

# Vol. 18. Commentaries on the Constitution, public and private. Volume 6: 10 May to 13 September 1788.

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# THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION

# Volume XVIII

# Commentaries on the Constitution

**Public and Private** 

Volume 6 9 May to 13 September 1788

### Editors

JOHN P. KAMINSKI GASPARE J. SALADINO Senior Associate Editor RICHARD LEFFLER

Associate Editor CHARLES H. SCHOENLEBER

E, the People of the United States, in a more perfect Union, eftablish Justice, Tranquility, provide for the common mote the General Welfare, and fecure Liberty to Ourfelves and our Posterity. do ordain a Conftitution for the United States of America.

### ARTICLE

Sed. 1. ALL legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sect. 2. The House of Representatives shall be composed of members chosen every second year by the people of the feveral flates, and the electors in each flate shall have the qualifications requifite for electors of the most numerous branch of the state legislature.

No perfon thall be a repreferrative who thall not have attained to the age of twenty-five years, and been feven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that ftate in which he shall be chosen.

of that flate in which he that be croien. Reprefentatives and direct taxes thall be apportioned among the feveral flates which may be in-cluded within this Union, according to their respective numbers, which fhall be determined by add-ing to the whole number of free perfons, including thole bound to fervice for a term of years, and excluding Indians not taxed, three-fifths of all other perfons. The actual enumeration thall be made within three years after the first meeting of the Congress of the United States, and within every fublequent term of ten years, in fuch manner as they thall by law direct. The number of reprefentatives thall not exceed one for every thirty thousand, but each flate thall have at leaft one every fublequent term of the performance of the made the flate of New Hampfhire thall be enrepresentative ; and until such enumeration shall be made, the state of New-Hampshire shall be enThe Documentary History of the Ratification of the Constitution is a research tool of remarkable power. The volumes are encyclopedic, consisting of manuscript and printed documents compiled from hundreds of sources, thoroughly annotated and indexed. The Documentary History is an unrivalled reference work for historical and legal scholars, librarians, and students of the United States Constitution.

Commentaries on the Constitution: Public and Private. a six-volume series, is an integral but autonomous part of The Documentary History. The documents in this series present the day-by-day regional and national debate over the Constitution that took place in newspapers, magazines, broadsides, pamphlets, and private letters. Volume 6 of Commentaries covers the four-month period from 10 May through 13 September 1788. During this time, the conventions of South Carolina, New Hampshire, Virginia, and New York ratified the Constitution with recommendatory amendments to be submitted to the first federal Congress. In early August, North Carolina's Convention adjourned after voting not to ratify the Constitution until a bill of rights and other amendments were adopted. After receiving word that New Hampshire had ratified, the ninth state to do so, the Confederation Congress started considering plans for the first federal elections under the Constitution. The election ordinance was enacted on 13 September 1788.

This sixth volume of Commentaries contains approximately 200 documents almost equally divided between letters and newspaper items. Forty-three letters were written by Federalists, twenty-eight by Antifederalists, and seventeen by foreign diplomats resident in America (fifteen French and two Dutch). The second volume of The Federalist was published on 28 May. Its 390 pages contain the last forty-nine essays written by "Publius," including the last eight (78 to 85) which had not appeared in any newspaper. No other widely-circulated serialized newspaper essays (Federalist or Antifederalist) were published during the period of this volume. Individual newspaper items consist of addresses by Tench Coxe of Philadelphia to both the Virginia and New York conventions; printings of the amendments to the Constitution proposed by South Carolina, New Hampshire, Virginia, New York, and North Carolina; and a number of accounts of orations, processions, and celebrations of ratification and the Fourth of July, which portrayed the Constitution as the culmination of the Revolution.

Many of the letters in this volume have never been printed in modern, accessible documentary editions. Seven members of the French diplomatic corps in the United States wrote a total of fifteen extremely insightful letters that appear in this volume. Few of these letters have been published previously—certainly none has been translated into English. The Antifederalist correspondence illuminates the intri-

(continued on back flap)

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VOLUME XVIII

Commentaries on the Constitution Public and Private

Volume 6

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Senior Associate Editor RICHARD LEFFLER

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# Contents

Acknowledgments	XII
Organization	xiv
Editorial Procedures	xvi
Symbols	xvii
Calendar for the Years 1787-1788	xxi
American Newspapers, 1787–1788	xxii
Ratification Chronology, 1786–1791	xxiv

### THE DOCUMENTS

738. Nathan Dane to Samuel Adams, New York, 10 May	3
739. The Federalist's Political Creed	
Philadelphia Independent Gazetteer, 10 May	4
740. A Patriotic Citizen, Pennsylvania Mercury, 10 May	7
741. Comte de Moustier to Comte de Montmorin, New York, 11 May	11
742. A Freeman, Philadelphia Independent Gazetteer, 13 May	13
743. Edward Carrington to Thomas Jefferson, New York, 14 May (excerpts)	14
744. St. John de Crevecoeur to Comte de la Luzerne	
New York, 16 May (excerpt)	16
745. Antoine de la Forest to Comte de la Luzerne, New York, 16 May	19
746. Mercy Warren to Catherine Macaulay Graham, Milton, Mass., c. 16 May	20
747. Maryland Journal, 16 May	22
748. James Madison to George Nicholas, Orange County, Va., 17 May	24
749. Samuel A. Otis to George Thatcher, New York, 18 May (excerpts)	31
750. The New York Federal Republican Committee Seeks Interstate Cooperation	
in Obtaining Amendments to the Constitution, 18 May-6 August	32
A. John Lamb to Richard Henry Lee, New York, 18 May	36
B. From the New York Federal Republican Committee, New York, 6 June	38
C. William Grayson to John Lamb, Richmond, 9 June	38
D. Patrick Henry to John Lamb, Richmond, 9 June	39
E. George Mason to John Lamb, Richmond, 9 June	40
F. Joshua Atherton to John Lamb, Amherst, N.H., 11, 14 June	45
G. Samuel Chase to John Lamb, Baltimore, 13 June	47
H. John Lamb to George Clinton, New York, 17 June	48
I. George Clinton to John Lamb, Poughkeepsie, 21 June	48
J. Robert Yates to George Mason, Poughkeepsie, 21 June	49
K. Rawlins Lowndes to John Lamb, Charleston, 21 June	50
L. Joshua Atherton to John Lamb, Amherst, N.H., 23 June	51
M. Timothy Bloodworth to John Lamb, North Carolina, 23 June	53
N. Aedanus Burke to John Lamb, Charleston, 23 June	55
O. Richard Henry Lee to John Lamb, Chantilly, Va., 27 June	57
P. Timothy Bloodworth to John Lamb, North Carolina, 1 July	58
Q. Thomas Person to John Lamb, Goshen Courthouse, N.C., 6 August	59
751. An American: To the Members of the Virginia Convention	
Pennsylvania Gazette, 21, 28 May	68
752. Virginia Independent Chronicle, 21 May	70
753. South Carolina Convention Amendments, 23 May	71
754. James Monroe: Some Observations on the Constitution, c. 25 May	72
755. Richard Henry Lee to Edmund Pendleton, Chantilly, Va., 26 May	74
756. George Mason to Thomas Jefferson, Gunston Hall, Va., 26 May (excerpt)	79
757. Thomas Jefferson to Edward Carrington, Paris, 27 May (excerpt)	81
758. George Washington to Marquis de Lafayette	_
Mount Vernon, 28 May (excerpt)	82

ŝ	Editors' Note: Publication of Volume II of The Federalist, 28 May	83
	Publius: The Federalist 78, New York, 28 May	87
760.	Publius: The Federalist 79, New York, 28 May	94
761.	Publius: The Federalist 80, New York, 28 May	96
762.	Publius: The Federalist 81, New York, 28 May	102
763.	Publius: The Federalist 82, New York, 28 May	111
764.	Publius: The Federalist 83, New York, 28 May	115
765.	Publius: The Federalist 84, New York, 28 May	127
	Publius: The Federalist 85, New York, 28 May	137
767.	Comte de Moustier to Comte de Montmorin, New York, 29 May (excerpt)	143
768.	Baron Beelen-Bertholff to Count Trauttmannsdorf	
	Philadelphia, 31 May (excerpts)	147
769.	Hugh Williamson to James Madison, New York, 2 June	148
770.	Pennsylvania Packet, 3 June	149
771.	Comte de Moustier to Comte de Montmorin, New York, 5 June (excerpts)	151
772.	Charles Pettit to Robert Whitehill, Philadelphia, 5 June	153
	Editors' Note: Curtius, Boston Independent Chronicle, 5 June	158
	David Ramsay Oration, Charleston Columbian Herald, 5 June	158
	Gaspard Joseph Amand Ducher to Comte de la Luzerne	
	Wilmington, N.C., 6 June	165
775.	John Vaughan to John Langdon, Philadelphia, 6 June	167
	Nathan Dane to Moses Brown, New York, 7 June	169
	Antoine de la Forest to Comte de la Luzerne, New York, 9 June	171
	Benjamin Franklin to Pierre Samuel DuPont de Nemours	
	Philadelphia, 9 June (excerpt)	173
779.	St. John de Crevecoeur to William Short, New York, 10 June (excerpt)	174
	A Pennsylvanian: To the New York Convention	
	Pennsylvania Gazette, 11 June	175
781.	Henry Knox to Benjamin Lincoln, New York, 13 June	176
782.	Edmund Pendleton to Richard Henry Lee, Richmond, 14 June	178
	George Washington to Marquis de Lafayette	
	Mount Vernon, 18 June (excerpt)	183
784.	New Jersey Journal, 18 June	185
785.	New Hampshire Convention Amendments, 21 June	186
	Tench Coxe to Timothy Pickering, Philadelphia, 25 June (excerpt)	189
	Comte de Moustier to Comte de Montmorin, New York, 25 June	189
788.	Ezra Stiles Diary, New Haven, 25 June (excerpt)	194
	Philippe André Joseph de Létombe to Comte de la Luzerne	
	Boston, 26 June (excerpts)	194
790.	Virginia Convention Amendments, 27 June	199
791.	Elbridge Gerry to James Warren, Cambridge, Mass., 28 June	206
792.	George Washington to Charles Cotesworth Pinckney	
	Mount Vernon, 28 June	207
793.	Pennsylvania Mercury, 28 June	209
794.	Henry Knox to John Sullivan, New York, 29 June	211
795.	The Confederation Congress Receives the New Hampshire	
	Form of Ratification, New York, 2 July	212
796.	Benjamin Rush to John Adams, Philadelphia, 2 July (excerpts)	213
797.	Nathan Dane to Melancton Smith, New York, 3 July	214
798.	Anthony Wayne to Marquis de Lafayette, Savannah, 4 July (excerpt)	220
799.	The Celebration of the Fourth of July and the Ratification	
	of the Constitution	221
	A. Jonathan Mitchell Sewall Oration	
	Portsmouth, N.H., 4 July (excerpt)	221

	B. Harrison Gray Otis Oration, Boston, 4 July (excerpt)	224
	C. Enos Hitchcock Oration, Providence, 4 July (excerpt)	231
	D. Simeon Baldwin Oration, New Haven, 4 July (excerpt)	235
	E. James Wilson Oration, Philadelphia, 4 July (excerpts)	242
	F. Francis Hopkinson: An Ode, Philadelphia, 4 July	246
	G. Alexander Reinagle: The Federal March	
	Philadelphia, 4 July	248
	H. William Pierce Oration, Savannah, 4 July (excerpts)	249
800	Springfield Hampshire Chronicle, 9 July	254
	Coxe and Frazier on Trade and the Constitution	255
001.	A. To James O'Neal, Philadelphia, 10 July (excerpt)	255
	B. To Stephen Blackett, Philadelphia, 11 July (excerpt)	255
809	Samuel Osgood to Melancton Smith and Samuel Jones, New York, 11 July	256
	William Stuart to Griffith Evans, New York, 11 July	258
	Jean-Baptiste Petry to Comte de la Luzerne, Charleston, 13 July (excerpt)	260
	Benjamin Rush: Observations on the Fourth of July	200
805.	Procession in Philadelphia, Pennsylvania Mercury, 15 July	261
906	Pennsylvania Gazette, 16 July	269
	Francis Hopkinson to Thomas Jefferson, Philadelphia, 17 July (excerpts)	270
	John Adams to Arthur Lee, Braintree, Mass., 18 July	271
	Thomas Jefferson to Edward Rutledge, Paris, 18 July (excerpt)	272
	William Brown to William Cullen, Alexandria, Va., 19 July (excerpt)	273
	George Washington to Jonathan Trumbull, Jr., Mount Vernon, 20 July	273
	Abraham Clark to Thomas Sinnickson, New York, 23 July	275
	A Friend of Society and Liberty, Pennsylvania Gazette, 23 July	277
	James Madison to Thomas Jefferson, New York, 24–26 July (excerpts)	286
	Woodstock, Conn., Celebrates the Ratification of the Constitution	200
015.	Massachusetts Spy, 24 July	288
816	William Pitt Smith: Ode on the Adoption of the Constitution	200
010.	New York Journal, 24 July	290
817	Edward Carrington to William Short, New York, 26 July	293
	New York Ratifies the Constitution, 26 July	294
010.	A. Declaration of Rights and Form of Ratification	
	Poughkeepsie Country Journal, 29 July	297
	B. Recommendatory Amendments	
	Poughkeepsie Country Journal, 12 August	301
	C. Circular Letter, 26 July	
	Poughkeepsie Country Journal, 5 August	306
819	Baron Beelen-Bertholff to Count Trauttmannsdorf	
010	Philadelphia, 1 August (excerpt)	307
820	Comte de Moustier to Comte de Montmorin, New York, 2 August	308
	North Carolina Convention Amendments, 2 August	312
	A Federal Song, Albany Journal, 4 August	320
823	James Madison to Thomas Jefferson, New York, 10 August (excerpt)	321
	James Madison to George Washington, New York, 11 August	322
825	James Bowdoin to George Erving, Boston, 12 August (excerpt)	324
826	Thomas Jefferson to William Carmichael, Paris, 12 August (excerpt)	325
	Alexander McCaul to Thomas Jefferson	
	Glasgow, Scotland, 14 August (excerpt)	326
828	A Native of Boston: Thoughts Upon the Political Situation	
	of the United States, Worcester, 14 August	326
829	Antoine de la Forest to Comte de la Luzerne, New York, 16 August	331
830	Louis-Guillaume Otto to Comte de Montmorin, New York, 16 August	333
831	. Thomas Ruston to George Washington, Philadelphia, 17 August (excerpt)	335

## COMMENTARIES ON THE CONSTITUTION

832.	Nathaniel Barrett to Thomas Jefferson, New York, 18 August (excerpts)	336
	Thomas FitzSimons to Samuel Meredith, Philadelphia, 20 August	337
834.	Solon, Jr., Providence Gazette, 23 August	339
835.	Manasseh Cutler Sermon	
	Marietta, Northwest Territory, 24 August (excerpt)	341
836.	James Madison to George Washington, New York, 24 August	343
	Gaspard Joseph Amand Ducher to Comte de la Luzerne	
	Wilmington, N.C., 25 August	345
838.	William Ellery to Benjamin Huntington, Newport, 25 August (excerpt)	350
839.	Implementing the Constitution: George Washington as	
	the First President, 28 August-c. 25 September	352
	A. George Washington to Alexander Hamilton	
	Mount Vernon, 28 August (excerpts)	352
	B. Henry Lee to George Washington	
	New York, 13 September (excerpts)	353
	C. George Washington to Henry Lee	
	Mount Vernon, 22 September (excerpt)	354
	D. Alexander Hamilton to George Washington	
	New York, c. 25 September (excerpts)	355
840.	Thomas Lee Shippen to William Short	
	Chatelaine, Switzerland, 28 August (excerpt)	357
841.	George Washington to Sir Edward Newenham	
	Mount Vernon, 29 August (excerpt)	358
842.	Collin McGregor to Neil Jamieson, New York, 1 September (excerpts)	360
	Andrew Allen to Tench Coxe, London, 8 September (excerpt)	361
	Jeremiah Hill to George Thatcher	001
	Biddeford, Maine, 9–11 September (excerpt)	363
845.	The Confederation Congress Calls the First Federal Elections	000
	New York, 13 September	364
Аррб	NDIX I: Newspaper Squibs or Fillers	
	New Hampshire Spy, 10 May	368
	New Hampshire Spy, 13 May	368
	Massachusetts Gazette, 13 May	368
	New Jersey Journal, 14 May	369
	Pennsylvania Gazette, 14 May	369
	Boston Independent Chronicle, 15 May	370
	Newport Herald, 15 May	370
	Providence United States Chronicle, 22 May	371
	Pennsylvania Packet, 24 May	372
	New York Daily Advertiser, 26 May	372
	New York Journal, 26 May	373
	Massachusetts Centinel, 28 May	373
	Providence United States Chronicle, 29 May	374
	New York Journal, 29 May	374
	Pennsylvania Packet, 4 June	
	Providence United States Chronicle, 5 June	375 376
	New York Daily Advertiser, 7 June	376
	Boston Gazette, 9 June	377
	Massachusetts Gazette, 10 June	377
	Pennsylvania Gazette, 11 June Massachusetts Centinel 14 June	378
	Massachusetts Centinel, 14 June	379
	Pennsylvania Packet, 16 June	379

Massachusetts Centinel, 18 June	380
Virginia Independent Chronicle, 18 June	380
New York Journal, 19 June	381
New Hampshire: The Ninth Pillar	
Massachusetts Centinel, 25 June	381
New Jersey Journal, 25 June	383
Pennsylvania Gazette, 25 June	383
Pennsylvania Gazette, 25 June	384
Newport Herald, 26 June	384
Pennsylvania Packet, 27 June	385
Maryland Journal, 1 July	385
Massachusetts Centinel, 2 July	385
Massachusetts Centinel, 2 July	386
Massachusetts Centinel, 2 July	386
Pennsylvania Gazette, 2 July	387
New Hampshire Gazette, 3 July	388
Newport Herald, 3 July	388
Pennsylvania Packet, 3 July	389
New York Daily Advertiser, 4 July	390
Massachusetts Gazette, 8 July	391
	391
Springfield Hampshire Chronicle, 9 July	392
Massachusetts Spy, 10 July	392
Newport Herald, 10 July Benerativenia Basket 11 July	392
Pennsylvania Packet, 11 July Managhusetta Continel, 12 July	393
Massachusetts Centinel, 12 July	393
New York Daily Advertiser, 14 July	394
Pennsylvania Gazette, 16 July Massachusette Continel 28 July	394
Massachusetts Centinel, 23 July	395
Pennsylvania Gazette, 23 July Betersburg Virginia Coastte, 24 July	395
Petersburg Virginia Gazette, 24 July	396
Middletown, Conn., Middlesex Gazette, 28 July	396
Pennsylvania Mercury, 29 July	397
Pennsylvania Gazette, 30 July	397
Newport Herald, 31 July	398
Petersburg Virginia Gazette, 31 July	398
New Hampshire Recorder, 5 August	398
Pennsylvania Gazette, 6 August	399
Pennsylvania Gazette, 6 August	399
Pennsylvania Gazette, 6 August	400
Vermont Journal, 11 August	400
Pennsylvania Gazette, 13 August	402
Massachusetts Centinel, 20 August	402
Massachusetts Spy, 21 August	403
Lansingburgh Federal Herald, 25 August	404
Massachusetts Centinel, 27 August Winchester Virginia Cozette, 27 August	404
Winchester Virginia Gazette, 27 August	405
Newport Herald, 28 August	405
Pennsylvania Gazette, 3 September Pennsylvania Packet, 3 September (excerpt)	406
Pennisyivania Facket, 5 September (excerpt)	100
APPENDIX II Statistical Table of the Circulation of Newspaper Items,	
Broadsides, and Pamphlets Published in Volume 6 of Commentaries	407
broausiues, and rampines rubisited in volume o or commentation	
INDEX	415

INDEX

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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 (13 volumes),

(3) Commentaries on the Constitution: Public and Private (6 volumes),

(4) The Bill of Rights (1 or 2 volumes).

### Constitutional Documents and Records, 1776-1787.

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

### Ratification of the Constitution by the States.

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

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

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

The types of documents in the supplements are:

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

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

### ORGANIZATION

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

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

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

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

### Commentaries on the Constitution: Public and Private.

This series contains newspaper items, pamphlets, and broadsides that circulated regionally or nationally. It also includes some private letters that give the writers' opinions of the Constitution in general or that report on the prospects for ratification in several states. Except for some grouped items, documents are arranged chronologically and are numbered consecutively throughout the 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. This volume(s) will contain the documents related to the public and private debate over amendments, to the proposal of amendments by Congress, and to the ratification of the Bill of Rights by the states.

### **Editorial Procedures**

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

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

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

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

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

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

# Symbols

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

# Manuscripts

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

# **Manuscript Depositories**

CtHi	Connecticut Historical Society
CtY	Yale University
DeHi	Historical Society of Delaware
DLC	Library of Congress
DNA	National Archives
MB	Boston Public Library
MBNEH	New England Historic and Genealogical Society
MH	Harvard University
MHi	Massachusetts Historical Society
MWA	American Antiquarian Society
Nh-Ar	New Hampshire State Archives
NhHi	New Hampshire Historical Society
NHi	New-York Historical Society
NN	New York Public Library
NNC	Columbia University Libraries
NcD	Duke University
PHi	Historical Society of Pennsylvania
PPAmP	American Philosophical Society
PPL	Library Company of Philadelphia
ViHi	Virginia Historical Society
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# COMMENTARIES ON THE CONSTITUTION

**Short Titles** 

Adams, Defence of the	John Adams, A Defence of the Constitutions of
Constitutions	Government of the United States of America
	(3 vols., London, 1787–1788).
Blackstone,	William Blackstone, Commentaries on the Laws
Commentaries	of England. In Four Books (Re-printed from the
	British Copy, Page for Page with the Last Edi-
	tion, 5 vols., Philadelphia, 1771–1772). Orig-
	inally published in London from 1765 to
	1769.
Boyd	Julian P. Boyd et al., eds., The Papers of Thomas
2	Jefferson (Princeton, N.J., 1950–).
Burgh, Political	James Burgh, Political Disquisitions: or, An En-
Disquisitions	quiry into Public Errors, Defects, and Abuses
2 10 quito into into	(3 vols., London, 1774–1775).
Butterfield, Rush	L. H. Butterfield, ed., Letters of Benjamin Rush
	(2 vols., Princeton, N.J., 1951).
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).
Evans	Charles Evans, American Bibliography (12 vols.,
	Chicago, 1903–1934).
Farrand	Max Farrand, ed., The Records of the Federal
	Convention of 1787 (3rd ed., 3 vols., New Ha-
	ven, Conn., 1927).
Fitzpatrick	John C. Fitzpatrick, ed., The Writings of George
	Washington (39 vols., Washington, D.C.,
	1931–1944).
Ford, Pamphlets	Paul Leicester Ford, ed., Pamphlets on the Con-
	stitution of the United States, Published during Its
	Discussion by the People 1787–1788 (Brooklyn,
	N.Y., 1888).
JCC	Worthington C. Ford et al., eds., Journals of
	the Continental Congress, 1774–1789 (34
	vols., Washington, D.C., 1904–1937).
Kline, Burr	Mary-Jo Kline, ed., Political Correspondence and
	Public Papers of Aaron Burr (2 vols., Princeton,
	N.J., 1983).
LMCC	Edmund C. Burnett, ed., Letters of Members of
	the Continental Congress (8 vols., Washington,
	D.C., 1921–1936).

xviii

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## Symbols

McRee, Iredell	Griffith J. McRee, ed., Life and Correspondence of James Iredell (2 vols., New York, 1857– 1858).
Montesquieu, Spirit of Laws	Charles, Baron de Montesquieu, <i>The Spirit of Laws</i> (Translated from the French by Thomas Nugent, 5th ed., 2 vols., London, 1773). Originally published in Geneva in 1748.
PCC	Papers of the Continental Congress, 1774– 1789 (Record Group 360, National Archives).
Rutland, Madison	Robert A. Rutland et al., eds., <i>The Papers of James Madison</i> , Volumes VIII- (Chicago, Ill., and Charlottesville, Va., 1973-).
Rutland, Mason	Robert A. Rutland, ed., <i>The Papers of George</i> Mason, 1725–1792 (3 vols., Chapel Hill, N.C., 1970).
Shaw-Shoemaker	Ralph R. Shaw, Richard H. Shoemaker, and Frances P. Newton, <i>American Bibliography: A</i> <i>Preliminary Checklist, 1801 to 1819</i> (23 vols., New York and Metuchen, N.J., 1958–1983).
Smyth, Franklin	Albert Henry Smyth, ed., <i>The Writings of Benjamin Franklin</i> (10 vols., New York, 1905–1907).
Syrett	Harold C. Syrett, ed., The Papers of Alexander Hamilton (27 vols., New York, 1961-1987).
Thorpe	Francis N. Thorpe, ed., <i>The Federal and State Constitutions</i> (7 vols., Washington, D.C., 1909).
Washington Diaries	Donald Jackson and Dorothy Twohig, eds., <i>The Diaries of George Washington</i> (6 vols., Char- lottesville, Va., 1976–1979).

### COMMENTARIES ON THE CONSTITUTION

### **Cross-references to Volumes of** The Documentary History of the Ratification of the Constitution

References to *Commentaries on the Constitution* are cited as "CC" followed by the number of the document. For example: "CC:25."

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."

References to the series of volumes titled *Rat-ification of the Constitution by the States* are cited as "RCS" followed by the abbreviation of the state and the page number. For example: "RCS:Pa., 325."

References to the microform supplements to the "RCS" volumes are cited as "Mfm" followed by the abbreviation of the state and the number of the document. For example: "Mfm:Pa. 25."

RCS

Mfm

CC

CDR

# Calendar for the Years 1787-1788

## 1787

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1788

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21 22 23 24 25 26 27	19 20 21 22 23 24 25	23 24 25 26 27 28 29	21 22 23 24 25 26 27
28 29 30	26 27 28 29 30 31	30	28 29 30 31

## American Newspapers, 1787-1788

### SHORT TITLE LIST

The following short titles of selected newspapers and magazines are arranged alphabetically within each state. The full titles, the frequency of publication, the names of printers and publishers, and other information about all the newspapers of the period are contained in Clarence S. Brigham, *History and Bibliography of American Newspapers*, 1690–1820 (2 vols., Worcester, Mass., 1947), and in his "Additions and Corrections to History and Bibliography of American Newspapers, 1690–1820," Proceedings of the American Antiquarian Society, LXXI, Part I (1961), 15–62. Similar data on magazines is in the first volume of Frank Luther Mott, A History of American Magazines (5 vols., New York and London, 1930–1968).

### Connecticut

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

#### DELAWARE

Delaware Courant, Wilmington Delaware Gazette, Wilmington

### Georgia

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

### MARYLAND

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

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

### NEW HAMPSHIRE

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

#### New Jersey

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

xxii

### AMERICAN NEWSPAPERS

NEW YORK Albany Gazette Albany Journal American Magazine, New York Country Journal, Poughkeepsie Daily Advertiser, New York Federal Herald, Albany Hudson Weekly Gazette Impartial Gazetteer, New York Independent Journal, New York New York Gazetteer New York Journal New York Morning Post New York Museum New York Packet Northern Centinel, Lansingburgh PENNSYLVANIA American Museum, Philadelphia Carlisle Gazette Columbian Magazine, Philadelphia Evening Chronicle, Philadelphia Federal Gazette, Philadelphia Freeman's Journal, Philadelphia Germantauner Zeitung Independent Gazetteer, Philadelphia Lancaster Zeitung Pennsylvania Chronicle, York Pennsylvania Gazette, Philadelphia Pennsylvania Herald, Philadelphia Pennsylvania Journal, Philadelphia Pennsylvania Mercury, Philadelphia Pennsylvania Packet, Philadelphia Philadelphische Correspondenz Pittsburgh Gazette

### NORTH CAROLINA North Carolina Gazette, Edenton North Carolina Gazette, New Bern State Gazette of North Carolina, New Bern Wilmington Centinel

### RHODE ISLAND Newport Herald

Newport Mercury Providence Gazette United States Chronicle, Providence

### South Carolina

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

#### VIRGINIA

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

### Vermont

Vermont Gazette, Bennington Vermont Journal, Windsor

# Chronology, 1786–1791

21 January

11–14 September 20 September

11 October

23 November

23 November 4 December

30 December

6 January 17 January 3 February

10 February 21 February 22 February 28 February 3 March 6 March 8 March 14 March 23 April-26 May 5 May 14 May 14-17 May 25 May 16 June 27 June 13 July 6 August 12 September 17 September 20 September 26-28 September 28 September 28-29 September 17 October 25 October 26 October

- 31 October
- 1 November

#### 1786

Virginia calls meeting to consider granting Congress to regulate trade.	power
Annapolis Convention.	
Congress receives Annapolis Convention report recon ing that states elect delegates to a convention at Pl phia in May 1787.	mend- niladel-
Congress appoints committee to consider Annapolis C tion report.	onven-
Virginia authorizes election of delegates to Conven Philadelphia.	ion at
New Jersey elects delegates.	
Virginia elects delegates.	
Pennsylvania elects delegates.	

#### 1787

North Carolina elects delegates.
New Hampshire elects delegates.
Delaware elects delegates.
Georgia elects delegates.
Congress calls Constitutional Convention.
Massachusetts authorizes election of delegates.
New York authorizes election of delegates.
Massachusetts elects delegates.
New York elects delegates.
South Carolina elects delegates.
Rhode Island refuses to elect delegates.
Maryland elects delegates.
Rhode Island again refuses to elect delegates.
Convention meets; quorum not present.
Connecticut elects delegates.
Convention begins with quorum of seven states.
Rhode Island again refuses to elect delegates.
New Hampshire renews election of delegates.
Congress adopts Northwest Ordinance.
Committee of Detail submits draft constitution to Conven- tion.
Committee of Style submits draft constitution to Convention.
Constitution signed and Convention adjourns sine die.
Congress reads Constitution.
Congress debates Constitution.
Congress transmits Constitution to the states.
Pennsylvania calls state convention.
Connecticut calls state convention.
Massachusetts calls state convention.
Georgia calls state convention.
Virginia calls state convention.
New Jersey calls state convention.

### CHRONOLOGY, 1786-1791

6 November 10 November 12 November 19 November-7 January 1788 20 November-15 December 26 November 27 November-1 December 27 November-1 December 3–7 December 4-5 December 6 December 7 December 11-20 December 12 December 14 December 18 December 25 December-5 January 1788 31 December 31 December-12 February 1788

3-9 January

9 January

9 January-

19 January

1 February

6 February

1 March 3-27 March

24 March

7 April

26 April

23 May

11-12 April

21-29 April

12-24 May

2-27 June

18-21 June

Pennsylvania elects delegates to state convention. Delaware calls state convention. Connecticut elects delegates to state convention. Massachusetts elects delegates to state convention. Pennsylvania Convention. Delaware elects delegates to state convention. Maryland calls state convention. New Jersey elects delegates to state convention. Delaware Convention. Georgia elects delegates to state convention. North Carolina calls state convention. Delaware Convention ratifies Constitution, 30 to 0. New Jersey Convention. Pennsylvania Convention ratifies Constitution, 46 to 23. New Hampshire calls state convention.

New Jersey Convention ratifies Constitution, 38 to 0. Georgia Convention.

Georgia Convention ratifies Constitution, 26 to 0. New Hampshire elects delegates to state convention.

#### 1788

Connecticut Convention. Connecticut Convention ratifies Constitution, 128 to 40. Massachusetts Convention. 7 February South Carolina calls state convention. New York calls state convention. Massachusetts Convention ratifies Constitution, 187 to 168, and proposes amendments. New Hampshire Convention: first session. 13-22 February Rhode Island calls statewide referendum on Constitution. Virginia elects delegates to state convention. Rhode Island referendum: voters reject Constitution, 2,711 to 239. North Carolina elects delegates to state convention. 28-29 March Maryland elects delegates to state convention. South Carolina elects delegates to state convention. Maryland Convention. Maryland Convention ratifies Constitution, 63 to 11. New York elects delegates to state convention. 29 April-3 May South Carolina Convention. South Carolina Convention ratifies Constitution, 149 to 73, and proposes amendments. Virginia Convention. New York Convention. 17 June-26 July New Hampshire Convention: second session.

l June	New Hampshire Convention ratifies Constitution, 57 to 47, and proposes amendments.
5 June	Virginia Convention ratifies Constitution, 89 to 79.
7 June	Virginia Convention proposes amendments.
July	New Hampshire ratification read in Congress; Congress ap- points committee to report an act for putting the Consti- tution into operation.
l July-4 August	First North Carolina Convention.
6 July	New York Convention Circular Letter calls for second con- stitutional convention.
5 July	New York Convention ratifies Constitution, 30 to 27, and proposes amendments.
August	North Carolina Convention proposes amendments and re- fuses to ratify until amendments are submitted to Congress and to a second constitutional convention.
3 September	Congress sets dates for election of President and meeting of new government under the Constitution.
) November	Virginia requests Congress under the Constitution to call a second constitutional convention.
) November	North Carolina calls second state convention.
	1789
February	New York requests Congress under the Constitution to call a second constitutional convention.
March	First Federal Congress convenes.
April	House of Representatives attains quorum.
April	Senate attains quorum.
) April	George Washington inaugurated first President

James Madison proposes Bill of Rights in Congress.

North Carolina elects delegates to second state convention.

COMMENTARIES ON THE CONSTITUTION

Congress adopts twelve amendments to Constitution to be submitted to the states.

Second North Carolina Convention.

Second North Carolina Convention ratifies Constitution, 194 to 77, and proposes amendments.

### 1790

Rhode Island calls state convention. Rhode Island elects delegates to state convention. Rhode Island Convention: first session. Rhode Island Convention: second session. Rhode Island Convention ratifies Constitution, 34 to 32, and proposes amendments.

#### 1791

Bill of Rights adopted.

### xxvi

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16-23 November 21 November

17 January 8 February 1-6 March 24-29 May 29 May

15 December

Commentaries on the Constitution Public and Private



### 738. Nathan Dane to Samuel Adams New York, 10 May<sup>1</sup>

Yesterday were sent to me inclosed-the inclosed pamphlet and printed letter, with a request to convey them to you, which I do myself the honor to transmit accordingly<sup>2</sup>—So far as my information extends the sentiments expressed by this writer, very generally meet the approbation of those who aim at Just and uncorrupt Government on republican principles-nor do I perceive any thing in this publication in the least inconsistent with the determination of the Massa. Convention-a determination, in my opinion, by far the wisest & best that has been made on the Subject-for tho the situation of the Country made it prudent to adopt the Constitution, and put it into operation; vet, clear I am, that we ought not to relax a moment in our attention and vigilance for further guarding and checking the exercise of powers given by the Constitution, and for securing the liberties of America, and an honest administration of Government on known and certain principles-My fears and apprehensions do not arise altogether from a consideration of the faults in the new Constitution; but, in a considerable measure, from a full persuasion that we have many men, and able ones too, in this Country who have a disposition to make a bad use of any government; and who, if not well checked and restrained by the forms of the Government, will, so far as they can have influence produce a wicked and corrupt administration-and you may, Sir, be assured that the Zealous advocates for the adoption of this Constitution, and who are pretty numerous, artful and active, do not intend that any amendments shall be adopted, even after the Constitution shall be put into operation, if they can any way prevent it-at least they will oppose all amendments which, I believe, the republican and honest part of the Community will contend for-however, I think the true Federalists, or true friends of a genuine federal republic, are extending their influence and connections very considerably; and tho a large proportion of them considering our situation agree to adopt the system as presented, they are determined with candor and firmness, to endeavour to establish in these States governments on principles of freedom and equality-whether the friends of honest measures-or the friends of influence and corruption will succeed time only can determine-Sure I am, the former will have the support and advice of your Self and many others who have Steered the political Ship through the late Storm-

### COMMENTARIES ON THE CONSTITUTION

Eight States have now determined relative to the Constitution proposed—I can give you no certain information respecting the other five—our accounts respecting the Sentiments of the men elected for the State Conventions are various—but, on the whole, I am inclined to believe they will adopt with recommending amendments as in Massa.—in this State Virga. & N.C. the numbers for and agt. are pretty equal, as well as abilities—Your friend Mr. Lee I understand, declined going to the State Convention, principally, on account of the unhealthiness of the place where the Convention is to meet<sup>3</sup>—

I mentioned to you in my last the application of Kentucky for an admission into the union—I am just informed a gentleman has arrived in this place from Vermont, to make enquiries, &c respecting her admission into the union I understand the State has appointed a Committee and given them power to apply to Congress whenever they shall see a fair opportunity for again bringing under consideration the independance and admission of that State into the union<sup>4</sup>—I have been wishing for sometime that this Subject might again be brought into view—for I am well persuaded if these States do no[t] unite in their infancy, and cement the union, they will not do it hereafter—

1. RC, Adams Papers, NN.

2. Possibly a reference to the pamphlet by "A Plebeian," a New York Antifederalist. This pamphlet, which contained a "Postscript" of four pages attacking Federalist pamphleteer "A Citizen of New-York" (CC:683), was first offered for sale in New York City on 17 April (CC:689). The pamphlet enclosed might also have been "Federal Farmer's" *Additional Letters*, 2 May (CC:723), which the Antifederalist New York Federal Republican Committee began to send to other states, beginning in mid-May (CC:750).

3. For Richard Henry Lee's fear of the unhealthiness of the town of Richmond, see his 27 June letter to John Lamb (CC:750-O); and RCS:Va., 621, note 10.

4. In October 1787 the Vermont General Assembly appointed Ira Allen, Isaac Tichenor, and Noah Smith to be "Agents to negotiate the public business of this state to Congress." Between October 1787 and its last meeting in early 1789, Congress does not appear to have taken any action on Vermont statehood.

### 739. The Federalist's Political Creed Philadelphia Independent Gazetteer, 10 May<sup>1</sup>

Mr. PRINTER, Though *religious creeds* have long since been deemed quite useless, or rather indeed extremely prejudicial to the interests of virtue and true piety; yet I must at the same time be of opinion, that *political creeds* are of a very different nature, and that no government, and least of all an arbitrary one, can be supported without some such summary of its *credenda*, or articles of faith. Our late C—n, sensible of the truth of this maxim, have taken care to draw up a very

### 10 MAY, CC:739

full and comprehensive *creed* for the use of their creatures and expectants, who are obliged to believe and maintain every article of it, right or wrong, on pain of political damnation. And to do those slavish expectants justice, there never was on earth a set of more firm and sincere *believers*; nor any who were willing to run greater risques in defence of their political dogmas.

This political creed however is no new invention: 'tis the old *tory* system revived by different hands. And the articles of it can be a secret to no one, who has the misfortune to converse with any of its advocates: But as such doctrines and maxims would better become the slave of a *Bashaw of three tails* than the subject of a free republican government, I shall just take the liberty, by way of specimen, to mention a few of these articles for the sake of your more uninformed readers. And

1. They maintain that the *revolution* and the *declaration* of *independence*, however important at those periods, are now to be considered as mere farces, and that nothing that was then done ought to be any bar in the way of establishing the proposed system of arbitrary power.

2. That as most of the European nations are in a state of vassalage and slavery, the Americans easily may be brought to a similar situation, and therefore ought to be reduced to the same abject condition.

3. That to compass this end, a large standing army should be kept up in time of peace, under the specious pretence of guarding us against *foreign* invasions and our frontiers against the savages; but in reality to overawe and enslave the people, who, if provoked at the violation of their rights, should at any time dare to murmur or complain, the military should be employed to *bayonet* them for their arrogance and presumption.

4. That to say the late convention was not authorised by the people at large to form an *aristocratic, consolidated* system of government for them, but merely to recommend alterations and amendments of the good old articles of confederation, is downright treason and rebellion.

5. That to assert that it was a shameful departure from the principles of the revolution and republicanism, and a base violation of the trust reposed in them, is a crime of the deepest dye, and never to be forgiven.

6. That if any man in the course of his writings should happen to give offence to a haughty favorite of the junto, it should be an express condition in the admission of every person into the new administration, that he concur in the prosecution of the author, or printer (or both if the name of the author can be extorted or discovered, no matter how vile and infamous the means) to the utmost rigor of the law, and even in contradistinction to all law and justice.

#### COMMENTARIES ON THE CONSTITUTION

7. That the trial by jury, whether in *civil* or *criminal* cases, ought to be entirely abolished, and that the judges only of the new federal court, appointed by the *well born* in the ten-mile-square, should determine all matters of controversy between individuals.

8. That the trial by jury ought likewise to be abolished in the case of libels, and every one accused of writing or even publishing a libel, ought to be tried by *informations, attachments, interrogatories,* and the other arbitrary methods practised in the court of *star-chamber*.

9. That a libel is whatever may happen to give offence to any great man, or old woman; and the more true the charge, the more virulent the libel.

10. That an unrestrained liberty of the press should be granted to those who write and publish against the liberties of the people, but be absolutely denied to such as write against unconstitutional measures, and the abominable strides of arbitrary power, which have recently been attempted by any of the rump conclaves or conventions.

11. That the people indeed have no rights and privileges but what they enjoy at the mercy of the rich lordlings, who may, of right, deprive them of any or of all their liberties whenever they think proper.

12. That the freemen of America have no right to think for themselves, nor to chuse their own officers of government, who ought to be named and appointed by the *king elect*, the *half king* and the *senate*; these being evidently much better judges of what is for the good of the people than the people themselves.

13. That a *bill of rights* and other explicit declarations in favor of the people, are old musty things, and ought to be destroyed; and that for any set of men to declare themselves in favor of a bill of rights, is a most daring insult offered to General *Washington* and Doctor *Franklin*, who, it must be allowed by the whole world, are absolutely *infallible*.

14. That those men are best qualified to conduct the affairs of a free people, who breathe nothing but a spirit of tyranny, and who, by their violent, illegal, and unconstitutional (*consolidating, energetic*, as they are pleased to stile it) procedures, have well nigh reduced the good people of this great continent to the very eve of a civil war: And that as soon as *nine* states should accede to the new system of slavery, every one who would presume to lisp a syllable against it, ought to be taken up, imprisoned, and punished at the discretion of the judges of the supreme federal court.

Such are a few of the many articles of the *political creed* of the *federal hacks*, and how firmly they believe and diligently act up to them, is a matter of equal notoriety and grief to every real patriot in America.

1. Reprinted: New York Journal, 24 May.

## 740. A Patriotic Citizen Pennsylvania Mercury, 10 May<sup>1</sup>

To the well-meaning few who are opposed to the new plan of federal government.

Gentlemen, As a friend, a fellow-citizen, and a patriot, I now address you.—That six-sevenths of the people of the United States are firm friends to the proposed system, is a well-known fact. But, though this ensures the ratification of the constitution, by a very respectable majority, and there is no doubt but that a few revolving months will set this master-piece of political wisdom in motion, yet something still is wanting to complete the great work—I wish for the concurrence of every real whig, of every honest citizen amongst us; as for individuals who are anti-federal from interested motives, and designing incendiaries who are enemies to the peace and rising greatness of America, we have very small reason to hope that the former will sacrifice their paltry pelf, or the latter their infamous principles, for the general good: we ought, however, to guard against their weak but desperate efforts, by warning our fellow-citizens of the base motives which actuate those sons of sedition.

When men err through mistake, the criminality of the act ought, in my opinion, to be much extenuated, if not entirely pardoned, because of the honesty of the intention: your conduct, therefore, my worthy fellow-citizens, is only reprehensible in this; that you have suffered yourselves to be imposed on by the scurrilous declamations of designing men; that you have mistaken falsehood for truth, and defamation for argument; and that you have refused to place a reasonable confidence in the chosen patriots of your country, while you have reposed a mistaken and unlimitted one in men who, under the borrowed mask of patriotism, have strained every nerve to destroy private reputation, to sow sedition through the land, and to force the wounds of civil discord, which have been so recently healed, to bleed afresh.

But it is not yet too late to retrieve your lost honor, and to come in for a share of that endless fame, which the enlightened citizens of America shall acquire by the transactions of 1787 and 1788. Suffer yourselves to be deceived no longer, dare to act like men, be your own advisers, let reason resume its place, and I will venture to affirm, that you will act the part of good citizens, in giving your support to a system which is approved of by a truly respectable majority of the people, such as we never before had an instance of.

This circumstance alone should procure the acquiescence of every honest, of every reasonable man: for as the very basis of republican government is, that a majority, even a bare majority, shall govern, how absurd is it to suppose that one seventh of the people should pretend to controul six sevenths?

Had the writers opposed to the constitution confined their strictures to the system itself, and pointed out its defects (or what they thought its defects) with manly candor and decency, they had merited the thanks of their country, and clearly evinced that they were actuated by patriotism, not by that self-interested, turbulent and seditious spirit which uniformly characterises their inflammatory essays.

Finding this constitution proof against all attacks, by argument, they have cautiously avoided reasoning on the subject; but have asserted, in plain English, that the framers of it, and those who have ratified it, are all villainous conspirators, and consequently that this plan of government is calculated to enslave the people of America, to make them hewers of wood and drawers of water, and to force them to make bricks without straw.<sup>2</sup> What an insult to the freemen of America! "They chose delegates to the federal convention who are traitors and conspirators against their liberties!-They are abettors of the treason in approving of the conspirators conduct!" The degrading insult has been felt, and has rendered the incendiaries infamous in the eyes of many, who were at first wavering, but are now decidedly federal. Shortly after the promulgation of the constitution, one of the anti-federal champions, in this city, poured forth a whole torrent of abuse against the federal convention, and particularly pointed his calumny at their illustrious president: the citizens of Philadelphia, to their immortal honor be it told, were fired with a manly resentment, and burned with indignation against the slanderers of their beloved Washington. One prudent step was taken by the incendiary party-They perceived that they had trespassed too far on the patience of the people, who had not yet forgot the tribute of gratitude due to their worthy chief; for this reason, in their German translations, which they circulated through the back counties of this state, they took care to leave out their infamous slander of this truly great and good man.3 It had been much to their credit to have acted thus at all times; but this was impossible, they soon found all their hopes of duping their fellow-citizens idle and vain; their disappointment was succeeded by envy, malice, rancour and despair, and these infernal passions have produced a plentiful harvest of the most scurrilous abuse and slanderous falsehoods that ever disgraced an enlightened country, or a free press.

So glaringly absurd has their slander been, that it has operated in a manner directly contrary to what they intended, and has prevented due faith being given even to their probable assertions, agreeably to the old adage—A liar, tho' he speak truth, is not believed.<sup>4</sup> This may be

the cause why no person has thought worth while to refute such charges. But it may not be amiss to examine, what foundation the incendiaries had for applying the appellation of conspirators to the members of the federal convention.

Much might here be said of the patriotism, integrity, abilities, and past services, of almost all the gentlemen who were honored, by their respective states, with seats in that august assembly; but as gratitude for past services is rather unfashionable, and the "authority of great names" is no authority, let us consider them independent of their patriotic bravery in asserting the rights of mankind, of freedom, and their country.

Let us remember that they are citizens, possessed of a considerable share of property in the United States, their security for the peaceable enjoyment of which, must rest upon the just administration of an equitable and well established form of government. Such men are seldom Catalines in any country: conspiracies are usually formed and executed by desperate and abandoned wretches, who have neither fortune nor reputation to lose, but may perchance gain something, by such an event.-Let us consider them as men, who have, in common with their fellow-citizens, their respective connections in society, their circles of friends, and a rising offspring, all of whom must inevitably participate in the miseries of their country; and say, what motives could induce such men to conspire against the liberty and happiness of all who are near and dear to them, and to consign them to endless misery.-Let us consider them as fellow-citizens, not one of whom may, perhaps, ever be elected to a seat either in the federal senate, or in the house of representatives, and, if he should, that he may be speedily removed, be forced to share in the general calamity, and obliged to wear those galling chains he had forged for others. Common sense, self-interest and self-preservation, independent of every other motive, must certainly have prevented such men from meditating the overthrow of American freedom, when they well knew that, like Sampson, they must be crushed by the fall and perish in the ruins.-Let us also recollect that they have appealed to the people at large to judge of the uprightness of their conduct, and have submitted to their decision that plan of government which is the result of more than four months deliberation. Surely this is an undeniable proof of conscious integrity; for that the "well-born" (as they are called) should endeavour to enslave their country, and at the same time, leave it in the power of the meanest citizen, to put on, or reject, the chains, at his option, would argue them totally void of that understanding and precaution which even their enemies do not deny them. If they had had any designs hostile to the liberties of the people, they would rather have endeavoured to procure the ratification of the constitution by a few, for instance by the legislatures of the different states. But the truly equitable mode of deciding on this system, pointed out by the federal convention, has, like many more of its greatest perfections, been highly censured.<sup>(a)</sup> This I only mention to shew that men who are thus capable of finding fault with its best parts, are very suspicious characters indeed, and, if their objections be not the result of ignorance, it is by no means a breach of charity to conclude that they are enemies to the peace, liberty, and happiness, of their country.

Finally, let us bear in mind that the people are the sole, the great source from which all powers delegated to the federal government, by this truly democratic constitution, are to flow; and that if ever they be enslaved, it must be by a spontaneous surrender of their liberties; for they are not only vested with the power of election, of impeachment, and dismission from office for misdemeanors, and of further punishing the culprits by the violated laws of their country; but they will always enjoy the invaluable privilege of making such alterations in their constitution as may, from time to time, be found necessary, still further to secure those liberties which have been purchased by the martyrdom of their fathers, and this, too, they will be enabled to effect in a manner unknown in the political revolutions of other countries without the effusion of human blood.

Thus it appears that the incendiaries have neither truth, probability, nor reason on their side, when they bestow on the chosen patriots of America the name of *conspirators*, which I fear is too applicable to themselves.

Blush, ye well-meaning citizens, who have associated with such men as are the ringleaders of anti-federalism (alias sedition) in the United States. Who are they? Let us examine—We must pass over the three states of Delaware, New-Jersey and Georgia; not even one opposer of the constitution having been found in the conventions of those states— In Connecticut nearly one-third were against it; but these like peaceable citizens and good republicans immediately acquiesced in the decision of the majority—In Massachusetts a considerable part of the minority have acted the same praise-worthy part, and none now persevere in anti-federalism but a few, who were, not long since, enrolled under the banners of SHAYS.—Who were the opposers of federal measures in Maryland? None but *Luther Martin* and his *ten* followers—Thus we perceive, that in six of the states which have adopted the constitution, the opposition, comparatively speaking, is almost nothing—In the convention of Pennsylvania, 'tis true, we have had *twenty-three* dis-

sentients, who are well known to be the mere echoes and tools of a few individuals in Philadelphia, who are apprehensive that their loaves and fishes are in danger: The greater part of these twenty-three were of the anti-federal minority in our General Assembly, who were for copying after the worthy example of Rhode-Island, in refusing, even to call a convention to deliberate on the proposed plan;<sup>5</sup> and who were also the avowed advocates of our ruinous paper-money measures.

With these, then, and the respectable groupe of Rhode-Island, you are joined in opposing the almost unanimous voice of United America. Let the idea of being connected with such be no longer harboured in your bosoms. Turn with indignation from them, and their infamous principles. And join the patriotic sons of freedom, who are now about to complete the glory and independence of America.

(a) See Luther Martin's genuine information.<sup>6</sup>

1. Reprinted: New York Independent Journal, 17 May; Carlisle Gazette, 21 May; Exeter, N.H., Freeman's Oracle, 6 June.

2. See Joshua 9:21 and Exodus 5:6-19.

3. "A Patriotic Citizen" refers to a German-language broadside of "Centinel" I (printed in Philadelphia) that omitted a derogatory passage about George Washington and Benjamin Franklin. (See CC:133, p. 330, at note 3. For the broadside, see Evans 20250.) See also *Pennsylvania Gazette*, 24 and 31 October (RCS:Pa., 201; and CC:218)— the first public notices of the omission.

4. Adapted from Aesop's "The Shepherd's Boy."

5. Only four of the twenty-three members of the Pennsylvania Convention who voted against ratification had been members of the Assembly that voted to call a convention to ratify the Constitution. See RCS:Pa., 57 and 591.

6. See Genuine Information VI (CC:425, especially p. 297).

# 741. Comte de Moustier to Comte de Montmorin New York, 11 May<sup>1</sup>

The Maryland Convention has adopted the new Constitution, which brings to seven the number of States that have accepted it. It is probable that henceforth, in imitation of Massachusetts and Maryland, some modifications (*amendments*) will be proposed. But if the required number ratify the Constitution, the new Government will nevertheless be established, and the new Congress will decide on the amendments that are appropriate to affix to the Constitution. Public attention is focused today on the States of Newyork and Virginia. Federalists flatter themselves that, because of the success of the elections to make up the individual Conventions of these States, they will follow the example of the 7 that have adopted the Constitution. Moreover, they are counting on at least two of the three other States that have yet to decide, namely, the two Carolinas and Newhampshire. As for the State of Rhodeisland, it rejected the Constitution by means of its Town meetings, where the wisest men of that State have refused to appear; but it is so weak by itself that if it remains alone in its opposition, it will either be forced to adhere to it or it will be broken up and incorporated into the States of Massachusetts and Connecticut. It is spoken of today only with contempt and derision.

It is difficult to know the Leaders of the Antifederalists, only a very small number of whom openly declare themselves, which could even lead one to presume that they do not dare depend too much on their strength. The partisans of the new Constitution, who are better known, plan together, show themselves, act, and hold their course. But when they have obtained the objective that they pursue today and victory is assured them, there will still be great difficulties to overcome in order to execute it. The main problem will always be to raise a public revenue in a country where, with the exception of some cities, all the inhabitants are dispersed and in general hardly disposed to contribute to the public expense. It is extremely important not to frighten them in the beginning, in order not to incite them to emigrate, to which they are only too disposed by hopes of improving their lot. Americans in general are little attached to the soil on which they were born, and it pains them little to distance themselves forever from all the things that elsewhere attach men to one place in preference to another.

The emigrations ought nevertheless to abate, if the difficulties and dangers could counterbalance the restless spirit and the greediness of men. The savages seem more disposed than ever to defend their possessions. Reports are received from different areas of their incursions and of their successes. They have recently attacked two boats traveling down the Ohio to reach Kentucky. Several Frenchmen were aboard one of these boats; two were victims of their enthusiasm for the sciences; one was a Botanist and the other a Mineralogist; it was not at all part of their plan to settle down in this savage and faraway country. It is alarming to see such hostile tendencies in the savages just when Congress is ready to begin Conferences with them to assure peace. It is feared that they are being incited by the Government of Canada. The Americans are much inclined to believe that the Savages would not be able, without foreign help, either to form plans of attack or to resist. It is for this reason that they presume that the Creeks are being incited and supported by the Government of Louisiana. Be that as it may, this savage nation is becoming very formidable to the Georgians who fear even for Savannah. The Creeks are led by a Scot named MacGillivray, whose possessions were confiscated by the State of Geor-

gia, which has already offered to return them to him, along with some added concessions. His situation seems to him preferable to what he could hope for in Georgia. He manages all the Commerce of the Creeks with the Spanish, he possesses large tracts of land, numerous troops, comfortable dwellings, where he keeps some women, has a Library, and even has a company of musicians for himself. He has accustomed the Creeks to organize regular attacks and to stand fast, contrary to Savage custom. He has armed them well and makes them fight on foot and on horseback. If all the Savage nations that still find themselves within the territorial limits claimed by the United States had similar leaders, the Americans could not consider themselves masters for a long time.

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 166-68, Archives du Ministère des Affaires Étrangères, Paris.

# 742. A Freeman Philadelphia Independent Gazetteer, 13 May<sup>1</sup>

The conduct of the majority in the Maryland convention is a striking display of the nature of power, and a sample of what the freemen of America would experience from the great Congress if established: inebriated with a temporary superiority, they arrogantly refused to discuss the merits of a system of government that was to determine the fate of a great people, that would prove either the instrument of their freedom and prosperity or of their slavery and misery for ages to come, but observed a contemptuous silence, notwithstanding some of the greatest and most able men in Maryland, with the ardour of patriotism, represented the dangers with which the new constitution was replete, and repeatedly urged the majority to invalidate their objections if in their power; a greater insult than this was never offered to freemen, and the infatuation of the people must indeed be astonishing if they are not aroused by it to a sense of the imposition practising upon them under the sanction of a Washington. The conduct of the Maryland convention also shews the folly of trusting to future amendments; for they have already thrown aside the masque, and avowed the intention of establishing the new constitution in all its plentitude of powers, without any reservation in favor of the liberty of the people. After amusing the minority with hopes that suitable amendments would be recommended by them, they at length in a despotic manner dissolved the convention.

What must be the feelings of the great body of the people in Massachusetts, who were deluded into the adoption of this system of government, by specious assurances that the amendments would be acceded to by all the states, and certainly incorporated in the government, that it argued ignorance of the weight of Massachusetts in the union, to entertain the smallest doubt that her example would not be followed by all the others? I rejoice that the rash confidence of the advocates of the new constitution, has led them to discover so soon this dangerous, deceptive game of the amendments, by which they have imposed upon so many. The question now is simply, Whether the people will submit to the absolute establishment of a form of government, which all, even the most designing are obliged to allow, is defective? I recommend the perusal of the narrative of facts and propositions of amendment, subscribed by the minority of the Maryland convention,<sup>2</sup> to every person who wishes to continue free.

1. Reprinted: Philadelphia Freeman's Journal, 14 May; New York Journal, 17 May; Providence Gazette, 14 June. The printer of the Gazette reprinted "A Freeman" from the Philadelphia Independent Gazetteer with this preface: "Mr. CARTER, By inserting the following, from a late western paper, you will oblige several of your readers."

2. For the amendments proposed to the Maryland Convention and the address of the Convention minority, see CC:716.

## 743. Edward Carrington to Thomas Jefferson New York, 14 May (excerpts)<sup>1</sup>

... I had the pleasure to write you pretty fully on the 25th. Ult. by Mr. Paradise,<sup>2</sup> since which no event has taken place except the adoption of the Constitution in Maryland, by a Majority of 63 against 11. South Carolina is now setting, and the general countenance of intelligence from thence, is much in favor of the measure. there seems to be no doubt entertained of an adoption by a considerable Majority. should this be the case it will give eight States. Virginia being the next to set will meet under very critical circumstances, because upon her decision will, in my opinion, depend, not the fate of the measure, but whether some degree of convulsion shall, or shall not, attend its maturation. it has will have gone too far to be retracted, and even Virginia herself, should she in the first instance reject, must afterwards come in-indeed New Hampshire will certainly accede when she re-assembles, and compleate the Nine for giving action to the project, but a decision in the Negative in Virga. would, in one moment, give additional life to the Minority in Pensylvania, whose opposition has taken a stubborn stand, & the appeal may, in that quarter, be to the sword, nor will I venture a conjecture upon the effect such an effort there, will have amongst the opposers in Virginia. I hope, however, that the

possibility of a calamity of this sort, will have its effect on some of the more wise in the opposition, and incline them to adopt rather than run such a hazard. should Virga. adopt, we shall at once, have a Government, the issue of a thorough revolution, without the violent means which have uniformly been requisite for the like events elsewhere. I pray God we may exhibit to the world this instance of our superior wisdom & benevolence.

I do myself the pleasure to send you by Mr. Barlow a Volume containing a Number of Periodical papers which have been written in this City upon the occasion of the Constitution. they are written, it is supposed, by Messrs. Madison Jay & Hamilton. the Numbers run to as many more, the remainder are to form a second Vol which will be published in a few weeks, & I will do myself the pleasure to send it to you—as soon as it is done.<sup>3</sup>

... during Mr. Madisons absence in Virginia I am aware of your dependance upon me for regular information upon the progress of the business of the constitution and shall omit no opportunity of writing you.<sup>4</sup>

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 156–58. The omitted first paragraph to this letter indicates that it was carried to France by the Connecticut poet Joel Barlow, who arrived at Le Havre on 24 June.

2. The letter that John Paradise carried to Paris was actually dated 24 April (RCS:Va., 746n, 754–56). Carrington had enclosed in the letter a copy of the printed debates of the Massachusetts Convention.

3. Volume I of The Federalist was first offered for sale in New York City on 22 March (CC:639). Volume II appeared on 28 May (see Editors' Note, 28 May), and on 10 August Carrington sent Jefferson a copy (Boyd, XIII, 495). On 18 November Jefferson wrote James Madison, one of the authors of The Federalist, acknowledging the receipt of that work and stating that "the three authors had been named to me. I read it with care, pleasure & improvement, and was satisfied there was nothing in it by one of those hands, & not a great deal by a second. it does the highest honor to the third, as being, in my opinion, the best commentary on the principles of government which ever was written. in some parts it is discoverable that the author means only to say what may be best said in defence of opinions in which he did not concur. but in general it establishes firmly the plan of government. I confess it has rectified me in several points. as to the bill of rights however I still think it should be added, and I am glad to see that three states have at length considered the perpetual re-eligibility of the president as an article which should be amended. I should deprecate with you indeed the meeting of a new convention. I hope they will adopt the mode of amendment by Congress & the Assemblies, in which case I should not fear any dangerous innovation in the plan. but the minorities are too respectable not to be entitled to some sacrifice of opinion in the majority. especially when a great proportion of them would be contented with a bill of rights" (Boyd, XIV, 188).

4. On 9 June Carrington sent Jefferson two volumes of the "Federal Farmer's" letters (CC:242, 723; and RCS:Va., 1591).

# 744. St. John de Crevecoeur to Comte de la Luzerne New York, 16 May (excerpt)<sup>1</sup>

In accordance with the orders that I have received by your dispatch of 17 November, I have the honor to transmit to you three copies of the new Constitution. I was getting ready to send you a literal translation when I saw it inserted in the *Courier de l'Europe* N. 4, 5, 6 &  $7.^2$ 

The Maryland Convention has just adopted this new-System of government by a majority of 63 to 11; according to the most authentic Letters recently received from South Carolina, it seems very likely that that State will adopt it also. As for Virginia, North Carolina, New Hampshire, & New York, no definite opinion can yet be formed, since their conventions will not be held until the months of June & July. Federalists & Antis (as they are called here) spare no means to have the choice of the people fall on the persons whose principles are similar to those of their parties. The Election of the Town of Alexandria was kept open for three days,<sup>3</sup> in order to give the partisans of the new Constitution, & General Washington's friends, the time to get him to agree to be elected as one of the members of the State Convention but ever restrained by his modesty, he steadfastly refused to do it. It is said that he fears that if he appears to be too zealous a federalist, that he would be accused of working for himself, since he cannot ignore the fact that if the new Constitution takes place, he is destined to become the first *President-general*, this conduct does nothing to assure those who maintain that his presence alone in the Convention, would have carried [more than?] twenty votes. The greatest opposition on the part of Antifederalists is expected in this last state [New York]: This party counts among its members several very popular people it is true, but the other prides itself quite justly on having leaders of the soundest judgment & the best Orators. One awaits the Outcome of this Period of Conventions; South Carolina's was to begin on the 12th of this month; this State's is set for 17 June; Virginia's for the first week, New Hampshire's for the last of the same month, finally that of North Carolina for 4 July.

But although it is very probable that nine or even ten States will accept this new form, I am still far from conceiving that it will be able to have much vigor for a long time yet; it is very likely that the Delegates who will compose the first federal Congress will be specially instructed by their Constituents not to support any act of Legislation before having obtained the ratification of different clauses (amendments) which, depending on the local interests of the confederated States, will all be contradictory; & then how to subject to the dominion of laws a people, who for so long have not experienced a salutary check, who confuse a license without bounds under the name of Liberty, who believe that one can be free without government & rich without effort; how to restrain a people who inhabit a Continent so vast and so unlimited, a people whose manners are so changed, for the upheaval in customs & opinions occasioned by its separation from Europe has created a sort of interregnum, a void, that can only be replaced after a long passage of time; perhaps even this century will not witness the complete restoration of a perfect tranquility & calm; the next generation will imperceptibly acquire a greater respect for these new forms; & these happy customs, finally becoming national, will contribute to spreading their salutary influences. Judging these people by their present character, by the geographic situation of all these States, I believe that their union can never be very close, unless it finally becomes the result of force & violence; the inclination for Emigration, the facility with which they leave the dwellings of their fathers, in order to go beyond the Mountains, all these reasons will make the proposed consolidation [very?] difficult.

One of the sources of all the misfortunes that I observe here comes from the fact that with the peace, the Americans believed that the revolution had been accomplished when it had only begun; for although independent from Europe in its government, this country still nevertheless depends on it for the greater part of its customs, & unfortunately for its credit, [whose?] deadly poison makes itself felt everywhere.

Even if this new Constitution is adopted by a sufficient number of States, it must be expected that it will be fought by the opposition that is forming on all sides; some, devotedly attached to their sovereignty & to their independence, regard as sacrilege the [efforts?] federalists are making to bring down their opponents, destined to make up the general government; others fearing the impartiality of the new courts of law that it is proposed be established, call these new principles budding tyranny, & fill the gazettes with a flood of declamations addressed to the passions, much more than to the reason of the readers; another class, composed of those who occupy lucrative places in each of these States, which can be called the Oligarchic party, seeing only in this new order of things the end of their mercenary & ambitious lives, sends forth loud cries & endeavors to spread alarm on all sides; and finally, others, carried away by the perversity of human nature, fear the return of order, & would wish to plunge the entire machine into Anarchy & Confusion.

It would thus be flattering oneself needlessly to believe that reason alone operates this great marvel; the contrary is to be feared, that submitting to the ordinary fate of Men, they will only be able to receive a uniform & coercive government by means of violence, & in that case the union will be destroyed; the Southern States, whose interests are so different, who are so jealous, and who dread so much the energy, activity & Industry of the inhabitants of the North, will form Alliances in Europe; then all will be irrevocably lost. That is possibly what will become of all these Democratic forms, so grand on paper, which will have been deadly and deceitful dreams. It is thus not on their Constitutions but on the acts & on the present state of their morals that one must judge the nation, which, although new, is nevertheless corrupted with such rapidity; and how could individuals be honest, when the government was able to support a ruinous war only by transactions that so strongly compromised the public credit, that necessarily aroused fraud & greed. The subsequent conduct of almost all these Sovereignties since the peace was not helped by their paper money, which put the crowning glory on all these misfortunes. How intimate are the ties that exist between the morals of a nation & the value of its money. I see only one hope, [&?] it is based on the unexpected help of some even more unfortunate circumstances than those in which they find themselves today that will finally make them open their eves to the absurdity of wanting to preserve all the rights of independence & sovereignty for each one of these States, without conceding any of them to the general government. This disastrous opinion, which has occasioned so many errors since the peace, still Militates against the [---] principles of the social contract. If heaven in its anger blinds them, if they reject this favorable occasion of obtaining a government that promises them dignity & happiness, it is not possible to predict what form sooner or later will come out of the midst of this disorder & this Anarchy; in less than three months they will cross the rubicon, [&?] we shall see what course the federalists will adopt....

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 910, New York, ff. 56–59, Archives Nationales, Paris. This letter, despatch number 6 from the French consulate in New York City, was endorsed as received on 9 July. Words in brackets with question marks are not legible in the original French. César-Henri, Comte de la Luzerne (1737–1799), was French Minister of Marine and Colonies from 1787 to 1790. He is sometimes confused with his brother, the Marquis de la Luzerne, who had been French minister plenipotentiary to the United States.

2. The Courier de l'Europe was a newspaper printed in both London and Paris.

3. For the Virginia Convention election of delegates from Fairfax County, which took place on Monday, 17 March, from 12:00 P.M. to 4:00 P.M., see RCS:Va., 581–87.

# 745. Antoine de la Forest to Comte de la Luzerne New York, 16 May<sup>1</sup>

The accession of Maryland to the new plan of federal Government has just brought to seven the number of States that have had their ratification carried to congress. This accession took place without restriction and has the advantage over that of Massachusetts not to be accompanied by any amendments designed to obtain changes. It was nevertheless not very far from imitating the example of this last state. The Maryland Convention, after having adopted the proposed constitution by a majority of 63 votes to 11, named a committee of 13 of its members to draft the necessary alterations; it resolved at the same time that it would take into consideration only those that would be presented to it by this committee, which was composed of partisans and enemies of the new System. The latter wanted to make a last effort to destroy the system's power. They first proposed 13 restrictive amendments that were agreed to; they then added 15 others to them, the most notable of which, because it best characterizes the fears of the Southern States, stated that no regulation of commerce and navigation could take place except with the consent of two-thirds of the members of each branch of congress. These 15 amendments were rejected by their opponents with the offer to combine all their efforts in the convention in order to have the [13] amendments that they had accepted approved there. The antifederalists were not satisfied with this: they tried to come to terms, nothing came of it; and when the committee was unable to agree on a report to the convention, the latter simply held to its ratification and ended the session.

Such is, My Lord, the summary of the seventh triumph that the federalists have obtained. But the closer they approach the goal, the more it is feared we will see their cause fail. People are even beginning to ask what the operation of the new Government will be in the most favorable case, that is to say, when all the States have accepted it. One will see then the establishment of a great jealousy between the individual legislatures and the central authority; the latter always thwarted in its endeavors, always quibbled with about its powers; the former incessantly occupied with spreading alarm in the minds of men, with proposing restrictions, with welcoming the clamors of the opposition. Today the impotence of the Government is blamed for all public and private troubles; the different classes of citizens, farmers, merchants, sailors, manufacturers, artisans, capitalists, expect their fortune from the proposed constitution and are warmly in its favor; their zeal to support it may fade away with these illusions. If the new Government wants to make its powers secure from the beginning, raise taxes, pay its public debts, get the funds for its functioning, there will not be one voice there to limit it immediately. If it temporizes, if it seeks to treat the opposition with respect, if it seeks to please the people, their disobedience will grow along with the habit of not being governed, and their constitution will have power only on paper. These apprehensions are only too justified by the character of the Americans. I dare think that a nation can obtain a good constitution only by a succession of bloody revolutions, like England; or when a Ruler, powerful enough to dictate his wishes and virtuous enough to cherish civil rights, himself makes his subjects accept privileges compatible with the need to be Governed.

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 910, New York, ff. 60–61, Archives Nationales, Paris. This letter, despatch number 233, was endorsed as received on 9 July-the same day that Crevecoeur's letter (CC:744) was received.

# 746. Mercy Warren to Catherine Macaulay Graham Milton, Mass., c. 16 May<sup>1</sup>

In my last I gave no opinion relative to the adoption of the system of government offered by the late convention at Philadelphia.—At present there appears little doubt that more than nine states will agree to ratify, and without amendments accept it *in toto*.

Some of the best friends to the liberties of America and the most distinguished of her patriots have opposed it with energy, as offered to the public; though many of them think it may be so amended as to answer every purpose of a salutary, strong, and respectable government.

Pennsylvania, the Delaware counties, New Jersey, Georgia and Connecticut, have already adopted the proposed system, even without hinting at the necessity of any amendments.—Massachusetts and Maryland have also ratified the doings of the convention, though they have given a list of *necessary alterations*:<sup>2</sup> but they have not made this the condition of their acceptance. New Hampshire has met and adjourned on a pretty equal division:<sup>3</sup> in Rhode Island the plan is rejected by five sixths of the people:<sup>4</sup>—the Carolinas will come in: Virginia and New York are still doubtful, but most probably will accede.

Thus stands the system:—how it will operate must be left to time. I hope it will be so modified and corrected, as to be productive of unanimity and every other good effect.

If you madam have seen the American publications we must appear to you a very divided people. Those who stile themselves *Federalists* 

## c. 16 May, CC:746

are perhaps less fond of harmony than the class stigmatized with the appellation of Anti Federals.—The last, wish for a union of the states on the free principles of the late confederation; while the first are for the consolidation of a strong government on any or on no principles;— and are for supporting it by force at the risque of distorting the fairest features in the political face of America.

Perhaps your curiosity may be excited to inquire who are the principal characters in the several states who have had the courage to oppose a system, that a majority in most of the state conventions have approved, and that a considerable party are enthusiastically mad to support at every hazard.—

I give you a list of a few names—Lowndes, Laurens, Gadsden,<sup>5</sup> in South Carolina;—Martin, Chase, and others in Maryland;—Governor Randolph, P Henry the late Governor; the whole family of the Lee's and many other respectable characters in Virginia; Judge Byron,<sup>6</sup> and many gentleman of ability and distinction in Pennsylvania;—Gove[r]nor Clinton, two of the delegates who were of the federal convention, and many others in New York; your friend General Warren and Mr Gerry who also was one of the convention in the Massachusetts.

I take the liberty to transmit to you the reasons of dissent from the majority in the Pennsylvania convention,<sup>7</sup> the proposed amendments of Massachusetts and Maryland, a pamphlet circulated in the Massachusetts immediately on their ratification and a few addresses to the public previous thereto under the signature of Helvidius Priscus.<sup>8</sup>

Thus I have given you a slight sketch of the state of parties in this country. Human nature is too often villified by some and depreciated by others; but I think the times we have lived in are not the most favourable to the noblest feelings of the soul. Old attachments have been eradicated by the diversity of political opinion: animosities heightened by the severity or indiscretion of parties; new political connexions formed as it were by accident without any principle of public or private virtue for their basis.

A fondness for honorary distinctions, has arisen among us which calls for an hereditary monarchy for its support: and a taste for expensive pleasure reigns while the public treasuries are empty and the private finances low. A combination of other incidental circumstances has involved this generation in a mist ascending from the pit of Avarice and led them to the chimerical pursuit of the *Golden fleece* of the poets which some think and perhaps may find deposited with the fabricators of the new government.

