community.

The President has other great powers. He has the nomination of all officers and a qualified negative on the laws. He may delay the wheels of government. He may drive the Senate to concur with his proposal. He has other extensive powers. There is no assurance of the liberty of the press. They may make it treason to write against the most arbitrary proceedings. They have power to controul our elections as much as they please. It may be very oppressive on this state, and all the southern states.

Much has been said of taxation, and the inequality of it on the states. But nothing has been said of the mode of furnishing men. In what proportion are the states to furnish men? Is it in proportion to the whites and blacks? I presume it is. This state has 100,000 blacks. By this Constitution 50 negroes are equal to 30 whites. This state therefore, besides the proportion she must raise for her white people, must furnish an additional number for her blacks, in proportion as 30 is to 50. Suppose there be a state to the northward that has 60,000 persons, this

state must furnish as many men for the blacks as that whole state, exclusive of those she must furnish for her whites. Slaves instead of strengthening, weaken this state—the regulation will therefore greatly injure it and the other southern states. There is another clause which I do not perhaps well understand. The power of taxation seems to me not to extend to the lands of the people of the United States, for the rule of taxation is, the number of whites and three-fifths of the blacks. Should it be the case that they have no power of taxing this object, must not direct taxation be hard on the greater part of this state? I am not confident that it is so, but it appears to me that they can lay taxes on this object. This will oppress the poor people who have large families of whites, and no slaves to assist them in cultivating the soil, although the taxes are to be laid in proportion of three-fifths of the negroes and all the whites. Another disadvantage to this state will arise from it. This state has made a contract with its citizens. The public securities and certificates I allude to. These may be negotiated to men who live in other states. Should that be the case, these gentlemen will have demands against this state on that account. The Constitution points out the mode of recovery—it must be in the Federal Court only, because controversies between a state and the citizens of another state are cognizable only in the Federal Courts. They cannot be paid but in gold and silver. Actual specie will be recovered in that court. This would be an intolerable grievance without remedy.

I wish not to be so understood as to be so averse to this system, as that I should object to all parts of it, or attempt to reflect on the reputation of those gentlemen who formed it; though it appears to me that I would not have agreed to any proposal but the amendment of the Confederation. If there were any security for the liberty of the people, I would for my own part agree to it. But in this case, as millions yet unborn are concerned, and deeply interested in our decision, I would have the most positive and pointed security. I shall therefore hope that before this House will proceed to adopt this Constitution, they will propose such amendments to it, as will make it complete; and when amendments are adopted, perhaps I will be as ready to accede to it as any man—One thing will make it aristocratical. Its powers are very indefinite. There was a very necessary clause in the Confederation, which is omitted in this system. That was a clause declaring that every power, &c. not given to Congress, was reserved to the states.⁹ The omission of this clause makes the power so much greater. Men will naturally put the fullest construction on the power given them. Therefore lay all restraint on them, and form a plan to be understood by every gentleman of this committee, and every individual of the community.

Mr. [*Richard Dobbs*] *Spaight*—Mr. Chairman, I am one of those who formed this Constitution. The gentleman [*William Lenoir*] says we exceeded our powers. I deny the charge. We were sent with a full power to amend the existing system. This involved every power to make every alteration necessary to meliorate and render it perfect. It cannot be said that we arrogated powers altogether inconsistent with the object of our delegation. There is a clause which expressly provides for future amendments, and it is still in your power. What the Convention has done is a mere proposal. It was found impossible to improve the old system, without changing its very form. For by that system the three great branches of government are blended together. All will agree that the concession of power to a government so constructed, is dangerous. The proposing a new system to be established by the assent and ratification of nine states, arose from the necessity of the case. It was thought extremely hard that one state, or even three or four states, should be able to prevent necessary alterations. The very refractory conduct of Rhode-Island in uniformly opposing every wise and judicious measure,¹⁰ taught us how impolitic it would be, to put the general welfare in the power of a few members of the union. It was therefore thought by the Convention, that if so great a majority as nine states should adopt it, it would be right to establish it. It was recommended by Congress to the state Legislatures to refer it to the people of their different states. Our Assembly has confirmed what they have done, by proposing it to the consideration of the people. It was there and not here that the objection should have been made. This Convention is therefore to consider the Constitution, and whether it be proper for the government of the people of America; and had it been proposed by any one individual, under these circumstances, it would be right to consider whether it be good or bad. The gentleman [*William Lenoir*] has insinuated, that this Constitution, instead of securing our liberties, is a scheme to enslave us. He has produced no proof, but rests it on his bare assertion—an assertion which I am astonished to hear, after the ability with which every objection has been fully and clearly refuted in the course of our debates. I am for my part conscious of having had nothing in view but the liberty and happiness of my country, and I believe every member of that Convention was actuated by motives equally sincere and patriotic.

He says that it will tend to aristocracy. Where is the aristocratical part of it? It is ideal. I always thought that an aristocracy was that government where the few governed the many, or where the rulers were hereditary. This is a very different government from that. I never read of such an aristocracy. The first branch are Representatives chosen freely

by the people at large. This must be allowed upon all hands to be democratical. The next is the Senate, chosen by the people in a secondary manner through the medium of their delegates in the Legislature. This cannot be aristocratical. They are chosen for six years, but one third of them go out every second year, and are responsible to the state Legislatures. The President is elected for four years. By whom? By those who are elected in such manner as the state Legislatures think proper. I hope the gentleman will not pretend to call this an aristocratical feature. The privilege of representation is secured in the most positive and unequivocal terms, and cannot be evaded. The gentleman has again brought on the trial by jury. The Federal Convention, Sir, had no wish to destroy the trial by jury. It was three or four days before them. There were a variety of objections to any one mode. It was thought impossible to fall upon any one mode, but what would produce some inconveniences. I cannot now recollect all the reasons given. Most of them have been amply detailed by other gentlemen here. I should suppose, that if the Representatives of twelve states, with many able lawyers among them, could not form any unexceptionable mode, this Convention could hardly be able to do it. As to the subject of religion, I thought what has been said would fully satisfy that gentleman and every other. No power is given to the general government to interfere with it at all. Any act of Congress on this subject would be an usurpation. No sect is preferred to another. Every man has a right to worship the Supreme Being in the manner he thinks proper. No test is required. All men of equal capacity and integrity, are equally eligible to offices. Temporal violence might make mankind wicked, but never religious. A test would enable the prevailing sect to persecute the rest. I do not suppose an Infidel, or any such person, will ever be chosen to any office unless the people themselves be of the same opinion. He says that Congress may establish ecclesiastical courts. I do not know what part of the Constitution warrants that assertion. It is impossible. No such power is given them. The gentleman [William Lenoir] advises such amendments as would satisfy him, and proposes a mode of amending before ratifying. If we do not adopt first, we are no more a part of the union than any foreign power. It will be also throwing away the influence of our state to propose amendments as the condition of our ratification. If we adopt first, our Representatives will have a proportionable weight in bringing about amendments, which will not be the case if we do not adopt. It is adopted by ten states already.¹¹ The question then is, not whether the Constitution be good, but whether we will or will not confederate with the other states. The gentleman supposes that the liberty of the press

is not secured. The Constitution does not take it away. It says nothing of it, and can do nothing to injure it. But it is secured by the Constitution of every state in the union in the most ample manner.¹²

He objects to giving the government exclusive legislation in a district not exceeding ten miles square, although the previous consent and cession of the state within which it may be, is required. Is it to be supposed, that the Representatives of the people will make regulations therein dangerous to liberty? Is there the least colour or pretext for saying, that the militia will be carried and kept there for life? Where is there any power [to] do this? The power of calling forth the militia is given for the common defence, and can we suppose that our own Representatives, chosen for so short a period, will dare to pervert a power, given for the general protection, to an absolute oppression. But the gentleman [William Lenoir] has gone further, and says, that any man who will complain of their oppressions, or write against their usurpations, may be deemed a traitor, and tried as such in the ten miles square, without a jury. What an astonishing misrepresentation! Why did not the gentleman look at the Constitution, and see their powers? Treason is there defined. It says expressly, that treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. Complaining therefore, or writing, cannot be treason. (Here Mr. *Lenoir* rose, and said that he meant misprision of treason.) The same reasons hold against that too. The liberty of the press being secured, creates an additional security. Persons accused cannot be tried without a jury; for the same article provides, that "the trial of all crimes shall be by jury." They cannot be carried to the ten miles square; for the same clause adds, "and such trial shall be held in the state where the said crimes shall have been committed."¹³ He has made another objection, that land might not be taxed, and the other taxes would fall heavily on the poor people. Congress has a power to lay taxes, and no article is exempted or excluded. The proportion of each state may be raised in the most convenient manner. The census or enumeration provided, is meant for the salvation and benefit of the southern states. It was mentioned that land ought to be the only object of taxation. As an acre of land in the northern states, is worth many acres in the southern states, this would have greatly oppressed the latter. It was then judged that the number of people, as therein provided, was the best criterion for fixing the proportion of each state, and that proportion in each state to be raised in the most easy manner for the people. But he has started another objection, which I never heard before; that Congress may call for men in proportion to the number of negroes. The article with respect to

requisitions of men is entirely done away. Men are to be raised by bounty. Suppose it had not been done away. The eastern states could not impose on us a man for every black. It was not the case during the war, nor ever could be. But quotas of men are entirely done away.

Another objection which he makes, is, that the Federal Courts will have cognizance of contracts between this state and citizens of another state, and that public securities, negotiated by our citizens to those of other states will be recoverable in specie in those courts against this state. They cannot be negotiated. What do these certificates say? Merely that the person therein named, shall for a particular service, receive so much money. They are not negociable. The money must be demanded for them in the name of those therein mentioned. No other person has a right. There can be no danger therefore in this respect. The gentleman has made several other objections, but they have been so fully answered and clearly refuted by several gentlemen in the course of the debates, that I shall pass them by unnoticed. I cannot however conclude, without observing, that I am amazed he should call the powers of the general government indefinite. It is the first time I heard the objection. I will venture to say they are better defined than the powers of any government he ever heard of.

Mr. *J[oseph] M'Dowall*—Mr. Chairman, I was in hopes that amendments would have been brought forward to the Constitution, before the idea of adopting it had been thought of or proposed. From the best information, there is a great proportion of the people in the adopting states averse to it as it stands. I collect my information from respectable authority. I know the necessity of a federal government, I therefore wish this was one in which our liberties and privileges were secured. For I consider the union as the rock of our political salvation. I am for the strongest federal government. A bill of rights ought to have been inserted to ascertain our most valuable and unalienable rights.

The fourth section of the first clause gives the Congress an unlimited power over elections. This matter was not cleared up to my satisfaction. They have full power to alter it from one time of the year to another, so as that it shall be impossible for the people to attend. They may fix the time in winter, and the place at Edenton, when the weather will be so bad that the people cannot attend. The state governments will be mere boards of election. The clause of elections gives the Congress power over the time and manner of chusing the Senate. I wish to know why reservation was made of the place and time of chusing Senators, and not also of electing Representatives. It points to the time when the states shall be all consolidated into one empire. Trial by jury is not secured. The objections against this want of security have not been

cleared up in a satisfactory manner. It is neither secured in civil nor criminal cases. The federal appellate cognizance of law and fact, puts it in the power of the wealthy to recover unjustly of the poor man, who is not able to attend at such extreme distance, and bear such enormous expence as it must produce. It ought to be limited so as to prevent such oppressions.

I say the trial by jury is not sufficiently secured in criminal cases. The very intention of the trial by jury is, that the accused may be tried by persons who come from the vicinage or neighbourhood, who may be acquainted with his character. The substance therefore of this privilege is taken away.

By the power of taxation every article capable of being taxed, may be so heavily taxed that the people cannot bear the taxes necessary to be raised for the support of their state governments. Whatever law we may make, may be repealed by their laws. All these things, with others, tend to make us one general empire. Such a government cannot be well regulated. When we are connected with the northern states, who have a majority in their favour, laws may be made which will answer their convenience, but will be oppressive to the last degree upon the southern states. They differ in climate, soil, customs, manners, &c. A large majority of the people of this country are against this Constitution, because they think it replete with dangerous defects. They ought to be satisfied with it before it is adopted, otherwise it cannot operate happily. Without the affections of the people it will not have sufficient energy. To enforce its execution recourse must be had to arms and bloodshed. How much better would it be if the people were satisfied with it? From all these considerations I now rise to oppose its adoption; for I never will agree to a government that tends to the destruction of the liberty of the people.

Mr. [*Zachias or James*] *Wilson* wished that the Constitution had excluded Popish Priests from offices. As there was no test required, and nothing to govern them but honour, he said, that when their interest clashed with their honour, the latter would fly before the former.

Mr. [*William*] *Lancaster*—Mr. Chairman, It is of the utmost importance to decide this great question with candour and deliberation. Every part of this Constitution has been elucidated. It has been asserted by several worthy gentlemen, that it is the most excellent Constitution that ever was formed. I could wish to be of that opinion if it were so. The powers vested therein are very extensive. I am apprehensive that the power of taxation is unlimited. It expressly says, that Congress shall have the power to lay taxes, &c. It is obvious to me that the power is

unbounded, and I am apprehensive that they may lay taxes too heavily on our lands, in order to render them more productive. The amount of the taxes may be more than our lands will sell for. It is obvious that the lands in the northern states, which gentlemen suppose to be more populous than this country, are more valuable and better cultivated than ours: Yet their lands will be taxed no higher than our lands. A rich man there, from reports, does not possess so large a body of land as a poor man to the southward. If so, a common poor man here, will have much more to pay for poor land, than the rich man there for land of the best quality. This power, being necessarily unequal and oppressive, ought not to be given up. I shall endeavour to be as concise as possible. We find that the ratification of nine states shall be sufficient for its establishment between the states so ratifying the same. This, as has been already taken notice of, is a violation of the Confederation. We find that by that system, no alteration was to take place, except it was ratified by every state in the union. Now by comparing this last article of the Constitution to that part of the Confederation, we find a most flagrant violation. The articles of Confederation were sent out with all solemnity on so solemn an occasion, and were to be always binding on the states;¹⁴ but, to our astonishment, we see that nine states may do away the force of the whole. I think, without exaggeration, that it will be looked upon by foreign nations, as a serious and alarming change.

How do we know that if we propose amendments they shall be obtained after actual ratification? May not these amendments be proposed with equal propriety, and more safety, as the condition of our adoption? If they violate the thirteenth article of the Confederation in this manner, may they not with equal propriety refuse to adopt amendments, although agreed to and wished for by two-thirds of the states?¹⁵ This violation of the old system is a precedent for such proceedings as these. That would be a violation destructive to our felicity. We are now determining a question deeply affecting the happiness of millions yet unborn. It is the policy of freemen to guard their privileges. Let us then as far as we can exclude the possibility of tyranny. The President is chosen for four years. The Senators for six years. Where is our remedy for the most flagrant abuses? It is thought that North-Carolina is to have an opportunity of chusing one-third of their senatorial Members, and all their Representatives, once in two years. This would be the case as to the Senators, if they should be of the first class: but at any rate, it is to be after six years. But if they deviate from their duty, they cannot be excluded and changed the first year, as the Members of Congress

can now by the Confederation. How can it be said to be safe to trust so much power in the hands of such men, who are not responsible or amenable for misconduct?

As it has been the policy of every state in the union to guard elections, we ought to be more punctual in this case. The Members of Congress now may be recalled. But in this Constitution they cannot be recalled. The continuance of the President and Senate is too long. It will be objected by some gentlemen, that if they are good, why not continue them? But I would ask, how are we to find out whether they be good or bad? The individuals who assented to any bad law are not easily discriminated from others. They will, if individually enquired of, deny that they gave it their approbation; and it is in their power to conceal their transactions as long as they please.

There is also the President's conditional negative on the laws. After a bill is presented to him and he disapproves of it, it is to be sent back to that House where it originated, for their consideration. Let us consider the effects of this for a few moments. Suppose it originates in the Senate, and passes there by a large majority: Suppose it passes in the House of Representatives unanimously—it must be transmitted to the President. If he objects, it is sent back to the Senate; if two-thirds do not agree to it in the Senate, what is the consequence? Does the House of Representatives ever hear of it afterwards? No, it drops, because it must be passed by two thirds of both Houses, and as only a majority of the Senate agreed to it it cannot become a law. This is giving a power to the President to over-rule fifteen Members of the Senate and every Member in the House of Representatives. These are my objections. I look upon it to be unsafe to drag each other from the most remote parts in the state, to the Supreme Federal Court, which has appellate jurisdiction of causes arising under the Constitution, and of controversies between citizens of different states. I grant that if it be a contract between a citizen of Virginia and a citizen of North-Carolina, the suit must be brought here; but may they not appeal to the Supreme Court, which has cognizance of law and fact? They may be carried to Philadelphia. They ought to have limited the sum on which appeal should lie. They may appeal on a suit for only ten pounds. Such a trifling sum as this, would be paid by a man who thought he did not owe it, rather than go such a distance. It would be prudence in him so to do. This would be very oppressive.

I doubt my own judgment—experience has taught me to be difficult—but I hope to be excused and put right if I be mistaken.

The power of raising armies is also very exceptionable. I am not well acquainted with the government of other countries, but a man of any

information knows that the King of Great-Britain cannot raise and support armies. He may call for and raise men, but he has no money to support them. But Congress is to have power to raise and support armies. Forty thousand men from North-Carolina could not be refused without violating the Constitution. I wish amendments to these parts. I agree it is not our business to enquire whether the continent be invaded or not. The General Legislature ought to superintend the care of this. Treaties are to be the supreme law of the land. This has been sufficiently discussed—it must be amended some way or the other. If the Constitution be adopted, it ought to be the supreme law of the land, and a perpetual rule for the governors and governed. But if treaties are to be the supreme law of the land, it may repeal the laws of different states, and render nugatory our bill of rights. As to a religious test, had the article which excludes it, provided that none should be required, but what had been required in the states heretofore, I would not have objected to it. It would secure religion. Religious liberty ought to be provided for. I acquiesce with the gentleman [James Iredell] who spoke on this point my sentiments better than I could have done myself. For my part, in reviewing the qualifications necessary for a President, I did not suppose that the Pope could occupy the President's chair. But let us remember that we form a government for millions not yet in existence. I have not the art of divination. In the course of four or five hundred years, I do not know how it will work. This is most certain, that Papists may occupy that chair, and Mahometans may take it. I see nothing against it. There is a disqualification I believe in every state in the union—it ought to be so in this system. It is said that all power not given is retained. I find they thought proper to insert negative clauses in the Constitution, restraining the general government from the exercise of certain powers. These were unnecessary if the doctrine be true, that every thing not given is retained. From the insertion of these we may conclude the doctrine to be fallacious. Mr. *Lancaster* then observed, that he would disapprove of the Constitution as it then stood. His own feelings and his duty to his constituents induced him to do so. Some people, he said, thought a Delegate might act independently of the people. He thought otherwise, and that every Delegate was bound by their instructions, and if he did any thing repugnant to their wishes he betrayed his trust. He thought himself bound by the voice of the people, whatever other gentlemen might think. He would cheerfully agree to adopt if he thought it would be of general utility, but as he thought it would have a contrary effect, and as he believed a great majority of the people were against it, he would oppose its adoption.

Mr. *Willie Jones* was against ratifying in the manner proposed. He had attended, he said, with great patience to the debates of the speakers on both sides of the question. One party said the Constitution was all perfection. The other party said it wanted a great deal of perfection. For his part, he thought so. He treated the dangers which were held forth in case of non adoption, as merely ideal and fanciful. After adding other remarks, he moved that the previous question might be put, with an intention, as he said, if that was carried, to introduce a resolution which he had in his hand, and which he was then willing to read if gentlemen thought proper, stipulating for certain amendments to be made previous to the adoption by this state.

Governor *Johnston* begged gentlemen to recollect, that the proposed amendments could not be laid before the other states unless we adopted and became part of the union.

Mr. [*Joseph*] *Taylor* wished that the previous question might be put as it would save much time. He feared the motion first made was a manœuvre or contrivance to impose a Constitution on the people, which a majority disap[p]roved of.

Mr. *Iredell* wished the previous question should be withdrawn, and that they might debate the first question. The great importance of the subject, and the respectability of the gentleman [Samuel Johnston] who made the motion, claimed more deference and attention than to decide it in the very moment it was introduced by getting rid of it by the previous question. A decision was now presented in a new form by a gentleman of great influence in the House, and gentlemen ought to have time to consider before they voted precipitately upon it.

A desultory conversation now arose. Mr. [*James*] *Galloway* wished the question to be postponed till to-morrow morning.

Mr. *J. McDowall* was for immediately putting the question.—Several gentlemen expatiated on the evident necessity of amendments.

Governor *Johnston* declared, that he disdained all manœuvres and contrivance; that an intention of imposing an improper system on the people, contrary to their wishes, was unworthy of any man. He wished the motion to be fairly and fully argued and investigated. He observed, that the very motion before them proposed amendments to be made. That they were proposed as they had been in other states. He wished therefore that the motion for the previous question should be withdrawn.

Mr. *Willie Jones* could not withdraw his motion. Gentlemen[']s arguments, he said, had been listened to attentively, but he believed no person had changed his opinion. It was unnecessary then to argue it again. His motion was not conclusive. He only wished to know what

ground they stood on, whether they should ratify it unconditionally or not.

Mr. *Spencer* wished to hear the arguments and reasons for and against the motion. Although he was convinced the House wanted amendments, and that all had nearly determined the question in their own minds, he was for hearing the question argued, and had no objection to the postponement of it till to-morrow.

Mr. *Iredell* urged the great importance of consideration. That the consequence of the previous question, if carried, would be an exclusion of this state out of the union. He contended that the House had no right to make a conditional ratification, and if excluded from the union, they could not be assured of an easy admission at a future day, though the impossibility of existing out of the union must be obvious to every thinking man. The gentleman from Halifax [*Willie Jones*] had said, that his motion would not be conclusive. For his part, he was certain it would be tantamount to an immediate decision. He trusted gentlemen would consider the propriety of debating the first motion at large.

Mr. [*Thomas*] *Person* observed, that the previous question would produce no inconvenience. The other party, he said, had all the debating to themselves, and would probably have it again, if they insisted on further argument. He saw no propriety in putting it off till to-morrow, as it was not customary for a committee to adjourn with two questions before them.

Mr. [*William*] *Shepherd* [of Orange County] declared, that though he had made up his mind, and believed other gentlemen had done so, yet he had no objection to giving gentlemen an opportunity of displaying their abilities, and convincing the rest of their error if they could. He was for putting it off till to-morrow.

Mr. [*William R.*] *Davie* took notice that the gentleman from Granville [*Thomas Person*] had frequently used ungenerous insinuations, and had taken much pains out of doors to irritate the minds of his countrymen against the Constitution. He called upon gentlemen to act openly and above board, adding that a contrary conduct on this occasion, was extremely despicable. He came thither, he said, for the common cause of his country, and knew no party, but wished the business to be conducted with candour and moderation. The previous question he thought irregular, and that it ought not to be put till the other question was called for. That it was evidently intended to preclude all further debate, and to precipitate the committee upon the resolution which it had been suggested was immediately to follow, which they were not then ready to enter upon. That he had not fully considered the consequences

of a conditional ratification, but at present they appeared to him alarmingly dangerous, and perhaps equal to those of an absolute rejection.

Mr. *Willie Jones* observed, that he had not intended to take the House by surprise: That though he had his motion ready, and had heard of the motion which was intended for ratification, he waited till that motion should be made, and had afterwards waited for some time, in expectation that the gentleman from Halifax [*William R. Davie*], and the gentleman from Edenton [*James Iredell*], would both speak to it. He had no objection to adjourning, but his motion would be still before the House.

Here there was a great cry for the question.

Mr. *Iredell*, (The cry for the question still continuing.) Mr. Chairman, I desire to be heard, notwithstanding the cry of “the question, the question.” Gentlemen have no right to prevent any Member from speaking to it if he thinks fit. (The House subsided into order.) Unimportant as I may be myself, my constituents are as respectable as those of any Member in the House. It has indeed, Sir, been my misfortune to be under the necessity of troubling the House much oftener than I wished, owing to a circumstance which I have greatly regretted, that so few gentlemen take a share in our debates, though many are capable of doing so with propriety. I should have spoken to the question at large before, if I had not fully depended on some other gentleman doing it, and therefore I did not prepare myself by taking notes of what was said. However, I beg leave now to make a few observations. I think this Constitution safe. I have not heard a single objection which in my opinion shewed that it was dangerous. Some particular parts have been objected to, and amendments pointed out. Though I think it perfectly safe, yet with respect to any amendments which do not destroy the substance of the Constitution, but will tend to give greater satisfaction, I should approve of them, because I should prefer that system which would most tend to conciliate all parties. On these principles I am of opinion, that some amendments should be proposed.

The general ground of the objections seems to be, that the powers proposed to the general government, may be abused. If we give no power but such as may not be abused, we shall give none; for all delegated powers may be abused. There are two extremes equally dangerous to liberty. These are *tyranny* and *anarchy*. The medium between these two is the true government to protect the people. In my opinion, this Constitution is well calculated to guard against both these extremes. The possibility of general abuses ought not to be urged, but particular ones pointed out. A gentleman who spoke some time ago (Mr. Lenoir) observed that the government might make it treason to write against

the most arbitrary proceedings. He corrected himself afterwards, by saying he meant *misprision of treason*. But in the correction he committed as great a mistake as he did at first. Where is the power given to them to do this? They have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations. They have no power to define any other crime whatever. This will shew how apt gentlemen are to commit mistakes. I am convinced on the part of the worthy Member, it was not designed, but arose merely from inattention.

Mr. *Lenoir* arose and declared, that he meant that those punishments might be inflicted by them within the ten miles square, where they would have exclusive powers of legislation.

Mr. *Iredell* continued—They are to have exclusive power of legislation; but how? Wherever they may have this district, they must possess it from the authority of the state within which it lies: And that state may stipulate the conditions of the cession. Will not such state take care of the liberties of its own people. What would be the consequence if the seat of the government of the United States, with all the archives of America, was in the power of any one particular state? Would not this be most unsafe and humiliating? Do we not all remember that in the year 1783, a band of soldiers went and insulted Congress? The sovereignty of the United States was treated with indignity. They applied for protection to the state they resided in, but could obtain none. It is to be hoped such a disgraceful scene will never happen again, but that for the future the national government will be able to protect itself.¹⁶ The powers of the government are particularly enumerated and defined: they can claim no others but such as are so enumerated. In my opinion they are excluded as much from the exercise of any other authority as they could be by the strongest negative clause that could be framed. A gentleman has asked, what would be the consequence if they had the power of the purse and sword? I ask, in what government under Heaven are these not given up to some authority or other? There is a necessity of giving both the purse and the sword to every government, or else it cannot protect the people. But have we not sufficient security that those powers shall not be abused? The immediate power of the purse is in the immediate Representatives of the people, chosen every two years, who can lay no tax on their constituents but what they are subject to at the same time themselves. The power of taxation must be vested somewhere. Do the committee wish it to be as it has been? Then they must suffer the evils which they have done. Requisitions will be of no avail. No money will be collected but by means of military force. Under the new government taxes will probably be much lighter

than they can be under our present one. The impost will afford vast advantages, and greatly relieve the people from direct taxation. In time of peace it is supposed by many the imposts may be alone sufficient: But in time of war, it cannot be expected they will. Our expences would be much greater, and our ports might be blocked up by the enemy's fleet. Think then of the advantage of a national government possessed of energy and credit. Could government borrow money to any advantage without the power of taxation? If they could secure funds, and wanted immediately for instance 100,000*l.* they might borrow this sum, and immediately raise only money to pay the interest of it. If they could not, the 100,000*l.* must be instantly raised however distressing to the people, or our country perhaps over-run by the enemy. Do not gentlemen see an immense difference between the two cases? It is said that there ought to be jealousy in mankind. I admit it as far as is consistent with prudence. But unlimited jealousy is very pernicious. We must be contented if powers be as well guarded as the nature of them will permit. In regard to amending before or after adoption, the difference is very great. I beg leave to state my idea of that difference. I mentioned one day before, the adoption by ten states.¹⁷ When I did so, it was not to influence any person with respect to the merits of the Constitution, but as a reason for coolness and deliberation. In my opinion, when so great a majority of the American people have adopted it, it is a strong evidence in its favour: For it is not probable that ten states would have agreed to a bad Constitution. If we do not adopt, we are no longer in the union with the other states. We ought to consider seriously before we determine our connection with them. The safety and happiness of this state depend upon it. Without that union what would have been our condition now? A striking instance will point out this very clearly: At the beginning of the late war with Great-Britain, the Parliament thought proper to stop all commercial intercourse with the American provinces. They passed a general prohibitory act, from which New-York and North-Carolina were at first excepted. Why were they excepted? They had been as active in opposition as the other states; but this was an expedient to divide the northern from the middle states, and to break the heart of the southern. Had New-York and North-Carolina been weak enough to fall into this snare, we probably should not now have been an independent people. (Mr. *Person* called to order, and intimated that the gentleman meant to reflect on the opposers of the Constitution, as if they were friendly to the British interest. Mr. *Iredell* warmly resented the interruption, declaring he was perfectly in order, that it was disorderly to interrupt him, and in respect to Mr. *Person*'s

insinuation as to his intention, he declared in the most solemn manner he had no such, being well assured the opposers of the Constitution were equally friendly to the independence of America, as its supporters. He then proceeded.) I say they endeavoured to divide us. North-Carolina and New-York had too much sense to be taken in by their artifices. Union enabled us then to defeat all their endeavours: Union will enable us to defeat all the machinations of our enemies hereafter. The friends of their country must lament our present unhappy divisions. Most free countries have lost their liberties by means of dissensions among themselves. They united in war and danger: When peace and apparent security came, they split into factions and parties, and thereby became a prey to foreign invaders. This shews the necessity of union. In urging the danger of disunion so strongly, I beg leave again to say, that I mean not to reflect on any gentleman whatsoever, as if his wishes were directed to so wicked a purpose. I am sure such an insinuation as the gentleman from Granville [Thomas Person] supposed I intended, would be utterly unjust, as I know some of the warmest opposers of Great-Britain, are now among the warmest opponents of the proposed Constitution. Such a suggestion never entered into my head, and I can say with truth, that warmly as I am attached to this Constitution, and though I am convinced that the salvation of our country depends upon the adoption of it, I would not procure it[s] success by one unworthy action or one ungenerous word. A gentleman has said that we ought to determine in the same manner as if no state had adopted the Constitution. The general principle is right, but we ought to consider our peculiar situation. We cannot exist by ourselves. If we imitate the examples of some respectable states that have proposed amendments subsequent to their ratification, we shall add our weight to have these amendments carried, as our Representatives will be in Congress to enforce them. Gentlemen entertain a jealousy of the eastern states. To withdraw ourselves from the southern states, will be encreasing the northern influence. The loss of one state may be attended with particular prejudice. It will be a good while before amendments of any kind can take place, and in the mean time if we do not adopt we shall have no share or agency in their transactions, though we may be ultimately bound by them. The first session of Congress will probably be the most important of any for many years. A general code of laws will then be established in execution of every power contained in the Constitution. If we ratify and propose amendments, our Representatives will be there to act in this important business. If we do not our interest may suffer, nor will the system be afterwards altered merely to accommodate our

wishes. Besides that, one House may prevent a measure from taking place, but both must concur in repealing it. I therefore think an adoption proposing subsequent amendments, far safer and more desirable than the other mode. Nor do I doubt that every amendment, not of a local nature, nor injuring essentially the material powers of the Constitution, but principally calculated to guard against misconstruction, the real liberties of the people, will be readily obtained.

The previous question, after some desultory conversation, was now put. For it 183. Against it 84.—Majority in favour of the motion 99.

Mr. President now resumed the chair, and Mr. Kenan reported, that the committee had come to some resolutions on the subject referred to their consideration, but not having time to reduce them to form, desired leave to sit again.

Resolved, That the committee have leave to sit again to-morrow.

The Convention then adjourned until to-morrow morning nine o'clock.

1. Printed: *Proceedings and Debates*, 217–50.
2. Matthew 16:18: “And I say also unto thee, That thou art Peter, and upon this rock I will build my church; and the gates of hell shall not prevail against it.”
3. See *Omychund v. Barker* (1744), 1 Atk. 21, 26 Eng. Rep. 15.
4. Massachusetts and Connecticut were Congregational in church polity. These two states maintained their religious establishments longer than any of the other original thirteen states. Connecticut disestablished its state church in 1818. Massachusetts followed suit in 1833.
5. On the patterns of religious settlement in the original thirteen colonies, see Edwin Scott Gaustad, *Historical Atlas of Religion in America* (New York, 1976).
6. Possibly a reference to Alexander Hamilton’s plan of government proposed in the Constitutional Convention on 18 June 1787 (CDR, 253–55).
7. Under the provisions of the North Carolina constitution (1776), members of the Senate and the House of Commons were to be chosen annually (Appendix, I, RCS:N.C., 826).
8. Article XIII of the Articles of Confederation (CDR, 93).
9. Article II of the Articles of Confederation (CDR, 86).
10. Rhode Island was the only state to reject the Impost of 1781. The state also rejected the proposed 1783 amendment to share federal expenses (i.e., taxes) based on population. Rhode Island supported all of the other attempts to amend the Articles of Confederation but refused to send delegates to the Constitutional Convention.
11. The figure of ten adopting states is incorrect. New York, the eleventh state to adopt the Constitution, ratified on 26 July 1788, but the news had not yet reached Hillsborough.
12. This is not an accurate statement. At least four states—Rhode Island, Connecticut, New York, and New Jersey—did not have constitutional provisions protecting the liberty of the press. Rhode Island and Connecticut were still operating under their royal charters.
13. Article III, section 2, clause 3.
14. Article XIII of the Articles of Confederation (CDR, 93).
15. Under Article V of the Constitution, two-thirds of the state legislatures could request that Congress call a convention for proposing amendments to the Constitution.

Congress would then be required to call a convention. Three-fourths of state legislatures—or three-fourths of conventions in the states—would be necessary to ratify any proposed amendments.

16. The reference is to the Pennsylvania, or Philadelphia, mutiny of June 1783. Angered over their lack of pay for military service, as many as 500 men, including mutineering troops from Lancaster and troops stationed in the barracks at Philadelphia, surrounded the State House, where Congress and Pennsylvania's Supreme Executive Council were meeting, and demanded a response to their grievances. The events ended without violence. But Congress, concerned that Pennsylvania would be unable to defend them, departed to re-convene in Princeton, New Jersey.

17. See note 11 (above).

Hillsborough Convention **Thursday** **31 July 1788**

Convention Proceedings, 31 July 1788 (excerpts)¹

Met according to adjournment.

Ordered, That Mr. Joseph Martin have leave to absent himself from the service of this convention, and that the secretary make out and deliver to him a certificate of the sum due him for his attendance as a member thereof.

On a motion made by Mr. Rutherford, and seconded by Mr. Steele, Resolved, That the convention will, to-morrow at four o'clock in the afternoon, proceed to fix on a proper place for the seat of government of this state.

Mr. John G. Blount on behalf of himself and others, moved for leave to enter a protest on the journal of this convention against the above resolution. Ordered, That he have leave accordingly. . . .

Adjourned until to-morrow morning 9 o'clock.

1. Printed: *Journal*, 10.

Convention Debates, 31 July 1788¹

The Convention met according to adjournment, and resolved itself, according to the order of the day, into a committee of the whole Convention.—Mr. Kenan in the chair.

Governor [*Samuel*] *Johnston*—Mr. Chairman, It appears to me, that if the motion made yesterday by the gentleman from Halifax [Willie Jones], be adopted, it will not answer the intention of the people. It determines nothing with respect to the Constitution. We were sent here to determine upon it. (Here his Excellency read the resolution of the

Assembly under which the Convention met.) If we do not decide upon the Constitution, we shall have nothing to report to Congress. We shall be entirely out of the union, and stand by ourselves. I wish gentlemen would pause a moment before they decide so awful a question. To whom are we to refer these amendments which are to be proposed as the condition of our adoption? The present Congress have nothing to do with them. Their authority extends only to introduce the new government, not to receive any proposition of amendments. Shall we present them to the new Congress? In what manner can that be done? We shall have no Representatives to introduce them. We may indeed appoint Ambassadors to the United States of America to represent what scruples North-Carolina has in regard to their Constitution. I know no other way. A number of states have proposed amendments to the Constitution, and ratified in the mean time. These will have great weight and influence in Congress, and may prevail in getting material amendments proposed. We shall have no share in voting upon any of these amendments, for in my humble opinion, we shall be entirely out of the union, and can be considered only as a foreign power. It is true the United States may admit us hereafter. But they may admit us on terms unequal and disadvantageous to us. In the mean time many of their laws, by which we shall be hereafter bound, may be particularly injurious to the interests of this state, as we shall have no share in their formation. Gentlemen say, they will not be influenced by what others have done. I must confess that the examples of great and good men, and wise states, has great weight with me. It is said there is a probability that New-York will not adopt this Constitution.² Perhaps she may not.— But it is generally supposed, that the principal reason of her opposing it, arises from a selfish motive. She has it now in her power to tax indirectly two contiguous states. Connecticut and New-Jersey contribute to pay a great part of the taxes of that state, by consuming large quantities of goods, the duties of which are now levied for the benefit of New-York only. A similar policy may induce the United States to lay restrictions on us if we are out of the union. These considerations ought to have great weight with us. We can derive very little assistance from any thing New-York will do on our behalf. Her views are diametrically opposite to ours. That state wants all her imposts for her own exclusive support. It is our interest that all imposts should go into the general treasury. Should Congress receive our commissioners, it will be a considerable time before this business will be decided on. It will be some time after Congress meets, before a Convention is appointed, and some time will elapse before the Convention meets. What they will do will be transmitted to each of the states, and then a Convention or the

Legislature in each state will have to ratify it ultimately.—This will probably take up eighteen months or two years.³ In the mean time the national government is going on.—Congress will appoint all the great officers, and will proceed to make laws and form regulations for the future government of the United States. This state during all that time will have no share in their proceedings or any negative on any business before them. Another inconvenience which will arise, is this—we shall be deprived of the benefit of the impost, which under the new government is an additional fund; all the states having a common right to it.—By being in the union we should have a right to our proportionate share of all duties and imposts collected in all the states. But by adopting this resolution, we shall lose the benefit of this; which is an object worthy of attention. Upon the whole I can see no possible good that will result to this state from following the resolution before us. I have not the vanity to think that any reasons I offer will have any weight. But I came from a respectable county to give my reasons for or against the Constitution. They expect them from me, and to suppress them would be a violation of my duty.

Mr. *Willie Jones*—Mr. Chairman, The gentleman last up [Samuel Johnston] has mentioned the resolution of Congress now lying before us,⁴ and the act of Assembly under which we met here,⁵ which says that we should deliberate and determine on the Constitution. What is to be inferred from that? Are we to ratify it at all events? Have we not an equal right to reject? We do determine by neither rejecting nor adopting. It is objected we shall be out of the union. So I wish to be. We are left at liberty to come in at any time. It is said we shall suffer a great loss, for want of a share of the impost. I have no doubt we shall have it when we come in, as much as if we adopted now. I have a resolution in my pocket, which I intend to introduce if this resolution is carried, recommending it to the Legislature to lay an impost for the use of Congress on goods imported into this state, similar to that which may be laid by Congress on goods imported into the adopting states.⁶ This shews the committee what is my intention, and on what footing we are to be. This being the case, I will forfeit my life that we shall come in for a share. It is said that all the offices of Congress will be filled, and we shall have no share in appointing the officers. This is an objection of very little importance. Gentlemen need not be in such haste. If left eighteen months or two years without offices it is no great cause of alarm. The gentleman further said, that we could send no Representatives, but must send Ambassadors to Congress as a foreign power. I assert the contrary, and that whenever a Convention of the states is called, North-Carolina will be called upon like the rest. I do not know

what these gentlemen would desire. I am very sensible that there is a great majority against the Constitution. If we take the question as they propose, they know it would be rejected, and bring on us all the dreadful consequences which they feelingly foretell, but which can never in the least alarm me. I have endeavoured to fall in with their opinions, but could not. We have a right in plain terms to refuse it, if we think proper. I have in my proposition adopted word for word the Virginia amendments, with one or two additional ones.⁷ We run no risk of being excluded from the union when we think proper to come in. Virginia our next neighbour will not oppose our admission. We have a common cause with her. She wishes the same alterations. We are of the greatest importance to her. She will have great weight in Congress, and there is no doubt but she will do every thing she can to bring us into the union. South Carolina and Georgia are deeply interested in our being admitted. The creek nation would overturn these two states without our aid. They cannot exist without North-Carolina. There is no doubt we shall obtain our amendments and come into the union when we please. Massachusetts, New-Hampshire and other states have proposed amendments. New-York will do so also if she ratifies.⁸ There will be a majority of the states, and the most respectable, important and extensive states also, desirous of amendments, and favourable to our admission. As great names have been mentioned, I beg leave to mention the authority of Mr. Jefferson, whose great abilities and respectability are well known. When the Convention sat in Richmond, in Virginia, Mr. Madison received a letter from him. In that letter he said he wished nine states would adopt it; not because it deserved ratification, but to preserve the union. But he wished that the other four states would reject it, that there might be a certainty of obtaining amendments.⁹ Congress may go on and take no notice of our amendments. But I am confident they will do nothing of importance till a Convention be called. If I recollect rightly, the Constitution [i.e., amendments] may be ratified either by Conventions or the Legislatures of the states.¹⁰ In either case it may take up about eighteen months. For my own part, I would rather be eighteen years out of the union than adopt it in its present defective form.