If you wish to know more of the present ideas of your friend and the consequences apprehended from the hasty adoption of the new

#### COMMENTARIES ON THE CONSTITUTION

form of government, I will whisper you—You may find them at large in the subjoined manuscripts I now enclose with a printed pamphlet entitled the Columbian Patriot by the same hand.<sup>9</sup> I am madam as ever yours affectionately

1. FC, Mercy Warren Papers, Mercy Warren Letterbook, MHi. The letter is dated 18 December 1787, but it was completed after Mercy Warren learned that Maryland ratified the Constitution on 26 April 1788 and that the Maryland Convention considered amendments. Between 12 and 16 May, four Boston newspapers reprinted the amendments considered in the Maryland Convention; it is likely that Warren saw one of these printings, as well as the news of Maryland ratification that appeared as early as 7 May in a Boston newspaper. (For more on the Maryland amendments, see CC:716.)

2. For the recommendatory amendments of the Massachusetts Convention, see CC:508.

3. For the adjournment of the New Hampshire Convention without ratifying the Constitution, see CC:554.

4. On 24 March Rhode Islanders, voting in town meetings, rejected the Constitution by a margin greater than eleven to one (see CC:664).

5. Henry Laurens and Christopher Gadsden, both of whom (like Mercy Warren) had been prominent in the independence movement before 1776, were actually Federalists. For more on Gadsden, see CC:730.

6. George Bryan.

7. For the "Dissent of the Minority of the Pennsylvania Convention," see CC:353.

8. For the "Helvidius Priscus" essays, possibly written by Mercy Warren's husband James, see CC:436. The pamphlet that Mercy Warren said circulated in Massachusetts immediately after its Convention ratified the Constitution was either her own pamphlet ("A Columbian Patriot," CC:581) or *Letters from the Federal Farmer* (CC:242), which began circulating in Massachusetts in early January 1788.

9. For Warren's pamphlet signed "A Columbian Patriot," see CC:581.

## 747. Maryland Journal, 16 May<sup>1</sup>

Extract of a Letter from a Gentleman in Paris, to his Friend in this Town, dated February 3, 1788.

"I have much Satisfaction in informing you, that the Laws constituted by the Federal Convention, have made great noise in Europe.— In England they are so much admired, that they have been printed, and are profitable to the Printer—Every body praises them, but more than they otherways would, did they not flatter their Laws, which they esteem the most perfect. In France, they are highly esteemed also, and the Sentiments upon them more liberal:—The Parliaments of France, but particularly that of Paris, for some time past have endeavoured to clip the Wings of their Monarch, to prevent his high Flights, and in Fact have lately succeeded in their Attempts, by establishing Laws upon more liberal Principles than heretofore. Since the American Revolution, they have been seeking after something, and at last, like a Divine Charm, have met with that which opens their Eyes, and restores them

to Light: the late Laws, of which we are speaking, have produced those Effects-they have been before the Parliament of Paris as a Model of Wisdom, to be copied after-They were there amply discussed, and most ably defended by a Majority of the House; however, there was one Member violent in his Oppositions; but from one of his Speeches you will find that Prejudice influenced him. 'Do you think,' says he, Gentlemen, that an old Nation, like this, will take for its Model the Laws of an Infant Country, which does not yet know how to carry the Bread to its Mouth: No!' This you see is ridiculous, and not only repugnant to the Opinions of some of the greatest Politicians, but even to Nature and common Sense; and contradicted by innumerable Facts, many of which were pointed out to him, the next Day, by the Count De Mirabeau, who took an Opportunity of exposing him in the public Papers, and therefore of extolling America to the Stars, by saving that, in less than Thirty Years, it would become the most renowned Empire of the Four Parts of the World; and this I can tell you, is a very general Opinion. The Objections here to the Constitution are, that the Presidents ought not to be Chosen during their good Behaviour, but for a certain Time only, that the Honour may not be a Matter of too much Contention, which would generally be the cause of Bloodshed, Slaughter, Anarchy and Confusion; that the Executive and Legislative Powers ought to be separated, and that there should be a Bill of Rights.-The States of Holland, sensible of the rising Progress of America, from considering its Resources, its Commerce, and the Disposition of its Inhabitants, have offered Congress, through the Hands of Mr. Jefferson, the American Ambassador at Paris, a Loan of £.80,000 Sterling, to be delivered as soon as there is a permanent Government established,<sup>2</sup>-certain that their Money will be more secure in the American Funds, than in any other whatever.-Their Reasoning is sensible, and founded upon just Principles.-They say, that America is large and extensive, and must soon become opulent from its Commerce: that since the Peace, they have sunk Eight Millions of their Debt, and have still a Principal to sink the Capital entirely, that which no other Country whatever, thinks of, and that after that is once accomplished, America will be one of the most free and unembarrassed Nations in the Universe.-To give you an Idea more particularly of the Opinions of the Hollanders, an American Gentleman had purchased a Number of Continental Certificates, at 12 per Ct. with which he went to Holland, not expecting to make any thing by them; but when he arrived there, he found the Inhabitants so well disposed towards the Americans, and having so good an Opinion of their Property, that he sold his Certificates at 60 per Ct. to the amount of  $\pounds$ .150,000 sterling.—This you may depend upon as a Fact, for I have it from the best Authority."

1. Reprints by 24 June (23): N.H. (4), Mass. (5), R.I. (2), Conn. (1), N.Y. (3), N.J. (1), Pa. (5), Va. (1), S.C. (1).

2. In early 1788 Thomas Jefferson and John Adams negotiated with Dutch bankers for a loan of 1,000,000 florins (\$400,000), which would be used to pay the interest due on previous loans that would come due during the years 1788, 1789, and 1790. It was necessary, stated Jefferson, to provide for these years because the Constitution still needed to be adopted and a new Congress had to be assembled to adopt tax laws (to John Jay, 16 March, Boyd, XII, 671–72. For more on this loan, see RCS:Va., 1138, note 12.).

## 748. James Madison to George Nicholas Orange County, Va., 17 May<sup>1</sup>

I received your favor of the 9th. inst:<sup>2</sup> several days ago, but have never been able till this moment to comply with the request it makes on the subject of the Mississippi.

Many considerations induce me to believe that there is not at present any dangerous disposition to sacrifice the right of the U.S. to the common use of that navigation.<sup>3</sup> The discussions and enquiries which have taken place on that subject, have had a sensible influence on many opinions which had been formed under very partial and erroneous views of it. I have reason to believe particularly that the project will not again have the patronage of one very influencial quarter. I find also that in States whose delegates had the strongest leaning towards the project, there are more weighty characters who warmly disapprove of it. I may add that some circumstances of a nature not to be particularized, are within my knowledge, which have more effect than any thing I have mentioned, in justifying the opinion I have expressed. These remarks will themselves suggest that they are communicated in confidence.

As far as any disposition may remain to form a treaty with Spain unfriendly to the views of the Western people I think it will be evidently diminished by the establishment of the new Constitution.

The great argument used by the advocates for a temporary cession of the American right was that the Union could not cause the right to be respected by Spain, that it was dishonorable to assert a right and at the same time leave another nation in the full and quiet possession of it, and that to exchange it was to get something for nothing. The force of this reasoning will vanish with the national impotency of our present situation

The more intimate and permanent the Union be made, the greater

will be the sympathy between the whole and each particular part; and consequently the less likely will the whole be to give up the rights or interests of any particular part. Many seem to have been led by the supposed inability of the existing confederation to retain the Western settlements under the general authority, to consider that part of the U.S. as a foreign country, and the other part as at liberty for that reason to pay an exclusive regard to its own particular interests. If the proposed Government will have energy enough to maintain the Union of the Atlantic States, it will be soon perceived, I think, that it will be equally capable at least, to bind together the Western and <del>Eastern</del> Atlantic States.

The protection and security which the new Government promises to purchasers of the fœderal lands, will have several consequences extremely favorable to the rights and interests of the Western Country. It will accelerate the population & formation of new States there, and of course increase its weight in the general scale. It will encourage adventurers of character and talents who will not only add much to that weight, but will leave behind them friends and connections who will feel a variety of motives to stand up for whatever concerns the Western Country. It will induce many who will remain at home to speculate in that field with a view of selling out afterwards, or of providing for their children. These with all their friends will form a new class of advocates for their Western brethren. To such causes we are to ascribe the peculiar attachment which Virginia has shewn to the navigation of the Mississippi. The same causes will produce the same effect, wherever they may operate. The disposition of the New England people to emigrate into the Western Country has already shewn itself under every discouragement of the present crisis. A very considerable quantity of public land has been already contracted for by persons of influence in that Country, who are actually carrying out settlers for their purchases.<sup>4</sup> This circumstance has probably contributed to the relaxation of that quarter in the business of a Spanish Treaty. In a very short time if due provision be made for the safety & order of the settlements N.W. of the Ohio the Muskingum will be as well known, and inspire as much solicitude in N. England, as Kentucky does here.

As the establishment of the new Govt. will thus promote the sale of the public lands, it must for the same reason enhance their importance as a fund for paying off the public debts, and render the navigation of the Mississippi still more an object of national concern. Add to this that the new Government, by substantiating the domestic debt, will render the vacant territory a more necessary, as well as more productive fund for discharging it.

On these considerations principally I ground my opinion that the disposition to cede the Mississippi will be much less under the new than it may be under the old system. I am no less persuaded that the form of the new system will present greater obstacles to the measure than exist under the old. The present Congress possess the same powers as to treaties, as will be possessed by the New Government. 2/3 of the Senate will also be required, as 2/3 of Congs. now is. The only difference which relates to the Senate is that 2/3 of a majority of that body will suffice; whereas in Congs. there must be 2/3 of the whole number of votes.<sup>5</sup> This at first view seems to be a material difference: but in practice it will be found if I mistake not, to be much less so. The representation in the Senate will be generally full for this very reason that a majority will make a quorum, and 2/3 of that number be competent to a decision. The apprehension of important decisions in a thin House will be a spur to the attendance of the members. It will be an additional spur that decisions when made will have real efficacy. In Congs. the case is different in both respects. So great a proportion of the whole body must concur in every act, particularly in important acts that the absent States find almost as great a security in their absence as in their presence, against measures which they dislike. And they well know that as the measures of Congs. depend for their efficacy on the State legislatures, it is of little consequence in general how questions may be decided. From these causes proceeds the difficulty of keeping up a competent representation.

In calculating the probability of an event depending on the opinion of a body of men, it is necessary to take into view the degree of mutability in the component members of the body. It is obvious that every change of members produces a new chance of the event. If we try the danger to the Mississippi under the old and under the new system by comparing them in relation to this principle, the friends of the Mississippi cannot hesitate to embrace the latter. If the first choice should produce a Senate opposed to the sacrifice of that object, it can not be sacrificed for two years, the danger from a new election of the whole number, can happen but once in six years, and as the same members are re-eligible from time to time, the danger from a change may possibly not happen during the lives of the members. On the other hand the members of Congress may be changed at pleasure, they hold their places at most from year to year, and the entire body necessarily undergoes a revolution once in three years. How many chances does such a body present in a period of six years for the turning up of any particular opinion<sup>6</sup>

To compleat the comparison between the two bodies another dif-

ference is to be noted. In the Senate the States will be represented each by two members who are to vote per capita. In Congress the representation consists of an uncertain number, generally three or five, any two of whom can give the vote of the State.<sup>7</sup> From this peculiarity in the Constitution of Congress, two observations result. 1. If any two out of the three, five or more members happen to concur in any particular opinion and happen to attend together without their colleagues or with not more than one of them, their opinion becomes the vote of the State. It is easy to see how this must multiply the chances of any particular measure in Congress. Where the measure may depend on a few wavering or divided States, this circumstance is of material importance. On the very subject of the Mississippi I have seen the opinion of a State in Congress depending altogether on the casual attendance of these or those members of the same deputation. and sometimes varying more than once in the course of a few days. Even in the Virginia deputation the vote of the State might have been given in opposition to the sense of a majority of the delegates in appointment. 2. Although 9 States which are  $\frac{2}{3}$  of the whole must concur in Treaties made by Congress, yet it may happen that of the members present less than 2/3, the proportion absolutely necessary in the Senate, may give an affirmative decision. If each delegation contain 5 members present, 27 can carry the point, who amount to 3/5 only of the whole number. If the delegations contain each 3 members only, the point may be carried by not more than 2/3.

But the circumstance most material to be remarked in a comparative examination of the two systems, is the security which the new one affords by making the concurrence of the President necessary to the validity of Treaties. This is an advantage which may be pronounced conclusive. At present the will of a single body can make a Treaty. If the new Government be established no treaty can be made without the joint consent of two distinct and independent wills. The president also being elected in a different mode, and not having the same constituents and under a different influence from that of the State Senate. will be the more apt and the more free to have a will of his own. As a single magistrate too responsible, for the events of his administration, his pride will the more naturally revolt against a measure which might bring on him the reproach not only of partiality, but of a dishonorable surrender of a national right. His duration and re-eligibility are other circumstances which diminish the danger to the Mississippi. If the first election should produce either a Senate or a President opposed to the scheme of giving up the river, it must be safe for a considerable time, the danger can only return at considerable intervals, and there will always be at least a double chance of avoiding it.

I consider the House of Reps. as another ob[s]tacle afforded by the new Constitution. It is true that this branch is not of necessity to be consulted in the forming of Treaties. But as its approbation and cooperation may often be necessary in carrying treaties into full effect; and as the support of the Government and of the plans of the President & Senate in general must be drawn from the purse which they hold, the sentiments of this body cannot fail to have very great weight, even when the body itself may have no constitutional authority. There are two circumstances in the structure of the House of Reps. which strengthen the argument in this case. The one is that its members will be taken more diffusively from each State than the members of Congs. have generally been. The latter being appointed by the State legislatures, and considered as representatives of the States in their political capacities, have been appointed with little or no regard to local situation, and have of course been taken in most of the States from the commercial and maritime situations which have generally presented the best choice of characters. The House of Reps. on the other hand must consist by a large majority of inland & Western members. This is a difference of some moment in my opinion, on the subject under consideration. The other circumstance is that the people of America being proportionally represented in this branch, that part of America which is supposed to be most attached to the Mississippi, will have a greater share in the representation than they have in Congress, where the number of States only prevails. So that under the new System every Treaty must be made by 1. the authority of the Senate in which the States are to vote equally. 2 that of the President who represents the people & the States in a compounded ratio, and 3, under the influence of the H. of Reps. who represent the people alone.

After all perhaps the comparative merits of the two systems in relation to the point in view depend less on what they may probably omit to do, than on their ability to effect what it is proper they should do. The Western strength is unable at present to command the use of the Mississippi. Within a certain period it will be able. Neither the new nor the old system will be able by any acts or Treaties whatever, very long to protract this period. What ought to be desired therefore by the Western people is not so much that no treaty should be made, as that some treaty should be made which will procure them an immediate and peaceable use of the river. The Present Congs. if ever so well disposed is wholly and notoriously incompetent to this task. Their successors, if the new Government take place, will be able to hold a

language which no nation having possessions in America will think it prudent to disregard; and which will be able to have a due effect on Spain in particular.

Besides these considerations which relate to a particular object, there are others which I should suppose ought to recommend the proposed Constitution to the Western Citizens.

They have a common interest in obtaining the advantages promised by a good general Government, as well as in avoiding the mischiefs of that anarchy which now hovers over us.

If not the number, at least the character of emigrants to that Country, as well from Europe as the elder States, will depend on the degree of security provided there for private rights and public order.

The new Govt. and that alone will be able to take the requisite measures for getting into our hands the Western posts which will not cease to instigate the Savages, as long as they remain in British hands. It is said also that the Southern Indians are encouraged and armed by the Spaniards for like incursions on that side. A respectable Government would have equal effect in putting an end to that evil. These are considerations which must I should think have great weight with men of reflection.

It seems probable that even if the Mississippi were open, it would be used as a channel for exportation only or chiefly, and that the returns will be imported more cheaply & conveniently through the Atlantic States. On this supposition the Western inhabitants, like those of the non-importing States on the Atlantic, will be taxed by other States as long as the present system continues. This must necessarily be the case prior to the opening of the Mississippi. The effect of this oppression on N. Jersey, Connecticut & Deleware are well known.

The idea of an exportation down the Mississippi, and an importation through the channels I have mentioned, has always appeared to me to be warranted by the probable interest and arrangements of the Western people and to furnish a strong inducement to the Atlantic States to contend for the navigation of that river. The imports of every Country must be pretty nearly limited by the amount of its exports. Without the use of the Mississippi the Western Country will export little or nothing. The Atlantic Country will of course have little or no profit from supplying them with imports, at least after the money carried thither by emigrants shall be exhausted. Open the Mississippi, and the amount of imports will yield a profit to the Atlantic merchants which must be contemplated with great avidity.

I have no particular materials or calculations for determining the revenue that may be drawn from the general imports. It does not appear to me to be necessary to go much into details on the subject. As far as it may, the Custom-House returns of Virga. may give proper data. We know in general that the annual amount may be rated at about four millions sterling and upwards. Five perCt. on this which is less than is raised in any other Country except Holland, will be a most precious resource.<sup>8</sup> We know too that there are several particular articles on which enumerated duties may be superadded. From an estimate I saw in N. York, the rum imported there amounted to one million of Gallons. As a part of N. Jersey & of Connecticut are supplied from that port, N. York may perhaps import <sup>1</sup>/<sub>6</sub> of the whole quantity consumed in the U. States. According to this calculation one shilling per Gallon wd. yield a million of dollars. Other articles might be selected.

I have the pleasure to find that Mr. Brown will befriend the Constitution as far as his influence will extend. Mr. Griffin tells me so.<sup>9</sup> I am sorry that the returns from Kentucky will render an exertion of it necessa[r]y. It is much to be feared that the members may come fettered not only with prejudices but with instructions.<sup>10</sup>—I beg you to excuse the marks of hurry with which I have written. The hope of finding a conveyance from the Church at which Mr. Waddel preaches,<sup>11</sup> limited me to a space of time which did not admit of correctness. Inclosed are a few papers recd. a few days ago, from Mr. Griffin,<sup>12</sup>

1. RC, Reuben T. Durrett Collection, Miscellaneous Manuscripts, 1786–1792, Department of Special Collections, University of Chicago Library.

2. For Nicholas' letter of 9 May, see RCS:Va., 793.

3. For a discussion of the Jay-Gardoqui treaty negotiations, the responses to these negotiations, and Virginia's interest in the free navigation of the Mississippi River, see CC:46; and RCS:Va., xxix-xxxi, 1179-83.

4. In October 1787 Congress sold land in the Northwest Territory (southeastern Ohio) to the Ohio Company, a New England-based group. In the spring of 1788 groups of New Englanders began to settle in that territory. For an example of such a group which was led by Samuel Holden Parsons of Connecticut, see CC:696.

5. Under the Articles of Confederation, the assent of nine of the thirteen states was necessary to adopt treaties (CDR, 92); while under the Constitution, the concurrence of two-thirds of the senators present was sufficient.

6. The frequency of change in the Confederation Congress was probably not as great as Madison states. The Articles provided that delegates could serve no more than three years in six (CDR, 87). Delegates often served three consecutive years and then were ineligible for the next three. Other delegates served a year or two, dropped out, and then returned for another year or two. Consequently, it is unlikely that there was an entire change in membership every three years.

7. Under the Articles of Confederation, no state could be represented "by less than two, nor by more than seven Members" (CDR, 87). In 1784 a Virginia law provided that the legislature should appoint five delegates to Congress, three of whom were required to be always in attendance.

8. Madison presumes that Congress would propose a tariff similar to the proposed Imposts of 1781 and 1783, which had called for specific duties on about a dozen products and a five percent ad valorem duty on all other goods.

9. See Cyrus Griffin to Madison, 28 April (RCS:Va., 764-65). John Brown and Griffin were Virginia delegates to Congress, with Griffin also serving as president of that body.

10. In June the Virginia Convention delegates from Kentucky's seven counties voted 10 to 3 against ratification of the Constitution, with one delegate not voting.

11. Between 1786 and 1788, James Waddell or Waddel, a Presbyterian clergyman, preached at St. Thomas' Episcopal Church in Orange (Rutland, *Madison*, XI, 51n).

12. On 28 April and 5 May, Griffin sent Madison copies of a New York City newspaper (probably the *Daily Advertiser*) for those days (RCS:Va., 764; and Rutland, *Madison*, XI, 38).

## 749. Samuel A. Otis to George Thatcher New York, 18 May (excerpts)<sup>1</sup>

I know you have a very good excuse for your long silence, I long however to hear you say what it is—That you are occupied in geting a seat in the comeing General Court—That your hands are so full of [---] you cant grasp a pen—Or that your attentions are still more agreeably engaged with Mrs Thacher & your family—I wish I could be enabled to make this last apology to my friends for negligence—But the fates ordain otherwise, and I must submit.

I think I have not written you since the accession of Maryland to the new System—The accounts are favorable from the South and unless Virginia *does*, I hardly apprehend a negative from the Southern States....

In Congress we go on with seven States as usual, but I think nine are like to be upon the floor this week—The most deficient State is New York, which is very extraordinary. There is a Doctr Williamson ar[r]ived who seems to have got with him from No Carolina a quantum of self consequence. Kentucki business I think must unavoidably be agitated this week—Brown who by the way improves upon acquaintance is incessant in his application.<sup>2</sup> The New England members will certainly be in opposition—King tells me we are not impowered in his opinion, And if we were it is extremely improper in the present state of affairs.<sup>3</sup>

I find it is the general opinion that the New wheel will revolve—N Carolina, our pompous brother Williamson thinks there will be no fear of, nor perhaps will there be of SC, and Virginia with all her stateliness, will be very unwilling to stand alone; For N York will accede with the worst possible grace, I think she will be bullied into it.—

I think the people of Massachusetts, by what I have heard of their elections, are in a state of tollerable union & tranquility-This rejoices

me, because N England united, will forever counterpoize any cabals & manœuvres of the South.

Do drop us a line however for forms sake, if you have forgot all regard for chum, or rather if you have suffered it to be absorbed...

1. RC, Washburn Papers, XXII, 138, MHi. This letter was misdated "18 March 1788," but the contents reveal that it was written on 18 May. The postscript (not printed here) is dated "20th May."

2. John Brown of Kentucky was a Virginia delegate to Congress, who lobbied Congress for Kentucky statehood.

3. Article XI of the Articles of Confederation provided that Congress with the vote of nine states could admit colonies into the Union (CDR, 93). On 27 May Otis and fellow Massachusetts delegate Nathan Dane, possibly influenced by what Rufus King had said, wrote Governor John Hancock that "The State of Virginia and the District of Kentucky have applied to Congress for the admission of that District into the union as an independant State—this Subject involves in it Several Considerations, and particularly this, whether the admission of Kentucky into the union ought not to be contemplated, at least for the present, in connexion with the admission of Vermont—

"It does not clearly appear that Congress have the power under the Confederation to consent to the division of a State, and to the admission of a part of it, as an independant State, into the Confederacy—We doubt whether it is expedient at this time to decide on a Subject of this nature, or whether the admission of a State would be of any avail to it—

"But situated as these two districts are we think it advisable, that no discouragements to their admission into the Union, as independant States, hereafter, ought to be hove in the way—We think it proper thus briefly to State this subject to your Excellency, and our sentiments relative to it, and to observe, that it is our opinion at present, that we ought to Act in conformity to them, unless otherwise instructed by the legislature" (LMCC, VIII, 741). For more on the opposition of the Eastern States to the admission of Kentucky, see John Brown to James Madison, 7 June, and to Archibald Stuart, 25 June (*ibid.*, 749–50, 757).

# 750 A-Q. The New York Federal Republican Committee Seeks Interstate Cooperation in Obtaining Amendments to the Constitution, 18 May-6 August

The first significant interstate cooperation in proposing amendments to the Constitution failed. On 27 December 1787 Virginia Governor Edmund Randolph, at the behest of the Virginia legislature, made an overture to the other states to cooperate in obtaining amendments. It was not until 7 March 1788 that Randolph's letter reached its destination in New York, a state where the sentiment for amendments was strong. The letter was presented to the New York legislature on 10 March, but the legislature, which had called a state ratifying convention on 1 February, took no action. On 8 May New York Governor George Clinton wrote Randolph complaining about the two-month delay in receiving the letter (CC:736). By the time that Clinton wrote Randolph, seven states had ratified the Constitution and only two more were needed to adopt the Constitution. The South Carolina Convention was scheduled to convene on 12 May, Virginia's on 2 June, New York's on 17 June, New Hampshire's on 18 June, and North Carolina's on 21 July. Rhode Island alone had refused to call a convention.

Intent on adopting amendments before the Constitution was ratified by nine states, New York Antifederalists realized that time was running out. Consequently, in mid-May the Federal Republican Committee of New York, a group of Antifederalists in and around New York City, wrote letters to prominent Antifederalists in New Hampshire, Pennsylvania, Maryland, Virginia, and North and South Carolina calling for cooperation in obtaining amendments to the Constitution before it was ratified. Pennsylvania and Maryland had ratified in December 1787 and April 1788, respectively, but there was substantial support in each for amendments. Accompanying these letters, which were signed by John Lamb, the committee's chairman, were Antifederalist publications, among them a lengthy pamphlet-An Additional Number of Letters from the Federal Farmer to the Republican (CC:723). Because either Lamb or the Federal Republican Committee delayed transmitting the letters, all but two of them finally reached their destinations between 7 and 20 June. It was also rumored that John Lamb had written to Governor John Collins of Rhode Island, enclosing "a large packet of pamphlets against the proposed constitution" (Newport Herald, 29 May, and 12 June. See also Massachusetts Centinel, 7 June.). The Lamb Papers at the New-York Historical Society, however, contain no reply from Collins or any other Rhode Islander.

The New York Federal Republican Committee, targeting Virginia as the most important state, addressed letters to Patrick Henry, George Mason, and William Grayson, among "the most influential Delegates" to the Virginia Convention. The committee also wrote to Richard Henry Lee, possibly because it assumed (incorrectly) that Lee would also be a delegate. Fearful lest the letters be intercepted if sent through the post office, the letters were carried to Richmond by Eleazer Oswald, the highly partisan Antifederalist printer of the Philadelphia *Independent Gazetteer*. Only in the case of Virginia does it appear that a special carrier was employed. While Oswald was en route, the committee learned that New York Antifederalists had won a landslide victory in the election of convention delegates and that South Carolina had ratified the Constitution. Therefore, on 6 June the committee again wrote to Virginia and New Hampshire Antifederalists, hoping that the news of the New York Vork, Virginia, and New Hampshire.

Eleazer Oswald arrived in Richmond on 7 June. Presumably, the delivery of the letters had been scheduled to coincide with the first days of the Virginia Convention. Federalist convention delegates, such as James Madison and Henry Lee of Westmoreland County, knew about Oswald's arrival, his meetings with Virginia Antifederalists, and the movement to obtain amendments prior to ratification. (See Madison to Alexander Hamilton, 9, 16, and 20 June, and Lee to Hamilton, 16 June, RCS:Va., 1589, 1630, 1631, 1657. See also Robert Smith to Tench Coxe, 31 July, quoted in RCS:Va., 812.)

On 9 June, or shortly thereafter, Eleazer Oswald started back for New York, carrying letters from William Grayson, Patrick Henry, and George Mason responding to Lamb's May letters. The Virginians, all writing on 9 June, informed Lamb that they had formed a "Comm[itt]ee of Opposition" or a

"Republican Society" and had drafted some amendments to the Constitution. Other amendments were being prepared (CC:750 C–E). George Mason, the chairman of the committee, enclosed a copy of the amendments (CC:750–E). There is no evidence that Virginia Antifederalists ever responded to the 6 June letter of the New York Federal Republican Committee.

The three Virginians expressed concern that their state Convention was evenly divided between Federalists and Antifederalists. If ratification could be postponed, Mason told Lamb "that an official Communication will immediately take place between the Conventions of this State and yours." He also said that, at the present time, Virginia did not have an Antifederalist organization equivalent to the Federal Republican Committee of New York. If such an organization "should hereafter become necessary," Mason continued, "it is hoped that System and Order will every where appear suitable to the Importance and Dignity of the Cause." According to Patrick Henry, if the Virginia Convention ratified the Constitution, the state's Antifederalists should form their own Republican Society, perhaps composed of multiple associations because of "our dispersed Situation." Before leaving Richmond, Oswald told the Virginians that in the future they could safely write the Federal Republican Committee by addressing their letters to Captain Jacob Reed, Jr., of New York City. In his letter, Mason advised Lamb to address future correspondence by way of George Fleming, a Richmond merchant. (For Richard Henry Lee's 27 June response to Lamb, see CC:750-O.)

Eleazer Oswald, not wanting "to risque" the Virginia letters "with any other Person," passed through Philadelphia and arrived in New York City on 16 June. He informed John Lamb that Patrick Henry and other Virginians had recommended that the New York Convention take the lead and appoint a delegation to meet with one from the Virginia Convention to discuss amendments. The next day, after copies were made, Lamb sent the Virginia letters to Governor Clinton at the New York Convention in Poughkeepsie, recommending that, if the New York Convention appointed a delegation to meet with a Virginia group, an express rider carry the news to Virginia immediately (CC:750–H).

On 21 June Clinton, the president of the New York Convention, wrote Lamb that he had turned the Virginia letters over to "a Special Committee of Correspondence" chaired by Convention delegate Robert Yates (CC:750– I). On the same day, Yates wrote to George Mason acknowledging the receipt of the Virginia amendments and enclosing a copy of amendments to which "many" New York Antifederalists had agreed. Yates told Mason that the New Yorkers were willing to correspond with the Virginians, but that it seemed unlikely that the Virginia Antifederalists would win their struggle and that the New York Convention would probably adjourn before the Virginia response could get back to Poughkeepsie (CC:750–J). Given the fact that it would have taken express riders about a week to get from Poughkeepsie to Richmond, Yates's 21 June letter did not reach Richmond on 25 June, the day the Virginia Convention ratified the Constitution, or on 27 June, the day it adopted amendments.

New Hampshire Convention delegate Joshua Atherton of Amherst received John Lamb's May letter on 10 June, and in a letter begun on the 11th and

completed on the 14th he agreed that "amendments should be procured previous to the Adoption of the new System." Atherton opposed the idea of recommendatory amendments in the manner of the Massachusetts Convention. He told Lamb that if the New Hampshire Convention (scheduled to reconvene on the 18th) "Could ... receive your Resolution not to adopt, without the necessary Amendments, before they have proceeded too far, together with your amendments, I have not the least Doubt but a great Majority would immediately close with your views and wishes" (CC:750-F). On 20 June Atherton received the New York Federal Republican Committee's 6 June letter. The next day the New Hampshire Convention ratified the Constitution and recommended twelve amendments, including the nine Massachusetts amendments, which with the exception of number seven are verbatim. Atherton informed the committee on 23 June that the Federalists had won a narrow victory and that "indeed they retired with few Marks of Satisfaction." He encouraged the New York Convention to continue the fight for amendments (CC:750-L).

Samuel Chase of Maryland answered Lamb on 13 June and affirmed his support for prior amendments, especially a declaration of rights. "A very great Majority" of Marylanders, he believed, supported amendments, "but they are depressed and inactive. they have lost all their former Spirit, and seem ready to submit to any Master" (CC:750-G). On 21 June Rawlins Lowndes of South Carolina, who had refused a seat in the state Convention, wrote that if Lamb's letter had arrived "in time I doubt not it might have produced very good Effect in this Country" (CC:750-K). His fellow South Carolinian, Aedanus Burke, also lamented the lateness of Lamb's letter. In a lengthy letter dated 23 June, Burke described how the Federalists in the South Carolina Convention won an overwhelming victory even though four-fifths of the people in the state "from their Souls detest" the Constitution. Burke concluded: "Should either Virginia or New York State reject it, the system will fall to pieces, tho other nine States may agree to it, and in such an Event, or in any other that may give us an occasion to serve the Repub. your communciation will be duly attended to by me" (CC:750-N).

Edward Pole, one of the inner circle of Philadelphia Antifederalists, acknowledged Lamb's letter on 21 June and briefly described the progress of ratification in the Virginia Convention (Lamb Papers, NHi). On 23 June Timothy Bloodworth of North Carolina answered Lamb's letter and assured him that he would do everything possible to obtain amendments "necessary for the welfare of the United States, as also the security of those unalienable rights and priviledges of mankind." Bloodworth said that "a decided majority" of North Carolinians opposed the Constitution. For reasons he would "forebear" to give, he believed that the proposed amendments should come from New York (CC:750-M. Bloodworth reiterated these sentiments on 1 July, CC:750-P.). On 6 August Thomas Person, also of North Carolina, remarked that ninth-tenths of the people of that state wanted "very Considerable Amendments." Person, who received Lamb's letter on 23 July, believed that North Carolina's Hillsborough Convention could have totally rejected the Constitution, but instead on 2 August it chose to recommend a declaration of rights and structural amendments. Those states that had ratified, stated Person, should either refuse to send delegates to Congress or should send delegates who would insist upon amendments preserving the people's liberties (CC:750–Q).

The letter-writing campaign of the New York Federal Republican Committee failed to obtain prior or conditional amendments. The letters to South Carolina arrived after its Convention ratified the Constitution with recommendatory amendments. The letters to New Hampshire, Virginia, and North Carolina arrived in sufficient time, but in all cases the conventions only recommended amendments. The Virginia Convention rejected prior amendments by a vote of 88 to 80 before it ratified the Constitution, while the North Carolina Convention refused to ratify. In the New York Convention, conditional amendments were defeated by a vote of 31 to 29, and, like Virginia, the Convention adopted the Constitution with many recommendatory structural amendments and a lengthy declaration of rights. Nevertheless, the letterwriting campaign of the New York Federal Republican Committee, as part of a larger Antifederalist movement for amendments, was a factor in pressuring the first Congress under the Constitution to propose amendments to the states for their ratification.

## 750–A. John Lamb to Richard Henry Lee New York, 18 May<sup>1</sup>

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 Bounds of a Letter to detail to you our Objections to the proposed<sup>2</sup> Constitution. And it is the less necessary that 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.<sup>3</sup> We renounce all Ideas of local Objections and confine ourselves to such only as affect 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 supporting<sup>4</sup> 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 procure Amendments to the System previous to its AdoptionTo accomplish this desireable 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 in your State<sup>5</sup> 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.

We think it would conduce very much to promote Union and prevent Discord and an Hostile Disposition among the States, if a Correspondence could be brought about between the Conventions of your State, New Hampshire and this, who we presume will be in Session at the same time—We have the highest Hopes that such a Measure would produce the happiest Effects—We shall write to New Hampshire and propose it and wish your Convention may be inclined to agree to it<sup>6</sup>— We have every Reason to believe it will be agreeably to ours.<sup>7</sup>—

It is not yet declared who are the Members elected for our Convention. The Ballots are to be counted the last Teusday in this Month<sup>8</sup>-But by the best Information received from the different Counties we have not a Doubt of there being a decided9 Majority returned who will be<sup>10</sup> opposed to the Constitution in its present Form. A number of the leading and influential<sup>11</sup> 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 to this Constitution does not arise from an Impatience under the Restraint of good Government from local or State Attachments, from interested Motives or Party Prejudice<sup>12</sup>—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.<sup>13</sup>

In behalf of the federal republican Committee I have the honour to be Sir, Your most obedt. servant

> John Lamb Chairman

PS. We shall write to North & South Carolina, on the general Subject of this Letter, but as thire Conventions will not be in Session at the time that yours, New Hampshire & ours will be, we cannot propose a correspondence between them.<sup>14</sup>—

# 750–B. From the New York Federal Republican Committee New York, 6 June<sup>15</sup>

We addressed you on the \_\_\_\_\_\_ since which a return has been made of our Elections for Delegates to the convention—It appears from ye returns that there is a majority of at least two to one who are against adopting the Constitution in its present form—

We give you this information, to induce you to take measures to bring about a communication between your Convention and ours on the subject of amendments-There cannot be a doubt but that the necessary alterations can be effected, and all the apprehensions of danger from the new government removed, if your State and ours could unite in sentiments respecting the amendments, and act in concert in measures to bring them about<sup>16</sup>-We have reason to believe that New Hampshire will concur with us-An event of this kind would we are persuaded produce the most happy consequences and procure<sup>17</sup> essential benefits to our common Country. As by this means the18 obnoxious & exceptionable articles in the new system would be so changed, as to create confidence in the minds of a great number of worthy Citizens, who now regard the government,<sup>19</sup> as a dangerous scheme, calculated to destroy their Liberties-Under these impressions, we earnestly wish, that such of the States as have yet to deliberate on the subject, might confer on the matter, and unite in some rational plan, to procure amendments such as would preserve the strictest union with and affection between sister States-

We may venture to assure you that our State will join in such measures with ye greatest cordiality. If you should be in sentiment with us we beg leave to suggest to you the propriety of writing to North Carolina, inviting them to unite with us.<sup>20</sup>

# 750-C. William Grayson to John Lamb Richmond, 9 June<sup>21</sup>

I recieved your letter by Colo. Oswald, and the same evening<sup>22</sup> laid it before the Commee. of Opposition: they have directed the Chairman<sup>23</sup> to answer it by Colo. Oswald:—some of our proposed amendments are finished in the Commee.;<sup>24</sup> the others will be forwarded as soon as agreed on:

I am sorry to observe to you that our affairs in the Convention are suspended by a hair: I really cannot tell you on which side the scale will turn: the difference I am satisfied on the main question will be exceedingly small indeed:—

The Governor has declared in favor of the Constitution without

### 18 May-6 August, CC:750

amendments before adoption:<sup>25</sup> this however has not injured us:—neither has the news of the ratification of South Carolina:<sup>26</sup> the opposition upon the whole is firm & united; there are seven or eight dubious characters, whose opinions are not known & on whose decisions the fate of this important question will ultimately depend: should all of them be on the other side it will make a majority of four or five agt. us.

You will be pleased to consider this in the light of a private letter; at all events so far, as to prevent my being quoted in the public newspaper.—I will do myself the pleasure of giving you the earliest notice of the final decision of this Assembly; should we be strong enough to command the question, I think it will be highly expedient for the Convention to open a correspondence with yours: this however is my sentimts. not knowing how others will think on the occasion.

## 750–D. Patrick Henry to John Lamb Richmond, 9 June<sup>27</sup>

I was honord by the Rect. of your Favor by the Hands of Colo. Oswald accompanying three pamphlets,<sup>28</sup> for which & for the Communication resulting from a Veiw of the whole Subject Matter I give you sir my sincere Thanks. (It is Matter of great Consolation to find that the Sentiments of a vast Majority of Virginians are in Unison with those of our northern Friends. I am satisfyd 4/5 of our Inhabitants are opposed to the new Scheme of Gover[n]ment.<sup>29</sup> Indeed in the part of this Country lying south of James River I am confident 9/10 are opposed to it)-And yet strange as it may seem, the Numbers in Convention appear equal on both Sides; so that the Majority which way soever it goes will be small-(The Friends & Seekers of Power have with their usual Subtelty wriggled themselves into the Choice of the People by assuming Shapes as various as the Faces of the Men they address on such Occasions)-If they shall carry their Point & preclude previous Amendments which we have ready to offer, it will become highly necessary to form the Society you mention. Indeed it appears the only remaining Chance for securing a Remnant of those invaluable Rights which are yeilded by the new Plan

Colo. George Mason has agreed to act as Chairman of our republican Society. His Character I need not describe. He is every way fit—And we have concluded to send you by Colo. Oswald a Copy of the Bill of Rights & of the particular Amendments we intend to propose in our Convention.<sup>30</sup> The Fate of them is altogether uncertain, but of that you will be informed. To assimilate our Veiws on this great Subject is of the last Moment, & our Opponents expect much from our Dissention—As we see the Danger I think it is easily avoided.

(I can assure you that North Carolina is more decidedly opposed to the new Gover[n]ment than Virga.—The People there seem ripe for hazarding all before they Submit)—perhaps the organization of our System may be so contrived as to include lesser Associations dispersed throughout the State. This will remedy in some Degree the Inconveniences arising from our dispersed Situation—Colo. Oswalds short stay here prevents my saying as much on the Subject as I could otherwise have done—And after assuring you of my ardent Wishes for the Happiness of our comon Country & the best Interests of Humanity, I beg Leave to subscribe myself with great Respect & Regard Sir

### 750-E. George Mason to John Lamb Richmond, 9 June<sup>31</sup>

I have had the Honor to receive your Letter dated the 18th. of May, in behalf of the fœderal republican Committee of New York, upon the Subject of the Government proposed by the late Convention to the respective States for their Adoption; and have communicated it to several respectable Gentlemen of the Convention now met in this City, who are opposed to the Adoption without previous Amendments:

They receive, with pleasure, the proposition of your Committee for a free Correspondence on the Subject of Amendments, and have requested me to transmit to your committee such as we have agreed on as necessary for previous Adoption.

Although there is a general Concurrence in the Convention of this State that Amendments are necessary, yet, the Members are so equally divided with respect to the Time and Manner of obtaining them, that it cannot now be ascertained whether the Majority will be on our Side or not; if it should be so, I have no doubt but that an official Communication will immediately take place between the Conventions of this State and yours.

As the Amendments proposed by the Convention of Massachusets are the first which have been offered to the public,<sup>32</sup> and contain in them many things that are necessary, it is deemed proper to make them the Basis of such as may finally be agreed on; and it may also be proper to observe, that an executive Council will be necessary; because Power and Responsibility are two things essential to a good Executive; the first of which cannot be safely given, nor the latter insured, where the Legislative Senate form a part of the Executive.

The Judiciary, the exclusive Legislative Power over the ten Miles

square, and the Militia, are Subjects to which our Attention will next be turned, and we shall communicate the Result of our Deliberations with all possible Dispatch.

The Nature of the Opposition here is such that it has not yet taken any particular form, being composed only of Members of the Convention who meet to prepare such Amendments as they deem necessary to be offered to the Convention: If it should hereafter become necessary to assume one, it is hoped that System and Order will every where appear suitable to the Importance and Dignity of the Cause. In the mean Time, it is recommended to us, to communicate with you under cover to Capt. Jacob Reed jr. of Queen-Street, New York,<sup>33</sup> in Order to prevent any Interruption that Curiosity might give. We approve of the Precaution; and also advise that Mr. George Fleming Mercht. of this City be made the Instrument of safe Conveyance on your part.

#### [Enclosure]<sup>34</sup>

Amendments to the New Constitution of Government.

That there be a Declaration or Bill of Rights, asserting and securing from Encroachment, the Essential and unalienable Rights of the People, in some such Manner as the following.—

1. That all Freemen have certain essential inherent Rights, of which they cannot by any Compact, 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.

2. 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.

3. That Government ought to be instituted for the Common Benefit, Protection and Security of the People; and that whenever any Government shall be found inadequate or contrary to these purposes, a Majority of the Community hath an indubitable unalienable and indefeasible Right to reform, alter or abolish it, and to establish another, in such manner as shall be judged most conducive to the public Weal; and that the Doctrine of non-resistance against arbitrary Power and Oppression is absurd, slavish and destructive of the good and Happiness of Mankind.

4. 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 descendable neither ought the Offices of Magistrate, Legislator or Judge, or any other public Office, to be hereditary.

#### Commentaries on the Constitution

5. That the Legislative, Executive and Judicial 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 [in] 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.

6. That the Right of the People to participate in the Legislature is the best Security of Liberty, and the Foundation of all Free Governments; for this purpose Elections 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:<sup>35</sup> 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.

7. That all power of suspending Laws, or the Execution of Laws by any Authority, without Consent of the Representatives of the People in the Legislature, is injurious to their Rights, and ought not to be exercised.

8. That in all Capital or Criminal Prosecutions, a Man hath a Right to demand the Cause & Nature of his Accusation, to be confronted with the Accusers and Witnesses, to call for Evidence and be admitted Counsel in his Favor, 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 in Time of actual War, Invasion or Rebellion) nor can he be compelled to give Evidence against himself.

9. That no Freeman ought to be taken, imprisoned, or desseized 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.

10. 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 or delayed.

11. That in Controversies respecting Property, and in Suits between Man and Man, the ancient Trial by Jury of Facts, where they arise, is one of the greatest Securities to the Rights of a Free people, and ought to remain sacred and inviolable.

12. That every Freeman ought to find a certain Remedy, by Recourse

#### 18 MAY-6 AUGUST, CC:750

to the Laws, for all Injuries or Wrongs he may receive in his person, property or Character: He ought to obtain Right and Justice freely, without sale, compleatly and without Denial, promptly and without Delay; and that all Establishments or Regulations contravening these Rights are oppressive and unjust.

13. That excessive Bail ought not to be required, nor excessive Fines imposed, nor cruel and unusual Punishments inflicted.

14. That every<sup>36</sup> Freeman has a Right to be secure from all unreasonable Searches and Seizures of his Person, his papers, and his property; all Warrants therefore to search suspected places, or to seize any Freeman, his Papers or property, without<sup>37</sup> Information upon Oath (or Affirmation of a person religiously scrupulous of taking an Oath) of legal and sufficient Cause, are grievous and Oppressive; and all General Warrants 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.

15. That the People have a Right peaceably to assembly together to consult for their common Good, or to instruct their Representatives, and<sup>38</sup> that every Freeman has a Right to petition or apply to the Legislature for Redress of Greivances.

16. 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 great Bulwarks of Liberty, and ought not to be violated.

17. That the People have a Right to keep and to 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.

18. 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, only by the civil Magistrate in such Manner as the Laws direct.

19. That any Person religiously scrupulous<sup>39</sup> of bearing Arms<sup>40</sup> ought to be exempted upon payment of an Equivalent to employ another to bear Arms in his stead.

20. 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 of Christians ought to be favored or established by Law in preference to others.

That each State in the Union shall retain its Sovereignty, Freedom and Independence, and every Power, Jurisdiction and Right which is not by this Constitution expressly delegated to the Congress of the United States.

That there shall be one Representative for every Thirty Thousand Persons according to the Enumeration or Census mentioned in the Constitution until the whole Number of Representatives amounts to Two Hundred.

That Congress shall not exercise the Powers respecting the Regulation of Elections, vested in them by the Fourth Section of the First Article of the Constitution, but in Cases when a State neglects or refuses to make the Regulations therein mentioned, or shall make Regulations subversive of the Rights of the People to a free and equal Representation in Congress agreeably to the Constitution, or shall be prevented from making Elections by Invasion or Rebellion; and in any of these Cases, such Powers shall be exercised by the Congress only until the Cause be removed.

That the Congress do not lay direct Taxes, nor Excises upon any Articles of the Growth, or manufactured from the Growth of any of the American States, but when the Monies arising from the Duties on Imports are insufficient for the public Exigencies; nor then until the Congress shall have first made a Requisition upon the States, to assess, levy and pay their respective Proportions of such Requisitions according to the Enumeration or Census fixed in the Constitution, in such Way and Manner as the Legislature of the State shall judge best; and if any State shall neglect or refuse to pay its proportion pursuant to such Requisition, then Congress may assess and levy such States' proportion, together with Interest thereon, at the Rate of Six Per Centum per Annum, from the Time of Payment prescribed in such Requisition.

That the Members of the Senate and House of Representatives shall be ineligible to, and incapable of holding any Office under the Authority of the United States, during the Time for which they shall respectively be elected.

<sup>(a)</sup>That there shall be a constitutional responsible Council, to assist in the Administration of Government, with the Power of chusing out of their own Body, a President, who in case of the Death, Resignation or Disability of the President of the United States, shall act, pro tempore, as Vice President instead of a Vice President elected in the Manner prescribed by the Constitution; and that the Power of making

### 18 MAY-6 AUGUST, CC:750

Treaties, appointing Ambassadors, other public Ministers or Consuls, Judges of the Supreme Courts, and all other Officers of the United States, whose appointments are not otherwise provided for by the Constitution, and which shall be established by Law, be vested in the president of the United States with the Assistance of the Council so to be appointed. But all Treaties so made or entered into, shall be subject to the Revision of the Senate and House of Representatives for their Ratification. And no Commercial Treaty shall be ratified without the Consent of Two-Thirds of the Members present in both Houses; nor shall any 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 be ratified without the Consent of Three-Fourths of the Whole Number of the Members of both Houses.

No Navigation Law, or Law for regulating Commerce, shall be passed without the Consent of Two-Thirds of the Members present in both Houses.

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 of both Houses.

Neither the president, nor Vice President of the United States, nor any Member of the Council, shall command the Army or Navy of the United States in person, without the Consent of Two-Thirds of the Members of both Houses.

No Soldier shall be enlisted for a longer Term than four Years, except in Time of War, and then for no longer Term than the Continuance of the War.

No Mutiny Act shall be passed for any longer Term than Two Years.

The President of the United States, or any other Officer acting under the Authority of the United States shall, upon Impeachment, be suspended from the Exercise of his Office during his Trial.

The Judges of the Federal Court shall be incapable of holding any other Office, or of receiving the Profits of any other Office or Emolument under the United States or any of them.

(a) This Article not yet finally agreed upon by the Committee appointed to prepare the amendments.—

### 750–F. Joshua Atherton to John Lamb Amherst, N.H., 11, 14 June<sup>41</sup>

I have the Honour to recognize the Reception of your very great favour, which came to hand Yesterday.

Long anxiously desirous of the Communication proposed, I shall

leave nothing unattempted in my power to effect a unanimity of Sentiment with respect to Amendments: I cannot persuade myself however, that the Method adopted by the Convention of Massachusetts is by any means eligible: To ratify, and then propose Amendments is to surrender our all, and then ask our new Masters if they will be so gracious as to return to us, some, or any part, of our most important Rights and Priveleges. Can this be acting the Part of Wisdom or good Policy?

I have the Honour, Gentlemen, perfectly to coincide with you in Sentiment, that the Amendments should be procured *previous* to the Adoption of the new System, and all local Advantages rejected as unworthy the Attention of those who are contending for the general Liberty.

There has hitherto been a fair Majority in the Convention of New Hampshire, as far as their sentiments could be collected (for the decisive Question has not yet been put) against ratifying the proposed Constitution in its present form: This the candid Consolidarians confess. But I need not inform you how many Arts are made use of to increase their Party. The presses are in a great measure secured to their side-inevitable Ruin is held up on non-compliance-while the new System is represented as fraught with every species of Happiness-The opponents are enemies to their Country, and they often make them say what they never thought. In the Exeter Advertiser (New Hampshire) they had the disingenuity to say, that "Mr. Atherton seemed to give up the Idea of all cases between Citizens of different States originating in the federal Courts &c."42 Nothing could be more the reverse of Truth than this assertion-Their views are obvious-But I will not trouble you with particulars, some future publications, I flatter myself, will brush off the mask of Falsehood.

Permit me to hope you will lead the Way, and delineate the Method of a Correspondence between the States who have not yet resigned their Lives, Liberties, and Properties, into the hands of this new and unlimited Sovereignty: Your central Situation, and great Importance as a State, gives us a Right to expect it of you, while nothing shall be wanting, here, to second such a desireable Event; nor, indeed, shall any part of your public spirited and benevolent proposals want the attention they so highly merit.

No Amendments being yet fixed on here, or even attempted, that subject must be left for future Consideration. Could our Convention receive your Resolution not to adopt, without the necessary Amendments, before they have proceeded too far, together *with your amend*- ments, I have not the least Doubt but a great Majority would immediately close with your views and wishes.

The Convention of this State sits next Wednesday at Concord, by adjournment, on the conclusion of which Session, I will cause to be transmitted to the Anti-federal Committee of the County of Albany, the Result of our Deliberations, who will be good enough to forward them to you: The Subject of Amendments shall not be forgot.

# June 14th

I yesterday received the Supplement to the Albany Journal of the tenth Instant, by which it appears you will have a Majority of two to one at least against the adoption.<sup>43</sup> I congratulate you on so fortunate an Event! and have the highest Confidence, that the power and opportunity thus put into your hands to save our devoted Country from impending Ruin, will be exercised with Firmness, Integrity and Wisdom.

# 750–G. Samuel Chase to John Lamb Baltimore, 13 June<sup>44</sup>

I returned from attending our General Court yesterday afternoon, and your letter, with one from The federal Republicans and several Inclosures, were delivered only a few Minutes ago.-I will have the publications reprinted. I was always averse from the Adoption of the proposed Constitution unless certain Amendments to declare & secure the Great and essential Rights of the people could be previously obtained, because I thought if they could not be procured before the Ratification they very probably could not be obtained afterwards, and the Conduct of the Advocates of the Government confirm my Opinion. I am convinced that the principal Characters who support the Government will not agree to any Amendments. A Declaration of Rights alone will be of no essential Service. some of the powers must be abridged or public liberty will be endangered, and in time destroyed. I have no Hopes that any attempt will be made to obtain previous Alterations, and I fear any attempt after Ratification will be without Effect. I consider the Constitution as radically defective in this Essential the Bulk of the people can have Nothing to say to it-The Government is not a Government of the people, it is not a Government of Representation the people do not chuse the House of Representatives. a Right of Election is declared but it can not be exercised. it is a useless nugatory Right. by no Mode of Choice by the people at large or in Districts can they chuse Representatives. the Right is immediate and given to all the people, but it is impracticable to be exercised by them.

#### COMMENTARIES ON THE CONSTITUTION

I believe a very great Majority of the people of this State are in favour of Amendments, but they are depressed and inactive. they have lost all their former Spirit, and seem ready to submit to any Master. Governor Smallwood, Mr Mercer, Mr J T Chase, our attorney General<sup>45</sup> and a few more are decided against the Government.—An attempt will be made to elect none but *Federalists*, as they falsly call themselves, to our next House of Delegates. a violent Opposition will be made to Me in this Town and is already begun on the avowed principle.—I am called on for this<sup>46</sup>—

I beg to be remembered to all the federal Republicans with You. I will instantly communicate to Governor Smallwood.

#### 750–H. John Lamb to George Clinton New York, 17 June<sup>47</sup>

I now forward to you (by a special Messenger)<sup>48</sup> the Letters from our Friends in Virginia which, were brought yesterday Evening, by Colo. Oswald himself as he did not think proper to risque them, with any other Person.

Colo. Oswald says, that, Mr. Henry, and the other Gentlemen are of Opinion, it would answer a very valuable purpose, and have a tendency to fix some of the doubtful Characters, if our Convention would immediately, appoint a Delegation, to meet one from their Body, to agree on the necessary Amendments; which measure they flatter themselves, could be brought about, in their Convention, if ours would open the Door for it.

I have also forwarded to you a Pamphlet, written by Colo. Monro, who is a Member of the Convention—which induced him (from a point of delicacy) to tear off the Title-Page.<sup>49</sup>

From the best information Colo. Oswald could obtain, all the Members from Kentucky, are opposed to the New Constitution;<sup>50</sup>—And so are almost all the People, in the back Counties of Virginia and Pensylvania.

I will make it a point to give you the earliest intelligence of every thing, that, transpires respecting the common Cause.

PS. Should a Delegation be appointed by our Convention for the purpose mentioned in this Letter, I conceive that, it will be necessary to transmit an Account of it immediately, to Virginia, by an Express.

# 750-I. George Clinton to John Lamb

Poughkeepsie, 21 June<sup>51</sup>

The Communications from Virginia which you transmitted by Captain Tillinghast has been communicated to a Committee of the Gentlemen opposed to the Adoption of the new Constitution without pre-

### 18 MAY-6 AUGUST, CC:750

vious Amendment, who have requested me to present their thanks to you for your unwearied Attention to our Common Cause, for which you will also be pleased to accept of mine.

It gives me and them sensible Pleasure to learn that the Friends to the Liberties of our Country to the Southward are equally anxious with those who are not ashamed of that unfashionable Name here—.

The Friends to the Rights of Mankind outnumber the Advocates for Despotism, nearly two to one—Yesterday the Dabates began on the third Clause respecting Representation.

The most that has been said by the new Government Men, has been only a second Edition of Publius, well delivered<sup>52</sup> —other Hamilton—; One of the New York Delegates has in Substance tho' not explicitly thrown off the Mask, his Arguments tending to Shew the Necessity of a Consolidated Continental, to the exclusion of any State Government. This however he has recalled to day finding it would do their Cause Injury.<sup>53</sup>

The Republican Members of the Convention have appointed a Special Committee of Correspondence with the neighbouring Conventions &ca, of which the Honorable Judge Yates is Chairman—

You will receive enclosed, and left open for your perusal a Letter from the Committee to Colo Mason Chairman of the Virginia Committee which is entrusted to your forwarding<sup>54</sup>—with whatever other Communications you and our other Friends in New York may think proper to make to that Quarter by such safe and expeditious mode of Conveyance as you may think expedient—The Letter to Colo Mason you will observe is put under Cover to Mr. George Flemming Merchant in Richmond as advised in Mr Masons Letter.

The Committee have desired me to offer you their Thanks for your Attention and Care in forwarding the Information from Virginia, and request a Continuance of the Favor when any thing new and Important reaches you.

[P.S.] Capt Tillinghast and Mr. Lamb<sup>55</sup> will stay with me until Tuesday, which induces me to send this by Captain North<sup>56</sup> who has promised safely to deliver it—A Duplicate will be sent by Capt. Tillinghast.

[P.P.S.] Dr sir You will Please to examine the amendments-there was not time to do it, as the sloop is going, & have them copied<sup>57</sup>

### 750–J. Robert Yates to George Mason Poughkeepsie, 21 June<sup>58</sup>

Your Letter of the 9th. Inst. directed to John Lamb Esquire at Newyork Chairman of the federal Republican Committee in that City enclosing your proposed Amendments to the new Constitution, has been by him transmitted to such of the Members of our Convention, who are in Sentiment with him. In consequence of this Communication a Committee has been appointed by the Members in Opposition to the New System (of which they have appointed me their Chairman) with a special View to continue our Correspondence on this necessary and important Subject.

We are happy to find that your Sentiments with respect to the Amendments correspond so nearly with ours, and that they stand on the Broad Basis of securing the Rights and equally promoting the Happiness of every Citizen in the Union. Our Convention of which his Excellency George Clinton is President commenced their Session on Tuesday last. We yeilded to a Proposal made by our Opponents to discuss the Constitution in a Committee of the whole, without putting a Question on any Part, provided that in the Course of this Discussion, we should suggest the Amendments or Explanations, which we deemed necessary to the exceptionable Parts—Fully relying on the Steadiness of our Friends, we see no Danger in this Mode and we came into it to prevent the Opposition from charging us with Precipitation.

Such has been the Spirit and Independency of the Yeomanry of this State and the Danger they apprehend from our Adoption of this Constitution, that by a Majority of at least two to one, their Sentiments at the Election are truly brought into the Representation. We have therefore the fullest Reliance that neither Sophistry Fear or Influence will effect any change in their Sentiments.

We would willingly open a Correspondence with your Convention but the doubtful Chance of your obtaining a Majority—and the Possibility that we will compleat our Determinations before we could avail ourselves of your Advice, are the Reasons that we pursue the present Mode of Correspondence.

You may rely on our fixed Determination that we shall not adopt the present Constitution without previous Amendments—We have had no Committee to draft Amendments, we therefore transmit you a Copy of those which many of us have agreed to.<sup>59</sup> It is however possible upon farther Consideration that some of these may be modified or altered and others perhaps dropt.

### 750–K. Rawlins Lowndes to John Lamb Charleston, 21 June<sup>60</sup>

I have been honoured with your favours of the 19th. of May last, received a few days ago, enclosing Several papers relative to the new Constitution—Also two packets, the one for Mr. Justice Burke<sup>61</sup> which

I have delivered with mine own hands; the other for General Sumpter,<sup>62</sup> which I have conveyed by a safe Opportunity, as he resides at a Considerable distance from Charleston.

You will have known Sr. before this time that our Convention have finally ratifyed & Confirmed the new Fœderal Constitution: It was done on the 24th. May last, contenting itself with a few recommendatory Amendments.

Had your Plan been proposed in time I doubt not it might have produced very good Effect in this Country: A Strong Systematic Opposition wherein the Opinions and Sentiments of the different States were Concenter'd, and directed to the same specific Objects, would have had a Weight, which the Advocates for the Constitution must have submitted to, and have removed the force of an Objection, strongly insisted upon, arrising from the seeming diversity & dissimilarity of the several amendmts. contended for.

I had not the Honr. to be of our Convention: an open and explicit avowal of my Sentiments in the Assembly when the Subject was Agitated there, which were irreconcilable to the Constitution, as well in mode as Substance, did not meet with the Concurance and approbation of my Constituants in Charleston, and I was therefore rejected in their Choice of Delegates for the Convention.

## 750-L. Joshua Atherton to John Lamb Amherst, N.H., 23 June<sup>63</sup>

#### Gentlemen,

Your Goodness in conveying to me the Pamphlets<sup>64</sup> together with your Sentiments on the present Crisis of Affairs expressed in the Duplicate of your Favor of the fourteenth last and your Favor of the sixth Instant (received last Friday Morning) demand my sincerest and most gratefull Acknowledgments.

I had not Time to avail myself of the federal Farmer's Sentiments, and have yet had only Time to gallop through that candid Performance.

Mr. Martin's Information to the Legislature of Maryland I received from a Friend the Day I set out to Convention had not Time to possess myself but of a very small part of his Sentiments. Is it not surprising how these Pamphlets have been kept back?<sup>65</sup>

Those in Sentiment with me in our Convention being against an Adjournment, I found the bringing on the all Important Question this Session unavoidable—being also fully in Sentiment myself that all things considered a better Opportunity would not offer. Having settled the important Point that the final Question must come on, both Parties, on Saturday last closed in motion to have it putWhen the gilded Pill was swallowed by a Majority of Ten out of one hundred and four Members present.

Their having so small a Majority, notwithstanding they had all the Weight and Influence of the Men now in Office, together with all the Speakers in the State great and small; gave them but little Cause of Triumph, and indeed they retired with few Marks of Satisfaction.

I believe it will be conceeded by all, that they did not carry their Point by Force of Argument and Discussion; but by other Means, which were it not for the Depravity of the humane Heart, would be viewed with the warmest Sentiments of Disapprobation.

I feel a mutual Pleasure with you in the happier Prospect before you, and the decided Majority you have in your Convention whose patriotic Boosoms are, notwithstanding the general Lethurgy, s[t]ill warmed with the Love of their Country, and those glorious Principles of <del>patriotic</del> political Liberty; without the secureing and Observance of which, every Community must be miserable in the Extreme.

To you perhaps our America must owe the indelible Honour of chaining and reducing within proper Bounds this young Lion, fostered by so many States, and permitted to run rampant trampling under Foot all our Bulworks of Liberty.

Will the Convention of new York, who have it in their Power to stop the Career of Influence; permit the thirteen Pillars to be bent down, in Stead of being supported; and one great Collosus erected in the Room thereof which shall stand astride of all the States? Be all the Glory yours if the other States desert you! and rest assured that a great Majority of the Citizens of New Hampshire give you their warmest Wishes of Success.—

P. S.—There now remain but two immediate Methods of Opposition.

The State Legislatures may refuse to make the Regulations for Choice of Members of the new Congress—untill proper Assurances of Amendments: but by this they will forego their Influence in Congress— If a new Congress can be obtained, which shall contain a Majority for stoping the Opperation of the new System till the Amendments are incorporated, we shall have immediate Redress.

Inclosed I send our Amendments<sup>66</sup> which are to go recommended, they were made in great Haste—and I think others ought to be added. will not the extending the Judicial Power to Controversies between a State and Citizen of another State expose every State to be Sued in the new Court, on their public Securities holden by Citizens of other States? May not Foreigners bring Actions and oblige Citizens to answer in parts of the united States most remote from them?

I think Congress ought to be obliged to coin all the lawfull Money

#### 18 May-6 August, CC:750

of the united States according to a certain Standard to be by them fixed, and that it shall not be in their power to alter the Standard or the Value of Money once coined—Otherwise we may be as much cheated by debaseing and enhancing the Value as by the Paper Money—and I think it unsafe to leave these Articles to future Legislation—which indeed may, or may not establish the Credit of America upon a sure Basis—

Our Legislature does not sit very soon,<sup>67</sup> and I see not why they may not propose amendments in gross or additional ones—A Communication therefore with New York may be very beneficial—more especially as there is a great Majority in our House of Representatives unfavourable to the Constitution.

After all Amendments, I am fully of Opinion that it will be a compleat Consolidation of the States, and will eventually, unless a general Opposition should take place, swallow up the Sovereignty of the several States.

I like not the Plan, Congress ought still to be kept a great Committee of the sovereign and independant States, a Single Body, appointed by the State Legislatures; and not themselves a supreme organized Legislature.

I think it a great Omission in our Amendments that the federal City was not curtailed, and hope you will supply the Defect—According to it's present Dimensions it will hold four Millions of Inhabitants. Will not three Miles square be quite sufficient?

(Four Millions of People, with Congress in their City, may overbear, and influence a decided Majority into their own Measures—

[P. P. S.] You will have the Goodness to forward the Inclosed to the Honble. Mr. Lansing-

Your Candor, and the great Haste in which I write will pardon Inacuracies—My Anxiety will be great to know the Proceedings of your Convention and especially your Amendments—

Should Virginia ratify the Constitution and only recommend Amendments, will it not be best for New York to do the same, and throw her whole weight into the new Congress on the Side of the proper Amendments? I think not, her wholy standing out will have the most Weight—)<sup>68</sup>

# 750–M. Timothy Bloodworth to John Lamb North Carolina, 23 June<sup>69</sup>

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.

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,<sup>70</sup> 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.<sup>71</sup> 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.

# 750–N. Aedanus Burke to John Lamb Charleston, 23 June<sup>72</sup>

Your favour of the 19th. of May I received the 18th. of June inst. That it came not to hand sooner, I cannot account for; however, it came too late; for our Convention had acceded to the new Constitution on the 24th. of May by a Majority of The minority consisting of 73.

(It is now unnecessary perhaps to state to you the different causes, whereby the new Plan has been carried in South Carolina, notwithstanding 4/5 of the people do, from their Souls detest it.) I am convinced, from my Knowledge of the Country, that I am rather under, than over, that proportion. In the first place, we in the Opposition, had not, previous to our Meeting, either wrote, or spoke, hardly a word against it, nor took any one step in the matter. We had no principle of concert or union, while its friends and abettors left no expedient untried to push it forward. All the rich, leading men, along the seacoast, and rice settlements; with few exceptions. Lawyers, P[h]ysicians and Divines, the merchants, mechanicks, the Populace, and mob of Charleston. I think it worthy of Observation that not a single instance in So. Carolina of a Man formerly a Tory, or British adherent. who is not loud and zealous for the new Constitution.73 From the British Consul (who is the most violent Man I know for it)<sup>74</sup> down to the British Scavenger, all are boisterious to drive it down. Add to this, the whole weight and influence of the Press was in that Scale. Not a printing press, in Carolina, out of the City. The printers are, in general, British journeymen, or poor Citizens who are afraid to offend the great men, or Merchants, who could work their ruin. Thus, with us, the press is in the hands of a junto, and the Printers, with most servile insolence discouraged Opposition, and pushed forward publications in its favour; for no one wrote against it.

But the principle cause was holding the Convention in the City, where there are not fifty Inhabitants who are not friendly to it. The Merchants and leading Men kept open houses for the back and low country Members during the whole time the Convention sat. The sixth day after we sat, despatches arrived, bringing an account that Maryland had acceded to the Scheme.<sup>75</sup> This was a severe blow to us; for next

day, one of our best speakers in the Opposition, Doctor Fousseaux, gave notice he would quit that ground, as Maryland had acceded to it.<sup>76</sup> Upon which we were every day afterwards losing ground & numbers going over to the Enemy, on an idea that further Opposition was useless. But notwithstanding these Misfortunes, the few of us who spoke, General Sumpter, Mr. John Bowman,<sup>77</sup> a gentleman of fortune and fine talents, of the low-country; myself and a few of the back country men, found it necessary, in supporting the Opposition, to exert the greater spirit and resolution, as our difficulties increased. (Our Minority is a respectable one, and I can with great truth assure you, that it represents by far a greater number of Citizens than the Majority-The minority are chiefly from the back country where the Strength and numbers of our republick lie-And although the Vote of the Convention has carried it, that has not changed the opinion of the great body of people respecting its evil tendency. In the interiour Country, all is disgust, sorrow, and vindictive reproaches against the System, and those who voted for it. It is true, the ratification of it was solemnized in our City, with splended procession and shew.<sup>78</sup> We hear from the back Country, however That in some places the people had a Coffin painted black, which, borne in funeral procession, was solemnly buried, as an emblem of the dissolution and interment of publick Liberty.<sup>79</sup> You may rely upon it if a fair Opportunity offers itself to our back Country men they will join heart and hand to bring Ruin on the new Plan unless it be materially altered. They declare so publickly: They feel that they are the very men, who, as mere Militia, half-armed and half-clothed have fought and defeated the British regulars in sundry encounters-They think that after having disputed and gained the Laurel under the banners of Liberty, now, that they are likely to be robbed both of the honour and the fruits of it, by a Revolution purposely contrived for it. I know some able Men among us, or such as are thought so, affect to despise the general Opinion of the Multitude: For my own part I think that that Government rests on a very sandy foundation, the Subjects whereof are convinced that it is a bad one.) Time alone will convince us.

This is the first time that I ever put pen to paper on the subject, (to *another*) and it is not for want of inclination to do it. Nobody views this matter from the point of light and view in which I see it; or if any one did, he must be crazy, if he told his mind. The true, open, rising ground, no one has dared to take, or will dare to do it, 'till the business is all over. If you live two or three years, you will find the World will ascribe to the right Author, this whole affair, and put the saddle on the right Horse, as we say. I find myself approaching too

#### 18 May-6 August, CC:750

near to forbidden ground, and must desist. I am sorry it hath been my Lot not to be able to serve the Repub. on the present Business, Virginia and New York adopting it (and of which I have no doubt) they will proceed to put it into Motion, and then you, and I, and all of us, will be obliged to take it, as we take our Wives, "for better, for worse". I have only one remark to make—Should any event turn up with you, that would require to be known to our republican Friends here, only make us acquainted with it. Should either Virginia or New York State reject it, the system will fall to pieces, tho other nine States may agree to it, and in such an Event, or in any other that may give us an occasion to serve the Repub. your communication will be duly attended to by me. I forgot to mention, that Mr Lowndes, would not serve in the Convention, declining to take his Seat; out of disgust to some leading men in the parish that sent him, he abandoned a Cause, which, I believe, he thought a just one.<sup>80</sup>

Mr. John Bowman is capable of serving any Cause he espouses. Col. Thomas Taylor of the Congarees—Col Richard and Wade Hampton.— These three are from the back Country; their gallantry in the War, their Property, and some talents, give them great influence in that part of the Country.<sup>81</sup>

# 750–0. Richard Henry Lee to John Lamb Chantilly, Va., 27 June<sup>82</sup>

It is but this day I received the letter that you did me the honor to write to me on the 18th. of May last.<sup>83</sup> Repeated experience having shewn me that I could not be at Richmond and be in health prevented me from attempting to be a Member of our State Convention;<sup>84</sup> but I have omitted no occasion of enforcing, to the utmost of my power, the propriety of so stating Amendments as to secure their adoption, as you will see by the letter I wrote to the president of our Convention, copy of which I have the honor to enclose to you.<sup>85</sup> I lament that your letter did not reach me sooner, because I think your plan of correspondence would have produced salutary consequences; as it seems to have been the idea of our Assembly when they sent the proposed plan to a Convention. Every attempt has failed, either to get previous amendments or effectually to secure the obtaining them hereafter. Yet you will see Sir that the ratifying majority feel the propriety of amendments, altho, in my judgement, the mode they have pursued for obtaining them is neither wise or manly. But, if nothing better can be obtained in the States that have not yet ratified, even this Mode of expressing the sense of the approving states, may operate to the obtaining amendments hereafter, as well as to prevent in the exercise of power, such abuses as would, in all probability, take place. It will be considered, I believe, as a most extraordinary Epoch in the history of mankind, that in a few years there should be so essential a change in the minds of men. 'Tis realy astonishing that the same people who have just emerged from a long & cruel war in defence of liberty, should now agree to fix an elective despotism upon themselves & their posterity! It is true indeed, for the honor of human nature, that this has not been a general acquiescence-In respectable States there have been formidable Minorities-In this, a majority of ten only out of near 200 Members, neither demonstrates that a majority of the people approve the plan, nor does it augur well for the prosperity of the new government-Unless the wisdom & goodness of those who first act under this System shall lead them to take effectual measures for introducing the requisite amendments. And this I hope, for the honor and safety of the U. States, will be obtained by the mediation of wise and benevolent Men. Accept my thanks Sir for the enclosures, in your letter, which I shall read with great pleasure.86

# 750–P. Timothy Bloodworth to John Lamb North Carolina, 1 July<sup>87</sup>

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 chearfully 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.—

#### 18 May-6 August, CC:750

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

# 750–Q. Thomas Person to John Lamb Goshen Courthouse, N.C., 6 August<sup>88</sup>

Your favour of the 19th. May last, was only received the 23rd. of July & then Open, the third day after our Convention had Assembled, whose Conclusions on the extraordinary Change of Governmt, proposed for Our Acceptance I transmit to you with pleasure,<sup>89</sup> firmly persuaded that our proceedings which were temperate & Calm as well as the Result of our political Contest in the cause of republican Liberty, will be highly pleasing to you & our friends in your State & thro' the Union—

It is my decided opinion (& no man is better Acquainted with the publick mind) that nine tenth of the people of this State are opposed to the adoption of the New System, without very Considerable Amendments, & I might without incurring any great hazard to err, assure you, that a very Considerable Number conceive an Idea of a Genl. Government, in this extensive Country, impracticable & Dangerous.— But this is a Subject on which I feel myself more disposed to concur with better Judges than to Dogmatically decide & only State it as a doctrine gaining ground in this part of the World—Our Convention met at Hillsborough on the day appointed & on the 22nd. resolved itself into a Committee of the Whole house, & continued their discussions from day to day (Sundays excepted) untill the 1st. Inst. on which we called the decisive question when there appeared, for nonconcurrance 184—& 83 for Adopting—but recommending numerous amendmts., which were repugnant to their Eloquence & reasoning in debate; a Circumstance something surprising, but that prooves nevertheless, that even its advocates think the plan radically bad, by these exertions to render it Virtually better.

Howevr. I can assure you if the total rejection had been proposed, even in terms of Reprobation, the motion would have succeeded, but we conceived it more decent & moderate to refer it in the mode you will see prefixed to our bill of Rights & Amendments, in Confidence that the Union & prosperity of America may yet be preserved by temperance & Wisdom, in defiance of precipitation & some Arts which I suspect tho' I cannot enumerate or trace them-There is so little Security left now for obtaining Amendments, especially if your State is adoptive, that it probably may be wise in those States, or the Minorities in them, to oppose all representation untill Amendments are obtain'd or to send into the New Congress only such men of unequivocal Charectors as will oppose every operation of the System untill it is render'd consistant with the preservation of our Liberties too precious to be Sacreficed to Authority, name, ambition, or design,-Your proposition for opening a Correspondence I embrace with great charfulness, it meets wth. my Cordial approbation as well as my Friends, urged only by Motives for the prosperity of the Union-And I have only to lament that such measures were not persued earlier, as they would in my opinion have prevented or abated the mischief which the public cause has already received—I take the freedom to request, that you may forward the proceedings of your Convention, & any thing else you may think conducive to the public weal; our Assembly will meet the 1st. monday in Novr. next at Fayettville where we would easily as well as Charfully receive any thing wch. you might think interesting to the good people of this State.-I have the Honour to be with profound respect to you Sir & Thro you to the Federal republican Committee Yr. & Their Assd. Frd. & Hbl. Servt.

P.S. I forgot Sir, to advert to a letter read in our Convention (which in the first Instance I opposed) from our Delegate Williamson, in which he Arristocratically complain'd, that Congress is perpetually interupted by a York Delegate (who he says was once a Shomaker—)<sup>90</sup> calling the Yeas & Nays, on which Occasions he says he was *obliged to retire*, as representing a non adopting State;—Some of his Constituants remark

### 18 MAY-6 AUGUST, CC:750

that delicacy Shd. have suggested his Voluntary recession; and more particularly as his Nasal Organs were so offended with the Society of a Mechanic.-But some persons are said to have taken his case into Consideration & have *positively determined* not to send him again, untill the president of Congress, shall send us Satisfactory attestations, that the Honble. Congress of the States are Composed altogether of the WELL BORN<sup>91</sup>

NB. I wrote you a Similar letter to this some time ago and in it Inclosed the proceedings referd to but least you Should not get that, I have sent this, which is a duplicate, of the former one, Save only that I have not with me another Coppy of the Proceedings of the Convention-I expect you will receive this by my Friend Doctr. Mitchell. & by him I Shall Safely receive any Answer you may think proper to Send.-

1. RC, Lee-Ludwell Papers, Letters to Richard Henry Lee, ViHi. The letter, written by an amanuensis, was signed by John Lamb, chairman of the New York Federal Republican Committee. Charles Tillinghast, Lamb's son-in-law and the committee's secretary, wrote the inside address and the postscript. Lee replied to Lamb on 27 June (CC:750-O). Lamb (1735-1800), a leader of the Sons of Liberty in the 1760s and 1770s, was in the Continental Army during the Revolution and was brevetted a brigadier general in 1783. He had served as collector of the Port of New York since 1784.

Lamb's letter to Lee is compared in notes 2, 4-5, 7, 9-12, and 14 (below) to Lamb's 18 and 19 May letters to Nathaniel Peabody of New Hampshire, Willie Jones of North Carolina, and to an unidentified South Carolinian (Lamb Papers, NHi; North Carolina State Papers [1788-1789], NcD; and the State Gazette of South Carolina, 26 June, respectively. For more on the letter to South Carolina, see note 60, below.). These are the only Lamb letters that have been located.

2. "Proferred" or "proffered" in the Peabody and South Carolina letters, respectively.

3. An Additional Number of Letters from the Federal Farmer to the Republican... was offered for sale in New York City on 2 May (CC:723). It was a continuation of a pamphlet of five letters written by "Federal Farmer" and published in November 1787 (CC:242).

4. "Effecting" in the Peabody, Jones, and South Carolina letters.5. The words "in your State" are omitted from the Jones letter.

6. In addition to Nathaniel Peabody, Lamb also wrote to Joshua Atherton in New Hampshire.

7. In the Jones and South Carolina letters, this paragraph is replaced by one which reads: "As the Conventions of New-Hampshire and Virg. 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."

8. The New York elections for state convention delegates took place between 29 April and 3 May; but, according to the provisions of the February 1787 election law, county supervisors had to wait four weeks (or until 27 May) to open and count the ballots. By 5 June the election results from all but one county had been reported in New York City newspapers. The next day, the New York Federal Republican Committee wrote another letter to Antifederalists in other states reporting the election returns (CC:750-B).

9. "Considerable" in the Peabody, Jones, and South Carolina letters.

10. "Will be" is replaced by "are" in the Peabody letter.

11. "And influential" is omitted from the Peabody letter.

12. "Spirit" in the Peabody, Jones, and South Carolina letters.

13. Alexander Hamilton had a different view of the opposition in New York: "The language of the Antifœderalists is that if all the other states adopt, New York ought still to hold out—I have the most direct intelligence, but in a manner, which forbids a public use being made of it, that Clinton has in several conversations declared his opinion of the *inutility* of the UNION. Tis an unhappy reflection, that the friends to it should by quarrelling for straws among themselves promote the designs of its adversaries" (to James Madison, 19 May, Syrett, IV, 649).

14. The postscript is omitted from the Jones and South Carolina letters.

15. FC, Lamb Papers, NHi. Docketed: "Drght of a Letter to V[irginia]./June 6. 1788." This draft is in the handwriting of an amanuensis. Stylistic alterations, all of which have been incorporated into this transcription, are in the handwriting of Lamb. A draft paragraph was appended for inclusion in letters to states other than Virginia. For significant differences between this draft and another draft letter that was sent to New Hampshire (Lamb Papers, NHi), see notes 16–20 (below).

16. "To bring them about" is replaced by "of such an important and beneficial nature" in the New Hampshire letter.

17. "Most" in the New Hampshire letter.

18. "As by this means the" is replaced by "as, it is highly probably" in the New Hampshire letter.

19. "Who now regard the government" is replaced by "who now seriously consider it" in the New Hampshire letter.

20. This last sentence is omitted from the New Hampshire letter. At the end of the draft to the Virginia letter, Charles Tillinghast added: "since the Return of Members for our Convention has been ascertained, we have, sent off a special Messenger to Virginia, whose Convention is now in session, and have written to some of the most influential Delegates, who are in the opposition, on the subject matter of this Letter, which we flatter ourselves will be attended to." A similar paragraph was included in the New Hampshire letter.

21. RC, Lamb Papers, NHi. This letter was carried to New York by Eleazer Oswald. A contemporaneous copy is also in the Lamb Papers. On 25 June Grayson voted against ratification of the Constitution in the Virginia Convention.

22. Eleazer Oswald arrived in Richmond on Saturday, 7 June (James Madison to Alexander Hamilton, 9 June, RCS:Va., 1589).

23. Grayson refers to George Mason, who had received a recommendation to form such a committee of opposition from Richard Henry Lee in a letter dated 7 May (RCS:Va., 785).

24. For these amendments, see the enclosure in Mason's letter to Lamb, 9 June (CC:750-E).

25. On 4 and 6 June Governor Edmund Randolph delivered speeches supporting the Constitution (RCS:Va., 931-36, 971-89).

26. News of South Carolina's ratification reached Norfolk by vessel on 3 June, and the next day it was received by members of the Virginia Convention in Richmond.

27. RC, Lamb Papers, NHi. This letter was carried to New York by Eleazer Oswald. A contemporaneous copy is also in the Lamb Papers. The text in angle brackets appeared in the New York Journal, 19 June, under the heading: "Extract of a letter from a gentleman in Richmond to his friend in this city, dated June 9." This extract was reprinted in eight

#### 18 May-6 August, CC:750

newspapers by 2 July: N.Y. (3), Pa. (3), Md. (1), Va. (1). On 25 June Henry voted against the ratification of the Constitution in the Virginia Convention.

28. One of these pamphlets was probably a copy of "Federal Farmer's" Additional Letters (see note 3, above). The other two could have been either duplicates of this pamphlet, or "Federal Farmer's" first five letters (CC:242), Mercy Warren's "A Columbian Patriot" (CC:581), or "A Plebeian" (CC:689).

29. Henry was not the only Virginia Antifederalist to assert that four-fifths of the people of Virginia opposed the Constitution. On 7 March the Philadelphia *Independent Gazetteer* printed an item stating that Arthur Lee, en route from Virginia to New York City, had told some Philadelphians the same thing (CC:602).

30. For these amendments, see the enclosure in Mason to Lamb, 9 June (CC:750-E).

31. RC, Lamb Papers, NHi. This letter is in the handwriting of Meriwether Smith, an Essex County member of the Virginia Convention, but the signature and the inside address are in the handwriting of George Mason. The Lamb Papers also contains a contemporaneous copy of this letter that includes the Virginia committee's proposed amendments to the Constitution (printed as an enclosure immediately below). The recipient's copy of the amendments has not been located. Copies of Mason's letter and the accompanying amendments, both in Smith's handwriting, are in the Virginia Historical Society (Mss2 Sm624 a4 and Mss13:1788 June 27:1, respectively). The former is docketed "Meriwether Smith." (For the copy of the amendments in Smith's handwriting, see note 34, below.) On 25 June Mason voted against ratification of the Constitution in the Virginia Convention.

32. For the Massachusetts amendments, see CC:508.

33. Captain Reed operated an "exchange and broker's office" at 20 Queen Street.

34. MS, Lamb Papers, NHi. The recipient's copy has not been located. The copy printed here, made at the time by the New York Federal Republican Committee, is divided into two parts. A working draft for each part, in George Mason's handwriting, is in the Mason Papers in the Library of Congress. Significant portions lined out in the drafts are indicated in notes 35 to 40 (below). See Mfm:Va. 218–A for photographic reproductions of the drafts, in which some of the amendments appear in a different sequence.

An incomplete copy of the amendments in the handwriting of Meriwether Smith is located in the Virginia Historical Society (Mss13:1788 June 27:1). There are no significant differences between Smith's copy and the copy made by the New York Federal Republican Committee. (For the copy in the Virginia Historical Society, see Mfm:Va. 218–B.)

The amendments printed here, particularly the first twenty which are largely taken from the Virginia Declaration of Rights (RCS:Va., xxiv, 530–31), formed the basis for the amendments that the Virginia Convention adopted on 27 June (CC:790) and ordered to be sent (along with the Form of Ratification) to Congress and to all of the state executives or legislatures.

35. At this point in Mason's draft the following words are lined out: "the People can not be deprived of their Property for Public Uses."

36. At this point in the draft Mason originally wrote "free Citizen." He then lined out "Citizen" and replaced it with "Man."

37. At this point in Mason's draft the word "previous" is lined out.

38. At this point in Mason's draft the following words are lined out: "apply to the Legislature for Redress of Grievances, by Address, Petition, or Remonstrance."

39. At this point in Mason's draft the following words are lined out: "of the Lawfulness." 40. At this point in Mason's draft the words "shou'd be" are lined out.

41. Copy, Lamb Papers, NHi. This letter, in the handwriting of Charles Tillinghast, is docketed "Copy of a Letter from Joshua Atherton Esqr. (New Hampshire) dated June 11th & 14th. 1788." Atherton's letter was sent to New York (via New Haven) by a Mr. Woodworth (see note 68, below). Atherton (1737–1809), a 1762 graduate of Harvard College and an Amherst, N.H., lawyer, had been a Loyalist, but in 1779 he took the oath of allegiance. He was a delegate to the state constitutional convention that drafted the New Hampshire constitution of 1784 and to the convention that framed the constitution of 1792. An Antifederalist leader in the state ratifying conventions, Atherton voted against ratification of the U.S. Constitution on 21 June 1788. He was a state senator, 1792–93, and state attorney general, 1793–1801.

42. On 7 March the Exeter Freeman's Oracle reprinted the version of the 20 February debates of the New Hampshire Convention that the New Hampshire Spy had printed in an extraordinary issue on 23 February. The Spy reported Atherton's comments thusly: "Mr. Atherton seemed to give up the idea of all causes between citizens of different states originating in the federal courts, but still insisted upon the hardship, injustice and expence of citizens of this state being dragged to Head Quarters for the ultimate decision of their causes." The Spy's report was prefaced: "As the following was committed to paper without taking notes at the time, and barely from memory, the Editor must beg pardon of those gentlemen whose arguments are weakened, or stile debased, by an attempt to gratify the public." The Freeman's Oracle did not reprint this disclaimer.

43. This issue of the Albany Journal has not been located, but on 12 June the New York Journal noted in a widely reprinted item that "This state [New York] sends 65 members to the convention, of which, it appears, that 46 are decidedly opposed to the constitution."

44. RC, Lamb Papers, NHi.

45. John Francis Mercer, Jeremiah Townley Chase, and Attorney General Luther Martin, like Samuel Chase, voted against ratification of the Constitution in the Maryland Convention on 26 April. Governor William Smallwood was not a convention delegate.

46. The campaign for the October 1788 election of delegates to the Maryland House of Delegates began about two weeks after the Maryland Convention adjourned. Federalists argued that to preserve the ratification of the Constitution Antifederalists had to be kept out of the House, where they could do the most damage. In particular, Federalists wanted to defeat Samuel Chase for election from the city of Baltimore. For examples of articles attacking Chase and encouraging the election of Federalists from Baltimore, see "Federalism," *Maryland Journal*, 9 May; "*THOUGHTS on a Plan to defeat the end of the ratification of the Federal Constitution . . .,*" *Maryland Journal*, 20 May; and "A Marylander" (Otho Holland Williams?), Baltimore *Maryland Gazette*, 20 and 23 May. The Federalist campaign in Baltimore was successful and in October Chase and another Antifederalist were defeated by two Federalists, one of whom was former Constitutional Convention delegate James McHenry.

47. RC, Lamb Papers, NHi

48. The messenger was Charles Tillinghast.

49. For Monroe's pamphlet, see CC:754; and RCS:Va., 844-77.

50. In the Virginia Convention, delegates from the seven Kentucky counties voted 10 to 3 against the ratification on 25 June, with one absent.

51. RC, Lamb Papers, NHi.

52. Clinton refers to *The Federalist* essays by "Publius," all eighty-five of which had appeared by 28 May.

53. In a long speech on 20 June, Alexander Hamilton called for a government with "national laws to operate on individuals, in the same manner as those of the states do."

The next day, he said that the "balance between the national and state governments ... is of the utmost importance." Clinton responded: "That gentleman may wish for a consolidated—I wish for a federal republic" (*The Debates and Proceedings of the Convention of the State of New-York*... [New York, 1788], 23, 40, 47 [Evans 21310]).

54. See Robert Yates to Mason, 21 June (CC:750-J).

55. Anthony Lamb, John Lamb's son.

56. Captain North was master of a Hudson-River sloop.

57. This paragraph is not in Clinton's handwriting.

58. RC, Emmet Collection, NN. This letter, written by an amanuensis, was signed by Yates. The date is written over and therefore it is not certain, but it appears to be the "21st." This letter was finished in time to be taken by the sloop that was about to leave for New York City. (For the sloop's departure, see Clinton to Lamb, 21 June, CC:750–I, and Charles Tillinghast to Lamb, 21 June, Lamb Papers, NHi.) On 26 July Yates voted against ratification of the Constitution in the New York Convention.

59. No copy of these amendments has been located.

60. RC, Lamb Papers, NHi. In South Carolina, in addition to Rawlins Lowndes, Lamb also wrote to Aedanus Burke and Thomas Sumter. One of the three men, probably Lowndes or Burke, turned his letter over to the printer of the *State Gazette of South Carolina* who published it on 26 June, indicating that he did so "By particular Desire" and that the letter "was received by a gentleman in this city from the Chairman of a Committee in New-York." (Lamb's letter was reprinted in the Philadelphia Independent Gazetteer, 18 July, and the New York Daily Advertiser, 23 July.)

Rawlins Lowndes had refused a seat in the South Carolina Convention. In a speech that he delivered in the state House of Representatives on 18 January during a debate on the Constitution, Lowndes had said that "he wished for no other epitaph than to have inscribed on his tomb, here lies the man that opposed the constitution, because it was ruinous to the liberty of America." (For more on Lowndes's refusal to take a convention seat, see note 80, below.)

61. For Aedanus Burke and his 23 June reply to Lamb, see CC:750-N.

62. Thomas Sumter (1734–1832), a large landowner, a colonel in the Continental Army, and a brigadier general of the state militia during the Revolution, had sat almost continuously in the S.C. House of Representatives from 1776 to 1790. He had voted against ratification of the Constitution in the state Convention in May. Sumter was a member of the U.S. House of Representatives, 1789–93, 1797–1801, and the U.S. Senate, 1801–10. No response from him to Lamb has been located.

63. RC, Lamb Papers, NHi. This letter, addressed to John Lamb and the other members of the New York Federal Republican Committee and written two days after the New Hampshire Convention had ratified the Constitution, is in the handwriting of two persons, one of whom was possibly Atherton. On 26 June Atherton sent a duplicate of this letter to Lamb in which some paragraphs were combined, the first postscript was incorporated into the body of the letter, and the text in angle brackets was omitted. For a significant textual difference between the two letters, see note 68 (below).

64. See notes 3 and 28 (above).

65. For the pamphlet version of Luther Martin's Genuine Information, which was printed in Philadelphia and first advertised for sale on 12 April, see CC:678.

66. For the New Hampshire amendments, adopted on 21 June, see CC:785. A copy of them is in the Lamb Papers at the New-York Historical Society.

67. Scheduled to convene in late December, the New Hampshire legislature met in special session in November to prepare for the first federal elections.

68. The text in angle brackets is in a different handwriting. In the 26 June letter this postscript was added: "I received your Favr. of the 14th. May several weeks past—and

wrote in answer by Mr. Woodworth, who bro't me Letters from the Honble. Mr Lansing & others—Mr. Woodworth sat out 14th. Instant for New Haven, and I dare say has taken proper Care to forward the Letters—As I wrote in Haste, it was not in my power to Copy, and cannot send a Duplicate." Mr. Woodworth was probably carrying Atherton's letter of 11, 14 June (CC:750–F).

69. RC, Lamb Papers, NHi. Bloodworth (1736–1814), a New Hanover County planter, served in the North Carolina House of Commons, 1778–81, 1783–85, 1787, 1791–92, 1794–95, 1801; the North Carolina Senate, 1788–89; and the Confederation Congress, 1786. He opposed the Constitution in the Hillsborough Convention, July–August 1788, and the Fayetteville Convention, November 1789, and in 1789 he was defeated for a seat in the U.S. Senate. Bloodworth was a member of the U.S. House of Representatives, 1790–91, and the U.S. Senate, 1795–1801; and the collector of the Port of Wilmington, 1801–7.

Lamb also wrote to North Carolinians Thomas Person and Willie Jones. For Person's reply, see CC:750–Q. Jones (1741–1801), a planter and one of the state's most prominent Antifederalists, was a member of the state House of Commons, 1777–80, the Senate, 1782, 1784, 1788, and the Council of State, 1781–82, 1787–88. He was appointed to the Constitutional Convention but declined the appointment. He led the Antifederalists in the Hillsborough Convention in July and August 1788.

70. For these pamphlets, see notes 3, 28, and 65 (above).

71. For the committee of correspondence's answer to the proposals of the New York Federal Republican Committee, see Bloodworth to Lamb, 1 July (CC:750–P).

72. RC, Lamb Papers, NHi (photostat). This letter is a copy, probably made by an amanuensis for the New York Federal Republican Committee. The text in angle brackets was printed in the Antifederalist New York Journal, 10 July, under the heading "Extract of a letter from a gentleman of character in South-Carolina, dated June 23, 1788." See also note 81 (below). In an apparent attempt to counteract the New York Journal's publication of parts of Burke's letter, the Federalist New York Daily Advertiser, 11 July, printed this brief "Extract of a letter from a gentleman of genet political abilities and high character, dated Charleston, June 20, 1788," which stated that "Notwithstanding the threats of some, every thing is peaceable and quiet in this country. The new Constitution becomes daily more acceptable, and it is now the general wish that it may have a speedy operation."

Aedanus Burke (1743–1802), a native of Ireland and a Charleston, S.C., lawyer, was an associate judge of the state Court of Common Pleas and General Sessions, 1778–80, 1783–99; a member of the state House of Representatives, 1779–80, 1782, 1783–84, 1785–86, 1787–88; a member of the U.S. House of Representatives, 1789–91; and chancellor of the state Court of Equity, 1799–1802. In 1783 he published a widely reprinted pamphlet attacking the Society of the Cincinnati (Evans 17862–66), and in May 1788 he voted against ratification of the Constitution in the state Convention.

73. Apparently, Burke was having second thoughts about his earlier conciliatory attitude toward Loyalists. In a 1783 pamphlet, using the pseudonym "Cassius," Burke had criticized the harsh treatment of Loyalists (Evans 17861).

74. Burke refers to George Miller who was stationed in Charleston as the British Consul for North and South Carolina and Georgia. Commenting on the Constitution before the meeting of the South Carolina Convention, Miller stated that "As it promises a more firm and efficient Government than the present, it is much to be wished by all His Majesty's subjects having Claims on these States, that it may be adopted; Yet it must still require a considerable time to Organize and reduce to proper form, such a complex system, whereby the good consequences expected from it by its Friends, may be generally experienced" (to Marquis of Carmarthen, 5 May, Foreign Office, Class 4, America, Vol. 6, ff. 127–28, Public Record Office, London).

#### 18 May-6 August, CC:750

75. The South Carolina Convention convened in Charleston on 12 May. Four days later, the Charleston *City Gazette* reported that Maryland had ratified; several days later this news was verified.

76. On 20 May the Charleston City Gazette reported that "Yesterday in the convention, Dr. [Peter] Fayssoux said, that he was at first opposed to the constitution, but considering what Maryland had done, he viewed it as the system of government under which his country must live, and that it would be criminal in him longer to oppose it." On the 23rd the City Gazette printed a denial by Dr. Fayssoux stating that "the paragraph ... was a false and infamous lye." On the same day Fayssoux voted against ratification. On the 26th, the State Gazette of South Carolina printed a statement by Fayssoux who wanted to set the record straight about what he had said in the state Convention. According to Fayssoux these were his exact words: "On the commencement of this convention, I assumed a line of conduct, with a determination to exert all my abilities, to prevent the adoption of this constitution, but affairs have since changed, Maryland has adopted the constitution, her voice is decisive; and although by reading and reflection, I am principled in my objections to this constitution, I will cheerfully sacrifice my feelings to the peace and tranquility of my country, and as [I] consider this as the constitution under which we must live, I shall desist from a line of conduct in opposition, which as it will tend only to irritate and inflame mens minds, would in my opinion be criminal."

77. John Bowman, a Scottish immigrant, a member of the South Carolina House of Representatives, and a lowcountry planter, voted against ratification of the Constitution in the state Convention in May. He owned 293 slaves in 1790.

78. See the Charleston *Columbian Herald*, 29 May, for a widely reprinted account of this procession which took place on 27 May and which included more than 2,800 persons. For another description of the procession, see the Charleston *City Gazette*, 28 May.

79. Accounts of such "funeral" processions have not been located in any of the extant South Carolina newspapers. On the other hand, the Federalist Charleston *City Gazette*, 11, 19 June, and 15 July, printed descriptions of ratification celebrations that took place in the Camden and Cheraw districts and in Prince Frederick Parish—all of which were some distance from Charleston.

80. During the January 1788 debate in the state House of Representatives on calling a ratifying convention, Lowndes said that he could not be a convention delegate because the inhabitants of Charleston (in which he resided) would never elect an Antifederalist. The parish of St. Bartholomew, which had once been Lowndes's constituency, elected him to the state Convention, but he refused the appointment. On 7 May, the Federalist Charleston *City Gazette* reported: "Mr. Lowndes, it is said, declines a seat in the convention, not being willing to receive any obligations from the party who were industrious to bring him in."

81. In printing parts of this letter (see note 72, above), the Antifederalist *New York Journal*, 10 July, revised this paragraph to read: "There are a number of gentlemen in the back country, of property and abilities, who have given evident proofs of their gallantry in the late war, and who are possessed of great influence among the people, that are decidedly against the new system, unless essentially amended."

Thomas Taylor and Richard Hampton were members of the state Senate; and Wade Hampton was a former member of the state House of Representatives. All three men were substantial planters and each had voted against ratification of the Constitution in the state Convention in May. During the Revolution, all three were active militarily, with Taylor and Wade Hampton serving in the regiment of another Antifederalist leader, Thomas Sumter (note 62, above). Hampton was also a member of the U.S. House of Representatives, 1795–97, 1803–5.

82. RC, Lamb Papers, NHi.

83. Lamb's letter of 18 May to Lee (CC:750-A) was probably among those letters carried to Richmond by Eleazer Oswald; it was then forwarded to Lee.

84. For the unhealthiness of Richmond, see RCS:Va., 621, note 10.

85. He refers to his letter of 26 May to Edmund Pendleton (CC:755). The copy of the letter that Lee sent to Lamb, misdated 22 May, is in the Lamb Papers in the New-York Historical Society.

86. See notes 3, 28, and 65 (above).

87. RC, Lamb Papers, NHi. Bloodworth signed this letter as "Chn" of "the Committee of Correspondence." This is the committee that he had "proposed" earlier (Bloodworth to Lamb, 23 June, CC:750–M).

88. RC, Lamb Papers, NHi. Person (1733–1800), a wealthy North Carolina planter, was a leader of the Regulators—an aggressive and violent backcountry group interested in reforming local government during the 1760s. Between 1769 and 1776, Person was a member of the colonial Assembly and five provincial congresses and a leader of the Revolutionary movement. He sat almost continuously in either the state House of Commons or the Senate from 1777 to 1794, spending most of that time in the former body. Ranking with Willie Jones as an Antifederalist leader, Person voted against ratification of the Constitution in both the Hillsborough and Fayetteville conventions, in August 1788 and November 1789, respectively.

89. Person probably sent Lamb a broadside that included the North Carolina Declaration of Rights and the structural amendments to the Constitution recommended by the Hillsborough Convention on 2 August. For a description of the broadside, the text of the amendments, and a discussion of their adoption, see CC:821.

90. The New York delegate to Congress was the combative Abraham Yates, Jr., who had been a shoemaker in Albany when he was young. Yates, a leading New York Antifederalist, insisted that the Constitution be amended before it was ratified.

91. Williamson's letter, discussing Abraham Yates, Jr. (note 90, above), has not been located, but on 7 July Williamson wrote Hillsborough Convention delegate James Iredell outlining the politics of Rhode Island and New York—the only states besides North Carolina which had not yet ratified the Constitution (McRee, *Iredell*, II, 227–28). For Williamson's reaction upon learning that his letter was read in the Convention, see his 23 August letter to Iredell (*ibid.*, 237–38).

# 751. An American: To the Members of the Virginia Convention Pennsylvania Gazette, 21, 28 May

On 26 April Maryland became the seventh state to ratify the Constitution. The South Carolina Convention was scheduled to convene on 12 May, while the conventions of Virginia, New York, New Hampshire, and North Carolina would meet on 2, 17, and 18 June, and 21 July, respectively. Consequently, in mid-May Philadelphian Tench Coxe, a prolific Federalist essayist, recognizing that "the new constitution is now hastening to a crisis," addressed the Virginia Convention in two articles signed "An American." Coxe asserted that he wrote the essays because, once the "highly important" state of Virginia ratified, the adoption of the Constitution would be assured, especially since South Carolina would adopt it before the Virginia Convention convened. Coxe believed that if Virginia "should reject the Government it will be rendered extremely uncertain in New York, New Hampshire, and North Carolina." The primary purpose of Coxe's essays was to demonstrate the relationship of the Constitution "to the Prosperity of Virginia & the United States" (to James

Madison, 19 May, RCS:Va., 833, and to Timothy Pickering, 28 May, Pickering Papers, MHi).

In his essays, Coxe maintained that the Constitution benefitted Virginia which had more than its share of representatives in the new Congress. Virginia had nothing to fear from the power of Congress to regulate commerce by a simple majority vote. Moreover, the Constitution would assure the respectability of the United States abroad. Coxe concluded that Virginia would be in an untenable position if it rejected the Constitution and tried to form a separate confederacy.

The first "An American" article appeared in the *Pennsylvania Gazette* on 21 May, the second on the 28th. Even before the essay was printed Coxe sent a manuscript copy to William Tilghman of Kent County, Md., on 14 May, requesting that he forward it to Alexander Contee Hanson of Annapolis for publication in that town's newspaper. Tilghman was unable to transmit "An American" to Hanson, but about a month later he told Coxe that "it is of no consequence, as I find it is inserted in the Baltimore papers which have a vastly more extensive circulation than the Annapolis one—It will find it's way to Virginia, & I dare say, have a good effect" (Coxe to Tilghman, 14 May, and Tilghman to Coxe, 11 June, RCS:Va., 797, 797n).

On 19 May Coxe wrote James Madison, a delegate to the Virginia Convention scheduled to meet in Richmond, stating that (along with several other papers) "I shall enclose you a few copies [of 'An American'], & earnestly wish they may be useful" (*ibid.*, 833). Madison replied on 11 June that "An American" was waiting for him when he arrived in Richmond on 3 June and that he had "disposed" of the papers "in the manner most likely to be of service" (*ibid.*, 1595). Writing from Alexandria, Va., on 24 May William Heth, who had passed through Philadelphia on the way to his Virginia estate from New York City, forwarded a copy of the *Pennsylvania Gazette* of 21 May to George Washington and told him that the essay "may probably have some influence on our approaching convention." Heth meant "to have it reprinted at Richmond immediately" upon his arrival in that town which was close to his estate (Washington Papers, DLC).

Tench Coxe also transmitted copies of "An American" to William Bingham, a Pennsylvania delegate to Congress in New York City, who replied on 25 May that the essay "may operate a very good Effect on the Minds of the People of this State, & Shall therefore have it republished." Upon Coxe's request, Bingham also promised to give the essay to Alexander Hamilton, a delegate to the New York Convention, and "take his opinion with respect to any exceptionable Passages" (Coxe Papers, Series II, Correspondence and General Papers, PHi). Lastly, Coxe sent copies to Timothy Pickering of Wilkes-Barre, Pa., who thought that "The motives you suggest to Virginia for her adoption of it will merit her attention" (to Coxe, 15 June, *ibid.*).

The first "An American" article was reprinted in the Baltimore Maryland Gazette, 27 and 30 May; Richmond Virginia Independent Chronicle, 28 May and 4 June; Salem Mercury, 3 June (long excerpt); Richmond Virginia Gazette and Weekly Advertiser, 5 June; Virginia Herald, 5 and 12 June; New York Daily Advertiser, 9, 10, 12, and 13 June; and Providence United States Chronicle, 12 June. It was also reprinted with slight alterations in the May issue of the Philadelphia American Museum, in which Coxe was "Ascribed" as the author.

The second "An American" article was reprinted in the Massachusetts Gazette, 6 June; the Annapolis Maryland Gazette, 12 June; and with a significant addition (attributed to Coxe) in the June issue of the Philadelphia American Museum.

[Both "An American" articles are printed in RCS:Va., 832–43, 889–94.]

# 752. Virginia Independent Chronicle, 21 May<sup>1</sup>

Extract of a letter from a gentleman in New-York, to his friend in this city, dated May 8, 1788.

"The election for members of convention for this state has taken place; the citizens has done themselves honor in their choice, and although the returns have not yet come to light, yet I am fully persuaded that the anti-focderal party had not more than 100 votes out of near 3000; Long Island it is said will have a majority of focderalists; Orange and Dutchess counties are anti; Albany divided: the parties in the latter county are exceeding warm, and spare neither pains or cost to obtain proselytes to their creed. The utmost exertions have been made on the part of the anti's, but I hope without the desired effect. If the proposed government does not take place, or one similar to it, I expect that some *Oliver*<sup>2</sup> will start up and give laws to this new world. The Eastern states appear ripe, loaded as they are with a heavy domestic and foreign debt, their commerce drooping, manufactures at a stand, little money among them, and heavy taxes that must be paid, all conspire to make them desperate and ready to attempt any thing.

"Maryland has shewn a glori[o]us example to those states who have not come into the proposed measures; I flatter myself their conduct will have a very good effect. North-Carolina I make no doubt will join the seven states, for they have long known the want of an energetic government, and now that the Indians are playing the d—l among them, they the more sensibly feel it. South-Carolina from accounts received, there is no danger of, we must therefore cast our eyes to Virginia and this state, for New-Hampshire having adjourned to a long day, I suppose will be last, except R-g-s Island, and as for that pretty [i.e., petty] state it is no consequence to the union, unless they mend mightily indeed. By the accounts from your quarter, I fear the pill will stick in swallowing."

1. The first paragraph was reprinted in the Virginia Centinel, 28 May.

2. Probably a reference to Oliver Cromwell, the Lord Protector of England (1653–58), who sometimes ruled through ordinances when there was no Parliament.

# 753. South Carolina Convention Amendments, 23 May

The South Carolina Convention met in Charleston on 12 May. The next day it read the Massachusetts Form of Ratification which included nine recommendatory amendments to the Constitution proposed by the Massachusetts Convention on 6 February. (For the text of these amendments, see CC:508.) On 21 May, after about a week of debating the Constitution by paragraphs, an Antifederalist motion to postpone further consideration of the Constitution until 20 October 1788 was defeated by a vote of 135 to 89. The next day a nine-member committee, dominated by Federalists, was appointed "to draw up such Amendments to the Federal Constitution as they think ought to be recommended to Congress for Adoption." The committee reported four amendments that same day, but the Convention ordered that the report be considered the next day.

On 23 May the Convention debated the committee's report. Three additional amendments were introduced and defeated: an amendment to limit the President's tenure to one four-year term by a vote of 139 to 68; an amendment totally prohibiting a U.S. officeholder from accepting a present, emolument, office, or title from a foreign king or state; and an amendment limiting the federal government's use of the state militias. The Convention then read the original report and accepted the amendments, including a resolution that the South Carolina delegates to the new Congress use their influence to bring about the alterations proposed in the amendments. Antifederalists then recommended that a committee be appointed to draft a bill of rights. The delegates rejected the proposal and ratified the Constitution 149 to 73. The Convention ordered that two copies of the Form of Ratification, together with the recommended amendments, be engrossed on parchment, and that one of the copies be sent to the Confederation Congress. The amendments printed here were appended to the Form of Ratification. The Convention also resolved that 1,200 copies of the Constitution be printed along with the recommended amendments and that six copies be given to each of the Convention delegates. On 24 May the president of the Convention signed the Form of Ratification.

The amendments were first printed in Charleston on 26 May in the Columbian Herald and State Gazette of South Carolina. By 30 June they were reprinted in forty newspapers: Vt. (1), N.H. (3), Mass. (10), R.I. (4), Conn. (4), N.Y. (5), N.J. (1), Pa. (6), Md. (2), Va. (3), N.C. (1). They also appeared in the August issue of the Philadelphia American Museum.

The amendments printed here are transcribed from the Charleston Columbian Herald of 26 May.

And Whereas it is essential to the preservation of the rights reserved to the several states, and the freedom of the people under the operations of a general government, that the right of prescribing the manner, time and places of holding the elections to the federal legislature, should be for ever inseparably annexed to the sovereignty of the several states. This Convention doth declare, that the same ought to remain to all posterity a perpetual and fundamental right in the local, exclusive of the interference of the general government, except in cases where the legislatures of the states shall refuse or neglect to perform and fulfill the same, according to the tenor of the said constitution.

This Convention doth also declare, that no section or paragraph of the said constitution warrants a construction that the states do not retain every power not expressly relinquished by them and vested in the general government of the union.

Resolved, That the general government of the United States ought never to impose direct taxes, but where the monies arising from the duties, imposts and excise are insufficient for the public exigencies; nor then, until congress shall have made a requisition upon the states to assess, levy and pay their respective proportions of such requisitions: and in case any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then congress may assess and levy such state's proportion, together with interest thereon, at the rate of six per cent. per annum, from the time of payment prescribed by such requisition.

*Resolved*, That the 3d section of the 6th article ought to be amended, by inserting the word *other* between the words *no* and *religious*.

*Resolved*, That it be a standing instruction to all such delegates as may hereafter be elected to represent this state in the general government, to exert their utmost abilities and influence to affect an alteration of the constitution, conformably to the aforegoing resolutions.

Done in Convention, the 23d day of May, in the year of our Lord, One Thousand, seven hundred and eighty-eight, and of the Independence of the United states of America the twelfth.

> Thomas Pinckney, President. (L.S.) Attest John S. Dart, Secretary, (L.S.)

## 754. James Monroe: Some Observations on the Constitution c. 25 May

James Monroe, a Spotsylvania County delegate to the Virginia Convention, did not commit himself on the Constitution until the meeting of the Convention on 2 June 1788. Although it was known that Monroe had objections to the Constitution, and although he expressed doubts at the county election for Convention delegates in March, some people were convinced that he would not oppose ratification. (For contemporary speculation about his position on the Constitution, see RCS:Va., 844n-45n.) Monroe himself maintained that he "made no communication or positive declaration of my sentiments untill after the Convention met" (to Thomas Jefferson, 12 July, RCS:Va., 1705. The italicized words appeared in cypher and were decoded by Jefferson.).

#### с. 25 Мау, СС:754

Sometime in May 1788, however, Monroe became convinced that the Constitution should not be adopted without prior amendments. Consequently, he outlined his objections to his constituents in a twenty-four-page pamphlet entitled *Some Observations on the Constitution*. Monroe explained that, even though he supported a "radical" change in the Confederation, he had "some strong and invincible objections" to the Constitution. He opposed the power of Congress to levy direct taxes, the extensive jurisdiction of the federal judiciary, the equal representation of the states in the Senate, and that body's executive and judicial powers. If amendments were not adopted prior to the ratification of the Constitution, Monroe argued, the central government would eventually degenerate into a monarchy. He was convinced that a second constitutional convention would improve the Constitution. (For more on Monroe's support of such a convention, see Monroe to Jefferson, 15 February 1789, Boyd, XIV, 558.)

Monroe hoped to have his pamphlet appear eight to ten days before the Virginia Convention met (to Jefferson, 12 July 1788, RCS:Va., 1705). After the pamphlet was struck off, Monroe apparently sent a copy to Virginia lawyer St. George Tucker, asking for his opinion and stating that he would not have the pamphlet distributed unless it would do himself some good. (See the index card for a Monroe letter to Tucker, dated May 1788, in the card index file to the Tucker-Coleman Papers in the Earl Gregg Swem Library of the College of William and Mary.) No reply from Tucker has been located, but the pamphlet was not, according to Monroe, "generally circulated" (Stuart Gerry Brown, ed., *The Autobiography of James Monroe* [Syracuse, N.Y., 1959], 50). Monroe explained to Jefferson that "the impression was delayed so long, & so incorrectly made, and the whole performance upon reexamination so loosely drawn that *I* thought it best to suppress it. There appear'd likewise to be an impropriety in interfering with the subject in that manner in that late stage of the business" (12 July, RCS:Va., 1705–6).

Monroe apparently carried copies of his pamphlet to the Virginia Convention in Richmond and presented one to fellow delegate James Madison. Monroe also gave a copy to Eleazer Oswald, the publisher of the Philadelphia *Independent Gazetteer* and a courier between New York and Virginia Antifederalists who were trying to cooperate on obtaining amendments. John Lamb, chairman of the New York Federal Republican Committee, forwarded the pamphlet to Governor George Clinton, president of the New York Convention in Poughkeepsie. Lamb explained that Monroe was a member of the Virginia Convention, "which induced *him* (from a point of delicacy) to tear off the Title-Page" (to Clinton, 17 June, CC:750–H. Neither of the two copies that have been located has a title page. For more about them, see RCS:Va., 846n.).

About two weeks after the Virginia Convention adjourned, Monroe forwarded the pamphlet to Jefferson in Paris (12 July, RCS:Va., 1705). He also gave one to Edward Carrington, who, upon Monroe's request, eventually returned it. Carrington agreed with Monroe's criticisms of the Articles of Confederation, and he answered Monroe's objections about the tax power of Congress and the jurisdiction of the federal judiciary (Carrington to Monroe, 15 September, Monroe Papers, DLC). On 15 February 1789 Monroe informed George Washington that the pamphlet "was written before the meeting of the late Convention, but being inacurately printed and delay'd in the press untill the week it assembled, it was for those reasons at that time suppress'd. Had not the propriety of making my sentiments known upon a late occasion, suggested this mode, in that situation it would have remain'd. Having suffer'd it to escape me, it is with pleasure that I enclose you a copy. I am not aware that it contains any thing worthy of attention. It was however written in haste, and whilst other engagments employ'd much of my attention" (Elihu B. Washburne Autograph Collection, Houghton Library, MH). George Washington replied on 23 February that he was pleased to discover "so much candour and liberality as seem to predominate in your Style and manner of investigation" (Mfm:Va. 356).

James Monroe (1758–1831) was a former officer in the Virginia militia and the Continental Army, 1775–78, and a lawyer who studied law with Thomas Jefferson. He was a member of the Virginia Council of State, 1782–83; and a delegate to the Virginia House of Delegates from King George County, 1782, and Spotsylvania County, 1787–89. As a member of Congress, 1783– 86, Monroe supported measures to increase the power of Congress. In June 1788, he represented Spotsylvania in the Virginia Convention, where he voted against ratification of the Constitution without previous amendments. Monroe was a U.S. senator, 1790–94; minister plenipotentiary to France, 1794–96; Virginia governor, 1799–1802, 1811; U.S. Secretary of State, 1811–17; U.S. Secretary of War, 1814–15; and President of the U.S., 1817–25.

[For the text of Monroe's pamphlet, Some Observations on the Constitution, see RCS:Va., 846-77.]

# 755. Richard Henry Lee to Edmund Pendleton Chantilly, Va., 26 May<sup>1</sup>

The manner in which we have together struggled for the just rights of human nature, with the friendly correspondence that we have maintained, entitles us, I hope, to the most unreserved confidence in each other upon the subject of human rights and the liberty of our country. (It is probable that yourself, no more than I do, propose to be hereafter politically engaged; neither therefore expecting to gain or fearing to loose, the candid part of mankind will admit us to be *impartial* Judges, at least of the arduous business that calls you to Richmond on the 2d. of next month.)<sup>2</sup>

I do not recollect to have met with a sensible and candid Man who has not admitted that it would be both safer and better if amendments were made to the Constitution proposed for the government of the U. States; but the friends to the idea of amendments divide about the mode of obtaining them—Some thinking that a second Convention might do the business, whilst others fear that the attempt to remedy by another Convention would risk the whole. I have been informed that you wished Amendments, but disliked the plan of another Con-

#### 26 MAY, CC:755

vention. The just weight that you have Sir in the Councils of your Country may put it in your power to save from Arbitrary Rule a great and free people. I have used the words Arbitrary Rule because great numbers fear that this will be the case, when they consider that it may be so under the new proposed System, and reflect on the unvarying progress of power in the hands of frail Man. To accomplish the ends of Society by being equal to Contingencies infinite, demands the deposit of power great and extensive indeed in the hands of Rulers. So great, as to render abuse probable, unless prevented by the most careful precautions: among which, the freedom & frequency of elections, the liberty of the Press, the Trial by Jury, and the Independency of the Judges, seem to be so capital & essential; that they ought to be secured by a Bill of Rights to regulate the discretion of Rulers in a legal way, restraining the progress of Ambition & Avarice within just bounds. Rulers must act by subordinate Agents generally, and however the former may be secure from the pursuits of Justice, the latter are forever kept in Check by the trial by Jury where that exists "in all its Rights". This most excellent security against oppression, is an universal, powerful and equal protector of all. But the benefit to be derived from this System is most effectually to be obtained from a well informed and enlightened people. Here arrises the necessity for the freedom of the Press, which is the happiest Organ of communication ever yet devised, the quickest & surest means of conveying intelligence to the human Mind.

I am grieved to be forced to think, after the most mature consideration of the subject, that the proposed Constitution leaves the three essential Securities before stated, under the mere pleasure of the new Rulers! And why should it be so Sir, since the violation of these cannot be necessary to good government, but will be always extremely convenient for bad. It is a question deserving intense consideration, whether the State Sovereignties ought not to be supported, perhaps in the way proposed by Massachusetts in their 1st. 3d. & 4th Amendments.<sup>3</sup> Force & Opinion seem to be the two ways alone by which Men can be governed-the latter appears the most proper for a free people-but remove that and obedience, I apprehend, can only be found to result from fear the Offspring of force. If this be so, can Opinion exist (among the great Mass of Mankind) without compitent knowledge of those who govern, and can that knowledge take place in a Country so extensive as the territory of the U. States which is stated by Capt. Hutchins<sup>4</sup> at a Million of square miles, whilst the empire of Germany contains but 192,000, and the kingdom of France but 163,000 square miles. The almost infinite variety of climates, Soils, productions, man-

ners, customs & interests renders this still more difficult for the general government of one Legislature; but very practicable to Confederated States united for mutual safety & happiness, each contributing to the federal head such a portion of its sovereignty as would render the government fully adequate to these purposes and No more. The people would govern themselves more easily, the laws of each State being well adapted to its own genius and circumstances; the liberties of the U. States would probably be more secure than under the proposed plan, which, carefully attended to will be found capable of annihilating the State Sovereignties by finishing the operations of their State governments under the general Legislative right of commanding Taxes without restraint. So that the productive Revenues that the States may happily fall upon for their own support can be seized by superior power supported by the Congressional Courts of Justice, and by the sacred obligation of Oath imposed on all the State Judges to regard the laws of Congress as sup[reme?] over the laws and Constitutions of the States! Thus circumst[anced we?] shall probably find resistance vain, and the State governments as feeble and contemptible as was the Senatorial power under the Roman Emperors-The name existed but the thing was gone. I have observed Sir that the sensible and candid friends of the proposed plan agree that amendments would be proper, but fear the consequences of another Convention. I submit the following as an effectual compromise between the Majorities, and the formidable Minorities that generally prevail.

It seems probable that the determinations of four States<sup>5</sup> will be materially influenced by what Virginia shall do-This places a strong obligation on our country to be unusually cautious and circumspect in our Conventional conduct. The Mode that I would propose is something like that pursued by the Convention Parliament of England in 1688.6 In our Ratification insert plainly and strongly such amendments as can be agreed upon, and say; that the people of Virginia do insist upon and mean to retain them as their undoubted rights and liberties which they intend not to part with; and if these are not obtained and secured by the Mode pointed out in the 5th. article of the Convention plan in two years after the meeting of the new Congress, that Virginia shall be considered as disengaged from this Ratification.<sup>7</sup> In the 5th. article it is stated that two thirds of Congress may propose amendments, which being approved by three fourths of the Legislatures become parts of the Constitution-So that the new Congress may obtain the amendments of Virginia without risking the convulsion of Conventions. Thus the beneficial parts of the new System may be retained, and a just security be given for Civil Liberty; whilst the friends of the

System will be gratified in what they say is necessary, to wit, the putting the government in motion, when, as they again say, amendments may and ought to be made. The good consequences resulting from this method will probably be, that the undetermined States may be brought to harmonize, and the formidable minorities in many assenting States be quieted by so friendly and reasonable an accommodation. In this way may be happily prevented the perpetual opposition that will inevitably follow (the total adoption of the plan) from the State Legislatures; and united exertions take place. In the formation of these amendments Localities ought to be avoided as much as possible. The danger of Monopolized Trade may be avoided by calling for the consent of 3 fourths of the U. States on regulations of Commerce. The trial by Jury to be according to the course of proceeding in the State where the cause criminal or civil is tried, and confining the Supreme federal Court to the jurisdiction of Law excluding Fact. To prevent surprises, and the fixing of injurious laws, it would seem to be prudent to declare against the making [perpetual?] laws until the experience of two years at least shall have [vouched?] their utility. It being much more easy to get a good Law [continued?] than a bad one repealed. The amendments of Massachusetts [appear?] to be good so far as they go, except the 2d. and extending the 7th. [to?] foreigners as well as the Citizens of other States in this Union.<sup>8</sup> For th[eir?] adoption the aid of that powerful State may be secured. The freedom of the Press is by no means sufficiently attended to by Massachusetts, nor have they remedied the want of responsibility by the impolitic combination of President & Senate. (No person, I think, can be alarmed at that part of the above proposition which proposes our discharge if the requisite Amendments are not made; because, in all human probability it will be the certain means of securing their adoption for the following reasons-N.C. N.Y. R.I. & N.H. are the 4 States that are to determine after Virginia, and there being abundant reason to suppose that they will be much influenced by our determination; if they, or 3 of them join us, I presume it cannot be fairly imagined that the rest, suppose 9, will hesitate a moment to make Amendments which are of general nature, clearly for the safety of Civil Liberty against the future designs of despotism to destroy it; and which indeed is requir'd by at least half of most of those States who have adopted the new Plan; and which finally obstruct not good but bad government.)

It does appear to me, that in the present temper of America, if the Massachusetts amendments, with those herein suggested being added, & were inserted in the form of our ratification as before stated, that Virginia may safely agree, and I believe that the most salutary consequences would ensue. (I am sure that America and the World too look with anxious expectations at us, if we change the Liberty that we have so well deserved for elective Despotism we shall suffer the evils of the change while we labor under the contempt of Mankind)—I pray Sir that God may bless the Convention with wisdom, maturity of Counsel, and constant care of the public liberty; and that he may have you in his holy keeping. (I find that as usual, I have written to *you* a long letter—but you are good and the subject is copious—I like to reason with a reasonable Man, but I disdain to notice those Scribblers in the Newspapers altho they have honored me with their abuse—My attention to them will never exist whilst there is a Cat or a Spaniel in the House!)

1. RC, Miscellaneous Collection, Henry E. Huntington Library, San Marino, Calif. On 27 June Lee enclosed a copy of this letter (misdated 22 May) with his response to a letter from John Lamb, chairman of the New York Federal Republican Committee. This committee was trying to organize support for amendments to the Constitution in those states that had not yet ratified the Constitution. Lee was among those whose assistance was sought out by the New York committee. (The misdated letter is in the Lamb Papers in the New-York Historical Society. Omissions in this copy are enclosed in angle brackets. For the efforts of the New York committee, see CC:750, which includes the committee's 18 May letter to Lee and Lee's 27 June letter to Lamb.)

2. Pendleton was a Caroline County delegate to the Virginia Convention which was scheduled to meet on 2 June. He was elected president of that body.

3. For the text of the amendments adopted by the Massachusetts Convention on 6 February, see CC:508.

4. Thomas Hutchins was the geographer to the United States.

5. South Carolina, New Hampshire, New York, and North Carolina. The South Carolina Convention ratified the Constitution on 23 May, while the conventions of the other three states were scheduled to meet in June and July. The news of South Carolina's ratification did not reach northern Virginia until about a week after Lee wrote this letter.

6. In December 1688 James II fied England. Prince William of Orange, who was already in England, took control of the military and called for the election of a parliament. An election was held and on 22 January 1689 the Convention Parliament met. Since it had not been called by a royal summons, the Convention was technically not a parliament. Nevertheless, on 13 February the Convention Parliament presented to Prince William and his wife Princess Mary (the daughter of James II) the Declaration of Rights, which enumerated the arbitrary acts of James II and declared them to be illegal. The Declaration also resolved that William and Mary were king and queen of England. William and Mary accepted the Declaration and were proclaimed king and queen. Soon after, the Convention passed an act declaring itself to be the Parliament of England, and in December 1689 the Declaration of Rights was enacted into law as the Bill of Rights.

7. The Virginia Convention never discussed the rescinding of its ratification if the new Congress under the Constitution failed to adopt amendments to the Constitution within two years. However, an Antifederalist attempt to have amendments recommended by the Convention submitted to the other states for their consideration "previous to the ratification of the new Constitution" was defeated on 25 June by a vote of 88 to 80 (RCS:Va., 1538–40).

The Form of Ratification, adopted on 25 June, declared that since the powers granted in the Constitution were derived from the people "no right of any denomination can be cancelled abridged restrained or modified by the Congress by the Senate or House of Representatives acting in any Capacity by the President or any Department or Officer of the United States except in those instances in which power is given by the Constitution for those purposes: & that among other essential rights the liberty of Conscience and of the Press cannot be cancelled abridged restrained or modified by any authority of the United States" (RCS:Va., 1542, 1546). On 27 June the Virginia Convention recommended forty amendments to the Constitution, half of which were grouped together in a declaration of rights (RCS:Va., 1551–56).

8. See note 3 (above).

# 756. George Mason to Thomas Jefferson Gunston Hall, 26 May (excerpt)<sup>1</sup>

... I make no Doubt that You have long ago received Copys of the new Constitution of Government, framed last Summer, by the Delegates of the several States, in general Convention at Philadelphia.<sup>2</sup>— Upon the most mature Consideration I was capable of, and from Motives of sincere Patriotism, I was under the Necessity of refusing my Signature, as one of the Virginia Delegates; and drew up some general Objections; which I intended to offer, by Way of Protest; but was discouraged from doing so, by the precipitate, & intemperate, not to say indecent Manner, in which the Business was conducted, during the last week of the Convention, after the Patrons of this new plan found they had a decided Majority in their Favour;<sup>3</sup> which was obtained by a Compromise between the Eastern, & the two Southern States, to permit the latter to continue the Importation of Slaves for twenty odd Years; a more favourite Object with them, than the Liberty and Happiness of the People.<sup>4</sup>—

These Objections of mine were first printed very incorrectly, without my Approbation, or Privity; which laid me under some kind of Necessity of publishing them afterwards, myself.—I take the Liberty of enclosing You a Copy of them.<sup>5</sup> You will find them conceived in general Terms; as I wished to confine them to a narrow compass.—There are many other things very objectionable in the proposed new Constitution; particularly the almost unlimited Authority over the Militia of the several States; whereby, under Colour of regulating, they may disarm, or render useless the Militia, the more easily to govern by a standing Army; or they may harrass the Militia, by such rigid Regulations, and intollerable Burdens, as to make the People themselves desire it's Abolition.—By their Power over the Elections, they may so order them, as to deprive the People at large of any Share in the Choice of their Representatives.—By the Consent of Congress, Men in the highest Of-

fices of Trust in the United States may receive any Emolument, Place, or Pension from a forreign Prince, or Potentate; which is setting themselves up to the highest Bidder.-But it would be tedious to enumerate all the Objections; and I am sure they cannot escape Mr. Jefferson's Observation.-Delaware-Pensylvania-Jersey-Connecticut-Georgia, and Maryland have ratifyed the new Government (for surely it is not a Confederation) without Amendments<sup>6</sup>-Massachusets has accompanyed the Ratification with proposed Amendments7-Rhode Island has rejected it<sup>8</sup>-New Hampshire, after some Deliberation, adjourned their Convention to June-The Convention of South Carolina is now sitting-The Convention of new York meets in June-that of North Carolina in July-and the Convention of Virginia meets on the first Monday in June. I shall set out for Richmond this week, in order to attend it.-From the best Information I have had, the Members of the Virginia Convention are so equally divided upon the Subject, that no Man can, at present, form any certain Judgement of the Issue.<sup>9</sup> There seems to be a great Majority for Amendments; but many are for ratifying first, and amending afterwards. This Idea appears to me so utterly absurd, that I can not think any Man of Sense candid, in Proposing it....

1. RC, Jefferson Papers, DLC. Printed: Rutland, Mason, III, 1044–46. "Gunston Hall" was Mason's estate in Fairfax County, Va. As a postscript to this letter, not printed here, Mason transcribed his anti-paper-money resolutions that the House of Delegates had unanimously adopted in November 1787. Mason hoped that these resolutions had "given that iniquitous P[r]oject it's Death's-Wound." For a discussion of these resolutions, see RCS:Va., xxviii.

2. In fact, Jefferson had received several copies of the Constitution (CC:Vol. 1, pp. 223n, 438, 442).

3. See "The Constitutional Convention, A Second General Convention, and A Bill of Rights," 12–15 September (CC:75).

4. Under this compromise, Congress could not prohibit the importation of slaves before 1808 and commercial legislation could be adopted by a simple majority of both houses of Congress, not the two-thirds vote favored by the Southern States. In his objections, Mason attacked both aspects of the compromise (CC:138).

5. On 21, 22, and 23 November, Mason's objections were printed in the *Massachusetts Centinel, Virginia Journal*, and Winchester *Virginia Gazette*, respectively. It is unlikely that Mason had anything to do with any of these printings, all of which appeared independently of each other. The printing to which he alludes and the one which he sent to Jefferson was perhaps the folio broadside imprint made by Thomas Nicolson of the Richmond *Virginia Gazette and Weekly Advertiser*. For the text of Mason's objections and their publication, see CC:138, 276.

6. For the amendments considered by the Maryland Convention, see CC:716.

7. For the Massachusetts amendments, see CC:508.

8. For the 24 March referendum in Rhode Island rejecting the Constitution, see CC:664.

9. For a discussion of the divisions in the Virginia Convention, see RCS:Va., 898-99.

# 757. Thomas Jefferson to Edward Carrington Paris, 27 May (excerpt)<sup>1</sup>

I have received with great pleasure your friendly letter of Apr. 24.<sup>2</sup> it has come to hand after I had written my letters for the present conveiance, and just in time to add this to them. I learn with great pleasure the progress of the new Constitution-indeed I have presumed it would gain on the public mind, as I confess it has on my own. at first, tho I saw that the great mass & groundwork was good, I disliked many appendages. reflection and discussion have cleared off most of these-you have satisfied me as to the query I had put to you about the right of direct taxation.<sup>3</sup> (my first wish was that 9 states would adopt it in order to ensure what was good in it, & that the others might, by holding off, produce the necessary amendments.<sup>4</sup> but the plan of Massachusets is far preferable, and will I hope be followed by those who are yet to decide.<sup>5</sup> there are two amendments only which I am anxious for. 1. a bill of rights, which it is so much the interest of all to have, that I conceive it must be yielded. the 1st. amendment proposed by Massachusets will in some degree answer this end, but not so well.6 it will do too much in some instances & too little in others. it will cripple the federal government in some cases where it ought to be free, and not restrain it in some others where restraint would be right, the 2d, amendment which appears to me essential is the restoring the principle of necessary rotation, particularly to the Senate & Presidency: but most of all to the last. re-eligibility makes him an officer for life, and the disasters inseparable from an elective monarchy, render it preferable, if we cannot tread back that step, that we should go forward & take refuge in an hereditary one. of the correction of this article however I entertain no present hope, because I find it has scarcely excited an objection in America. and if it does not take place ere long, it assuredly never will. the natural progress of things is for liberty to yeild, & government to gain ground. as yet our spirits are free. our jealousy is only put to sleep by the unlimited confidence we all repose in the person to whom we all look as our president, after him inferior characters may perhaps succeed and awaken us to the danger which his merit has led us into. for the present however, the general adoption is to be prayed for; and I wait with great anxiety for the news from Maryland & S. Carolina which have decided before this, and wish that Virginia, now in session, may give the 9th. vote of approbation. there could then be no doubt of N. Carolina, N. York, & New Hampshire.) but what do you propose to do with Rhode island? as long as there is hope, we should give her time. I cannot conceive but that she will come to rights in the long run. force, in whatever form, would be a dangerous precedent....

1. FC, Jefferson Papers, DLC. Printed: Boyd, XIII, 208–10. A press copy of an extract of this letter, enclosed in angle brackets, is in the James Monroe Papers at the Library of Congress.

2. See RCS:Va., 754-56.

3. In his letter of 21 December, Jefferson asked Carrington whether it would have been better if the Constitution gave Congress full authority over imposts but left direct taxation to the states. Carrington answered on 24 April, stating that Congress needed the power of direct taxation in times of emergency and when states failed to provide Congress with revenue (RCS:Va., 755).

4. Jefferson outlined this procedure in several letters—to William Stephens Smith, James Madison, and Alexander Donald, 2, 6, and 7 February, respectively (CC:Vol. 2, p. 500; Boyd, XII, 557–59, 568–70; and RCS:Va., 353–54). Antifederalists in the Virginia and North Carolina conventions referred to the Donald letter in hopes of fore-stalling ratification of the Constitution. (See RCS:Va., 1052, 1088, note 7; and CC:814.)

5. On 3 June Jefferson wrote William Carmichael: "but I am now convinced that the plan of Massachusets is the best that is, to accept, and to amend afterwards. if the states which were to decide after her should all do the same, it is impossible but they must obtain the essential amendments. it will be more difficult if we lose this instrument, to recover what is good in it, than to correct what is bad after we shall have adopted it. it has therefore my hearty prayers, and I wait with anxiety for news of the votes of Maryland, S. Carolina, & Virginia" (Boyd, XIII, 232–33).

6. For the first Massachusetts amendment, see CC:689, note 7.

# 758. George Washington to Marquis de Lafayette Mount Vernon, 28 May (excerpt)<sup>1</sup>

... Since I had the pleasure of writing to you by the last Packet,<sup>2</sup> the Convention of Maryland has ratified the federal Constitution by a majority of 63 to 11 voices. That makes the seventh State which has adopted it, nex[t] monday the Convention in Virginia will assemblewe have still good hopes of its adoption here: though by no great plurality of votes. South Carolina has probably decided favourably before this time. The plot thickens fast. A few short weeks will determine the political fate of America for the present generation and probably produce no small influence on the happiness of society through a long succession of ages to come.-Should every thing proceed with harmony and consent according to our actual wishes and expectations;-I will confess to you sincerely, my dear Marquis; it will be so much beyond any thing we had a right to imagine or expect eighteen months ago, that it will demonstrate as visibly the finger of Providence, as any possible event in the course of human affairs can ever designate it. It is impracticable for you or any one who has not been on the spot, to realise the change in men's minds and the progress

towards rectitude in thinking and acting which will then have been made....

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 506-8.

2. See Washington to Lafayette, 28 April, 1 May (CC:715).

# Editors' Note Publication of Volume II of the Book Edition of The Federalist, 28 May

On 28 May the New York Independent Journal contained an advertisement stating that "This Day is published, The FEDERALIST, VOLUME SECOND." (The advertisement also appeared in the New York Daily Advertiser, 30 May, and as a broadside.) Subscribers were requested to send "immediately" for their copies to the printing office of John and Archibald M'Lean, publishers of both the volume and the Independent Journal. (The advertisement was run continuously in the Independent Journal through 24 December.) The publishers offered to non-subscribers "This inestimable Work" "at the low rate of EIGHT SHILLINGS the two Volumes, which contain upwards of six hundred Pages." Subscribers to The Federalist paid three shillings for the second volume, the same price they had paid for the first. (The M'Leans had promised, in their original advertisement seeking subscribers to a single-volume edition of The Federalist [CC:406], to charge subscribers six shillings if the volume went over 250 pages. For the pricing of the volumes to subscribers, see also Archibald M'Lean's 14 October 1788 letter which is quoted at length in the headnote to CC:639.)

The 28 May advertisement in the New York *Independent Journal* also declared that "The several matters which are contained in these Papers, are *immediately* interwoven with the very existence of this new Empire, and ought to be well understood by every Citizen of America. The Editor entertains no doubt that they will be thought by the judicious reader, the cheapest as well as most valuable publication ever offered to the American Public."

The Norfolk and Portsmouth Journal, also owned by John M'Lean, advertised The Federalist, "Complete in Two Volumes," on 4, 11, 18 June, and 3 September. M'Lean, who had the volumes at the Journal's printing office, said that they were on "A Subject which, at this important crisis, demands the attention of this State in particular, and indeed every promoter of the Union, as it is universally allowed (even by its opponents) to be a work of dispassionate reasoning, and the most liberal and candid discussion, from arguments deduced from the very best Authors on Government, as also the theory and practice of the different Sovereignties in Europe." M'Lean also assured "Subscribers at a remote distance who have not received their books" that the books would be sent at "the first opportunity."

Advertisements for *The Federalist* appeared in the Richmond Virginia Independent Chronicle on 11 June, by which time the Virginia Convention had been in session for more than a week in that town, and on 23 July in an extra issue. The Chronicle's advertisements quoted the New York Independent Journal's two sentences beginning "The several matters" (see above). Other advertisements for The Federalist also appeared in the Providence Gazette, 15, 29 November, and the Philadelphia Independent Gazetteer, 22 November.

Anticipating the publication of Volume II of *The Federalist*, the Antifederalist *New York Journal* printed this highly critical item on 27 May, the day before the New York *Independent Journal's* advertisement: "By inserting the following character (extracted from the additional letters of the Federal Farmer [CC:723]) of the long-winded productions of Publius; you will much oblige A CUSTOMER.

"'As to the lengthy writer in New-York you mention, I have attentively examined his pieces; he ["A Customer" inserted the following footnote here: "There is a great difference between appearance and reality."] appears to be a candid good-hearted man, to have a good style, and some plausible ideas; but when we carefully examine his pieces, to see where the strength of them lies, when the mind endeavours to fix on those material parts which ought to be the essence of all voluminous productions, we do not find them: the writer seems constantly to move on a smooth surface; the parts of his work, like the parts of a cob-house, are all equally strong and all equally weak, and all, like those works of the boys, without an object; his pieces appear to have but little relation to the great question, Whether the constitution is fitted to the condition and character of the people, or not?""

Volume I of *The Federalist*, which had appeared on 22 March, contained the first thirty-six essays and ran to 233 pages. Volume II contained the remaining forty-nine numbers, including eight essays (78 to 85) which had not appeared in the newspapers. It was 390 pages long. Essays 78 to 85, all written by Alexander Hamilton, are printed immediately below as CC:759–766. They were reprinted in the New York *Independent Journal* from 14 June to 16 August and in the New York Packet from 17 June to 15 August, always appearing first, in whole or in part, in the *Journal*. In some cases, the *Journal* and the *Packet* printed a single essay over two or more issues.

Volume II of The Federalist (Evans 21127) was distributed both at

home and abroad. As promised in his 19 May letter, Alexander Hamilton sent forty of "the common copies & twelve of the finer" copies to James Madison at the Virginia Convention in Richmond on 8 June (Syrett, IV, 650; V, 3). It is not known when these copies arrived, but Madison had some volumes by 1 July, four days after the Convention adjourned, because on that day he sent copies to his father requesting that they be forwarded to Baptist ministers John Leland and Aaron Bledsoe (Rutland, *Madison*, XI, 185). Single copies of Volume II were sent by Pennsylvanian John Vaughan to Delawarean John Dickinson; by North Carolina Convention delegate James Iredell to fellow delegate William R. Davie; and by Virginians Edward Carrington and James Madison to fellow Virginian Thomas Jefferson in Paris (Vaughan to Dickinson, 9 June, Dickinson Papers, PPL; Davie to Iredell, 9 July, Iredell Papers, NcD; Carrington to Jefferson, 10 August, Boyd, XIII, 495; and Madison to Jefferson, 23 August, Rutland, *Madison*, XI, 239).

Copies of Volumes I and II were transmitted by Richard Platt of New York City to Winthrop Sargent in the Northwest Territory; and by Samuel B. Webb, observing the New York Convention in Poughkeepsie, to a friend in Columbia County, N.Y. (Platt to Sargent, 14 June, Sargent Papers, MHi; and Webb to Catherine Hogeboom, 24– 25 June, Webb Papers, CtY). On 13 August Alexander Hamilton wrote George Washington that "I have delivered to Mr. Madison to be forwarded to you a sett of the papers under the signature of Publius, neatly enough bound, to be honored with a place in your library. I presume you have understood that the writers of these Papers are chiefly Mr. Madison & myself with some aid from Mr. Jay" (Syrett, V, 201).

Washington replied to Hamilton on 28 August, stating that "As the perusal of the political papers under the signature of Publius has afforded me great satisfaction, I shall certainly consider them as claiming a most distinguished place in my library.—I have read every performance which has been printed on one side and the other of the great question lately agitated (so far as I have been able to obtain them) and, without an unmeaning compliment, I will say that I have seen no other so well calculated (in my Judgment) to produce conviction on an unbiassed mind, as the *Production* of your *Triumvirate*—when the transient circumstances & fugitive performances which attended this crisis shall have disappeared, that work will merit the notice of Posterity; because in it are candidly discussed the principles of freedom & the topics of government, which will be always interesting to mankind so long as they shall be connected in Civil Society" (Syrett, V, 207). Thomas Jefferson was equally complimentary when he thanked Mad-

ison on 18 November for Volume II. "With respect to the Federalist," stated Jefferson, "the three authors had been named to me. I read it with care, pleasure & improvement, and was satisfied there was nothing in it by one of those hands, & not a great deal by a second, it does the highest honor to the third, as being, in my opinion, the best commentary on the principles of government which was ever written. in some parts it is discoverable that the author means only to say what may be best said in defence of opinions in which he did not concur. but in general it establishes firmly the plan of government. I confess it has rectified me in several points" (Boyd, XIV, 188). On 17 September the Charleston City Gazette printed an extract of a letter from a member of Congress to a gentleman in Charleston in which the congressman noted that "this valuable work ought to be disseminated over the United States-it ought to be studied by every man who has or expects to have any thing to do with the government; it will enlarge their ideas, and places in a just point of view the true principles of government."

The New York American Magazine reviewed Volume II of The Federalist in its May and June issues, just as it had reviewed the first volume in its March and April issues. The reviewer, probably the editor Noah Webster, summarized the essays either singly or in batches and praised the author effusively, referring to his remarks on a variety of subjects as "excellent," "clear," "just," "valuable," and "very judicious." He complimented the author on his "great reading and profound knowledge of the principles of government," and for his "fair and candid, and generally clear" reasoning. The author's language was "correct, smooth and elegant," but the reviewer was critical about the correctness of the author's style in cases where he used "was" (the past tense of the verb to be) for the "future or conditional should be or might be." These errors were "very common with the best writers," continued the reviewer, who was willing to excuse them in "writers whose principal business is with ideas rather than with words."

The reviewer concluded: "On the whole, it must be allowed that these essays compose one of the most complete dissertations on government that ever has appeared in America, perhaps in Europe. They are well calculated to remove objections to the new Constitution—to impress upon candid minds, just ideas of the nature of republican governments, of the principles of civil liberty, and of the genius and probable operation of the proposed Federal Constitution. They will be useful in diffusing political knowledge in the American republics, and will probably be re-published and read with pleasure and approbation, by the friends of liberty on the other side of the Atlantic." (The first foreign edition of *The Federalist*—identifying Alexander Hamilton, James Madison, and John Jay as the authors on the title page was printed in two volumes in Paris in 1792.)

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639.

# 759. Publius: The Federalist 78 New York, 28 May

This essay, written by Alexander Hamilton, first appeared in Volume II of the book edition of *The Federalist*. It was reprinted as number 77 in the New York *Independent Journal*, 14 June, and as number 78 in the *New York Packet*, 17, 20 June. It has been transcribed from pages 290–99 of the book edition.

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

A View of the Constitution of the Judicial Department, in Relation to the Tenure of good Behaviour.

We proceed now to an examination of the judiciary department of the proposed government.

In unfolding the defects of the existing confederation, the utility and necessity of a federal judicature have been clearly pointed out.<sup>1</sup> It is the less necessary to recapitulate the considerations there urged; as the propriety of the institution in the abstract is not disputed: The only questions which have been raised being relative to the manner of constituting it, and to its extent. To these points therefore our observations shall be confined.

The manner of constituting it seems to embrace these several objects—1st. The mode of appointing the judges—2d. The tenure by which they are to hold their places—3d. The partition of the judiciary authority between different courts, and their relations to each other.

*First.* As to the mode of appointing the judges: This is the same with that of appointing the officers of the union in general, and has been so fully discussed in the two last numbers,<sup>2</sup> that nothing can be said here which would not be useless repetition.

Second. As to the tenure by which the judges are to hold their places: This chiefly concerns their duration in office; the provisions for their support; and the precautions for their responsibility.

According to the plan of the convention, all the judges who may be appointed by the United States are to hold their offices *during good behaviour*, which is conformable to the most approved of the state constitutions; and among the rest, to that of this state.<sup>3</sup> Its propriety having been drawn into question by the adversaries of that plan, is no light symptom of the rage for objection which disorders their imaginations and judgments. The standard of good behaviour for the continuance in office of the judicial magistracy is certainly one of the most valuable of the modern improvements in the practice of government. In a monarchy it is an excellent barrier to the despotism of the prince: In a republic it is a no less excellent barrier to the encroachments and oppressions of the representative body. And it is the best expedient which can be devised in any government, to secure a steady, upright and impartial administration of the laws.

Whoever attentively considers the different departments of power must perceive, that in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors, but holds the sword of the community. The legislative not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither FORCE nor WILL, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.

This simple view of the matter suggests several important consequences. It proves incontestibly that the judiciary is beyond comparison the weakest of the three departments of power;<sup>(a)</sup> that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks. It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter: I mean, so long as the judiciary remains truly distinct from both the legislative and executive. For I agree that "there is no liberty, if the power of judging be not separated from the legislative and executive powers."<sup>(b)</sup> And it proves, in the last place, that as liberty can have nothing to fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments; that as all the effects of such an union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its co-ordinate branches; and that as nothing can contribute so much to its firmness and independence, as permanency in office, this quality may therefore be justly regarded as an indis-

pensable ingredient in its constitution; and in a great measure as the citadel of the public justice and the public security.

The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority; such for instance as that it shall pass no bills of attainder, no *ex post facto* laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Some perplexity respecting the right of the courts to pronounce legislative acts void, because contrary to the constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged that the authority which can declare the acts of another void, must necessarily be superior to the one whose acts may be declared void. As this doctrine is of great importance in all the American constitutions, a brief discussion of the grounds on which it rests cannot be unacceptable.