Governor *Johnston*—Mr. Chairman, I wish to clear myself from the imputation of the gentleman last up [Willie Jones]. If any part of my conduct warrants his aspersion, if ever I hunted after offices or sought public favours to promote private interest—let the instances be pointed out. If I know myself—I never did. It is easy for any man to throw out illiberal and ungenerous insinuations. I have no view to offices under

this Constitution. My views are much humbler. When I spoke of Congress establishing offices, I meant great offices, the establishment of which might affect the interest of the states; and I added that they would proceed to make laws, deeply affecting us, without any influence of our own. As to the appointment of the officers, it is of no importance to me who is an officer, if he be a good man.

Mr. *Jones* replied, that in every publication one might see ill motives assigned to the opposers of the Constitution. One reason assigned for their opposition, was, that they feared the loss of their influence, and diminution of their importance. He said that it was fair its opposers should be permitted to retort, and assign a reason equally selfish, for the conduct of its friends. Expectation to offices might influence them, as well as the loss of office and influence might bias the others. He intended no allusion to that gentleman [Samuel Johnston], for whom he declared he had the highest respect.

Mr. [*Samuel*] *Spencer* rose in support of the motion of the gentleman from Halifax [Willie Jones]. He premised, that he wished no resolution to be carried without the utmost deliberation and candour. He thought the proposition was couched in such modest terms as could not possibly give offence to the other states. That the amendments it proposed were to be laid before Congress, and would probably be admitted, as they were similar to those which were wished for and proposed by several of the adopting states. He always thought it more proper and agreeable to prudence to propose amendments previous rather than subsequent to ratification. He said that if two or more persons entered into a co-partnership, and employed a scrivener to draw up the articles of co-partnership in a particular form, and on reading them, they found them to be erroneous, it would be thought very strange if any of them should say, "Sign it first, and we shall have it altered hereafter." If it should be signed before alteration, it would be considered as an act of indiscretion. As therefore, it was a principle of prudence in matters of private property, not to assent to any obligation till its errors were removed, he thought the principle infinitely more necessary to be attended to in a matter which concerned such a number of people, and so many millions yet unborn. Gentlemen said they should be out of the union. He observed, that they were before confederated with the other states by a solemn compact, which was not to be dissolved without the consent of every state in the union.¹¹ North-Carolina had not assented to its dissolution. If it was dissolved it was not their faults, but that of the adopting states. It was a maxim of law that the same solemnities were necessary to destroy which were necessary to create a deed

or contract. He was of opinion, that if they should be out of the union by proposing previous amendments, they were as much so now. If the adoption by nine states enabled them to exclude the other four states, he thought North-Carolina might then be considered as excluded. But he did not think that doctrine well founded. On the contrary, he thought each state might come into the union when she thought proper. He confessed it gave him some concern, but he looked on the short exclusion of eighteen months, if it might be called exclusion, as infinitely less dangerous than an unconditional adoption. He expected the amendments would be adopted, and when they were, this state was ready to embrace it. No great inconvenience could result from this. Mr. *Spencer* made some other remarks, but spoke too low to be heard.

Mr. [*James*] *Iredell*—Mr. Chairman, In my opinion this is a very awful moment. On a right decision of this question may possibly depend the peace and happiness of our country for ages. Whatever be the decision of the House on this subject, it ought to be well weighed before it is given. We ought to view our situation in all its consequences, and determine with the utmost caution and deliberation. It has been suggested, not only out of doors, but during the course of the debates, that if we are out of the union, it will be the fault of other states and not ours. It is true, that by the Articles of the Confederation, the consent of each state was necessary to any alteration.¹² It is also true, that the consent of nine states renders this Constitution binding on them.¹³ The unhappy consequences of that unfortunate article in this Confederation, produced the necessity of this article in the Constitution. Every body knows, that through the peculiar obstinacy of Rhode-Island many great advantages were lost.¹⁴ Notwithstanding her weakness, she uniformly opposed every regulation for the benefit and honour of the union at large. The other states were then driven to the necessity of providing for their own security and welfare, without waiting for the consent of that little state. The Deputies from twelve states unanimously concurred in opinion, that the happiness of all America ought not to be sacrificed to the caprice and obstinacy of so inconsiderable a part. It will often happen in the course of human affairs, that the policy which is proper on common occasions fails; and that laws which do very well in the regular administration of a government, cannot stand when every thing is going into confusion. In such a case, the safety of the community must supersede every other consideration, and every subsisting regulation which interferes with that must be departed from rather than that the people should be ruined. The Convention therefore, with a degree of manliness which I admire, dispensed with an

unanimous consent for the present change, and at the same time provided a permanent remedy for this evil, not barely by dispensing with the consent of one member in future alterations, but by making the consent of nine sufficient for the whole if the rest did not agree, considering that the consent of so large a number ought in reason to govern the whole, and the proportion was taken from the old Confederation, which in the most important cases required the consent of nine, and in every thing except the alteration of the Constitution, made that number sufficient.¹⁵ It has been objected, that the adoption of this government would be improper, because it would interfere with the oath of allegiance to the state. No oath of allegiance requires us to sacrifice the safety of our country. When the British government attempted to establish a tyranny in America, the people did not think their oath of allegiance bound them to submit to it. I had taken that oath several times myself, but had no scruple to oppose their tyrannical measures. The great principle is, *The safety of the people is the supreme law.*¹⁶ Government was originally instituted for their welfare, and whatever may be its form, this ought to be its object. This is the fundamental principle on which our government is founded. In other countries they suppose the existence of an original compact, and infer, that if the sovereign violates his part of it, the people have a right to resist. If he does not, the government must remain unchanged unless the sovereign consents to an alteration. In America, our governments have been clearly created by the people themselves. The same authority that created can destroy, and the people may undoubtedly change the government, not because it is ill exercised, but because they conceive another form will be more conducive to their welfare. I have stated the reasons for departing from the rigid article in the Confederation requiring an unanimous consent. We were compelled to do this or see our country ruined. In the manner of the dispensation the Convention however appear[s] to have acted with great prudence, in copying the example of the Confederation in all other particulars of the greatest moment, by authorising nine states to bind the whole. It is suggested indeed, that though ten states have adopted this new Constitution, yet as they had no right to dissolve the old articles of Confederation, these still subsist, and the old union remains, of which we are a part. The truth of that suggestion may well be doubted on this ground. When the principles of a Constitution are violated, the Constitution itself is dissolved, or may be dissolved at the pleasure of the parties to it. Now, according to the articles of Confederation, Congress had authority to demand money in a certain proportion from the respective states to answer the exigencies of

the union. Whatever requisitions they made for that purpose, were constitutionally binding on the states. The states had no discretion except as to the mode of raising the money. Perhaps every state has committed repeated violations of the demands of Congress. I do not believe it was from any dishonourable intention in many of the states; but whatever was the cause, the fact is, such violations were committed. The consequence is, that upon the principle I have mentioned (and in which I believe all writers agree) the articles of Confederation are no longer binding. It is alledged, that by making the consent of nine sufficient to form a government for themselves, the first nine may exclude the other four. This is a very extraordinary allegation. When the new Constitution was proposed, it was proposed to the thirteen states in the union. It was desired, that all should agree if possible, but if that could not be obtained, they took care that nine states might at least save themselves from destruction. Each undoubtedly had a right on the first proposition, because it was proposed to them all. The only doubt can be, whether they had a right afterwards. In my opinion, when any state has once rejected the Constitution, it cannot claim to come in afterwards as a matter of right. If it does not in plain terms reject, but refuses to accede for the present, I think the other states may regard this as an absolute rejection, and refuse to admit us afterwards but at their pleasure and on what terms they please. Gentlemen wish for amendments. On this subject, though we may differ as to the necessity of amendments, I believe none will deny the propriety of proposing some, if only for the purpose of giving more general satisfaction. The question then is, whether it is most prudent for us to come into the union immediately and propose amendments (as has been done in the other states) or to propose amendments and be out of the union till all these be agreed to by the other states. The consequences of either resolution I beg leave to state. By adopting we shall be in the union with our sister states, which is the only foundation of our prosperity and safety. We shall avoid the danger of a separation, a danger of which the latent effects are unknown. So far am I convinced of the necessity of the union, that I would give up many things against my own opinion to obtain it. If we sacrifice it, by a rejection of the Constitution, or a refusal to adopt (which amounts, I think, nearly to the same thing) the very circumstance of disunion may occasion animosity between us and the inhabitants of the other states, which may be a means of severing us forever. We shall lose the benefit which must accrue to the other states from the new government. Their trade will flourish: Goods will sell cheap: Their commodities will rise in value, and their distresses occasioned by the war will gradually be removed. Ours, for want of these advantages,

will continue. Another very material consequence will result from it: We shall lose our share of the imposts in all the states, which under this Constitution are to go into the federal treasury. It is the particular local interest of this state to adopt on this account, more perhaps than that of any other member of the union. At present all these imposts go into the respective treasury of each state, and we well know our own are of little consequence compared to those of the other states in general. The gentleman from Halifax (Mr. *Jones*) has offered an expedient to prevent the loss of our share of the impost. In my opinion that expedient will not answer the purpose. The amount of duties on goods imported into this state is very little, and if these resolutions are agreed to it will be less. I ask any gentleman, whether the United States would receive from the duties of this state so much as would be our proportion under the Constitution, of the duties on goods imported in all the states. Our duties would be no manner of compensation for such proportion. What would be the language of Congress on our holding forth such an offer? "If you are willing to enjoy the benefits of the union, you must be subject to all the laws of it. We will make no partial agreement with you." This would probably be their language. I have no doubt all America would wish North-Carolina to be a member of the union. It is of importance to them. But we ought to consider whether ten states can do longer without one, or one without ten? On a competition, which will give way? The adopting states will say, "Other states had objections as well as you, but rather than separate they agreed to come into the union, trusting to the justice of the other states for the adoption of proper amendments afterwards. One most respectable state, Virginia, has pursued this measure, though apparently averse to the system as it now stands. But you have laid down the condition on which alone you will come into the union. We must accede to your particular propositions, or be disunited from you altogether. Is it fit that North-Carolina shall dictate to the whole union? We may be convinced by your reason, but our conduct will certainly not be altered by your resistance." I beg leave to say, if Virginia thought it right to adopt and propose amendments, under the circumstances of the Constitution at that time, surely it is much more so for us in our present situation. That state, as was justly observed, is a most powerful and respectable one. Had she held out, it would have been a subject of most serious alarm. But she thought the risk of losing the union altogether too dangerous to be incurred. She did not then know of the ratification by New-Hampshire. If she thought it necessary to adopt when only eight states had ratified, is it not much more necessary for us after the ratification by ten? I do not say that we ought servilely to imitate any

example. But I may say, that the examples of wise men, and intelligent nations, are worthy of respect; and that in general we may be much safer in following than in departing from them. In my opinion, as many of the amendments proposed, are similar to amendments recommended not only by Virginia, but by other states, there is a great probability of their being obtained. All the amendments proposed undoubtedly will not be, nor I think ought to be, but such as tend to secure more effectually the liberties of the people, against an abuse of the powers granted, in all human probability, will; for in such amendments all the states are equally interested. The probability of such amendments being obtained is extremely great, for though three states ratified the Constitution unanimously, there has been a considerable opposition in the other states. In New-Hampshire the majority was small. In Massachusetts there was a strong opposition. In Connecticut the opposition was about one third; so it was in Pennsylvania. In Maryland the minority was small, but very respectable. In Virginia they had little more than a bare majority. There was a powerful minority in South-Carolina. Can any man pretend to say, that thus circumstanced, the states would disapprove of amendments calculated to give satisfaction to the people at large? There is a very great probability, if not an absolute certainty, that amendments will be obtained. The interest of North-Carolina would add greatly to the scale in their favour. If we do not accede we may injure the states who wish for amendments, by withdrawing ourselves from their assistance. We are not at any event in a condition to stand alone. God forbid we should be a moment separated from our sister states. If we are, we shall be in great danger of a separation forever. I trust every gentleman will pause before he contributes to so awful an event. We have been happy in our connexion with the other states. Our freedom, independence, every thing dear to us, has been derived from that union we are now going rashly to dissolve. If we are to be separated; let every gentleman well weigh the ground he stands on before he votes for the separation. Let him not have to reproach himself hereafter that he voted without due consideration, for a measure that proved the destruction of his country.

Mr. *Iredell* then observed, that there were insinuations thrown out against those who favoured the Constitution—that they had a view of getting offices and emoluments. He said, he hoped no man thought him so wicked, as to sacrifice the interest of his country to private views. He declared in the most solemn manner, the insinuation was unjust and ill-founded as to himself. He believed it was so with respect to the rest. The interest and happiness of his country solely governed him on that occasion. He could appeal to some Members in the House, and

particularly to those who knew him in the lower part of the country, that his disposition had never been pecuniary, and that he had never aspired to offices. At the beginning of the revolution, he said, he held one of the best offices in the state under the crown¹⁷—an office on which he depended for his support. His relations were in Great-Britain; yet though thus circumstanced, so far was he from being influenced by pecuniary motives, or emoluments of office, that as soon as his situation would admit of it, he did not hesitate a moment to join the opposition to Great-Britain, nor would the richest office in America have tempted him to adhere in that unjust cause to the British government. He apologised for taking up the time of the committee, but he observed that reflections of that kind were considered as having applied, unless they were taken notice of. He attributed no unworthy motives to any gentleman in the House. He believed most of them wished to pursue the interest of their country according to their own ideas of it. He hoped other gentlemen would be equally liberal.

Mr. *Willie Jones* observed, that he assigned unworthy motives to no one. He thought a gentleman had insinuated, that the opposition all acted from base motives. He was well assured that their motives were as good as those of the other party, and he thought he had a right to retort by shewing that selfish views might influence as well on one side as the other. He intended however no particular reflections on those two gentlemen [Governor Samuel Johnston and James Iredell], who had applied the observation to themselves, for whom he said he had the highest respect, and was sorry he had made the observation as it had given them pain. But if they were conscious that the observation did not apply to them, they ought not to be offended at it. He then explained the nature of the resolutions he proposed; and the plain question was, whether they should adopt them or not.—He was not afraid that North-Carolina would not be admitted at any time hereafter. Maryland, he observed, had not confederated for many years with the other states; yet she was considered in the mean time as a member of the union, was allowed as such to send her proportion of men and money, and was at length admitted into the confederacy in 1781.¹⁸ This he said shewed how the adopting states would act on the present occasion. North-Carolina might come into the union when she pleased.

Governor *Johnston* made some observations as to the particular case of Maryland, but in too low a voice to be distinctly heard.

Mr. [*Timothy*] *Bloodworth* observed, that the first Convention which met to consult on the necessary alterations of the Confederation, so as to make it efficient, and put the commerce of the United States on a better footing, not consisting of a sufficient number from the different

states, so as to authorize them to proceed, returned without effecting any thing; but proposed that another Convention should be called, to have more extensive powers, to alter and amend the Confederation.¹⁹ This proposition of that Convention was warmly opposed in Congress.²⁰—Mr. King, from Massachusetts, insisted on the impropriety of the measure, and that the existing system ought to stand as it was.²¹ His arguments, he said, were, that it might destroy the Confederation to propose alterations; that the unanimous consent of all the states was necessary to introduce those alterations, which could not possibly be obtained; and that it would therefore be in vain to attempt it. He wondered how gentlemen came to entertain different opinions now. He declared he had listened with attention, to the arguments of the gentlemen on the other side, and had endeavoured to remove every kind of bias from his mind, yet he had heard nothing of sufficient weight to induce him to alter his opinion. He was sorry that there was any division on that important occasion, and wished they could all go hand in hand.

As to the disadvantages of a temporary exclusion from the union, he thought them trifling. He asked if a few political advantages could be put in competition with our liberties. Gentlemen said that amendments would probably be obtained. He thought their arguments and reasons were not so sure a method to obtain them as withholding their consent would be. He could not conceive that the adopting states would take any measures to keep this state out of the union. If a right view were taken of the subject, he said they could not be blamed in staying out of the union till amendments were obtained. The compact between the states was violated by the other states and not by North-Carolina. Would the violating party blame the upright party? This determination would correspond with the opinion of the gentleman [Thomas Jefferson] who had written from France on the subject. He would lay stress on no man's opinion, but the opinion of that gentleman was very respectable.²²

Mr. [William R.] Davie—Mr. Chairman, It is said that there is a great majority against the Constitution and in favour of the gentleman's [Willie Jones's] proposition. The object of a majority, I suppose, is to pursue the most probable method of obtaining amendments. The honourable gentleman from Halifax [Willie Jones] has said this is the most eligible method of obtaining them. My opinion is the very reverse; let us weigh the probability of both modes proposed, and determine with candour which is the safest and surest method of obtaining the wished for alterations. The honourable gentleman from Anson [Samuel Spencer], has said that our conduct in adhering to these resolutions, would be *modest*. What is his idea or definition of modesty? The term must be

very equivocal; so far from being modest, it appears to me to be no less than an arrogant dictatorial proposal of a Constitution, to the United States of America. We shall be no part of that confederacy, and yet attempt to dictate to one of the most powerful confederacies in the world. It is also said to be most agreeable to *prudence*; if our real object be amendments, every man must agree that the most likely means of them are the most *prudent*. Four of the most respectable states have adopted the Constitution, and recommended amendments, New-York (if she refuses to adopt) Rhode-Island, and North-Carolina, will be the only states out of the union. But if these three were added, they would compose a majority in favour of amendments, and might by various means, compel the other states into the measure. It must be granted that there is no way of obtaining amendments but the mode prescribed in the Constitution; two thirds of the Legislatures of the states *in the confederacy*, may require Congress to call a Convention to propose amendments, or the same proportion of both Houses may propose them. It will then be of no consequence that we stand out and propose amendments; without adoption we are not a member of the confederacy, and possessing no federal rights, can neither make any proposition nor require Congress to call a Convention. Is it not clear, however strange it may be, that we are with-holding our weight from those states who are of our own opinion, and by a perverse obstinacy obstructing the very measure we wish to promote. If two thirds of both Houses are necessary to send forward amendments to the states, would it not be prudent that we should be there and add our vote to the number of those states who are of the same sentiment? The honourable Member from Anson [Samuel Spencer] has likened this business to a copartnership, comparing small things to great. The comparison is only just in one respect—the dictatorial proposal of North-Carolina to the American confederacy, is like a beggarly bankrupt addressing an opulent company of merchants, and arrogantly telling them, “I wish to be in copartnership with you, but ‘the terms must be such *as I please*.’” What has North-Carolina to put into the stock with the other states? Have we not felt our poverty? What was the language of Congress on their last requisition on this state? Surely gentlemen must remember the painful terms in which our delinquency was treated. That gentleman [Samuel Spencer] has also said, “that we shall still be a part of the union, and if we be separated it is not our fault.” This is an obvious solecism. It is our *own fault*, Sir, and the direct consequence of the means we are now pursuing. North-Carolina stands foremost in point of delinquency, and has repeatedly violated the Confederation. The conduct of this state has been among the principal causes which produced this revolution

in our federal government. The honourable gentleman has also added, that it was a rule in law, "that the same solemnities were necessary to annul which were necessary to create or establish a compact, and that as thirteen states created, so thirteen states must concur in the dissolution of the Confederation." This may be talking like a lawyer or a judge, but it is very *unlike* a politician; a majority is the rule of republican decisions. It was the voice of a majority of the people of America that gave that system validity, and the same authority can and will annul it at any time. Every man of common sense knows, that political power is *political right*. Lawyers may cavil and quibble about the necessity of unanimity, but the true principle is otherwise. In every republican community the majority binds the minority, and whether confederated or separated the principle will equally apply. We have a right to come into the union, until we exercise the right of deciding on the question referred to us. Adoption places us in the union—rejection extinguishes the *right* forever. The scheme proposed by these gentlemen will certainly be considered as an absolute rejection; it may amuse the people and answer a purpose *here*, but will not answer any purpose *there*. The honourable gentleman from Halifax [Willie Jones] asserts, "we may come in when we please." The gentleman from New-Hanover [Timothy Bloodworth], on the same side of the question, endeavoured to alarm and frighten us about the dangerous influence of the eastern states; if he deserves any credit, can we expect they will let us into the union, until they have accomplished their particular views, and then but on the most disadvantageous terms? Commercial regulations will be one of the great objects of the first session of Congress, in which our interests will be totally neglected. Every man must be convinced of the importance of the first acts and regulations; as they will probably give a tone to the policy of ages yet to come, and this scheme will add greatly to the influence of the eastern states, and proportionably diminish the power and interests of the southern states.

The gentleman [Willie Jones] says he has a project in his pocket, which he risks his life will induce the other states to give us a share of the general impost. I am fully satisfied, Sir, this project will not answer the purpose, and the forfeiture of his life will be no compensation for irretrievable public loss. Every man who knows the resources of our commerce, and our situation, will be clearly convinced that the project cannot succeed—the whole produce of our duties, both by land and water is very trifling. For several years past it has not exceeded 10,000*l.* of our own paper money. It will not be more, probably less, if we are out of the union. The whole proportion of this state of the public debts,

except this mere pittance, must be raised from the people by direct and immediate taxation. But the fact is, Sir, it cannot be raised, because it cannot be paid; and without sharing in the general impost we shall never discharge our quota of the federal debt. What does he offer the other states? The poor pittance I have mentioned. Can we suppose Congress so lost to every sense of duty, interest and justice?—Would their constituents permit them to put their hands into their pockets to pay *our debts*? We have no equivalent to give them for it. As several powerful states have proposed amendments, they will no doubt be supported with zeal and perseverance, so that it is not probable that the object of amendments will be lost. We may struggle on for a few years and render ourselves wretched and contemptible, but we must at last come into the union on their terms however humiliating they may be. The project on the table is little better than an absolute rejection, and is neither rational or politic as it cannot promote the end proposed.