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act therefore contrary to the constitution can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorise, but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the constitution. It is not otherwise to be supposed that the constitution could intend to enable the representatives of the people to substitute their *will* to that of their constituents. It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcileable variance between the two, that which has the superior obligation and validity ought of course to be prefered; or in other words, the constitution ought to be prefered to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature declared in its statutes, stands in opposition to that of the people declared in the constitution, the judges ought to be governed by the latter, rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental.

This exercise of judicial discretion in determining between two contradictory laws, is exemplified in a familiar instance. It not uncommonly happens, that there are two statutes existing at one time, clashing in whole or in part with each other, and neither of them containing any repealing clause or expression. In such a case, it is the province of the courts to liquidate and fix their meaning and operation: So far as they can by any fair construction be reconciled to each other; reason and law conspire to dictate that this should be done: Where this is impracticable, it becomes a matter of necessity to give effect to one, in exclusion of the other. The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is mere rule of construction, not derived from any positive law, but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision, but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable, that between the interfering acts of an equal authority, that which was the last indication of its will, should have the preference.

But in regard to the interfering acts of a superior and subordinate authority, of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be prefered to the subsequent act of an inferior and subordinate authority; and that, accordingly, whenever a particular statute contravenes the constitution, it will be the duty of the judicial tribunals to adhere to the latter, and disregard the former.

It can be of no weight to say, that the courts on the pretence of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes; or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise WILL instead of JUDGMENT, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it proved any thing, would prove that there ought to be no judges distinct from that body.

If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.

This independence of the judges is equally requisite to guard the constitution and the rights of individuals from the effects of those ill humours which the arts of designing men, or the influence of particular conjunctures sometimes disseminate among the people themselves, and which, though they speedily give place to better information and more deliberate reflection, have a tendency in the mean time to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed constitution will never concur with its enemies(c) in questioning that fundamental principle of republican government, which admits the right of the people to alter or abolish the established constitution whenever they find it inconsistent with their happiness; yet it is not to be inferred from this principle, that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constituents incompatible with the provisions in the existing constitution, would on that account be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape, than when they had proceeded wholly from the cabals of the representative body. Until the people have by some solemn and authoritative act annulled or changed the established form, it is binding upon themselves collectively, as well as individually; and no presumption, or even knowledge of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.

But it is not with a view to infractions of the constitution only that the independence of the judges may be an essential safeguard against

the effects of occasional ill humours in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity, and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed, but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of an iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled by the very motives of the injustice they meditate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments, than but few may be aware of. The benefits of the integrity and moderation of the judiciary have already been felt in more states than one; and though they may have displeased those whose sinister expectations they may have disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer to-day. And every man must now feel that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead, universal distrust and distress.

That inflexible and uniform adherence to the rights of the constitution and of individuals, which we perceive to be indispensable in the courts of justice, can certainly not be expected from judges who hold their offices by a temporary commission. Periodical appointments, however regulated, or by whomsoever made, would in some way or other be fatal to their necessary independence. If the power of making them was committed either to the executive or legislative, there would be danger of an improper complaisance to the branch which possessed it; if to both, there would be an unwillingness to hazard the displeasure of either; if to the people, or to persons chosen by them for the special purpose, there would be too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the constitution and the laws.

There is yet a further and a weighty reason for the permanency of the judicial offices; which is deducible from the nature of the qualifications they require. It has been frequently remarked with great propriety, that a voluminous code of laws is one of the inconveniencies necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they

should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidably swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society, who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge. These considerations apprise us, that the government can have no great option between fit characters; and that a temporary duration in office, which would naturally discourage such characters from quiting a lucrative line of practice to accept a seat on the bench, would have a tendency to throw the administration of justice into hands less able, and less well qualified to conduct it with utility and dignity. In the present circumstances of this country, and in those in which it is likely to be for a long time to come, the disadvantages on this score would be greater than they may at first sight appear; but it must be confessed that they are far inferior to those which present themselves under the other aspects of the subject.

Upon the whole there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established *good behaviour* as the tenure of their judicial offices in point of duration; and that so far from being blameable on this account, their plan would have been inexcuseably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.

(a) The celebrated Montesquieu speaking of them says, "of the three powers above mentioned, the JUDICIARY is next to nothing." Spirit of Laws, vol. I. page 186.<sup>4</sup>

(b) Idem. page 181.<sup>5</sup>

(c) Vide Protest of the minority of the convention of Pennsylvania, Martin's speech, &c.<sup>6</sup>

1. See The Federalist 22, New York Packet, 14 December (CC:347, especially p. 442). 2. See The Federalist 76 and 77, New York Packet and New York Independent Journal, 1 and 2 April, respectively (CC:656, 657).

3. The constitution of New York provided that the chancellor, the supreme court justices, and the first judge of the county courts should "hold their offices during good behavior or until they shall have respectively attained the age of sixty years" (Thorpe,

V, 2634). See *The Federalist* 79 (CC:760, at note 3) for the dissatisfaction that "Publius" had with this provision.

4. Montesquieu, Spirit of Laws, I, Book XI, chapter VI, 228.

5. *Ibid.*, 222. The entire passage reads: "Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression."

6. See the "Dissent of the Minority of the Pennsylvania Convention," *Pennsylvania Packet*, 18 December (CC:353, pp. 14, 15–16); and Luther Martin, *Genuine Information* II, Baltimore *Maryland Gazette*, 1 January (CC:401, especially pp. 205–6).

# 760. Publius: The Federalist 79 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

### A further View of the Judicial Department, in Relation to the Provisions for the Support and Responsibility of the Judges.

Next to permanency in office, nothing can contribute more to the independence of the judges than a fixed provision for their support. The remark made in relation to the president, is equally applicable here.<sup>1</sup> In the general course of human nature, a power over a man's subsistence amounts to a power over his will. And we can never hope to see realised in practice the complete separation of the judicial from the legislative power, in any system, which leaves the former dependent for pecuniary resources on the occasional grants of the latter. The enlightened friends to good government, in every state, have seen cause to lament the want of precise and explicit precautions in the state constitutions on this head. Some of these indeed have declared that permanent(a) salaries should be established for the judges; but the experiment has in some instances shewn that such expressions are not sufficiently definite to preclude legislative evasions. Something still more positive and unequivocal has been evinced to be requisite. The plan of the convention accordingly has provided, that the judges of the United States "shall at stated times receive for their services a compensation, which shall not be diminished during their continuance in office."

This, all circumstances considered, is the most eligible provision that could have been devised. It will readily be understood, that the fluc-

tuations in the value of money, and in the state of society, rendered a fixed rate of compensation in the constitution inadmissible. What might be extravagant to day, might in half a century become penurious and inadequate. It was therefore necessary to leave it to the discretion of the legislature to vary its provisions in conformity to the variations in circumstances; yet under such restrictions as to put it out of the power of that body to change the condition of the individual for the worse. A man may then be sure of the ground upon which he stands, and can never be deterred from his duty by the apprehension of being placed in a less eligible situation. The clause which has been quoted combines both advantages. The salaries of judicial offices may from time to time be altered, as occasion shall require, yet so as never to lessen the allowance with which any particular judge comes into office, in respect to him. It will be observed that a difference has been made by the convention between the compensation of the president and of the judges. That of the former can neither be increased nor diminished. That of the latter can only not be diminished. This probably arose from the difference in the duration of the respective offices. As the president is to be elected for no more than four years, it can rarely happen that an adequate salary, fixed at the commencement of that period, will not continue to be such to the end of it. But with regard to the judges, who, if they behave properly, will be secured in their places for life, it may well happen, especially in the early stages of the government, that a stipend, which would be very sufficient at their first appointment, would become too small in the progress of their service.

This provision for the support of the judges bears every mark of prudence and efficacy; and it may be safely affirmed that, together with the permanent tenure of their offices, it affords a better prospect of their independence than is discoverable in the constitutions of any of the states, in regard to their own judges.

The precautions for their responsibility are comprised in the article respecting impeachments. They are liable to be impeached for malconduct by the house of representatives, and tried by the senate, and if convicted, may be dismissed from office and disqualified for holding any other. This is the only provision on the point, which is consistent with the necessary independence of the judicial character, and is the only one which we find in our own constitution in respect to our own judges.<sup>2</sup>

The want of a provision for removing the judges on account of inability, has been a subject of complaint. But all considerate men will be sensible that such a provision would either not be practised upon, or would be more liable to abuse than calculated to answer any good purpose. The mensuration of the faculties of the mind has, I believe, no place in the catalogue of known arts. An attempt to fix the boundary between the regions of ability and inability, would much oftener give scope to personal and party attachments and enmities, than advance the interests of justice, or the public good. The result, except in the case of insanity, must for the most part be arbitrary; and insanity without any formal or express provision, may be safely pronounced to be a virtual disqualification.

The constitution of New-York, to avoid investigations that must forever be vague and dangerous, has taken a particular age as the criterion of inability. No man can be a judge beyond sixty.<sup>3</sup> I believe there are few at present, who do not disapprove of this provision. There is no station in relation to which it is less proper than to that of a judge. The deliberating and comparing faculties generally preserve their strength much beyond that period, in men who survive it; and when in addition to this circumstance, we consider how few there are who outlive the season of intellectual vigour, and how improbable it is that any considerable proportion of the bench, whether more or less numerous, should be in such a situation at the same time, we shall be ready to conclude that limitations of this sort have little to recommend them. In a republic, where fortunes are not affluent, and pensions not expedient, the dismission of men from stations in which they have served their country long and usefully, on which they depend for subsistence, and from which it will be too late to resort to any other occupation for a livelihood, ought to have some better apology to humanity, than is to be found in the imaginary danger of a superannuated bench.

(a) Vide Constitution of Massachusetts, Chap. 2. Sect. 1. Art.  $13.^4$ 

1. See The Federalist 73, New York Packet, 21 March (CC:635, especially p. 447).

2. See Articles 32-33 of the New York constitution (Thorpe, V, 2635).

3. See CC:759, note 3 (above).

4. Chapter II, Article XIII of the Massachusetts constitution reads in part: "Permanent and honorable salaries shall also be established by law for the justices of the supreme judicial court" (Thorpe, III, 1903).

### 761. Publius: The Federalist 80 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

A further View of the Judicial Department, in Relation to the Extent of its Powers.

To judge with accuracy of the proper extent of the federal judicature, it will be necessary to consider in the first place what are its proper objects.

It seems scarcely to admit of controversy that the judiciary authority of the union ought to extend to these several descriptions of causes. 1st. To all those which arise out of the laws of the United States, passed in pursuance of their just and constitutional powers of legislation; 2d. to all those which concern the execution of the provisions expressly contained in the articles of union; 3d. to all those in which the United States are a party; 4th. to all those which involve the PEACE of the CONFEDERACY, whether they relate to the intercourse between the United States and foreign nations, or to that between the States themselves; 5th. to all those which originate on the high seas, and are of admiralty or maritime jurisdiction; and lastly, to all those in which the state tribunals cannot be supposed to be impartial and unbiassed.

The first point depends upon this obvious consideration that there ought always to be a constitutional method of giving efficacy to constitutional provisions. What for instance would avail restrictions on the authority of the state legislatures, without some constitutional mode of enforcing the observance of them? The states, by the plan of the convention are prohibited from doing a variety of things; some of which are incompatible with the interests of the union, and others with the principles of good government. The imposition of duties on imported articles, and the emission of paper money, are specimens of each kind. No man of sense will believe that such prohibitions would be scrupulously regarded, without some effectual power in the government to restrain or correct the infractions of them. This power must either be a direct negative on the state laws, or an authority in the federal courts, to over-rule such as might be in manifest contravention of the articles of union. There is no third course that I can imagine. The latter appears to have been thought by the convention preferable to the former, and I presume will be most agreeable to the states.

As to the second point, it is impossible by any argument or comment to make it clearer than it is in itself. If there are such things as political axioms, the propriety of the judicial power of a government being coextensive with its legislative, may be ranked among the number. The mere necessity of uniformity in the interpretation of the national laws, decides the question. Thirteen independent courts of final jurisdiction over the same causes, arising upon the same laws, is a hydra in government, from which nothing but contradiction and confusion can proceed.

Still less need be said in regard to the third point. Controversies between the nation and its members or citizens, can only be properly referred to the national tribunals. Any other plan would be contrary to reason, to precedent, and to decorum.

The fourth point rests on this plain proposition, that the peace of the whole ought not to be left at the disposal of a PART. The union will undoubtedly be answerable to foreign powers for the conduct of its members. And the responsibility for an injury ought ever to be accompanied with the faculty of preventing it. As the denial or perversion of justice by the sentences of courts, as well as in any other manner, is with reason classed among the just causes of war, it will follow that the federal judiciary ought to have cognizance of all causes in which the citizens of other countries are concerned. This is not less essential to the preservation of the public faith, than to the security of the public tranquility. A distinction may perhaps be imagined between cases arising upon treaties and the laws of nations, and those which may stand merely on the footing of the municipal law. The former kind may be supposed proper for the federal jurisdiction, the latter for that of the states. But it is at least problematical whether an unjust sentence against a foreigner, where the subject of controversy was wholly relative to the lex loci, would not, if unredressed, be an aggression upon his sovereign, as well as one which violated the stipulations in a treaty or the general laws of nations. And a still greater objection to the distinction would result from the immense difficulty, if not impossibility, of a practical discrimination between the cases of one complection and those of the other. So great a proportion of the cases in which foreigners are parties involve national questions, that it is by far most safe and most expedient to refer all those in which they are concerned to the national tribunals.

The power of determining causes between two states, between one state and the citizens of another, and between the citizens of different states, is perhaps not less essential to the peace of the union than that which has been just examined. History gives us a horrid picture of the dissentions and private wars which distracted and desolated Germany prior to the institution of the IMPERIAL CHAMBER by Maximilian, towards the close of the fifteenth century; and informs us at the same

time of the vast influence of that institution in appeasing the disorders and establishing the tranquillity of the empire. This was a court invested with authority to decide finally all differences between the members of the Germanic body.

A method of terminating territorial disputes between the states, under the authority of the federal head, was not unattended to, even in the imperfect system by which they have been hitherto held together.<sup>1</sup> But there are many other sources, besides interfering claims of boundary, from which bickerings and animosities may spring up among the members of the union. To some of these we have been witnesses in the course of our past experience. It will readily be conjectured that I allude to the fraudulent laws which have been passed in too many of the states. And though the proposed constitution establishes particular guards against the repetition of those instances which have heretofore made their appearance, yet it is warrantable to apprehend that the spirit which produced them will assume new shapes that could not be foreseen, nor specifically provided against. Whatever practices may have a tendency to disturb the harmony between the states, are proper objects of federal superintendence and control.

It may be esteemed the basis of the union, that "the citizens of each state shall be entitled to all the privileges and immunities of citizens of the several states." And if it be a just principle that every government ought to possess the means of executing its own provisions by its own authority, it will follow, that in order to the inviolable maintenance of that equality of privileges and immunities to which the citizens of the union will be entitled, the national judiciary ought to preside in all cases in which one state or its citizens are opposed to another state or its citizens. To secure the full effect of so fundamental a provision against all evasion and subterfuge, it is necessary that its construction should be committed to that tribunal, which, having no local attachments, will be likely to be impartial between the different states and their citizens, and which, owing its official existence to the union, will never be likely to feel any bias inauspicious to the principles on which it is founded.

The fifth point will demand little animadversion. The most bigotted idolizers of state authority have not thus far shewn a disposition to deny the national judiciary the cognizance of maritime causes. These so generally depend on the laws of nations, and so commonly affect the rights of foreigners, that they fall within the considerations which are relative to the public peace. The most important part of them are by the present confederation submitted to federal jurisdiction.<sup>2</sup>

The reasonableness of the agency of the national courts in cases in

which the state tribunals cannot be supposed to be impartial, speaks for itself. No man ought certainly to be a judge in his own cause, or in any cause in respect to which he has the least interest or bias. This principle has no inconsiderable weight in designating the federal courts as the proper tribunals for the determination of controversies between different states and their citizens. And it ought to have the same operation in regard to some cases between the citizens of the same state. Claims to land under grants of different states, founded upon adverse pretensions of boundary, are of this description. The courts of neither of the granting states could be expected to be unbiassed. The laws may have even prejudged the question, and tied the courts down to decisions in favour of the grants of the state to which they belonged. And even where this had not been done, it would be natural that the judges, as men, should feel a strong predilection to the claims of their own government.

Having thus laid down and discussed the principles which ought to regulate the constitution of the federal judiciary, we will proceed to test, by these principles, the particular powers of which, according to the plan of the convention, it is to be composed. It is to comprehend, "all cases in law and equity arising under the constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public 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, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state or the citizens thereof, and foreign states, citizens and subjects." This constitutes the entire mass of the judicial authority of the union. Let us now review it in detail. It is then to extend,

First. To all cases in law and equity arising under the constitution and the laws of the United States. This corresponds to the two first classes of causes which have been enumerated as proper for the jurisdiction of the United States. It has been asked what is meant by "cases arising under the constitution," in contradistinction from those "arising under the laws of the United States." The difference has been already explained. All the restrictions upon the authority of the state legislatures, furnish examples of it. They are not, for instance, to emit paper money; but the interdiction results from the constitution, and will have no connection with any law of the United States. Should paper money, notwithstanding, be emitted, the controversies concerning it would be cases arising upon the constitution, and not upon the laws of the United States, in the ordinary signification of the terms. This may serve as a sample of the whole.

It has also been asked, what need of the word "equity"? What equitable causes can grow out of the constitution and laws of the United States? There is hardly a subject of litigation between individuals, which may not involve those ingredients of fraud, accident, trust or hardship, which would render the matter an object of equitable, rather than of legal jurisdiction, as the distinction is known and established in several of the states. It is the peculiar province, for instance, of a court of equity to relieve against what are called hard bargains: These are contracts, in which, though there may have been no direct fraud or deceit, sufficient to invalidate them in a court of law; yet there may have been some undue and unconscionable advantage taken of the necessities or misfortunes of one of the parties, which a court of equity would not tolerate. In such cases, where foreigners were concerned on either side, it would be impossible for the federal judicatories to do justice without an equitable, as well as a legal jurisdiction. Agreements to convey lands claimed under the grants of different states, may afford another example of the necessity of an equitable jurisdiction in the federal courts. This reasoning may not be so palpable in those states where the formal and technical distinction between LAW and EQUITY is not maintained as in this state, where it is exemplified by every day's practice.

The judiciary authority of the union is to extend-

Second. To treaties made, or which shall be made under the authority of the United States, and to all cases affecting ambassadors, other public ministers and consuls. These belong to the fourth class of the enumerated cases, as they have an evident connection with the preservation of the national peace.

*Third.* To cases of admiralty and maritime jurisdiction. These form altogether the fifth of the enumerated classes of causes proper for the cognizance of the national courts.

*Fourth.* To controversies to which the United States shall be a party. These constitute the third of those classes.

*Fifth.* To controversies between two or more states, between a state and citizens of another state, between citizens of different states. These belong to the fourth of those classes, and partake in some measure of the nature of the last.

Sixth. To cases between the citizens of the same state, claiming lands under grants of different states. These fall within the last class, and are the only instance in which the proposed constitution directly contemplates the cognizance of disputes between the citizens of the same state. Seventh. To cases between a state and the citizens thereof, and foreign states, citizens, or subjects. These have been already explained to belong to the fourth of the enumerated classes, and have been shewn to be in a peculiar manner the proper subjects of the national judicature.

From this review of the particular powers of the federal judiciary, as marked out in the constitution, it appears, that they are all conformable to the principles which ought to have governed the structure of that department, and which were necessary to the perfection of the system. If some partial inconveniencies should appear to be connected with the incorporation of any of them into the plan, it ought to be recollected that the national legislature will have ample authority to make such *exceptions* and to prescribe such regulations as will be calculated to obviate or remove these inconveniencies. The possibility of particular mischiefs can never be viewed by a well-informed mind as a solid objection to a general principle, which is calculated to avoid general mischiefs, and to obtain general advantages.

1. Article IX of the Articles of Confederation provided that Congress was "the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever." It also outlined the procedures by which this authority was to be exercised. The primary means of settling disputes was the appointment (by the disputing states) of commissioners to a court that would hear and determine "the matter in question" (CDR, 89–90). In 1782 such a court confirmed Pennsylvania's jurisdiction over the Wyoming Valley in its dispute with Connecticut.

2. The Articles of Confederation gave Congress the authority to appoint admiralty courts to try cases of piracy and felonies committed on the high seas and to create an appellate court for cases of captures (CDR, 89). In January 1780, even before the Articles were adopted, Congress established the Court of Appeals in Cases of Capture, consisting of three judges, to hear appeals from the state admiralty courts. Trials in this court, presumably to determine questions of fact, were to "be according to the usage of nations and not by jury." In April 1781, after the Articles were adopted, Congress created courts for the trial of piracies and felonies committed on the high seas, which provided that "justices of the supreme or superior courts of judicature, and judge of the Court of Admiralty of the several and respective states, or any two or more of them, are hereby constituted and appointed judges for hearing and trying such offenders." Trials in these courts were to be by jury "according to the course of the common law" and "as by the laws of the said State is accustomed" (JCC, XVI, 61–64; XIX, 354–56).

# 762. Publius: The Federalist 81 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

A further View of the Judicial Department, in Relation to the Distribution of its Authority.

Let us now return to the partition of the judiciary authority between different courts, and their relations to each other.

"The judicial power of the United States is (by the plan of the convention) to be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish."<sup>(a)</sup>

That there ought to be one court of supreme and final jurisdiction is a proposition which has not been, and is not likely to be contested. The reasons for it have been assigned in another place, and are too obvious to need repetition.<sup>1</sup> The only question that seems to have been raised concerning it, is whether it ought to be a distinct body, or a branch of the legislature. The same contradiction is observable in regard to this matter, which has been remarked in several other cases. The very men who object to the senate as a court of impeachments, on the ground of an improper intermixture of powers, advocate, by implication at least, the propriety of vesting the ultimate decision of all causes in the whole, or in a part of the legislative body.

The arguments or rather suggestions, upon which this charge is founded, are to this effect: "The authority of the proposed supreme court of the United States, which is to be a separate and independent body, will be superior to that of the legislature. The power of construing the laws, according to the *spirit* of the constitution, will enable that court to mould them into whatever shape it may think proper; especially as its decisions will not be in any manner subject to the revision or correction of the legislative body. This is as unprecedented as it is dangerous. In Britain, the judicial power in the last resort, resides in the house of lords, which is a branch of the legislature; and this part of the British government has been imitated in the state constitutions in general. The parliament of Great-Britain, and the legislatures of the several states, can at any time rectify by law, the exceptionable decisions of their respective courts. But the errors and usurpations of the supreme court of the United States will be uncontrolable and remediless."<sup>2</sup> This, upon examination, will be found to be altogether made up of false reasoning upon misconceived fact.

In the first place, there is not a syllable in the plan under consideration, which *directly* empowers the national courts to construe the laws according to the spirit of the constitution, or which gives them any greater latitude in this respect, than may be claimed by the courts of every state. I admit however, that the constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the constitution. But this doctrine is not deducible from any circumstance peculiar to the plan of the convention; but from the general theory of a limited constitution; and as far as it is true, is equally applicable to most, if not to all the state governments. There can be no objection therefore, on this account, to the federal judicature, which will not lie against the local judicatures in general, and which will not serve to condemn every constitution that attempts to set bounds to the legislative discretion.

But perhaps the force of the objection may be thought to consist in the particular organization of the proposed supreme court; in its being composed of a distinct body of magistrates, instead of being one of the branches of the legislature, as in the government of Great-Britain and in that of this state. To insist upon this point, the authors of the objection must renounce the meaning they have laboured to annex to the celebrated maxim requiring a separation of the departments of power. It shall nevertheless be conceded to them, agreeably to the interpretation given to that maxim in the course of these papers, that it is not violated by vesting the ultimate power of judging in a part of the legislative body. But though this be not an absolute violation of that excellent rule; yet it verges so nearly upon it, as on this account alone to be less eligible than the mode preferred by the convention. From a body which had had even a partial agency in passing bad laws, we could rarely expect a disposition to temper and moderate them in the application. The same spirit, which had operated in making them, would be too apt to operate in interpreting them: Still less could it be expected, that men who had infringed the constitution, in the character of legislators, would be disposed to repair the breach, in the character of judges. Nor is this all:-Every reason, which recommends the tenure of good behaviour for judicial offices, militates against placing the judiciary power in the last resort in a body composed of men chosen for a limited period. There is an absurdity in referring the determination of causes in the first instance to judges of permanent standing, and in the last to those of a temporary and mutable constitution. And there is a still greater absurdity in subjecting the decisions of men selected for their knowledge of the laws, acquired by long and laborious study, to the revision and control of men, who for want of the same advantage cannot but be deficient in that knowledge. The members of the legislature will rarely be chosen with a view to those

qualifications which fit men for the stations of judges; and as on this account there will be great reason to apprehend all the ill consequences of defective information; so on account of the natural propensity of such bodies to party divisions, there will be no less reason to fear, that the pestilential breath of faction may poison the fountains of justice. The habit of being continually marshalled on opposite sides, will be too apt to stifle the voice both of law and of equity.

These considerations teach us to applaud the wisdom of those states, who have committed the judicial power in the last resort, not to a part of the legislature, but to distinct and independent bodies of men. Contrary to the supposition of those, who have represented the plan of the convention in this respect as novel and unprecedented, it is but a copy of the constitutions of New-Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia; and the preference which has been given to these models is highly to be commended.

It is not true, in the second place, that the parliament of Great Britain, or the legislatures of the particular states, can rectify the exceptionable decisions of their respective courts, in any other sense than might be done by a future legislature of the United States. The theory neither of the British, nor the state constitutions, authorises the revisal of a judicial sentence, by a legislative act. Nor is there any thing in the proposed constitution more than in either of them, by which it is forbidden. In the former as well as in the latter, the impropriety of the thing, on the general principles of law and reason, is the sole obstacle. A legislature without exceeding its province cannot reverse a determination once made, in a particular case; though it may prescribe a new rule for future cases. This is the principle, and it applies in all its consequences, exactly in the same manner and extent, to the state governments, as to the national government, now under consideration. Not the least difference can be pointed out in any view of the subject.

It may in the last place be observed that the supposed danger of judiciary encroachments on the legislative authority, which has been upon many occasions reiterated, is in reality a phantom. Particular misconstructions and contraventions of the will of the legislature may now and then happen; but they can never be so extensive as to amount to an inconvenience, or in any sensible degree to affect the order of the political system. This may be inferred with certainty from the general nature of the judicial power; from the objects to which it relates; from the manner in which it is exercised; from its comparative weakness, and from its total incapacity to support its usurpations by force. And the inference is greatly fortified by the consideration of the important constitutional check, which the power of instituting impeachments, in one part of the legislative body, and of determining upon them in the other, would give to that body upon the members of the judicial department. This is alone a complete security. There never can be danger that the judges, by a series of deliberate usurpations on the authority of the legislature, would hazard the united resentment of the body entrusted with it, while this body was possessed of the means of punishing their presumption by degrading them from their stations. While this ought to remove all apprehensions on the subject, it affords at the same time a cogent argument for constituting the senate a court for the trial of impeachments.

Having now examined, and I trust removed the objections to the distinct and independent organization of the supreme court, I proceed to consider the propriety of the power of constituting inferior courts,<sup>(b)</sup> and the relations which will subsist between these and the former.

The power of constituting inferior courts is evidently calculated to obviate the necessity of having recourse to the supreme court, in every case of federal cognizance. It is intended to enable the national government to institute or *authorise* in each state or district of the United States, a tribunal competent to the determination of matters of national jurisdiction within its limits.

But why, it is asked, might not the same purpose have been accomplished by the instrumentality of the state courts? This admits of different answers. Though the fitness and competency of those courts should be allowed in the utmost latitude; yet the substance of the power in question, may still be regarded as a necessary part of the plan, if it were only to empower the national legislature to commit to them the cognizance of causes arising out of the national constitution. To confer the power of determining such causes upon the existing courts of the several states, would perhaps be as much "to constitute tribunals," as to create new courts with the like power. But ought not a more direct and explicit provision to have been made in favour of the state courts? There are, in my opinion, substantial reasons against such a provision: The most discerning cannot foresee how far the prevalency of a local spirit may be found to disqualify the local tribunals for the jurisdiction of national causes; whilst every man may discover that courts constituted like those of some of the states, would be improper channels of the judicial authority of the union. State judges, holding their offices during pleasure, or from year to year, will be too little independent to be relied upon for an inflexible execution of the national laws. And if there was a necessity for confiding the original

cognizance of causes arising under those laws to them, there would be a correspondent necessity for leaving the door of appeal as wide as possible. In proportion to the grounds of confidence in, or diffidence of the subordinate tribunals, ought to be the facility or difficulty of appeals. And well satisfied as I am of the propriety of the appellate jurisdiction in the several classes of causes to which it is extended by the plan of the convention, I should consider every thing calculated to give in practice, an *unrestrained course* to appeals as a source of public and private inconvenience.

I am not sure but that it will be found highly expedient and useful to divide the United States into four or five, or half a dozen districts; and to institute a federal court in each district, in lieu of one in every state. The judges of these courts, with the aid of the state judges, may hold circuits for the trial of causes in the several parts of the respective districts. Justice through them may be administered with ease and dispatch; and appeals may be safely circumscribed within a very narrow compass. This plan appears to me at present the most eligible of any that could be adopted, and in order to it, it is necessary that the power of constituting inferior courts should exist in the full extent in which it is to be found in the proposed constitution.

These reasons seem sufficient to satisfy a candid mind, that the want of such a power would have been a great defect in the plan. Let us now examine in what manner the judicial authority is to be distributed between the supreme and the inferior courts of the union.

The supreme court is to be invested with original jurisdiction, only "in cases affecting ambassadors, other public ministers and consuls, and those in which A STATE shall be a party." Public ministers of every class, are the immediate representatives of their sovereigns. All questions in which they are concerned, are so directly connected with the public peace, that as well for the preservation of this, as out of respect to the sovereignties they represent, it is both expedient and proper, that such questions should be submitted in the first instance to the highest judicatory of the nation. Though consuls have not in strictness a diplomatic character, yet as they are the public agents of the nations to which they belong, the same observation is in a great measure applicable to them. In cases in which a state might happen to be a party, it would ill suit its dignity to be turned over to an inferior tribunal.

Though it may rather be a digression from the immediate subject of this paper, I shall take occasion to mention here, a supposition which has excited some alarm upon very mistaken grounds: It has been suggested that an assignment of the public securities of one state to the citizens of another, would enable them to prosecute that state in the federal courts for the amount of those securities. A suggestion which the following considerations prove to be without foundation.

It is inherent in the nature of sovereignty, not to be amenable to the suit of an individual without its consent. This is the general sense and the general practice of mankind; and the exemption, as one of the attributes of sovereignty, is now enjoyed by the government of every state in the union. Unless therefore, there is a surrender of this immunity in the plan of the convention, it will remain with the states, and the danger intimated must be merely ideal. The circumstances which are necessary to produce an alienation of state sovereignty, were discussed in considering the article of taxation, and need not be repeated here.<sup>3</sup> A recurrence to the principles there established will satisfy us, that there is no colour to pretend that the state governments, would by the adoption of that plan, be divested of the privilege of paying their own debts in their own way, free from every constraint but that which flows from the obligations of good faith. The contracts between a nation and individuals are only binding on the conscience of the sovereign, and have no pretensions to a compulsive force. They confer no right of action independent of the sovereign will. To what purpose would it be to authorise suits against states, for the debts they owe? How could recoveries be enforced? It is evident that it could not be done without waging war against the contracting state; and to ascribe to the federal courts, by mere implication, and in destruction of a pre-existing right of the state governments, a power which would involve such a consequence, would be altogether forced and unwarrantable.

Let us resume the train of our observations; we have seen that the original jurisdiction of the supreme court would be confined to two classes of causes, and those of a nature rarely to occur. In all other causes of federal cognizance, the original jurisdiction would appertain to the inferior tribunals, and the supreme court would have nothing more than an appellate jurisdiction, "with such *exceptions*, and under such *regulations* as the congress shall make."

The propriety of this appellate jurisdiction has been scarcely called in question in regard to matters of law; but the clamours have been loud against it as applied to matters of fact. Some well intentioned men in this state, deriving their notions from the language and forms which obtain in our courts, have been induced to consider it as an implied supersedure of the trial by jury, in favour of the civil law mode of trial, which prevails in our courts of admirality, probates and chancery. A technical sense has been affixed to the term "appellate", which in our law parlance is commonly used in reference to appeals in the

course of the civil law. But if I am not misinformed, the same meaning would not be given to it in any part of New-England. There an appeal from one jury to another is familiar both in language and practice, and is even a matter of course, until there have been two verdicts on one side. The word "appellate" therefore will not be understood in the same sense in New-England as in New-York, which shews the impropriety of a technical interpretation derived from the jurisprudence of any particular state. The expression taken in the abstract, denotes nothing more than the power of one tribunal to review the proceedings of another, either as to the law or fact, or both. The mode of doing it may depend on ancient custom or legislative provision, (in a new government it must depend on the latter) and may be with or without the aid of a jury, as may be judged adviseable. If therefore the reexamination of a fact, once determined by a jury, should in any case be admitted under the proposed constitution, it may be so regulated as to be done by a second jury, either by remanding the cause to the court below for a second trial of the fact, or by directing an issue immediately out of the supreme court.

But it does not follow that the re-examination of a fact once ascertained by a jury, will be permitted in the supreme court. Why may it not be said, with the strictest propriety, when a writ of error is brought from an inferior to a superior court of law in this state, that the latter has jurisdiction of the fact, as well as the law? It is true it cannot institute a new enquiry concerning the fact, but it takes cognizance of it as it appears upon the record, and pronounces the law arising upon it.<sup>(c)</sup> This is jurisdiction of both fact and law, nor is it even possible to separate them. Though the common law courts of this state ascertain disputed facts by a jury, yet they unquestionably have jurisdiction of both fact and law; and accordingly, when the former is agreed in the pleadings, they have no recourse to a jury, but proceed at once to judgment. I contend therefore on this ground, that the expressions, "appellate jurisdiction, both as to law and fact," do not necessarily imply a re-examination in the supreme court of facts decided by juries in the inferior courts.

The following train of ideas may well be imagined to have influenced the convention in relation to this particular provision. The appellate jurisdiction of the supreme court (may it have been argued) will extend to causes determinable in different modes, some in the course of the COMMON LAW, and others in the course of the CIVIL LAW. In the former, the revision of the law only, will be, generally speaking, the proper province of the supreme court; in the latter, the re-examination of the fact is agreeable to usage, and in some cases, of which prize causes are an example, might be essential to the preservation of the public peace. It is therefore necessary, that the appellate jurisdiction should, in certain cases, extend in the broadest sense to matters of fact. It will not answer to make an express exception of cases, which shall have been originally tried by a jury, because in the courts of some of the states, *all causes* are tried in this mode;<sup>(d)</sup> and such an exception would preclude the revision of matters of fact, as well where it might be proper, as where it might be improper. To avoid all inconveniencies, it will be safest to declare generally, that the supreme court shall possess appellate jurisdiction, both as to law and *fact*, and that this jurisdiction shall be subject to such *exceptions* and regulations as the national legislature may prescribe. This will enable the government to modify it in such a manner as will best answer the ends of public justice and security.

This view of the matter, at any rate puts it out of all doubt that the supposed *abolition* of the trial by jury, by the operation of this provision, is fallacious and untrue. The legislature of the United States would certainly have full power to provide that in appeals to the supreme court there should be no re-examination of facts where they had been tried in the original causes by juries. This would certainly be an authorised exception; but if for the reason already intimated it should be thought too extensive, it might be qualified with a limitation to such causes only as are determinable at common law in that mode of trial.

The amount of the observations hitherto made on the authority of the judicial department is this—that it has been carefully restricted to those causes which are manifestly proper for the cognizance of the national judicature, that in the partition of this authority a very small portion of original jurisdiction has been reserved to the supreme court, and the rest consigned to the subordinate tribunals—that the supreme court will possess an appellate jurisdiction both as to law and fact in all the cases refered to them, but subject to any *exceptions* and *regulations* which may be thought adviseable; that this appellate jurisdiction does in no case *abolish* the trial by jury, and that an ordinary degree of prudence and integrity in the national councils will insure us solid advantages from the establishment of the proposed judiciary, without exposing us to any of the inconveniencies which have been predicted from that source.

(a) Article 3. Sec. 1.

(b) This power has been absurdly represented as intended to abolish all the county courts in the several states, which are commonly called inferior courts. But the expressions of the constitution are to constitute "tribunals INFERIOR TO THE SUPREME COURT," and the evident design of the provision is to enable the institution of local courts subordinate to the supreme, either in states or larger districts. It is ridiculous to imagine that county courts were in contemplation.

(c) This word is a compound of JUS and DICTIO, juris, dictio, or a speaking or pronouncing of the law.

(d) I hold that the states will have concurrent jurisdiction with the subordinate federal judicatories, in many cases of federal cognizance, as will be explained in my next paper.

1. See The Federalist 22, New York Packet, 14 December (CC:347, especially p. 442). 2. Some of these arguments are found in "Brutus" XV, New York Journal, 20 March (CC:632, especially pp. 431–35). This essay was the last of several that "Brutus" published between 31 January and 20 March criticizing the vast power of the federal judiciary (CC:489, 510, 530, 551, 576, 598).

3. See The Federalist 32-33, New York Independent Journal, 2 January (CC:405, pp. 217-19).

### 763. Publius: The Federalist 82 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

A further View of the Judicial Department, in reference to some miscellaneous Questions.

The erection of a new government, whatever care or wisdom may distinguish the work, cannot fail to originate questions of intricacy and nicety; and these may in a particular manner be expected to flow from the establishment of a constitution founded upon the total or partial incorporation of a number of distinct sovereignties. 'Tis time only that can mature and perfect so compound a system, can liquidate the meaning of all the parts, and can adjust them to each other in a harmonious and consistent wHOLE.

Such questions accordingly have arisen upon the plan proposed by the convention, and particularly concerning the judiciary department. The principal of these respect the situation of the state courts in regard to those causes, which are to be submitted to federal jurisdiction. Is this to be exclusive, or are those courts to possess a concurrent jurisdiction? If the latter, in what relation will they stand to the national tribunals? These are inquiries which we meet with in the mouths of men of sense, and which are certainly intitled to attention.

The principles established in a former paper<sup>(a)</sup> teach us, that the states will retain all *pre-existing* authorities, which may not be exclusively delegated to the federal head; and that this exclusive delegation can only exist in one of three cases; where an exclusive authority is in express terms granted to the union; or where a particular authority is granted to the union, and the exercise of a like authority is prohibited to the states, or where an authority is granted to the union with which a similar authority in the states would be utterly incompatible. Though these principles may not apply with the same force to the judiciary as to the legislative power; yet I am inclined to think that they are in the main just with respect to the former as well as the latter. And under this impression I shall lay it down as a rule that the state courts will *retain* the jurisdiction they now have, unless it appears to be taken away in one of the enumerated modes.

The only thing in the proposed constitution, which wears the appearance of confining the causes of federal cognizance to the federal courts is contained in this passage—"The JUDICIAL POWER of the United States shall be vested in one supreme court, and in such inferior courts as the congress shall from time to time ordain and establish"-This might either be construed to signify, that the supreme and subordinate courts of the union should alone have the power of deciding those causes, to which their authority is to extend; or simply to denote that the organs of the national judiciary should be one supreme court and as many subordinate courts as congress should think proper to appoint, or in other words, that the United States should exercise the judicial power with which they are to be invested through one supreme tribunal and a certain number of inferior ones to be instituted by them. The first excludes, the last admits the concurrent jurisdiction of the state tribunals: And as the first would amount to an alienation of state power by implication, the last appears to me the most natural and the most defensible construction.

But this doctrine of concurrent jurisdiction is only clearly applicable to those descriptions of causes of which the state courts have previous cognizance. It is not equally evident in relation to cases which may grow out of, and be *peculiar* to the constitution to be established: For not to allow the state courts a right of jurisdiction in such cases can hardly be considered as the abridgement of a pre-existing authority. I mean not therefore to contend that the United States in the course of legislation upon the objects entrusted to their direction may not commit the decision of causes arising upon a particular regulation to the federal courts solely, if such a measure should be deemed expedient: but I hold that the state courts will be divested of no part of their primitive jurisdiction, further than may relate to an appeal; and I am even of opinion, that in every case in which they were not expressly excluded by the future acts of the national legislature, they will of course take cognizance of the causes to which those acts may give birth. This I infer from the nature of judiciary power, and from the general genius of the system. The judiciary power of every government looks beyond its own local or municipal laws, and in civil cases lays hold of all subjects of litigation between parties within its jurisdiction though the causes of dispute are relative to the laws of the most distant part of the globe. Those of Japan not less than of New-York may furnish the objects of legal discussion to our courts. When in addition to this, we consider the state governments and the national governments as they truly are, in the light of kindred systems and as parts of ONE WHOLE, the inference seems to be conclusive that the state courts would have a concurrent jurisdiction in all cases arising under the laws of the union, where it was not expressly prohibited.

Here another question occurs-what relation would subsist between the national and state courts in these instances of concurrent jurisdiction? I answer that an appeal would certainly lie from the latter to the supreme court of the United States. The constitution in direct terms, gives an appellate jurisdiction to the supreme court in all the enumerated cases of federal cognizance, in which it is not to have an original one; without a single expression to confine its operation to the inferior federal courts. The objects of appeal, not the tribunals from which it is to be made, are alone contemplated. From this circumstance and from the reason of the thing it ought to be construed to extend to the state tribunals. Either this must be the case, or the local courts must be excluded from a concurrent jurisdiction in matters of national concern, else the judiciary authority of the union may be eluded at the pleasure of every plaintiff or prosecutor. Neither of these consequences ought without evident necessity to be involved; the latter would be intirely inadmissible, as it would defeat some of the most important and avowed purposes of the proposed government, and would essentially embarrass its measures. Nor do I perceive any foundation for such a supposition. Agreeably to the remark already made, the national and state systems are to be regarded as ONE WHOLE. The courts of the latter will of course be natural auxiliaries to the execution of the laws of the union, and an appeal from them will as naturally lie to that tribunal, which is destined to unite and assimilate the principles of national justice and the rules of national decisions. The evident aim of the plan of the convention is that all the causes of the specified classes, shall for weighty public reasons receive their original or final determination in the courts of the union. To confine therefore the general expressions giving appellate jurisdiction to the supreme court to appeals from the subordinate federal courts, instead of allowing their extension to the state courts, would be to abridge the latitude of the terms, in subversion of the intent, contrary to every sound rule of interpretation.

But could an appeal be made to lie from the state courts to the subordinate federal judicatories? This is another of the questions which have been raised, and of greater difficulty than the former. The following considerations countenance the affirmative. The plan of the convention in the first place authorises the national legislature "to constitute tribunals inferior to the supreme court[.]"<sup>(b)</sup> It declares in the next place that, "the JUDICIAL POWER of the United States shall be vested in one supreme court and in such inferior courts as congress shall ordain and establish;" and it then proceeds to enumerate the cases to which this judicial power shall extend. It afterwards divides the jurisdiction of the supreme court into original and appellate, but gives no definition of that of the subordinate courts. The only outlines described for them are that they shall be "inferior to the supreme court" and that they shall not exceed the specified limits of the federal judiciary. Whether their authority shall be original or appellate or both is not declared. All this seems to be left to the discretion of the legislature. And this being the case, I perceive at present no impediment to the establishment of an appeal from the state courts to the subordinate national tribunals; and many advantages attending the power of doing it may be imagined. It would diminish the motives to the multiplication of federal courts, and would admit of arrangements calculated to contract the appellate jurisdiction of the supreme court. The state tribunals may then be left with a more entire charge of federal causes; and appeals in most cases in which they may be deemed proper instead of being carried to the supreme court, may be made to lie from the state courts to district courts of the union.

(a) Vol. 1, No. XXXII.<sup>1</sup>

(b) Section 8th, Article 1st.

1. See The Federalist 32-33, New York Independent Journal, 2 January (CC:405, pp. 217-19).

# 764. Publius: The Federalist 83 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

A further View of the Judicial Department, in Relation to the Trial by Jury.

The objection to the plan of the convention, which has met with most success in this state, and perhaps in several of the other states, is that relative to the want of a constitutional provision for the trial by jury in civil cases. The disingenuous form in which this objection is usually stated, has been repeatedly adverted to and exposed; but continues to be pursued in all the conversations and writings of the opponents of the plan. The mere silence of the constitution in regard to civil causes, is represented as an abolition of the trial by jury; and the declamations to which it has afforded a pretext, are artfully calculated to induce a persuasion that this pretended abolition is complete and universal; extending not only to every species of civil, but even to criminal causes. To argue with respect to the latter, would, however, be as vain and fruitless, as to attempt the serious proof of the existence of matter, or to demonstrate any of those propositions which by their own internal evidence force conviction, when expressed in language adapted to convey their meaning.

With regard to civil causes, subtleties almost too contemptible for refutation, have been adopted to countenance the surmise that a thing, which is only not provided for, is entirely abolished. Every man of discernment must at once perceive the wide difference between silence and abolition. But as the inventors of this fallacy have attempted to support it by certain legal maxims of interpretation, which they have perverted from their true meaning, it may not be wholly useless to explore the ground they have taken.

The maxims on which they rely are of this nature, "a specification of particulars is an exclusion of generals;" or, "the expression of one thing is the exclusion of another." Hence, say they, as the constitution has established the trial by jury in criminal cases, and is silent in respect to civil, this silence is an implied prohibition of trial by jury in regard to the latter.

The rules of legal interpretation are rules of common sense, adopted

by the courts in the construction of the laws. The true test therefore, of a just application of them, in its conformity to the source from which they are derived. This being the case, let me ask if it is consistent with reason or common sense to suppose, that a provision obliging the legislative power to commit the trial of criminal causes to juries, is a privation of its right to authorise or permit that mode of trial in other cases? Is it natural to suppose, that a command to do one thing, is a prohibition to the doing of another, which there was a previous power to do, and which is not incompatible with the thing commanded to be done? If such a supposition would be unnatural and unreasonable, it cannot be rational to maintain that an injunction of the trial by jury in certain cases is an interdiction of it in others.

A power to constitute courts, is a power to prescribe the mode of trial; and consequently, if nothing was said in the constitution on the subject of juries, the legislature would be at liberty either to adopt that institution, or to let it alone. This discretion in regard to criminal causes is abridged by the express injunction of trial by jury in all such cases; but it is of course left at large in relation to civil causes, there being a total silence on this head. The specification of an obligation to try all criminal causes in a particular mode, excludes indeed the obligation or necessity of employing the same mode in civil causes, but does not abridge *the power* of the legislature to exercise that mode if it should be thought proper. The pretence therefore, that the national legislature would not be at full liberty to submit all the civil causes of federal cognizance to the determination of juries, is a pretence destitute of all just foundation.

From these observations, this conclusion results, that the trial by jury in civil cases would not be abolished, and that the use attempted to be made of the maxims which have been quoted, is contrary to reason and common sense, and therefore not admissible. Even if these maxims had a precise technical sense, corresponding with the ideas of those who employ them upon the present occasion, which, however, is not the case, they would still be inapplicable to a constitution of government. In relation to such a subject, the natural and obvious sense of its provisions, apart from any technical rules, is the true criterion of construction.

Having now seen that the maxims relied upon will not bear the use made of them, let us endeavour to ascertain their proper use and true meaning. This will be best done by examples. The plan of the convention declares that the power of congress or in other words of the *national legislature*, shall extend to certain enumerated cases. This specification of particulars evidently excludes all pretension to a general

legislative authority; because an affirmative grant of special powers would be absurd as well as useless, if a general authority was intended.

In like manner, the judicial authority of the federal judicatures, is declared by the constitution to comprehend certain cases particularly specified. The expression of those cases marks the precise limits beyond which the federal courts cannot extend their jurisdiction; because the objects of their cognizance being enumerated, the specification would be nugatory if it did not exclude all ideas of more extensive authority.

These examples might be sufficient to elucidate the maxims which have been mentioned, and designate the manner in which they should be used. But that there may be no possibility of misapprehension upon this subject I shall add one case more, to demonstrate the proper use of these maxims, and the abuse which has been made of them.

Let us suppose that by the laws of this state, a married woman was incapable of conveying her estate, and that the legislature, considering this as an evil, should enact that she might dispose of her property by deed executed in the presence of a magistrate. In such a case there can be no doubt but the specification would amount to an exclusion of any other mode of conveyance; because the woman having no previous power to alienate her property, the specification determines the particular mode which she is, for that purpose, to avail herself of. But let us further suppose that in a subsequent part of the same act it should be declared that no woman should dispose of any estate of a determinate value without the consent of three of her nearest relations. signified by their signing the deed; could it be inferred from this regulation that a married woman might not procure the approbation of her relations to a deed for conveying property of inferior value? The position is too absurd to merit a refutation, and yet this is precisely the position which those must establish who contend that the trial by juries, in civil cases, is abolished, because it is expressly provided for in cases of a criminal nature.

From these observations it must appear unquestionably true that trial by jury is in no case abolished by the proposed constitution, and it is equally true that in those controversies between individuals in which the great body of the people are likely to be interested, that institution will remain precisely in the same situation in which it is placed by the state constitutions, and will be in no degree altered or influenced by the adoption of the plan under consideration. The foundation of this assertion is that the national judiciary will have no cognizance of them, and of course they will remain determinable as heretofore by the state courts only, and in the manner which the state constitutions and laws prescribe. All land causes, except where claims under the grants of different states come into question, and all other controversies between the citizens of the same state, unless where they depend upon positive violations of the articles of union by acts of the state legislatures, will belong exclusively to the jurisdiction of the state tribunals. Add to this that admiralty causes, and almost all those which are of equity jurisdiction are determinable under our own government without the intervention of a jury, and the inference from the whole will be that this institution, as it exists with us at present, cannot possibly be affected to any great extent by the proposed alteration in our system of government.

The friends and adversaries of the plan of the convention, if they agree in nothing else, concur at least in the value they set upon the trial by jury: Or if there is any difference between them, it consists in this; the former regard it as a valuable safeguard to liberty, the latter represent it as the very palladium of free government. For my own part, the more the operation of the institution has fallen under my observation, the more reason I have discovered for holding it in high estimation; and it would be altogether superfluous to examine to what extent it deserves to be esteemed useful or essential in a representative republic, or how much more merit it may be entitled to as a defence against the oppressions of an hereditary monarch, than as a barrier to the tyranny of popular magistrates in a popular government. Discussions of this kind would be more curious than beneficial, as all are satisfied of the utility of the institution, and of its friendly aspect to liberty. But I must acknowledge that I cannot readily discern the inseparable connection between the existence of liberty and the trial by jury in civil cases. Arbitrary impeachments, arbitrary methods of prosecuting pretended offences, and arbitrary punishments upon arbitrary convictions have ever appeared to me to be the great engines of judicial despotism; and these have all relation to criminal proceedings. The trial by jury in criminal cases, aided by the habeas corpus act, seems therefore to be alone concerned in the question. And both of these are provided for in the most ample manner in the plan of the convention.

It has been observed, that trial by jury is a safeguard against an oppressive exercise of the power of taxation. This observation deserves to be canvassed.

It is evident that it can have no influence upon the legislature, in regard to the *amount* of the taxes to be laid, to the *objects* upon which they are to be imposed, or to the *rule* by which they are to be apportioned. If it can have any influence therefore, it must be upon the

mode of collection, and the conduct of the officers entrusted with the execution of the revenue laws.

As to the mode of collection in this state, under our own constitution, the trial by jury is in most cases out of use. The taxes are usually levied by the more summary proceeding of distress and sale, as in cases of rent. And it is acknowledged on all hands, that this is essential to the efficacy of the revenue laws. The dilatory course of a trial at law to recover the taxes imposed on individuals, would neither suit the exigencies of the public, nor promote the convenience of the citizens. It would often occasion an accumulation of costs, more burthensome than the original sum of the tax to be levied.

And as to the conduct of the officers of the revenue, the provision in favor of trial by jury in criminal cases, will afford the security aimed at. Wilful abuses of a public authority, to the oppression of the subject, and every species of official extortion, are offences against the government; for which, the persons who commit them, may be indicted and punished according to the circumstances of the case.

The excellence of the trial by jury in civil cases, appears to depend on circumstances foreign to the preservation of liberty. The strongest argument in its favour is, that it is a security against corruption. As there is always more time and better opportunity to tamper with a standing body of magistrates than with a jury summoned for the occasion, there is room to suppose, that a corrupt influence would more easily find its way to the former than to the latter. The force of this consideration, is however, diminished by others. The sheriff who is the summoner of ordinary juries, and the clerks of courts who have the nomination of special juries, are themselves standing officers, and acting individually, may be supposed more accessible to the touch of corruption than the judges, who are a collective body. It is not difficult to see that it would be in the power of those officers to select jurors who would serve the purpose of the party as well as a corrupted bench. In the next place, it may fairly be supposed that there would be less difficulty in gaining some of the jurors promiscuously taken from the public mass, than in gaining men who had been chosen by the government for their probity and good character. But making every deduction for these considerations the trial by jury must still be a valuable check upon corruption. It greatly multiplies the impediments to its success. As matters now stand, it would be necessary to corrupt both court and jury; for where the jury have gone evidently wrong, the court will generally grant a new trial, and it would be in most cases of little use to practice upon the jury, unless the court could be likewise gained. Here then is a double security; and it will readily be perceived that this complicated agency tends to preserve the purity of both institutions. By increasing the obstacles to success, it discourages attempts to seduce the integrity of either. The temptations to prostitution, which the judges might have to surmount, must certainly be much fewer while the co-operation of a jury is necessary, than they might be if they had themselves the exclusive determination of all causes.

Notwithstanding therefore the doubts I have expressed as to the essentiality of trial by jury, in civil cases, to liberty, I admit that it is in most cases, under proper regulations, an excellent method of determining questions of property; and that on this account alone it would be entitled to a constitutional provision in its favour, if it were possible to fix the limits within which it ought to be comprehended. There is however, in all cases, great difficulty in this; and men not blinded by enthusiasm, must be sensible that in a federal government which is a composition of societies whose ideas and institutions in relation to the matter materially vary from each other, that difficulty must be not a little augmented. For my own part, at every new view I take of the subject, I become more convinced of the reality of the obstacles, which we are authoritatively informed, prevented the insertion of a provision on this head in the plan of the convention.

The great difference between the limits of the jury trial in different states is not generally understood. And as it must have considerable influence on the sentence we ought to pass upon the omission complained of, in regard to this point, an explanation of it is necessary. In this state our judicial establishments resemble more nearly, than in any other, those of Great-Britain. We have courts of common law, courts of probates (analogous in certain matters to the spiritual courts in England) a court of admiralty, and a court of chancery. In the courts of common law only the trial by jury prevails, and this with some exceptions. In all the others a single judge presides and proceeds in general either according to the course of the canon or civil law, without the aid of a jury.<sup>(a)</sup> In New-Jersey there is a court of chancery which proceeds like ours, but neither courts of admiralty, nor of probates, in the sense in which these last are established with us. In that state the courts of common law have the cognizance of those causes, which with us are determinable in the courts of admiralty and of probates. and of course the jury trial is more extensive in New-Jersey than in New-York. In Pennsylvania this is perhaps still more the case, for there is no court of chancery in that state, and its common law courts have equity jurisdiction. It has a court of admiralty, but none of probates, at least on the plan of ours. Delaware has in these respects imitated

Pennsylvania. Maryland approaches more nearly to New-York, as does also Virginia, except that the latter has a plurality of chancellors. North-Carolina bears most affinity to Pennsylvania; South-Carolina to Virginia. I believe however that in some of those states which have distinct courts of admiralty, the causes depending in them are triable by juries. In Georgia there are none but common law courts, and an appeal of course lies from the verdict of one jury to another, which is called a special jury, and for which a particular mode of appointment is marked out. In Connecticut they have no distinct courts, either of chancery or of admiralty, and their courts of probates have no jurisdiction of causes. Their common law courts have admiralty, and to a certain extent, equity jurisdiction. In cases of importance their general assembly is the only court of chancery. In Connecticut therefore the trial by jury extends in *practice* further than in any other state yet mentioned. Rhode Island is I believe in this particular pretty much in the situation of Connecticut. Massachusetts and New-Hampshire, in regard to the blending of law, equity and admiralty, jurisdictions are in a similar predicament. In the four eastern states the trial by jury not only stands upon a broader foundation than in the other states, but it is attended with a peculiarity unknown in its full extent to any of them. There is an appeal of course from one jury to another till there have been two verdicts out of three on one side.

From this sketch it appears, that there is a material diversity as well in the modification as in the extent of the institution of trial by jury in civil cases in the several states; and from this fact, these obvious reflections flow. First, that no general rule could have been fixed upon by the convention which would have corresponded with the circumstances of all the states; and secondly, that more, or at least as much might have been hazarded, by taking the system of any one state for a standard, as by omitting a provision altogether, and leaving the matter as it has been left, to legislative regulation.

The propositions which have been made for supplying the omission, have rather served to illustrate than to obviate the difficulty of the thing. The minority of Pennsylvania have proposed this mode of expression for the purpose—"trial by jury shall be as heretofore"<sup>1</sup>— and this I maintain would be absolutely senseless and nugatory. The United States, in their united or collective capacity, are the OBJECT to which all general provisions in the constitution must necessarily be construed to refer. Now it is evident, that though trial by jury with various limitations is known in each state individually, yet in the United States *as such*, it is at this time altogether unknown, because the present federal government has no judiciary power whatever; and consequently

there is no proper antecedent or previous establishment to which the term *heretofore* could relate. It would therefore be destitute of a precise meaning, and inoperative from its uncertainty.

As on the one hand, the form of the provision would not fulfil the intent of its proposers; so on the other, if I apprehend that intent rightly, it would be in itself inexpedient. I presume it to be, that causes in the federal courts should be tried by jury, if in the state where the courts sat, that mode of trial would obtain in a similar case in the state courts—that is to say admiralty causes should be tried in Connecticut by a jury, and in New-York without one. The capricious operation of so dissimilar a method of trial in the same cases, under the same government, is of itself sufficient to indispose every well regulated judgment towards it. Whether the cause should be tried with or without a jury, would depend in a great number of cases, on the accidental situation of the court and parties.

But this is not in my estimation the greatest objection. I feel a deep and deliberate conviction, that there are many cases in which the trial by jury is an ineligible one. I think it so particularly in cases which concern the public peace with foreign nations; that is in most cases where the question turns wholly on the laws of nations. Of this nature among others are all prize causes. Juries cannot be supposed competent to investigations, that require a thorough knowledge of the laws and usages of nations, and they will sometimes be under the influence of impressions which will not suffer them to pay sufficient regard to those considerations of public policy which ought to guide their enquiries. There would of course be always danger that the rights of other nations might be infringed by their decisions, so as to afford occasions of reprisal and war. Though the proper province of juries be to determine matters of fact, yet in most cases legal consequences are complicated with fact in such a manner as to render a separation impracticable.

It will add great weight to this remark in relation to prize causes to mention that the method of determining them has been thought worthy of particular regulation in various treaties between different powers of Europe, and that pursuant to such treaties they are determinable in Great-Britain in the last resort before the king himself in his privy council, where the fact as well as the law undergoes a re-examination. This alone demonstrates the impolicy of inserting a fundamental provision in the constitution which would make the state systems a standard for the national government in the article under consideration, and the danger of incumbering the government with any constitutional provisions, the propriety of which is not indisputable.

My convictions are equally strong that great advantages result from the separation of the equity from the law jurisdiction; and that the causes which belong to the former would be improperly committed to juries. The great and primary use of a court of equity is to give relief in extraordinary cases, which are exceptions<sup>(b)</sup> to general rules. To unite the jurisdiction of such cases with the ordinary jurisdiction must have a tendency to unsettle the general rules and to subject every case that arises to a special determination. While the separation of the one from the other has the contrary effect of rendering one a sentinel over the other, and of keeping each within the expedient limits. Besides this the circumstances that constitute cases proper for courts of equity, are in many instances so nice and intricate, that they are incompatible with the genius of trials by jury. They require often such long, deliberate and critical investigation as would be impracticable to men called from their occupations and obliged to decide before they were permitted to return to them. The simplicity and expedition which form the distinguishing characters of this mode of trial require that the matter to be decided should be reduced to some single and obvious point; while the litigations usual in chancery frequently comprehend a long train of minute and independent particulars.

It is true that the separation of the equity from the legal jurisdiction is peculiar to the English system of jurisprudence; which is the model that has been followed in several of the states. But it is equally true, that the trial by jury has been unknown in every case in which they have been united. And the separation is essential to the preservation of that institution in its pristine purity. The nature of a court of equity will readily permit the extension of its jurisdiction to matters of law, but it is not a little to be suspected, that the attempt to extend the jurisdiction of the courts of law to matters of equity will not only be unproductive of the advantages which may be derived from courts of chancery, on the plan upon which they are established in this state, but will tend gradually to change the nature of the courts of law, and to undermine the trial by jury, by introducing questions too complicated for a decision in that mode.

These appear to be conclusive reasons against incorporating the systems of all the states in the formation of the national judiciary; according to what may be conjectured to have been the intent of the Pennsylvania minority. Let us now examine how far the proposition of Massachusetts is calculated to remedy the supposed defect.

It is in this form—"In civil actions between citizens of different states, every issue of fact, arising in *actions at common law*, may be tried by a jury, if the parties, or either of them, request it."<sup>2</sup> This at best is a proposition confined to one description of causes; and the inference is fair either that the Massachusetts convention considered that as the only class of federal causes, in which the trial by jury would be proper; or that if desirous of a more extensive provision, they found it impracticable to devise one which would properly answer the end. If the first, the omission of a regulation respecting so partial an object, can never be considered as a material imperfection in the system. If the last, it affords a strong corroboration of the extreme difficulty of the thing.

But this is not all. If we advert to the observations already made respecting the courts that subsist in the several states of the union, and the different powers exercised by them, it will appear, that there are no expressions more vague and indeterminate than those which have been employed to characterise that species of causes which it is intended shall be entitled to a trial by jury. In this state the boundaries between actions at common law and actions of equitable jurisdiction are ascertained in conformity to the rules which prevail in England upon the subject. In many of the other states, the boundaries are less precise. In some of them, every cause is to be tried in a court of common law, and upon that foundation every action may be considered as an action at common law, to be determined by a jury, if the parties or either of them chuse it. Hence the same irregularity and confusion would be introduced by a compliance with this proposition, that I have already noticed as resulting from the regulation proposed by the Pennsylvania minority. In one state a cause would receive its determination from a jury, if the parties or either of them requested it; but in another state a cause exactly similar to the other must be decided without the intervention of a jury, because the state judicatories varied as to common law jurisdiction.

It is obvious therefore that the Massachusetts proposition, upon this subject, cannot operate as a general regulation until some uniform plan, with respect to the limits of common law and equitable jurisdictions shall be adopted by the different states. To devise a plan of that kind is a task arduous in itself, and which it would require much time and reflection to mature. It would be extremely difficult, if not impossible, to suggest any general regulation that would be acceptable to all the states in the union, or that would perfectly quadrate with the several state institutions.

It may be asked, why could not a reference have been made to the constitution of this state, taking that, which is allowed by me to be a good one, as a standard for the United States? I answer that it is not very probable the other states should entertain the same opinion of

our institutions which we do ourselves. It is natural to suppose that they are hitherto more attached to their own, and that each would struggle for the preference. If the plan of taking one state as a model for the whole had been thought of in the convention, it is to be presumed that the adoption of it in that body, would have been rendered difficult by the predilection of each representation in favour of its own government; and it must be uncertain which of the states would have been taken as the model. It has been shewn that many of them would be improper ones. And I leave it to conjecture whether, under all circumstances, it is most likely that New-York or some other state would have been preferred. But admit that a judicious selection could have been effected in the convention, still there would have been great danger of jealousy and disgust in the other states, at the partiality which had been shewn to the institutions of one. The enemies of the plan would have been furnished with a fine pretext for raising a host of local prejudices against it, which perhaps might have hazarded in no inconsiderable degree, its final establishment.

To avoid the embarrassments of a definition of the cases which the trial by jury ought to embrace, it is some times suggested by men of enthusiastic tempers, that a provision might have been inserted for establishing it in all cases whatsoever. For this I believe no precedent is to be found in any member of the union; and the considerations which have been stated in discussing the proposition of the minority of Pennsylvania, must satisfy every sober mind that the establishment of the trial by jury in *all* cases, would have been an unpardonable error in the plan.

In short, the more it is considered, the more arduous will appear the task of fashioning a provision in such a form, as not to express too little to answer the purpose, or too much to be adviseable; or which might not have opened other sources of opposition to the great and essential object of introducing a firm national government.

I cannot but persuade myself on the other hand, that the different lights in which the subject has been placed in the course of these observations, will go far towards removing in candid minds, the apprehensions they may have entertained on the point. They have tended to shew that the security of liberty is materially concerned only in the trial by jury in criminal cases, which is provided for in the most ample manner in the plan of the convention; that even in far the greatest proportion of civil cases, and those in which the great body of the community is interested, that mode of trial will remain in its full force, as established in the state constitutions, untouched and unaffected by the plan of the convention: That it is [in] no case abolished<sup>(c)</sup> by that plan; and that there are great if not insurmountable difficulties in the way of making any precise and proper provision for it in a constitution for the United States.

The best judges of the matter will be the least anxious for a constitutional establishment of the trial by jury in civil cases, and will be the most ready to admit that the changes which are continually happening in the affairs of society, may render a different mode of determining questions of property, preferable in many cases, in which that mode of trial now prevails. For my own part, I acknowledge myself to be convinced that even in this state, it might be advantageously extended to some cases to which it does not at present apply, and might as advantageously be abridged in others. It is conceded by all reasonable men, that it ought not to obtain in all cases. The examples of innovations which contract its ancient limits, as well in these states as in Great-Britain, afford a strong presumption that its former extent has been found inconvenient; and give room to suppose that future experience may discover the propriety and utility of other exceptions. I suspect it to be impossible in the nature of the thing, to fix the salutary point at which the operation of the institution ought to stop; and this is with me a strong argument for leaving the matter to the discretion of the legislature.

This is now clearly understood to be the case in Great-Britain, and it is equally so in the state of Connecticut; and yet it may be safely affirmed, that more numerous encroachments have been made upon the trial by jury in this state since the revolution, though provided for by a positive article of our constitution, than has happened in the same time either in Connecticut or Great-Britain. It may be added that these encroachments have generally originated with the men who endeavour to persuade the people they are the warmest defenders of popular liberty, but who have rarely suffered constitutional obstacles to arrest them in a favourite career. The truth is that the general GENIUS of a government is all that can be substantially relied upon for permanent effects. Particular provisions, though not altogether useless, have far less virtue and efficacy than are commonly ascribed to them; and the want of them will never be with men of sound discernment a decisive objection to any plan which exhibits the leading characters of a good government.

It certainly sounds not a little harsh and extraordinary to affirm that there is no security for liberty in a constitution which expressly establishes the trial by jury in criminal cases, because it does not do it in civil also; while it is a notorious fact that Connecticut, which has been

always regarded as the most popular state in the union, can boast of no constitutional provision for either.

(a) It has been erroneously insinuated, with regard to the court of chancery, that this court generally tries disputed facts by a jury. The truth is, that references to a jury in that court rarely happen, and are in no case necessary, but where the validity of a devise of land comes into question.
(b) It is true that the principles by which that relief is governed are now reduced to a regular system, but it is not the less true that they are in the main, applicable to SPECIAL circumstances which form exceptions to general rules.
(c) Vide No. LXXXI,<sup>3</sup> in which the supposition of its being abolished by the appellate jurisdiction in matters of fact

being vested in the supreme court is examined and refuted.

1. On 12 December the minority of the Pennsylvania Convention offered a number of "propositions" (or amendments to the Constitution), the second of which states: "That in controversies respecting property, and in suits between man and man, trial by jury shall remain as heretofore, as well in the federal courts, as in those of the several states." See the "Dissent of the Minority of the Pennsylvania Convention," *Pennsylvania Packet*, 18 December (CC:353).

2. This is the eighth amendment recommended by the Massachusetts Convention on 6 February (CC:508). The italics were inserted by "Publius." The Massachusetts amendments used the word "shall" instead of "may."

3. See CC:762.

# 765. Publius: The Federalist 84 New York, 28 May

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For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

## Concerning several miscellaneous Objections.

In the course of the foregoing review of the constitution I have taken notice of, and endeavoured to answer, most of the objections which have appeared against it. There however remain a few which either did not fall naturally under any particular head, or were forgotten in their proper places. These shall now be discussed; but as the subject has been drawn into great length, I shall so far consult brevity as to comprise all my observations on these miscellaneous points in a single paper. The most considerable of these remaining objections is, that the plan of the convention contains no bill of rights. Among other answers given to this, it has been upon different occasions remarked, that the constitutions of several of the states are in a similar predicament. I add, that New-York is of this number. And yet the opposers of the new system in this state, who profess an unlimited admiration for its constitution, are among the most intemperate partizans of a bill of rights. To justify their zeal in this matter, they alledge two things; one is, that though the constitution of New-York has no bill of rights prefixed to it, yet it contains in the body of it various provisions in favour of particular privileges and rights, which in substance amount to the same thing; the other is, that the constitution adopts in their full extent the common and statute law of Great-Britain, by which many other rights not expressed in it are equally secured.<sup>1</sup>

To the first I answer, that the constitution proposed by the convention contains, as well as the constitution of this state, a number of such provisions.

Independent of those, which relate to the structure of the government, we find the following:-Article I. section 3. clause 7. "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."-Section 9. of the same article, clause 2. "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it."-Clause 3. "No bill of attainder or ex post facto law shall be passed."-Clause 7. "No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince or foreign state."-Article III. section 2. clause 3. "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed."-Section 3, of the same article, "Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."-And clause 3,2 of the same section. "The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

It may well be a question whether these are not upon the whole, of equal importance with any which are to be found in the constitution of this state. The establishment of the writ of habeas corpus, the prohibition of ex post facto laws, and of TITLES OF NOBILITY, to which we have no corresponding provisions in our constitution, are perhaps greater securities to liberty and republicanism than any it contains. The creation of crimes after the commission of the fact, or in other words, the subjecting of men to punishment for things which, when they were done, were breaches of no law, and the practice of arbitrary imprisonments have been in all ages the favourite and most formidable instruments of tyranny. The observations of the judicious Blackstone<sup>(a)</sup> in reference to the latter, are well worthy of recital. "To bereave a man of life (says he) or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole nation; but confinement of the person by secretly hurrying him to gaol, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine<sup>3</sup> of arbitrary government." And as a remedy for this fatal evil, he is every where peculiarly emphatical in his encomiums on the habeas corpus act, which in one place he calls "the BULWARK of the British constitution."(b)

Nothing need be said to illustrate the importance of the prohibition of titles of nobility. This may truly be denominated the corner stone of republican government; for so long as they are excluded, there can never be serious danger that the government will be any other than that of the people.

To the second, that is, to the pretended establishment of the common and statute law by the constitution, I answer, that they are expressly made subject "to such alterations and provisions as the legislature shall from time to time make concerning the same." They are therefore at any moment liable to repeal by the ordinary legislative power, and of course have no constitutional sanction. The only use of the declaration was to recognize the ancient law, and to remove doubts which might have been occasioned by the revolution. This consequently can be considered as no part of a declaration of rights, which under our constitutions must be intended as limitations of the power of the government itself.

It has been several times truly remarked, that bills of rights are in their origin, stipulations between kings and their subjects, abrigements of prerogative in favor of privilege, reservations of rights not surrendered to the prince. Such was MAGNA CHARTA, obtained by the Barons, sword in hand, from king John. Such were the subsequent confirmations of that charter by subsequent princes. Such was the *petition* of right assented to by Charles the First, in the beginning of his reign. Such also was the declaration of right presented by the lords and commons to the prince of Orange in 1688, and afterwards thrown into the form of an act of parliament, called the bill of rights. It is evident, therefore, that according to their primitive signification, they have no application to constitutions professedly founded upon the power of the people, and executed by their immediate representatives and servants. Here, in strictness, the people surrender nothing, and as they retain every thing, they have no need of particular reservations. "WE THE PEOPLE of the United States, to secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." Here is a better recognition of popular rights than volumes of those aphorisms which made the principal figure in several of our state bills of rights, and which would sound much better in a treatise of ethics than in a constitution of government.

But a minute detail of particular rights is certainly far less applicable to a constitution like that under consideration, which is merely intended to regulate the general political interests of the nation, than to a constitution which has the regulation of every species of personal and private concerns. If therefore the loud clamours against the plan of the convention on this score, are well founded, no epithets of reprobation will be too strong for the constitution of this state. But the truth is, that both of them contain all, which in relation to their objects, is reasonably to be desired.

I go further, and affirm that bills of rights, in the sense and in the extent in which they are contended for, are not only unnecessary in the proposed constitution, but would even be dangerous. They would contain various exceptions to powers which are not granted; and on this very account, would afford a colourable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why for instance, should it be said, that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretence for claiming that power. They might urge with a semblance of reason, that the constitution ought not to be charged with the absurdity of providing against the abuse of an authority, which was not given, and that

the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it, was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

On the subject of the liberty of the press, as much has been said, I cannot forbear adding a remark or two: In the first place, I observe that there is not a syllable concerning it in the constitution of this state, and in the next, I contend that whatever has been said about it in that of any other state, amounts to nothing. What signifies a declaration that "the liberty of the press shall be inviolably preserved?" What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this, I infer, that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government.<sup>(c)</sup> And here, after all, as intimated upon another occasion, must we seek for the only solid basis of all our rights.