Mr. [Matthew] Lock, in reply to Mr. Davie, expressed some apprehensions that the Constitution, if adopted as it then stood, would render the people poor and miserable. He thought it would be very productive of expences. The advantages of the impost he considered as of little consequence, as he thought all the money raised that way, and more, would be swept away by courtly parade—the emoluments of the President, and other members of the government, the Supreme Court, &c. These expences would double the impost in his opinion. They would render the states bankrupt. The imposts, he imagined, would be inconsiderable. The people of America began to import less foreign frippery. Every wise planter was fond of home manufacture. The northern states manufactured considerably, and he thought manufactures would encrease daily. He thought a previous ratification dangerous. The worst that could happen would be, that we should be thrown out of the union. He would rather that should be the case, than embrace a tyrannical government, and give away our rights and privileges. He was therefore determined to vote for the resolutions of the gentleman from Halifax [Willie Jones].

Mr. Spencer observed, that if the conduct of North-Carolina would be immodest and dictatorial, in proposing amendments, and if it was proposing a constitution to the other states, he was sure the other states who had proposed the same amendments, were equally guilty of immodesty and dictating a constitution to the other states. The only difference being, that this state does not adopt previously. The gentleman [William R. Davie] had objections to *his* legal maxims, and said they were not politic. He would be extremely sorry, he said, if the maxims

of justice should not take place in politics. Were this to be the case, there could be no faith put in any compact. He thought the comparison of the state to a beggar was a degradation of it, and insisted on the propriety of his own comparison; which he thought obvious to any one. He acknowledged that an exclusion from the union would be a most unhappy circumstance, but he had no idea that it would be the case. As this mode of proceeding would hasten the amendments, he could not but vote for it.

Mr. *Jones* defined the word *modesty* by contrasting it with its antagonist *impudence*. The gentleman found fault with the observation, that this was the most decent and best way of obtaining amendments. If gentlemen would propose a more eligible method, he would consent to that. He said the gentleman had reviled the state by his comparison, and must have hurt the feelings of every gentleman in the House. He had no apprehensions that the other states would refuse to admit them into the union, when they thought proper to come in. It was their interest to admit them. He asked if a beggar would refuse a boon though it were but a shilling, or if twelve men struggling under a heavy load would refuse the assistance of a thirteenth man?

A desultory conversation now took place.

Mr. *Davie* hoped they would not take up the whole collectively, but that the proposed amendments would be considered one by one. Some other gentlemen expressed the same desire.

Many other gentlemen thought the resolution very proper as it stood.

The question being put, the resolution was agreed to by a great majority of the committee.

It was then resolved that the committee should rise. Mr. President resumed the chair, and Mr. Kenan reported from the committee of the whole Convention, that the committee had again had the Constitution proposed for the future government of the United States under consideration, and had come to a resolution thereupon; which he read in his place, and afterwards delivered in at the Clerk's table.

Ordered, That the said report lie on the table until tomorrow morning nine o'clock: To which time the House adjourned.

1. Printed: *Proceedings and Debates*, 250–68.

2. New York, the eleventh state to adopt the Constitution, ratified on 26 July 1788, but the news had not yet reached Hillsborough.

3. Johnston is contemplating the calling of a second general convention to consider amendments to the Constitution.

4. A reference to the resolution of Congress of 28 September 1787, which directed the state legislatures to submit the Constitution "to a convention of delegates chosen in each state" (CDR, 340).

5. For the 6 December 1787 joint resolutions of the North Carolina Senate and House of Commons calling North Carolina's first state ratifying convention, see RCS:N.C., 47–48.

6. For Jones's resolution calling for a state impost similar to Congress', see Convention Debates, 2 August (RCS:N.C., 470).

7. For Virginia's amendments to the Constitution, including a bill of rights and structural amendments, see RCS:Va., 1550–58.

8. For the amendments proposed by the conventions of Massachusetts, New Hampshire, and New York, see RCS:Mass., 1468–71; RCS:N.H., 376–79n; and RCS:N.Y., 2326–35n. News of New York's ratification had not reached Hillsborough at this point, which explains the qualification "if she [i.e., New York] ratifies."

9. See RCS:Va., 1088, note 7.

10. Article VII of the Constitution and the Constitutional Convention's first resolution of 17 September 1787 entrusted the ratification of the Constitution to state conventions (Appendix III, RCS:N.C., 844, 845), and the resolution of Congress of 28 September 1787, which directed state legislatures to call conventions for the purpose of considering the Constitution, affirmed the resolutions of the delegates who attended the Constitutional Convention (CDR, 340).

11. Likely a reference to the preamble and Article XIII of the Articles of Confederation, which mention the perpetuity of the Union no fewer than six times (CDR, 86, 93).

12. Under Article XIII of the Articles of Confederation, Congress had to concur in any amendment to the Articles and, afterwards, the legislatures of every state had to confirm the decision (CDR, 93).

13. See Article VII of the Constitution and the Constitutional Convention's resolutions of 17 September 1787 (Appendix III, RCS:N.C., 844, 845).

14. Probably a reference to Rhode Island's rejection of the Impost of 1781. Rhode Island and New Hampshire also rejected the amendment proposed in 1783 to share federal expenses (i.e., taxes) based upon population.

15. Article IX of the Articles of Confederation specified that the concurrence of nine states was necessary to engage in war, make treaties, issue coin, emit bills, borrow money, etc. (CDR, 92).

16. Latin: *Salus populi suprema lex esto*. The expression is from Cicero, *De Legibus* (*On the Laws*), Book III, section 8.

17. Iredell served as comptroller and, later, collector of customs for Port Roanoke in Edenton. In 1774, he was appointed a deputy king's attorney.

18. Maryland's act of 2 February 1781 ratified the Articles of Confederation and empowered its delegates in Congress to sign the Articles, which they did on 1 March (CDR, 135–37n).

19. A reference to the Annapolis Convention, which met between 11 and 14 September 1786. Promoted by Virginia, the Annapolis Convention was to be a general convention of the states to discuss commercial issues facing the United States and to consider the preparation of an act to give Congress power to regulate trade. Nine states elected commissioners to attend the meeting, but the commissioners from five states adjourned before the other states' commissioners arrived. The report that emerged from Annapolis, which was sent to Congress and the states, requested the states to elect delegates to meet in convention in Philadelphia in May 1787, where they could "devise such further provisions as shall appear to them necessary to render the constitution of the Foederal Government adequate to the exigencies of the Union" (CDR, 177, 180–85).

20. The report of the Annapolis Convention was read in Congress on 20 September 1786 and was referred to a grand committee of the states on 11 October. Congress adjourned without taking any action. When it re-convened, the grand committee was renewed on 12 February 1787 and reported on 19 February. Congress acted on the matter

on 21 February, authorizing the appointment of the Constitutional Convention (JCC, XXXI, 677–80, 770n; XXXII, 42n, 66n, 71–74).

21. Rufus King opposed the report of the Annapolis Convention because it lacked congressional sanction. In a speech to the Massachusetts House of Representatives on 11 October 1786, King affirmed his fidelity to the Confederation government: “The Confederation was the act of the people. No part could be altered but by consent of Congress and confirmation of the several legislatures. Congress therefore ought to make the examination first, because if it was done by a convention, no legislature could have a right to confirm it” (CDR, 178). Shays’s Rebellion, which lasted from August 1786 to February 1787, played a decisive role in changing the attitude of King and others toward the movement for extending Congress’ powers beyond those in the Articles of Confederation.

Favoring the Annapolis Convention report, six states (N.J., Va., Pa., N.C., Del., and Ga.) had already decided to send delegates to Philadelphia when, on 21 February, Nathan Dane and King, representing Massachusetts, moved for Congress to call a general convention of the states. (On the same day, New York, following instructions from its legislature, had tried to achieve a similar end but was defeated.) Dane and King’s motion, which was approved by Congress, only implicitly acknowledged the report from Annapolis. Some delegates in Congress believed that King and Dane did not favor the convention. Others believed that New England was simply acquiescing in the face of broad support for the call of a convention. James Madison interpreted Dane and King’s actions as a response to the changing climate in the Massachusetts legislature, where members were beginning to see the need for a convention to strengthen the central government.

For Dane and King’s motion of 21 February, see JCC, XXXII, 71–74. For a fuller treatment of Congress’ call of the Constitutional Convention, see CDR, 176–79, 188–90.

22. On 7 February 1788 Thomas Jefferson wrote a letter to Alexander Donald suggesting that nine states should ratify the Constitution to obtain the advantages the new government would offer, but Jefferson also suggested that four states should not ratify until necessary amendments to the Constitution were obtained. For an excerpt of the letter, see RCS:Va., 353–54. Jefferson also recommended this approach to ratification in letters to William Stephens Smith and James Madison, 2 and 6 February, respectively (note 9 [above]). Jefferson’s letter was used by both Federalists and Antifederalists in the Virginia ratifying Convention (RCS:Va., 1051–52, at note 7 and note 7, and 1201–2, at note 20 and note 20).

Hillsborough Convention

Friday

1 August 1788

Convention Proceedings, 1 August 1788 (excerpt)¹

Met according to adjournment.

Mr. David Perkins one of the members of Pitt county appeared and took his seat.

The Order of the Day for taking up the Report of the Committee of the whole Convention being called for and read, agreeable thereto, the report of the Committee of the whole Convention on the proposed Constitution of Government for the United States of America was read in the following words:

[The report of the committee of the whole appears here. For the text of the report, see *Convention Debates*, 1 August (RCS:N.C., 452–58).]

Mr. Iredell, seconded by Mr. John Skinner, moved, that this report be amended, by striking out all the words of the said report except the two first, *to wit*, (Resolved that) And that the following words be inserted in their room, viz.

[Iredell's amendment to the report of the committee of the whole appears here. For the text of Iredell's motion, see *Convention Debates*, 1 August (RCS:N.C., 459–61).]

This motion made by Mr. Iredell being objected to, the question was put, "Will the Convention adopt that amendment or not?" and it was negatived: Whereupon the yeas and nays were required by Mr. Iredell, and seconded by Mr. Steele, which are as follow.

[The yeas and nays on Iredell's motion appear here. For the record of votes on Iredell's motion, see *Convention Debates*, 1 August (RCS: N.C., 461–62).]

Ordered, That the further consideration of the report of the Committee of the whole Convention be postponed until to-morrow.

Ordered, That Mr. Iredell, Mr. Maclaine, and Mr. Jones be a committee to prepare and bring in an ordinance to establish the seat of government at the place hereafter to be fixed on by this convention.

On a motion made by Mr. Joseph M'Dowall, and seconded by Mr. Benj. Smith, Resolved, That the convention will ballot for the place at which the seat of government shall be fixed.

On the question to agree to this resolution the yeas and nays were required by Mr. Person, and seconded by Mr. John Macon, which are as follow.

Yeas—The hon. Samuel Spencer, esq; Messrs. Lewis Lanier, Thomas Wade, John G. Blount, Alexious M. Forster, Lewis Dupree, Thomas Brown, Goodwin Elliston, Charles M'Dowall, Robert Miller, Thomas Armstrong, Wm. B. Grove, James Porterfield, Alexander M'Allister, Geo. Elliott, George Lucas, Thomas Evans, Robert Weakley, David Caldwell, Wm. Goudy, Daniel Gillespie, John Anderson, John Hamilton, Wm. Porter, Zebedee Wood, James Galloway, John Willis, John Cade, Elias Barnes, Neal Brown, John Regan, John Winston, James Gaines, Charles M'Annelly, Absalom Bostick, John Scott, John Dunkin, David Dodd, Curtis Ivey, Lewis Holmes, Richard Clinton, Hardy Holmes, Robert Allison, James Stewart, John Tipton, Henry Montfort, Wm. Lanier, Richard Allen, John Brown, Joseph Herndon, James Fletcher, John Steele, Absalom Tatum, Archibald Maclaine, Thomas Wynns, Stokely Donelson, Thomas King, John E. Bryan, Edward Whitty, Robert Alexander,

James Johnston, John Sloane, John Moore, Wm. Maclaine, John Cox, John Carrel, Cornelius Doud, Thomas Tyson, Wm. Martin, Joseph Graham, Robert Irwin, Wm. Loftin, James M'Donald, Thomas Butler, Daniel Yates, Thomas Johnston, John Spicer, Alexander Mebane, Jonathan Lindley, Wm. Mebane, Thomas Harvey, Wyot Hawkins, John Blair, John Tipton, Wm. Bethell, Abram Phillips, John May, Charles Galloway, Joseph Gaitier, John A. Campbell, Wm. Marshall, Charles Robertson, James Gillespie, Charles Ward, Wm. Bridges, Frederick Hargett, John Cains, Jacob Leonard, Thomas Carson, Richard Singleton, James Whiteside, Caleb Phifer, Zachias Wilson, Joseph Douglass, Thomas Dougan, Jesse Henley, James Kenan, Wm. Wootten, Joseph Boon, Edward Williams, Griffith Rutherford, George H. Barringer, Timothy Bloodworth, Asahel Rawlings, James Roddy, Samuel Cain, Benjamin Covington, Joseph M'Dowal, junr. James Bloodworth, Benj. Smith, Nathaniel Allen, James Brannon, Wm. Dixon, Thomas Owen, Matthew Lock, Wm. Dobins, John P. Williams, Thomas Devane, James Greenlee, Joseph M'Dowall, James Wilson, John M'Allister, David Looney, and John Sharpe.—134.

Nays—Messrs. Daniel Gould, Nathan Keais, Andrew Oliver, Benjamin Williams, Michael Payne, Charles Johnson, Stephen Cabarrus, Edmund Blount (Tyrrell), Henry Abbot, Isaac Gregory, Peter Dauge, Charles Grandy, Enoch Sawyer, Robert Dickins, George Roberts, John Womack, Ambrose Ramsey, James Anderson, Joseph Stewart, Wm. Vestall, Thos. Hardiman, Wm. Donaldson, Robert Digges, Bythel Bell, Elisha Battle, Wm. Fort, Etheldred Gray, Wm. Lancaster, Thomas Sherrod, John Norwood, Sterling Dupree, Richard Moyer, Arthur Forbes, Joseph Taylor, Thornton Yancey, Howel Lewis, Elijah Mitchell, George Moore, Edmund Waddell, James Winchester, Wm. Stokes, Thomas Stewart, Josiah Collins, John Macon, Thomas Christmas, Wm. Taylor, James Handley, Thomas Hines, Nathaniel Johnes, Brittain Sanders, Wm. R. Davie, James Iredell, Wm. Baker, Joseph Reddick, Thomas Hunter, (Gates), John Sitgreaves, Lemuel Burkitt, Wm. Little, Abram Jones, Caleb Foreman, Nathan Bryan, Nathan Mayo, Wm. Slade, Thomas Hunter (Martin), Wm. M'Kinzie, Thomas Ussory, John Benford, James Vaughan, Robert Peebles, James Vinson, Wm. S. Marnes, Howel Ellin, Redman Bunn, John Bonds, David Pridgen, Wm. M'Cauley, Wm. Shepperd (Orange) John Lane, Thomas Reading, Joshua Skinner, John Skinner, Samuel Harrell, James Payne, John Graves, James Boswell, Wm. Randall, Richard M'Kinzie, John Jones, Egbert Haywood, John Branch, Henry Hill, Edmund Blount (Tyrrell) Simeon Spruill, Wm. Farmer, John Bryan, Francis Oliver, Willie Jones, Everet Pearce, Durham Hall, Joel Lane, James

Hinton, Burwell Mooring, George Wynns, James Bonnar, John Johnston, Wm. J. Dawson, Richard D. Spaight, Richard Nixon, James Phillips, John Humphries, Robert Williams, Thomas Person, James Gregory, Enoch Relfe, Devotion Davis, Wm. Kindall, and Wm. Skinner.—117

Adjourned until to-morrow morning 6 o'clock.

1. Printed: *Journal*, 11–21. The pagination in the *Journal* (Evans 21337) is repetitive. After the initial pages 1–10, the pagination begins again at page 1 and continues through page 16. Instead of citing page 1 for a second time, the editors have translated repeated page numbers and any following numbers into their equivalent were the pages numbered consecutively from beginning to end (e.g., the second page 1 is cited in this note as page 11, etc.).

Convention Debates, 1 August 1788¹

The Convention met according to adjournment.

Mr. [*James*] *Iredell*—Mr. President, I believe, Sir, all debate is now at an end. It is useless to contend any longer against a majority that is irresistible. We submit, with the deference that becomes us, to the decision of the majority; but my friends and myself are anxious that something may appear on the journal to shew our sentiments on the subject. I have therefore a resolution in my hand to offer, not with a view of creating any debate, (for I know it will be instantly rejected) but merely that it may be entered on the journal, with the yeas and nays taken upon it, in order that our constituents and the world may know what our opinions really were on this important occasion. We prefer this to the exceptionable mode of a protest, which might increase the spirit of party, and raise animosity among the people of this country, which is an event we wish to prevent, if possible. I therefore, Sir, have the honour of moving,

“That the consideration of the report of the committee be postponed, in order to take up the consideration of the following resolution.”

Mr. *Iredell* then read the resolution in his place, and afterwards delivered it in at the Clerk's table, and his motion was seconded by Mr. John Skinner.

Mr. *Joseph M'Dowall* and several other gentlemen, most strongly objected against the propriety of this motion. They thought it improper, unprecedented, and a great contempt of the voice of the majority.

Mr. *Iredell* replied that he thought it perfectly regular, and by no means a contempt of the majority. The sole intention of it was, to shew the opinion of the minority, which could not, in any other manner, be

so properly done. They wished to justify themselves to their constituents, and the people at large would judge between the merit of the two propositions. They wished also to avoid, if possible, the disagreeable alternative of a protest. This being the first time he ever had the honour of being a Member of a representative body, he did not solely confide in his own judgment as to the proper manner of bringing his resolution forward, but had consulted a very respectable and experienced Member of that House, who had recommended this method to him; and he well knew it was conformable to a frequent practice in Congress, as he had observed by their journals. Each Member had an equal right to make a motion, and if seconded, a vote ought to be taken upon it, and he trusted the majority would not be so arbitrary as to prevent them from taking this method to deliver their sentiments to the world.

He was supported by Mr. [*Archibald*] *Maclaine* and Mr. [*Richard Dobbs*] *Spaight*.

Mr. *Willie Jones* and Mr. [*Samuel*] *Spencer* insisted on its being irregular—and said they might protest. Mr. *Jones* said, there never was an example of the kind before; that such a practice did not prevail in Congress when he was a Member of it, and he well knew no such practice had ever prevailed in the Assembly.

Mr. [*William R.*] *Davie* said, he was sorry that gentlemen should not deal fairly and liberally with one another. He declared it was perfectly Parliamentary, and the usual practice in Congress. They were in possession of the motion, and could not get rid of it without taking a vote upon it. It was in the nature of a previous question. He declared that nothing hurt his feelings so much as the blind tyranny of a dead majority.

After a warm discussion of this point by several gentlemen on both sides of the House, it was at length intimated to Mr. *Iredell*, by Mr. *Spaight*, across the house, that Mr. [*William*] *Lenoir* and some other gentlemen of the majority, wished he would withdraw his motion for the present, on purpose that the resolution of the committee might be first entered on the journal, which had not been done; and afterwards his motion might be renewed. Mr. *Iredell* declared he would readily agree to this, if the gentleman who had seconded him would, desiring the House to remember that he only withdrew his motion for that reason, and hoped he should have leave to introduce it afterwards. Which seemed to be understood. He accordingly, with the consent of Mr. [*John*] *Skinner*, withdrew his motion, And the resolution of the committee of the whole House was then read, and ordered to be entered on the journal. The resolution was accordingly read and entered as follows, *viz.*

Resolved, That a Declaration of Rights, asserting and securing from encroachment the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of government, ought to be laid before Congress, and the Convention of the states that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid on the part of the state of North-Carolina.

DECLARATION OF RIGHTS.

1st. That there are certain natural rights, of which men, when they form a social compact, cannot deprive or divest their posterity, among which are the enjoyment of life and liberty, with the means of acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

2d. That all power is naturally vested in, and consequently derived from the people; that magistrates therefore are their trustees and agents, and at all times amenable to them.

3d. That government ought to be instituted for the common benefit, protection and security of the people; and that the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish, and destructive to the good and happiness of mankind.

4th. That no man or set of men are entitled to exclusive or separate public emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge, or any other public office to be hereditary.