There remains but one other view of this matter to conclude the point. The truth is, after all the declamation we have heard, that the constitution is itself in every rational sense, and to every useful purpose, A BILL OF RIGHTS. The several bills of rights, in Great-Britain, form its constitution, and conversely the constitution of each state is its bill of rights. And the proposed constitution, if adopted, will be the bill of rights of the union. Is it one object of a bill of rights to declare and specify the political privileges of the citizens in the structure and administration of the government? This is done in the most ample and precise manner in the plan of the convention, comprehending various precautions for the public security, which are not to be found in any of the state constitutions. Is another object of a bill of rights to define certain immunities and modes of proceeding, which are relative to personal and private concerns? This we have seen has also been attended to, in a variety of cases, in the same plan. Adverting therefore to the substantial meaning of a bill of rights, it is absurd to allege that it is not to be found in the work of the convention. It may be said that it does not go far enough, though it will not be easy to make this appear; but it can with no propriety be contended that there is no such thing. It certainly must be immaterial what mode is observed as to the order of declaring the rights of the citizens, if they are to be found in any part of the instrument which establishes the government. And hence it must be apparent that much of what has been

said on this subject rests merely on verbal and nominal distinctions, which are entirely foreign from the substance of the thing.

Another objection, which has been made, and which from the frequency of its repetition it is to be presumed is relied on, is of this nature:-It is improper (say the objectors) to confer such large powers, as are proposed, upon the national government; because the seat of that government must of necessity be too remote from many of the states to admit of a proper knowledge on the part of the constituent, of the conduct of the representative body. This argument, if it proves any thing, proves that there ought to be no general government whatever. For the powers which it seems to be agreed on all hands, ought to be vested in the union, cannot be safely intrusted to a body which is not under every requisite controul. But there are satisfactory reasons to shew that the objection is in reality not well founded. There is in most of the arguments which relate to distance a palpable illusion of the imagination. What are the sources of information by which the people in Montgomery county<sup>4</sup> must regulate their judgment of the conduct of their representatives in the state legislature? Of personal observation they can have no benefit. This is confined to the citizens on the spot. They must therefore depend on the information of intelligent men, in whom they confide-and how must these men obtain their information? Evidently from the complection of public measures, from the public prints, from correspondences with their representatives, and with other persons who reside at the place of their deliberation. This does not apply to Montgomery county only, but to all the counties, at any considerable distance from the seat of government.

It is equally evident that the same sources of information would be open to the people, in relation to the conduct of their representatives in the general government; and the impediments to a prompt communication which distance may be supposed to create, will be overballanced by the effects of the vigilance of the state governments. The executive and legislative bodies of each state will be so many centinels over the persons employed in every department of the national administration; and as it will be in their power to adopt and pursue a regular and effectual system of intelligence, they can never be at a loss to know the behaviour of those who represent their constituents in the national councils, and can readily communicate the same knowledge to the people. Their disposition to apprise the community of whatever may prejudice its interests from another quarter, may be relied upon, if it were only from the rivalship of power. And we may conclude with the fullest assurance, that the people, through that channel, will be better informed of the conduct of their national repre-

sentatives, than they can be by any means they now possess of that of their state representatives.

It ought also to be remembered, that the citizens who inhabit the country at and near the seat of government, will in all questions that affect the general liberty and prosperity, have the same interest with those who are at a distance; and that they will stand ready to sound the alarm when necessary, and to point out the actors in any pernicious project. The public papers will be expeditious messengers of intelligence to the most remote inhabitants of the union.

Among the many extraordinary objections which have appeared against the proposed constitution, the most extraordinary and the least colourable one, is derived from the want of some provision respecting the debts due to the United States. This has been represented as a tacit relinquishment of those debts, and as a wicked contrivance to screen public defaulters. The newspapers have teemed with the most inflammatory railings on this head; and yet there is nothing clearer than that the suggestion is entirely void of foundation, and is the offspring of extreme ignorance or extreme dishonesty. In addition to the remarks I have made upon the subject in another place,<sup>5</sup> I shall only observe, that as it is a plain dictate of common sense, so it is also an established doctrine of political law, that "States neither lose any of their rights, nor are discharged from any of their obligations by a change in the form of their civil government."<sup>(d)</sup>

The last objection of any consequence which I at present recollect, turns upon the article of expence. If it were even true that the adoption of the proposed government would occasion a considerable increase of expence, it would be an objection that ought to have no weight against the plan. The great bulk of the citizens of America, are with reason convinced that union is the basis of their political happiness. Men of sense of all parties now, with few exceptions, agree that it cannot be preserved under the present system, nor without radical alterations; that new and extensive powers ought to be granted to the national head, and that these require a different organization of the federal government, a single body being an unsafe depository of such ample authorities. In conceding all this, the question of expence must be given up, for it is impossible, with any degree of safety, to narrow the foundation upon which the system is to stand. The two branches of the legislature are in the first instance, to consist of only sixty-five persons, which is the same number of which congress, under the existing confederation, may be composed.<sup>6</sup> It is true that this number is intended to be increased; but this is to keep pace with the increase of the population and resources of the country. It is evident, that a less

number would, even in the first instance, have been unsafe; and that a continuance of the present number would, in a more advanced stage of population, be a very inadequate representation of the people.

Whence is the dreaded augmentation of expence to spring? One source pointed out, is the multiplication of offices under the new government. Let us examine this a little.

It is evident that the principal departments of the administration under the present government, are the same which will be required under the new. There are now a secretary at war, a secretary for foreign affairs, a secretary for domestic affairs, a board of treasury consisting of three persons, a treasurer, assistants, clerks, &c. These offices are indispensable under any system, and will suffice under the new as well as under the old. As to ambassadors and other ministers and agents in foreign countries, the proposed constitution can make no other difference, than to render their characters, where they reside, more respectable, and their services more useful. As to persons to be employed in the collection of the revenues, it is unquestionably true that these will form a very considerable addition to the number of federal officers; but it will not follow, that this will occasion an increase of public expence. It will be in most cases nothing more than an exchange of state officers for national officers. In the collection of all duties, for instance, the persons employed will be wholly of the latter description. The states individually will stand in no need of any for this purpose. What difference can it make in point of expence, to pay officers of the customs appointed by the state, or those appointed by the United States? There is no good reason to suppose, that either the number or the salaries of the latter, will be greater than those of the former.

Where then are we to seek for those additional articles of expence which are to swell the account to the enormous size that has been represented to us? The chief item which occurs to me, respects the support of the judges of the United States. I do not add the president, because there is now a president of congress, whose expences may not be far, if any thing, short of those which will be incurred on account of the president of the United States. The support of the judges will clearly be an extra expence, but to what extent will depend on the particular plan which may be adopted in practice in regard to this matter. But it can upon no reasonable plan amount to a sum which will be an object of material consequence.

Let us now see what there is to counterballance any extra expences that may attend the establishment of the proposed government. The first thing that presents itself is, that a great part of the business, which now keeps congress sitting through the year, will be transacted by the

president. Even the management of foreign negociations will naturally devolve upon him according to general principles concerted with the senate, and subject to their final concurrence. Hence it is evident, that a portion of the year will suffice for the session of both the senate and the house of representatives? We may suppose about a fourth for the latter, and a third or perhaps a half for the former. The extra business of treaties and appointments may give this extra occupation to the senate. From this circumstance we may infer, that until the house of representatives shall be increased greatly beyond its present number, there will be a considerable saving of expence from the difference between the constant session of the present, and the temporary session of the future congress.

But there is another circumstance, of great importance in the view of economy. The business of the United States has hitherto occupied the state legislatures as well as congress. The latter has made requisitions which the former have had to provide for. Hence it has happened that the sessions of the state legislatures have been protracted greatly beyond what was necessary for the execution of the mere local business of the states. More than a half their time has been frequently employed in matters which related to the United States. Now the members who compose the legislatures of the several states amount to two thousand and upwards; which number has hitherto performed what under the new system will be done in the first instance by sixty-five persons, and probably at no future period by above a fourth or a fifth of that number. The congress under the proposed government will do all the business of the United States themselves, without the intervention of the state legislatures, who thenceforth will have only to attend to the affairs of their particular states, and will not have to sit in any proportion as long as they have heretofore done. This difference, in the time of the sessions of the state legislatures, will be all clear gain, and will alone form an article of saving, which may be regarded as an equivalent for any additional objects of expence that may be occasioned by the adoption of the new system.

The result from these observations is, that the sources of additional expence from the establishment of the proposed constitution are much fewer than may have been imagined, that they are counterbalanced by considerable objects of saving, and that while it is questionable on which side the scale will preponderate, it is certain that a government less expensive would be incompetent to the purposes of the union.

(a) Vide Blackstone's Commentaries, vol. 1, page 136.7

(b) Idem, vol. 4, page 438.8

(c) To show that there is a power in the constitution by which the liberty of the press may be affected, recourse has

135

been had to the power of taxation. It is said that duties may be laid upon publications so high as to amount to a prohibition. I know not by what logic it could be maintained that the declarations in the state constitutions, in favour of the freedom of the press, would be a constitutional impediment to the imposition of duties upon publications by the state legislatures. It cannot certainly be pretended that any degree of duties, however low, would be an abrigement of the liberty of the press. We know that newspapers are taxed in Great-Britain, and yet it is notorious that the press no where enjoys greater liberty than in that country. And if duties of any kind may be laid without a violation of that liberty, it is evident that the extent must depend on legislative discretion, regulated by public opinion; so that after all, general declarations respecting the liberty of the press will give it no greater security than it will have without them. The same invasions of it may be effected under the state constitutions which contain those declarations through the means of taxation, as under the proposed constitution which has nothing of the kind. It would be quite as significant to declare that government ought to be free, that taxes ought not to be excessive, &c. as that the liberty of the press ought not to be restrained.

(d) Vide Rutherford's Institutes, vol. 2, book II, chap. x. sect. xiv. and xv.—Vide also Grotius, book II. chap. ix, sect. viii, and ix.<sup>9</sup>

1. Chapter XXXV of the New York constitution states: "And this convention doth further, in the name and by the authority of the good people of this State, ordain, determine, and declare that such parts of the common law of England, and of the statute law of England and Great Britain, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the 19th day of April, in the year of our Lord one thousand seven hundred and seventy-five, shall be and continue the law of this State, subject to such alterations and provisions as the legislature of this State shall, from time to time, make concerning the same. That such of the said acts, as are temporary, shall expire at the times limited for their duration, respectively. That all such parts of the said common law, and all such of the said statutes and acts aforesaid, or parts thereof, as may be construed to establish or maintain any particular denomination of Christians or their ministers, or concern the allegiance heretofore yielded to, and the supremacy, sovereignty, government, or prerogatives claimed or exercised by, the King of Great Britain and his predecessors, over the colony of New York and its inhabitants, or are repugnant to this constitution, be, and they hereby are, abrogated and rejected. And this convention doth further ordain, that the resolves or resolutions of the congresses of the colony of New York, and of the convention of the State of New York, now in force, and not repugnant to the government established by this constitution, shall be considered as making part of the laws of this State; subject, nevertheless, to such alterations and provisions as the legislature of this State may, from time to time, make concerning the same" (Thorpe, V, 2635–36).

2. Actually clause 2.

3. The italics were added by "Publius."

4. In 1788 Montgomery Country embraced the western two-thirds of New York State.

5. See *The Federalist* 43, New York *Independent Journal*, 23 January (CC:469, especially p. 444).

6. According to the Constitution, the first House of Representatives was to consist of sixty-five members and the Senate twenty-six. Under the Confederation, states could be represented in Congress by from two to seven delegates. Thus the Confederation Congress could have ninety-one delegates, which it never did, while the two houses of the first federal Congress would consist of ninety-one members if all thirteen states ratified the Constitution.

7. Blackstone, Commentaries, Book I, chapter I, 136.

8. Ibid., Book IV, chapter XXXIII, 431. The small capitals were inserted by "Publius." 9. "Publius" refers to Thomas Rutherforth (Rutherford), Institutes of Natural Law; Being the Substance of a Course of Lectures on Grotius De Jure Belli et Pacis... (Cambridge, Eng., 1754–1756); and Hugo Grotius, De Jure Belli et Pacis (Paris, 1625).

# 766. Publius: The Federalist 85 New York, 28 May

This essay, written by Alexander Hamilton, first appeared in Volume II of the book edition of *The Federalist*. It was reprinted as number 84 in the New York *Independent Journal*, 13, 16 August, and as number 85 in the *New York Packet*, 15 August. It has been transcribed from pages 357–65 of the book edition. The four paragraphs and part of a fifth that are enclosed in angle brackets below were quoted in the June issue of the New York *American Magazine* by the reviewer, probably editor Noah Webster, of both volumes of *The Federalist*. The reviewer believed that these paragraphs contained "several powerful arguments in favor of receiving the proposed constitution." (See also notes 2–3, below.)

For a general discussion of the authorship, circulation, and impact of *The Federalist*, see CC:201, 406, 639, and Editors' Note, 28 May.

#### Conclusion.

According to the formal division of the subject of these papers, announced in my first number, there would appear still to remain for discussion, two points, "the analogy of the proposed government to your own state constitutions," and "the additional security, which its adoption will afford to republican government, to liberty and to property."<sup>1</sup> But these heads have been so fully anticipated and exhausted in the progress of the work, that it would now scarcely be possible to do any thing more than repeat, in a more dilated form, what has been heretofore said; which the advanced stage of the question, and the time already spent upon it conspire to forbid.

It is remarkable, that the resemblance of the plan of the convention

to the act which organizes the government of this state holds, not less with regard to many of the supposed defects, than to the real excellencies of the former. Among the pretended defects, are the re-eligibility of the executive, the want of a council, the omission of a formal bill of rights, the omission of a provision respecting the liberty of the press: These and several others, which have been noted in the course of our inquiries, are as much chargeable on the existing constitution of this state, as on the one proposed for the Union. And a man must have slender pretensions to consistency, who can rail at the latter for imperfections which he finds no difficulty in excusing in the former. Nor indeed can there be a better proof of the insincerity and affectation of some of the zealous adversaries of the plan of the convention among us, who profess to be the devoted admirers of the government under which they live, than the fury with which they have attacked that plan, for matters in regard to which our own constitution is equally, or perhaps more vulnerable.

(The additional securities to republican government, to liberty and to property, to be derived from the adoption of the plan under consideration, consist chiefly in the restraints which the preservation of the union will impose on local factions and insurrections, and on the ambition of powerful individuals in single states, who might acquire credit and influence enough, from leaders and favorites, to become the despots of the people; in the diminution of the opportunities to foreign intrigue, which the dissolution of the confederacy would invite and facilitate; in the prevention of extensive military establishments, which could not fail to grow out of wars between the states in a disunited situation; in the express guarantee of a republican form of government to each; in the absolute and universal exclusion of titles of nobility; and in the precautions against the repetition of those practices on the part of the state governments, which have undermined the foundations of property and credit, have planted mutual distrust in the breasts of all classes of citizens, and have occasioned an almost universal prostration of morals.)<sup>2</sup>

Thus have I, my fellow citizens, executed the task I had assigned to myself; with what success, your conduct must determine. I trust at least you will admit, that I have not failed in the assurance I gave you respecting the spirit with which my endeavours should be conducted. I have addressed myself purely to your judgments, and have studiously avoided those asperities which are too apt to disgrace political disputants of all parties, and which have been not a little provoked by the language and conduct of the opponents of the constitution. The charge of a conspiracy against the liberties of the people, which has

been indiscriminately brought against the advocates of the plan, has something in it too wanton and too malignant not to excite the indignation of every man who feels in his own bosom a refutation of the calumny. The perpetual charges which have been rung upon the wealthy, the well-born and the great, have been such as to inspire the disgust of all sensible men. And the unwarrantable concealments and misrepresentations which have been in various ways practiced to keep the truth from the public eye, have been of a nature to demand the reprobation of all honest men. It is not impossible that these circumstances may have occasionally betrayed me into intemperances of expression which I did not intend: It is certain that I have frequently felt a struggle between sensibility and moderation, and if the former has in some instances prevailed, it must be my excuse, that it has been neither often nor much.

Let us now pause and ask ourselves whether, in the course of these papers, the proposed constitution has not been satisfactorily vindicated from the aspersions thrown upon it, and whether it has not been shewn to be worthy of the public approbation, and necessary to the public safety and prosperity. Every man is bound to answer these questions to himself, according to the best of his conscience and understanding, and to act agreeably to the genuine and sober dictates of his judgment. This is a duty, from which nothing can give him a dispensation.-'Tis one that he is called upon, nay, constrained by all the obligations that form the bands of society, to discharge sincerely and honestly.-No partial motive, no particular interest, no pride of opinion, no temporary passion or prejudice, will justify to himself, to his country or to his posterity, an improper election of the part he is to act. Let him beware of an obstinate adherence to party.-Let him reflect that the object upon which he is to decide is not a particular interest of the community, but the very existence of the nation.-And let him remember that a majority of America has already given its sanction to the plan, which he is to approve or reject.

I shall not dissemble, that I feel an intire confidence in the arguments, which recommend the proposed system to your adoption; and that I am unable to discern any real force in these by which it has been opposed. I am persuaded, that it is the best which our political situation, habits and opinions will admit, and superior to any the revolution has produced.

Concessions on the part of the friends of the plan, that it has not a claim to absolute perfection, have afforded matter of no small triumph to its enemies. Why, say they, should we adopt an imperfect thing? Why not amend it, and make it perfect before it is irrevocably established? This may be plausible enough, but it is only plausible. In the first place I remark, that the extent of these concessions has been greatly exaggerated. They have been stated as amounting to an admission, that the plan is radically defective; and that, without material alterations, the rights and the interests of the community cannot be safely confided to it. This, as far as I have understood the meaning of those who make the concessions, is an intire perversion of their sense. No advocate of the measure can be found who will not declare as his sentiment, that the system, though it may not be perfect in every part, is upon the whole a good one, is the best that the present views and circumstances of the country will permit, and is such an one as promises every species of security which a reasonable people can desire.

I answer in the next place, that I should esteem it the extreme of imprudence to prolong the precarious state of our national affairs, and to expose the union to the jeopardy of successive experiments, in the chimerical pursuit of a perfect plan. I never expect to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound as well of the errors and prejudices, as of the good sense and wisdom of the individuals of whom they are composed. The compacts which are to embrace thirteen distinct states, in a common bond of amity and union, must as necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?

The reasons assigned in an excellent little pamphlet lately published in this city<sup>(a)</sup> are unanswerable to shew the utter improbability of assembling a new convention, under circumstances in any degree so favourable to a happy issue, as those in which the late convention met, deliberated and concluded. I will not repeat the arguments there used, as I presume the production itself has had an extensive circulation. It is certainly well worthy the perusal of every friend to his country. (There is however one point of light in which the subject of amendments still remains to be considered; and in which it has not yet been exhibited to public view. I cannot resolve to conclude, without first taking a survey of it in this aspect.

It appears to me susceptible of absolute demonstration, that it will be far more easy to obtain subsequent than previous amendments to the constitution. The moment an alteration is made in the present plan, it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each state. To its complete establishment throughout the union, it will therefore require the concurrence of thirteen states. If, on the contrary, the constitution proposed should

once be ratified by all the states as it stands, alterations in it may at any time be effected by nine states. Here then the chances are as thirteen to nine<sup>(b)</sup> in favour of subsequent amendments, rather than of the original adoption of an intire system.

This is not all. Every constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent states are to be accommodated in their interests or opinions of interest. We may of course expect to see, in any body of men charged with its original formation, very different combinations of the parts upon different points. Many of those who form the majority on one question may become the minority on a second, and an association dissimilar to either may constitute the majority on a third. Hence the necessity of moulding and arranging all the particulars which are to compose the whole in such a manner as to satisfy all the parties to the compact; and hence also an immense multiplication of difficulties and casualties in obtaining the collective assent to a final act. The degree of that multiplication must evidently be in a ratio to the number of particulars and the number of parties.

But every amendment to the constitution, if once established, would be a single proposition, and might be brought forward singly. There would then be no necessity for management or compromise, in relation to any other point, no giving nor taking. The will of the requisite number would at once bring the matter to a decisive issue. And consequently whenever nine,<sup>(b)</sup> or rather ten states, were united in the desire of a particular amendment, that amendment must infallibly take place. There can therefore be no comparison between the facility of effecting an amendment, and that of establishing in the first instance a complete constitution.)<sup>3</sup>

In opposition to the probability of subsequent amendments it has been urged, that the persons delegated to the administration of the national government, will always be disinclined to yield up any portion of the authority of which they were once possessed. For my own part I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the government, not to the mass of its powers; and on this account alone, I think there is no weight in the observation just stated. I also think there is little weight in it on another account. The intrinsic difficulty of governing THIRTEEN STATES at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will, in my opinion, constantly *impose* on the national rulers the *necessity* of a spirit of accommodation to the reasonable expectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of doubt, that the observation is futile. It is this, that the national rulers, whenever nine states concur, will have no option upon the subject. By the fifth article of the plan the congress will be obliged, "on the application of the legislatures of two-thirds of the states, (which at present amounts to nine) to call a convention for proposing amendments, which shall be valid to all intents and purposes, as part of the constitution, when ratified by the legislatures of three-fourths of the states, or by conventions in three-fourths thereof." The words of this article are peremptory. The congress "shall call a convention."<sup>4</sup> Nothing in this particular is left to the discretion of that body. And of consequence all the declamation about their disinclination to a change, vanishes in air. Nor however difficult it may be supposed to unite two-thirds or three-fourths of the state legislatures, in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people. We may safely rely on the disposition of the state legislatures to erect barriers against the encroachments of the national authority.

If the foregoing argument is a fallacy, certain it is that I am myself deceived by it; for it is, in my conception, one of those rare instances in which a political truth can be brought to the test of mathematical demonstration. Those who see the matter in the same light with me, however zealous they may be for amendments, must agree in the propriety of a previous adoption, as the most direct road to their own object.

The zeal for attempts to amend, prior to the establishment of the constitution, must abate in every man, who, is ready to accede to the truth of the following observations of a writer, equally solid and ingenious:--"To balance a large state or society (says he) whether monarchical or republican, on general laws, is a work of so great difficulty, that no human genius, however comprehensive, is able by the mere dint of reason and reflection, to effect it. The judgments of many must unite in the work: EXPERIENCE must guide their labour: TIME must bring it to perfection: And the FEELING of inconveniences must correct the mistakes which they inevitably fall into, in their first trials and experiments."(c) These judicious reflections contain a lesson of moderation to all the sincere lovers of the union, and ought to put them upon their guard against hazarding anarchy, civil war, a perpetual alienation of the states from each other, and perhaps the military despotism of a victorious demagogue, in the pursuit of what they are not likely to obtain, but from TIME and EXPERIENCE. It may be in me a defect of political fortitude, but I acknowledge, that I cannot en-

tertain an equal tranquillity with those who affect to treat the dangers of a longer continuance in our present situation as imaginary. A NATION without a NATIONAL GOVERNMENT is, in my view, an awful spectacle. The establishment of a constitution, in time of profound peace, by the voluntary consent of a whole people, is a PRODIGY, to the completion of which I look forward with trembling anxiety. I can reconcile it to no rules of prudence to let go the hold we now have, in so arduous an enterprise, upon seven out of the thirteen states; and after having passed over so considerable a part of the ground to recommence the course. I dread the more the consequences of new attempts, because I KNOW that POWERFUL INDIVIDUALS, in this and in other states, are enemies to a general national government, in every possible shape.

(a) Intitled "An Address, to the people of the state of New-York."  $^{5}$ 

(b) It may rather be said TEN, for though two-thirds may set on foot the measure, three-fourths must ratify.<sup>6</sup>

(c) Hume's Essays, vol. 1, page 128.—The rise of arts and sciences.<sup>7</sup>

1. See *The Federalist* 1, New York *Independent Journal*, 27 October (CC:201, p. 496). In the original essay, these phrases (which are not quoted verbatim by "Publius") were in italic type. The paragraph in which they appeared listed the topics that "Publius" proposed to discuss.

2. In quoting this paragraph, the reviewer of *The Federalist* in the June issue of the New York *American Magazine* made this prefatory statement: "The advantages to be expected from the General Government, our author then describes."

3. When quoting this text in angle brackets, the reviewer of *The Federalist* in the June issue of the New York *American Magazine* made this prefatory statement: "In answer to those who urge for amendments in the constitution, previous to its adoption, Publius very justly observes, that amendments will be more easily made *after* than *before* its adoption. His observations on this point deserve to be transcribed."

4. The italics in the passages quoted from Article V of the Constitution were inserted by "Publius."

5. "Publius" refers to a pamphlet by "A Citizen of New-York" entitled An Address to the People of the State of New-York which was first offered for sale in New York City on 15 April (CC:683). John Jay, who had contributed several numbers to The Federalist, was the author.

6. Internal note "b" applies to two different places in the text.

7. David Hume's essay, "Of the Rise and Progress of the Arts and Sciences," was included in the first volume of his collected works entitled *Essays and Treatises on Several Subjects*. The collected works appeared between 1750 and 1753, being reprinted several times.

## 767. Comte de Moustier to Comte de Montmorin New York, 29 May (excerpt)<sup>1</sup>

The adoption of the new Constitution in South Carolina begins to become a probability, despite the very strong opposition of the interior districts. These districts are populated by a large number of Scots and Germans, all of them disposed to an unrestricted liberty, the former as a result of Presbyterianism, the latter because they suffered the disadvantages of an absolute Government in their native country. The Convention of that State, which is currently assembled, has just rejected by a large majority the motion made by Antifederalists to adjourn until the 20th of next October<sup>2</sup> under the pretext that the inhabitants of the Backcountry had not had time to read and examine the new Constitution and that through ignorance they had given instructions to oppose it. The debtors, who form at least four-fifths of the population of Carolina, fear that a more powerful Government would prevent them from printing paper money and from taking other measures equally prejudicial to their creditors. It is nevertheless hoped that this State will be the eighth column that will support the new federal edifice.

In North Carolina the Elections have been accompanied with more violence than in any other State; several Federalists have been assaulted with hatchet blows, and they have almost deserved this punishment because of the vehemence with which they had tried to coerce the voters who seemed to them to be opposed.<sup>3</sup>

The names of Members of the Convention for the City of Newyork were just reported and show that at least in this City the Federalists are the strongest. The interior districts will be able to put up a larger number of men in opposition to them, but talents, riches, and reputation are on the side of Federalism. In spite of these advantages the partisans of the new Government acknowledge that they are the minority in this State and that they will be left with no other expedient than to draw out the deliberations until the moment when the sentiment of Virginia is known, which, if it is favorable, could cause the State of Newyork to be afraid of remaining excluded from the confederation along with Rhodeisland, which is generally despised.

Since the publication of the Act of the English Parliament concerning the Commerce of the British Colonies with the United States, it is hoped, My Lord, that Virginia and the other States that seemed opposed to the new Constitution will feel the necessity of adopting it in order to plan the means to be avenged for the harshness with which they are treated in this act.<sup>4</sup> It could not have arrived here at a more favorable time; it indicates on the one hand the small value that England places on either the friendship or the hatred of the United States and the great importance of the establishment of a more respectable and more vigorous Government; on the other hand, it makes a striking contrast with the generosity that inspired the arrêt of 29 December, which had already appeared unofficially in the newspapers and which

has since been published by order of Congress.<sup>5</sup> Americans are indignant to see that after all the fine hopes that Mr. J. Adams had given concerning the conclusion of a favorable treaty of commerce, this Minister returns here with an act that makes permanent the regulations that had previously been made annually to exclude the flag of the United States from trading in the West Indies and to permit them only the exportation of salt from the Turks Islands under the most humiliating conditions. To make this Act even more odious, it was accompanied by an Ordinance from Lord Dorchester, Governor of Canada, which, in spite of encouragements it gives to the importation of all the products of the interior of the United States, contains the most severe prohibitions concerning commerce in furs,<sup>6</sup> a commerce which, by the surrender of posts in conformity with the Treaty of Peace, ought to have belonged almost exclusively to these States and which is forbidden to them by motives that England could easily justify but that Americans are hardly disposed to concede.

Great Britain, My Lord, in this respect follows a policy that essentially keeps the situation advantageous to it. Without making any sacrifice, without seeking the friendship of a people deprived of principles, of system, of Government, it sees itself in possession of almost all its active and passive Commerce, it reserves for itself the right to take from the Americans all that is indispensable to its Colonies and to carry to them all the commodities that it can do without; not content to dictate to the Atlantic States, it extends its influence into the interior by forcing the shipping of all the products of the territories bordering on Canada on the St. Lawrence River and by paying for them in merchandise manufactured in England. It can be said that England lost by the Revolution only the right to appoint Governors, but that the United States are still its fertile and profitable Colonies. This state of things will certainly change if the new Government is established, but the more Great Britain has confined the Americans, the more compensations it will be able to offer when it becomes a question of buying favors. These considerations greatly influence the minds of those who are at the head of the different conventions, and they are perhaps as strong as rich men's fears of losing their property due to the greed and bad faith of the populace. Be that as it may, My Lord, one can still doubt the efficacy of this new Government with respect to domestic administration, although it ought to inspire more confidence and consideration in foreign powers. Power is rarely procured by unanimous consent; it is more often due to fortunate circumstances, to genius, to an appropriately struck blow....

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 178–81, Archives du Ministère des Affaires Étrangères, Paris. This letter, dispatch number 13, was endorsed as received on 10 July. Untranslated excerpts from this letter are found in the Edmond Charles Genêt Papers at the Library of Congress.

2. On 29 May the New York *Daily Advertiser* reprinted the 21 May proceedings of the South Carolina Convention, including a motion to adjourn the Convention until 20 October that was defeated by a vote of 135 to 89. On the same day, the *Advertiser* also printed an extract of a 22 May letter from a gentleman in Charleston stating that this motion was lost by "a majority of forty."

3. Moustier refers to the violence that took place in Dobbs County, N.C., on 29 March, after the close of the polls for the election of North Carolina Convention delegates. As the ballots were being counted in the evening, it became evident that Federalists had lost the election. In a seemingly pre-arranged plan to forestall the election of Antifederalist candidates, Federalists extinguished the torches, absconded with the ballot box, and assaulted Antifederalists. This event was widely reported throughout the United States. In New York City, accounts appeared in the *New York Journal*, 9 and 17 May, and *New York Packet*, 16 May. Other acts of violence in North Carolina were also widely reported.

4. On 24 May the New York *Daily Advertiser* printed "An Act for regulating the Trade between the subjects of his Majesty's Colonies and Plantations in North-America, and in the West-India Islands, and the Countries belonging to the United States of America; and between his Majesty's said subjects and the Foreign Islands in the West-Indies." Four days later, congressman Edward Carrington commenting on this act said: "you see that this Court are presuming much upon our remaining in our imbecile State, having confirmed in a formal Act, what they at first tried in only temporary regulations, for oppressing us. in the debates of the House of Commons Notice was taken of the proposed reform in our Government, which might render this an imprudent measure, but the promoters of it, supposed they had but little to apprehend. I trust we shall soon have it in our power to teach this haughty Nation which is the most dependant in an advantageous intercourse—her West India Islands cannot prosper without us—we can do very well without any thing from thence" (to James Madison, Rutland, *Madison*, XI, 61–62).

5. On 10 April the New York *Daily Advertiser* printed "An ACT of King's Council of State, for the Encouragement of the Commerce of France with the United States of America." This arrêt was adopted on 29 December 1787, and two days later Thomas Jefferson, the American minister to France, sent a copy to John Jay, Secretary for Foreign Affairs. Jay forwarded Jefferson's letter and the act to the President of Congress on 18 April. The letter was read on 2 May, but Congress delayed consideration until 5 May, when it referred the documents to Jay for printing. On 17 May Jay sent a circular letter, along with the printed act, to each state executive (Boyd, XII, 466–71, 479–83; JCC, XXXIV, 130, 132; and LMCC, VIII, 733n).

6. On 18 April 1787 Lord Dorchester (Guy Carleton), the governor of Quebec, issued an order allowing the free importation into Canada of American lumber, naval stores, grain, provisions, and livestock and the free exportation of any Canadian product except furs. On 14 April 1788 the Legislative Council of the Province of Quebec passed an ordinance codifying Dorchester's order (A. L. Burt, *The United States, Great Britain, and British North America from the Revolution to the Establishment of Peace After the War of 1812* [New Haven, 1940], 67–68; and E. P. Walton, ed., *Records of the Governor and Council of the State of Vermont* [8 vols., Montpelier, 1873–1880], III, 402–6).

# 768. Baron Beelen-Bertholff to Count Trauttmannsdorf Philadelphia, 31 May (excerpts)<sup>1</sup>

The critical moment in which the new Republic presently finds itself has almost benumbed and suspended everything; nothing is discussed from Savannah to Penobscot except the new form of government and its consequences; they are tossed between fear and hope....

P.S.

Further result and current state of things relative to the plan of a new constitution for the government of the United States of America.

Maryland is unexpectedly the seventh of the United States to adopt the new constitution; its deputies and delegates proceeded to deal with it with a speed that will perhaps be unique in the new Republic; the plan was read, discussed, and considered for the first time the 21st; it was agreed to, ratified and signed purely and simply last April 28th by the delegates of the people of Maryland.

The prediction, mentioned in P.S., labeled A, joined to my very humble account of last March 22nd, was confirmed; New Hampshire has just acceded along with the seven other states.<sup>2</sup>

All the letters from Carolina are united in assuring that its acceptance will take place in a few days.<sup>3</sup> In that case the matter would be completed, because it is decreed that the ratification of nine states will give life to this new form of government; I believe I am able to say with certainty to Your Excellency that even if the two Carolinas should delay it further, it is not doubted that things will be at this point in three or four weeks.

It is thus, My Lord, even in Virginia, where it appeared until now that the voters would not unite, or at least would unite with great difficulty, for the new constitution, considering the force of the arguments and the characters of the people who expounded them; there is now such a preponderance for agreeing that it is not at all probable that the minority will be able to succeed in counterbalancing it; as for the state of New York, it is rumored here that the members of the body appointed to deliberate on it are federalists; this now leaves only Rhode Island, which continues to be the only one of the 13 states that seems not to have decided to unite on this advantageous plan, more, according to what I have occasion to believe, from a division in the opinions of her legislators than from any other cause to which the public papers in Europe attribute it.

Having communicated to Your Excellency the individual sentiments of Washington, Franklin, Lee and Jay on the plan of the constitution in question,<sup>4</sup> it appeared to me that that of the American minister to the London court, Adams, given on this subject in one of his letters to Colonel Smith, could be added to them; I take the liberty of enclosing here the extract of that letter.<sup>5</sup>...

1. Printed (Tr): Hanns Schlitter, ed., Die Berichte des Ersten Agenten Österrichs in den Vereinigten Staaten von Amerika Baron de Beelen-Bertholff... (Vienna, 1891) ("Fontes Rerum Austriacarum," Abth. 2, Bd. XLV), 811–18. The postscript is an enclosure that was labeled "E." Baron Beelen-Bertholff (1729–1805) was the "Counsellor of Commerce and Navigation for the States of his Imperial Majesty" (Joseph II, the Holy Roman Emperor) in the United States from 1783 to 1790. Stationed in Philadelphia and a member of the American Philosophical Society, Beelen-Bertholff owned land in Penn-sylvania, where he died in York County in 1805. His letters and reports, written in French, were sent to Count Trauttmannsdorf (1749–1827), Joseph II's minister pleni-potentiary to the Austrian Netherlands who was stationed in Brussels.

2. In his 22 March letter, Beelen-Bertholff noted that "there is, My Lord, a prediction that New Hampshire is also at the point of ratifying it" (*ibid.*, 795). New Hampshire finally ratified the Constitution on 21 June.

3. The news that South Carolina had ratified on 23 May reached Philadelphia on Monday evening, 2 June (*Pennsylvania Packet*, 3 June; and *Pennsylvania Journal*, 4 June).

4. In his 22 March letter, Beelen-Berthoff had enclosed (in this order): French translations of Benjamin Franklin's 17 September 1787 speech to the Constitutional Convention (CC:77); Richard Henry Lee's 16 October letter to Governor Edmund Randolph (CC:325); George Washington's 14 December letter to Charles Carter (CC:386–A); and John Jay's 1 December letter to John Vaughan (CC:290–B) (Schlitter, *Beelen-Bertholff*, 796–805).

5. The reference is to John Adams's 26 December 1787 letter to his son-in-law William Stephens Smith which was first printed in the third volume of Adams's *Defence of the Constitutions* (CC:16) and reprinted in the *New York Journal*, 23 February (CC:557).

# 769. Hugh Williamson to James Madison New York, 2 June<sup>1</sup>

By the Time this comes to Hand you will be pretty well engaged in discussing the new Constitution & attempting to convince men who came forward with the Resolution not to be convinced. Of all the wrong heads who have started in opposition none have been mentioned who appear to be so palpably wrong as the People of Kentucke. It is said that some antifed in Maryland on the last Winter fastened on the Ear of Genl Wilkinson who was accidentally there and persuaded him that in case of a new Govt: the Navigation of the Mississippi would infallibly be given up.<sup>2</sup> Your Recollection must certainly enable you to say that there is a Proviso in the new Sistem which was inserted for the express purpose of preventing a majority of the Senate or of the States which is considered as the same thing from giving up the Mississippi It is provided that two thirds of the Members present in the senate shall be required to concur in making Treaties and if the southern states attend to their Duty, this will imply 2/3. of the States in the

## 3 JUNE, CC:770

Union together with the President, a security rather better than the present 9 States especially as Vermont & the Province of Main may be added to the Eastern-Interest and you may recollect that when a Member, Mr Willson objected to this Proviso, saying that in all Govts. the Majority should govern it was replyed that the Navigation of the Mississippi after what had already happened in Congress was not to be risqued in the Hands of a meer Majority and the Objection was withdrawn.<sup>3</sup> Certainly those gentlemen know that the River is at present shut not by right but by the Hand of Power and that under the existing Govt we are never like to be able to open it. It is true that we may readily reduce the spanish Settlements on the Mississippi but that would not secure us any Exports; for a single Spanish Frigate would take every Vessel that we attempted to send out with Produce. And any Nation sending Vessels to take our Produce would expose such Vessels to Capture. On the Contrary under an efficient Govt. when we shall certainly have some Ships of War Spain will find herself under the Necessity of suffering our Produce to be exported. For myself I conceive that my opinions are not prejudiced biassed by private Interest, but having claims to a considerable Quantity of Land in the Western Country I am fully persuaded that the Value of those Lands must be increased by an efficient federal Govt. It is clear that the Kentucke Gentlemen must have viewed this Subject in a difft Light, but I suspect that they have never fully examined the provision respecting Treaties.

#### 1. RC, Madison Papers, DLC.

2. In late December 1787 James Wilkinson, who was in Richmond from whence he traveled to Maryland, was already violently against the Constitution (Edmund Randolph to James Madison, 27 December, RCS:Va., 275). Wilkinson opposed a strong central government that would probably insist on America's right to the free navigation of the Mississippi River. In the summer of 1787 Wilkinson took an oath of allegiance to the King of Spain, agreeing to help Spain annex Kentucky to its other American colonies in exchange for the privilege given to Wilkinson of trading down the river to New Orleans.

3. The Constitutional Convention debated this proviso on 8 September 1787. Both Williamson and James Madison opposed James Wilson's motion to strike out the requirement of a two-thirds majority to ratify treaties (Farrand, II, 547–50).

## 770. Pennsylvania Packet, 3 June<sup>1</sup>

No country under the sun is better calculated for commerce than this republic of America.—Every circumstance contributes to advance its prosperity—The Heavens and the Earth, the Air and the Water all conspire to promote its happiness—Its situation extending for several hundred miles on the borders of the sea—Its large navigable rivers, which originate in its most interior parts, and which communicate with the ocean—The variety of its climate, and the fertility of its soil, which render it fit for the production of all the necessaries of life, and all the materials of commerce, the mildness of its government, which opens an asylum to all strangers who are dissatisfied with their own— The freedom of its religion, which permits every man to worship his God in the manner most agreeable to his conscience—That tolerating spirit of religious freedom, which tramples upon fanaticism and persecution, and renders mankind friends to Heaven and earth—to God, as their universal father—to man, as their brother—A nation thus circumstanced, and enjoying all these advantages, ought to be opulent, powerful, and happy.

The distresses of this extensive western empire, rich in territory, increasing in numbers, nervous<sup>2</sup> in war, naturally affable and forbearing in peace, making great strides towards the marks of perfection in the arts, sciences, agriculture and commerce, and profound in politics, have been, and still are depicted in the blackest colours by our enemies, and feelingly lamented by many of our warmest friends and patriots, who having been instrumental to our independence, are endeavouring, with a patriotic ardor, that does them honor, to wipe away the stigma, and by the adoption of a new system of government, to place these thirteen states upon a broad and lasting foundation that shall stand the shocks of time—diffuse the blessings of free and universal trade—command respect and homage from the surrounding world, and transmit to posterity unimpaired, those sacred rights to which themselves were born.

Amidst this fluctuating scene, the last remains of undefiled freedom are left with us. And oh! forbid it virtue! that any part of our inviolable liberties, which sprung, like man, from the all forming hand of his benevolent Creator, and which have been sanctified by the hollowed faith of charters and constitutions, should fall a prey and sacrifice at the polluted shrine of lawless anarchy. May every freeman examine into the present state of our national government, and the result of that examination will convince them, that it is too debili[t]ated to support the pillars of fair freedom's temple, which the blood of heroes have reared. The Federal Constitution is adequate to remedying the evils under which we labor, and the adoption of which will be an object desirable to be obtained by every honest man. And when once the triumphant arch is erected, the lover of laws, founded on justice and equity, may rest securely "under his own vine and fig-tree, and have none to make him afraid."3 While the wretch, who with sacriligious hand attempts to damn up the streams which flow from that source

from whence the people derive their safety and security, will have cause to fear and tremble. Of the Constitution and Conventions.

1. Except for the last sentence, this item was reprinted in toto in the Baltimore Maryland Gazette, 10 June; Maryland Journal, 10 June; Richmond Virginia Gazette and Weekly Advertiser, 19 June; and Winchester Virginia Gazette, 25 June. The second and third paragraphs only were reprinted in the Pennsylvania Gazette, 4 June; while the first paragraph only was reprinted in the Norwich Packet, 12 June, and the Charleston City Gazette, 20 June.

2. Strong, vigorous, or robust.

3. Micah 4:4.

# 771. Comte de Moustier to Comte de Montmorin New York, 5 June (excerpts)<sup>1</sup>

As the moment to decide the great question that agitates everyone approaches, the Congress is filling up; nearly ten States are currently represented, and this assembly awaits only the decision of two Conventions before ordering the election of a President and other Members of the new Government. The matter that will afford the most difficulty will be determining the residence. The largest number of Delegates are of the opinion not to convene the new Congress in New York, but it will be almost impossible to agree on the place that ought to be chosen since each Delegate will follow his own passions or the instructions of his State in this regard. Given this prospect, one hopes that this Assembly will remain in Newyork, since the different parties will not easily be able to bring together seven votes for any other city. It is generally agreed that the seat of Government ought to be between the Hudson River and the Potomac River, but this area includes four States that all want to have Congress in their territory.

This Assembly, while waiting, occupies itself with several matters that have a major importance for the confederation; such as, among others, the emancipation of the district of Kentucky and its admission to Congress as the fourteenth State. According to the resolutions of the inhabitants of this district the Government of Virginia must give up her Sovereignty there on 31 December of this year and a new Constitution must be drawn up there modeled after those of the other States. Virginia consented to this emancipation, on the condition that Congress admit the new State into the confederation, and to obtain this object a Kentuckian is currently in this Assembly in the capacity of a Delegate from Virginia.<sup>2</sup> But party spirit, always active, always narrow in viewpoint, always more indefatigable in a democracy than under all other Governments, raises great difficulties in the way of an aim that ought not to meet with any. Kentucky is, like Vermont, independent

in fact; it is a question of making it a friend or of detaching it entirely from the union and making it an asylum for all the malcontents, all the Bankrupts, all those who will have incited revolts or who will have refused to contribute to the repaying of the debts of the Confederation; but the Northern States are jealous of the importance that one more vote would be able to give to the Southern section; to compensate for this disadvantage they want to have the State of Vermont admitted, if circumstances permit it. Newyork, on which this last emancipation depends, will not be against it at all, but a large number of private individuals whose land had been usurped by Vermonters having asked the legislative Assembly of this State for compensation for the losses that the independence of Vermont would occasion, this Assembly has deemed it best to turn its attention to it no longer. The Northern States thus look for all sorts of pretexts to deprive the Kentuckians of a Seat in Congress, and they put so much concerted effort and obstinacy into their measures that it will be difficult to defeat them. . . .

MacGillivray,<sup>3</sup> Chief of the Creeks, still continues his devastations in Georgia. He has declared that he will not lay down his arms until he has chased the Georgians from the Continent or has made them give the most positive assurances that they will no longer disturb his nation in the peaceful possession of its lands. This unusual man has introduced a practice among the Savages that cannot fail to have a good effect. Instead of killing prisoners, he takes care to incorporate them into his warriors. Negroes especially are a great help to him; he has abducted a considerable number of them from the planters in Georgia. If he can overcome the natural indolence of the Creeks, he could perhaps make a powerful and formidable nation of them. He has already accustomed them to raising Animals; this perhaps can be considered as their first step toward civilization.

The troubles that Georgia has to fear from the restless nature and ferocity of these Savages will make it fervently desire the establishment of a more effective Government. It is supported in this regard by South Carolina, which has just ratified the new Constitution by a majority of 149 to 73. The news of this important event, which took place on the 25th of last month, has only arrived today,<sup>4</sup> and it was received by Federalists with the greatest satisfaction. The Virginia Convention is currently assembled, and there is some hope that it will be the ninth State to ratify thus putting the seal on the new Constitution. Its example will necessarily bring over North Carolina, which has for a long time been in the habit of following the impetus that Virginia has given it.

The elections of the State of Newyork, My Lord, are not favorable

to the Government that is being brought into existence, and the opposition party there seems to have a majority of two-thirds. The defection of this State would certainly be very embarrassing for the new Confederation, which would find itself divided, so to speak, by a foreign territory, but sooner or later it would result in a schism between the maritime districts of Newyork, which are Federalist, and those of the North, which are of the opposition party, and as the City of Newyork commands the mouth of the river that is the only resource of this State, it will necessarily force the interior districts to submit to its commercial regulations and fiscal policies, which are the principal purpose for the revolution that is brewing.

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 184–87, Archives du Ministère des Affaires Étrangères, Paris. This letter, dispatch number 14, was endorsed as received on 10 July.

2. In December 1786 the Virginia legislature passed an act authorizing Kentucky residents to elect a convention to decide on separate statehood. The act provided that if the convention voted for statehood, Virginia jurisdiction in Kentucky would end by 1 January 1789, if Congress agreed by 4 July 1788 to admit Kentucky into the Union. In September 1787 the convention met in Danville and voted to separate from Virginia. It also asked the Virginia legislature to end its authority over Kentucky on 31 December 1788. In October 1787 the Virginia legislature elected Kentuckian John Brown to Congress. Brown and the other Virginia delegates presented the request of the Danville Convention to Congress on 29 February 1788. Congress appointed a committee to consider the matter, but on 3 July it deferred the question of Kentucky statehood to the new Congress under the Constitution. (For more on Congress and Kentucky statehood in June and July 1788, see CC:480, note 2.)

3. Alexander McGillivray, a Creek chief and the son of a Georgia merchant-politician from Scotland and a French-Creek Indian princess, was a Loyalist whose father's property was confiscated during the Revolution. During the war, he was a British agent (with the rank of colonel) to the Southern Indians. In 1784 McGillivray, on behalf of the Creek confederacy, entered into a trade treaty with the Spanish who also supplied the Creeks with arms. Hoping to restore the Indian line of 1773, the Creeks used these arms against settlers in Georgia and along the Cumberland River. After considerable effort, the new federal government in 1790 concluded a treaty in New York City with McGillivray and the Creeks which restored some Creek lands, granted him the rank of brigadier general in the American army, and promised him an annual \$1,200 pension. Soon after, he broke the treaty.

4. On this day, three New York City newspapers-the Daily Advertiser, New York Journal, and New York Morning Post-printed the news (from Philadelphia) that South Carolina had ratified the Constitution overwhelmingly. This news had reached the city the previous day. (See Collin McGregor to Neil Jamieson, 4 June, Collin McGregor Letterbook, 1788-1789, NN.)

# 772. Charles Pettit to Robert Whitehill Philadelphia, 5 June<sup>1</sup>

The Business respecting the proposed Constitution for the United States early took a Turn so different from my Ideas of Propriety, especially as to the Mode of conducting it, that if I had been more desirous than I really am of taking a part in public Affairs, I have scarcely perceived an Opportunity of being useful; and my services on the Occasion, not having been offic[i]ally called for, I have considered Silence as not only prudent with regard to my self, but justifiable respecting my Duties as a Citizen.

You, on the Contrary, have been called upon in a Conspicuous Station. You have, I doubt not, discharged your Duty conscientiously, tho' with less success than you wished. The Business, however, is not yet over; much remains to be done; and while a Business is depending in which every Individual is interested and has a right of Suffrage, there seems to be a Call of Duty upon every Citizen who may have a Chance of giving it a right Direction, to use his Endeavours for that Purpose. Under the Impression of this Idea, permit me to suggest to you some Observations which have occurred to me. If they shall be improved to the Public Good my End will be answered; if they fail of that I hope they will at least be innocent.

I am among those who find much to approve in the proposed Constitution, and who think it may be so amended as to make it a better plan than we shall be likely to agree upon again if it should be wholly rejected: At the same Time I consider some Amendments necessary to the safety of the People, as well as to the operation of the Plan as a System of Government. I should have been better pleased if I could percieve that the Temper of the Times would admit of making the necessary Amendments previously to its Adoption or ye Organization of the Government under it; but it now appears to me that this cannot be safely attempted. The old Confederation is less faulty in itself, than misadapted to the Subjects of it. With the Degree of Virtue, Public Spirit and other Attributes of Patriotism which the framers of it counted upon, it might have continued to merit our Applause & Veneration for many Years at least; but Experience has already too certainly assured us that the People of the United States require Stronger and more influential Obligations to the Performance of Social Duty than that System afforded, even when they all professed to respect and regard it; but now even those Ties are so far dissolved as to have lost their Force with so great a proportion of the People that the rest must of necessity cease to feel themselves bound by them. Wholly to reject the New Plan and attempt again to resort to the old would therefore be worse than vain: it would throw us into a State of Nature, filled with internal Discord, without the surrounding Barrier of immediate common Danger from without to combine us in the necessary Measures for our Safety. A Politician will readily imagine the Danger

of such a Situation, and deprecate the Horrors most likely to be attendant on it; I shall therefore not attempt to describe them to you.

Eight States have already voted an Adoption of the new Plan, & most of the rest are as likely to carry it in the same Manner as some of those who have given it their Fiat. And tho' many of the People in some of the adopting States may be far from satisfied with the Determination, yet the Decisions of their Conventions will throw into that side of the Scales most of the Doubtful, the Wavering & the Negligent, who form a large Proportion of the People in every State. Hence direct Opposition, however well founded in just principles, may become imprudent Rebellion, & produce greater Hazards and more certain Mischeifs than any real Patriot would wish to see his Country involved in. In this View of the Matter it becomes a Question worthy of the serious attention of those who wish for Amendments, whether the most likely way to obtain the End, be not by directing their Efforts to a point after the Adoption of nine States or upwards. Many who are zealous Advocates for the Adoption will also be Advocates for Amendments. I am not unaware, however, that a considerable proportion of those who profess to be of this Class may want Sincerity; that their professions are intended to deceive by lulling the Opposition for the present, and that when the Adoption shall be attained, they will become Adherents in toto, and express great Apprehensions of the Danger of attempting Amendments at present. They will urge the Propriety of trying for some time, as it is, in order to find out the more certainly what Amendments are necessary so that the whole may be effected at once. Specious Arguments of this kind will be used, accompanied with general Expressions that Amendments must undoubtedly be made in a few Years, by some who will never consent to any Alterations but such as shall make the system still more exceptionable to those who are now opposed to it. These are Obstacles which the Friends to real Amendments must expect to meet with in the Course I am suggesting; but they are of less Moment than such as I apprehend would occur in any other Mode.

If then difficulties will certainly oppose Amendments in any Mode in which they can be proposed, it seems to be the part of Prudence to choose that Mode in which such Difficulties may be most likely to be overcome;—that Mode which is most likely to succeed;—and that Mode which is least likely in the Experiment to produce Anarchy, or the still more dreadful Event—a Civil War. Should the latter take place I make no Calculation of the Probability of success on either side of the question: Victory on either side would be destructive—

The Mode that appears to me most eligible, all things considered,

is to endeavour to combine the Friends to Amendments in some plan in which they may confidently draw together, and by which they may increase the probability of Success. This Plan, I take it, must be so moderate in its object as to obtain the Approbation of the moderate part of those who call themselves Federalists; that is, of those who on a supposition that no Modification could be made between the full Adoption and the total Rejection of the proposed system, prefer the former to the latter. Of these I believe a large Proportion are desirous of having Amendments made, tho' many of them have not digested in their own Minds precisely what those Amendments should be. The Convention of Massachusetts have defined the principles on which Amendments satisfactory to them may be made. The Convention of south Carolina have done the same, and some other state Conventions will probably express their Opinions in like manner at the Time of their Adoption. I should therefore wish that the States who have adopted the System without Suggesting Amendments, would by their Assemblies propose such Amendments as would be pleasing to them, and Instruct their Members of Congress at their first Meeting to take into early Consideration all such Amendments as are or shall be proposed by any State in its collective Capacity, either by its Convention or Assembly, and recommend it to the several States to elect (by the People at large in every State) Members to meet in general Convention with full Power to Adopt all or any of the Amendments so proposed, & to alter the System conformably thereto, but no farther; and that the System so altered and amended should be the Constitution of the United States till farther amended according to the Mode therein provided for.

One weighty Objection will rise against this Mode, if any of the States should suspend their Adoption till satisfactory amendments are actually made; because in such Case the Choice of a President and Vice President will be made without their participation; and the Organization of the Congress and the several great Departments and Officers must be performed by a Body in which they will not be represented. On the other Hand if these Operations are to be suspended till after the Amendments are actually made, still greater Difficulties appear to me in getting the Business compleated. Indeed I am of Opinion that nine States or upwards will shortly have adopted; & whenever that shall be the Case they will proceed to the Arrangements under the new Constitution—and tho' they may not proceed to Legislate for, nor to exercise Jurisdiction over such States as shall have rejected, they may nevertheless choose all the Officers and make all the necessary Arrangements without the aid or participation of the

non-adopting States, tho' such Arrangements and Appointments will be binding on them when they do accede to the Plan, either on farther consideration, or on obtaining satisfactory Amendments. Hence it appears to me most advisable for all the States to entitle themselves to a full participation in the first Arrangement & Organization of the Government, and, indeed, the most likely way to obtain the Amendments necessary to the safety and Satisfaction of the People. It will be considered that the Adherents to the System, whether amended or not, act under a kind of legitimate Authority. They will therefore derive weight from Organization and Systematic order. The Opposers will have none of these Advantages; they will be moreover weakened by falling into various Classes from differing in opinion as to ye Amendments they desire, and from their dispersed Situation; and be more likely to counteract each other in effect, if not directly, than to Act in general Concert.

It appears to me that the Friends to Amendments, as well those who have given their Influence in favour of the Adoption of the new Form, as those who, for want of Amendments have hitherto opposed it, would do well to fall upon some plan of acting in concert, & forming their Minds in unison with each other. It is not to be expected that we should all spontaneously think alike, nor is it likely that the Calmest Conferences may bring us to an exact uniformity of Opinions; but I am nevertheless of Opinion that reasonable men, coming together with a Disposition to conciliate, and duly considering the greatness of the Object to be obtained & of the Evils to be avoided, may so far accord as to be productive of much real Good. I should therefore wish to see a Meeting of some of the most enlightened Men take place in every County, and that they would have in View, the meeting of a small Delegation from each County in some one Place in the State for the purpose of devising a Plan most likely to succeed in obtaining the desired Amendments.<sup>2</sup> It is probable that similar Consultations will be held in other States; a Communication, and if need be, a Conference with them, might also be had in Contemplation. If some such plan as this were adopted I should hope for happy Effects from it; but if it is to take place, the sooner it happens the better.

I have presumed upon the Strength of our former Acquaintance & connection in public Business, to suggest these Thoughts to you, trusting that our Mutual Opinion of each other's Integrity and uprightness of Intention will insure them a friendly Reception & candid Consideration.

1. RC, Whitehill Papers, Hamilton Library, Cumberland County Historical Society, Carlisle, Pa. Pettit (1736–1806), a native of New Jersey and a former lawyer, moved to Philadelphia after the Revolution where he was a merchant, insurance broker, and speculator in public securities. He represented Philadelphia in the Assembly, 1784–85, and served in Congress, 1785–87. An Antifederalist, Pettit was defeated in the state Convention elections in November 1787. Also an Antifederalist, Whitehill (1738–1813) helped to write the Pennsylvania constitution of 1776 and opposed its revision in the Council of Censors in 1783–84. He represented Cumberland County in the Assembly, 1776–78, 1784–87, and in the Supreme Executive Council, 1779–81. A frequent speaker, Whitehill voted against ratification of the Constitution in the state Convention in December 1787.

2. In September 1788 Pettit and Whitehill were delegates to such a convention which met in Harrisburg. For the proceedings of the Harrisburg Convention and for the county meetings which preceded it, see DHFFE, I, 249, 255–57, 258–64.

# Editors' Note Curtius Boston Independent Chronicle, 5 June

Between 29 September and 3 November 1787, three Federalist essays signed "Curtius" appeared in the New York Daily Advertiser. The first essay, which was unnumbered, was reprinted in toto in the State Gazette of South Carolina, 22, 25 October, and in the October issue of the Philadelphia American Museum. On 9 October the Massachusetts Gazette reprinted the last three paragraphs of this essay, without the pseudonym, preceded by this statement: "An individual, who never has been, nor has any ambition at present to be honoured by marks of publick distinction, has sent us the following." These three paragraphs were reprinted sixteen more times by 14 December: N.H. (1), Mass. (4), R.I. (1), Conn. (3), N.Y. (1), Pa. (4), Md. (1), Va. (1). Three of these sixteen newspapers-the Salem Mercury, 30 October, Pennsylvania Mercury, 16 November, and Winchester Virginia Gazette, 14 December-published the paragraphs under the heading "On the National Constitution." (For another passage of "Curtius" that was reprinted, see CC:111, note 2.)

On 5 June 1788 the Boston Independent Chronicle also reprinted the three last paragraphs, with minor typographical changes, under the heading "On the National Constitution." By 3 July they were reprinted under the same heading eight more times: N.H. (1), Mass. (1), R.I. (1), N.Y. (1), Pa. (1), Md. (1), Va. (1), S.C. (1). The Charleston Columbian Herald, which reprinted the paragraphs on 3 July, printed them again on 7 August. Three of the eight newspapers that reprinted the paragraphs in June and July 1788 had also printed them in 1787.

For the text of the three last paragraphs of "Curtius," see CC:111.

# 773. David Ramsay Oration Charleston Columbian Herald, 5 June

The South Carolina Convention, meeting in Charleston, ratified the Constitution on 23 May. The next day a "Federal Committee" planned a celebration for Charleston on 27 May, "weather permitting." An "order of March" for the "Federal Procession" was published in the newspapers, and the chairman of the "Federal Committee" asked David Ramsay to prepare an oration. Ramsay, a Charleston physician, had published a Federalist article signed "Civis" in the Charleston *Columbian Herald*, 4 February (CC:498), and had voted to ratify the Constitution in the state Convention. He composed his oration in six hours, but he said that he was unable to deliver it because "the croud was so great that it could not be spoken with convenience." More than 2,800 people took part in the procession alone. Ramsay himself probably marched in the 66th division with the other surgeons and physicians. (See Charleston *City Gazette*, 28 May; Charleston *Columbian Herald*, 29 May; *Gazette* of the State of Georgia, 29 May; and Ramsay to Benjamin Lincoln, 20 June, Lincoln Papers, MHi.)

The oration first appeared in print, without any indication that Ramsay was the author, in the Charleston Columbian Herald, 5 June, and as a twelve-page pamphlet struck by Bowen & Co., the printers of the Herald (Evans 45319). Both versions were struck from the same plates. The pamphlet was entitled An Oration, Prepared for Delivery before the Inhabitants of Charleston, Assembled on the 27th May, 1788, to Celebrate the Adoption of the New Constitution by South-Carolina. When it printed the oration, the Columbian Herald did not indicate that the oration had been prepared for the Charleston celebration of South Carolina ratification. Ramsay identified himself as the author of the oration when he sent a copy to Benjamin Lincoln of Hingham, Mass., on 20 June.

The oration was reprinted in whole or in part in the New York Daily Advertiser, 17 July; Pennsylvania Mercury, 17 July; New Haven Gazette, 24 July; Baltimore Maryland Gazette, 29 July; Charleston City Gazette, 29 July; and Virginia Centinel, 13, 20 August, all of which noted that Ramsay was the author and that the oration had been prepared for the celebration of South Carolina ratification. Surprisingly, the Charleston City Gazette reprinted the oration from the New York Daily Advertiser, almost two months after it had first been published in Charleston. The Baltimore Maryland Gazette prefaced its reprining with this statement: "An Oration, prepared by the ingenious Doctor Ramsay, of Charleston, for the purpose of celebrating the adoption of the new Constitution by South-Carolina, having appeared in several of the public prints, we intended to have treated our customers with a copy of the whole, but the want of room will only permit us to make a few extracts from the same, which we hope will be acceptable." (The Gazette reprinted the second and third paragraphs and the next to last paragraph.) See also note 1.

I congratulate you my fellow-citizens on the ratification of the new constitution. This event, replete with advantages, promises to repay us for the toils, dangers and waste of the late revolution. Merely to have established independence was but half the work assigned to this generation. Without an efficient government to protect our rights, in vain have our heroes spilt their blood in emancipating us from Great-Britain; that the blessings of such a government have not yet descended upon us is a melancholly truth too universally known and felt to be disguised. I will not wound your feelings on this festive day, by recapitulating our national distresses since the peace. When we thought our sufferings were ended, we found them only to be varied; nor is

it wonderful that constitutions hastily instituted by young politicians and in the tumult of war, should not fully answer their ends in time of peace-Expiring credit, languishing commerce, with a group of concommittant evils, proclaimed aloud something to be fundamentally wrong.-The spirit of the country was once more roused. Unattacked by foreign force-unconvulsed by domestic violence, America called forth her sons to meet and form a constitution for the future good government of her widely extended settlements. To combine in one system, thirteen states differing in climate, soil and manners, and impelled by variant interests, was the arduous work assigned to this band of patriots. Heaven smiled on their deliberations, and inspired their councils with a spirit of conciliation: hence arose a system, which seems well calculated to make us happy at home and respected abroad. The legislative powers are resolveable into this principle, that the sober second thoughts and dispassionate voice of the people, shall be the law of the land. The executive department amounts to no more than that the man of the people shall carry into effect the will of the people. The judicial declares, that where impartial trials from the nature of the case cannot be expected from state tribunals, there the federal judiciary shall interpose. All this power is derived from the people, and at fixed periods returns to them. No privileges are conferred on the rich or the few, but what they hold in common with the poor and the many. All distinctions of birth, rank and titles are forever excluded. Public offices are open to merit and talents wherever found, and nought forbids the poorest man in the community from attaining to the highest honors.

One of the many advantages we may expect from the adoption of this constitution, is a protecting navy. What is there at present to secure our sea-coast from being laid under contribution by a few frigates? Are either the treasuries of the continent or of the individual states sufficiently replenished to command the means of defence? We have hitherto lain at the mercy of the most inconsiderable maritime powers, and even of a single daring pirate; but we have now well-grounded hopes of an alteration in our favor.

Nothing is more likely to secure a people from foreign attacks than a preparedness for repelling them. On this principle the militia arrangements of the new constitution promise a long exemption from foreign war.—What European power will dare to attack us, when it is known that the yeomanry of the country uniformly armed and disciplined, may on any emergency be called out to our defence by one legislature, and commanded by one person? Tradition informs us, that about forty years ago France meditated an invasion of New-England; but on reading the militia law of Massachusetts, declined the attempt.

If this was the case under the wholesome regulations of one state, what room is there to fear invasion when an union of force and uniformity of system extends from New-Hampshire to Georgia?<sup>2</sup> Domestic violence will on the same principles be either prevented or controled faction will not dare to disturb the peace of a single state, nor will any aspiring leader presume to oppose lawful authority, when it is known that the strength of the whole is subjected to the will of one legislature, and may be called forth under the direction of one man for the safety of each part. How widely different would be our case under a loose federal government, or the more pernicious system of two or more separate confederacies? Let us for a moment suppose these states detached from a common head-what a field for European intrigue! It would be their interest to play off one state or confederacy against another, and to keep us at constant variance. Standing armies would then be multiplied without end, for the defence of the respective parts-good militia arrangements will for the most part be sufficient for our defence when united, but they would be far short of that purpose when our most inveterate enemies might be our next neighbours. After we had weakened ourselves with mutual devastation, we could expect no better fate than that of Poland, to be distributed as apendages to the sovereigns of Europe. To disunite the states of America, would be to entail discord and wars on our unoffending posterity, and turn a band of brethren into a monster, preying upon itself, and preved upon by all its enemies. How much wiser that policy which embraces our whole extent of territory in one efficient system? This is not only the path to safety but to greatness. While our government was nerveless, nothing could be undertaken which required a persevering unity of design. Much may be done to improve our inland navigation and facilitate our intercourse with each other: but who would expend his capital on any project of this kind, while legislative assemblies claimed and exercised the right of making ex post facto laws? Under the stability and energy which our new constitution promises, methinks I see the rivers of these states wedded to each other. The western country attached to the sea-coast, while turnpike roads enable travellers with ease and expedition to traverse the whole of our country. These beneficial improvements must have been in a great degree relinquished, unless one legislative power had pervaded the whole of the United States.

Under the same patronage, justice will again lift up her head. While legislative assemblies interfered between debtors and creditors, what security could there be for property? He that sold, did not know that he should ever get the stipulated price. he that parted with his money could not tell when it would be replaced.—hence a total want of con-

fidence and of credit. From this day forward, these evils will be done away; creditors knowing that they can recover payment, will be less disposed to distress their debtors than when under a fluctuating system which might induce them to make the most of present opportunities, lest future laws should create new impediments to the course of justice. Debtors, despairing of farther legislative indulgences, and knowing that they can be compelled to pay, will be stimulated to double exertions for acquiring the means of discharging their debts. The gold and silver which have long rusted in the desks of the cautious, will once more see the light and add to the circulating medium of our country. That useful order of men, formerly called money lenders will be revived, and the distresses of the unfortunate relieved without sacrificing their property, or administering to the rapacity of usurers. Time would fail me in dilating at full length on that section of the constitution which declares, that "no state shall emit bills of credit, make any thing but gold and silver a tender in payment of debts, pass any bill of attainder or ex post facto law, impairing the obligation of contracts." This will restore credit; and credit is a mine of real wealth, far surpassing those of Mexico and Peru. It will soon bring back the good old times under which we formerly flourished and were happy.

Our new constitution will also make us respected abroad. What have these states to fear? What may they not hope for when united under one protecting head? The wealth and colonies of the most powerful nations of Europe are near our borders. In case of their future contentions, these states will stand on high ground; that scale into which they throw their weight, must, in the ordinary course of events, infallibly preponderate. The contiguity of our harbours to their territories, and that marine which will grow out of our new constitution, will enable us to hold the balance among European sovereigns. While they contend for their American possessions, those whom the United States favor will be favored, and those whom they chuse to depress will be depressed. Far be it from me to wish this country to be involved in the labyrinth of European politics, but it is both our duty and interest to improve local advantages for procuring us that respect abroad, which will promote our happiness at home. Under such circumstances, and when our citizens can be brought to act in unison, what beneficial treaties may we not expect? At present our commerce is fettered by those very powers which under the new constitution will, for their own sakes, court our friendship. For a long series of years we shall be principally a nation of farmers and planters, and disposed to purchase many manufactures from Europe. To old countries overstocked with inhabitants, and abounding with manufactures, the privilege of supplying our growing numbers with those articles we want

to purchase and they to sell, will be an object for which they can afford a valuable consideration; the equivalent which might have been commanded on this account we have hitherto lost, from the want of an efficient government. It is not more melancholy than true, that the inhabitants of this state, in consequence of our deranged police, are now paying nearly as much of the taxes of Great-Britain, as they pay to support their own government. The public benefits which will flow from a constitutional ability to direct the commerce of these states on well regulated permanent principles, will enable us once more to raise our heads and assume our proper rank among the nations. Hitherto, while we were under an unbraced confederation of states, the members of the confederacy could not be brought to draw together, and in consequence thereof our ships have rotted, our commerce has either been abandoned or carried on to our prejudice.

The good consequences which may be expected to result from our new constitution, will also extend to agriculture and manufactures. The stability of government will enhance the value of real property. Our protected commerce will open new channels for our native commodities, and give additional value to the soil, by increasing the demand for its productions. At the same time, judicious arrangements of bounties and duties, will give encouragement to such manufactures as suit our country.

That coasting trade, which under state regulations, would probably have been a source of contention, will, when directed by one legislature, become a nursery for seamen and a cement of our union. Bound together by one general government, we may defy the arts and intrigues of Europe. Commanding our own resources and acting in concert, we can form a little world within ourselves, and smile at those who are jealous of our rising greatness; their efforts against us would resemble waves dashing themselves into foam against a rock. It would be easy to enumerate a variety of other particulars, and from each of them point out advantages that will result from adopting the new constitution. We thereby become a nation, and may hope for a national character. Hitherto our manners, customs and dress have been regulated by those of Europe: But, united under one head, our people will have something original of their own, from which they may copy, and save that money which is now absurdly expended in following the fashions of foreign countries; these may well accord with their policy, but are apparent from ours.

On the whole, to separate from Britain was the least considerable object of the late revolution, and amounted to nothing more than to acquire a capacity for taking care of ourselves. To pull down one form of government without substituting something in its place that would answer the great ends for which men enter into society, would have been to trifle with posterity. The event which we are this day celebrating, acquits us of that heavy charge. The fathers of our country have proposed, and we have adopted a constitution which promises to embrace in one comprehensive system of liberty, safety and happiness the inhabitants of that vast extent of territory which reaches from the Atlantic to the Missisippi, and from the lakes of Canada to the river St. Mary. Judging of the future by the past, a child born on this day, has a prospect of living to see the time when fifty millions of freemen will enjoy the blessings of government under the administration of the president of the United States. Our new constitution is of that expansive nature as to admit of a communication of its privileges to that group of new states, which, ere long will be planted in our Western territory; provision is made for receiving them into the union as fast as they are formed. This is founded on such generous principles, as will divert them from foreign connexions or separate confederacies. What a God-like work, to embrace our growing numbers and extending settlements in one efficient system of government. This our new constitution promises; and from the humanity of the age and the liberal principles of its policy, it is likely to perform. Within one century, the citizens of the United States will probably be five times as numerous as the inhabitants of Great-Britain. Had not the present constitution, or something equivalent been adopted, no one can compute the confusion and disorder which would probably have taken place from the jarring interests of such an ungoverned multitude. The articles of confederation were of too feeble a texture to bind us together, or to ward off threatened evils. Had it not been wisely resolved to introduce a more energetic system, the states must soon have crumbled to pieces; in that case what was to protect the weak from the strong? What was to restrain some adventurous Cromwell from grasping our liberties and establishing himself on a throne of despotism? One Cromwell, did I say-more probably there would have been a score, and each contending for the sovereignty through our desolated country, bleeding in a thousand veins. Thanks to Heaven, far different are our prospects; united under one head, the force of the union will soon bring an aspiring individual or overbearing state to reason and moderation. We shall be protected from foreign invasion and restrained from warring on one another. At the same time agriculture, commerce and the useful arts of life will be cherished and protected by federal arrangements pervading all the states, and raising them to an eminence unattainable in any circumstances of separation.

We have now in our view the fairest prospects of political happiness;

the wisdom, energy and well poised ballances of our new system, promise to confute the assertions of those who maintain "that there are incurable evils inherent in every form of republican government." (From the federal house of representatives we may expect a sympathy with the wants and wishes of the people—from the senate, wisdom, unity of design and a permanent system of national happiness.—from the executive, secrecy, vigor and dispatch.) In short, our new constitution is a happy combination of the simple forms of government and as free from the inconveniences of each, as could be expected from the inseparable imperfection of all human institutions. (It unites liberty with safety, and promises the enjoyment of all the rights of civil society, while it leads us up the steep ascent to national greatness.)

Before I conclude, I beg leave to inculcate a sentiment which cannot be too often presented to the view of the public. No form of government can make a vicious and ignorant people happy.—When the majority of our citizens becomes corrupt, even our well ballanced constitution cannot save us from slavery and ruin. Let it therefore be the unceasing study of all who love their country, to promote virtue and dispense knowledge through the whole extent of our settlements. Without them our growing numbers will soon degenerate into barbarism; but with them the citizens of the United States bid fair for possessing, under the new constitution, as great a share of happiness, as any nation has hitherto enjoyed.

1. The text in angle brackets was printed in the Massachusetts Centinel, 20 August, and reprinted ten times by 1 October. (See Appendix I, below.)

2. Ramsay was probably influenced in his discussion of the Massachusetts Militia law by a speech that James Wilson made in the Pennsylvania Convention on 11 December 1787 (RCS:Pa., 578). The speech appeared in Thomas Lloyd's *Debates of the Convention of the State of Pennsylvania*..., which was first advertised for sale on 7 February 1788 (CC:511).