5th. That the legislative, executive and judiciary powers of government should be separate and distinct, and that the members of the two first may be restrained from oppression, by feeling and participating the public burthens, they should at fixed periods be reduced to a private station, return into the mass of the people, and the vacancies be supplied by certain and regular elections; in which all or any part of the former members to be eligible or ineligible, as the rules of the constitution of government and the laws shall direct.

6th. That elections of representatives in the legislature ought to be free and frequent, and all men having sufficient evidence of permanent common interest with, and attachment to the community, ought to have the right of suffrage; and no aid, charge, tax or fee can be set, rated or levied upon the people without their own consent, or that of their representatives so elected; nor can they be bound by any law to which they have not in like manner assented for the public good.

7th. That all power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people in the legislature, is injurious to their rights and ought not to be exercised.

8th. That in all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence, and be allowed counsel in his favour, and to a fair and speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty (except in the government of the land and naval forces) nor can he be compelled to give evidence against himself.

9th. That no freeman ought to be taken, imprisoned, or disseised of his freehold, liberties, privileges or franchises, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the law of the land.

10th. That every freeman restrained of his liberty, is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same if unlawful; and that such remedy ought not to be denied nor delayed.

11th. That in controversies respecting property, and in suits between man and man, the ancient trial by jury is one of the greatest securities to the rights of the people, and ought to remain sacred and inviolable.

12th. That every freeman ought to find a certain remedy by recourse to the laws for all injuries and wrongs he may receive in his person, property or character; he ought to obtain right and justice freely without sale, completely and without denial, promptly and without delay, and that all establishments or regulations contravening these rights, are oppressive and unjust.

13th. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

14th. That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers and property; all warrants therefore to search suspected places, or to apprehend any suspected person without specially naming or describing the place or person, are dangerous and ought not to be granted.

15th. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their representatives; and that every freeman has a right to petition or apply to the legislature for redress of grievances.

16th. That the people have a right to freedom of speech, and of writing and publishing their sentiments; that the freedom of the press is one of the greatest bulwarks of liberty, and ought not to be violated.

17th. That the people have a right to keep and bear arms; that a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state. That standing armies in time of peace, are dangerous to liberty, and therefore ought to be avoided, as far as the circumstances and protection of the community will admit; and that in all cases, the military should be under strict subordination to, and governed by, the civil power.

18th. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the laws direct.

19th. That any person religiously scrupulous of bearing arms ought to be exempted, upon payment of an equivalent to employ another to bear arms in his stead.

20th. That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men have an equal, natural and unalienable right to the free exercise of religion, according to the dictates of conscience; and that no particular religious sect or society ought to be favoured or established by law in preference to others.

AMENDMENTS to the CONSTITUTION.

I. That each state in the union shall respectively retain every power, jurisdiction and right, which is not by this constitution delegated to the Congress of the United States, or to the departments of the federal government.

II. That there shall be one representative for every 30,000, according to the enumeration or census mentioned in the constitution, until the whole number of representatives amounts to two hundred; after which that number shall be continued or increased as Congress shall direct, upon the principles fixed in the constitution, by apportioning the representatives of each state to some greater number of people, from time to time, as population encreases.

III. When Congress shall lay direct taxes or excises, they shall immediately inform the executive power of each state, of the quota of such state, according to the census herein directed, which is proposed to be thereby raised: And if the legislature of any state shall pass a law, which shall be effectual for raising such quota at the time required by Congress, the taxes and excises laid by Congress shall not be collected in such state.

IV. That the members of the senate and house of representatives shall be ineligible to, and incapable of, holding any civil office under the

authority of the United States, during the time for which they shall respectively be elected.

V. That the journals of the proceedings of the senate and house of representatives shall be published at least once in every year, except such parts thereof relating to treaties, alliances, or military operations, as in their judgment require secrecy.

VI. That a regular statement and account of receipts and expenditures of all public monies shall be published at least once in every year.

VII. That no commercial treaty shall be ratified without the concurrence of two-thirds of the whole number of the members of the senate: And no treaty, ceding, contracting, restraining or suspending the territorial rights or claims of the United States, or any of them, or their, or any of their rights, or claims to fishing in the American seas, or navigating the American rivers, shall be made, but in cases of the most urgent and extreme necessity; nor shall any such treaty be ratified without the concurrence of three-fourths of the whole number of the members of both houses respectively.

VIII. That no navigation law, or law regulating commerce, shall be passed without the consent of two-thirds of the members present in both houses.

IX. That no standing army or regular troops shall be raised or kept up in time of peace, without the consent of two-thirds of the members present in both houses.

X. That no soldier shall be enlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war.

XI. That each state respectively shall have the power to provide for organizing, arming and disciplining its own militia whensoever Congress shall omit or neglect to provide for the same. That the militia shall not be subject to martial law, except when in actual service in time of war, invasion or rebellion: And when not in the actual service of the United States, shall be subject only to such fines, penalties and punishments as shall be directed or inflicted by the laws of its own state.

XII. That Congress shall not declare any state to be in rebellion, without the consent of at least two-thirds of all the members present of both houses.

XIII. That the exclusive power of legislation given to Congress over the federal town and its adjacent district, and other places purchased, or to be purchased by Congress of any of the states, shall extend only to such regulations as respect the police and good government thereof.

XIV. That no person shall be capable of being president of the United States for more than eight years in any term of sixteen years.

XV. That the judicial power of the United States shall be vested in one supreme court, and in such courts of admiralty as Congress may from time to time ordain and establish in any of the different states. The judicial power shall extend to all cases in law and equity, arising under treaties made, or which shall be made under the authority of the United States; to all cases affecting ambassadors, other foreign ministers and consuls; to all cases of admiralty, and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, and between parties claiming lands under the grants of different states; in all cases affecting ambassadors, other foreign ministers and consuls, and those in which a state shall be a party; the supreme court shall have original jurisdiction in all other cases before mentioned; the supreme court shall have appellate jurisdiction as to matters of law only, except in cases of equity, and of admiralty and maritime jurisdiction, in which the supreme court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make: But the judicial power of the United States shall extend to no case where the cause of action shall have originated before the ratification of this constitution, except in disputes between states about their territory; disputes between persons claiming lands under the grants of different states, and suits for debts due to the United States.

XVI. That in criminal prosecutions, no man shall be restrained in the exercise of the usual and accustomed right of challenging or excepting to the jury.

XVII. That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion or rebellion, to prescribe the same.

XVIII. That those clauses which declare that Congress shall not exercise certain powers, be not interpreted in any manner whatsoever to extend the powers of Congress; but that they be construed either as making exceptions to the specified powers where this shall be the case, or otherwise, as inserted merely for greater caution.

XIX. That the laws ascertaining the compensation of senators and representatives, for their services, be postponed in their operation until after the election of representatives immediately succeeding the passing thereof, that excepted which shall first be passed on the subject.

XX. That some tribunal, other than the senate, be provided for trying impeachments of senators.

XXI. That the salary of a judge shall not be increased or diminished during his continuance in office, otherwise than by general regulations of salary, which may take place on a revision of the subject at stated periods of not less than seven years, to commence from the time such salaries shall be first ascertained by Congress.

XXII. That Congress erect no company of merchants with exclusive advantages of commerce.

XXIII. That no treaties 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; nor shall any treaty be valid which is contradictory to the constitution of the United States.

XXIV. That the latter part of the 5th paragraph of the 9th section of the first article be altered to read thus—Nor shall vessels bound to a particular state be obliged to enter or pay duties in any other; nor when bound from any one of the states be obliged to clear in another.

XXV. That Congress shall not directly or indirectly, either by themselves or through the judiciary, interfere with any one of the states in the redemption of paper money already emitted and now in circulation, or in liquidating and discharging the public securities of any one of the states, but each and every state shall have the exclusive right of making such laws and regulations for the above purposes as they shall think proper.

XXVI. That Congress shall not introduce foreign troops into the United States without the consent of two-thirds of the members present of both houses.

Mr. *Spencer* then moved that the report of the committee be concurred with, and was seconded by Mr. *Joseph M'Dowall*.

Mr. *Iredell* moved, "That the consideration of that motion be postponed, in order to take into consideration the following resolution."

(Which resolution was the same he introduced before, and which he afterwards, in substance, moved by way of amendment.)

This gave rise to a very warm altercation on both sides, during which the House was in great confusion. Many gentlemen in the majority (particularly Mr. *Willie Jones*) strongly contended against the propriety of the motion. Several gentlemen in the minority resented in strong terms the arbitrary attempt of the majority (as they termed it) to suppress their sentiments; and Mr. *Spaight*, in particular, took notice, with great indignation, of the motion made to concur with the committee, when the gentleman from Edenton appeared in some measure to have had the faith of the House, that he should have an opportunity to renew his motion, which he had withdrawn at the request of some of

the majority themselves. Mr. *Whitmill Hill* spoke with great warmth, and declared that in his opinion, if the majority persevered in their tyrannical attempt, the minority should secede.

Mr. *Willie Jones* still contended that the motion was altogether irregular and improper, and made a motion calculated to shew that such a motion, made and seconded under the circumstances in which it had been introduced, was not entitled to be entered on the journal. His motion being seconded, was carried by a great majority. The yeas and nays were moved for, and were taking, when Mr. *Iredell* arose, and said, he was sensible of the irregularity he was guilty of, and hoped he should be excused for it, but it arose from his desire of saving the House trouble. That Mr. *Jones* (he begged pardon for naming him) had proposed an expedient to him, with which he should be perfectly satisfied, if the House approved of it, as it was indifferent to him what was the mode, if his object in substance was obtained. The method proposed was, that the motion for concurrence should be withdrawn, and his resolution should be moved by way of amendment. If the House therefore approved of this method, and the gentlemen who had moved and seconded the motion would agree to withdraw it, he hoped it would be deemed unnecessary to proceed with the yeas and nays.

Mr. *Nathan Bryan* said, the gentleman treated the majority with contempt. Mr. *Iredell* declared he had no such intention, but as the yeas and nays were taken on a difference between both sides of the House, which he hoped might be accommodated, he thought he might be excused for the liberty he had taken.

Mr. *Spencer* and Mr. *M'Dowall*, after some observations not distinctly heard, accordingly withdrew their motion; and it was agreed that the yeas and nays should not be taken, nor the motion which occasioned them entered on the journal. Mr. *Iredell* then moved as follows, *viz.*

That the report of the committee be amended, by striking out all the words of the said report except the two first, *viz.* “*Resolved, That,*” and that the following words be inserted in their room, *viz.*

⟨This convention having fully deliberated on the constitution proposed for the future government of the United States of America by the federal convention, lately held at Philadelphia, on the 17th day of September last, and having taken into their serious and solemn consideration the present critical situation of America, which induces them to be of opinion, that though certain amendments to the said constitution may be wished for, yet that those amendments should be proposed subsequent to the ratification on the part of this state, and not previous to it: They do therefore, on behalf of the state of North-Carolina, and the good people thereof, and by virtue of the authority

to them delegated, ratify the said constitution on the part of this state: And they do at the same time recommend, that as early as possible, the following amendments to the said constitution may be proposed for the consideration and adoption of the several states in the union, in one of the modes prescribed by the fifth article thereof.

AMENDMENTS.

I. Each state in the union shall respectively retain every power, jurisdiction and right, which is not by this Constitution delegated to the Congress of the United States, or to the departments of the general government; nor shall the said Congress, or any department of the said government, exercise any act of authority over any individual in any of the said states, but such as can be justified under some power, particularly given in this constitution; but the said constitution shall be considered at all times a solemn instrument defining the extent of their authority, and the limits of which they cannot rightfully in any instance exceed.

II. There shall be one representative for every thirty thousand, according to the enumeration or census, mentioned in the constitution, until the whole number of representatives amounts to two hundred; after which that number shall be continued or increased as Congress shall direct, upon the principles fixed in the constitution, by apportioning the representatives of each state to some greater number of people, from time to time, as population encreases.

III. Each state respectively shall have the power to provide for organizing, arming and disciplining its own militia, whensoever Congress shall omit or neglect to provide for the same. The militia shall not be subject to martial law, except when in actual service in time of war, invasion or rebellion; and when they are not in the actual service of the United States, they shall be subject only to such fines, penalties and punishments as shall be directed or inflicted by the laws of its own state.

IV. The Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for senators and representatives, or either of them, except when the legislature of any state shall neglect, refuse or be disabled by invasion, or rebellion, to prescribe the same.

V. The laws ascertaining the compensation of senators and representatives for their services, shall be postponed in their operation, until after the election of representatives immediately succeeding the passing thereof; that excepted, which shall first be passed on the subject.

VI. Instead of the following words in the 9th section of the 1st article, *viz.* "Nor shall vessels bound to or from one state, be obliged to enter, clear or pay duties in another:" (The meaning of which is by many

deemed not sufficiently explicit:) It is proposed that the following shall be substituted: "No vessel bound to one state shall be obliged to enter or pay duties to which such vessel may be liable at any port of entry, in any other state than that to which such vessel is bound: Nor shall any vessel bound from one state, be obliged to clear or pay duties to which such vessel may be liable at any port of clearance, in any other state than that from which such vessel is bound.")²

He was seconded by Mr. *John Skinner*.

The question was then put, "Will the Convention adopt that amendment or not?" And it was negatived: Whereupon Mr. *Iredell* moved that the yeas and nays should be taken, and he was seconded by Mr. *Steele*. They were accordingly taken, and were as follow:

YEAS—His Excellency Samuel Johnston, Esq. President, Messrs. James Iredell, Archibald Maclaine, Nathan Keais, John G. Blount, Thomas Alderson, John Johnston, Andrew Oliver, Goodwin Elliston, Charles M'Dowall, Richard D. Spaight, William J. Dawson, James Porterfield, William Barry Grove, George Elliott, Wallis Styron, William Shepperd, *Carteret*, James Philips, John Humphries, Michael Payne, Charles Johnson, Stephen Cabarrus, Edmund Blount, *Chowan*, Henry Abbot, Isaac Gregory, Peter Dauge, Charles Grandy, Enoch Sawyer, George Lucas, John Willis, John Cade, Elias Barnes, Neil Brown, James Winchester, William Stokes, Thomas Stewart, Josiah Collins, Thomas Hines, Nathaniel Jones, John Steele, William R. Davie, Joseph Reddick, James Gregory, Thomas Hunter, *Gates*, Thomas Wyns, Abraham Jones, John Eborne, James Jasper, Caleb Foreman, Seth Hovey, John Sloan, John Moore, William Maclaine, Nathan Mayo, William Slade, William M'Kenzie, Robert Irwin, John Lane, Thomas Reading, Edward Everagain, Enoch Relse, Devotion Davis, William Skinner, Joshua Skinner, Thomas Hervey, John Skinner, Samuel Harrel, Joseph Leech, Wm. Bridges, William Borden, Edmund Blount, *Tyrrel*, Simeon Spruil, David Tanner, Whitmill Hill, Benjamin Smith, John Sitgreaves, Nathaniel Allen, Thomas Owen, George Wyns, David Perkins, Joseph Ferebee, William Ferebee, William Baker, and Abner Neale.—84.

NAYS—Messrs. Willie Jones, Samuel Spencer, Lewis Lanier, Thomas Wade, Daniel Gould, James Bonner, Alexius M. Foster, Lewis Dupree, Thomas Brown, James Greenlee, Joseph M'Dowall, Robert Miller, Benjamin Williams, Richard Nixon, Thomas Armstrong, Alexander M'Allister, Robert Dickins, George Roberts, John Womack, Ambrose Ramsey, James Anderson, Jos. Stewart, William Vestal, Thomas Evans, Thomas Hardiman, Robert Weakley, William Donnelson, William Dobins, Robert Diggs, Bythel Bell, Elisha Battle, William Fort, Etheld. Gray, William Lancaster, Thomas Sherrod, John Norwood, Sterling Dupree, Robert

Williams, Richard Moye, Arthur Forbes, David Caldwell, William Goudy, Daniel Gillespie, John Anderson, John Hamilton, Thomas Person, Joseph Taylor, Thornton Yancey, Howell Lewis, jun., E. Mitchell, George Moore, George Ledbetter, William Porter, Zebedee Wood, Edmund Waddell, James Galloway, John Regan, Joseph Winston, James Gains, Charles M'Annelly, Absalom Bostick, John Scott, John Dunkin, David Dodd, Curtis Ivey, Lewis Holmes, Richard Clinton, Hardy Holmes, Robert Alison, James Stewart, John Tipton, John Macon, Thomas Christmass, Henry Montfort, William Taylor, James Hanley, Britain Saunders, William Lenoir, Richard Allen, John Brown, Jos. Herndon, James Fletcher, Lemuel Burkit, William Little, Thomas King, Nathan Bryan, John H. Bryan, Edward Whitty, Robert Alexander, James Johnson, John Cox, John Carrel, Corn. Doud, Thomas Tyson, William Martin, Thomas Hunter, *Martin*, John Graham, William Loftin, William Kindal, Thomas Ussery, Thomas Butler, John Bentford, James Vaughan, Robert Peebles, James Vinson, William S. Marnes, Howell Ellin, Redman Bunn, John Bonds, David Pridgen, Daniel Yates, Thomas Johnston, John Spicer, A. Tatom, Alexander Mebane, William Mebane, William M'Cauley, William Shepperd, *Orange*, Jonathan Linley, Wyatt Hawkins, James Payne, John Graves, John Blair, Joseph Tipton, William Bethell, Abraham Phillips, John May, Charles Galloway, James Boswell, John M'Allister, David Looney, John Sharpe, Joseph Gaitier, John A. Campbell, John Pugh Williams, William Marshall, Charles Robertson, James Gillespie, Charles Ward, William Randal, Frederick Harget, Richard M'Kinnie, John Cains, Jacob Leonard, Thomas Carson, Richard Singleton, James Whitside, Caleb Phifer, Zachias Wilson, Joseph Douglas, Thomas Dougan, James Kenan, John Jones, Egbert Haywood, William Wootten, John Branch, Henry Hill, Andrew Bass, Joseph Boon, William Farmer, John Bryan, Edward Williams, Francis Oliver, Matthew Brooks, Griffith Rutherford, George H. Barringer, Timothy Bloodworth, Everet Pearce, Asahel Rawlins, James Wilson, James Roddy, Samuel Cain, Benj. Covington, Joseph M'Dowall jun. Durham Hall, James Bloodworth, Joel Lane, James Hinton, Thomas Devane, James Brandon, William Dickson, Burwell Mooring, Matthew Lock, and Stokely Donelson.—184.

Ordered, That the further consideration of the report of the committee of the whole Convention be postponed until to-morrow.

After proceeding on another business which had been assigned them, (fixing on a seat of government) the Convention adjourned till to-morrow morning six o'clock.

1. Printed: *Proceedings and Debates*, 269–79.

2. The words in angle brackets constitute Iredell's amendment to the committee of the whole report. Along with his six proposed amendments, Iredell's motion was printed

in the New York *Daily Advertiser*, 5 September. The *Advertiser* reported the vote totals (without names) on Iredell's motion. The *Advertiser's* account was reprinted in the *Pennsylvania Packet*, 9 September, and the *New York Journal*, 11 September.

Hillsborough Convention Saturday 2 August 1788

On 30 July the committee of the whole completed its clause-by-clause consideration of the Constitution. Federalist Samuel Johnston, the president of the Convention, moved that the committee of the whole recommend that the Constitution be ratified and that the Convention propose amendments to be ratified according to one of the procedures outlined in the Constitution. To kill Johnston's motion, Willie Jones "moved that the previous question might be put, with an intention, as he said, if that was carried, to introduce a resolution which he had in his hand, and which he was then willing to read if gentlemen thought proper, stipulating for certain amendments to be made previous to the adoption by this state." Federalists, led by James Iredell and Johnston, objected to Jones's attempt to kill Johnston's motion without first debating it. The committee of the whole sustained Jones's motion for the previous question 183 to 84. Jones then presented his resolution for previous amendments, which "was agreed to by a great majority of the committee" on the 31st. The committee then rose and reported that it "had come to a resolution" on the Constitution. On 1 August the committee's resolution was read. It provided that a declaration of rights and structural amendments "ought to be laid before Congress, and the Convention of the states that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid on the part of the state of North-Carolina." A declaration of rights with twenty articles and twenty-six structural amendments followed. Both were closely modeled on the declaration of rights and structural amendments proposed by the Virginia Convention. Seven of the rights in the North Carolina Convention's Declaration of Rights (1788) were not part of the state's 1776 Declaration of Rights (nos. 1, 3, 12–13, 18–20), while three of the 1788 rights (nos. 2, 5, 16) were partially listed in the 1776 Declaration of Rights. For North Carolina's 1776 Declaration of Rights, see Appendix I, RCS:N.C., 823–29. Article fourteen of the North Carolina declaration of rights was a briefer version of Virginia's. Six structural amendments, numbered 12, 22, 23, 24, 25, and 26, were added to the Virginia amendments. (For the Virginia Convention's declaration of rights and structural amendments, see CC:790; RCS:Va., 1551–56.)