### 774. Gaspard Joseph Amand Ducher to Comte de la Luzerne Wilmington, N.C., 6 June<sup>1</sup>

I have the honor to inform you that the new constitution has been ratified by the conventions of the states of *Maryland* and *South Carolina*, on 28 April and 23 May. These two conventions nevertheless resolved upon amendments to be proposed to the *new* Congress.<sup>2</sup>

The Maryland Convention held at Annapolis was composed of 74 members, of which 63 were for and 11 against the new constitution; the cities of Annapolis and Baltimore gave splendid festivals on that occasion.

The South Carolina Convention held at Charleston was composed

### COMMENTARIES ON THE CONSTITUTION

of 237 members, 39 of which *for the single city* of Charleston; on 21 May, the party against the New Constitution wanted to adjourn the Convention to 20 October next, and this was the difference in the votes: for adjournment, 89—against adjournment, 135—members who did not vote, 13. The question of *adjournment* was thus negatived by a majority of 47 [46] out of 224.<sup>3</sup>

On 23 May, on the question of *adoption*, 15 members did not vote; 149 were for, 73 against: the New Constitution was thus ratified by a majority of 76 out of 222.

The city of Charleston following the Good example of Boston and Annapolis, also gave a festival. In the states of Massachusetts, Maryland and South Carolina the people from the cities, the merchants, and artisans showed much joy over the adoption of the New Constitution. There were *federal processions* in these three states;<sup>4</sup> but the conventions of these three states are proposing very restrictive amendments to the new system, *limiting the powers of the New Congress*, [and] instructing the delegates to the *new congress* to request an alteration of the New Constitution conforming to the amendments resolved upon by each of the three states.<sup>5</sup>

Without the hope, well founded or not, that these amendments will be adopted, it seems clear enough that the New Constitution would not have been ratified either at Boston, Annapolis, or Charleston.

These are then the 8 states that have ratified: Delaware, Pennsylvania, Newjersey, Georgia, Connecticut, Massachusetts, Maryland, South Carolina.

The conventions of Newhampshire, Newyork, [and] Virginia will be held this month, that of North Carolina in July.

The legislature of the state of Rhodeisland paid no regard to the petitions of the cities of Providence and Newport to convene a convention of delegates in order to consider the New Constitution, according to the form drawn up by the Philadelphia Convention; it previously ordered that each citizen would give his opinion personally: by the count of votes from the different counties to the Secretary of the State for which the return has been made, 288 of them were for adoption, and 2580 against. The total number of votes was 2868.<sup>6</sup> This is not, it is said, half the number of citizens who have the right to vote; those who did not want to vote individually and who demand a convention of delegates are partisans of the New Constitution, over which the state of Rhodeisland is thus very divided.

1. RC (Tr), Correspondance Politique, États-Unis, Supplement, Vol. 4, ff. 352–53, Archives du Ministère des Affaires Étrangères, Paris. This letter, dispatch number 17, was endorsed as received on 16 July.

2. For the Maryland and South Carolina amendments, see CC:716, 753.

3. See CC:767, note 2.

4. Shortly after their state conventions ratified the Constitution, the inhabitants of Boston (8 February), Baltimore (1 May), and Charleston (27 May) celebrated by holding "grand" or "federal" processions. For widely circulated descriptions of these processions, see the *Massachusetts Centinel*, 9 February; Baltimore *Maryland Gazette*, 2 May; Charleston *City Gazette*, 28 May; and Charleston *Columbian Herald*, 29 May.

5. For the Massachusetts amendments, see CC:508, and for those of Maryland and South Carolina, see CC:716, 753.

6. For the Rhode Island referendum on the Constitution, see CC:664.

# 775. John Vaughan to John Langdon Philadelphia, 6 June<sup>1</sup>

I am happy to find you thought the pieces I sent you might be useful,<sup>2</sup> others have appeared since, but in general they are argumentative upon particular points while these, conceding the possibility of Defects, shew how they may be amended, that no danger can arise from them which is not provided against, & that if we do not adopt we cannot correct-You have observed with great justice that the more The Constitution was examined, the better it appeared, & as a Confirmation of this truth, if we examine into the two classes which have approved or disapproved, we shall find amongst the former almost all the men [of] Virtue, sense & property who have had the means of information-amongst the others are some of these for the best of men may be mistaken, but in general it is composed of the violent, ignorant, & those who have been deprived of the means of information, & have made up their minds upon the misrepresentations made by a few industrious ill designing men who have magnified & created defects at will & alarmed the patriotism of the honest but uninformed Countryman-

I have the pleasure of handing an account of the raising of the Eight[h] Pillar to this important edifice South Carolina has adopted the Constitution 149-73 In addition to the account in the papers, Dr Ramsay informs me that there was a formidable oposition from the Back Count[r]y (which you will See by looking at the Carolina paper where the Votors are classed in Districts)<sup>3</sup> "but they were treated with Candor, pains taken to remove prejudices & give information & Several who came down prejudiced against the Constitution, yet on Conviction of its utility voted for it.—An Infinity of Falsehoods were circulated to the prejudice of the Fœderalist, but were all removed in time to prevent mischief. There is no doubt of this State coming peaceably into it—The Virtue learning & Wealth of the Country are for it—The leaders of opposition promised to acquiesce in the determination of their Country & except two or three went home in good humor"

"Thy anxiety about the Adoption of the Constitution is now at an end, my present anxiety is about Such a Wise administration of it as shall answer the expectations of its friends. I fear that either the public *Interest* will be unpaid, or the people be alarmed by the heaviness of the Burthen."

another friend of the Convention writes me "the majority Comprehends every man of property but Mr Bowman,<sup>4</sup> & every man who distinguished himself in the last war except Genl Sumpter.<sup>5</sup> Fearful of that Inveterate Spirit which appeared wth you, every Soothing measure was taken with the minority & the Spectators cautioned against those bursts of applause which might hurt their feelings"

Of The Instructions. If ever two of the amendments proposed by them were adopted the Governmt. would lose its force-I mean the appointing the time & place of Elections-& direct Taxation.6-I mention this that you may judge of the propriety of publishing this part-I Confess I find great impropriety in proposing amendments & binding delegates to propose them, before any trial is made whether they are wanting or not.-& I fear that the First assembly [fettered?] in this manner will have its attention drawn off from the main object. Solid organization to the parts which can with more ease & efficacy be afterwards considered-By letters from England I find that That Governmt. are looking Seriously towards this Country & Such is the present State of Europe that the Political existence or importance of this Country depends upon the Speedy operation of this New Government.-When any Commercial advantages are asked for, "what can you give us in return, where are your powers to Treat."-"where the Security that your States will be bound.["]-

It has been Said that a majority of the N York Convention were against it—I am of Opinion that they are *at present* about equal, but as no Instance has yet happened of a Fœderal turning antifœderal, & numerous ones of the Contrary, I have no doubt that notwithstanding all that passion & influence of certain persons can do, but that all will be well—indeed all agree there is *not a doubt*, if one more State only adopts.—Virginia will be the first—

Hint to be made use of—Our Union is necessary to us not in general the Interest of European powers—Holland Spain & England—Their agents reside in N York—& New York State is the Seat of the most formidable opposition—

Your friend & Servt.

1. RC, Langdon/Elwyn Papers, NhHi.

2. By 2 May Vaughan had transmitted to Langdon all nine numbers of the essays of "Fabius" (John Dickinson) which had been printed in the *Pennsylvania Mercury* between

12 April and 1 May. He hoped that Langdon, a delegate to the New Hampshire Convention, would have these Federalist essays reprinted by the time that the Convention met on 18 June. All nine essays were reprinted in the *New Hampshire Spy*, while the first five appeared in the *New Hampshire Gazette*. Almost all of the essays appeared before the Convention met. (See headnote to CC:677.)

3. Vaughan probably included a copy of the Charleston Columbian Herald, 26 May, which gives the vote by districts. On 4 June Vaughan also had sent a copy of one of these newspapers to his brother Benjamin in London, stating that "You will observe the Laurenses are in Favor & against it[.] in general the Back Country members who were chosen by people who had no opportunity of information & who being worked upon by a few designing men in many instances gave instructions which the Delegates would have wish[ed] them freed from when the subject was more fully explained to them in Convention. It was impossible to allow time for fresh instructions. I hope soon to hand you the 9th. Confirmation which will be the Keystone to the Arch" (Copies of John Vauehan's Letters from 1784. PPAMP).

4. For wealthy planter John Bowman, see CC:750, note 77.

5. For General Thomas Sumter, see CC:750, note 62.

6. For the text of the South Carolina amendments, see CC:753.

### 776. Nathan Dane to Moses Brown New York, 7 June<sup>1</sup>

I received your friendly letter of 22d. Ulto. the excuses you ask for not writing sooner in answer to my letter are unnecessary-tho I should be glad to hear from you every week and wish you to write me as often as times and circumstances will permit; yet it is my wish to place all my correspondences with my friends on a footing unembarrassed with forms ceremonies and needless punctualities-whenever any thing material shall occur I shall communicate it to you with pleasure and satisfaction-at present I have the pleasure to convey to you the information respecting the adoption of the Constitution in South Carolina, contained in the enclosed Newspaper-the Numbers in favor of the adoption was 149-again[s]t 73-majority 76<sup>2</sup>-you will perceive that State has in some measure adopted Massachusetts ideas about Some future alterations, and well as Maryland has copied after Massachusetts in the mode of expressing her Satisfaction and Joy on the occasion-as to the other States North Carolina & Virginia I can add nothing with certainty-however the probability is in favor of their adopting the Constitution-I do not know what this State will dotheir elections for the Convention have gone rather more than two to one against it-however I am not fully convinced that the opposition will insist upon making their amendments conditions to the adoption, or to precede it rather than to accompany it as amendments recommended-

We have eleven States now in Congress and in a few days shall,

probably, have thirteen—eight States have made returns of their acts ratifying the Constitution—in the course of this month it is likely nine will have made returns, when the Subject of putting the new System into operation will be taken up in Congress—I am very uncertain where Congress will direct the new Government to meet—if this State shall not adopt it—it will not I suppose meet here—I shall be very unwilling to have it assemble in Philadelphia—for if it should, I doubt whether it will ever be able to move from that place—and I think it a very improper place for the permanent residence of the federal Government—

I think with you that our public affairs are taking a favourable turnthe revolution[,] popular harrangues made to effect it, and various circumstances have thrown us into the extremes of disorder on the popular side-we have experienced the evils of a Government popular in its principles and too popular, on many occasions at least in its administration-we are coming back and I have for some time felt anxious that the political pendulum may stop in the proper medium, and in that point only will it rest and things be quiet, the laws Steady, property Secured and industry encouraged-there is I see a very good Senate for the present year in Massa. and I think a majority of the house are the right kind of men-but on examining the list I think there is a very large number some of whom have no opinions of their own and some of whom have opinions perhaps not very favourable to order & good government-the evils of the numerous prosecutions which have lately taken place in the State and of which you make mention, I conceive may, without much difficulty be Stop'd by the legislature, by properly renewing the Sta[tu]te of limitation touching such prosecutions-I think the Statutes of limitations in G. Britain and formerly in Massa, did not allow of such prosecutions after several years had elapsed-every law ought to be attended to which will have a tendency to fix the people in the habits of peace, industry and friendship—We are not Spartans to live on black broth or to be pleased with perpetual tumults & wars-nor are we a people whose Spirits are broken and disposed to submit to an arbitrary will-we are in the mean Stages of society, in which protection and obedience, property, law, and liberty are all to be respected-

please to give my respects to Mrs. Brown I am very sorry to hear of her feeble State of health give my respects also to your partner Capt Thorndike & Mrs. Thorndike—tell Capt Thorndike I hope he will attend the General Court—I expect to write to him in a few days concerning some affairs of the union that it will be necessary for our legislature to attend to this Session—pray inform me how our new

affairs, the bridge and manufactory Succeed from time to time.<sup>3</sup> I feel more interested the undertakings should Succeed than for the Small property I have in them—

1. RC, Brown Papers, Beverly Historical Society, Beverly, Mass. Brown (1748–1820), a captain in the Continental Army in 1776, was a prominent Beverly merchant. In particular, he engaged in the East Indies and China trade in partnership with his brotherin-law Israel Thorndike, a member of the Massachusetts House of Representatives.

2. The news of South Carolina ratification reached New York City on 4 June and the next day three city newspapers printed reports of the vote. (See CC:771, note 4.)

3. Dane, a lawyer and a Massachusetts delegate to Congress, refers to the Essex Bridge, a toll-bridge constructed in 1788 connecting Salem and Beverly, and the Beverly Cotton Manufactory established in 1788. He had apparently joined Thorndike and Brown in investing in these projects.

### 777. Antoine de la Forest to Comte de la Luzerne New York, 9 June<sup>1</sup>

The South Carolina Convention ratified the new constitution of the United States at the end of last month. The opposition was powerful; but the news of the accession of Maryland came opportunely in the middle of the debates, to strengthen the *federalist* party;<sup>2</sup> they succeeded by 149 affirmative votes to 73 negative ones; it is a majority of two to one, and it has all the more weight as the minority seemed to submit with good grace. However, this ratification, like that of Massachusetts, was followed unanimously by an injunction to all the future representatives of the State in the general Government to put their efforts into obtaining several alterations. The two principal ones are limiting the head of the union [Congress] to the exercise of only those powers *expressly* delegated by the member states and obliging it to try means of requisitions in each State before levying direct taxes when the receipts from customs duties and from the Excise are not sufficient for public needs.<sup>3</sup> The first point, if it were established, would give an unceasing hold to the Jealousy between the legislatures and Congress that will naturally occur. The second would take away from it all means of acting in urgent situations. But whatever the new Government becomes afterwards, it is on its adoption that the salvation of the United States depends at this time; and it is to it alone that I take the liberty of calling your attention, My Lord. Eight States have had their ratifications [carried?] to Congress; only one more is necessary for this assembly to set the Day when the nine states [should?] appoint their representatives and when the new [federal?] body should replace the old one. The Newyork Convention will take place in eight Days, but nothing favorable is expected. The delegates of all the [counties?] of

the State are elected and classified [by party affiliation]; the antifederalists carried the day 4 to 1.4 [Their?] party likewise prevails in North Carolina, whose convention will sit in July. Rhode Island has already signified its refusal. It thus appears that either Virginia or New Hampshire is to [have?] the honor of establishing an edifice that is still in some manner [--], or the Blame of plunging the Confederation into the most dangerous anarchy. According to the terms of its adjournment, the New Hampshire Convention is to resume its session on the 17th of this month.<sup>5</sup> The antifederalists of that State, noticing that the Constitution had been adopted in Massachusetts by a majority of only 19 votes, expected that the opposition there would go to some excess and would support them. But they have been mistaken; they see that the conversion to *federalism* there makes progress every day and that three [quarters?] of the people today support the Constitution. They are aware that it is impossible that New Hampshire, always the imitator of Massachusetts, could resist the wishes of that state and of Connecticut. It is accordingly conjectured that they will cease their opposition. The Virginia Convention, on the other hand, began its session the 1st of this month, and the two parties there brought forth such equal strength that it is still unknown here how the debates will turn out. But in the same way that the accession of Maryland facilitated that of South Carolina, it is presumed that the probability of the accession of New Hampshire will cause Virginia antifederalists to give it the most serious consideration. It is thus, My Lord, that in this moment of crisis it is hoped that the States whose approbations are awaited will be carried along by those whose approbations are already given. If Virginia and New Hampshire unite with the others, the opposition of North Carolina, Newyork and Rhodeisland will not dare expose itself to its strength.

It is necessary, however, to acknowledge that this peaceful outcome still only feebly flatters the public hope. The new constitution has made all the progress that was expected and it was attained in the midst of obstacles; the mildest failure may overturn it. The eight States that have accepted it contain 1,439,000 white inhabitants, among whom it is necessary to count at least a quarter who did everything to assist the opposition; the Five states that show themselves disposed to reject it contain 814,000 White inhabitants; the two parties still balance each other exactly.<sup>6</sup>

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 910, New York, ff. 64–65, Archives Nationales, Paris. This undated letter was probably written on 9 June because Forest says that the New York Convention will meet in eight days. (The Convention was scheduled to convene on 17 June.) This letter, number 235, was received on 9 July.

2. Aedanus Burke, an Antifederalist delegate to the South Carolina Convention, noted that "The sixth day after we sat, despatches arrived, bringing an account that Maryland had acceded to the Scheme. This was a severe blow to us  $\dots$ " (CC:750–N).

3. For the South Carolina amendments, see CC:753. These amendments were similar to three of the amendments proposed by the Massachusetts Convention (CC:508).

4. The Antifederalist margin was actually 46 to 19. (See CC:750, note 43.)

5. The New Hampshire Convention was scheduled to resume its session on 18 June (see CC:554).

6. These figures appear to have been based upon the estimates of population used by the Constitutional Convention. Charles Cotesworth Pinckney referred to these estimates in a speech before the South Carolina House of Representatives on 17 January 1788. Pinckney's speech, incorporating the estimates, was printed in the Charleston *City Gazette* on 24 January. The population estimates were then printed in the New York *Daily Advertiser* on 5 February and widely circulated. (See CC:Vol. 4, 120n, 509–10. See also "Population and Constitution-Making, 1774–1792," CDR, 297–301.)

# 778. Benjamin Franklin to Pierre Samuel DuPont de Nemours Philadelphia, 9 June (excerpt)<sup>1</sup>

I have received your favour of December 31, with the extract of a letter which you wish to have translated and published here. But seven States having, before it arrived, ratified the new Constitution, and others being daily expected to do the same, after the fullest discussion in convention, and in all the public papers, 'till every body was tired of the argument; it seemed too late to propose delay, and especially the delay that must be occasioned by a revision and correction of all the separate Constitutions. For it would take at least a year to convince thirteen States that the Constitutions they have practised ever since the revolution, without observing any imperfections in them so great as to be worth the trouble of amendment, are nevertheless so ill formed as to be unfit for continuation, or to be parts of a federal government. And when they should be so convinced, it would probably take some years more to make the corrections.

An eighth State has since acceded, and when a ninth is added, which is now daily expected, the Constitution will be carried into execution. It is probable however that at the first meeting of the new Congress, various amendments will be proposed and discussed, when I hope your *Ouvrage sur les principes et le bien des republiques en general* &c. &c. may be ready to put into their hands;<sup>2</sup> and such a work from your hand I am confident, though it may not be entirely followed, will afford useful hints, and produce advantages of importance. But we must not expect that a new government may be formed, as a game of chess may be played, by a skilful hand, without a fault. The players of our game are so many, their ideas so different, their prejudices so strong and so various, and their particular interests independent of the general seeming so opposite, that not a move can be made that is not contested; the numerous objections confound the understanding; the wisest must agree to some unreasonable things, that reasonable ones of more consequence may be obtained, and thus chance has its share in many of the determinations, so that the play is more like *tric-trac* with a box of dice...

1. Printed: William Temple Franklin, ed., *Memoirs of the Life and Writings of Benjamin Franklin*... (3 vols., London, 1817–1818), II, 231–33. DuPont (1739–1817), a physiocrat and a prolific writer on political economy, was France's Inspector General of Commerce, who worked well with Thomas Jefferson, American minister to France, to improve Franco-American commercial relations. DuPont strongly supported America during the American Revolution and was an advocate of the freedom of the press and the abolition of slavery. He also favored wide-ranging commercial and financial reforms and a constitutional monarchy for France.

DuPont's 31 December 1787 letter that Franklin refers to has not been located, but it expressed DuPont's strong interest in abolishing the slave trade. Franklin referred to the contents of the letter in a 27 May letter that he wrote to DuPont (Eleutherian Mills Historical Library, Greenville, Del.). A copy of an extract of DuPont's letter is in the Pennsylvania Abolition Society Papers in the Historical Society of Pennsylvania. At this time, DuPont was also in contact with English abolitionist Granville Sharp.

2. This was an extract from an uncompleted treatise entitled "Observations sur les principes et le bien des républiques confedérées." In this treatise, only a fragment of which exists from the eighth chapter, DuPont hoped to establish the governing principles for federal republics (Ambrose Saricks, *Pierre Samuel Du Pont de Nemours* [Lawrence, Kan., 1965], 132).

# 779. St. John de Crevecoeur to William Short New York, 10 June (excerpt)<sup>1</sup>

... Good news from Charles Town are Just now arrived by Mr. Keane<sup>2</sup> a Member of the Convention & a delegate in Congress; spite of the most Extraordinary efforts made in S: Carolina by the partisance of your nefarious & highly Criminal P. Henry, to Form a Confederation of the Southern States,<sup>3</sup> the Constitution has Triumphed over its Numerouse Ennemys, Inclosed I send you the Charles town Papers the Perusal of which will please you & Mr. Jefferson I am persuaded; you'll see that the Processional Idea of Boston has been adopted & Followd in Maryland as well as in South Carolina;<sup>4</sup> there are Eight States; Now for Virginia the Convention of which is now Setting; & from its decision depends the Success of or the destruction of this Great Improvement in the union of These States-the most powerfull opposition will be made, & all the Talents of Mr. Henry made use of To breake & split the union; if Virginia accepts it, you may Look on the adoption To be Genral. Neither New York Nor New Hampshire will dare refuse it; but if on the other hand, shd. Henry Triumph be assured that this

highly anti-federal State, will refuse it also; our Govr. has declared himself,<sup>5</sup> & we Know that  $^{2}/_{3}$  of the chosen delegates are obstinate anti-federalists on whom No arguments No Conviction can make the Least Impression; Now is the Critical hour & which in Virg remarkable from the opinion of Mr. Henry the fate of America seems now to depend, the First post will bring us some Letters from Richmond which will Enable us to form some Jugement, of the Temper of that assembly which Sat last Monday [---] Eight days; if it MisCarries, The Flames of Civil War I am persuaded will be first Kindled in your Country, for both Pa[r]ties are & will be still more Encensed agt. Each other— Emigration to ye West Ward are Still going on: & God know how far the Maritime States will be depopulated by it,—they begin already to quit Kentucky to go more Westerly, for never Satisfyed with what they have Your countrymen are allways pursuing the desire of being better....

1. RC, Short Papers, DLC. This letter was docketed: "Crevecoeur June.10/July.10."

2. John Kean, a Charleston merchant, was a delegate to Congress from 1785 to 1787.

3. For Patrick Henry's alleged support of a separate Southern confederacy, see CC:276, note 4, and RCS:Va., passim.

4. For these processions, see CC:774, note 4.

5. New York Governor George Clinton was slow to declare publicly his position on the Constitution.

# 780. A Pennsylvanian: To the New York Convention Pennsylvania Gazette, 11 June

In May and June Tench Coxe, a prolific Federalist essayist, addressed newspaper essays to the Virginia and New York conventions encouraging the delegates from both of these important states to ratify the Constitution. The address to the Virginia Convention was signed "An American" (CC:751), that intended for the New York Convention "A Pennsylvanian." Coxe identified himself as the author of "A Pennsylvanian" in letters to persons to whom he transmitted copies (see below). Moreover, a draft of "A Pennsylvanian," in Coxe's handwriting, is in the Coxe Papers, Series III, Essays, Addresses, and Resource Material, at the Historical Society of Pennsylvania. (Coxe had used the pseudonym, "A Pennsylvanian," in a series of four articles in the *Pennsylvania Gazette* between 6 and 27 February, Mfm:Pa. 408, 430, 439, 459.)

"A Pennsylvanian" to the New York Convention, printed in the *Pennsylvania Gazette* on 11 June, discusses the election and powers of the President and Congress, the process of amending the Constitution, the payment of public and private debts, and the potential conflicts between New York and its neighbors—New Jersey and Connecticut—if New York failed to ratify the Constitution. Responding to good news from Virginia (which would have "great effect" on the New York Convention), Coxe added "a line in the last paragraph" of the New York essay "affirming that Virginia would adopt."

New York needed as much encouragement as possible because "the course of things" in that state was "very unfavorable" for ratification (Coxe to James Madison, 11 June, RCS:Va., 1596. This sentence appears in the essay: "Virginia too will certainly ratify it.").

Coxe sent copies of the address to William Bingham, a Pennsylvania delegate to Congress, who promised to give Federalists John Jay and Alexander Hamilton each a copy before they left New York City for Poughkeepsie to attend the state Convention scheduled to meet on 17 June. Bingham, who probably received the copies on 12 June, thought that the address was "well calculated to affect their Passions, as well as Interests" (Bingham to Coxe, 12 June, Coxe Papers, Series II, Correspondence and General Papers, PHi). On 11 June Coxe forwarded the printed essay to James Madison, a delegate to the Virginia Convention in Richmond, stating that "If you think it may serve any useful purpose in your State or North Carolina you will be pleased to have it introduced into your Newspapers." If Madison did have the essay printed, Coxe recommended certain alterations with respect to North Carolina and its attachment to paper money so as not to offend that state (RCS:Va., 1596-97. There is no record that the essay ever appeared in any Virginia or North Carolina newspaper.). James Bryson, the postmaster of Philadelphia, received a copy of "A Pennsylvanian" from Coxe who asked him "to forward [it] to a friend" in New Hampshire. On 11 June Bryson, identifying Coxe as the author, transmitted the essay to John Langdon, a delegate to the New Hampshire Convention scheduled to reconvene on 18 June, requesting that he consider it for "perusal, or publication" (John G. M. Stone Collection of Revolutionary and Early National Period Documents, Annapolis, Md. There is no record that "A Pennsylvanian" was reprinted in New Hampshire.).

"A Pennsylvanian" was reprinted in the New York Daily Advertiser, 14, 17 June, and the Pittsburgh Gazette, 26 July, 2 August. Excerpts appeared in the New Haven Gazette, 19 June, and the Massachusetts Centinel, 5 July. Neither of these last two newspapers identified the author as "A Pennsylvanian," although both indicated that the essay was addressed to the New York Convention.

[For the text of "A Pennsylvanian," see RCS:N.Y.]

# 781. Henry Knox to Benjamin Lincoln New York, 13 June<sup>1</sup>

I received your favor of the 6th instant and its enclosure by the post last evening, and it will be forwarded to Mr Faesh to morrow so that he will receive it on the same day. He resides at Booneton, about 9 miles east of Morris-Town the same place formerly occupied by Mr Saml Ogden.

The proposed constitution seems to be as well received as could have been conjectured by the most sanguine. The proposition was complex in itself and subject to a thousand misrepresentations. It is not surprizing that it has had its enemies. Mankind are infinitely dever-

sified in their situations and faculties,<sup>2</sup> and being constrained by local circumstances to veiw the same object through different mediums and with different apparatus, it is no wonder that their conceptions and opinions should be different.—Happy indeed is it for the public and I hope for posterity that so many states have already agreed to it and that none have rejected excepting Rhode Island. The conduct of the majority of that state—The insurrections of Massachusetts, and the opposition to the impost by New York, have been the corrosive means of rousing america to an attention to her liberties—Thank Heaven a government is proposed which in case of a storm will sheild the principle of liberty and its votaries from the rude attacks of anarchy and tyranny.

Eight States have already adopted the Constitution, and there is good reason to beleive that Virginia will also receive it on the plan of Massachusetts—You may cherish the hope my dear friend that by the 4th of July you will receive the information that Virginia is the 9th State which has ratified the Constitution

How far Virginia's acceptance will influence the conduct of this state is uncertain as the Antifederalists have a decided Majority of 47 out of 66—Their present policy appears to be to postpone to a distant day.<sup>3</sup> This will be more deadly<sup>4</sup> than a rejection, and they mean it shall have that operation—In every event however of their conduct they will find <sup>3</sup>/7ths of the state as ready to oppose them as they seem inclined to beleive, the minorities of the other states will be to support them—

The real disposition of New Hampshire seems to be concealed—We cannot learn any thing decisive respecting her intentions should she reject the constitution, she would be blind indeed! North Carolina will follow Virginia<sup>5</sup>—

Permit me my dear friend<sup>6</sup> to congratulate you on the affection manifested for you by your fellow Citizens on your late election to the office of Lieut Governor-Mrs Knox presents her love to you, and I hope to take you by the hand in Boston in about 3 weeks hence

In the mean time I am your truly sincere friend

1. RC, Lincoln Papers, MHi. Numerous differences appear in this recipient's copy and the draft in the Knox Papers at the Massachusetts Historical Society. The significant ones are noted below.

2. In the draft this clause reads: "when mankind are constantly developing upon their frailties and faculties."

3. "To a distant day" was added in this copy.

4. "More deadly" replaced "worse."

5. This sentence was added in this copy.

6. "Friend" replaced "Sir" in this copy.

# 782. Edmund Pendleton to Richard Henry Lee Richmond, 14 June<sup>1</sup>

I have to beg yr. Pardon For having so long neglected to acknowledge the Obligations I am under For vr. esteemed Favr. of the 26th. past; to revive a correspondence I always had pleasure in, was not among the smallest of it's benefits, but the Assistance of yr. Sage Counsels in Forming my Judgment on the great Question which has called us together, was the greatest; especially at a time when the wishes of my old constituents & not my own had called me to the decision, in the decline of mental Powers never very strong, grown rusty in Politics From a Supposition that I had long since taken a final leave of that line,<sup>2</sup> and retaining little more than a conscious Integrity, & unshaken Attachment to the Peace & happiness of my Countrey. You have been truly informed of my Sentiments being in favr. of Amendments, but against the insisting on their Incorporation previous to. and as a Sine qua Non of Adoption, or of a Convention being previously called to consider them, before the Government was brought into Action to give it a fair Experiment, & secure the great good it contains. The Amendments I wished, rather tended to eradicate the seeds of Future mischief, than to remove dangers immediately emminent in Operation-And considering as I do, that certain ruin must attend on a dissolution of the Union-That Union is only to be preserved by a Fædral Energetic Government, and that the Articles of Confederation Possess not an Atom of such a Government,-I confess the evils I wish to remove Vanish, even if they remain in the Plan upon this Comparison on wch. side danger lies; and the rather when I consider that perfection would have been a Vain expectation, & that I esteem the great Barriers of liberty not violated in the Plan, tho' I may not think them sufficiently Secured. Prevs. Amendments either as a Sine qua Non, or to be the Subject of Consideration in a Future Convention of the States, impress on my mind a Fatal tendency to rejection, & it's consequent evils, & therefore I feel unconquerable repugnance to that risque-But viewing the Prospect of Success in Our hopes of Amendment, I think they are strongly Fortified by the mode of making them accompany Ratification, rather than to precede it. 8 states have already Ratified, some with, & some without Amendments proposed;<sup>3</sup> to those at least, & others who may so adopt, we shall appear wth. Hostile Countenances, unfavorable to a cordial reception-they will cons[ide]r Our Proposals as coming From Men, refusing to make a Common Stock with them of Interests, under the direction of the General Government, And therefore as dictating the admission of local Interests; Circumstances all unfavorable to *Patient* hearing & candid investigation. but say Gentn. Virga. is too *important* in the Union, to risque her *Separation* by refusing her *reasonable* propositions. Alas Sir, with *Irritated* minds, reason has small force, and if those 8 states should make the Supposition of that ground's having produced our Conduct, it will add that of *Insult* to the other causes of *Resentment*, And will any Gentn. say that Virginia, Respectable as she is, is able to *sustain* the Conflict? does any wish to see the experiment even put in risque? No Sir, that circumstance of Importance it appears to me, will have it's due weight, when those states shall behold Virginia coming Forth as a United friend, with proposed Alterations For Common good, & will secure at least a Candid & Full examination, if not in some degree an influential decision. And thus, Sir, you have the grounds of my Judgmt. upon this All-important question of Previous or Subseqt. Amendments.

As to the Amendments themselves, I feel the Fullest Conviction of the Importance of those great rights, so favourable to Liberty, the trial by Jury, the Liberty of the Press-the Freseldom & Frequency of Elections, & that responsibility of the Representative to his Constituents, by residing amongst, & sharing with them in all benefits & Injuries. I am unfortunate enough to differ From you in Opinion as to the best means of Securing them, being that of a Bill of Rights. my Objection to that is founded not on it's strength, but my Fear of it's weakness & Danger, and the impropriety of it's Principle. The Magna Charta of England wch. our Ancestors so much valued themselves upon, had it's merits; it unfettered them From some of those shackles which the dictated Will of a Conq[uero]r had in the Formation of their Government imposed upon them:4 It was all they could do, the struggle was noble & the Acquisition valuable; but supposing it Recur'd to as a model For a free people in Forming a Governmt. For themselves, it appears in Principle, humiliating & unsafe. the former in accepting From any Agent of their Power a Charter of their rights, which they Possess, & derive From a higher Source. Unsafe because it admits a Power in the Donor to take away; a mischief which produced the Subsequent Struggles about the Great Charter, to be found in it's numerous Ratifications.<sup>5</sup> The Petition of Rights there, was a further Progress in wch. the humiliating Part of the principle was kept up; the Bill of Rights indeed, was a further step in wch. that principle was dropt, and a Protest made agt. Violations of Right, still opposed to a Ruler in Possessn. of Dangerous Powers. Whether that has produced the Apparent Repose of that nation, and the Safety, as some Gentn. Suppose, of their liberty; or whether the first of those effects, if it exists at all, has not been produced by a cause by Far more dangerous to, and annihilating the other, the change of the Instrument For Power From vain Coertion, to effectual Bribery & corruption, is at least Problematical: I fear that a review there would Find the Power of the Crown in it's greatest Altitude. However if they are happy 'tis well, & I wish not to disturb their repose.

But after this view is it not Safer to trust the two first rights to the Broad & Sure ground of this Principle-that the people being Established in the Grant itself as the Fountain of Power, retain every thing which is not granted? Is not the Principle true & Sound? does the Landlord in a grant For a term, reserve his own right? does the donor in grants For life or intail, reserve his Inheritance? no-when what is granted is at an end, his Original right Occurs-the Case of Escheat is still stronger-when ever an Absolute Fee Simple Estate ceases to Operate, by there being no legal, or Appointed Successor, the Original Source of the Grant comes Forth with it's Indisputable claim. In all these the Principle [retains?] it's Force, & will, I believe be Found to have in every investigation of Grants, or Delegations of Power. Again is there not danger in the Enumeration of Rights? may we not in the progress of things, discover some great & important, which we don't now think of? there the principle may be turned upon Us, & what is not reserved, said to be granted: If therefore Gentn. think something should be done, it would seem to me more proper to do as Massachussets proposes-Declare the Principle-as more Safe than the Enumeration.<sup>6</sup> or after all if Gentn. think a Bill of Rights best, I am satisfied; approving the End, I will not divide with them about the means, unless I saw more danger than in this.

In Delegation of Powers we must be Explicit & guarded; and tho' all efficient Powers, may be abused, we must not From thence draw a conclusion that none such are to be granted. it will & ought to Suggest Caution in Us, to grant no unnecessary Power, & to guard those wch. are so, as far as we can, wth.out rendring it useless. Here then I take my ground upon the Support of two great Principles "That the Object of Government is the Safety & happiness of the People" And that "the People are the Fountain of Power". To effect the first a strong & firm Govt. of wholsome laws, well executed, to protect the honest Peaceable Citizen From Oppression, Licentiousness, Rapine & violence, appear to me indispensibly necessy., and impress'd with the latter. In all Delegations of Power we ought to preserve in the Agent the Representative Character in it's purity of Free Election, short term, & Responsibility, where I see these Agents, I behold the People and Find safety, as far as human guards can extend: Deviations of design, will be corrected by change, those of mistake or Inattention, by review & better reflection. It will be Obvious that I mean these guards to extend only to those

Agents who are intrusted with the *sword* & *purse*—The Judiciary having nothing to do wth. either, are not dangs.; & From the Nature of their Office, must be Independent, if you expect Impartial decisions.

Impress'd with these Principles I view the proposed Plan. & 1st. the great Deposit of all, the House of Representatives—the Electors put on the best ground—that of the states whose reg[ulatio]ns as to the right of Suffrage, are unalterable by any other power, but may be changed by themselves as convenience may Suggest.

The term of Election short-The number thought to be too small, but considering that the Subjects of Legislation are our great National Concerns as Connected with other States & Foreigners, I think 12 Gentn. may be found in the State at all times, able to give the Fullest Information of those, tho' not equal to that of all our small local Affairs7-the number is fix'd by relation to Numbers of Inhabts.-it gives Us our full share in the Collective body, and being Founded on the same Ratio as that of taxation, there will be no danger of an Inclination to change it. a few are indeed, more easily bribed; but if our Suspicions are so keen, that we can't trust our Representatives, going in conseq[uenc]e of our confidence, & to return amongst us, & Account For their Conduct, at the end of two years, what are we to do? must we have no Govt. Til Angels From Heavn. shall supply Us wth. Agents? Tho' we trust them wth. the Purse, 'tis For purposes defined as far as such things can be, & without it, all purposes of Government may be defeated. I see no propriety in making requisitions necessary From one body of our Rep[resentativ]es to another, & we have seen the Fatal effects of such a measure. The wisdom of 2 branches in the Legislature, is proven from reason & Sanctified by our own State System-as the term of duration of the Senate is, tho' it is shorter than ours by Comparison wth. that of the other, by the difft. proportions between 1 & 4, & 2 & 6.8-The whole time is not dangerously long, & that diminished by the Bienial Rotations to & From it. Our unequal represent, there, seems to me a reasonable guard to the small States-It was the effect of Accomodation there, & answers another in being the representation of States, as chosen by the Legislature, & will give the State Governmts. their proper weight. Here again perceiving the Representative Character preserved, I think this body properly Organized as such: Other Powers are aft[erwar]ds improperly thrown on them, in which I see great confusion derangement, impropriety & the Seeds of a dangerous Aristocracy; I mean their being made, as a body, the standing Executive Council. To these, one of my Amendmts. would apply, but I have said before that I do not considr. them as of such quick or Inveterate growth, as to justify putting the Union in Risque, or that they may not be trusted to the Success of Future Amendments. The President is produced still in the Representa[tive] Character, since what the man I elect For the purpose does, is done by me; his term is Short, & going into Office wth. the Confidence of America in his *Integrity*, can't be reasonably supposed in the course of 4 years to loose that Character, & Form dangerous Systems. his Eligibility, or perpetual Ineligibility, are what I am not well Satisfied in determining either way, I discover Argts. on both sides, perhaps Safety may lie in the latter. His powers are defined, & not left to latent Prerogatives—they none of them appear too large unless it be those of Pardoning Treason *before* Conviction, & the Final power of giving *Force* to Treaties—which I think should be confined to truces, Prov[isiona]l Articles, and the making the terms of *lasting* Treaties, but wch. should receive their ratification From the Legislature, as I believe is done in all or most Republics.

In the Judiciary, I perceive a Plan wch. may in the Legal Organization of the Courts, produce Oppression & great Inconveniency to the distant Citizens; but wch. may also be so Arranged, consistent wth. the Constitution, as to produce the necessary good & none of the Evil. On this view I feel a Security that the good part will be chosen, in the Circumstance of the situation of a Majority of the States, being equally or more remote From the Seat of Governmt. than we are, & whose Representatives will join with ours, in Securing their Citizens From this Injury. whether it be best to state the amendmts. necessary to give that turn to the laws, or wait to see if they don't take it, I have some doubt. Those of Massachussets are proper as Far as they go, but are greatly short of what I wish on the Subject.<sup>9</sup> I am inclined to think however that the restraints had better be in the *laws* than in the *Constitution*, thereby admitting of being varied more easily as experience shall require, Secured as we are by the Circumstance abovementioned.

This Subject is not exhausted, but my Crampt Fingers are tired, and I fear yr. patience wearied out—you have my naked undisguised Sentiments on the Principles or great ground of the Plan, to your Judgment I commit them, & cordially join with you in imploring a diffusion of divine Wisdom in our Counsels, that decision may produce Peace, Safety & happiness to all concern'd, and that you may enjoy every Felicity. I thought I had in the beginning made My Appology For not having sooner paid you my respects—It is to be Found in a close Attention to the Presid[ent]ial duty I am hond. with, From wch. I begd excuse on this day From it's extream dampness, & that of the House we sit in made thoroughly wet by a Hail Storm yesterday.

1. RC, Emmet Collection, NN. The name of the addressee does not appear, but Pendleton answers Richard Henry Lee's 26 May letter (CC:755). At the time that Pendleton wrote this letter, he was serving as president of the Virginia Convention.

2. Since he became president of the Virginia High Court of Chancery in 1778, Pendleton had not held elective office.

3. Of the eight conventions that had ratified the Constitution, only those of Massachusetts and South Carolina had recommended amendments (CC:508, 753).

4. Pendleton refers to William the Conqueror, the first Norman king of England (1066–1087). William introduced the legal theory that all land in the last resort was held of the king. He confiscated the lands of Anglo-Saxon rebels and gave the lands to his followers. He also restored lands to the great Anglo-Saxon landowners, so that they now held the lands from him. Since all public and political rights were intimately related to rights in land, all such rights were also derived from him. William established this feudal structure without the passage of laws.

5. The Magna Carta (1215), which reaffirmed the feudal rights and privileges of the barons, was reissued with changes in 1216, 1217, and 1225, and it was confirmed more than forty times by 1422, the end of the reign of Henry V.

6. Pendleton refers to the first Massachusetts amendment which provided "That it be explicitly declared, that all powers, not expressly delegated by the aforesaid constitution, are reserved to the several states, to be by them exercised" (CC:508).

7. In the first federal Congress, Virginia was allotted ten representatives and two senators.

8. Members of the Virginia House of Delegates served one year, senators four years; U.S. Representatives served two years, Senators six.

9. For the text of the Massachusetts amendments, see CC:508.

# 783. George Washington to Marquis de Lafayette Mount Vernon, 18 June (excerpt)<sup>1</sup>

... In a letter I wrote you a few days ago by Mr. Barlow (but which might not possibly have reached New York untill after his departure) I mentioned the accession of Maryland to the proposed government and give you the state of politics, to that period.<sup>2</sup>-Since which the Convention of South Carolina has ratified the Constitution by a great majority: that of this State has been setting almost three weeks and so nicely does it appear to be ballanced, that each side asserts that it has a prepondenacy of votes in its favour. It is probable, therefore, the majority will be small, let it fall on which ever part it may; I am inclined to believe it will be in favour of the adoption. The Convention of New York and New Hampshire assemble both this week-a large proportion of members, with the Governor at their head,<sup>3</sup> in the former are said to be opposed to the government in contemplation: New Hampshire it is thought will adopt it without much hesitation or delay. It is a little strange that the men of large property in [the] South, should be more afraid that the Constitution will produce an Aristocracy or a Monarchy, than the genuine democratical people of the East. Such are our actual prospects. The accession of one State more will complete the number,

which by the Constitutional provision, will be sufficient in the first instance to carry the Government into effect.

And then, I expect, that many blessings will be attributed to our new government, which are now taking their rise from that industry and frugality into the practice of which the people have been forced from necessity.-I really believe that there never was so much labour and economy to be found before in the country as at the present moment. If they persist in the habits they are acquiring, the good effects will soon be distinguishable. When the people shall find themselves secure under an energetic government, when foreign nations shall be disposed to give us equal advantages in commerce from dread of retaliation, when the burdens of the war shall be in a manner done away by the sale of western lands, when the seeds of happiness which are sown here shall begin to expand themselves, and when every one (under his own vine and fig-tree)<sup>4</sup> shall begin to taste the fruits of freedom-then all these blessings (for all these blessings will come) will be referred to the fostering influence of the new government. Whereas many causes will have conspired to produce them. you see I am not less enthusiastic than ever I have been, if a belief that peculiar scenes of felicity are reserved for this country, is to be denominated enthusiasm. Indeed, I do not believe that Providence has done so much for nothing. It has always been my creed that we should not be left as an awful monument to prove, "that Mankind, under the most favourable circumstances for civil liberty and happiness, are unequal to the task of Governing themselves, and therefore made for a Master."

We have had a backward spring and summer, with more rainy and cloudy weather than almost ever has been known: still the appearance of crops in some parts of [the] country is favorable—as we may generally expect will be the case, from the difference of soil and variety of climate in so extensive a region—insomuch that, I hope, some day or another we shall become a storehouse and granary for the world. In addition to our former channels of trade, salted provisions, butter, cheese &c. are exported, with propht. from the eastern States to the East Indies. In consequence of a Contract, large quantities of f[l]our are lately sent from Baltimore for supplying the garrison of Gibralter.

1. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXIX, 522-26. Fitzpatrick prints this letter under 19 June, but does not explain why.

2. Washington wrote Lafayette from Mount Vernon on 28 May introducing Connecticut poet Joel Barlow who was embarking for France from New York City as the agent of the Scioto Company—a land company (Fitzpatrick, XXIX, 506–8). Washington's letter probably did not reach the city before the departure of Barlow, who arrived at Le Havre on 24 June (Boyd, XIII, 157n).

3. George Clinton.

4. 1 Kings 4:25 and Micah 4:4.

### 784. New Jersey Journal, 18 June<sup>1</sup>

Strange indeed, says a correspondent, it must appear to the world, that the English should be the dictators of the commerce of the United States, and say, with effect, to our flag, in such seas shall your *stripes* unfurl—and on such coasts shall your *stars* twinkle—and in no others. A little Island ruling a great Empire. Fye on it! there must be "something rotten in the state,"<sup>2</sup> or it would not come to this! Let us assert our importance; make a right use of the advantages which the God of nature has given to us; and we shall convince that overbearing, and narrow policed nation of their dependence on us—They know now, that

"E'en the tall mast that bears their flag on high, Grew on our soil, and ripen'd in our sky."

but they also know, that we cannot help ourselves, while our machine of national government goes so bungling, that no two parts of it can act to effect-that one wheel perpetually revolves in a direct contrary direction to another, and therefore that although both moves, the one undoes what the other has done-and so vice versa. It is much better to have no government than such an one-as we should not in the first case have the expense of one to defray. The moment the English know we can retaliate, that moment they will relax in their restrictions on our commerce-and that moment will never arrive until our union is consolidated under one FEDERAL HEAD, possessed of powers adequate to the exigencies of a nation: The Constitution recommended by the Federal Convention was framed for the establishment of such a government; and at the same time to guard and secure the rights of the subject.-Its adoption, therefore, is a "consummation devoutly to be wished,"3 by every friend to our commerce-and to liberty-and in short, as on the success or decline of commerce and liberty the success or decline of husbandry, the useful and the liberal arts depend: almost all ranks are *peculiarly* interested in its adoption. The citizens of eight States, containing above one and a half million of taxable inhabitants have already seen the necessity of its speedy establishment. God of his infinite mercy, grant the people of the remaining four, may see in this day the things which belong to their peace, before they are hid from their eyes.

1. Reprinted: New Jersey Brunswick Gazette, 24 June; Pennsylvania Journal, 2 July; Winchester Virginia Gazette, 30 July.

2. William Shakespeare, Hamlet, Act I, scene IV, line 90. "Something is rotten in the state of Denmark."

3. *Ibid.*, Act III, scene I, lines 60-64. "To die: to sleep;/No more; and by a sleep to say we end/The heart-ache and the thousand natural shocks/That flesh is heir to, 'tis a consummation/Devoutly to be wish'd...." These lines are from Hamlet's "To be, or not to be" soliloquy.

### 785. New Hampshire Convention Amendments, 21 June

The New Hampshire Convention convened in Exeter on 13 February 1788. Realizing they lacked the votes needed to ratify, Federalists convinced the Convention to adjourn on the 22nd without ratifying the Constitution and to meet again in Concord on 18 June (CC:554). The Convention reconvened on 18 June, and the next day Federalist Samuel Livermore moved that a committee be appointed to consider amendments to the Constitution. Antifederalist Joshua Atherton moved to postpone Livermore's motion so that the delegates could continue to discuss the Constitution. Livermore (supported by other Federalists) thought that "the general debate" would be "a needless waste of time"; the Constitution "had been fully debated at Exeter." Atherton and other Antifederalists, however, stated that the debates at Exeter were only an introduction to what they wanted to say. "After considerable debate," the Convention postponed Livermore's motion and the delegates spent the rest of the day in "a general discussion" of the Constitution (*New Hampshire Spy*, 21 June; and Convention Journal, Nh-Ar).

On 20 June the Convention resumed consideration of Livermore's motion and appointed a committee of probably eight Federalists and seven Antifederalists, chaired by John Langdon, to consider amendments. At 10:30 A.M. the Convention adjourned to meet again at 3:00 P.M., when the committee reported twelve amendments. According to the *New Hampshire Spy*, 21 June, the committee "met with no difficulty in agreeing upon the amendments." After the Convention read and approved the committee's report, Atherton moved "that this convention ratify the proposed Constitution together with the amendments but that said Constitution do not operate in the state of New Hampshire without said amendments." After "some debate," Livermore moved to postpone Atherton's motion and to substitute the motion "That in case the Constitution be adopted that the amendments reported by the Committee be recommended to Congress." The Convention postponed Atherton's motion and adjourned until the 21st.

On 21 June the Convention agreed to Livermore's motion. Whereupon, Atherton moved that "the Convention adjourn to some future day, but it was negatived." On motion of Livermore (seconded by Langdon and others), the Convention voted 57 to 47 to ratify the Constitution. The Convention incorporated the twelve amendments proposed by the committee of fifteen into the Form of Ratification, indicating that they were adopted in order to "remove the fears and quiet the apprehensions of many of the good people of this State, and more effectually guard against an undue administration of the federal government." The Convention also enjoined New Hampshire's representatives in the new Congress under the Constitution "at all times . . . to exert all their Influence and use all reasonable and legal methods to Obtain a Ratification" of the recommended amendments in the manner provided in Article V of the Constitution. The Convention then resolved that the Form of Ratification be transmitted to Congress (Convention Journal, Nh-Ar). Tobias Lear, George Washington's secretary who was visiting Portsmouth, wrote

Washington on 22 June, that the amendments "were drawn up more with a view of softening & conciliating the adoption to some who were moderate in their opposition than from an expectation that they would ever be engrafted in the Constitution" (Washington Papers, DLC).

With the exception of the seventh amendment, the first nine New Hampshire amendments are almost identical to the nine amendments adopted by the Massachusetts Convention. (See CC:508 for the text of the Massachusetts amendments.) The Massachusetts amendments had been widely reprinted and on 16 February Governor John Hancock had sent copies of these amendments to all of the state executives. John Sullivan, president of the New Hampshire Convention, in transmitting the news of New Hampshire's ratification to Hancock, told him on 21 June that "The Amendments recommended, nearly the same as in your State" (*Boston Gazette* and Boston *American Herald*, 23 June. This item was reprinted more than thirty times.). The *Massachusetts Centinel*, 28 June, only reprinted amendments 7 and 9–12, because the rest were "almost verbatim with ours." New Hampshire's seventh amendment is a significant reworking of Massachusetts' seventh amendment (see note 1, below), while the ninth is almost identical to Massachusetts' ninth.

All twelve New Hampshire amendments were first printed on 24 June in the *New Hampshire Spy*, from which they have been transcribed. The *Spy* included the amendments in a report giving the news of ratification and the favorable reaction to it. Preceding the report was an illustration of nine standing pillars and one rising pillar (Virginia), with the heading "SOLI DEO GLORIA" (To God Alone be Glory). The *Spy* did not print the Form of Ratification, although it cited the passage explaining why the Convention adopted recommendatory amendments (see above). By 22 July the twelve amendments were reprinted in fifteen newspapers: Vt. (1), N.H. (3), Mass. (1), N.Y. (4), N.J. (2), Pa. (2), Md. (2). The *Massachusetts Centinel's* report which listed only amendments 7 and 9–12 (see above) was reprinted twenty-two times by 30 July: Mass. (6), R.I. (3), Conn. (4), Pa. (4), Md. (1), Va. (4).

The Convention having ratified the new Constitution, were of opinion that the following amendments and alterations in the same, would remove the fears and quiet the apprehensions of many of the good people of this state, and at the same [time] guard against an undue administration of the federal government, they therefore recommended that they be introduced into the said Constitution.

lst. That it be explicitly declared, that all powers not expressly and particularly delegated by the aforesaid Constitution, are reserved to the several states, to be by them exercised.

2d. That there shall be one representative to every 30,000 persons, according to the census mentioned in the Constitution, until the whole number of the representatives amounts to 200.

3d. That Congress do not exercise the powers vested in them by the

4th section of the first article, but in cases when a state shall neglect or refuse to make the regulations therein mentioned, or shall make regulations contrary to a free and equal representation.

4th. That Congress do not lay direct taxes, but when the money arising from the Impost, Excise, and their other resources are insufficient for the public exigenc[i]es; nor then, until Congress shall have first made a requisition upon the states to assess, levy and pay their respective proportions of such requisition, agreeably to the census fixed in the said constitution, in such way and manner as the legislature of the state shall think best; and in such case if any state shall neglect or refuse to pay its proportion, pursuant to such requisition, then Congress may assess and levy such state's proportion—together with interest thereon at the rate of 6 per cent. per annum, from the time of payment prescribed in such requisition.

5th. That Congress erect no company of merchants, with exclusive advantages of commerce.

6th. That no person shall be tried for any crime by which he may incur an infamous punishment, or loss of life, until he be first indicted by a grand jury; except in such cases as may arise in the government and regulation of the land and naval forces.

7th. All common law causes between citizens of different states shall be commenced in the common law courts of the respective states and no appeal shall be allowed to the federal court in such cases, unless the sum or value of the thing in controversy amount to 3000 dollars.<sup>1</sup>

8th. In civil actions between citizens of different states, every issue of fact arising in actions at common law, shall be tried by a jury, if the parties or either of them request it.

9th. Congress shall at no time consent that any person holding an office of trust or profit under the United States, shall accept of a title of nobility, or any other title or office from any king, prince or foreign state.

10th. That no standing army shall be kept up in time of peace, unless with the consent of three-quarters of the members of each branch of Congress—nor shall soldiers in time of peace be quartered upon private houses, without the consent of the owner.

11th. Congress shall make no laws touching religion, or to infringe the rights of conscience.

12th. Congress shall never disarm any citizen, unless such as are or have been in actual rebellion.

1. The seventh Massachusetts amendment reads: "The supreme judicial federal court shall have no jurisdiction of causes between citizens of different states, unless the matter in dispute, whether it concerns the reality or personality, be of the value of three

thousand dollars, at the least: Nor shall the federal judicial powers extend to any actions between citizens of different states where the matter in dispute, whether it concerns the reality or personality, is not of the value of fifteen hundred dollars, at the least" (CC:508).

# 786. Tench Coxe to Timothy Pickering Philadelphia, 25 June (excerpt)<sup>1</sup>

... The prospect on the Constitution in Virga. is critical, tho I hope we shall have it adopted there—The Majority will be within six as Mr. Maddison writes me.<sup>2</sup> Governor Randolph is of the same Opinion.<sup>3</sup> The people of Kentucke 10 in number<sup>4</sup> hold the balance, it is expected they will divide, in which case we shall have a Majority of six. A dreadful situation for the enlightened, populous & wealthy countries on the Atlantic coast—New Hampshire tis *confidently* said will adopt. North Carolina will do the same if Virginia does not reject—The last five are much more uncertain than the first eight, so that we have reason to be thankful for the order in which Providence has disposed the Conventions.

I am dear Sir, in haste your very hum. servt.

1. RC, Pickering Papers, MHi. This letter was addressed to Pickering in Wilkes-Barre, Luzerne County, Pa., and carried to him by Ebenezer Bowman, a Wilkes-Barre lawyer who had delivered a Pickering letter to Coxe in Philadelphia.

2. For letters that Madison wrote on 18 June to Tench Coxe, Rufus King, and George Washington, stating that the majority would be from three to six, see RCS:Va., 1637–38.

3. On 22 June Samuel Smith, a Baltimore merchant, wrote Coxe quoting a letter that he had received from Edmund Randolph, a delegate to the Virginia Convention, in which Randolph predicted a narrow victory for the supporters of the Constitution. An excerpt from Randolph's letter was printed in the *Pennsylvania Gazette* and *Pennsylvania Journal* on 25 June (RCS:Va., 1666–67). For more on Randolph's letter, see Thomas Willing to William Bingham, 24 June (*ibid.*, 1670–71).

4. Kentucky actually had fourteen delegates in the Virginia Convention; ten voted against ratification of the Constitution, three for ratification, and one was absent or did not vote.

## 787. Comte de Moustier to Comte de Montmorin New York, 25 June<sup>1</sup>

The grand object that holds the attention of the United States today acquired a new degree of interest from the difficulty that accompanies the formation of the new Government, at the moment when its partisans believe its success to be most assured. Today three States are assembled in convention to make a decision on the new Constitution; Newhampshire is hardly noticed; her vote would in truth be sufficient to complete the nine that are needed to bring about the alteration of the federal Government, but it is not probable that it would have any influence on the decision of the State of Virginia nor on that of Newyork. The Antifederalists seemed to win some ground in the former and they have a recognized majority in the latter. The Leaders of this party come out in the open there [New York]. There is animosity on both sides in Virginia. I limit myself to mentioning by name only one leader of the party in that State, Mr. Patrick Henri, because he deserves to be distinguished from all the others by his talents, his ambition and his influence on the people. His plan would be to detach his State from the confederation. If he carries the votes of the people from the interior and if he joins them with those of North Carolina, which is the last [state] to meet in Convention, he would be able to form a body strong enough to sustain itself against the efforts of the party opposed to his plan.<sup>2</sup>

In this State [New York] the opinion of the Antifederalists is positively in favor of separation. They are claiming that it is advisable for them to form a separate Government and not involve themselves for a long time to come in the affairs of Europe, with whom they ought to have even fewer commercial ties, which only furnish them with luxuries that they must do without to live in the simplicity that befits a newborn State.

In case one of the two above States or both detach themselves from the general Confederation, dealings with the American States that will no longer be part of the United States will be of a different nature from the present situation, where foreign powers only recognize a single body representative of the general Sovereignty. Those of the King would be essentially the same, because everything comes down to buying from the American States, united or not, the commodities that are suitable and to furnish them with merchandise in exchange for these commodities. In times of crisis the American ports would be even more exposed than they are today to be controlled by the first occupant, as I had the honor of informing you, My Lord, by my Dispatch No. 2.3 The Minister of the King in America would be accredited separately with respect to each of the States or separate confederacies and, as a result, would experience more facility or more difficulty, according to the circumstances, in his negotiations. The repayment of the debt owed the King would be a special subject, which would fall under a new account, but His Majesty could, from today on, regard all the States as jointly and separately responsible, and the dissolution of the Confederation would not change the rights of His Majesty. I still await the resolution of the present crisis to remind the United States that no matter what form their Government takes, the

necessity remains to attend to their debt to the King. It is probable that they themselves would hardly think about this interesting subject. Their powerlessness is genuine, but if they had been thrifty, they would have means to turn this debt to their advantage. Today the English are in possession of the forts that they were to have returned at the peace, under the pretext that the Americans have not satisfied the promise of paying their debts to the subjects of the British crown. Queen Elizabeth, in former times, had had some places as a deposit in trust in the united provinces for security on the sums that this Queen had lent them.<sup>4</sup> There are, on this Continent, ports that would be proprietary to His Majesty in certain junctures, principally those of Newyork and Newport. One could perhaps make oneself master of them, half by consent, half by force, and maintain oneself there as long as it might be useful to the interests of the King in coming to terms, in consequence, with the debt of the United States toward His Majesty. It is in part to facilitate this operation that I thought that it would be advantageous to accustom the United States to seeing Squadrons of the King frequenting their ports regularly and by turns. I abstain from further reflections on the situation of the American States in the case of a schism, until the great question, which is now close to being decided, is established one way or another.

In the meantime, Congress is as much a force as is possible with the weak means it has. All the States were requested by the President, in these circumstances, to send the necessary Delegates to represent them. They were careful about it, and even asked Rhode Island, on the chance that if the Delegates were individually zealous enough about the public business, which it seems that they would have to be, the Congress could be complete at this moment, so that it is believed that it will be in a little while, which has not been seen in several years. Some members are absent at this time, solely for their pleasure. Nothing compels their punctuality in carrying out their duties. Such is the defective organization of Congress, independent of its lack of authority, that a single member can, by his absence or in retiring at the moment when he should give his support, make an affair even of the greatest consequence fail. There was a striking example of this last year. The Congress was deliberating about leaving Newyork, nine States were represented, the state of New Jersey was only represented by two members on whom one could count. At the moment of taking the vote, one of the Members gets up, takes his cane and hat; they want to keep him there, he leaves, goes straight to the Ferry, and crosses the river to return home.<sup>5</sup> It is, however, a body thus organized with which one must negotiate all questions and all treaties.

For the rest, it [Congress] was more prompt in responding to the Note<sup>6</sup> that I addressed to it by means of Mr. Jay than in any matter that has been presented in a long time. Mr. Jay himself emerged from his usual dilatoriness. I thought on this occassion that I should abstain from taking any other steps than dispatching my Note to the Secretary of Foreign Affairs, to whom I have not even spoken about what I discussed there, my object being to make known to Congress and Mr. Jay that the King had reason to be unhappy. I limited myself to saying laconically to the two Members from Virginia and to another that I had addressed a Note to the Congress on an abominable affair and that it was necessary to take measures so that nothing similar could happen again. I meant by that the conclusion of the Consular Convention, on which I did not want to go into any explanation, so that according to my Note it seemed that I regarded it as settled, with the exception of some formalities. If there were in America today a truly Sovereign body, or if we were in a position to treat with each State, which are all truly separate Sovereignties, well managed fear could produce good effects on the measures that they take with respect to France, but in the current state of affairs, this means will work only imperfectly. I attribute to it, however, the prompt resolution of Congress. I am enclosing here a copy of the response I received from Mr. Jay. I hope the instructions sent to Mr. Jefferson were satisfactory. I imagine that this American Minister will have been careful to point out to Congress that the arrêt of the Council, which accords special favors to the Americans, is not in fact a treaty but an administrative rule that the King can revoke or modify at will. I believe that it is useful for them to be impressed by this truth. They have persuaded themselves up to now, inappropriately, that we had a very great interest in treating them kindly and that we could not do enough to accommodate them. They have yet to recover from many delusions about their importance in the political balance of Europe. It is irritating to see that they are very sensitive to the pretensions of others, but they are oblivious to their own. If they establish a new Government and enlightened and dispassionate men are at its head, it could form a system that is quite just, with a true balance of power among them, of the United States with Europe in general, and with France in particular.

P.S. It is learned at this moment Newhampshire has agreed to the new Constitution. Congress can now discuss if it also wants to adopt it. It is probable that it will agree to it, but without Virginia and Newyork the new Government will exist more in name than in fact. The great issue remains which course those two will take. The implementation [of the new government] will come afterwards.—Another difficulty.—

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 214–18, Archives du Ministère des Affaires Étrangères, Paris. Printed: *American Historical Review*, VIII (1903), 730–33. This letter, number 15, was endorsed as received on 26 September.

2. Moustier, the French minister plenipotentiary who had arrived in America in January 1788, was possibly influenced in his conclusions about Patrick Henry by St. John de Crevecoeur, the French consul for New York, New Jersey, and Connecticut. On 10 June Crevecoeur, who was stationed in New York City, described Henry as "nefarious & highly Criminal" and said that Henry would use all his "Talents" in the Virginia Convention "To breake & split the union" (to William Short, CC:779).

3. For dispatch number 2, dated 10 February, see American Historical Review, VIII (1903), 718-21.

4. See RCS:Va., 1174, note 20.

5. On 11 May 1787 James Schureman was not in Congress during the debate on moving Congress to Philadelphia. Because the Articles of Confederation required a minimum of two delegates to represent a state, Schureman's departure left New Jersey unrepresented, thereby foiling the efforts of the group supporting Philadelphia. Describing this incident, Roger Alden, the deputy secretary of Congress, stated that "I[t] appears that the Majority were confident of success and Mr. Sch—n had requested the ferry boat to wait for him to a certain time. this having elapsed, he made the best of his way fearing a disappointment, and left his friends to lament his absence, and the loss of their cause" (to William Samuel Johnson, 13 May, LMCC, VIII, 597).

6. On 28 May 1788 Moustier sent a diplomatic note to Secretary for Foreign Affairs John Jay, requesting that it immediately be laid before Congress. The note informed Congress that the French Court had demanded "the delivery of a french captain who has been guilty of a crime, the punishment of which is equally interesting to every commercial nation." The case raised diplomatic and constitutional issues for Congress.

Joseph-Marie-Anne Ferrier, captain of a French mercantile vessel, was accused of "betraying his trust and running away with a cargo of Coffee." After selling his cargo and his vessel in Virginia, Ferrier was apprehended by inhabitants of Norfolk and turned over to French Vice Consul Martin Oster. Oster, with the permission of the mayor of Norfolk, had Ferrier placed in irons on board a French ship. A sheriff, however, boarded the vessel and arrested Ferrier on a minor debtor's charge. Ferrier put up bail and was set free.

Oster asked Governor Edmund Randolph to issue warrants for the arrest of Ferrier and his abettors and to turn them over to be returned to France. Randolph rejected Oster's request, stating that he did not have the authority under Virginia law to assist in the arrest. Congress instructed Jay to write Randolph asking for "information on the subject" and informing Randolph that it was the "sense of Congress" that Ferrier "ought to be apprehended." Randolph refused to issue arrest warrants reiterating his claim that Virginia law did not give him such authority. Jay sent copies of Randolph's response to Moustier who found Randolph's explanation "far from satisfactory." Moustier told Jay that he would await Congress' determination before notifying the French Court of Virginia's actions. But Moustier warned Jay of the serious consequences for American commerce if Virginia's policy "should serve as a basis for the commercial politics of the other States." Jay, in his response to Randolph, questioned the propriety of state acts "especially as national objects should be regulated by national laws" (JCC, XXXIV, 192, 212, 217–19, 219n–22n; and *The Diplomatic Correspondence of the United States of America*, from the Signing of the Definitive Treaty of Peace . . . [1837; reprint ed., 3 vols., Washington, D.C., 1855], I, 253-73).

## 788. Ezra Stiles Diary New Haven, 25 June (excerpt)<sup>1</sup>

... This day at  $1^{1/2h}$  P.M. arrived in this City the News of the Adoption of the new fœderal Constitution by the State of New Hampshire (sittg at Concord) on  $\hbar$  last or 21st. Inst; Yeas 57 Nays 46, Majority 11. This is the IXth State, So now the new Constitution is ratified i,e literally—but if N York, Virga. & No Caro should not accede, it will yet be some time before the Ratification may be considered as completely established. The Swiss Cantons, & the Belgic Provinces were several years in accedg one after another to their respective fœderal Systems, but at length they came in. So I hope & expect that Virga &c will. If Virga does No Caro will. N York will at present be most probably negative. Rh. Isld will come to her Senses again after recoverg from the Frenzy of Paper Money.

As soon as the News arrived the four Bells in the City were set a Ringing, & the fœderal Flag displayed and fœderal Discharges of Canon-& Rejoycing

1. MS, Bienecke Library, CtY.

## 789. Philippe André Joseph de Létombe to Comte de la Luzerne Boston, 26 June (excerpts)<sup>1</sup>

I have the honor to continue to give You an account of public affairs in my Department.

The general court of New-hampshire, My Lord, having resumed its sessions on the fifth of this month, first undertook the Election of its principal officers: the Speaker, Chief Clerk, Members of the Senate, and the two Chambers having counted [the votes] for the Presidency, four thousand four hundred and twenty-one in favor of John Langdon and three thousand, six hundred and sixty-four in favor of John Sullivan. The Former, elected with a plurality of seven hundred fifty-three [i.e., 757] Votes, immediately took the [reins?] of Government. The opening Speech of His Excellency and the Response of the Senate to this Speech are noteworthy: ". . . The perplexed Situation of our public affairs in general, is so apparent that it is enough to make mention of it in order to call forth from our Citizens all the Exertions which our desolated country requires. The deranged state of our finances and the near annihilation of our commerce are matters truly alarming. But I look forward, with pleasure, to the undoubtedly not too distant time

when, by the Grace of divine Providence, the adoption of the proposed federal Constitution will relieve us of these Evils and of many others: this will give us a Government equal to the great national purpose, by which only we can reasonably expect to enjoy Peace, Liberty, and Safety"-To which the Senate replied: "... We have long viewed with anxious concerns the very unfortunate Situation of our public affairs and, particularly, of our Finances and our declining Commerce. But we will not be wanting in our repeated endeavours to remove those Embarrassments, arrange our Finances and restore our Commerce. Our Desires for the adoption of the federal Constitution are all the more ardent since we know that it is by It alone that our Union and our Independence can be preserved, our Finances can be established on a solid foundation, our political Embarrassments removed, our Commerce increased, extended and protected, and our Credit reestablished, and our national Character restored, and happy, amiable Peace be perpetuated; objects for which the People of these States have so nobly fought and conquered!"2-The General Court of that State, My Lord, has since adjourned, Sine Die. Its new acts contain nothing interesting; they are only regulations of internal Police. But this court was succeeded by the Convention to which General Sullivan had been elected President and which has finally adopted the federal Constitution, on the twenty-first of this month, by a Majority of seventy-five Votes against forty-six: so that New-hampshire, becoming the ninth State,3 its Ratification is enough for the Establishment of the new Constitution under the Terms of the article [VII] of the federal Convention [i.e., Constitution]. But it is believed that Congress, before joining together the nine States in the new Confederation, is waiting until Virginia, North Carolina and New-York, whose conventions are now assembled, have adopted or rejected the proposed Constitution.

The new General Court of this State [Massachusetts], My Lord, assembled on the twenty-eighth of May; and having first proceeded to the Election of its principal Officers, It proclaimed John Hancock as Governor by virtue of the Majority of Votes. The Lieutenant Governor, not having been elected by the People [because?] no Candidate had the required Majority of Votes, the two Houses met together, in conformity with the Constitution, to make the choice and General Lincoln was elected.

The third instant, His Excellency the Governor waited on the General Court where he said.<sup>4</sup> . . .

The Response to this Speech, carried to the Governor by a Committee of nine, composed of four Members of the Senate and five of the House of Representatives, is expressed in these Terms:<sup>5</sup>....

The General Court, My Lord, in resuming its Work found itself with fewer numbers than in preceding Assemblies and composed of better chosen Members. The People, more enlightened with respect to their true Interests, have dismissed those of their Delegates suspected of being Authors of the late Troubles or known as antifederalists. There was not any opposition this time, and the Unanimity made the Work concise, very orderly and much less expensive. The difference in Cost between the June Session of last year and the present one has been around twenty-six thousand francs, and the annual Election of Admiralty officers and Customs Collectors, Notaries and others, which used to take ten Days, was done in two.-The entire assembly was [governed?] by the Sentiments of humanity and charity recommended by the Governor. Luke Day, one of the Leaders of the Rebels, who was taken to Boston, has been sent back, and the General Court, after [having?] paid the seventeen hundred and fifty francs promised as a reward, has also repealed the act that promised this sum to those who would take Shays and Parsons: [recently?] these two Principal Rebel Leaders dared to present it with their Request for its abolition, a Request to which [it?] did not believe it dignified to reply, but it sent word that all was forgotten. This act of Clemency [may?] put an end to animosities [and] party spirit, and federalism is gaining many Partisans from it.<sup>6</sup> I [must admit?], however, that a Task remains for the [General] Court Necessitated by the act passed, in 1786, entitled "Act with the effect of suspending Laws for the Prosecution of private Debts under certain Limitations." In addition, those acts, passed in 1787 and [extended?] at the beginning of this year, have not been repealed and could cause irreparable Damage to internal and external, foreign and domestic Commerce. But the General Court apparently looked upon this Repeal as being, even at this time, the Province of the federal Constitution, from which it expects a sure, stable, and prosperous Government.

His Excellency the Governor, after having given his Approval to these new Acts, a List of which I have the honor to enclose here, prorogued the Session of the General Court to the first Wednesday of next September.<sup>7</sup>

Hope, My Lord, begins to stir up this State. In the interior, public Roads, Bridges, Docks, Magazines, and Houses are being constructed or repaired, and Industry is resuming its Activity.<sup>8</sup>...

That State [Rhode Island], My Lord, is still under the Yoke of Ochlocracy, or rather, to express myself as Mr. Burk does, under that of a Ptochocracy.<sup>9</sup> His Excellency John Collins and the Honorable Daniel Owen have been reelected, on the eighth of last month; the first, Governor; the second, Deputy-Governor.—It appears that that Government has been the same for three years. Peter Edes, a printer in Newport, has just published the Details of the last Session of its General Assembly, which adjourned on the nineteenth of this month until the second of next November, according to which he states,<sup>10</sup>...

"That no action has been taken on a Motion relative to the New Constitution."<sup>11</sup>

Meanwhile, a letter from Newport says that, news of the Ratification of the proposed federal Constitution by the State of New-hampshire having reached them, people there indulged in the most fervent joy; that this News had been announced there by the [ringing?] of bells; that Boats immediately hoisted their flags and that, on a Request made of the Governor to raise the large Flag of the State over Fort Washington and to [fire?] the Cannon, His Excellency appeared to take pleasure in granting these Requests; that consequently, nine cannon shots were fired at one o'clock and an equal number at Sunset for the purpose of congratulating individually the nine States that ensure the Establishment of the new Constitution: that news likewise produced the most ardent Feelings in the State of Massachusetts where it seems not to be doubted that the Ratification of the ninth State will lead all the States to a common Ratification that will draw tight this knot of a new Union.