Iredell moved that the report of the committee of the whole be amended by deleting all the words of the report except the first two, "*Resolved, That.*" In their place, he wanted the following inserted: "This convention having fully deliberated on the constitution proposed for the future government of the United States of America by the federal convention, lately held at Philadelphia, on the 17th day of September last, and having taken into their serious and

solemn consideration the present critical situation of America, which induces them to be of opinion, that though certain amendments to the said constitution may be wished for, yet that those amendments should be proposed subsequent to the ratification on the part of this state, and not previous to it: They do therefore, on behalf of the state of North-Carolina, and the good people thereof, and by virtue of the authority to them delegated, ratify the said constitution on the part of this state: And they do at the same time recommend, that as early as possible, the following amendments to the said constitution may be proposed for the consideration and adoption of the several states in the union, in one of the modes prescribed by the fifth article thereof." There followed six structural amendments, dealing with reserved powers, the number of representatives in the House of Representatives, the militia, the power of Congress over congressional elections, compensation for congressmen, and interstate coastal trade. The Convention rejected Iredell's amendment 184 to 84.

On 2 August, the Convention accepted the report of the committee of the whole by a vote of 184 to 83. Every delegate who had voted against Iredell's motion voted to accept the report of the committee of the whole, while every delegate (except Abner Neale because of "indisposition") who voted for Iredell's motion voted against accepting the report. The Convention unanimously requested that the president transmit to Congress and the executives of the states copies of the report of the committee of the whole.

Manuscript copies of both the declaration of rights and structural amendments are in the Papers of the Convention of 1788 in the North Carolina Division of Archives and History, Raleigh. The declaration and the amendments were printed in the Convention *Journal* (Evans 21337), in a two-page broadside, in a four-page broadside (Evans 21341), and in the *Proceedings and Debates of the Convention of North-Carolina . . .* (Edenton, 1789) (Evans 22037). The two-page broadside, signed by the Convention's president and secretary, was transmitted to the executives of the other states. The first two pages of the four-page broadside are identical to the two-page broadside, while pages three and four include Iredell's motion of 1 August, the text of his six proposed amendments, the vote total on his motion, and the roll-call vote of 2 August on whether or not to concur with the report of the committee of the whole.

The first newspaper printing of the North Carolina Convention's declaration of rights and structural amendments probably occurred in Martin's *North Carolina Gazette* on 6 August. This issue is not extant, but the *Charleston City Gazette*, 23 August, reprinted the declaration and the amendments under a dateline of Newbern, 6 August. The only extant North Carolina newspaper printing that has been located is that found in the *Wilmington Centinel* of 20 August. By 18 September the complete texts of both the declaration of rights and the structural amendments were published in a total of twenty-two newspapers: N.H. (2), Mass. (3), R.I. (1), Conn. (1), N.Y. (1), Pa. (5), Md. (2), Va. (3), N.C. (2), S.C. (1), Ga. (1). They also appeared in the September issue of the *Philadelphia American Museum*. Many newspapers printed only the resolution introducing the amendments. Eight newspapers, indicating that the declaration and amendments were the same as those adopted by the Virginia Convention, published only the six structural amendments that were not adopted

by the Virginia Convention. These six amendments appeared in the *New York Journal* on 4 September and were then reprinted seven times by 18 September: Mass. (5), R.I. (1), N.Y. (1).

Convention Proceedings, 2 August 1788¹

Met according to adjournment.

On a motion made by Mr. Willie Jones, and seconded by Mr. Thos. Alderson, Resolved, That this convention will not fix the seat of government at any one particular point; but that it will be left at the discretion of the assembly to ascertain the exact spot: Provided always, that it shall be within ten miles of the point or place determined on by this convention.

Resolved, That the several places hereafter named be in nomination for the seat of government of this state, to wit:

Smithfield. Nominated by Mr. James Payne.

Tarborough — by Mr. Robert Williams.

Fayette-Ville. — by Mr. Wm. Barry Grove.

Mr. Isaac Hunter's in Wake county. — by Mr. James Iredell.

Newbern. — by the hon. Mr. Spencer.

Hillsborough. — by Mr. Alexander Mebane.

The Fork of Haw and Deep rivers. — by Mr. Thomas Person.

And that Mr. Elijah Mitchell, Mr. Benjamin Williams, Mr. Nathaniel Jones, and Mr. John Cains, be appointed commissioners to superintend and conduct the balloting.

Adjourned until 10 o'clock.

Met according to adjournment.

Mr. Benjamin Williams, one of the commissioners appointed to superintend and conduct the balloting for the place at which the seat of government shall be fixed, Reported, That no one place balloted for had a majority of votes.

Ordered, That the commissioners proceed to a second balloting.

The report of the committee of the whole Convention, according to order was taken up and read in the same words as on yesterday, when it was moved by Mr. Thomas Person, and seconded by Mr. John Macon, that the Convention do concur therewith, which was objected to by Mr. Archibald Maclaine. The question being put, Will the Convention concur with the report of the Committee of the whole Convention or not? it was carried in the affirmative: Whereupon Mr. Davie called for the yeas and nays, and was seconded by Mr. Cabarrus, which are as follow²

NAYS.—His Excellency Sam. Johnston, Esq; President, Messrs. James Iredell, Archibald Maclaine, Nathan Keais, John G. Blount, Thomas Alderson, John Johnston, Andrew Oliver, Goodwin Elliston, Charles

M'Dowal, Richard D. Spaight, Wm. J. Dawson, James Porterfield, Wm. Barry Grove, George Elliott, Wallis Styron, Wm. Shepperd, *Carteret*, James Phillips, John Humphries, Mich. Payne, Charles Johnson, Stephen Cabarrus, Edmund Blount, *Chowan*, Henry Abbott, Isaac Gregory, Peter Dauge, Charles Grandy, Enoch Sawyer, George Lucas, John Willis, John Cade, Elias Barnes, Neil Brown, James Winchester, Wm. Stokes, Thomas Stewart, Josiah Collins, Thomas Hines, Nat Jones, John Steele, Wm. R. Davie, Joseph Reddick, James Gregory, Thomas Hunter, *Gates*, Thomas Wyns, Abraham Jones, John Eborne, James Jasper, Caleb Foreman, Seth Hovey, John Sloan, John Moore, Wm. Maclaine, Nathan Mayo, Wm. Slade, Wm. M'Kinzie, Robert Irwin, John Lane, Thomas Reading, Edward Everagain, Enoch Relfe, Devotion Davis, Wm. Skinner, Joshua Skinner, Thomas Harvey, John Skinner, Samuel Harrel, Joseph Leech, Wm. Bridges, Wm. Borden, Edmund Blount, *Tyrrel*, Simeon Spruil, David Tanner, Whitmill Hill, Benjamin Smith, John Sitgreaves, Nathaniel Allen, Thomas Owen, George Wyns, David Perkins, Joseph Ferebee, Wm. Ferebee, and Wm. Baker.—83.

YEAS.—Messrs. Willie Jones, Sam. Spencer, Lewis Lanier, Thos. Wade, Dan. Gould, Jas. Bonner, Alexious M. Forster, Lewis Dupree, Thomas Brown, James Greenlee, Jos. M'Dowal, Robert Miller, Benj. Williams, Richard Nixon, Thomas Armstrong, Alexr. M'Allister, Robert Dickins, George Roberts, John Womack, Ambrose Ramsey, James Anderson, Jos. Stewart, Wm. Vestal, Thomas Evans, Thos. Hardiman, Robert Weakley, Wm. Donaldson, Wm. Dobins, Robert Diggs, Bythel Bell, Elisha Battle, Wm. Fort, Etheld. Gray, Wm. Lancaster, Thos. Sherrod, John Norwood, Sterling Dupree, Robert Williams, Richard Moye, Arthur Forbes, David Caldwell, Wm. Goudy, Daniel Gillespie, John Anderson, John Hamilton, Thomas Person, Joseph Taylor, Thornton Yancey, Howel Lewis, junr., Elijah Mitchell, George Moore, George Ledbetter, Wm. Porter, Zebedee Wood, Edmund Waddell, James Gallaway, John Regan, Joseph Winston, James Gains, Charles M'Annelly, Absalom Bostick, John Scott, John Dunkin, David Dodd, Curtis Ivey, Lewis Holmes, Richard Clinton, Hardy Holmes, Robert Allison, James Stewart, John Tipton, John Macon, Thomas Christmas, Henry Montfort, Wm. Taylor, James Hanley, Brittain Sanders, Wm. Lenoir, Richard Allen, John Brown, Jos. Herndon, Jas. Fletcher, Lemuel Burkit, Wm. Little, Thos. King, Nathan Bryan, John H. Bryan, Edward Whitty, Robt. Alexander, James Johnston, John Cox, John Carrel, Corn. Doud, Thos. Tyson, Wm. Martin, Thomas Hunter, *Martin*, Jos. Graham, Wm. Loftin, Wm. Kindal, Thos. Ussery, Thos. Butler, John Benford, Jas. Vaughan, Rob. Peebles, Jas. Vinson, Wm. S. Marnes, Howel Ellin, Redman Bunn, John Bonds, David Pridgen, Daniel Yates, Thos. Johnston, John Spicer, A. Tatom, Alexr. Mebane, Wm.

Mebane, Wm. M'Cauley, Wm. Shepperd, *Orange*, Johnathan Lindley, Wyatt Hawkins, James Payne, John Graves, John Blair, Joseph Tipton, Wm. Bethell, Abraham Phillips, John May, Charles Gallaway, James Boswell, John M'Allister, David Looney, John Sharpe, Joseph Gaitier, John A. Campbell, John Pugh Williams, Wm. Marshall, Charles Robertson, James Gillespie, Charles Ward, Wm. Randal, Frederick Harget, Richard M'Kinnie, John Cains, Jacob Leonard, Thomas Carson, Richard Singleton, Jas. Whiteside, Caleb Phifer, Zachias Wilson, Joseph Douglas, Thomas Dougan, James Kenan, John Jones, Egbert Haywood, Wm. Wootten, John Branch, Henry Hill, Andrew Bass, Joseph Boon, Wm. Farmer, John Bryan, Edward Williams, Francis Oliver, Mathew Brooks, Griffith Rutherford, George H. Barringer, Timothy Bloodworth, Everet Pearce, Asahel Rawlins, James Wilson, James Roddy, Sam. Cain, Benj. Covington, Joseph M'Dowal, junr. Durham Hall, James Bloodworth, Joel Lane, James Hinton, Thomas Devane, James Brannon, Wm. Dickson, Burwell Mooring, Mathew Lock, and Stokely Donelson.—184.

On a motion made by Mr. Willie Jones, and seconded by Mr. James Gallaway, the following resolution was adopted, viz.

Whereas this convention has thought proper neither to ratify nor reject the constitution proposed for the government of the United States; and as congress will proceed to act under the said constitution, ten states having ratified the same, and probably lay an impost on goods imported into the said ratifying states:

Resolved, That it be recommended to the legislature of this state, that when ever congress shall pass a law for collecting an impost in the states aforesaid, this state enact a law for collecting a similar impost on goods imported into this state, and appropriate the money arising therefrom to the use of congress.

On the question to agree to this resolution the yeas and nays were required by Mr. John G. Blount, and seconded by Mr. Spaight, which are as follow.

Yeas.—The hon. Samuel Spencer, esq; Messrs. Lewis Lanier, Thomas Wade, Daniel Gould, Alexious M. Forster, Lewis Dupree, Thomas Brown, Charles M'Dowall, James Greenlee, Joseph M'Dowall, Robert Miller, Benj. Williams, R. Nixon, T. Armstrong, Alexr. M'Allister, Geo. Elliott, R. Dickins, John Womack, A. Ramsey, Jos. Stewart, Wm. Vestal, Thomas Hardiman, Robert Weakley, Wm. Donaldson, R. Digges, Bythel Bell, Elisha Battle, Wm. Fort, Etheldred Gray, Wm. Lancaster, Thomas Sherrod, John Norwood, Sterling Dupree, David Caldwell, Wm. Goudy, Daniel Gillespie, John Anderson, John Hamilton, Thomas Person, Joseph Taylor, Thornton Yancey, Howel Lewis, Elijah Mitchell, Wm. Porter, Zebedee Wood, Edmund Waddell, James Gallaway, Neal Brown, Joseph

Winston, James Gaines, John Scot, John Dunkin, David Dodd, Curtis Ivey, L. Holmes, R. Clinton, H. Holmes, R. Allison, John Tipton, John Macon, Thos. Christmass, Wm. G. Roberts, [William] Taylor, Jas. Handley, Thos. Hines, Nathaniel Jones, Brittain Sanders, Wm. Lenoir, Richard Allen, John Brown, Joseph Herndon, James Fletcher, Wm. R. Davie, Samuel [i.e., Lemuel] Burkit, Nathan Bryan, Edward Whitty, James Johnston, John Carrell, Cornelius Doud, Thomas Tyson, Wm. Martin, Joseph Graham, Robert Irwin, Wm. Loftin, Thomas Ussery, John Benford, James Vaughan, James Vinson, Howel Ellin, Redman Bunn, John Bonds, David Pridgen, Daniel Yates, Thomas Johnston, Wm. Mebane, Wyatt Hawkins, John Graves, Joseph Tipton, Abram Phillips, John May, Charles Gallaway, James Boswell, David Looney, John Sharpe, John P. Williams, Wm. Marshall, Charles Robertson, C. Ward, Wm. Randall, Frederick Hargett, Rich. M'Kinnie, John Caines, Thomas Carson, Richard Singleton, James Whiteside, Caleb Phifer, Zachias Wilson, Thomas Dougan, Jesse Hendley, James Kenan, John Jones, Egbert Haywood, Wm. Wootten, Henry Hill, A. Bass, Joseph Boon, Wm. Farmer, Edward Williams, F. Oliver, Willie Jones, George H. Barringer, Timothy Bloodworth, James Roddy, Durham Hall, Joel Lane, James Hinton, James Brannon, Wm. Dixon, Matthew Lock, John Bryan, Henry Montfort, George Ledbetter, and Wm. Little. [143]

Nays.—Messrs. John G. Blount, Thomas Alderson, John Johnston, Andrew Oliver, Wm. J. Dawson, Richard D. Spaight, Wallace Styron, Wm. Shepperd (Carteret) James Phillips, Charles Johnson, H. Abbot, Isaac Gregory, Peter Dauge, Charles Grandy, Enoch Sawyer, Arthur Forbes, James Winchester, Josiah Collins, James Iredell, John Sitgreaves, Archibald Maclaine, James Gregory, Thomas Hunter (Gates) Thomas Wynns, Abram Jones, Seth Hovey, John Moore, Wm. M'Kinzie, Thomas Hunter (Martin) Thomas Reading, Edward Everegain, Devotion Davis, Wm. Skinner, Joshua Skinner, Samuel Harrel, Joseph Leech, Joseph Gaitier, David Turner, Whitmill Hill, Nathaniel Allen, Thomas Owen, E. Blount (Chowan) T. Harvey, and James Jasper. [44]

On a motion made by Mr. Willie Jones, and seconded by Mr. James Gallaway, Resolved unanimously, That it be recommended to the General Assembly to take effectual measures for the redemption of the paper currency, as speedily as may be, consistent with the situation and circumstances of the people of this state.

On a motion made by Mr. Willie Jones, and seconded by Mr. James Gallaway:

Resolved unanimously, That the hon. the President be requested to transmit to congress, and to the executive of New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, and Georgia, a

copy of the resolution of the committee of the whole convention on the subject of the constitution proposed for the government of the United States, concurred with by this convention, together with a copy of the resolutions on the subject of impost and paper money.

Adjourned until 4 o'clock, P. M.

Met according to adjournment.

Mr. Benj. Williams, one of the commissioners appointed to superintend and conduct the balloting for the place at which the seat of government of this state shall be fixed, Reported, That they had a second time proceeded thereon, and that Mr. Isaac Hunter's, in Wake county, was the place fixed upon for that purpose, by a majority of the votes of the members of this convention.

Mr. Iredell from the committee appointed to prepare and introduce an Ordinance for establishing the seat of government of this state, moved for leave, and presented an Ordinance for establishing a place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the state, which he read in his place, and afterwards delivered in at the clerks table, where it was again read, passed, and ordered to be ratified.

Ordered, That such of the members of this convention, as may think proper, have leave to enter their protest on the journal against the ordinance for establishing the seat of government.

Ordered, That the estimate of allowances to the members and officers of this convention be made out, to include Monday next.

Ordered, That Messrs. John Macon, Wyatt Hawkins, John May, Durham Hall, Thomas Hunter of Martin, George Roberts, John Bonds, Thomas Christmass, Jesse Henley, Joseph Taylor, Abraham Phillips, and the hon. Samuel Spencer, have leave to absent themselves from the service of this convention.

Adjourned until Monday morning 6 o'clock.

1. Printed: *Journal*, 21–25.

2. This paragraph with the yeas and nays (in reverse order) was printed in the *New York Daily Advertiser*, 5 September. Reprinted in the *Pennsylvania Packet*, 9 September, and *New York Journal*, 11 September, without the roll call.

Convention Debates, 2 August 1788¹

The Convention met according to adjournment.

The report of the committee of the whole Convention, according to order, was taken up and read in the same words as on yesterday; when it was moved by Mr. [Thomas] Person, and seconded by Mr. [John] Macon, that the Convention do concur therewith, which was objected to by Mr.

A[rchibald] Maclaine. The question being put, "Will the Convention concur with the report of the committee of the whole Convention or not?" It was carried in the affirmative. Whereupon Mr. [William R.] Davie moved for the yeas and nays, and was seconded by Mr. [Stephen] Cabarrus. They were accordingly taken: And those who voted yesterday against the amendment, voted for concurring with the report of the committee—those who voted in favour of the amendment now voted against a concurrence with the report.²

On motion by Mr. Willie Jones, and seconded by Mr. James Galloway, the following resolution was adopted by a large majority, viz.

Whereas this Convention has thought proper neither to ratify nor reject the Constitution proposed for the government of the United States; and as Congress will proceed to act under the said Constitution, ten states having ratified the same, and probably lay an impost on goods imported into the said ratifying states:

Resolved, That it be recommended to the Legislature of this state, that whenever Congress shall pass a law for collecting an impost in the states aforesaid, this state enact a law for collecting a similar impost on goods imported into this state, and appropriate the money arising therefrom, to the use of Congress.

On a motion made by Mr. Willie Jones, and seconded by Mr. James Galloway,

Resolved unanimously, That it be recommended to the General Assembly to take effectual measures for the redemption of the paper currency, as speedily as may be, consistent with the situation and circumstances of the people of this state.

On a motion made by Mr. Willie Jones, and seconded by Mr. James Galloway,

Resolved unanimously, That the Honourable the President be requested to transmit to Congress, and to the Executive of New-Hampshire, Massachusetts, Connecticut, Rhode-Island, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, South-Carolina, and Georgia, a copy of the resolution of the committee of the whole Convention on the subject of the Constitution proposed for the government of the United States, concurred with by this Convention, together with a copy of the resolutions on the subject of impost and paper money.

The Convention afterwards proceeded to the business of fixing the seat of government, and on Monday, August 4, adjourned *sine die*.

☞ The person who took the debates, having had a very inconvenient seat in the gallery and having been frequently molested by the noise made in the gallery and below, is afraid that there may be some inaccuracies and omissions in them. But he can truly assure the gentlemen who spoke in Convention in particular,

and the public in general, that he paid the strictest and most inviolable regard to justice and impartiality, nor was he actuated by any other motive whatsoever.

1. Printed: *Proceedings and Debates*, 279–80.

2. Following its account of the 1 August vote on Iredell's motion to amend the report of the committee of the whole, the *New York Daily Advertiser*, 5 September, stated that the yeas and nays in the 2 August vote on the committee of the whole's report were the reverse of those in the vote on Iredell's motion with one exception: "Mr. A[bner] Neale," who was a supporter of Iredell's motion, "did not vote on the concurrence [i.e., the report of the committee of the whole], owing to indisposition."

Hillsborough Convention

Monday

4 August 1788

Convention Proceedings, 4 August 1788¹

Met according to adjournment.

Mr. William Barry Grove, according to order, presented the following protest, subscribed by the persons whose names are thereunto annexed, *to wit*.

Dissentient.—Because the establishment of a seat of government in a place unconnected with commerce, and where there is at present no town, will be attended with a heavy expence to the people, and the town when established never can rise above the degree of a village: The experience of Virginia and Maryland have given a striking proof of this in the towns of Williamsburg and Annapolis.

Because the establishment of the seat of government at Fayette-Ville would have a great and instantaneous effect upon the decayed commerce of this country, by holding out immediate advantage to those who are employed in the culture of tobacco and other valuable articles of export, the principal part of which is now exported from Virginia and South Carolina.

Because it should be the policy of this state to encourage a great commercial town, at the head of the best navigation in the state; a situation which seems intended by nature to command the produce of the interior settlements.

Because we conceive the place fixed on is not authorized by the resolution of the general assembly, under whose recommendation this convention met, as that resolution expressly says, "the convention shall fix on a particular place;" whereas by a resolution of the convention a latitude is given of twenty miles to a given spot, and the appointment or selection of the identical spot now reverts to the legislature, contrary to the spirit and meaning of the constitution.