This new State of things, My Lord, is undoubtedly going to lead to order; Regularity; a more uniform, exact, and coherent domestic Policy. Until the present time, I have found here only obstacles to my Research on Commerce, Navigation, and their Particulars. Perhaps these obstacles will only increase again as a result of Jealousy, Anxiety, and democratic Passions; But my Task then will be to overcome these obstacles, and at least I will have a sure Rallying Point in the Port Policy, in the organization of Customs, in the Laws of Commerce. Since the Peace, nothing has been regulated; each General Court had to surrender itself to the fluctuation occasioned both by the Needs of the moment and by democratic Tempests. It has only been since the plan of the new federal System that this State is beginning to [act?]. At this moment, one can finally hope that Newhampshire's approval of the new Constitution, by completing the number of States required for its adoption, will unite them all and will facilitate a Union of Interests and the so desirable Reciprocity of Commerce between the two friendly and allied Nations. Assuredly, I will neglect nothing that can be done to promote the one and facilitate the other, and I will endeavor to gather my Information on these things only from the Sources.

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 210, Boston, ff. 276–84, enclosures, ff. 285–92, Archives Nationales, Paris. This letter was docketed as received on 31 August. In December 1779 Létombe (b. 1733) was appointed by the King of France as consul for New Hampshire, Massachusetts, Rhode Island, and Connecticut. He arrived in Boston in June 1781 and in the same year he was made consul general. Except for a year's leave of absence in 1785–86, Létombe served in Boston until he was recalled in December 1792. He returned to America in 1795 as consul general, and in 1797 he was made the French Republic's minister plenipotentiary to the United States, serving until 1798.

Beginning with the second paragraph, Létombe or his secretary wrote the names of the states (New Hampshire, Massachusetts, and Rhode Island) he was discussing in the left margin opposite the opening line of his discussion.

2. These excerpts from President John Langdon's speech and the New Hampshire Senate's reply were printed in the *Massachusetts Centinel* on 21 June under the heading "*The FEDERALISM of NEW-HAMPSHIRE*." The complete texts of the speech and the reply first appeared in the *New Hampshire Spy* on 14 and 17 June, respectively.

3. Létombe enclosed the news of New Hampshire's ratification—a 21 June letter from John Sullivan, the president of the New Hampshire Convention, to Massachusetts Governor John Hancock (carried by Samson Reed from Concord)—that he had clipped from the Boston American Herald of 23 June.

4. At this point appears a French translation of Hancock's speech. Létombe also enclosed a copy clipped from the *Massachusetts Centinel* of 4 June.

5. At this point appears a French translation of the legislature's reply. Létombe also enclosed a copy clipped from the *Massachusetts Gazette* of 10 June.

6. In February 1787, after Shays's Rebellion had been put down, the Massachusetts legislature passed a disqualifying act depriving the rebels of the right to vote, to sit on juries, or to serve as town officers until after 1 May 1788. It also offered rewards for the capture of the rebel leaders and authorized the raising of 1,500 militia to serve in the west (the center of the rebellion) for four months. By the end of April 1787, hundreds of insurgents were arrested and about a dozen leaders were sentenced to death. In the April and May elections the voters of Massachusetts, reacting in part to these repressive measures, elected a majority to both houses of the legislature that was more sympathetic to the rebels. John Hancock who also favored leniency toward the insurgents was elected governor, ousting the incumbent James Bowdoin. In June 1787 the new legislature repealed the disqualifying act; "pardoned and indemnified" those insurgents who had not yet been convicted; and restored their political and civil rights. Nine rebel leaders, however, among them Luke Day, Eli Parsons, and Daniel Shays, were exempted from pardon. In July the legislature adopted a resolution ending all prosecutions for seditious activities that had taken place between 1 June 1786 and 15 June 1787.

In early January 1788, Luke Day was captured in New Hampshire and was extradited to Boston. Day petitioned for a pardon in February and the Massachusetts House of Representatives voted in March to pardon him but the Senate refused to concur. (Parsons and Shays, who were still at large, also petitioned for a pardon in February.) In April the legislature repealed the February 1787 resolution offering rewards for the capture of Day, Parsons, and Shays.

On 3 June 1788 Governor Hancock, in his speech opening the new legislature, stated that "I sincerely hope . . . should any measure occur to you, Gentlemen, by the influence of which every vestige of the late unhappy commotions may be finally obliterated, that it will not be neglected; and you may be assured of my most zealous co-operation in such a salutary effort." Soon after, the legislature pardoned all the insurgents, although

the nine leaders who had been exempted from pardon in June 1787 were not permitted to hold any civil or military office in Massachusetts. No condemned leader was ever executed.

7. Létombe enclosed a list of acts clipped from the Boston American Herald of 23 June.

8. The text omitted here describes the commercial revival in the United States and the commercial relations of the United States with France and Great Britain.

9. Burgh, *Political Disquisitions*, I, Book II, chapter IV, 49–50. Burgh stated: "The *British* government . . . is neither absolute monarchy nor limited monarchy, nor aristocracy, nor democracy, nor a mixture of monarchy, aristocracy and democracy; but may be called a ptochocracy (the reader will pardon a new word) or government of beggars."

10. At this point, Létombe loosely quoted Edes's description of several legislative acts implementing the Country Party's paper-money policies.

11. According to the *Newport Herald*, 19 June, "Upon the question of Adjournment a leading member who had been violently opposed against the New Constitution, urged a short adjournment as it was probable we should be called upon in regard to the New Constitution:—To obviate this reason it was moved that a Convention should be now appointed to meet at some distant period, but the motion was not noticed."

### 790. Virginia Convention Amendments, 27 June

The Virginia Convention met in Richmond on 2 June. The Convention debated the Constitution clause-by-clause in the Committee of the Whole through 23 June. The next day Federalist George Wythe proposed that the Committee of the Whole "should ratify the Constitution, and that whatsoever amendments might be deemed necessary, should be recommended to the consideration of the Congress which should first assemble under the Constitution, to be acted upon according to the mode prescribed therein." To this effect, Wythe proposed two resolutions preceded by a preamble in which he expressed the belief that all powers not granted to the government by the Constitution were retained by the people and that the government could neither cancel, abridge, restrain, nor modify any of the people's rights, except where the Constitution gave it such power. Such "essential rights" as "liberty of conscience and of the press" could not be canceled, abridged, restrained, or modified.

Antifederalist Patrick Henry responded that Wythe's "proposal of ratification was premature." Instead, Henry proposed a resolution "to refer a declaration of rights, with certain amendments to the most exceptionable parts of the Constitution, to the other states in the Confederacy, for their consideration, previous to ratification." Accompanying Henry's resolution was a declaration of rights and structural amendments, which the Convention's stenographer described as being "nearly the same as those ultimately proposed by the Convention." The declaration of rights and structural amendments were based upon documents drafted by an Antifederalist committee chaired by George Mason, who sent them to New York Antifederalists on 9 June. The structural amendments were also based upon a set most likely drafted between 9 and 24 June. (For Mason's 9 June letter and the enclosed amendments, see CC:750–E, and for a comparison of these amendments with those finally adopted by the Convention, see RCS:Va., 1514. For the structural amendments probably drafted between 9 and 27 June, and for a comparison between them and those finally adopted by the Convention, see RCS:Va., 1547–50.)

On 25 June, while the Convention was still in the Committee of the Whole discussing the Constitution, Federalist George Nicholas requested that Wythe's 24 June proposal to ratify the Constitution be read so that the Committee could vote on the question. The proposal was read. Whereupon, Antifederalist John Tyler "moved to read the amendments and bill of rights proposed by Mr. *Henry*, for the same purpose." After a lengthy debate, the Committee of the Whole resolved that the Constitution be ratified and that amendments be recommended to the new Congress under the Constitution "to be acted upon according to the mode prescribed" in Article V of the Constitution. Where-upon, Edmund Pendleton, the Convention's president, resumed the chair.

As a substitute for the Committee of the Whole's ratification resolution, Antifederalists recommended that a declaration of rights and other amendments be referred to the other states for their consideration "previous to the ratification of the new Constitution." This proposal was defeated by a vote of 88 to 80, and the Constitution was ratified by a vote of 89 to 79. A committee of eleven Federalists and nine Antifederalists, chaired by George Wythe, was appointed to prepare recommendatory amendments.

On 27 June the committee reported a declaration of rights consisting of twenty amendments and another twenty structural amendments. At the end of the amendments was a statement in which the Convention, speaking for the people of Virginia, enjoined their representatives and senators in the new Congress under the Constitution to seek the adoption of the forty amendments in the manner specified by Article V of the Constitution. Until the amendments were adopted, the statement continued, Virginia representatives and senators were "to conform to the spirit of these amendments as far as the said Constitution will admit." The Convention adopted the declaration of rights, the structural amendments, and the concluding statement; and it ordered them to be engrossed, signed by the president, and sent to the Confederation Congress, along with the Form of Ratification. It also ordered that each state legislature or executive be sent an engrossed copy of the Form and the amendments signed by the president and attested by the secretary. Augustine Davis, the Convention's printer, was told to print fifty copies of the Form and the proposed amendments for each county.

The Virginia Convention amendments were first published (as part of the Convention's proceedings for 25 and 27 June) in a four-page broadside by Augustine Davis (Evans 21553). On 2 July Davis also printed the amendments as part of the Convention proceedings for 27 June in his *Virginia Independent Chronicle*. The amendments were reprinted in seventeen newspapers by 16 August: Conn. (1), N.Y. (3), N.J. (2), Pa. (5), Md. (3), Va. (3), and in the August issue of the Philadelphia *American Museum*. They have been transcribed from the four-page broadside.

(See RCS:Va., 1473–1559, for the 24–27 June proceedings of the Virginia Convention.)

That there be a Declaration or Bill of Rights asserting and securing

from encroachment the essential and unalienable rights of the people in some such manner as the following:

lst. 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 nonresistance 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 favor, 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 disseized 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 seize any freeman, his papers or property, without information upon oath (or affirmation of a person religiously scrupulous of taking an oath) of legal and sufficient cause, are greivous and oppressive, and all general warrants 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 favored or established by law in preference to others.

## AMENDMENTS TO THE CONSTITUTION.

1st. 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 Fœderal Government.

2d. That 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 encreased 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.

3d. 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.

4th. 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.

5th. 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. 6th. That a regular statement and account of the receipts and expenditures of all public money, shall be published at least once in every year.

7th. 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, or 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.

8th. That no navigation law or law regulating commerce shall be passed without the consent of two thirds of the members present, in both houses.

9th. 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.

10th. That no soldier shall be inlisted for any longer term than four years, except in time of war, and then for no longer term than the continuance of the war.

11th. 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.

12th. That the exclusive power of legislation given to Congress over the Fœderal 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.

13th. That no person shall be capable of being President of the United States for more than eight years in any term of sixteen years.

14th. 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 jurisdic-

tion; 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.

15th. 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.

16th. 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.

17th. 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.

18th. 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.

19th. That some tribunal other than the Senate be provided for trying impeachments of Senators.

20th. That the salary of a judge shall not be encreased 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.

And the Convention do, in the name and behalf of the people of this Commonwealth, enjoin it upon their representatives in Congress to exert all their influence and use all reasonable and legal methods to obtain a RATIFICATION of the foregoing alterations and provisions in the manner provided by the fifth article of the said Constitution; and in all Congressional laws to be passed in the meantime, to conform to the spirit of these amendments as far as the said Constitution will admit.

## 791. Elbridge Gerry to James Warren Cambridge, Mass., 28 June<sup>1</sup>

I wish you would so order your arrangements as to favour us with a part of your time, although the alarm of our being together might be such as to station sentries at Charlestown bridge, and the fortifications for the defence of the federalists in Boston.

It is diverting to hear the manner in which these people amuse themselves at our expense. They suggest that I shall not be able to keep this place; and should it be true, I tell them I hope to find purchasers out of Boston. Others say I am much affected by political events, and disposed to grow melancholy, and so long as this is attended with a *mens conscia recti*,<sup>2</sup> they may think as they please; for melancholy is like madness, which has a pleasure none but madmen know.

The convention of New-York will, I am well informed, annex a bill of rights to a conditional ratification, which will remove all our objections, and it is believed Virginia will do the same. Patrick Henry has been brilliant in that convention, and very severe on — who is reprobated for his duplicity and versatility.<sup>3</sup> I know not what judgment to form with respect to the final event, but trust in Providence for protection from the thraldom, which may be apprehended, unless the new constitution shall be modified and amended. Do not let — be deterred from visiting us, for fear that she and — may be again distinguished in Boston by the appellation of the anti-federal ladies.<sup>4</sup>

Your's in great friendship,

1. Printed: James T. Austin, *The Life of Elbridge Gerry* (2 vols., Boston, 1828–1829), II, 84–85.

2. "A mind conscious of rectitude."

3. For Henry's criticism of Edmund Randolph, a non-signer of the Constitution who supported its ratification in the Virginia Convention, see their heated exchange in the Convention on 9 June (RCS:Va., 1050–72, 1081–87 [especially pp. 1082–83]. See also RCS:Va., 1707.). This exchange began on 7 June and ended on the 10th. On Randolph's change of heart, Virginia Convention delegate Theodorick Bland noted that "Our chief Magistrate has at length taken his partie, and appears to be reprobated by the honest on both sides" (to Arthur Lee, 13 June, RCS:Va., 1618. See also page 1696.).

4. Gerry refers to Warren's wife, Mercy, and to his own wife, Ann. For an Antifed-

eralist pamphlet written by Mercy Warren and printed in Boston around the end of February 1788, see CC:581.

# 792. George Washington to Charles Cotesworth Pinckney Mount Vernon, 28 June<sup>1</sup>

I had the pleasure to receive, a day or two ago, your obliging letter of the 24th of last month,<sup>2</sup> in which you advise me of the ratification of the fœderal Constitution by South Carolina. By a more rapid water conveyance, that good news had some few days before arrived at Baltimore, so as to have been very opportunily communicated to the Convention of this State, in session at Richmond.<sup>3</sup> It is with great satisfaction, I have it now in my power to inform you that, on the 25th instant, the Delegates of Virginia adopted the Constitution, in toto, by a division of 89 in favour of it to 79 against it: and that, notwithstanding the majority is so small, yet, in consequence of some conciliatory conduct and recommendatory amendments, a happy acquiescence it is said is likely to terminate the business here—in as favorable a manner as could possibly have been expected.<sup>4</sup>

No sooner had the Citizens of Alexandria (who are fœderal to a man) received the intelligence by the Mail last night, than they determined to devote this day to festivity. But their exhilaration was greatly encreased and a much keener zest given to their enjoyment; by the arrival of an Express (two hours before day) with the News that the Convention of New Hampshire had, on the 21st instant, acceded to the new Confœderacy by a majority of 11 voices, that is to say, 57 to 46.

Thus the Citizens of Alexandria, when convened, constituted the first public company in America, which had the pleasure of pouring libation to the prosperity of the ten States that had actually adopted the general government.<sup>5</sup> The day itself is memorable for more reasons than one. It was recollected that this day is the Anneversary of the battles of Sullivan's Island and monmouth<sup>6</sup>—I have just returned from assisting at the entertainment; and mention these details, unimportant as they are in themselves, the rather because I think we may rationally indulge the pleasing hope that the Union will now be established upon a durable basis, and that Providence seems still disposed to favour the members of it, with unequalled opportunities for political happiness.

From the local situation as well as the other circumstances of North Carolina, I should be truly astonished if that State should withdraw itself from the Union—On the contrary, I flatter myself with *a confident expectation* that more salutary counsels will certainly prevail. At present there is more doubt how the question will be immediately disposed of

in New York. For it seems to be understood that there is a majority in the Convention opposed to the adoption of the New feederal System. Yet it is hardly to be supposed, (or rather in my judgment it is irrational to suppose) they will reject a government, which, from an unorganised embrio ready to be stiffled with a breath, has now in the maturity of Its birth assumed a confirmed bodily existence. Or, to drop the metaphor, the point in debate has, at least, shifted its ground from policy to expediency. The decision of ten States cannot be without its operation. Perhaps the wisest way, in this crisis, will be, not to attempt to accept or reject-but to adjourn, untill the people in some parts of the State can consider the magnitude of the question and of the consequences involved in it, more coolly and deliberately.-After New York shall have acted, then only one little State will remain-suffice it to say, it is universally believed, that the scales are ready to drop from the eyes and the infatuation to be removed from the heart of Rhode Island. May this be the case, before that inconsiderate People shall have filled up the measure of inequity before it shall be too late!7

Mrs. Washington and all with us desire their best Compliments may be presented to Mrs. Pinkney and yourself: wishing that mine may also be made acceptable to you both,

1. FC, Washington Papers, DLC. On 29 June Washington also wrote Tobias Lear and Benjamin Lincoln, giving them much the same information that appears in this letter. In the letter to Lincoln, however, Washington also stated: "No one can rejoice more than I do at every step taken by the People of this great Country to preserve the Union-establish good order & government-and to render the Nation happy at home & respected abroad.-No Country upon Earth ever had it more in its power to attain these blessings than United America.-Wonderously strange then, & much to be regretted indeed would it be, were we to neglect the means, and to stray from the road to which the finger of Providence has so manifestly pointed.-I cannot believe it will ever come to pass.-The great Author of all good has not conducted us so far on the Road to happiness and glory to withdraw from us, in the hour of need, his beneficent support.-By folly & misconduct (proceeding from a variety of causes) we may now & then get bewildered; but I hope, and trust, that their is good sense and virtue enough left to bring us back into the right way before we shall be entirely lost" (Washington to Lincoln Letters, MH; and Fitzpatrick, XXX, 11-12. For the letter to Lear, see RCS:Va., 1715-16.).

2. In this 24 May letter, Pinckney, a member of the South Carolina Convention, enclosed a newspaper clipping of the vote on ratification, stating that "You will be pleased to find that the names you are best acquainted with, were in favour of the Constitution, and that those who are against it, have declared they would do all in their power to reconcile their Constituents to its adoption, and would exert themselves in its support" (Washington Papers, DLC).

3. On Saturday, 31 May, the news of South Carolina's ratification arrived in Baltimore by sloop, and on 3 June both Baltimore newspapers, the *Maryland Gazette* and the *Maryland Journal*, printed the news. A handbill with the South Carolina Form of Ratification was sent from Baltimore to the Virginia Convention in Richmond (John Vaughan

to John Langdon, 16 June, RCS:Va., 1631). On 4 June Convention delegate William Grayson reported that news of South Carolina ratification "has come to town," although he did not indicate the source (to Nathan Dane, RCS:Va., 1573).

4. In his 29 June letter to Lincoln (note 1, above), Washington stated that "Our Accts. from Richmond are, that the debates (through all the different stages of the business, though long and animated) were conducted with great dignity & temper—that the final decision exhibited an awful and solemn scene—and that, there is reason to expect a perfect acquiescence thereto by the minority.—not only from the good sense & conduct of that body during the Session, but from the declaration of Mr. Henry the great leader of the opposition to the effect, that though he cannot be reconciled to the Constitution in its present form, and shall give it every *constitutional* opposition in his power, yet that he will submit to it peaceably, as he thinks every good Citizen ought to do when it is in exercise; and that he will, both by precept & example, endeavor to inculcate this doctrine." (On Patrick Henry, see also Washington to Tobias Lear, 29 June, RCS:Va., 1715–16.)

5. For the Alexandria celebration, see RSC:Va., 1714-18.

6. On 28 June 1776 Americans stationed on Sullivan's Island (guarding the harbor of Charleston, S.C.) successfully repulsed an attack by the British forces under General Henry Clinton. This defeat ended the British army's "Southern expedition" which had been planned to subdue the four southernmost colonies. At the Battle of Monmouth in New Jersey on 28 June 1778, a Washington-led American army fought to a draw against a Clinton-led British army, which had evacuated Philadelphia and was en route to New York City. This battle was the last major battle of the Revolution in the North.

7. In his 29 June letter to Lincoln (note 1, above), Washington noted that "With respect to Rhode Island, the power that governs there has so far baffled all calculation on this subject that no man will hazard an opinion on their proceedings lest he should be suspected of participating in its phrensy."

### 793. Pennsylvania Mercury, 28 June<sup>1</sup>

The citizens of America, says a correspondent, have, in the course of thirteen years, acquired more immortal honor, more unfading laurels, and more well-won fame, than all the heroes of antiquity and conquerors of modern times. They are the only people who ever assumed the military character, and without discipline, without experience, and surrounded by a thousand difficulties, ventured to oppose the well-trained bands, the hardy veterans, of a powerful tyrant. Nor did they oppose them in vain-Engaged in one common cause, inspired with the same generous flame, they were successful in asserting their own rights, the rights of their country, of their posterity, and of mankind-They burst the bands of tyranny, and taught others how to become free. They provided a last retreat for liberty, and "an asylum for the oppressed of all nations."<sup>2</sup> But they have shown themselves no less wise in council, than brave in the field: they have calmly and deliberately formed and adopted a plan of government, which (when we consider the heterogeneous materials afforded for its construction by thirteen distinct states, almost all of them different in their interests,

manners and customs) may justly be called a master-piece of human wisdom. While the revolutions of government, in other countries, have given rise to most horrid scenes of carnage and bloodshed, America alone can boast of a constitution framed by her chosen sages, and, after the most mature deliberation, approved of by the people at large, without tumultuous disorders, or intestine broils, notwithstanding the industrious efforts of a few desperate incendiaries.

Under this constitution the government must needs be wisely administered, so long as the people remain uncorrupted; for they, by their representatives, are to be their own legislators. What a pleasing prospect this to the philanthropic mind! O blest Columbia! thy sons shall revere those laws, to which they themselves shall have given birth, and which shall be calculated for the general good. Hence we may reasonably hope, that the utmost harmony shall pervade every part of the Union; that Justice, with all the moral and social virtues as her attendant train, may take up her residence amongst us; that public faith and private credit shall again raise their drooping heads; that a due tribute of respect awaits the American name at foreign courts; that our flag shall be displayed in every quarter of the globe; that agriculture, manufactures, and commerce, shall impart their blessings, and enrich our country-In short, that we shall become a great, a powerful, and a happy people. But though we have good reason to expect all these things, as the eventual result of a good government, yet we should not be unreasonably sanguine in our hopes, nor expect that a human performance can work miracles. This, our correspondent mentions, lest any should weakly imagine that this constitution should do every thing for them: let such bear in mind, that tho' a good government be an excellent encouragement to industry, and the best security for the fruits of their labours, yet still, by far the greater part of our national character, and of the success of our citizens in life, must ultimately depend on their own exertions; and, without this, Independence is but a bubble, and the best Government on earth but a mere farce. May our citizens ever bear in mind, how much their happiness depends on themselves!

1. Reprints in whole or in part by 12 August (18): N.H. (1), Mass. (2), R.I. (1), Conn. (1), N.Y. (5), N.J. (2), Pa. (3), Md. (2), Va. (1). The *New Hampshire Recorder*, 5 August, reprinted this item under the heading "For the *New-Hampshire Recorder*" and signed it "Juvenis." On 5 January 1789 the Philadelphia *Federal Gazette* reprinted it with this prefatory statement: "The following paragraphs *originally* appeared in the Pennsylvania Mercury of the 28th of June last, when the federal constitution had been adopted by *nine* states: we again find it inserted, *verbatim*, in an European newspaper, under the London head of the 9th August, as if they were original English paragraphs. When we consider the sentiments they breathe, we are at a loss to account for this piece of literary

fraud in our worthy British friends, who have taken so much pains hitherto in giving the 'most unfavourable accounts of our country. They however afford a specimen of British accuracy and judgment; for what man of common sense would ever think of applying the sentiments they contain to the people of Great-Britain."

2. Thomas Paine, in his pamphlet Common Sense (1776), wrote: "O ye that love mankind! Ye that dare oppose not only the tyranny but the tyrant, stand forth! Every spot of the old world is overrun with oppression. Freedom hath been hunted round the Globe. Asia and Africa have long expelled her, Europe regards her like a stranger, and England hath given her warning to depart. O! receive the fugitive, and prepare in time an asylum for mankind."

## 794. Henry Knox to John Sullivan New York, 29 June<sup>1</sup>

I thank you for your kind favor of the 21st from Concord,<sup>2</sup> announcing the highly important and satisfactory information of the adoption of the Constitution by New Hampshire

I hope and trust that the news of this great event may reach Richmond previously to the decision of the question in the Virginia convention. The last Letters from Richmond were dated on the 19th. the main question would either be put on the 21st, or the convention would then make a short adjourn[ment] (perhaps of a week) for the purpose of accomodating the legislature which had been called to assemble at the same place on the 23d instant<sup>3</sup>—In either case it appears to be the opinion of the federalists and antifederalists that there would be a small majority for adopting the Constitution in the same manner as by Massachusetts & New Hampshire The express with the new Hampshire information will probably reach Richmond this day as it departed from this City on Wednesday last 1 oClock<sup>4</sup> If the adjournment should have taken place it is probable the majority in favor of the Constitution will be encreased—

I cannot well state the politics of this state—It is sufficient to say they are opposed to the constitution without previous amendments— The Convention have been sitting since the 17th—the majority greatly on the side of the Antifederalists

However as the noble conduct of your state has secured the Constitution it is possible the Antis may think the ground changed and instead of stipulating for previous amendments accept the constitution on the terms you have—If this should be the case with which however I do not in the least flatter myself. The Antis will take care to shew their power by some declaration that the acceptance is from expedience & not from conviction<sup>5</sup>

Your friends attribute much of the success of the cause in your state to your unremitted exertions, and hope that yr Country will eminently reward yr patriotism1. RC, Sullivan Papers, NhHi.

2. Knox Papers, MHi.

3. Knox also wrote to Hartford merchant Jeremiah Wadsworth on 29 June imparting similar information. Knox revealed that the source for his statement that Virginia would adopt "with a small majority" was a James Madison letter dated 19 June (Wadsworth Papers, CtHi. For the excerpt of Knox's letter dealing with Virginia, see Mfm:Va. 268.). Madison's 19 June letter has not been located.

4. The news of New Hampshire's ratification—carried by express riders from Concord, Poughkeepsie, and New York City—reached Richmond on 29 June, four days after the Virginia Convention had ratified the Constitution and two days after it had adjourned. (See "The Federalist Express System between the New Hampshire, New York, and Virginia Conventions," 24–26 June, RCS:Va., 1672–75.)

5. In his 29 June letter to Jeremiah Wadsworth (note 3, above), Knox revealed that the Federalist minority in the New York Convention "it is said has encreased to 25, whether it will rise higher is uncertain—If my information be true they will propose certain amendments and then adjourn—The influence of New Hampshire & even Virginia would not be conclusive—It might move some but the Majority would be inflexible."

## 795. The Confederation Congress Receives the New Hampshire Form of Ratification, New York, 2 July

The New Hampshire Convention ratified the Constitution on 21 June, at 1:00 P.M. John Langdon, the president of the Convention, quickly sent the news of New Hampshire's ratification to Alexander Hamilton, a delegate to the New York Convention in Poughkeepsie. Langdon took this action in consequence of an arrangement made by New York, Virginia, and New Hampshire Federalists, who were interested in the rapid spread of news between the conventions of those three states. Federalists such as Alexander Hamilton, who apparently originated the idea of an express system, realized that either New Hampshire, Virginia, or New York (more likely the first two) would be the ninth state to ratify and that this ratification might have an impact on the others.

The express rider from Concord, N.H., reached Poughkeepsie at noon on 24 June. Within hours, Hamilton gave Langdon's letter to his father-in-law Philip Schuyler who wrote to James Madison, a delegate to the Virginia Convention. Schuyler had Langdon's letter copied onto the verso of the letter to Madison. An express rider left Poughkeepsie at 2:00 A.M. on 25 June and arrived in New York City around noon. A half hour later, Congress read Langdon's letter. (See "The Federalist Express System between the New Hampshire, New York, and Virginia Conventions," 24–26 June, RCS:Va., 1672–75.)

New Hampshire's official Form of Ratification took longer to arrive, however. Langdon did not send it to the state's delegates in Congress until 25 June. The Form reached them the evening of 1 July, and they presented it to Congress the next day. By this time Congress had also learned by an express rider that the Virginia Convention had ratified the Constitution.

Since New Hampshire's Form of Ratification was the ninth received by Congress, the requisite number of states needed to put the Constitution into operation, Abraham Clark of New Jersey moved that the forms of ratification

#### 2 JULY, CC:796

be referred to a committee which should "report an Act to Congress for putting the said constitution into operation in pursuance of the resolutions of the late federal Convention." Congress agreed to Clark's motion 8 to 0, with New York divided, Rhode Island excused, and the lone Maryland delegate's affirmative vote not counting. Delaware was absent and the delegates from North Carolina refused to vote since their state had not yet ratified the Constitution (JCC, XXXIV, 281–82). Congress appointed a committee of five which reported on 9 July. The report, debated intermittently for about two months, culminated in the adoption of the Election Ordinance of 13 September (CC:845). (For the action of Congress calling the first federal elections, see DHFFE, I, 28–30.)

# 796. Benjamin Rush to John Adams Philadelphia, 2 July (excerpts)<sup>1</sup>

Permit an old friend to congratulate you upon your safe arrival in your native country. I rejoiced in reading, of the respectful manner in which you were received by your fellow Citizens.—you serve a grateful & enlight[e]ned people. May you long continue to enjoy their confidence, & may they long—very long continue to enjoy the benefits of your patriotism & knowledge.—

I have to thank you for many short letters during your Absence from America, but I owe more than I can express to you for your excellent Volumes upon Goverment.<sup>2</sup> They shall be the Alcoran<sup>3</sup> of my boys upon the great Subject of political happiness.—You have laid the world & posterity under great obligations by your researches. I am not more satisfied of the truth of the first axiom any one proposition in Euclid than I am of the truth of your leading propositions in Goverment.—Go on my dear friend in removing the rubbish of ignorance & prejudice from the Minds of your fellow Citizens. We live in an important Æra, and in a *new* Country. Much good may be done by individuals, & that too in a *short* time.

America has ever appeared to me to be the theatre on which human Nature will receive its greatest civil—literary—and religious honors.— Now is the time to sow the Seeds of each of them. Providence seems to have intended you to have a material hand in this business. Your labors for your country are only beginning. I hope—I expect—nay more—I am satisfied I shall see you in one of the first posts of the new goverment.—The Citizens of Pennsylvania will joyfully concur in this measure, especially if the southern & Eastern states should gratify them by fixing the Seat of Congress on the Delaware. This must be the compensation for their placing a Citizen of Virginia in the Presidents Chair, and a citizen of New England in the Chair of the Senate.

The new goverment will demolish our Balloon Constitution. If it had

no other merit, this would be eno' with me.—But it has a thousand other things to recommend it. It makes us a Nation. It rescues us from Anarchy—& Slavery.—It revives Agriculture & commerce. It checks moral & political iniquity. In a word, it makes a man both willing to *live* & to *die*.—To *live*, because it opens to him fair prospects of great public & private happiness. To *die*, because it ensures peace—order safety—& prosperity to his children....

Our Eldest boy will act the part of a young Midshipman on board the Ship Union which is to make a distinguished part of our procession in honor of the establishment of the new Goverment.<sup>4</sup>

With every possible mark of respect and esteem, I am dear Sir your Affectionate Old friend & humble Servant

1. RC, Adams Family Papers, MHi. Printed: Butterfield, *Rush*, I, 468–70. William Bingham, a Pennsylvania delegate to Congress in New York City, possibly forwarded this letter to Adams in Massachusetts (Bingham to Rush, 7 July, Alexander Biddle Collection, PHi). The letter was endorsed as answered on 2 December.

2. Rush refers to Adams's three-volume work, A Defence of the Constitutions of Government of the United States of America.... The first volume was reprinted in Philadelphia in late May 1787 on the advice of Rush, who declared that "Mr. Adams' book has diffused such excellent principles among us that there is little doubt of our adopting a vigorous and compounded federal legislature. Our illustrious minister in this gift to his country has done us more service than if he had obtained alliances for us with all the nations in Europe" (CC:16).

3. The Koran.

4. John Rush was one of four young boys dressed as midshipmen who were aboard the federal ship Union, a vessel "33 feet in length, her width and depth in due proportion" (*Pennsylvania Gazette*, 9 July [Francis Hopkinson]). For a fuller description of the Union, see CC:805, note 2, and for a photographic facsimile of John Rush's commission to serve in the procession, see Butterfield, Rush, I, facing page 112.

## 797. Nathan Dane to Melancton Smith New York, 3 July<sup>1</sup>

In my last letter<sup>2</sup> I briefly gave my opinion on the questions you Stated to me,—now being more at leisure & Sensible that the peculiar Situation of our Government at this time is a matter of common concern and highly interesting to us all; and that we have the Same object in view, the peaceable establishment of a general Government on genuine federal and republican principles, I shall in this be more particular, and submit to your consideration several observations with that candor and frankness with which we have always communicated our sentiments to each other relative to the important subject in question—

The Constitution of the United States is now established by the people of ten States, and a day of course must soon be fixed, when all proceedings under the Confederation shall cease—The line of con-

## 3 JULY, CC:797

duct which shall now be pursued by the three States which have not as yet ratified is become particularly and deeply interesting to them and to the whole Confederacy-As things are now circumstanced will it not be clearly for their interest and happiness, as well as for the interest and happiness of all the union to adopt the Constitution proposing such amendments as they may think essential-the Situation of the States is now critical-as the Constitution is already established there can be no previous amendments; and a State which has not ratified, and wishes to be in the union, appears to have but this alternative before her;-either to accede with recommending certain alterations, or to make them a condition of her Accession; and the probable consequence of either Step must be considered-I take it for granted that New York and the other two States wish to form a part of an American Confederacy-the readiness with which they Joined in the revolution, and acceded to the articles of Confederation; their open and general professions, and their past exertions to the support of the union Justify the idea opinion-In all our late political discussions, a Separation of the States, or Separate Confederacies, have Scarcely, to my knowledge, been Seriously mentioned-Admitting that Rhode Island, New York, and North Carolina all withhold their assent to the Constitution, and propose similar amendments, their situation is such, far removed from each other, and surrounded by ratifying States, that they never can think of confederating among themselves-Each one of them must be considered as Standing alone-but we have no reason to suppose that any one of those States has a wish to Stand alone, in Case she can Confederate on principles agreeable to her-If I understand the politics of these three States, they are strongly attached to governments founded in freedom and compact, and possess a Just aversion to those which are the result of force and violance-they will, therefore, be the last States which will adopt measures tending to foment parties, and give passion an ascendancy over reason, or to hazard Steps that may, in the end, lead to a civil war, and consequently to the Government of the prevailing party established by the longest Sword-It is not to be pretended that the ratifying States will have any Just cause to make war upon any non ratifying State, merely because she does not accede to a national compact, where she has a right to act according to her discretion-nor ought we to presume that hostilities will be commenced by any party without some plausible or Just provocation-But the ratifying and non ratifying States will immediately have opposite Interests, which, in the nature of things, they will pursue-the longer they shall remain Separate the more their affections and friendship for each other will decrease-and counteracting laws

and a disposition for coersive measures will take place-the affairs of the Country will have a propensity to hostilities, extremities and a thousand accidents may give rise to hostilities-The question in the ratifying States being Settled, it is probable the parties in them will gradually unite-In the States where the question shall remain unsettled, and the contest continue between the parties in them, as it undoubtedly will, in what manner they shall Join the union, they will grow more hostile to each other; and from what appears to be their present temper and situation, and if we reason from experience and from the character of men we must conclude, it is at least highly probable, that they will have recourse to arms, or to contentions extremely injurious to their common Interest, at no very distant period And what must be the issue of force, or of such contentions between the parties in any State is not difficult to foresee-If the other States should not interfere, those parties must decide their contest by themselves-If the party called federal shall prevail, they bring the State into the union unconditionally, or establish a State Government of their own, probably, on their own principles-If the other party shall prevail they will keep the State out of the union, unless the federal Constitution, which can hardly be presumed, shall in the mean time be made agreeable to them, and they will of necessity add a degree of severity to their laws and measures very incompatible with those principles of freedom they now contend for-this presents a disagreeable Scene in either event-But should the other States interfere, or a civil war by any accident become general between the advocates and opposers of the Constitution, throughout the United States, which is the probable consequence of any hostile beginnings, what must be the issue? our people tho enlightened are high Spirited-one party, when both are nearly ruined, may prevail, not in accommodating and fixing a government in freedom and compact, but in force and violance.and may we not expect a more severe high toned partial system established to secure the victorious party, at least a system more despotic than the old one we lay aside, or the one we are adopting-Were there any great number of men heart[i]ly attached to the Confederation, their success might establish it-but this in its present form seems to have but few or no advocates—Were there any great number of men attached to it with certain defined alterations in it, their success might establish it when so altered-but we have not agreed in those alterations-and if we may Judge from experience, and what appears to be the public opinion, it is more difficult to mould the Confederation to the wishes of the people than the Constitution-the Community in fact consists of two parties, the advocates, who are for establishing the

## 3 JULY, CC:797

Constitution in its present form, and the opposers, who generally if I understand them consider it as a tolerable basis, but as an imperfect and unguarded system unless amended-Were the advocates well attached to the system their success might establish it but this is not the Case—we know that many of them and those too, who would have the most influence, from their abilities, address, and activity, in producing a Government, never will agree to a system so favourable to liberty and republicanism even as the one proposed, if by any means they can get one more favourable to themselves, and unfavourable to the body of the people-If the other party those who wish to have the system but amended, succeed, and they were agreed in the amendments their success might establish the plan so amended-but no set of amendments have been agreed upon, and different ones have been proposed by different Conventions-You will, therefore, I am confident, agree with me that the friends of liberty and of Governments founded in compact cannot reasonably expect any good consequences from force and violance-the very means are hostile to the end proposed-Our object is to improve the plan proposed: to Strengthen and secure its democratic features; to add checks and guards to it; to secure equal liberty by proper Stipulations to prevent any undue exercise of power, and to establish beyond the power of faction to alter, a genuine federal republic to effect this great and desirable object the peace of the Country must be preserved, candor cherished, information extended and the doors of accommodation constantly kept open-the votes of the people will I think avail them much more in establishing a government favourable to them-than any violent or forceable proceedings-It is to be considered that five States have adopted the Constitution without proposing any amendments-we have seen the amendments proposed in the Conventions of four States-and certain it is there appears to be too little in reality proposed to be gained by the amendments to Justify parties in those States carrying matters to extremities-Nor will any one two, or three States ever expect the others to meet them in amendments, but on the principles of accommodation-whatever amendments any State may propose, I am persuaded you are too well acquainted with men, not to be sensible that passion opinion, and self will must have a constant influence in their conduct relative to them, that when terms are rigidly insisted on by one party, they are generally opposed by terms rigidly insisted on by the other It cannot be proper for any State positively to say to the others, that unless they precisely agree to the alterations she proposes she will not accede to the Union-this would be rather dictating-a State may take a question upon the Constitution simply as it stands

and express its sense of it in its present form-she may then annex recommended amendments and adopt it with them, or make them the Condition of her accession to the Union, I flatter myself, after a State has expressed her Sense upon the simple proposition you will prefer the mode of adopting with recommendatory amendments annexedthe new system must soon go into operation and some of the most important laws be made in the first Congress, and essential amendments be recommended by it-the State that adopts this mode comes into the Union armed with the declared Sentiments of her people, and will immediately have a voice in the federal Councils-she there will avail herself of all her influence, and of the advantages of accommodating principles in bringing the other States to accord with her Sentiments-whereas if she adopts conditionally She will not have a voice in those Councils during the most interesting period-party Spirit will, probably, reign in her bosom, and ill will constantly gain ground between her and the other States-and it is in my mind almost an absolute certainty that she must forever remain out of the Union, or relinquish some of her conditions-It cannot be presumed that any two of the three States will precisely agree in the same Alterations, and should they do it, it is not probable that all the States will agree exactly to them-there are many and able advocates for valuable amendments, and a good system of laws in every State and may they not prevail should all the States meet in the first Congress but should some of them Stand out, and those in which those amendments and laws have the most friends-the federal republicans or men who wish to cement the union of the States on republican principles will be divided, and have but a part of their Strength in Congress where they ought to have the whole—When measures of any sort become necessary in a Community, it is generally wise to take a part in them, and to bring them as near to our opinions as we can in the first instance, and I have ever thought since a federal Convention was agreed on that Rhode Island and certain individuals who were appointed to that Convention, missed it exceedingly in not attending it-they might clearly, had they attended, have engrafted many of the principles and checks they now contend for, into the System-and have given it those features and securities which as it now appears, would meet the approbation of the people in General-they saw a Constitution of some kind was to be made, and before it had taken a fixed direction was the time for exertions-You as well as others know it to be a fact that some parts of the Constitution most complained of, were obtained with much address and after repeated trials, and which never could have been carried had the States and members. I refer to, attended

### 3 JULY, CC:797

the federal Convention-for any State now to stand out and oppose appears to me to be but a repetition of the same error-I might add many more observations but I think I need not dwell longer on these points-Even when a few states had adopted without any alterations, the ground was materially changed; and now it is totally shifted-tho I retain my opinion respecting the feeble features, the extensive powers, and defective parts of the System, yet circumstanced as we are, I confess, I feel no impropriety in urging the three States to accedemen in all the States who wish to establish a free, equal, and efficient government, to the exclusion of anarchy, corruption, faction, and oppression ought in my opinion to unite in their exertions in making the best of the Constitution now established, to preserve inviolate the liberties of America, and to promote the happiness of the people by Just and equal laws and an equitable administration; to add constitutional security to those liberties on every proper occasion are still the objects of all good men-this now appears to be the way to disappoint those men who discover a disposition to make a bad use of a Constitution in many parts not well guarded, and to use its powers to corrupt and selfish purposes-a good Constitution is capable of affording much security to the rights of the people, and ought to be aimed at with unremitted attention-But ought we to expect any Constitution under which the people may, with Safety, relax in any considerable degree in their attention to public measures?--can they be secure under any Constitution unless attentive themselves, and unless some of their able leaders are their real freinds and their faithful guardians

Tho I think our people have examined the system in question with candor and freedom and discovered a strong attachment to liberty— Yet I would by no means so far rely upon their exertions and vigilance as to lose sight of those Constitutional securities which may be obtained by time and experience—while we veiw the conduct of rulers with candor, we ought to watch their movements with an Eagle's eye, and guard and secure the temple of freedom with unceasing attention—

To conclude ought we not now to give additional weight to the plea in favor of the Constitution drawn from the peculiarity of our situation, and which when less urgent and pressing appears again and again to have saved the system? and tho the system may be abused by bad men, ought we not to recollect that the road to lasting fame in this Country has generally been Justice, and Integrity, prudence and moderation, political information and industry & that there is more than an equal chance that this will continue to be the case? attempts to palm upon our people vice for virtue, the mere shew of talents for real abilities, and the arts and puffs of party for a well earned reputation have generally failed—and what is wanting but to excite the attention of this intelligent people to render such attempts always unsuccessful? all these and many other considerations ought to have their Just weight in deciding the great question before us<sup>3</sup>—

1. Copy, John Wingate Thornton Collection, MBNEH. This letter, in Nathan Dane's handwriting, was marked "a copy" by Dane, who was in New York City serving as a Massachusetts delegate to Congress. Smith (1744–1798), a wealthy New York City merchant-lawyer, served as a Dutchess County delegate to the First New York Provincial Congress during the Revolution, a militia officer, a commissioner to detect Loyalist conspiracies, and a member of the commissary department. He was also sheriff of Dutchess County, 1778–81; and a delegate to the Confederation Congress, 1785–87, where in September 1787 he spoke against the new Constitution (CC:95). He represented Dutchess County in the New York Convention (June–July 1788), where he served as the Antifederalist "manager." Smith fought hard for amendments, but, after Virginia's ratification, he rejected conditional ratification. Along with eleven other Antifederalists, he voted to ratify the Constitution with recommendatory amendments. Some scholars believe he was the author of the essays of "Brutus" (CC:178) and the pamphlets signed by "A Federal Farmer" (CC:242) and "A Plebeian" (CC:689).

2. Dane wrote Smith on 24 June, but the letter has not been located. (See Smith to Dane, 28 June, Dane Papers, Beverly Historical Society, Beverly, Mass.)

3. In an undated letter written (c. 15 July) while he was still attending the New York Convention, Smith replied that "I have received yours, and thank you for them-We have gone through the proposal of amendments, and are now deliberating what to do with them-In this we do not accord in sentiments, but I am not without hopes, we shall become of one mind-I entirely accord with you in Opinion, and shall if necessary avow them-Time and patience is necessary to bring our party to accord, which I ardently wish.... I beg you to use your influence to defer the organization of the New Governmt. until we decide-you may be assured, that time & great industry is requisite, to bring us to act properly-My task is arduous and disagreable-You shall hear more by the next oportunity" (John Wingate Thornton Collection, MBNEH). The "proposal of amendments" was probably the plan of amendments that John Lansing, Jr., submitted on 10 July. Smith himself was deeply involved in the deliberations over what was to be done with the plan, especially with respect to whether or not the Convention's ratification of the Constitution would be conditional or unconditional. (For another Antifederalist letter on amendments that Smith received expressing similar sentiments, see Samuel Osgood to Smith and Samuel Jones, 11 July, CC:802.)

## 798. Anthony Wayne to Marquis de Lafayette Savannah, 4 July (excerpt)<sup>1</sup>

I have just arrived from Phila. where I was obliged to attend in my place, as, a member of the Pennsylvania Convention,<sup>2</sup> & have the honor, & pleasure, to Congratulate you upon the adoption of the Fœderal Constitution of America by *Nine* of the *States*, which secures its operation, from & after the first Monday in December next, & fixes

### 4 JULY, CC:799

this rising *Empire* upon so broad & solid a basis, as to insure her a conspicuous Name, among the Nations! an *event*, that must afford the most pleasing sensation to a Nobleman, who has acted so principal apart upon her *theatre* & fought & bled in defence of her liberties, from her *coldest*, to her *hotest* sun! our Illustrious friend *Genl. Washington* will be her first—President (or by whatever other name the world may please to call him):—I wish he had a *son*...

1. FC, Wayne Manuscripts, PHi. Wayne (1745–1796) was a brigadier general in the Continental Army, 1777–83; a member of the Pennsylvania Council of Censors called to consider revisions to the state constitution, 1783–84; and a Chester County delegate to the Pennsylvania Assembly, 1784–86, and to the Pennsylvania Convention, where he voted to ratify the Constitution in December 1787. In 1792 he was appointed a major general commanding the U.S. Army in the Northwest Territory, where he defeated the Indians at Fallen Timbers in 1794.

2. Wayne had returned to his Georgia rice plantation, which that state's legislature had given him in 1782 for his Revolutionary War service against the Creeks.

## 799 A-H. The Celebration of the Fourth of July and the Ratification of the Constitution

Americans began to celebrate the anniversary of independence soon after the break from Great Britain. The Fourth of July became a time for flags and banners; parades and processions; orations, odes, and songs; dinners, banquets, and toasts; dances and balls; and bonfires and fireworks. With ratification of the Constitution by New Hampshire-the ninth and deciding state-on 21 June the commemoration of the Fourth of July took on added significance. In addition to independence, Americans in 1788 celebrated the adoption of a new form of government. Many towns and cities celebrated with long and colorful processions in which the crafts, trades, and professions played the central role. Some of the processions resembled those held earlier in the year in Boston, Baltimore, and Charleston, in which thousands celebrated the ratification of the Constitution by their state conventions. Philadelphia's "Grand Federal Procession" commemorating the Fourth was designed to outstrip any of them, and, in fact, the scale of the Philadelphia procession probably surpassed any similar celebration previously held in America. The spectacular New York City procession in honor of the ratification of the Constitution, although not held on the Fourth as originally planned but on 23 July, was perhaps as impressive.

A sampling of orations, odes, and music extolling the anniversary of independence and the ratification of the Constitution is printed below.

## 799–A. Jonathan Mitchell Sewall Oration Portsmouth, N.H., 4 July (excerpt)

The celebration of the anniversary of American independence in Portsmouth, N.H., included "an elegant Oration" delivered "in the forenoon" by Jonathan Mitchell Sewall, "at the Rev. Doct. HAVEN's meeting house, before a very respectable and brilliant audience" (*New Hampshire Spy*, 5 July). At the behest of a group of subscribers, George Jerry Osborne, the printer of the New Hampshire Spy, published the address as a twenty-three-page pamphlet entitled An Oration; Delivered at Portsmouth, New-Hampshire, On the Fourth of July, 1788, Being the Anniversary of American Independence (Evans 21456). Sewall's name is not on the title page, where the author is described only as "ONE OF THE INHABITANTS." The title page includes an epigraph from the English poet Alexander Pope which helps to explain why Sewall's name does not appear:

"Who builds a church to God and not to Fame,

Will never mark the marble with his name."

(These two lines are taken from *Of the Use of Riches, an Epistle to the Right Honorable Allen Lord Bathurst* [1733], lines 285–86.) "The AUTHOR," inscribed the oration "*To the Inhabitants of Portsmouth*" at whose request it was "*composed, delivered, and now published*." The excerpt printed here appears on pages 8–11 of the pamphlet.

On 26 July Osborne advertised the pamphlet in his *New Hampshire Spy* as "Just Published" and for sale for one shilling. Subscribers could obtain their copies of "this valuable performance" at Osborne's office.

Jonathan Mitchell Sewall (1748–1808), a native of Salem, Mass., was a Portsmouth lawyer and a poet. He served as a delegate and secretary to the convention that drafted the New Hampshire constitution of 1784. Sewall and his legal mentor John Pickering were largely responsible for the first draft of the constitution, relying heavily on the Massachusetts constitution of 1780. Two of Sewall's better known poetic works were concerned with George Washington. Early in the American Revolution, he composed a patriotic ballad entitled *Gen. Washington, A New Favourite Song, At the American Camp* that was popular with the troops (Evans 43158) and in 1798 he published his fiftyfour-page *Versification of President Washington's Excellent Farewell-Address*... (Evans 34532). In 1801 Sewall's *Miscellaneous Poems*, a duodecimo volume of 304 pages, was published in Portsmouth (Shaw-Shoemaker 1311).

... Since the first pair, we all enter on the theatre of life, wholly dependent, under God, on our parents. In this respect, we are far inferior to the beasts that perish. For a long period, and sometimes to the end of our lives, we depend on those born before us for food, raiment, shelter, and protection, as well as for knowledge and instruction. This necessary dependence is doubtless what first suggested to men the idea of society, and the many evil dispositions of individuals, the necessity of government. The former, as hath been justly observed by a fine writer, being founded in the weakness, the latter in the wickedness of mankind.1 Yet still this innate thirst for freedom and independence has prevailed; predominating more or less as the reins of government have been relaxed, or straitened, or the subject more or less accustomed to the yoke. Nor need we confine this impatience of restraint to states and societies,--it is equally discoverable in the infant, the child, the school-boy, and the adult: all of whom love to be independent, and abhor controul. Nay, even the gentlest, and (as many suppose) the least-fallen part of our species, who seem all pliability

and submission—I mean the softer sex, are not insensible to this powerful principle. The modest fair, tho' not totally averse to the tender connexion, yet sometimes starts at the word *obey*, and, perhaps, would submit to have the word *govern* substituted in its stead. However, what is wanted in the *word* is amply made up in the *thing*—'tis they at last that move the wheels of society, and indeed, every other wheel; and the haughtiest spirit is finally proud to wear their chains.

What shall we say then? Is this aversion to restraint, and love of liberty, a laudable or illaudable instinct? The answer is plain and easy. Like every other passion, if permitted to rage uncontrouled, 'tis pernicious, but laudable and salutary when properly regulated. When like Charity, it

"Knows with just hand, and steady reins to guide; Betwixt vile shame, and arbitrary pride."

-It is useful both to individuals and to society; a powerful stimulus to industry, and a strong barrier against indolence, servility and want.

But this powerful inclination requires to be checked. The *necessity* of *government*, in the present imperfect state of humanity, is therefore obvious. It is what most of us are able to see, and what all, of late, has sorely felt.

The abuse of government to the perverting its proper ends, has been equally obvious to our sight and feelings.

The arbitrary measures of Britain, with our suc[c]essful opposition thereto, exemplify the latter—our own sufferings from the want of a permanent, efficient, national government, since that success, evince the former.

At length Heaven has again graciously smiled upon us.

A Federal Constitution of government is now ratified by nine, which is, in effect, by all the United States. A constitution which no earthly power short of our own, will ever be able to frustrate, or violate! And next to him "by whom kings reign, and states decree justice," our gratitude should arise to those patriotic sages, the members of the general and particular conventions (many of whom were also instrumental, in the cabinet, and in the field, in promoting that revolution for which we are this day called to rejoice) who, with all the labours of wisdom and public-virtue, inforced with all the powers of eloquence, happily effected the glorious, all-important object. Long, long may they live to taste the blessings it so justly promises!...

1. See Thomas Paine, *Common Sense*: "Society is produced by our wants, and government by our wickedness...."

# 799–B. Harrison Gray Otis Oration Boston, 4 July (excerpt)

On 4 July 1787 the Boston town meeting appointed the town selectmen a committee "to Apply to some learned and Able Gentleman to deliver an ORATION on the 4th of July A.D. 1788. that Day being the Anniversary of Independence of the United States of America wherein the Orator, is to consider the feelings manner & principles which led to this great National Event, as well as the important and happy Effects, whether General or Domestic which have Already and will forever continue to flow from that Auspicious Epoch." Shortly after 9:00 A.M. on 4 July 1788, the selectmen informed the town meeting that they had chosen Harrison Gray Otis to be the orator and the meeting voted that Otis should deliver his address at 11:00 A.M. that day at the Old South Church. Whereupon, the meeting adjourned to the church, there to meet at the appointed hour. Otis "delivered a spirited and well-adapted Oration-which received the plaudits of an immense number of his fellow citizens assembled on the occasion." Later that day the town meeting appointed the selectmen a committee "to wait on" Otis "and in the name of the Town, to thank him for the spirited and elegant Oration this day delivered by him, at the request of the town, ... in which, according to the institution of the town, he considered the feelings, manners and principles which led to that great national event." The selectmen were also directed to request that Otis provide them with a copy of the oration for publication. The selectmen carried out their instructions and Otis responded: "The candour of my fellow citizens led them, yesterday, to approve, what the impartial world may censure or condemn-A sense of duty only outweighs my fears" (page 4 of pamphlet).

On 23 July Benjamin Russell, the printer of the Boston Massachusetts Centinel, announced that he had published that very day a pamphlet entitled An Oration Delivered July 4, 1788. At the Request of the Inhabitants of the Town of Boston, in Celebration of the Anniversary of American Independence (Evans 21355), which was available at his office on State Street for nine pence a copy. The twenty-three-page pamphlet also was offered for sale by the printer of the Portsmouth New Hampshire Spy on 26 August. The excerpt printed here begins on page 9 of the pamphlet.

Harrison Gray Otis (1765–1848), a graduate of Harvard College where he had developed a reputation for oratory, was a Boston lawyer, the son of congressional delegate Samuel A. Otis, and the nephew of Mercy Warren. Although he did not see action, Otis commanded militia infantry at the time of Shays's Rebellion in 1786, the same year that he was admitted to the bar. A Federalist, he eventually became a prominent politician who held these important local and national offices between 1794 and 1832: town representative and state senator; judge of the state court of common pleas; mayor of the city of Boston; U.S. attorney, district of Massachusetts; U.S. Representative; and U.S. Senator.

... I pass over the eventful history of the late war-my feelings otherwise would impell me to devote too large a portion of time, to eulogies upon the heroes who have fought and bled, and those who

have returned to the bosom of their country, objects of jealousy, victims of neglect.

In an attempt to detail the effects which have flown from our independence, and which may hereafter ensue, it is difficult to be concise without seeming superficial, or to be diffusive without becoming tedious-My observations will accordingly be general-I feel the humblest conviction of my incompetency to this duty.-It appears, I speak with diffidence, that while we with reason have lamented the late untoward circumstances of confederated America, we have been prone to err in charging ourselves with the most disgraceful, perfidious conduct, that ever blackened the character of a nation.-Whereas it is certain that to apply the attributes of morality exclusively to any people, is a fallible experiment. All nations conduct nearly alike in similar predicaments, and words only constitute the difference between punick faith and British plausibility. The morose and gloomy have imagined that honour, virtue and publick spirit, had bid an eternal adjeu to the country.-The pusillanimous have descried the flaming thunderbolt threatening us on high; and persons of all descriptions have consented with a most unnatural promptitude to execrate the measures and to blast the honour of the best and happiest country in the globe.

I do not intend to give umbrage to the gentlemen of any country, when I assert that this reproachful dialect has been partly acquired from individuals of a nation whose passions, prejudices and disappointment strongly conspire to pervert their reason—Individuals, who setting at defiance all historical truth and comparison; have stigmatized us with the most opprobrious and unmerited impeachments. Americans have listened to these calumnies but have not considered the time and experience requisite for the arrangement of a new and mighty empire. Thus the clamours of invective have been constantly re-echoed from Georgia to New-Hampshire, from the Alleganey to the ocean.

It must not however be denied that this country has been hastening to a deplorable crisis. I mean only to suggest that the progress was natural and would have been incident to any other nation.

The annals of Britain are stained with a sordid detail of treasons and rebellions more flagrant than were ever conceived in the fields of Wyoming, or perpetrated upon the heights of Springfield.<sup>1</sup> The vigorous monarchy of France has been subject to similar casualties; and this magnificent nation in the frequent reduction and adulteration of her coin, has exhibited as direct a violation of national faith as America would exhibit, should she, which God forbid, declare herself bankrupt at this moment.

One fundamental cause of our late embarrassments, I apprehend

has originated not only in a scarcity of specie, but in the increased demand for the usual circulating quantum.—Previously to the late war there seldom existed in the hands of our farmers a great capital of specie, neither did the exigencies of the country require it. The principal quantities belonged either to our merchants who employed it in commerce, or to persons who lived on a regular income, and who generally possessed property in the British funds. From this last class, a great proportion of the middling landholders obtained money which they immediately expended for active and productive stock—The interest of this money constituted the income of the lenders, and while *this* was punctually paid both parties were at ease—The residue of the farmers who were well established, procured their needful supply of money by the sale of produce to the merchants.

At the commencement of the late war, those monied men who owned property in Britain almost unniversally went over to that country. The treaty of peace, with justice I presume, restored to them the power of recovering their debts, and a long suspension of the interest together with the nature of their new connections rendering the principal necessary, operated to create an instantaneous demand-A demand, which it is manifest would not otherwise have arisen, but in the successive course of mortality-The merchant also finding himself deprived of the usual means of remittance, and having no further need of produce or of labour, became importunate for specifick payments, and withdrew his aid from the farmer and the artisan. War had increased the weight of taxes-our system of finance was imperfect-The late flood of paper became stagnant in the country, and the few remaining rivulets of specie were almost entirely drained by exportations subsequent to the peace.-A few monied men, however, still remained; but seeing so many resources obstructed, they naturally became diffident of lending, and the signet which impressed the first Tender-Act, sealed up all the private coffers in the united continent.

Involved in perplexities so truly distressing, it was natural in men who did not think profoundly to fancy themselves oppressed. The discontented yeomen neglected agriculture, and either migrated towards the western waters, or fostered the woes of each other at home, with sentiments extracted from seditious writings; while the industrious mechanicks—the pride of our cities—were sometimes obliged to sell the implements of their crafts to procure sustenance for wives and children used to happier days—I forbear to expatiate upon the excessive usury, the inconsistent acts of the several States, the continuance of our ruinous commerce with Britain, and the neglect

of our magnanimous ally. All these particulars have contributed to our misfortunes—each of them affords ample subject for an oration.

These disorders were imputed to various causes, and all the remedies of political empiricism have been successively prescribed. A general Convention of the States proved to be the only medium through which our extensive difficulties could be reduced to one point of view. It there became manifest that the language of requisition would no longer be heard, and this had been energetick, only when we had in view, the proscription of our patriots, the devastation of our fields, the conflagration of our cities. When it was easy to repair to the various aceldamas of the continent, and to cherish the spirit of patriotism over tombless heaps of martyred brethren. The veil of our national affairs was afterwards uplifted in the several Conventions of the States .-- What gloomy features did the portrait exhibit! Who can hear without trembling, that this happy land wherein we dwell-the dear domestick seats of which we are possessed-and this temple, sacred to Almighty God, are mortgaged to strangers, subject to conditions the most humiliating, at the same time the most indispensible.

The late Federal Convention, commanding all the sources of information, unawed by fear, unbiassed by self interest, in a time of peace, after mature deliberation, has proposed a form of government, which involves political consequences of greater importance than have yet attracted the attention of mankind—It is neither my design, nor is it within my capacity, to trace the nice dependencies of power, or the admirable assimilation of interest, or any of the peculiar excellencies which distinguish this system—Men whose merits I cannot hope to reach in any future period of my life, have made me to despair of my ability even to repeat with advantage—The measure of my ambition will be satisfied if a few remaining observations be not deemed trite and familiar.

The necessity of a reformation in our national Government, has been long allowed by men of honest and liberal sentiments, however opposed to the federal system—But these cautious characters have deemed it sufficient to concede to our present Congress, the controul of impost and of commerce, alledging that gradual extensions of power might be proportioned to future exigencies—Happy is it for us, my respected friends, that this project has never been adopted. Without a comment upon those exploded systems, which blend the various departments of power, or upon the delusive phantom of a sovereignty, incapable of employing its resources—one argument seems unequivocal—A single body of men, feeling the deficiency of their powers in other particulars, sensible at the same time that great justice was expected from their new acquisition; assailed upon every side by foreign and domestick creditors, anxious as well for their personal honour, as for the credit of the States, must have been too subject to the dominion of their passions—they must have been prodigal of the publick treasure—The spirit of extreme justice would have operated too suddenly— The people have generally been ignorant of the internal measures and arrangements of the Congress, owing to their want of an immediate interest and connection in the appointment of the members; remaining uninformed of the distribution of their taxes, they would have grown jealous and uneasy—and the solitary plea of publick faith would have proved an unavailing apology for the real or imaginary neglect of publick economy.

In regard to the other part of the project—the future enlargement of power—it is rational to conclude that the same opposition which exists at present, would have arisen hereafter to a total change: And what benefit could have resulted from a partial reform, while our prejudices and corruption would have kept pace with the alterations! Admit, however, that the controul of impost and of commerce had been adequate to the purposes of the union, when peace was declared, and that it had been vested in Congress at that moment; other powers of equal importance are now become requisite. If it be a certain position, <sup>(a)</sup>"that the union of the entire strength of individuals, constitutes the political state of a community," it seems equally conclusive that the union of the entire strength of the several members, is essential to the safety and perfection of a political confederacy—To confirm these observations in their relation to our country, we need only advert to a few obvious facts—

Great-Britain still regards this country with a grudging eye, her Ministers have secured her interest in several European cabinets—over the politicks of Holland her ascendency is compleat—France is obliged to attend to her domestick police, which has become somewhat deranged, during her exertions in favour of America. Our fishery is an object of national emulation with our friends, as well as with our foes, and is liable to be molested. Our western posts are not surrendered. Our captive friends in the Mediterranean bend under the burdens of cruel task-masters. Hostile tribes of Indians make daily incursions upon our frontier, and are supplied by Spaniards and by Englishmen, with the apparatus of modern war.—Thus the horrours of savage ferocity are increased by the contribution of civilized malice. <sup>(b)</sup>The emigration into the ceded territories, will soon deserve the attention of a powerful union. The district of Kentucky is already turbulent in its connection with Virginia, and containing 60,000 inhabitants calls aloud for in-

dependence. Indeed it is hardly to be expected that the present exhausted fountain of federal light, can long supply those distant and increasing orbs—The period may not be remote when the spirit of enterprize which has peopled those sequestered regions will betray the atlantick States into a war with Spain, although peace and neutrality be to them of the greatest importance. In short, America stands alone—Her present enfeebled governments offer many temptations to her enemies, and but few allurements to her friends.—The former are malignant, the latter will soon be discouraged—We must either prescribe to the old world the terms of our future connection, or we must receive with gratitude whatever conditions the nations of Europe shall be pleased to impose upon us.

Another principal argument against the federal system, has been founded upon the unqualified alternative of adoption or rejection, to which the States were confined. It was deemed precipitate, and therefore decreed dangerous-I presume, however, by this time, I shall be countenanced in asserting, that had the General Convention adjourned to receive and to consider objections, no system of government would have been adopted by the States unless tendered upon the point of the sword.-The local circumstances of each State, must have given rise to various and incongruous proposals; the fancied probability of attaining their objects, would have rendered each respectively tenacious, and the opponents of the system in the several States, having formed a general league, would have been actuated by the unrelenting fervours of delineated party-Suppose another model after various difficulties had been proposed, is it not manifest that old objections would have been revived, new exceptions started; and that political scepticism would have distracted the community!-Yes my fellow citizens, we might have condemned, we might have executed, but what power could have reversed the attainder-Reason may conjecture, but God only knows, the consequences which must have ensued.

I entreat your indulgence while I employ a few moments in diverting your attention from the view of these melancholy contingencies, which I trust in God we shall never realize, to a more splendid prospect— In the first place may I be allowed to felicitate my countrymen upon the internal appearance of the affairs of this State—The chair of government is adorned by the patriot whose sacrifices and services have endeared him to a grateful people, our faithful Ambassadour is reinvested with the honours of his country,<sup>2</sup> and all the elections lead us ardently to expect and desire a perfect coalition of parties.—The rapid accession of nine States, affords a pleasing presage of the rising glory of the union—Upon this subject it might be expected that I should enlarge—But, my Federal Friends! Victorious wisdom disdains the insults of a triumph—Let us rather repose upon the hope, that the unexampled spirit of conciliation which pervades throughout, will soon bury all but the endearing distinctions of countryman, friend, brother.

A partial sketch of the natural, accidental and moral advantages that will result to the confederated States, shall relieve your patience-For the first class we are indebted to the variety of climate, soil and productions which render the wants and labour of one State subservient to those of another-to our remarkable exemption from pestilence, earthquakes, and the dreadful convulsions of nature-to the rivers which intersect our country-to the security of our harbours, and to the extent of our seacoast, rendering the conquest of the thirteen States almost impossible. The accidental advantages consist in our remoteness from the cabals of Europe-in our convenient position relative to the West-Indies, and in the inability of these islands to flourish without our commerce-in the resources we possess for the discharge of our taxes-in the persecution and oppression of other countriesin the necessity of frugal and industrious habits to which we are subject-in the sense of liberty bequeathed by our ancestors, and finally in our freedom from the dominion of nobles and of hierarchs. Among moral circumstances may be computed, the toleration of religious sects-the respectability of the clergy-the encouragement of education-the liberty of the Press-equality of property-conjugal fidelityand the jurisdiction remaining in the several States, whereby life, liberty and property will be secured.

Happy, happy America, enriched by Heaven with its choicest blessings, may the wisdom of thy councils, and the virtue of thy sons, accelerate the peace, and happiness, and perfection of mankind.

(a) MONTESQUIEU'S Spirit of Laws.<sup>3</sup>

(b) Massachusetts, Connecticut, New York and Virginia, have ceded to the United States of America, the boundless territory which is known by the general appellation of the Ohio Country. It stretches, however, to an immense distance beyond the fertile banks of that mighty river, into cold and lonely deserts, which resound only with the discordant cries of hunted beasts and naked barbarians.—South Carolina has ceded unnumbered acres within the Missisippi, and the conditions of the Georgian grant are, I am told, fulfilled by the ratification of nine States.<sup>4</sup>

1. Otis refers to the resistance in 1787 of the Connecticut settlers in Pennsylvania's Wyoming Valley to the authority of Pennsylvania, and to the Massachusetts militia's dispersal of Shaysite rebels near Springfield in the same year.

2. Otis refers to Governor John Hancock and John Adams; the latter had arrived in Boston on 17 June 1788, after serving as American minister to Great Britain.

3. Montesquieu quotes Giovanni Vincenzo Gravina (1664–1718), an Italian jurist and poet: "The united strength of individuals constitutes what we call the body politic" (*Spirit of Laws*, I, Book I, chapter III, 8).

4. For Georgia's cession of land, see CC:686, note 4.

# 799–C. Enos Hitchcock Oration Providence, 4 July (excerpt)

On 24 June, upon learning that the New Hampshire Convention had ratified the Constitution, a number of the leading citizens of Providence agreed to combine the celebration of that event with that of the anniversary of American independence. A "general invitation" to participate was issued to both town and country. On the night of 3 July, Antifederalists (or the Country Party) began to organize a large armed force on the outskirts of Providence, an overwhelmingly Federalist town. At 11:00 P.M. a committee from Providence was sent to confer with the Antifederalists, who indicated that the celebration would take place peacefully only if the Constitution was not mentioned and if the ratifying states were not saluted. Antifederalists suggested that any mention of the Constitution and the ratifying states would insult both the state legislature, which refused to call a ratifying convention, and a very large majority of the state's freemen, who opposed the Constitution. At 7:00 or 8:00 A.M. on 4 July, committees representing the Antifederalists and the town of Providence conferred and the latter agreed to celebrate only the anniversary of independence. Consequently, Antifederalists, upon the advice of their leaders, did not interfere with the celebration.

The speech in the celebration of the Fourth of July was delivered, at the "Desire of the Inhabitants" of Providence, by the Reverend Enos Hitchcock "to a numerous Assembly at the Baptist Meeting-House." It was described as "full of manly Eloquence and Learning—on the late Revolution—the State of public Affairs, and the New CONSTITUTION, together with the Ratification thereof by NINE STATES.—The most profound Attention marked at once the Abilities of the Speaker, and the Politeness of the Audience" (Providence United States Chronicle, 10 July).

On 5 July news of Virginia's ratification arrived in Providence and was welcomed by two ten-gun salutes, the ringing of bells, and a large procession that passed Hitchcock's house, giving three cheers "to shew their Sense of the Oration he had pronounced the preceding Day" (*ibid.*; and *Providence Gazette*, 12 July).

Hitchcock's speech was published, at the request of the inhabitants of Providence, on 2 August as a twenty-four-page pamphlet by Bennett Wheeler of the Providence United States Chronicle as An Oration: Delivered July 4, 1788, at the Request of the Inhabitants of the Town of Providence, in Celebration of the Anniversary of American Independence, and of the Accession of Nine States to the Federal Constitution (Evans 21145). Advertisements for the pamphlet appeared in the United States Chronicle between 31 July and 9 October 1788. Priced at nine pence, copies were also available for sale in Newport and East Greenwich, R.I. The excerpt printed here appears on pages 9–16 of the pamphlet. Enos Hitchcock (1744–1803), a native of Springfield, Mass., was graduated from Harvard College in 1767, and was ordained four years later, becoming an affiliate pastor at the Second Congregational Church in Beverly, Mass. He was a chaplain in the Continental Army, 1776–83, and in October 1783 he became pastor of the First or Benevolent Congregational Church in Providence. The first chaplain of the Rhode Island Society of the Cincinnati, Hitchcock delivered an oration at the Society's annual meeting on 4 July 1786 entitled A Discourse on the Causes of National Prosperity, Illustrated by Ancient and Modern History, Exemplified in the Late American Revolution (Evans 19713). Two years later, he received the degree of Doctor of Divinity from the College of Rhode Island (Brown University).

... A revolution can never be considered as complete till government is firmly established—and without this independency would be a curse instead of a blessing—These jointly were the great object of the American revolution—and the sole reason why we have not enjoyed all the emoluments of the latter, is because we have not availed ourselves of the former.—We came into national existence without national ideas, and therefore, could not have those arrangements which more experience is suited to give.

This great and extensive people, pressed together by common danger, and loos[e]ly holden by a confederacy suited only to their present exigency, united their efforts for common safety.—But when freed from the apprehensions of danger, their government lost its energy their councils were divided—the refractory conduct of some States the clashing interests of others, and the divided politics of the whole made it utterly impossible to draw forth national resources, and to comply with the just demands of creditors, or even defray the contingent expenditures of government.—The tottering fabric of their union shook from its foundation, and threat[e]ned the very existence of empire.—Feuds and animosities arose in every quarter; and formidable insurrections teemed with all the horrors of civil war—But the liberties of America are the object of divine patronage—a guardian God protects them—This intervening cloud, which spread darkness and distress over our land, was a prelude to a brighter day.

Independence was but a part of the revolution—and as we experienced many difficulties in laying the foundation, it was but natural to look for some in erecting the superstructure.—The blessings of a free government, which many nations have been unable to procure, even after ages of efforts and misery, are granted by divine providence, to the confederating States after a few years struggle.

The boasted wisdom of Greece and Rome were not sufficient to prevent convulsions in the State, nor to effect revolutions by reason or by rhetoric.

Rivers of blood ran down the streets of Rome in defence of the republic, and for the establishment of government—and while her legions triumphed in Italy, Gaul, Spain, Britain, and some parts of Germany,—while the provinces of Asia Minor, together with Armenia, Syria, Mosopotamia and Media, yielded to her superior force—while the most of the inhabitants of Africa obeyed the voice of the Roman senate, there subsisted within her own walls civil wars of the most threat[e]ning and sanguinary nature.

Greece could boast of a Solon, a Lycurgus and other splendid genii, who did honour to human nature, but they cannot boast of a revolution by reasoning, began and completed in so short a period as that which distinguishes the present Era.

It was not till a struggle of more than forty years had distressed and impoverished Holland that she gained her independence, and many more before she attained to a firm government.—England has been a great theatre of civil discord and contention for centuries—In all their variations of the mode of government recourse was had to the sword and almost the whole of that island has been stained with the blood of contending nations and domestic factions;—and they have found that when a sovereign or a system was agreed upon, their reduction to order was far less rapid than ours.

The road to empire has usually been slow and difficult.—As order progressively arose out of Chaos by the forming hand of the great Architect, so must a well-ordered government be collected and formed from the scattered materials and wild mixture of a chaotic people.

How to rescue these materials from the splendid ruins of government, and give stability to the rising fabric with the greatest rapidity and least difficulty, is a question which hath nonplussed all the philosophers, lawgivers and politicians of the world.—The answer to this question has been reserved to the American States.—After ages of fruitless attempts in other countries, this country affords the first instance of an entire revolution in policy and government, the most important that ever marked the progress of human society, without the effusion of human blood, without force, fraud or surprize.

Having had painful experience of the imbecility of the confederation and its inadequacy to the purposes of government, the same patriotism which glowed in the American breast at the commencement of the revolution,—which animated the patriot in the cabinet, and supported the brave soldier in the sufferings and dangers of the field, is renewed in a Convention for devising a more perfect scheme of government.

Behold "the majesty of a free people, convened in awful simplicity, to consult their safety and promote their happiness!"—Here again rises

to view, from the placid shades of domestic life, the great AMERICAN CINCINNATUS, whose virtues in the field can be equalled only by his wisdom in the senate!—Illustrious Chief—May remotest ages reap the fruit of thy toils, and the happiness of a grateful people crown thy most ardent wishes!

The business devolved on this august body is as difficult as it is new as important as it is difficult.—To balance the different interests of the States, so that each might give up its proportion of local advantage for the good of the whole,—to frame a model of government that should so accord with the genius of a large, extensive and free people, of different education, manners and employments, that should meet the consenting voice of even of nine among thirteen independent republics;—to effect all this was a task, to which nothing was equal short of that assemblage of wisdom and philanthropy which appeared in convention.

To the disappointment of our enemies and the joy of our friends, their wisdom and candour accomplished the wondrous deed, and we now behold a system of federal government acceded to with a degree of peace and unanimity, all circumstances considered, which has no parallel.—The abilities and political knowledge,—the patient deliberation and constant attention,—the mutual candour and condescention, which were exhibited by those who framed the Federal Constitution and the similar spirit which actuated the most of those States in which it has been received, do immortal honour to our country, and add lustre to the present age.—Justly may it be said, "The present is an age of philosophy, and America the empire of reason."<sup>1</sup>

Yes, my fellow-countrymen, this is an Era reserved for the commencement of this western empire! The confederating States exhibit to the world the noble image of a community, which, founded in equality and justice, secures to the individuals every enjoyment which can be derived from human institutions.—The fields and the fruits are their own,—the regulations under which they live are theirs—they are the proprietors and lords of the soil, and jointly constitute the sovereignty of their country.—They are under a government of laws and not of men.

Happy people! whose minds are not awed by the dread of a master, nor dazzled with the peagantry of courts, nor enslaved by superstitious customs and prejudices.

It is not my province to point out the merits or defects of that federal constitution which has employed the ablest pens—I will only offer you the sentiment of an ingenious writer on the subject—"The Constitution defines the powers of Congress; and every power not

expressly delegated to that body, remains in the several State legislatures. The sovereignty and the republican form of government of each State is guaranteed by the constitution; and the bounds of jurisdiction between the federal and State governments are marked with precision. In theory, it has all the energy and freedom of the British and Roman governments, without their defects."<sup>2</sup>—And I may venture to add, that whatever defects appertain to this plan of government, it has this perfection, it prescribes a remedy for them, and contains within itself the means of its own cure—a circumstance which ought to have its weight in the minds of all opposers!...

1. A paraphrase of "In the formation of our constitution, the wisdom of all ages is collected—the legislators of antiquity are consulted—as well as the opinions and interests of the millions, who are concerned. In short, it is an *empire of reason*" ("A Citizen of America" [Noah Webster], An Examination into the Leading Principles of the Federal Constitution... [Philadelphia, 1787], 6). For a photographic reproduction of Webster's pamphlet, see Mfm:Pa. 142, p. 714.

2. "A Citizen of America," An Examination, 54 (Mfm:Pa. 142, p. 762).

# 799–D. Simeon Baldwin Oration New Haven, 4 July (excerpt)

On the Fourth of July the city of New Haven, which had already heard about the ratification of the Constitution by New Hampshire and Virginia, celebrated the anniversary of American independence "with uncommon splendour." At about 12:00 noon, a procession which had marched for about a mile and three quarters entered the Brick Meeting House, where Josiah Meigs, the printer of the *New Haven Gazette*, read the Declaration of Independence, a hymn was sung, and a prayer was given. Simeon Baldwin "then pronounced, with the commanding powers of genuine eloquence, an elegant, spirited, and pertinent Oration exhibiting the struggles of a virtuous people for freedom; painting the present prospect of the United States under a constitution handed from heaven to us through the hands of the illustrious convention, and anticipating the glorious scenes which this western world will yet unfold" (Ezra Stiles Diary, 3–4 July, CtY; and *Connecticut Journal*, 9 July).

Later that day, "a Meeting of a respectable Number of the Citizens of NEW-HAVEN, in the State-House" thanked Baldwin for his oration and requested that he furnish them with a copy for publication. Josiah Meigs published the speech in a sixteen-page pamphlet as An Oration Pronounced before the Citizens of New-Haven, July 4th, 1788; In Commemoration of the Declaration of Independence and Establishment of the Constitution of the United States of America (Evans 20941). The excerpt printed here begins on page 8 of the pamphlet. For Baldwin, see CC:605.

... While we pay the tribute of a tear to the memory of the dead, it would be a pleasing task, and civilized nations have ever considered it a useful employment, to celebrate the virtues of distinguished ben-

efactors, who have survived the slaughter of war and triumphed in the freedom of their country. But it would be impossible to do justice to the merits of those patriots who performed conspicuous parts on the theatre of those actions we this day commemorate. My friends, words cannot do it. It is among the dark shades of our national character, that their fellow-citizens have been so reluctant to bestow the honours and rewards of their meritorious services. The real friends of their country still experience the feelings of gratitude and the influence of justice. And there is a reward of which malice cannot deprive the soldier. The reflection that they have done their duty, is a source of happiness more refined than that which arises "from the blaze of glory-the arm of power-or the golden lure of wealth"-Some faithful Ramsay,<sup>1</sup> some American Livy or Tacitus, will transmit their names, their virtues, and their noble deeds to posterity; by whom they will be revered as the most distinguished benefactors of mankind, and eminent examples for future patriots.

A part of the debt which the citizen owes to the soldier and to his country, is, to complete the revolution and to secure its blessings, by a liberal, free, and efficacious government. In vain have we struggled against the grasp of despotism, if we degenerate into licentiousness and anarchy.

The declaration of independence, dissolved the political bands-it cut the nerves of former compacts. The ardor of patriotism in pursuit of the darling object of our wishes, was the only link which held us together. But liberty cannot long exist without government. To bring order out of confusion, and to secure the blessings of society, by the establishment of legal authority, was the laborious attempt of our wise politicians in the midst of invasion and the carnage of war. Most of the States adopted energetic forms of government, and yet favourable in the highest degree to the rights of mankind. A federal system was a more difficult task. The necessity of a national government we had never experienced-against its abuse we were then contending. Prejudices and fears therefore must be combated in the accumulation of federal authority. Accustomed to comply with the recommendations and to grant the requisitions of Congress, the people thought they should never need their commands. They could not see the necessity of coercive power, nor of a revenue under the controul of our national council. Thus circumstanced, the wisdom of Congress was necessarily confined to a system, adapted to those sentiments of the people.

It is necessary in a good government, that the *legislature* should be so formed as not to enact laws without due deliberation—that the *judicial* be competent to the administration of justice, and that the

executive have energy to carry their decisions into execution. The nerves of the whole body politic should concenter in the supreme executive; and the great council of the nation, under due restrictions, ought to command the purse and the sword; or in vain will they weild the sceptre of government. To what purpose should a legislative enact laws if nobody is obliged to obey them? To what purpose make contracts which they can never fulfil? To what purpose remonstrate against the encroachments, the insults-the abuses of other nations, when they have not the appearance of power to oppose them? O my country! thy glory hath been tarnished by the consequences of a confederation totally deficient in these particulars. The resolves of that illustrious body of men, who form the nerveless council of our union, are disregarded at home and despised abroad. Our commerce languishes. Public credit is no more; and the glory of the United-States-where is it? It expired with that patriot warmth which once united our councils. opened our purses, and strengthened our arms without the force of law.

Happy for us there is an ultimate point of national depression, beyond which human nature cannot sink. The degrees of depression will ever be in proportion to the knowledge and refinement of the people. The great bulk of mankind, when they have the means of knowledge, and time to deliberate, in general adopt right political sentiments— Our union, in opposition to the claims of Britain, is a proof of this observation, and a more recent instance is afforded us, from the appointment of that illustrious council of sages who convened, to frame anew the constitution of the United States. The people were sensible that our former confederacy was inadequate to the great objects of a federal union—they were convinced that a more efficacious government was necessary—and they have nobly attempted the change.

To the honour of these states, among the great national events which history preserves for posterity, it will be recorded, that they effected this change in government, in the most calm, deliberate and constitutional method. They despised those mad, tumultuous actions which disgraced many of the great revolutions of antiquity. They acted as became a free and independent people.

Men who were truly the representatives of the people, and the fathers of our empire—whose salutary counsels we had experienced in our most perilous circumstances—whose virtue supported them with fortitude, in "those times which tried men's souls"<sup>2</sup>—who had given proof of their patriotism in the declaratory act of independence—who had approved themselves equal to the greatest negociations in the courts of Europe—who had conducted our armies, rescued millions from the hand of oppression, and triumphantly returned to the joys of private life. Men whose interest was the interest of their country, were deputed by the suffrages of freemen, to give an expiring nation life—to rescue our liberties from the grave of anarchy, and to frame a constitution which might spread and secure the benign influence of freedom and peace to the millions of our posterity. Never—never before did men deliberate upon so interesting an object!

Revolutions in government have in general been the tumultuous exchange of one tyrant for another, or the elevation of a few aspiring nobles upon the ruins of a better system. Never before has the collected wisdom of any nation been permitted quietly to deliberate, and determine upon the form of government best adapted to the genius, views and circumstances of the citizens. Never before have the people of any nation been permitted, candidly to examine, and then deliberately adopt or reject the constitution proposed.

For a moment turn your attention to that venerable body—examine the characters of those illustrious sages, eminent for political wisdom and unsullied virtue—see them unfolding the volumes of antiquity, and carefully examining the various systems of government, which different nations have experienced, and judiciously extracting the excellence of each—listen to the irresistible reasons which they urge—mark the peculiar amity which distinguishes their debates—hear the mutual concessions of private interest to the general good, while they keep steadily in view the great object of their counsels, the firm Consolidation of our union—and then glory, Americans, in the singular unanimity of that illustrious assembly of patriots, in the most finished form of government that ever blessed a nation.

By the Constitution of the United States, all the essential rights of freemen, and the dignity of individual States are secured. The people have the mediate or immediate election of their rulers—to the people they are amenable for their conduct, and can constitutionally be removed by the frequency of election. While the voice of the people is heard in the House of Representatives, the independent sovereignty of the several States will be guarded by the wisdom of the Senate, and the disinterested penetration of the President will balance the influence and prevent the encroachments of each. In this beautiful gradation we find all those checks which are necessary for the stability of republican government, and the due deliberation of the most perfect legislature. Instead of the mad collections of the populace, we shall have a representation accurately calculated upon the numbers and property of the constituents. There will be as little connection between the executive and legislative as the good of government requires, and a total separation of the judicial from both. In each of these particulars, our constitution far exceeds those of the celebrated republics of Greece or Rome. These principles were admired by the wise politicians of antiquity, but had never been reduced to practice: of consequence their republics were of short duration, and while they lasted were perpetually torn by tumultuous seditions, with their train of numerous and tragical incidents.

The checks and balances of different orders, have the same effect in the regularity of government, as the political balance of power in the peace and happiness of nations. Europe has experienced the advantages of this, ever since the union of nations opposed the aspiring Charles V. If the principle had been earlier understood, the world would never have experienced the mad career of an Alexander, nor would the proud Romans so often have triumphed over the armies of the vanquished—nor would the weaker nations, victims to the lust of dominion in the powerful, so often have experienced the rage of war and the tyranny of conquest.

In these States the balance of property is wholly in favour of the people—Merit is the criterion of eminence, and the aristocratic influence is founded in superior wisdom and virtue.

I should weary the patience of my audience, were I to attempt those encomiums which are due to this monument of wisdom. Perhaps it is not the best possible. But we boldly assert that in theory it appears to be the best form of government that has ever been offered to the world. It has been admired by millions, ratified and adopted by the enlightened freemen of *ten* States, and rejected by none who have constitutionally deliberated upon it—Language cannot praise it more.

I am peculiarly happy, my friends, that in addition to the general joy, which usually dilates the heart of every friend of his country on the celebration of this day, I may congratulate this federal assembly, on this most interesting event, the establishment of this constitution an event, if possible, more interesting than independence itself. That gave us birth as a nation—This will give duration and happiness to our existence. The rubicon is now passed. Better prospects are before us. Experience has taught us these necessary lessons—to lop off the libertinism of juvenile independence, to strengthen the basis of our system of government—to correct the disordered parts, and to give greater stability and energy to all its operations.

From the adoption of this constitution, we have every thing to hope—nothing to fear. The powers of Congress are solely directed to national objects.—They are accurately defined and can extend to nothing which is not expressly delegated to them. In other nations, and in the several States in particular, the legislatures have power in every thing not expressly excepted: These exceptions in a good form of government comprehend the essentials of liberty.

The laws of every nation will wear the complexion of the constitution, and in a good government, will uniformly promote the great objects of political society; the protection of the estates, families, persons, fame, and lives of the subjects.

From such a system of government and laws, we may flatter ourselves with the most pleasing prospects. No nation ever yet united in itself all those superior advantages for social dignity. All the influential causes of greatness conspire and indicate the future glory of America. The soil of these States is extremely fertile-the territory is sufficiently extensive, and we are bless'd with an internal navigation which is unparalleled, and open to the world. An uncommon spirit of enterprize is populating our country with astonishing rapidity and enlarging the dominion of these States without the horrors of conquest. Our commerce is free to all nations. Manufactures are daily increasing, and that spirit of industry, which is the strength of government and the friend of virtue, is every where visible. A general intercourse has, in a great measure, removed local attachments and prejudices, and has given a refinement to the manners of the people, not accompanied, we hope, with those vices, which usually attend the same degree of refinement in other nations. The United States are peculiarly happy in a general diffusion of knowledge and in the prospect of greater improvement. Science cannot flourish in a land that is blasted with a tyrant's breath.-She is the companion of freedom, the child of independence. Dependency of government insensibly carries with it, a fatal dependency of mind-Men are too apt to think, that superior power is necessarily connected with superior wisdom, and for modes of acting and modes of thinking, with reverence look up to those on whom they are dependent. Even in these States, we have found it a more difficult task to root out those unnatural prepossessions, which tend to idolize the persons and productions of foreigners, to the prejudice of humble merit among ourselves, than to break the chain of political oppression-A single blow of the decisive sword destroys the one-the slow progress of reason and mental improvement the other. Divested of these prejudices we should be surprized were we to enumerate all the efforts of genius which have signalized Americans, since independence animated them to noble exertions. Witness the numerous mechanical inventions-witness those laborious productions, which will convey to posterity the close reasoning of the theologian, the experiments and inductions of the philosopher, the accuracy of the grammarian, the unsullied veracity of the historian, the bold imagery of the painter, the sublime flights of the poet, and those researches of the profound politician, which have taught the senators of Europe political wisdom, and the citizens of the world the road to freedom and peace.

If such effusions of genius distinguish the infancy of this nation, what may we expect when she shall ripen into manhood!

Our language is a channel of more information than any other language on earth. The press is uncontrouled, and a free toleration of sentiments distinguishes the happy government of these States.

In this country is completed that happy alliance of national blessings, which a lively imagination must have painted for the foundation of a glorious empire. It would not require the warmth of enthusiasm to embellish the piece. I leave it to the lively fancy of my audience to enjoy the animating prospect which we have pursued through the rough paths of war and the revolutions of government.

The best system of government cannot insure freedom, riches, and national respect, without the vigilance, the industry and the virtuous exertions of the people. The labours of the patriot and the friend of humanity are not yet completed. It is their task to remove those blemishes which have hitherto sullied the glory of these States. We may feed our vanity with the pompous recital of noble atchievements—we may pride ourselves in the excellency of our government—we may boast of the anticipated glories of the western continent:—But virtue will mourn that injustice and ingratitude have, in too many instances, had the countenance of law—Humanity will mourn that an odious slavery, cruel in itself, degrading to the dignity of man, and shocking to human nature, is tolerated, and in many instances practised with barbarian cruelty.—Yes, even in this land of boasted freedom, this asylum for the oppressed, that inhuman practice has lost its horrors by the sanction of custom.

To remedy this evil will be a work of time.—God be thanked it is already begun. Most of the southern<sup>3</sup> & middle states have made salutary provision by law for the future emancipation of this unfortunate race of men, and it does honour to the candour and philanthropy of the southern states, that they consented to that liberal clause in our new constitution evidently calculated to abolish a slavery upon which they calculated their riches.<sup>4</sup> It is the duty of every friend to his country to lead his fellow citizens to rational reflections upon these interesting subjects, to abolish as much as possible the vices peculiar to us as a nation and as individuals, and to disseminate still farther those principles of wisdom and virtue which form the pillars of republican government.

Let not the enjoyment of peace and the pride of independence lead us to security and dissipation. But in view of those blessings which have heretofore animated us, let us be ambitious to perform well the duty of good citizens of a free government. Let us attentively guard our political constitutions as the most sacred bulwark of national independence and freedom. Let us ever be watchful of our liberties by attending to the choice of our rulers. Let us make merit the passport to honour, and the confidence of the people the reward of meritorious services. Let us be industrious in our employments, benevolent in our intentions, and diffusive in our exertions. Let us endeavour to perform our parts nobly, and to discharge our duty to our God, our country and ourselves, like true patriots and benevolent christians. We shall then in the smiles of heaven, reap the fruit of all our toil. We shall enjoy respectability abroad, peace, liberty and prosperity at home, and shall give occasion for posterity to celebrate the day, that gave birth to this nation, and INDEPENDENCE to the UNITED STATES of AMERICA.

1. In 1785 South Carolinian David Ramsay had published a two-volume History of the Revolution of South-Carolina.

2. A free rendering of "These are the times that try men's souls" from Thomas Paine's, "The American Crisis," No. I (*Pennsylvania Journal*, 19 December 1776).

3. Baldwin undoubtedly meant "northern," not "southern."

4. Baldwin refers to the slave-trade provision in the Constitution (Article I, section 9, clause 1). By 1788 all of the states (except Georgia) had prohibited the importation of slaves or had imposed high duties on their importation (RCS:Va., 1369, note 1).

# 799–E. James Wilson Oration Philadelphia, 4 July (excerpts)

The inhabitants of Philadelphia celebrated the anniversary of the Declaration of Independence and the ratification of the Constitution by ten states on 4 July. According to the *Pennsylvania Packet*, 7 July, this celebration "far exceeded the expectations of all who saw it, and that in the opinion of men of taste, both citizens and foreigners, it has seldom been surpassed in Europe, and never equalled in America."

At about 9:30 A.M., a grand procession—consisting of eighty-eight divisions and 5,000 people and stretching a mile and a half—began to move through the city. At about 12:30 P.M., the first marchers reached Union Green, having walked a distance of three miles. At Union Green, which eventually held about 17,000 persons, the "Grand Edifice" (in division XXIV) was placed in the center of "A very large circular range of tables, covered with canvas awnings, and plentifully spread with a cold collation, [which] had been prepared the day before by the Committee of provision" (*Pennsylvania Gazette*, 9 July [Francis Hopkinson]). The "Grand Edifice," also called "The New Roof, or Grand Fœderal Edifice," had been mounted on "a carriage drawn by ten white horses." It was a "dome supported by thirteen corinthian columns raised on pedestals proper to that order; the frieze decorated with thirteen stars; ten of the columns complete, and three left unfinished; on the pedestals of the columns were inscribed, in ornamented cyphers, the initials of the Thirteen American States; on the top of the dome a handsome *cupola*, surmounted by a figure of Plenty, bearing her cornucopias, and other emblems of her character; the dimensions of this building were as follows—10 feet diameter, 11 feet to the top of the cornice, the dome 4 feet high, the cupola 5 feet high, the figure of Plenty 3 feet 6 inches, the carriage on which it was mounted 3 feet high, the whole 36 feet in height; round the pedestal of the edifice these words,—'In Union the Fabric stands firm'" (*ibid.*).

As soon as the end of the procession reached the "Grand Edifice," probably after 1:00 P.M., James Wilson, a signer of the Constitution and a principal Federalist spokesman, delivered an oration from that building, "but owing to some mistake, the cannon began firing just as he began to speak, so that no one could understand anything he said. It was, however, afterwards printed and much admired" (Autobiography of Charles Biddle ... [Philadelphia, 1883], 227. This description of the speech by Biddle, former vice president and now clerk of the Pennsylvania Supreme Executive Council, perhaps explains why Philadelphia newspapers said little about a speech delivered by one of the most articulate supporters of the Constitution.). According to one account, written by Francis Hopkinson, Wilson was "complimented" upon the completion of his oration "by Capt. Claypoole's corps of light infantry with a feu de joy, three rounds by battalion and three huzzas" (Pennsylvania Gazette, 9 July). A later account written by Hopkinson, describing what occurred after Wilson spoke, noted that "The several light companies were then drawn off by captain Heysham to an eminence nearly opposite, where they fired a feude-joie of three rounds, also three vollies, followed by three chears, to testify their satisfaction on this joyful occasion" (Account of the Grand Federal Procession, Philadelphia, July 4, 1788 ... [Evans 21149, 21150], 18. This pamphlet was probably put together by the poet Francis Hopkinson, who was chairman of the arrangements committee for the Fourth of July festivities. For more on this pamphlet, see CC:805.).

James Wilson's oration was printed in the 9 July supplement of the *Penn-sylvania Gazette* (from which the following excerpts have been transcribed). It was reprinted in fourteen newspapers by 6 September: N.H. (1), Mass. (2), R.I. (1), Conn. (1), N.Y. (1), N.J. (1), Pa. (2), Md. (2), Va. (1), S.C. (1), Ga. (1); in the July issues of the Philadelphia *American Museum* and Philadelphia *Columbian Magazine*; and in the August issue of the New York *American Magazine*. The entire oration was also printed in Hopkinson's pamphlet (see above) on pages 14–18. The last five paragraphs printed here were reprinted in the *Hudson Weekly Gazette* on 23 September.

My Friends and Fellow Citizens, Your candid and generous indulgence I may well bespeak, for many reasons. I shall mention but one. While I express it, I feel it, in all its force. My abilities are unequal—abilities far superior to mine would be unequal-to the occasion, on which I have the honor of being called to address you.

A people, free and enlightened, ESTABLISHING and RATIFYING a system of government, which they have previously CONSIDERED, EXAMINED and AP-PROVED!—This is the spectacle, which we are assembled to celebrate; and it is the most dignified one that has yet appeared on our globe. Numerous and splendid have been the triumphs of conquerors. From what causes have they originated? Of what consequences have they been productive? They have generally begun in ambition: They have generally ended in tyranny. But nothing tyrannical can participate of dignity; and to Freedom's eye, SESOSTRIS himself appears contemptible, even when he treads on the necks of Kings.

The Senators of Rome, seated in their curule chairs, and surrounded with all their official lustre, were an object much more respectable; and we view, without displeasure, the admiration of those untutored savages, who considered them as so many gods upon earth. But who were those Senators? They were only a *part* of a society: They were vested with only *inferior* powers.

What is the object exhibited to our contemplation? a wHOLE PEOPLE exercising its *first and greatest power*—performing an act of SOVEREIGNTY, ORIGINAL and UNLIMITED.

The scene before us is *unexampled* as well as *magnificent*. The greatest part of governments have been the deformed offspring of force and fear. With these we deign not comparison. But there have been others who have formed bold pretensions to higher regard. You have heard of SPARTA, of ATHENS and of ROME. You have heard of their admired constitutions, and of their high prized freedom. In fancied right of these, they conceived themselves to be elevated above the rest of the human race, whom they marked with the degrading title of Barbarians. But did they, in all their pomp and pride of liberty, ever furnish to the astonished world an exhibition similar to that, which we now contemplate. Were their constitutions framed by those, who were appointed, for that purpose, by the people? After they were framed, were they submitted to the consideration of the people? Had the people an opportunity of expressing their sentiments concerning them? Were they to stand or fall by the people's approving or rejecting vote? To all these questions attentive and impartial history obliges us to answer in the negative. The people were either unfit to be trusted; or their lawgivers were too ambitious to trust them....

What a *flattering* contrast arises from a *retrospect* of the scenes which we now *commemorate*? Delegates were *appointed* to deliberate and to propose. They *met*, and *performed* their delegated trust. The *result* of

their deliberations was laid before the people. It was discussed and scrutinized in the fullest, freest and severest manner,—by speaking, by writing and by printing—by individuals and by public bodies,—by its friends and by its enemies. What was the issue? Most favourable and most glorious to the system. In state after state, at time after time, it was ratified—in some states unanimously—on the whole, by a large and very respectable majority.

It would be improper now to examine its qualities. A decent respect for those who have accepted of it will lead us to presume that it is worthy of their acceptance. The deliberate ratifications, which have taken place, at once recommend the *system*, and the *people* by whom it has been ratified.

But why—methinks I hear some one say—why is so much exultation displayed in celebrating this event? We are prepared to give the reasons of our joy. We rejoice, because, under this constitution, we hope to see *just government*, and to enjoy the *blessings* that walk in its train....

Allow me to direct your attention, in a very particular manner, to a momentous part, which, by this constitution, every citizen will frequently be called to act. All those in places of power and trust will be elected either immediately by the people; or in such a manner that their appointment will depend ultimately on such immediate election. All the derivative movements of government must spring from the original movement of the people at large. If, to this, they give a sufficient force and a just direction, all the others will be governed by its controuling power. To speak without a metaphor; if the people, at their elections, take care to chuse none but representatives that are wise and good; their representatives will take care, in their turn, to chuse or appoint none but such as are wise and good also. The remark applies to every succeeding election and appointment. Thus the characters proper for public officers will be diffused from the immediate elections of the people over the remotest parts of administration. Of what immense consequence is it, then, that this **PRIMARY** duty should be faithfully and skilfully discharged? On the faithful and skilful discharge of it the public happiness or infelicity, under this and every other constitution, must, in a very great measure, depend. For, believe me, no government, even the best, can be happily administered by ignorant or vicious men. You will forgive me, I am sure, for endeavouring to impress upon your minds, in the strongest manner, the importance of this great duty. It is the first concoction in politics; and if an error is committed here, it can never be corrected in any subsequent process: The certain consequence must be disease. Let no one say, that he is but a single citizen; and that his ticket will be but one in the box. That one ticket may turn

the election. In *battle*, every *soldier* should consider the *public safety* as depending on his *single arm*. At an *election*, every *citizen* should consider the *public happiness* as depending on his *single vote*.

A PROGRESSIVE STATE is necessary to the *happiness* and *perfection* of Man. Whatever attainments are already reached, attainments still higher should be pursued. Let us, therefore, strive with noble emulation. Let us suppose we have done *nothing* while any thing yet remains to be done. Let us, with fervent zeal, press forward, and make *unceasing advances* in every thing that can SUPPORT, IMPROVE, REFINE OF EMBELLISH Society. . . .

# 799–F. Francis Hopkinson: An Ode Philadelphia, 4 July

Francis Hopkinson, the chairman of the arrangements committee for the Fourth of July celebration in Philadelphia, composed "An Ode" honoring independence. Copies of the ode were printed before the "Grand Federal Procession" began, but most appear to have been struck on a float carrying the printers, bookbinders, and stationers of Philadelphia. This float, division LVII of the procession, was "A stage 9 feet square, drawn by four horses" on which ten Philadelphia printing offices had furnished "a Printing-press complete, cases, and other implements necessary to the business." On the float two pressmen and a compositor printed the ode on "the federal printing press" and someone dressed as Mercury, "the god of intelligence," "distributed among the spectators, some thousand copies" of the ode as the procession wound its way through the streets of Philadelphia for about three miles. Another ode, printed in German, "was also thrown amongst the people as the procession moved along. Ten small packages, containing the English ode and the list of toasts for the day, were made up and addressed to the ten states in union respectively; these were tied to pidgeons, which at intervals rose from Mercury's cap, and flew off, with the acclamations of an admiring multitude" (Pennsylvania Gazette, 9 July [Francis Hopkinson]; and Account of the Grand Federal Procession, Philadelphia, July 4, 1788 ... [Evans 21150], 10-11. This second account was probably a revision by Hopkinson of his earlier newspaper version.).

The ode was printed in Philadelphia as a broadside by Mathew Carey (Evans 21151 and 21346). It was also published by Carey in Account of the Grand Federal Procession, Philadelphia, July 4, 1788... (Evans 21150. For more on this pamphlet, see CC:805.).

By 16 August the ode also appeared in thirty-one newspapers, either as a separate item or as part of a lengthy description of the "Grand Federal Procession": N.H. (1), Mass. (3), R.I. (2), Conn. (3), N.Y. (7), N.J. (1), Pa. (7), Md. (2), Va. (3), S.C. (2). The ode was published in the July issues of the Philadelphia *American Museum* and Philadelphia *Columbian Magazine*. The ode printed below has been transcribed from the broadside.

Oh for a muse of fire! to mount the skies And to a list'ning world proclaim— Behold! behold! an empire rise! An Æra new, Time, as he flies, Hath enter'd in the book of fame.

On Alleghany's tow'ring head

Echo shall stand—the tidings spread, And o'er the lakes, and misty floods around, An Æra new resound.

See! where Columbia sits alone,

And from her star-bespangled throne, Beholds the gay procession move along, And hears the trumpet, and the choral song—

She hears her sons rejoice-

Looks into future times, and sees

The num'rous blessings Heav'n decrees, And with HER plaudit joins the gen'ral voice.

"Tis done! tis done! my Sons," she cries,

"In War are valiant, and in Council wise; Wisdom and Valour shall my rights defend, And o'er my vast domain those rights extend.

Science shall flourish—Genius stretch her wing, In native Strains Columbian Muses sing; Wealth crown the Arts, and Justice clean her scales;

Commerce her pond'rous anchor weigh,

Wide spread her sails,

And in far distant seas her flag display.

"My sons for *Freedom* fought, nor fought in vain; But found a naked goddess was their gain: *Good government* alone, can shew the Maid, In robes of SOCIAL HAPPINESS array'd."

Hail to this festival! all hail the day! Columbia's standard on HER ROOF<sup>1</sup> display: And let the PEOPLE'S Motto ever be, "UNITED THUS, and THUS UNITED—FREE."

1. Hopkinson had used the "roof" metaphor before. See his allegorical work, "The New Roof," which was first printed in the *Pennsylvania Packet* on 29 December 1787, and his poem, "The Raising: A New Song for Federal Mechanics," which was first printed in the *Pennsylvania Gazette* on 6 February 1788 (CC:395, 504). Both of these works were widely circulated. In division XXIV of the "Grand Federal Procession" was a float called "THE NEW ROOF, OR GRAND FEDERAL EDIFICE."

799–G. Alexander Reinagle: The Federal March Philadelphia, 4 July<sup>1</sup>

an IN THE AS PERFORMED PROCESSION CRAND. IN PHILADELPHIA THE 4.4 OF JULY 1788 CONFOSED AND ADAPTED FOR THE PIANO FORTE, VIOLIN OR GERMAN FLUTE 8Y ALEX. REINAGLE

1. Alexander Reinagle composed "a grand march" called the "Fœderal March" for the "Grand Federal Procession" that paraded in celebration of the Fourth of July in Philadelphia (Evans 21421). Reinagle's "Fœderal March" was played by a band which made up division XII of the procession. On 10, 12, 15, and 17 July the sheet music for the march, adapted for pianoforte, violin, or German flute, was advertised in the *Pennsylvania Packet* as "JUST PUBLISHED" and for sale by John Aitken, an engraver, for the price of one shilling. The sheet was decorated with a liberty pole and cap.

Alexander Reinagle (1756–1809), an English-born composer, conductor, pianist, teacher, and theatrical manager of Austrian descent, arrived in the United States in 1786 and settled the same year in Philadelphia, where he revived the series of "city concerts." In 1791 he was cofounder of the New Theatre in Philadelphia which gave its first series of concerts in 1793. This company also performed in New York City and Baltimore on a regular basis.

## 799–H. William Pierce Oration

# Savannah, 4 July (excerpts)

On 16 March 1788 the Georgia Society of the Cincinnati appointed a threeman committee to select one of its members to deliver an oration on the Fourth of July. Two weeks later the committee reported that Major William Pierce, a Savannah merchant, had agreed to give the oration. Pierce had been a delegate to the Constitutional Convention in 1787, but he had left that body in early July for New York City. On 20 March 1788 the *Gazette of the State of Georgia* had published a lengthy extract of his 28 September 1787 letter to St. George Tucker supporting the Constitution (CC:634).

"In the forenoon" on the Fourth of July, Pierce "delivered an oration suited to the occasion to a numerous audience at Christ Church" in Savannah (*Gazette of the State of Georgia*, 10 July). After the speech, another three-man committee of the Society of the Cincinnati was given the responsibility of having Pierce's "elegant and animated Oration" printed. The Society itself contracted to purchase 100 copies.

On 24 July James Johnston of the Gazette of the State of Georgia announced that Pierce's speech had been just published as a pamphlet entitled An Oration, Delivered at Christ Church, Savannah, on the 4th July, 1788, in Commemoration of the Anniversary of American Independence (Evans 21393) and that it was available at his printing office. Johnston advertised the sale of this seventeen-page pamphlet in his weekly Gazette until 30 October. Lengthy excerpts of the oration were printed in the Massachusetts Gazette on 2 September. The excerpts printed here appear on pages 5–13, and 17, of the pamphlet.

... Fortunate for mankind the American Revolution happened at a period when the principles of society, and the nature of government, were better understood than at any former existence of the world. Men were taught how to define the rights of nature,—how to search into, to distinguish, and to comprehend, the principles of physical, moral, religious, and civil liberty. The spirit of free investigation had gone forth and stirred the genius of the civilized world; and men no longer fettered by false habits suffered philosophy, guided by truth, to pursue its way through the dark regions of ignorance and superstition, without the dread of persecution. Our Revolution heightened its exertions. It has since gone into the Chambers of the Inquisition, and shaken the pillars on which that awful and bloody tribunal rested; nay it has ventured farther,—it has dared to approach the palaces of despots, and pointed out the boundaries of regal prerogative to Kings. But to proceed in detail where should I end? Great events have a principle of force annexed to their births that drives on their consequences through a succession of ages, and as they pass along they unfold their benefits or injuries to the different societies of the world. It is for posterity to enjoy the blessings of the American Revolution. Enough for us, my friends, that we have been the actors in a great scene intended for the good of mankind. God Almighty grant that it may compleat the end of our hopes.

Many of the events on which have rested the fate of nations have been founded on accidents and trifles that ridicule belief. A circumstance as light as air has been the cause of a people's ruin, or a country's glory. A love adventure proved the destruction of the Trojan people;—the cackling of geese saved the Capitol of Rome from the ravages of the Gauls;—and the much famed Revolution of Switzerland turned, as it is storied, on the flight of an arrow shot from the bow of a private citizen of Uri.

Among more polished nations controverted points (incomprehensible in themselves) have occasioned rivers of blood to flow. We read of a King of France, a Prince of Orange, and a Duke of Guise, who were assassinated, and a King of England who was led to the block, to gratify the vengeance of ignorance and fanaticism. From the well known times of Charles V. to the celebrated peace of Westphalia theological disputes, and ridiculous opinions, made Germany a scene of blood too terrible to behold. And indeed all Europe became a theatre for the most unruly and ungovernable passions to revel in.

How different, my friends, are the times we live in! With what contempt does an American look back and trace over such scenes of past folly!

Our late successful war with Britain stands upon grounds very different indeed! No circumstance of whim or passion moved us,—no fanatic zeal enraged us,—no cause of a popular demagogue inflamed us,—no dethroned monarch to replace,—no sympathetic fury caught from the injury of a favorite citizen urged us to oppose our parent country;—no,—all was the result of reason, and a train of injuries unprovoked, which prompted us to arms. The rights of human nature,

and the benefits of civil liberty, we contended for; the cause of all mankind we engaged in. And is it not astonishing, my countrymen, that a people, bred as we were in the toils of agriculture, accustomed only to the reap hook and the plough, should have ventured to brave the hardships of war, and after an eight years struggle with the veteran troops of Britain to deliver up our country independent and free? Let the volume of records be opened,—let the historic muse come forth, and point to the page where an event of equal magnitude appears.

Our success, if properly improved, will open a vast extent of country, where the oppressed may seek an asylum;—where the industrious may meet a plentiful return for their labor;—and where the virtuous may enjoy safety and peace.

The great scheme of political happiness we have in our power to accomplish: the prospect lies before us;-but as experience alone can teach a people how to direct their way through a wilderness of errors, it is no wonder that we have been so long on our pilgrimage to that happy shore which was unfolded to our view the day we took our station among the nations of the earth. Elated with success,-allured by false schemes of commerce,—and tempted by luxuries which we had for many years before been deprived of, we plunged, without reason or discretion, into habits of expence and idle speculation, that have so entangled and disordered the economy of our affairs as to make us neglectful of every public concern. The different states too, swaved by local considerations, have been unmindful of the general interest, and have suffered the public faith to languish and sicken with reproach. Our Union, every day weakening, would before this have fallen into ruin, had not that wisdom which has guarded us in all extremes pointed to the propriety of consolidating our interests, and uniting our views under the direction of a general government. The different states appear by their Deputies at Philadelphia, to undertake the momentous task. At the head of this great Council presides the immortal Washington, and with him many of those illustrious characters whose signatures grace the scroll of Independence.<sup>1</sup> After four months deliberation the great work is produced. It rises to view like a pyramid, whose broad foundation is the people,-whose summit is their happiness. Let us examine the inscription which relates the story of its birth:—"In all our deliberations" (say the framers) "we kept steadily in view, that which appeared to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety,-perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior

magnitude than might have been otherwise expected,—and the Constitution which is here presented is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable."<sup>2</sup>

This is handed to the people,-its contents are examined,-and, after the utmost freedom of discussion, they come forward, and peaceably join in a new compact. Not led by a blind zeal to favor a system they do not understand, but conducted by reason, they support a plan that can alone save these states from ruin. Here, my Countrymen, is the second great epoch of our history. Let us turn our attention to it, and know why it is that a people smarting under the defects of an old government should maintain the right of judging, altering, and even renewing the rules by which they choose to be bound in a new one, without the spirit of innovation hurrying them into those extremes that have destroyed the liberties of other nations. The reason is with us, and it is fortunate for us too, that the study of government has been attended to by almost every class of people among us, and that the precise point where the line ought to be run between obedience and command is better known in America perhaps than in any other country upon earth.

In contemplating our success in this great undertaking, we should congratulate ourselves that no mischievous or ambitious character should have shaken or disturbed the public mind during the deliberations of the Convention;—and that no popular leader since should have started up to give us law, and take advantage of our divisions.

When changes in a government take place, it is always to be expected that objections, discontents, and parties, will arise. The various schemes of interests which men pursue, make it impossible to establish any system, however perfect, that will not clash with some one or other of their views. Hence arises the feeble opposition made in some of the states to the new Constitution. "Confederated" (say the opposers) "as we have hitherto been, with the addition of a little more power to our Federal Council, will be the only means of preserving our freedom, and supporting the flourishing consequence of our republic." "But to adopt the new Constitution will be to sacrifice at once all the benefits of civil liberty, and to maintain with our own consent a tyranny that will lash and oppress posterity." Astonishing language! Has not experience sufficiently convinced us that the present government of the United States is inadequate to every national purpose? Has it ever been able to call forth from the different states resources sufficient to pay even the civil list, and to keep itself in motion?<sup>3</sup> And as this is the case, and as a blending of our power and interests is essential to our

existence as a nation, does it not appear necessary that some such government, as the one proposed, should assume the place of anarchy? The unequal balance of the old Constitution suspends operations, and, being placed, as it were, out of the perpendicular, it is like the hanging tower of Pisa; it is kept up and supported only by props, that must one day or other fall. It is impossible for any government, constituted as that is, to exert a national principle, where its parts are compleat only when separate, but discordant when united. In all the state governments the three great branches that maintain each other give each separate part of the Union an efficient power to execute its own laws. But, in the Federal Constitution,<sup>4</sup> there is nothing but legislative and recommendatory powers, without even the shadow of authority to support or enforce its decrees. It is impossible to hold together these states by ties so slender,-by powers so feeble and imperfect. To preserve the harmony of a great republic, the strong arm of power should be stretched out against it. Rome never felt her nerves so tightened, nor her people so obedient to the Magistrates, as when Pyrrhus first, and after him Hannibal, shook their swords at the gates of the city. It is a dread of the surrounding nations that has kept together the United States of Holland, and has preserved for better than 400 years the Union of the Swiss Cantons. Whenever that principle of common danger shall cease, farewell to the Belgic and Helvetic Leagues!-they will fall asunder and become petty republics, or unite their interests and become two nations.

We are about, my Countrymen, to experience a change, the effects of which cannot yet be told. One false step now may ruin us forever; should we look back at our former situation and repent, we are undone:—the object lies before us. We must go on, and not halt between disunion and war....

And now, my Countrymen, to close the duties of this day, let me advise you to look back and take a view of the principles on which our Revolution was founded; seriously observe the objects for which we contended; and examine well the benefits which they promise to society if the great end of them could be accomplished. Weigh with unprejudiced minds the circumstances that have obstructed their completion, and unite in such wholesome measures as may still bring them forward to compleat effect.

To accomplish this, remember that unanimity and a happy understanding among ourselves will be necessary. Permit me, therefore, to recommend seriously to your consideration, the cultivation of harmony and good order in society;—cherish a spirit of industry, as the means of doing it;—abandon all idle extravagance;—introduce economy;—love your country;—and dismiss ill-founded animosities. Let friendship and sociability unite you;—destroy all improper distinctions, whether private or political;—and let the spirit of party be exiled forever from among you.

1. Eight of the fifty-five delegates to the Constitutional Convention signed the Declaration of Independence—George Clymer, Benjamin Franklin, Elbridge Gerry, Robert Morris, George Read, Roger Sherman, James Wilson, and George Wythe. All but Gerry and Wythe also signed the Constitution; Gerry refused to sign, while Wythe left the Convention early.

2. Quoted from the letter of the President of the Constitutional Convention (George Washington) to the President of Congress, 17 September 1787 (CC:76).

3. A report of the Confederation Board of Treasury indicates that by 31 March 1788 Georgia had paid nothing on its quota of the congressional requisitions levied between October 1781 and October 1787 (RCS:Va., 652n).

4. A reference to the Articles of Confederation.

# 800. Springfield Hampshire Chronicle, 9 July<sup>1</sup>

It affords us peculiar satisfaction to have it in our power to congratulate our readers on the present happy prospect of a permanent establishment of a wise energetick government; a system completely calculated to promote peace and good order among every class of citizens. There is no country in the known world, which can boast of its superiour for the promotion of commerce and the arts; for wisdom and for energy. The republick of Switzerland in Europe, has long been celebrated for its virtue, and impartiality to its citizens; but that government, when brought in competition with the Grand Federal Columbian Republick, which is now on the eve of its establishment in America, for extensiveness of empire; for the encouragement and promotion of those arts and sciences, which are of infinite importance, and greatly ornamental to a people, capable of making the most useful discoveries-must bear but a small comparison.-Most of the governments of Europe are absolute-or such which in general compel the subject to an implicit obedience to the will of the Monarch. When a people, living under such laws, have a good King and wise Ministers for their rulers, their lot is indeed happy; but when the reverse happens, which is often the case, their misery and wretchedness cannot be described: They are totally divested of those important requisites for relief and succour, which ever ought to be reserved, and held as the sacred and inviolable rights of the people. The Columbian Government in question, while it protects the peaceable and well-disposed under its administration, is intended to frustrate the designs of, and punish the ambitious and designing man, whose views and intentions are not perfectly consonant with the true principles of republicanism.

### 10, 11 JULY, CC:801

While the hostile nations of Europe are involving themselves still more and more in rapine and slaughter, and are striving which shall have the pre-eminence, the Infidel or the Christian, we, the citizens of these United States, being highly favoured by a superintending Providence, are peaceably convening, for the wise and good purpose of ratifying and confirming a system of politicks, which will eventually be productive of the happiest consequences to ourselves and posterity.— True it is, that the Federal Constitution has *had* many opposers; but they are *now* not so numerous—those clouds of prejudice in which the minds of numbers have been involved, are now happily removed: And they are willing to exert their influence (to their honour be it spoken) for promoting peace and harmony among the citizens.

1. Reprinted: New York Packet, 15 July; Newport Herald, 17 July; Baltimore Maryland Gazette, 22 July; Boston Independent Chronicle, 24 July; Pennsylvania Packet, 2 August; Charleston Columbian Herald, 18 August. On 17 July, two weeks before it reprinted the entire item, the Pennsylvania Packet reprinted only the second paragraph. Within two months, this paragraph was reprinted seven more times: N.H. (1), N.Y. (2), Pa. (3), Md. (1). The Baltimore Maryland Gazette reprinted the entire item on 22 July (as two unconnected paragraphs) and the excerpted paragraph on 19 August. Unusually, the Pennsylvania Packet, 9 September, reprinted the paragraph again under the last Baltimore dateline.

## 801 A-B. Coxe and Frazier on Trade and the Constitution<sup>1</sup>

#### 801-A. To James O'Neal

Philadelphia, 10 July (excerpt)

... We have the Satisfaction to observe to you that the affairs of this Country are now placed upon a safe & promising footing by the Adoption of the New Constitution it is binding on the ten States that have adopted & we have no doubt will receive the assent of the three others in the Course of the Summer. The Banishment of paper tenders the Establishment of a Dignified & independent federal Court for the benefit of foreigners, & many other articles favorable to property & distributive Justice render this Measure a Matter of great importance to all Nations, who may incline to trade with us—We hope the administration of Justice thro[u]ghout the Union will be as certain & perfect as the Courts of Great Britain, which alone can establish us in the Confidence of foreign Countries...

# 801–B. To Stephen Blackett Philadelphia, 11 July (excerpt)

... The various foreign Gentlemen connected in the American Trade will have great safety hereafter in their Connexions with this Country from the final Adoption & ratification of the new form of Government. No papers tenders & no law impairing or staying the execution of Contracts can hereafter take place, and our State courts will not have to determine between foreigners & us; but an impartial federal Court We hope too the general effects upon Morals Industry &ca. will be favorable to those who deal with us or who may transfer their families & property to this part of the World We have the pleasure to enclose you a Copy of the Procession which took place here from which you will see the Nature of the various crafts carried on here<sup>2</sup> It may be matter of Amusement if handed to one of your printers for Publication—This City is likely to become the Seat of the new Government which will encrease the Demand for West India Articles, & will have a favorable effect, we expect, on business in general

1. Tench Coxe and Nalbro Frazier formed their Philadelphia mercantile firm in 1783. Most of their trade was with the British West Indies. The two letters excerpted here are in Coxe and Frazier's Foreign Letterbook, Coxe Papers, Series I, Volumes and Printed Material, in the Historical Society of Pennsylvania. Both recipients were Barbados merchants.

2. Coxe and Frazier probably enclosed copies of the *Pennsylvania Gazette*, 9 July [Francis Hopkinson], or the *Pennsylvania Packet*, 9 or 10 July [Francis Hopkinson], both of which printed a lengthy and comprehensive description of the "Grand Federal Procession" that took place in Philadelphia on the Fourth of July.

# 802. Samuel Osgood to Melancton Smith and Samuel Jones New York, 11 July<sup>1</sup>

I am this Moment informed that Judge Ogilivie<sup>2</sup> setts off in a few Hours for Poughkeepsie—

Since I wrote Mr. Smith nothing material has occurrd here excepting that the thirteen States are now represented—And that the Committee appointed in Congress for the Purpose of Organizing the New Government have reported—The Report fixes the first Wednesday in Frebury next for convening the Members of the New Government.<sup>3</sup>

Yesterday the Report was called up—And I understand was postponed without much Objection—The Reason for postponing was—That New York would in all Probability determine in a few Days in favor or against the New Constitution—When this should be known—The Question about Place would be more properly before the House.—

The Anxiety of the Citizens, is probably greater than you would imagine—both Parties seem to me equally to share in this Solicitude— If New York should come in—I am not sure that the Seat of the general Legislature will be New York; yet from the best Information we can get, it is almost reduced to a Certainty—If New York should hold out— The Opposition will have all the Blame laid at their Door for forcing

Congress to leave this City—The Topic will be a feeling & a popular one—Philadelphia I have no Doubt is desirous New York may not come in, for the Purpose of getting Congress removed.—Whatever may be your Sentiments of the Advantage of Congress staying in New York, whether any real Benefit results from it or not, yet the universal Opinion is such now, that it is intimately connected with the Rejection of the Plan—

I know very well your Situation is extremely delicate-& that I cannot help you out of it.-I believe you wish for a good federal Governmenttho' some are ready to deny this-I believe those who have been deemed antifederal, have done a great Deal of good-It appears to me they have very nearly accomplished their Views-In all the States where Amendments have been recommended-The Members in the general Convention, who were of the State Conventions also, have not dared to disagree to such Amendments; They are therefore compleatly committed; as to their own inspired Works.-In the present State of the Business, I am well convinced that those who have had, & still have well founded Objections to some Parts of the Plan: will succeed in their laudable Endeavors of getting those Objections fairly removed.-And I must confess that it appears to me there is so little Danger in assenting to the Plan now-that it has become a Matter of no small Expediency-Indeed the Danger of not obtaining Amendments such as we would wish for, will in my Opinion be greatly enhanced by the Absence of New York.-

It is easy for a Person in my Situation to give his Opinion-But if I was in your's-it is impossible for me to say, how I should receive, & what Weight I should give to such Opinion.-

I am perswaded you will decide conscientiously Be that which Way it may—it will be such as you will be perswaded is for the best Interest of your State & Country.—

I suppose you are so near a Conclusion that I shall see you in this City in a few Days—If you shall be in the Negative, it needs not the Spirit of Prophecy to foretell that your Reception will not be very cordial—I do not suggest this in Order to operate upon your Decisions—But in peculiar Circumstances Men of the firmest Nerves have been operated upon; Witness Cornelius De Witt who altho he had sworn he would not sign the Instrument for reinstating a Stadholder yet signed it with a V. C. & when the Populace Understood V. C. meant Vi Coacta.<sup>4</sup> they obliged him to erase those Letters.—If the Populace of this City are true Descendants, they may when rowzed exhibit some of the Obstinate & ungovernable Passions of their Ancestors.— I will not Trouble you farther for I am satisfied you know more about this great & important Business at this Crisis than I do—except what occurs immediately in the City; & no Doubt others can give you more accurate Information in this Respect than I can.—

1. RC, Collections of the Federal Hall National Memorial, National Park Service, New York City. Smith docketed this letter: "Saml. Osgoods Letter recd. at Poughkeepsie." Osgood, an opponent of the Constitution, was a member of the three-man Confederation Board of Treasury and a former Massachusetts delegate to Congress; Smith and Jones were Antifederalist delegates to the New York Convention meeting in Poughkeepsie. Jones (1734–1819), a Queens County lawyer and a former Loyalist who had remained in British-occupied southern New York during the Revolution, was a member of the state Assembly, 1786–90, and the state Senate, 1791–99; recorder of the city of New York, 1789–96; and state comptroller, 1797–1800. In 1786 Jones and Richard Varick were appointed to codify the laws of New York, and in 1789 their twovolume code was printed by Hugh Gaine of New York City (Evans 22012).

Smith and Jones believed that the serious flaws in the Constitution had to be corrected by amendments. When Virginia became the tenth state to ratify, they sought a way to ratify the Constitution and to join the Union while still pursuing amendments. This letter from Osgood and another dated 3 July from Nathan Dane, a Massachusetts delegate to Congress (CC:797), encouraged Antifederalists in the New York Convention to adopt the Constitution without conditional amendments. In his reply to Dane's letter, Smith indicated that he did not have the time to answer Osgood's "friendly Letter" and he asked Dane to thank Osgood (c. 15 July, John Wingate Thornton Collection, MBNEH).

2. Peter Ogilivie was judge on the Court of Probate of the State of New York, 1787–99.

3. After receiving the act of ratification from New Hampshire—the ninth state to ratify—Congress on 2 July appointed a committee to organize the new government. The committee reported on 9 July (CC:795).

4. Vi coactus or "under duress." Osgood describes an incident which took place in 1672, at which time the office of stadtholder in the United Provinces was reinstated. William of Orange became stadtholder, after John and Cornelius de Witt and their party had been toppled from office. The Dutch populace to which Osgood refers were the inhabitants of the town of Dordrecht, where riots broke out because of the slowness in proclaiming William stadtholder. For the fall from power of the de Witts and their party, see Herbert H. Rowen, John de Witt, Grand Pensionary of Holland, 1625–1672 (Princeton, N.J., 1978).

## 803. William Stuart to Griffith Evans New York, 11 July<sup>1</sup>

#### Dear Evans,

I have received your welcome favor giving a partial account of the Procession in your City on the 4th. inst. in honor of our *Intended.*—Critics might perhaps sneer at this Phrase and ask how can it mean the New Constitution? You I am convinced will not imitate such examples, but agree with me, that the great Body of the People in every Free Government, must always be considered as the Husband of the

Constitution thereof, and consequently that as long as such Constitution performs the duties of Love Honor and Obedience to Her great Constituent Body, or Political Husband, She is entitled to be Kept both in sickness and in Health, with all possible Love and Fidelity by such her said Husband and that on a breach of her Duty she must expect to incur the Pains and Penalties of Divorce. Allegory having been much exhausted, in explaining and discussing this grand, National Question, nothing unhacknyed, struck me at present, but the one I have Introduced, which, to pursue a little further, may we not reasonably conclude that the Anti-Federals, are a train of Hen-pecked Husbands, who having surrendered the Breeches to their dear Domestic Ribs, through want either of skill, or Courage, to Know or defend their own Rights; are led to suppose that the great Body of the People, like unto themselves, will surrender the political Breeches, and suffer themselves to be Beaten, scolded & Cuckolded thus passing off, Generation after Generation, contentedly to Heaven-I have a better opinion of the Understanding & spirit of my Country men, and rather fear, that instead of suffering their Political Rib to Attalantus<sup>2</sup> them-they on their Part will sometimes Play the Infidel, and scold and Cuckold their faithful Wife, which should She at any time attempt to retaliate, They deaf to the doctrine of Lex Talionis,<sup>3</sup> would instantly tear her in Peices!-When will Politics cease to obtrude itself into our Correspondence and Permit us to write on gentler Themes-Friendship, Love &c. &c. [---], if possible, I am as far from both & all ["as?] Indus from the Pole"4 save what I retain for you and one or two others whose Goodness when I cease to esteem & acknowledge. As Othello says, "Chaos will come again"5-Our Procession-Politico, is to be the 22d. Current<sup>6</sup>-I shall write you an Account of it-unless I am previously sent Express to Jove, which is not impossible, I had almost said another word-improbable.-being almost exhausted by the intense Heat of these few days since.

I am Dr. E-Yrs. as usual

1. RC, Evans Collection, PHi. Stuart addressed this letter to the care of Matthew McConnell, a Philadelphia merchant-broker, with whom he had served in the Continental Army during the Revolution. The letter was delivered by a "Mr. Parish." Stuart (d. 1831) was a captain in the New York militia, 1775–76; an officer in the Continental Army, 1776–83; and an original member of the New York Society of the Cincinnati. In 1793 he delivered a learned oration (Evans 27758) on the destructiveness of political faction to the Uranian Society of New York City, a nonpartisan group which met weekly to debate a variety of issues. Evans (1760–1845) served as a clerk in the Continental Army's medical corps during the Revolution, as secretary and storekeeper to the Pennsylvania commissioners negotiating the Treaty of Fort Stanwix, 1784, and as secretary to the commissioners attempting to settle land disputes in Pennsylvania's Wyoming Valley, 1787.

2. According to the Oxford English Dictionary, the term "Atalantis" was first used in a 1709 political satire about those persons who effected the Revolution of 1688 in England. "Atalantis" came to mean "a secret or scandalous history." As used by Stuart, it possibly means "to scandalize them."

3. "Lex talionis" or "The law of retaliation; which requires the infliction upon a wrongdoer of the same injury which he has caused to another. Expressed in the Mosaic law by the formula, 'an eye for an eye; a tooth for a tooth,' etc." (Black's Law Dictionary).

4. "Speed the soft intercourse from soul to soul,/And waft a sigh from Indus to the Pole" (Alexander Pope, "Eloisa to Abelard" [1717], lines 57–58).

5. "Excellent wretch! Perdition catch my soul,/But I do love thee! and when I love thee not,/Chaos is come again" (William Shakespeare, *Othello*, act III, scene 3, lines 90–92).

6. New York City's celebration of the ratification of the Constitution by the requisite nine states was postponed first to 10 July, then to the 22nd, and finally to the 23rd, in the hope that the New York Convention would ratify before the celebration took place.

## 804. Jean-Baptiste Petry to Comte de la Luzerne Charleston, 13 July (excerpt)<sup>1</sup>

... We have just learned, My Lord, that Virginia has ratified the Constitution by a majority of 10 Votes (78 versus 68). According to this news, the North Carolina Convention, which is to assemble on the 21st of the month, will not have, as I had the honor to inform you, the option of rejecting it. Opposition to it still continues with Violence, but it should now diminish in number and will only exist in desperate men who, having nothing to win or lose under the new Government, have everything to gain and nothing to lose under the anarchy that they foment. One would not imagine that the last Edict of the King to encourage the Commerce of the United States with France, served the opposition or now serves it as an argument against the new Constitution.<sup>2</sup> The Inferences that it draws from it for the respect, the regard, the trust of the European powers for Congress, etc., are so pitiful that I will dispense with giving you more details of them.

If I judge, My Lord, the opposition of the other States by that which existed in this one, I observe only men overwhelmed with debts, *tories* or Foreigners who, having nothing, presumed that the upcountry would procure them the comfort and influence they did not have in their own countries. The different States would do very well to choose for the first Congress some men from the opposition who can be distinguished from the rest and make them by this means Fellow Workers in the establishment of this new government. This policy, employed by this State in choosing the leaders of the different parties [as] deputies to Philadelphia, succeeded very well, and it is very probable that one or two of the leaders of the opposition will be elected for the new Congress. According to intelligence received from the upcountry of

this State, one can assert that the ratification of the new Constitution was received with [more?] satisfaction than was hoped for....

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 372, Charleston, ff. 293–98, Archives Nationales, Paris. This dispatch, number 55, was endorsed as received on 12 October 1788. Petry was appointed vice consul at Charleston in August 1783, and shortly after he was made vice consul at Wilmington, N.C. In July 1786 he became consul *ad interim* at Charleston, a position he held until 1792 when he left America. Petry returned and served as consul for Philadelphia from 1794 to 1798.

2. Petry probably refers to the *arrêt de conseil* of 29 December 1787 which lowered the duties on many articles of American produce in the French trade (RCS:Va., 842, note 9, and 1088, note 6).

## 805. Benjamin Rush: Observations on the Fourth of July Procession in Philadelphia, Pennsylvania Mercury, 15 July

On 9 July Francis Hopkinson's account of Philadelphia's "Grand Federal Procession" of the Fourth of July appeared in the *Pennsylvania Gazette* and *Pennsylvania Packet*. Benjamin Rush read this account and forwarded a copy to a friend in Elizabethtown, N.J. (probably Elias Boudinot). Along with the Hopkinson account of the procession, Rush wrote a letter dated 9 July, "adding a few facts and remarks that occur[r]ed during the day, and which were of too minute or speculative a nature to be introduced in the general account published by order of the committee of arrangement." Rush's letter was published on 15 July in the *Pennsylvania Mercury*, without his or the recipient's name. The style and content of the letter establish Rush as the author. His authorship is reinforced by the fact that the reprint of the article found in the July issue of the Philadelphia *American Museum* was bound (apparently by Rush's son James) in the volume of Rush's tracts, now in the Library Company of Philadelphia.

In addition to appearing in the July issue of the Philadelphia American Museum, Rush's letter was reprinted in six newspapers between 18 July and 9 August: N.H. (1), Mass. (1), N.Y. (2), Pa. (1), S.C. (1), and in a pamphlet entitled Account of the Grand Federal Procession, Philadelphia, July 4, 1788..., pp. 19–22 (Evans 21149, 21150). This twenty-two-page pamphlet, on sale for five and a half pence, was published by Mathew Carey, the editor of the American Museum, after having probably been put together by Francis Hop-kinson, the chairman of the arrangements committee for the Fourth of July celebration in Philadelphia. (Carey used the same plates in both the pamphlet and American Museum printings of Rush's letter. For more on reprints, see note 6, below.)

Observations on the Fœderal Procession, on the FOURTH of JULY, 1788, in the city of PHILADELPHIA; in a letter from a gentleman in this city to his friend in a neighbouring state.

My dear Friend, Herewith you will receive an account of our late procession in honor of the establishment of the Fœderal Government.

It was drawn up by Judge Hopkinson, a gentleman to whose patriotism, ingenuity, and taste, our city is much indebted for the entertainment.

To this account I cannot help adding a few facts and remarks that occur[r]ed during the day, and which were of too minute or speculative a nature to be introduced in the general account published by order of the committee of arrangement.

The Procession gave universal pleasure. Never upon any occasion during the late war did I see such deep seated joy in every countenance. Foreigners speak of it in the highest terms, and many of them who have seen the splendid processions of coronations in Europe, declare, that they all yield, in the effect of pleasure, to our hasty exhibition instituted in honor of our Fœderal Government.

The connection of the great events of Independence—the French Alliance—the Peace—and the name of General Washington, with the adoption of the Constitution, was happily calculated to unite the most remarkable transports of the mind which were felt during the war, with the great event of the day, and to produce such a tide of joy as has seldom been felt in any age or country. Political joy is one of the strong emotions of the human mind. Think then, my friend, from the objects of it which have been mentioned, how powerful must have been its action upon the mind upon this occasion.

The first thing that struck me in viewing the procession, was the *occasion* of it. It was not to celebrate a victory obtained in blood over any part of our fellow-creatures.—No city reduced to ashes—no army conquered by capitulation—no news of slaughtered thousands brought the citizens of Philadelphia together. It was to celebrate a triumph of knowledge over ignorance, of virtue over vice, and of liberty over slavery. It was to celebrate the birth of a free government, the objects of which were to lessen the number of widows and orphans, by preventing the effusion of human blood; to save human nature from the disgraces and desolations of war, and to establish and extend the blessings of peace throughout the continent of America.

The order of the procession was regular, and begat correspondent order in all classes of spectators. A solemn silence reigned both in the streets and at the windows of the houses. This must be ascribed to the sublimity of the sight, and the pleasure it excited in every mind; for sublime objects and intense pleasure never fail of producing silence!

Perhaps a greater number or a greater combination of passions never seized, at the same time, upon every faculty of the soul. The patriot enjoyed a complete triumph, whether the objects of his patriotism were the security of liberty, the establishment of law, the protection of manufactures, or the extension of science in his country.

The benevolent man saw a precedent established for forming free governments in every part of the world. The man of humanity contemplated the end of the distresses of his fellow-citizens in the revival of commerce and agriculture. Even the selfish passions were not idle-The ambitious man beheld, with pleasure, the honors that were to be disposed of by the new government, and the man of wealth realized once more the safety of his bonds and rents against the inroads of paper money and tender laws. Every person felt one of these passions: many, more than one, and some all of them, during the procession. No wonder then that it gave so much and such delicate pleasure. But this was not all. The emblems afforded food for the understanding likewise. The history of the most important events of the war, and the inscriptions, and devices upon many of the flags, gave occasional employment for that noble power of the mind, and added much to the pleasure of the sight. Even the senses partook of the entertainment, for the variety of colours displayed in the various ornaments of the machines and flags, and in the dresses of the citizens, together with an excellent band of music, at once charmed the eyes and ears of the spectators, and thereby introduced the body to partake, in a certain degree, of the feast of the mind.

The effects of the procession, upon the minds and bodies of our citizens, deserve to be noticed.—It forced open every heart, insomuch that many people provided cooling liquors, with which they regaled their fellow citizens as they walked in the procession. It likewise invigorated the muscles of the body. The company assembled at eight o'clock, and were upon foot at the place of parade, and in the procession till one. The distance they marched was 3 miles, and yet scarcely a person complained of fatigue, altho' there were many old and weakly people in the procession.—But this sudden excitement of the vigor of the body left a corresponding debility behind it; for I scarcely met a person in the afternoon, that did not complain of fatigue, and discover a desire to retire to rest early in the evening.

It was very remarkable, that every countenance wore an air of *dignity* as well as pleasure. Every tradesman's boy in the procession seemed to consider himself as a principal in the business. Rank for awhile forgot all its claims, and Agriculture, Commerce, and Manufactures, together with the learned and mechanical Professions, seemed to acknowledge by their harmony and respect for each other, that they were all necessary to each other, and all useful in cultivated society. These circumstances distinguished this Procession from the processions in Europe, which are commonly instituted in honor of single persons. The military alone partake of the splendor of such exhibitions. Farmers

and Tradesmen are either deemed unworthy of such connections, or are introduced like horses or buildings, only to add to the strength or length of the procession. Such is the difference between the effects of a republican and a monarchial government upon the minds of men!

I need not suggest to you how much this mixture of the mechanical and learned professions in a public exhibition is calculated to render trades of all kinds respectable in our country. Farmers and tradesmen are the pillars of national happiness and prosperity. It would seem as if heaven had stamped a peculiar value upon agriculture and the mechanical arts in America, by selecting WASHINGTON and FRANKLIN to be two of the principal agents in the late revolution. The titles of farmer and mechanic, therefore, can never fail of being peculiarly agreeable in the United States while gratitude and patriotism live in American breasts. I wish the different trades in Philadelphia may avail themselves of their late sudden and accidental association, and form themselves into distinct incorporated companies. Many advantages would arise to them from such institutions, especially if part of the objects of their union should be to establish a fund for the relief of the infirm or decayed members of their companies, and of their widows and orphans.-Two and six-pence or half a dollar, thrown into a common stock, by each tradesman every month, would produce a fund sufficient for all these benevolent purposes, and would not be missed out of the ordinary profits of his labour. It is impossible to tell how much distress, might, by these means, be prevented, or relieved.

It would give me pleasure to remark upon the effects of every article that composed the Procession. But this would lead me far beyond the limits I have prescribed to myself in this letter.

The triumphal car was truly sublime—It was raised above every other object. The Constitution was carried by a great Law-officer,<sup>1</sup> to denote the elevation of the government, and of law and justice, above every thing else in the United States.

The sight of the ship complete in all its parts, moving upon dry land, conveyed emotions to every heart, that cannot be described— She was a ship of war.<sup>2</sup> I wish the Procession could have been conducted without blending the emblems of Peace and War together; but this was impossible, while armies and navies are considered as necessary appendages of the sovereignty of independent states. The United States have taught the nations of the world, that it is possible to terminate disputes by appeals to reason, instead of the sword. I do not despair of this mode of deciding national disputes becoming general, in the course of the approaching century. It will be a less change in human

affairs, that has been produced by reason and religion in the course of the last two hundred years.

The *clean, white* dresses of the victuallers and bakers were very happily calculated to excite such ideas of their respective arts, as could not fail of being agreeable to every spectator. The two oxen, with their decorations, made a noble figure. They were destined to the slaughterhouse the next day, for the benefit of the poor; but such was the effect of an agreeable association of ideas, that a general outcry was raised, after they had passed by, against the fate that awaited them. The most trifling object derived a value from being connected with this delightful and interesting exhibition.

The large stage on which the carding and spinning machines displayed the manufactory of COTTON was viewed with astonishment and delight by every spectator. On that stage were carried the emblems of the future wealth and independence of our country. Cotton may be cultivated in the southern and manufactured in the eastern and middle states, in such quantities, in a few years, as to cloath every citizen of the United States. Hence will arise a bond of union to the states more powerful than any article of the New Constitution. Cotton possesses several advantages over wool as an article of dress, and commerce. It is not liable to be moth eaten, and is proper both for winter and summer garments. It may moreover be manufactured in America, at a less expence, than it can be imported from any nation in Europe. From these circumstances I cannot help hoping that we shall soon see cotton not only the uniform of the citizens of America, but an article of exportation to foreign countries. Several respectable gentlemen exhibited a prelude of these events, by appearing in complete suits of jeans manufactured by the machines that have been mentioned.

The Clergy formed a very agreeable part of the Procession—They manifested, by their attendance, their sense of the connection between religion and good government. They amounted to seventeen in number. Four and five of them marched arm in arm with each other, to exemplify the Union. Pains were taken to connect Ministers of the most dissimilar religious principles together, thereby to shew the influence of a free government in promoting christian charity. The Rabbi of the Jews,<sup>3</sup> locked in the arms of two ministers of the gospel, was a most delightful sight. There could not have been a more happy emblem contrived, of that section of the new constitution, which opens all its power and offices alike, not only to every sect of christians, but to worthy men of *every* religion.

In the course of the morning many speeches were made by different gentlemen, that arose out of the incidents of the procession.—Mr.

P—4 who walked with the farmers, just behind a man who was sowing grain, upon passing by the lawyers, said, "we sow, gentlemen, but you reap the fruits of our labours." Upon the procession being detained for a few minutes, by an accident having happened to the carriage of the blacksmiths shop, it was said, "That this was all in *order*, for it was an emblem of the obstructions and difficulties the constitution had met with in its establishment from the arts of bad, and the ignorance of weak men."

The remarks of every man partook more or less of his profession, and the constitution received nearly as many new names, as there were occupations in the procession.

The instructors of youth, with a numerous collection of boys of every size and age in their train, formed a most agreeable part of the exhibition. A worthy citizen who served in several battles, during the late war, informed me, that this part of the procession affected him so much as to draw tears from his eyes.

I must not forget to mention that the weather proved uncommonly favourable to the entertainment. The sun was not to be seen till near two o'clock, at which time the procession was over. A pleasant and cooling breeze blew all day from the south, and in the evening the sky was illuminated by a beautiful Aurora Borealis. Under this head another fact is equally worthy of notice. Notwithstanding the haste with which the machines were made, and the manner in which they were drawn through the streets, and notwithstanding the great number of women and children that were assembled on fences, scaffolds and the roofs of houses, to see the procession, *no one* accident happened to any body. These circumstances gave occasion for hundreds to remark that "Heaven was on the federal side of the question."

It would be ungrateful not to observe, that there have been less equivocal signs in the course of the formation and establishment of this government, of heaven having favoured the federal side of the question. The union of twelve states in the *form* and of ten states in the *adoption* of the Constitution, in less than ten months, under the influence of local prejudices, opposite interests, popular arts, and even the threats of bold and desperate men, is a solitary event in the history of mankind. I do not believe that the Constitution was the offspring of inspiration, but I am as perfectly satisfied, that the union of the states, in its *form* and *adoption*, is as much the work of a divine providence, as any of the miracles recorded in the old and new testament were the effects of a divine power.<sup>5</sup>

'Tis done! We have become a nation.—America has ceased to be the only power in the world, that has derived no benefit from her dec-

laration of independence. We are more than repaid for the distresses of the war, and the disappointments of the peace. The torpid resources of our country already discover signs of life and motion. We are no longer the scoff of our enemies. The reign of violence is over. Justice has descended from heaven to dwell in our land, and ample restitution has at last been made to human nature, by our New Constitution, for all the injuries she has sustained in the old world from arbitrary governments—false religions—and unlawful commerce.

But I return from this digression, to relate one more fact, from which I derived no small pleasure, or rather triumph, after the procession was over. It is that out of seventeen thousand people, who appeared on the green, and partook of the collation, there was scarcely one person intoxicated, nor was there a single quarrel or even dispute, heard of during the day. All was order, all was harmony and joy. These delightful fruits of the entertainment are to be ascribed wholly to no liquors being drank on the green, but BEER and CYDER. I wish this fact could be published in every language, and circulated through every part of the world, where *spirituous liquors* are used. I wish further, that a monument could be erected upon UNION GREEN, with the following inscription, with which I shall conclude my letter:

# IN HONOR OF AMERICAN BEER and CYDER.<sup>6</sup>

It is hereby recorded, for the information of strangers and posterity, that 17,000 people assembled on this green, on the 4th, of July, 1788, to celebrate the establishment of the constitution of the United States, and that they separated at an early hour, without intoxication, or a single quarrel.—They drank nothing but Beer and Cyder. Learn, reader, to prize those invaluable FEDERAL liquors, and to consider them as the companions of those virtues that can alone render our country free and respectable.

Learn likewise to despise

#### SPIRITUOUS LIQUORS, as

Anti-fæderal, and to consider them as the companions of all those vices, that are calculated to dishonour and enslave our country.

Since writing the above I have been informed, that there were two or three persons intoxicated, and several quarrels on the green, but there is good reason to believe that they were all occasioned by spirituous liquors, which were clandestinely carried out, and drank by some disorderly people, contrary to the orders of the day.

I have only to beg your pardon for the length of this letter, and to assure you of the great regard with which, I am your sincere friend and humble servant, \_\_\_\_\_\_.

Philadelphia, 9th July, 1788.

To — , Elizabethtown, New-Jersey.

P.S. I had like to have forgotton to inform you of two important facts that have occurred since the procession. 1st. It has been the happy means of uniting all our citizens in the government, and 2d. it has made such an impression upon the minds of our young people, that "fœderal" and "union" have now become part of the "hous[e]-hold words" of every family in the city.

A small anecdote connected with the effects of the procession shall finish my postscript.

A worthy German who carried the standard of one of the trades, when he came home, desired his wife to take care of the flag 'till the next time he should be called upon to carry it, "and if I die, (said he) before I can have that honor again, I desire that you would place it in my coffin, and bury it with me."

1. In division XIII Chief Justice