Mess. Wm. Barry Grove, A. Maclaine, Joseph M'Dowall, Jon. Lindley, Lewis Lanier, John A. Campbell, James Kenan, Wm. Martin, George Ledbetter, J. P. Williams, Thomas Carson, Robert Miller, Charles M'Dowall, John Regan, James Gains, Robert Alexander, Thomas Dougan, James Brandon, Caleb Phifer, Ambrose Ramsey, John Carrell, John Cox, Samuel Spencer, Benjamin Smith, Thos. Ussery, Wm. Lenoir, James Gallaway, Charles Gallaway, Thomas Brown, Joseph Herndon, John Brown, Richard Allen, J. Willis, Charles Robinson, D. Dodd, Alexious M. Forster, James Greenlee, James Whiteside, Thomas Owen, Wm. Dickson, James Bloodworth, Richard Singleton, Wm. Maclaine, Hardy Holmes, Corn. Doud, Joseph Graham, Thomas Tyson, Thomas Wade, Wm. Loftin, James Anderson, Joseph Stewart, George Moore, Richard Clinton, A. Phillips, Thomas Devane, Robert Weakley, James Porterfield, Alexander M'Allister, Mathew Lock, Joseph Winston, Timothy Bloodworth, Samuel Cain, Wm. Bethell, John Hamilton, Zachias Wilson, Joseph M'Dowall junr. Joseph Douglass, John Cade, Daniel Gillespie, Zebedee Wood, Elias Barnes, Absalom Bostick, Charles M'Annelly, James Roddy, George Lucas, James Gillespie, James Stewart, John M'Allister, Griffith Rutherford, George Elliott, James Fletcher, Lewis Holmes, George H. Berger, Robert Allison, John Tipton, John Spicer, James M'Donald, John Scott, J. Leonard, J. R. Gaitier, Thomas Armstrong, Niel Brown, Edmund Waddell, Thomas Butler, C. Ivey, Asahel Rawlings, Wm. Bowdon, James Wilson, James Johnston, Robert Irwin, John Sharpe, Edward Williams, John Cains, Wm. Marshall, John Blair, Jesse Henley, John Moore, Wm. Vestal, Mathew Brooks, Thos. Johnston, Daniel Yates, Goodwin Elliston, Wm. Mebane, Daniel Gould, Benj. Covington, Wm. Porter, Wm. Kindall, John Dunken, and John Sloane.

An Ordinance for establishing a place for holding the future meetings of the General Assembly, and the place of residence of the chief officers of the state, was ratified in open convention.²

Resolved unanimously, That the thanks of this convention be presented to his Excellency Samuel Johnston, Esq; for his able, faithful, diligent, and public spirited services as President thereof.

Ordered, That the journal's of this convention be transmitted to the legislature of this state by his Excellency the Governor, after he has signed the same as President.

The Convention adjourned *sine die*.

SAMUEL JOHNSTON, *President*.

By Order, J. HUNT, Sec'ry.

1. Printed: *Journal*, 25–26.

2. Manuscript copies of the ordinance are in SS-289/Constitutional Convention, NC-Ar. One manuscript version is signed: "A Copy/J. Hunt Sectry to the Convention." This

version was printed as a one-page broadside with John Hunt's full name spelled out followed by the statement: "The above is the solemn act of the people, and was declared to be a part of the constitution of the land. The assembly, as the servants of the people, are again called upon in the name of the people, to carry it into complete effect." The ordinance was also printed in the *State Gazette of North Carolina*, 8 September 1788. It is not printed in either the *Convention Journal* or the *Convention Proceedings and Debates*. For the broadside printing of the ordinance, see Mfm:N.C., 4 August 1788. The November 1788 session of the legislature "laid over until the next Assembly" a bill "for establishing a place for the future seat of government" (*State Gazette of North Carolina*, 25 December). On 13 November 1789, the House of Commons read a bill carrying the ordinance into effect, but it was defeated by a vote of 60 to 50 (*House of Commons Journal*, 14).

**An Estimate of Allowances Made to Members
of the Hillsborough Convention
August 1788¹**

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Henry Abbot (Camden)	26	15	41	1.7	42.7	J[ohn?] Humphr[ies]
Thomas Alderson (Beaufort)	14	15	29	.8	29.8	Self
Robert Alexander (Lincoln)	12	15	27	—	27	Self
Nathaniel Allen (Chowan)	14	11	25	2.4	27.4	Self
Richard Allen (Wilkes)	10	15	25	—	25	Self
Robert Alison (Washington)	14	15	29	—	29	Self
James Anderson (Chatham)	4	15	19	—	19	Self
John Anderson (Guilford)	4	15	19	—	29	Self
Thomas Armstrong (Cumberland)	8	15	23	—	23	Self
William Baker (Gates)	18	15	33	.8	33.8	J Haywood
Elias Barnes (Robeson)	10	15	25	—	25	Self
George Henry Barringer (Rowan)	8	13	21	—	21	Self
Andrew Bass (Wayne)	8	14	22	—	22	Self
Elisha Battle (Edgecombe)	10	15	25	—	25	Self
Bythel Bell (Edgecombe)	10	15	25	—	25	Self
John Bentford (Northampton)	12	15	27	—	27	Self
William Bethell (Rockingham)	6	15	21	—	21	Self
John Blair (Washington)	4	15	29	—	29	Self
James Bloodworth (New Hanover)	8	12	20	—	20	Self
Timothy Bloodworth (New Hanover)	12	12	24	—	24	Self
Edmund Blount (Chowan)	16	15	31	1.2	32.2	Self
Edmund Blount (Tyrrell)	14	14	28	—	28	Self
John Gray Blount (Beaufort)	14	15	29	—	29	Self
John Bonds (Nash)	8	15	23	—	23	Self
James Bonner (Beaufort)	16	15	31	—	31	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Joseph Boon (Johnston)	6	14	20	—	20	Self
Absalom Bostick (Surry)	6	15	21	—	21	Self
James Boswell (Caswell)	4	14	18	—	18	Self
William Bowdon (Randolph)	6	6	12	—	12	[William?] Kindal
John Branch (Halifax)	8	15	23	—	23	Self
James Brandon (Rowan)	8	11	19	—	19	Self
William Bridges (Johnston)	6	13	19	—	19	Self
Matthew Brooks (Surry)	6	14	20	—	20	Self
John Brown (Wilkes)	10	15	25	—	25	Self
Neil Brown (Robeson)	10	15	25	—	25	Self
Thomas Brown (Bladen)	10	15	25	.8	25.8	Self
John Bryan (Johnston)	6	14	20	—	20	Self
John Hill Bryan (Jones)	14	15	29	.4	29.4	Self
Nathan Bryan (Jones)	14	15	29	.12	29.12	Self
Redman Bunn (Nash)	8	15	23	—	23	Self
William Borden (Carteret) ²	16	14	30	.8	30	Self
Lemuel Burkit (Hertford)	14	15	29	—	29	Self
Thomas Butler (Montgomery)	10	15	25	—	25	Self
Stephen Cabarrus (Chowan)	16	15	31	1.2	32.2	M[ichael] Payn[e]
John Cade (Robeson)	10	15	25	—	25	Self
Samuel Cain (Bladen)	10	12	22	—	22	Self
John Cains (Brunswick)	12	15	27	—	27	Self
David Caldwell (Guilford)	4	15	19	—	29	Self
John Ablen Campbell (New Hanover)	12	15	27	—	27	Self
John Carrel (Moore)	6	15	21	—	21	Self
Thomas Carson (Rowan)	8	14	22	—	22	Self
Thomas Christmass (Warren)	6	15	21	—	21	J Haywood
Richard Clinton (Sampson)	8	15	23	—	23	Self
Josiah Collins (Tyrrell)	16	15	31	—	31	Self
Benjamin Covington (Richmond)	12	12	24	—	24	Self
John Cox (Moore)	6	15	21	—	21	Self
Peter Dauge (Camden)	26	15	41	1	42	J[ohn] Humphr[ies]
William R. Davie (T. of Halifax)	8	15	23	—	23	J Haywood
Devotion Davis (Pasquotank)	22	15	37	.8	37.8	Self
William Johnston Dawson (Bertie)	14	15	29	—	29	President [Samuel Johnston]
Thomas Devane (New Hanover)	12	12	24	—	24	Self
Robert Dickins (Caswell)	4	15	19	—	19	Self
William Dickson (Duplin)	10	11	21	—	21	Self
Robert Diggs (Edgecombe)	10	15	25	—	25	[William] Fort
William Dobins (Davidson) ³	20	15	35	—	55	Self
David Dodd (Sampson)	8	15	23	—	23	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Stokely Donelson (Hawkins)	16	15	31	—	31	Self
William Donnelson (Davidson) ³	20	15	35	—	55	Self
Cornelius Doud (Moore)	6	15	21	—	21	Self
Thomas Dougan (Randolph)	6	14	20	—	20	Self
Joseph Douglas (Mecklenburg)	10	14	24	—	24	Self
John Dunkin (Sullivan)	14	15	29	—	29	Self
Lewis Dupree (Brunswick)	12	15	27	.8	27.8	Self
Sterling Dupree (Pitt)	14	15	29	—	29	R[obert] Williams
John Eborne (Hyde)	18	15	33	.8	33.8	Self
Howell Ellin (Nash)	8	15	23	—	23	Self
George Elliott (Cumberland)	8	15	23	—	23	Self
Goodwin Elliston (Bladen)	10	15	25	.8	25.8	Self
Thomas Evans (Davidson) ³	20	15	35	—	55	Self
Edward Everagain (Pasquotank)	20	15	35	.8	35.8	Self
William Farmer (Johnston)	6	14	20	—	20	Self
Joseph Ferebee (Currituck)	26	15	41	2.4	43.4	Self
William Ferebee (Currituck)	26	15	41	2.4	43.4	[James] Phillips
James Fletcher (Wilkes)	10	15	25	—	25	J[ohn] Brown
Arthur Forbes (Pitt)	14	15	29	—	29	Self
Caleb Foreman (Hyde)	18	15	33	.8	33.8	Self
William Fort (Edgecombe)	10	15	25	—	25	Self
Alexius Medor Foster (Brunswick)	12	15	27	.8	27.8	Self
James Gains (Surry)	6	15	21	—	21	Self
Joseph Gaitier (Bladen)	10	14	24	.16	24.16	Self
Charles Galloway (Rockingham)	6	15	21	—	21	Self
James Galloway (Rockingham)	6	15	21	—	21	Self
Daniel Gillespie (Guilford)	4	15	19	—	29	Self
James Gillespie (Duplin)	10	15	25	—	25	Self
William Goudy (Guilford)	4	15	19	—	29	Self
Daniel Gould (Anson)	14	15	29	—	29	Self
Joseph Graham (Mecklenburg)	10	15	25	—	25	Self
Charles Grandy (Camden)	26	15	41	1	42	J[ohn] Humphr[ies]
John Graves (Caswell)	4	15	19	—	19	Self
Etheldred Gray (Edgecombe)	10	15	25	—	25	[William] Fort
James Greenlee (Burke)	12	15	27	—	27	Self
Isaac Gregory (Camden)	26	15	41	1.7	42.7	J[ohn] Humphr[ies]
James Gregory (Gates)	18	15	33	.8	33.8	Self
William Barry Grove (Cumberland)	8	15	23	—	23	Self
Durham Hall (Franklin)	6	12	18	—	18	—
John Hamilton (Guilford)	4	15	19	—	29	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
James Hanley (Wayne)	8	15	23	—	23	Self
Thomas Hardiman (Davidson) ³	20	15	35	—	55	Self
Frederick Harget (Jones)	14	15	29	—	29	Self
Samuel Harrel (Hertford)	14	15	29	—	29	Self
Wyatt Hawkins (Warren)	6	15	21	—	21	Self
Egbert Haywood (Halifax)	8	15	23	—	23	W[illiam] Wootten
Jesse Henley (Randolph)	6	15	21	—	21	[Thomas] Dougan
Joseph Herndon (Wilkes)	10	15	25	—	25	[William] Lenoir
Thomas Hervey (Perquimans)	20	15	35	—	35	J[oshua or John] Skinner
Henry Hill (Franklin)	6	15	21	—	21	Self
Whitmill Hill (Martin)	10	13	23	—	23	Self
Thomas Hines (Wake)	4	15	19	—	19	Self
James Hinton (Wake)	4	12	16	—	16	Self
Hardy Holmes (Sampson)	8	15	23	—	23	Self
Lewis Holmes (Sampson)	8	15	23	—	23	Self
Seth Hovey (Hyde)	18	15	33	.8	33.8	J[ames] Jasper
John Humphries (Currituck)	26	15	41	2.18	43.18	Self
Thomas Hunter (Gates)	18	15	33	.8	33.8	Self
Thomas Hunter (Martin)	12	15	27	—	27	[Nathan] Mayo
John Huske (New Hanover)	12	3	15	—	15	J[ohn] A[blen] Campbell
James Iredell (Edenton)	16	15	31	1.2	32.2	Self
Robert Irwin (Mecklenburg)	10	15	25	—	25	Self
Curtis Ivey (Sampson)	8	15	23	—	23	D[avid] Dodd
James Jasper (Hyde)	18	15	33	1.16	34.16	Self
Charles Johnson (Chowan)	16	15	31	1.12	32.12	Self
James Johnson (Lincoln)	12	15	27	—	27	Self
John Johnston (Bertie)	14	15	29	—	29	Self
Samuel Johnston, President (Perquimans)	20	15	35	—	35	Self
Thomas Johnston (Onslow)	14	15	29	—	29	Self
Abraham Jones (Hyde)	18	15	33	9.12	42.12	J[ames] Jasper
John Jones (Halifax)	10	15	25	—	25	Self
Nathaniel Jones (Wake)	4	15	19	—	19	Self
Willie Jones (Halifax)	8	15	23	—	23	Self
Nathan Keais (Beaufort)	14	15	29	—	29	Self
James Kenan (Duplin)	10	15	25	—	25	Self
William Kindal (Montgomery)	10	15	25	—	25	Self
Thomas King (Hawkins)	16	15	31	—	31	Self
William Lancaster (Franklin)	6	15	21	—	21	Self
Joel Lane (Wake)	4	12	16	—	16	Self
John Lane (Pasquotank)	22	15	37	.12	37.12	Self
Lewis Lanier (Anson)	14	15	29	—	29	Self
George Ledbetter (Rutherford) ⁴	12	15	29	—	29	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Joseph Leech (Craven)	14	15	29	—	29	Self
William Lenoir (Wilkes)	10	15	25	—	25	Self
Jacob Leonard (Brunswick)	12	15	27	—	27	Self
Howell Lewis, Jr. (Granville)	4	15	19	—	19	Self
Jonathan Linley (Orange)	2	15	17	—	17	Self
William Little (Hertford)	14	15	29	—	29	Self
Matthew Lock (Rowan)	8	8	16	—	16	[George Henry] Barringer
William Loftin (Montgomery)	12	15	27	—	27	Self
David Looney (Sullivan)	14	15	29	—	29	Self
George Lucas (Chatham)	4	15	19	.7	19.7	Self
Alexander McAllister (Cumberland)	8	15	23	—	23	Self
John McAllister (Richmond)	12	14	26	—	26	Self
Charles McAnnelly (Surry)	6	15	21	—	21	Self
William McCauley (Orange)	2	15	17	—	17	Self
James McDonald (Montgomery)	10	14	24	—	24	T[homas] Butler
Charles McDowall (Burke)	12	15	27	—	27	Self
Joseph McDowall of Pleasant Gardens (Burke) ⁵	12	12	24	—	24	Self
Joseph McDowall of Quaker Meadows (Burke)	12	15	27	—	27	Self
William McKenzie (Martin)	12	15	27	—	27	Self
Richard McKinnie (Wayne)	10	15	25	—	25	Self
Archibald Maclaine (Wilmington)	14	15	29	—	29	Self
William Maclaine (Lincoln)	12	15	27	—	27	Self
John Macon (Warren)	6	15	21	—	21	J Haywood
William Skipwith Marnes (Nash)	8	15	23	—	23	Self
William Marshall (Hawkins)	16	14	30	—	30	Self
Joseph Martin (Sullivan)	14	11	25	—	25	Self
William Martin (Moore)	6	15	21	—	21	Self
John May (Rockingham)	6	13	19	—	19	J[ames] Galloway
Nathan Mayo (Martin)	12	15	27	—	27	Self
Alexander Mebane (Orange)	2	15	17	—	17	Self
William Mebane (Orange)	2	15	17	—	17	A[lexander] Mebane
Robert Miller (Burke)	12	15	27	—	27	Self
Elijah Mitchell (Granville)	4	15	19	—	19	Self
Henry Montfort (Warren)	6	15	21	—	21	Self
George Moore (Rutherford)	14	15	29	—	29	Self
John Moore (Lincoln)	12	15	27	—	27	Self
Burwell Mooring (Wayne)	8	8	16	—	16	Self
Richard Moye (Pitt)	14	15	29	—	29	Self
Abner Neale (Craven)	14	15	29	—	29	Ja[me]s Jasper
Richard Nixon (Craven)	12	15	27	—	27	Self
John Norwood (Franklin)	6	15	21	—	21	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Andrew Oliver (Bertie)	14	15	29	.4	29.4	J[ohn] Johnston
Francis Oliver (Duplin)	10	14	24	—	24	Self
Thomas Owen (Bladen)	10	10	20	—	20	[James] Porterfield
James Payne (Warren)	6	15	21	—	21	Self
Michael Payne (Chowan)	16	15	31	1.2	32.2	Self
Everet Pearce (Johnston)	6	13	19	—	19	Self
Robert Peebles (Northampton)	12	15	27	—	27	Self
David Perkins (Pitt)	12	4	16	—	16	Self
Thomas Person (Granville)	6	15	21	—	21	Self
Caleb Phifer (Mecklenburg)	10	14	24	—	24	Self
James Philips (Currituck)	26	15	41	2.4	43.4	Self
Abraham Phillips (Rockingham)	6	15	21	—	21	Self
William Porter (Rutherford)	14	15	29	—	29	Self
James Porterfield (Cumberland)	8	15	23	—	23	Self
David Pridgen (Nash)	8	15	23	—	23	Self
Ambrose Ramsey (Chatham)	4	15	19	—	19	Self
William Randal (Jones)	14	15	29	—	29	Self
Asahel Rawlins (Greene)	16	13	29	—	29	Self
Thomas Reading (Pasquotank)	22	15	37	.12	37.12	Self
Joseph Reddick (Gates)	18	15	33	.8	33.8	Self
John Regan (Robeson)	10	15	25	—	25	Self
Enoch Relfe (Pasquotank)	22	15	37	1.4	38.4	Self
George Roberts (Caswell)	4	15	19	—	19	[Robert] Dickins
Charles Robertson (Richmond)	12	14	26	—	26	Self
James Roddy (Greene)	16	13	29	—	29	Self
Griffith Rutherford (Rowan)	8	13	21	—	21	Self
Britain Saunders (Wake)	4	15	19	—	19	Self
Enoch Sawyer (Camden)	26	15	41	1	42	J[ohn] Humphr[ies]
John Scott (Sullivan)	16	15	31	—	31	Self
John Sharpe (Sullivan)	14	15	29	—	29	[David] Looney
William Shepperd (Carteret)	14	15	29	—	29	Self
William Shepperd (Orange)	2	15	17	—	17	[William] McCawley
Thomas Sherrod (Franklin)	6	15	21	—	21	Self
Richard Singleton (Rutherford)	14	15	29	—	29	Self
John Sitgreaves (Newbern)	14	15	29	—	29	[Richard Dobbs] Spaight
John Skinner (Perquimans)	20	15	35	—	35	Self
Joshua Skinner (Perquimans)	20	15	35	—	35	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
William Skinner (Perquimans)	20	15	35	—	35	J[oshua or John] Skinner
William Slade (Martin)	12	15	27	—	27	Self
John Sloan (Lincoln)	12	15	27	—	27	Self
Benjamin Smith (Brunswick)	12	11	23	—	23	Self
Richard Dobbs Spaight (Craven)	14	15	29	—	29	Self
Samuel Spencer (Anson)	14	14	28	—	28	Mr J Haywood
John Spicer (Onslow)	14	15	29	—	29	Self
Simeon Spruil (Tyrrell)	14	14	28	—	28	Self
John Steele (Salisbury)	6	15	21	—	21	J Haywood
James Stewart (Washington)	14	15	29	—	29	Self
Joseph Stewart (Chatham)	4	15	19	—	19	Self
Thomas Stewart (Tyrrell)	14	15	29	—	29	Self
William Stokes (Sumner) ⁶	20	15	35	—	55	Self
Wallis Styron (Carteret)	16	15	31	—	31	Self
Absalom Tatom (Hillsborough)	2	15	17	—	17	Self
Joseph Taylor (Granville)	4	14	18	—	18	H[owell] Lewis
William Taylor (Wayne)	8	15	23	—	23	Self
John Tipton (Washington)	14	15	29	—	29	Self
Joseph Tipton (Washington)	14	15	29	—	29	J[ohn] Blair
David Turner (Bertie)	14	13	27	—	27	Th Evans
Thomas Tyson (Moore)	6	15	21	—	21	Self
Thomas Ussery (Montgomery)	10	15	25	—	25	Self
James Vaughan (Northampton)	12	15	27	—	27	Self
William Vestal (Chatham)	4	15	19	—	19	Self
James Vinson (Northampton)	12	15	27	—	27	Self
Edmund Waddell (Randolph)	6	15	21	—	21	A[mbrose] Ramsey
Thomas Wade (Anson)	14	15	29	—	29	[Lewis] Lanier
Charles Ward (Duplin)	10	15	25	—	25	Self
Robert Weakley (Davidson) ³	20	15	35	—	55	[Thomas] Evans
James Whitside (Rutherford)	14	15	29	—	29	Self
Edward Whitty (Jones)	14	15	29	.4	29.4	Self
Benjamin Williams (Craven)	14	15	29	—	29	R[ichard] Nixon
Edward Williams (Richmond)	12	14	26	—	26	Self
John Pugh Williams (New Hanover)	12	15	27	—	27	Self
Robert Williams (Pitt)	14	15	29	—	29	Self
John Willis (Robeson)	10	15	25	—	25	Self
James Wilson (Greene)	16	13	29	—	29	Self
Zachias Wilson (Mecklenburg)	10	14	24	—	24	Self
James Winchester (Sumner) ⁶	20	15	55	—	55	Self

Name	Travel- ing	Atten- dance	Total	Fer- riages	Sums	To Whom Delivered
Joseph Winston (Surry)	6	15	21	—	21	[Absalom] Bostick
John Womack (Caswell)	4	15	19	—	19	Self
Zebedee Wood (Randolph)	6	15	21	—	21	[Self]
William Wootten (Halifax)	8	15	23	—	23	Self
George Wyns (Hertford)	14	6	20	—	20	T[homas] Wynns
Thomas Wyns (Hertford)	14	15	29	—	29	Self
Thornton Yancey (Granville)	6	15	21	—	21	Self
Daniel Yates (Onslow)	14	15	29	—	29	Self
John Hunt, Secretary ⁷	6	15	21	—	63	—
James Taylor, Assistant Secretary ⁷	6	15	21	—	63	—
<i>Doorkeepers</i> ⁸						
Peter Gooding	6	15	21	—	31.10	Self
James Mulloy	6	15	21	—	31.10	Self
Nicholas Murfree	6	15	21	—	31.10	Self
William Murfree	14	15	29	.8	43.18	Self
James Baldrige for finding plank & making Seats for the use of the Convention at his Accot.					13.11	

1. MS, Papers of the Convention of 1788, Nc-Ar. The payment of Convention delegates and other Convention expenses also appear on pages 9–10 of the year-end accounts of John Haywood, North Carolina's public treasurer, that is appended to the 1788 printing of the House of Commons journal. The spelling of names in this table has been made to conform to the roster of delegates to the Hillsborough Convention (RCS:N.C., 216–21n). Some names have alternate spellings, which are included in the Convention roster. This table, which was not alphabetized in its manuscript form, has been placed in alphabetical order to aid readers. Most other details in this table have been rendered literally, including the spelling of names in the column "To Whom Delivered." The sums in the table were "Agreed to in Convention the 4 August 1788./Saml Johnston Pres./By order/J Hunt Secty." and are in pounds and shillings. One delegate, Joseph Martin (Sullivan), who attended part of the Convention but was absent at the time of the vote on the report of the committee of the whole, is represented in this table, as is John Huske (New Hanover), who traveled to the Convention but was disqualified from acting as a delegate. Thomas Devane was judged to be the legitimately elected delegate.

2. Either William Borden or William Borden, Jr. Both men were probably elected as delegates to the Hillsborough Convention, but only one seems to have been in attendance. Under ferriages, the record keeper reported .8 for Borden, but the sum for Borden does not reflect that additional amount.

3. The sum for each of the five delegates from Davidson County—William Dobins, William Donnelson, Thomas Evans, Thomas Hardiman, and Robert Weakley—does not reconcile with each delegate's total travel and attendance (20 days traveled, 15 days attended). The sum was originally listed as 35 in the manuscript table. That figure was

changed to 55 for each of the five delegates. No explanation was provided, and no corresponding alteration was made to their travel or attendance.

4. The 12 days traveled and 15 days attended for George Ledbetter do not total 29. A correction was made to the number of days traveled—from 12 to 14—for George Moore and William Porter (also delegates from Rutherford County), who precede and follow Ledbetter in the manuscript table. The record keeper *may have* also intended to alter the number of days traveled for Ledbetter but failed to do so.

5. Listed as “Joseph McDowall, jur,” in the manuscript table to distinguish him from his cousin who lived at Quaker Meadows. Since the Hillsborough Convention roster (RCS:N.C., 217) identifies Joseph McDowall, Jr., as Joseph McDowall of Pleasant Gardens, the editors have also used that identification in this table.

6. The sums for William Stokes and James Winchester (both delegates from Sumner County) do not reconcile with their total travel and attendance (20 days traveled, 15 days attended). Originally listed as 35 in the manuscript table, the sums were changed to 55. No explanation was provided, and no corresponding alteration was made to the two men’s travel or attendance. For Winchester, the record keeper altered both the total and the sum to 55.

7. Sums for the Convention secretary and assistant secretary were three times the total of days traveled and days attended. No explanation was provided.

8. Doorkeepers were paid “30/ per Day each.”

Commentaries on the Hillsborough Convention

North Carolina Gazette, 30 July 1788 (excerpt)¹

NEWBERN, July 30.

. . . The new constitution, says a letter from a member of the convention, will not be adopted in this state—its friends are trying to obtain an adjournment—the amendments before us are tolerably numerous.

1. The *North Carolina Gazette*, 30 July, is not extant. The transcription is taken from the Charleston *Columbian Herald*, 21 August, the only reprint located. The first three paragraphs omitted here mention: (1) that a quorum was attained in the Convention and Samuel Johnston had been elected president, (2) that the Convention had disallowed the elections in Dobbs County, and (3) that New Bern and Fayetteville were the last two sites being considered for the state capital.

Petersburg Virginia Gazette, 31 July 1788¹

We learn from North-Carolina, that the Convention of that State are now examining into the principles of the New Federal Constitution—but that there appeared to be a majority who were inflexibly determined either to reject the Government, or adjourn to some future day—rather than be admitted into the Union under the idea of obtaining subsequent amendments.

1. Reprinted twenty-three times by 23 August: N.H. (2), Mass. (8), R.I. (1), Conn. (2), N.Y. (5), Pa. (4), Md. (1).

James Iredell to Hannah Iredell**Hillsborough, N.C., 3 August 1788 (excerpts)¹**

My dear Hannah,

As the Convention is to rise today, and I shall not set off immediately with the immense crowd ready to pass from here; I write to give you the satisfaction of knowing that I am perfectly well. . . . The Majority of the Convention under the guidance of Willie Jones, were obstinate to an astonishing degree. They have not absolutely rejected the Constitution, but proposed previous Amendments. We are however for the present out of the Union; and God knows when we shall get in to it again. . . .

I am my dear Hannah Most affectionately yours,

1. RC, Iredell Papers, Duke University. Printed: Kelly, *Iredell*, III, 413. Hannah Johnston Iredell (1748–1826), the daughter of Samuel Johnston, Sr. (1707–1756), was born in Onslow County, N.C., and married James Iredell in 1773. One of her brothers was Samuel Johnston, Jr. (1733–1816), a lawyer and planter, who was governor of N.C. from December 1787 to December 1789 and a U.S. senator, 1789–93. James Iredell read law with Samuel Johnston, Jr., before he married Johnston's sister.

Wilmington Centinel, 6 August 1788¹

CONVENTION *of the State of* NORTH-CAROLINA.
Hillsborough, Monday, July 21, 1788.

Several Members met, and there appearing a sufficient number present to form a Quorum, they proceeded to the choice of a President, when his Excellency Governor Johnston, was unanimously elected.

Tuesday, July 22.

Appointed a committee of elections, of three members from each district. Dobbs county election was referred to the above committee, who reported, that neither elections were good, with which the house concurred.

Appointed a committee to draw up rules for regulating the proceedings of the house.

Wednesday, July 23.

After much debate, the house agreed to go into a committee of the whole house, and take up the constitution paragraph by paragraph.

Thursday, July 24.

Proceeded agreeable to order of yesterday, to go upon the consideration and discussion of the New Constitution, and got through only two or three paragraphs.—When all are got through with, the vote is then to be put in a general way—adopt, or reject.—The Federal speakers are, *Messrs.* Davie, Iredell, Maclaine, Johnston and Speight. The

chief Anti-Federal speakers are *Messrs.* Persons, Galloway, W. Jones, and several others.

1. The last two paragraphs were reprinted nine times by 6 September: R.I. (1), Conn. (1), N.J. (1), Pa. (3), Va. (1), S.C. (1), Ga. (1).

Wilmington Centinel, 6 August 1788¹

Extract of a letter from Fayette-Ville, August 2, 1788.

“A gentleman of this town arrived last evening from Hillsborough, which place he left on Thursday morning.—At that time the constitution was warmly debated upon. It was thought that the convention would adjourn rather than reject it, after agreeing to certain objections to be held out for amendment. It is thought should a confirmation of its being adopted in New-York be received before the final question was put, it would have great weight. No day was then appointed for the final question. We have great reason to expect the seat of government will be fixed here; 128 dead votes² for Fayette-Ville the first balloting, 136 will be a majority. The other places in nomination, are Tarborough, Smithfield, Newbern, Wake Court-House, and the Forks of Deep and Haw Rivers; the interest opposing Fayette-Ville so divided, that no one place can count more than 45 votes, Smithfield the greatest number. There is no doubt but a number that voted against Fayette-Ville the first balloting, will now join our interest. The opposers of Fayette-Ville wish to prevent its being fixed at any place. The motion was made last Wednesday morning, by Gen. Lock, to bring on the balloting for the seat of government, but they were so much taken up with the other business the motion was lost. The friends to Fayette-Ville meant to bring it on the next day. It is expected the convention will rise this day.—An express was sent from here last night, with a deed from the proprietors of the new brick house in this town to the state, for the use of government, should they think proper to make this town the seat of government. The express has not yet returned.”

1. Reprinted: *Charleston City Gazette*, 12 August, and *Pennsylvania Mercury*, 26 August.

2. Votes without any preceding discussion or debate.

Extract of a Letter from Hillsborough, N.C., 7 August 1788¹

Extract of a letter from Hillsborough, North-Carolina, to a gentleman in this town, dated August 7, 1788.

“The Convention of this State broke up last Monday, after deliberating, arguing, and laboriously debating for fifteen days, without either rejecting or adopting the proposed Constitution, but have modestly

recommended a number of amendments, and when they are agreed to by the adopting States, and made part of the federal Constitution, then this State will ratify and become one of the federal Union, and not before.”

1. Printed: Baltimore *Maryland Gazette*, 19 September. Reprinted eight times by 16 October: N.H. (1), Mass. (3), R.I. (1), Pa. (3).

Petersburg Virginia Gazette, 7 August 1788¹

The New Constitution rejected by North Carolina!

By a Gentleman from Hillsborough, North Carolina, we learn, that on Thursday last, the Convention of that State finished the discussion of the New-Constitution—when the question was put on previous amendments, which was carried by a majority of near one third—Amendments were accordingly agreed upon, which are to be submitted to the consideration of the citizens of the United States.

On Friday and Saturday following the Convention was debating on the subject of fixing the seat of the Government of that State—and at length concluded on appointing Commissioners, to fix on the most eligible situation in Wake County, any where within ten miles of the court-house of that county, for that purpose²—After having concluded this business, they adjourned.

1. Reprinted in the August issue of the monthly Philadelphia *Columbian Magazine* and in thirty-four newspapers by 9 September: Vt. (1), N.H. (1), Mass. (10), R.I. (3), Conn. (2), N.Y. (6), Pa. (5), Md. (2), Va. (3), S.C. (1). (Ten of the newspapers reprinted only the first paragraph.) Because the Petersburg *Virginia Gazette* for 7 August is not extant, the transcription is taken from the Virginia *Norfolk and Portsmouth Journal*, 13 August, the earliest reprinting.

2. For the Convention’s ordinance of 4 August fixing the future location of the state capital, see Mfm:N.C.

Resolutions of the Hillsborough Convention: Transmittal to Congress and the State Executives 12, 24 August 1788

On 2 August the North Carolina Convention instructed President Samuel Johnston to send copies of its proceedings with its proposed declaration of rights and amendments to the Constitution to the Confederation Congress and the governors of the states. A two-page broadside was printed containing an excerpt from the Convention journal that included the report of the committee of the whole and the Convention’s proposed declaration of rights and amendments. The broadsides were signed and attested by Johnston as president and by J. Hunt as secretary. Johnston sent letters to Congress and the governors on 12 August that included the two-page broadside. On 24 August he sent another letter to Congress and to the governors that included the

Convention's two resolutions recommending that the state legislature redeem its paper money then in circulation as expeditiously as possible and that a state impost be adopted with the revenue being given to Congress. The letter also enclosed a North Carolina act making the Treaty of Peace the law of the land. (See the notes below for extant copies of Johnston's letters.) The governors of Virginia and Georgia delivered the letters to their legislatures (Mfm:N.C.). Governor Samuel Huntington of Connecticut responded to Governor Johnston on 23 September 1788 (Mfm:N.C.).

President Samuel Johnston to the President of Congress and to the State Executives, Edenton, N.C., 12 August 1788¹

Sir

By order of the Convention of the People of North Carolina, assembled to deliberate on the Adoption of the Constitution proposed for the Government of the United States of America, I send you the inclosed extract from the Journal of their Proceedings.

I have the Honor to be with great Consideration and Respect

President Samuel Johnston to the President of Congress and to the State Executives, Edenton, N.C., 24 August 1788²

Sir

By order of the Convention of the People of North Carolina, assembled to take into consideration the Constitution proposed, by the General Convention lately held at Philadelphia, for the Government of the United States of America, I send to your Excellency two Resolutions entered into by the said Convention

I have the Honor to be with Consideration & Respect

1. RC, North Carolina Manuscripts, PHi. This document addressed to the president of Delaware was docketed: "Lre from Convention of North Carolina. Augt. 12. 1788. Read, Jany. 16. 1789—In Council Jany. 1789 Read." Other copies of Johnston's letter have been located for the executives of New Hampshire (Peter Force Collection, DLC), New Jersey (William Livingston Papers, MHi), Rhode Island (Papers Relating to the Adoption of the Constitution, Rhode Island State Archives, docketed "Recd. Novr. 1"), South Carolina (South Carolina Department of Archives and History, docketed "Recd 4th September"). The letter to the president of the Pennsylvania Supreme Executive Council was printed in the *Pennsylvania Mercury* on 13 September 1788. The Pennsylvania Executive Council journal indicates that the letter was received and read on 1 September and turned over to the Assembly on 6 September. The Assembly's journal indicates that the letter was read on 8 September.

2. RC, PCC, Item 72, North and South Carolina State Papers, 1776–88, p. 325, DNA. Docketed as being read on 13 September 1788 with an indication that the Convention's resolutions on state paper money and a state impost (RCS:N.C., 470) as well as North

Carolina's act making the Treaty of Peace the law of the land (RCS:N.C., 364, note 8) accompanied Johnston's letter. (See also the Continental Congress Despatch Book for 13 September, Mfm:N.C.) Five copies of Johnston's letter to the state executives have been located: Delaware (North Carolina Manuscripts, PHi), Massachusetts (Miscellaneous Legislative Papers, Senate Files, Massachusetts Archives), New Hampshire and Virginia (Peter Force Collection, DLC), and Rhode Island (Papers Relating to the Adoption of the Constitution, Rhode Island State Archives).

Petersburg Virginia Gazette, 14 August 1788¹

We learn from North-Carolina, that the Convention of that State have not absolutely rejected the New Constitution—but have proposed a Bill of Rights, and Amendments to the most exceptionable and ambiguous parts of the same—which they conceive ought to be laid before Congress and the States, previous to the ratification of the New Constitution on the part of the State of North-Carolina—The Bill of Rights and amendments are nearly the same as those proposed by this State, except in two instances, which we are informed are local to North-Carolina; but this locality does not militate against the interest of any other State. The New Constitution was discussed, clause by clause, in a committee of the whole Convention, and the report of the Committee was a Bill of Rights and Amendments, previous to the ratification, which was agreed to by the Convention, by a majority of 102—Yeas 184—Nays 82.² It was the opinion of that Convention, that the Congress will call a General Convention to consider the proposed amendments; that the deliberations of that Convention will be submitted to Conventions in the several States; and that their State not having rejected the Constitution absolutely, will not be precluded from calling a convention to adopt it, should they think proper so to do—They passed two recommendations to their Legislature—the one, to make the most effectual and speedy provision for the redemption of the paper money, now in circulation—the other to lay an impost, for the use of Congress, on goods imported into North-Carolina, similar to that which shall be laid by the New Congress, on goods imported into the adopting States. These two recommendations are also to be transmitted to Congress and the Executives of the several States.

On the opening of the Convention, a motion was made, by the opposition, to put the question immediately, as it was supposed every member had made up his mind on the subject, and an immediate determination would save the State great expence—this it is thought would have been carried, had not one of the principal supporters of the Government, in a most animated and excellent speech, proved the extreme impropriety of such precipitancy in so important a business:—Upon which the motion was withdrawn.³

Through the whole of the discussion of this subject, we are informed, the Convention shewed every disposition to promote the interests of the Union, and were determined to be actuated by no other motive than that which might tend to promote the general welfare—but being previously instructed by their constituents, and perceiving exceptions in the New Constitution, they thought themselves justifiable in postponing the ultimate decision of the important question, until it should be reconsidered by the several States, and such objections removed, as might be found necessary to the preservation of the Union.⁴

1. Because the Petersburg *Virginia Gazette*, 14 August, is not extant, the transcription has been taken from the *Virginia Independent Chronicle*, 20 August, the first located reprint. This account was reprinted forty-five times by 18 September: N.H. (4), Mass. (11), R.I. (4), Conn. (7), N.Y. (7), N.J. (1), Pa. (5), Md. (2), Va. (3), S.C. (1), and in the August 1788 issue of the Philadelphia *American Museum*. Five of the reprintings were excerpts.

2. The final vote in the first North Carolina Convention was 184 to 83 (a majority of 101, not 102). The vote represented Antifederalist support for and Federalist opposition to the report of the committee of the whole, which reserved North Carolina's assent to the new Constitution until it was amended.

3. On 23 July Willie Jones moved that a vote be immediately taken on the Constitution, because every delegate had been given "ample opportunity to consider it." An immediate vote, according to Jones, would save the state considerable expense. Thomas Person seconded Jones's motion. James Iredell strongly opposed an immediate vote. Jones acquiesced (RCS:N.C., 228–31).

4. On 30 July William Lancaster of Franklin County stated that delegates should be bound by their constituents' instructions and, because "he believed a great majority of the people were against it [i.e., the Constitution], he would oppose its adoption" (RCS:N.C., 423).

Governor Samuel Johnston to North Carolina Delegates in Congress Edenton, N.C., 15 August 1788¹

Inclosed you will receive a Resolve of the Convention of this State offering Amendments to the Constitution proposed for the Government of the United States, by which you will perceive that they did not think it expedient to adopt it before the proposed amendments were considered by a Convention of the States and such of them as were approved of ingrafted into the Constitution

The Convention have fixed the Seat of Government at such place as the Assembly may appoint within ten Miles of the Plantation whereon Isaac Hunter at present resides in Wake County²

I have the Honor to be with great Regard & Esteem

1. FC, Governors' Papers, GP/17, p. 5, Nc-Ar. The letter was addressed to Hugh Williamson and John Swann.

2. For the Convention's ordinance of 4 August fixing the future location of the state capital, see Mfm:N.C.

**Governor Samuel Johnston to North Carolina Delegates in Congress
Edenton, N.C., 25 August 1788¹**

Since I wrote to you on the 15th.² the inclosed Copies of Resolutions of the Convention have come to hand and agreeably to order of the Convention I have forwarded a Copy to the President of Congress and to the Governors of the Respective States in the Union, I think it is proper that you should likewise be furnished with a Copy, tho no order of the Convention to that purpose, in order that you may have the substance of their proceedings before you, as soon as the Journal is published at large I will send you a Copy

I have the Honor, to be with great Consideration & Regard Gentlemen [P.S.] I also send you an Authenticated Copy of the Act of Assembly which enacts that the Treaty of Peace shall operate as a Law of this State³

1. FC, Governors' Papers, GP/17, p. 8, Nc-Ar. The letter was addressed to Hugh Williamson and John Swann.

2. Immediately above.

3. For the North Carolina act making the Treaty of Peace the law of the land, see "Marcus" III, 5 March 1788, note 3, and Convention Debates, 24 July, note 12, and 28 July, note 8 (RCS:N.C., 91n-92n, 260n, 364n).

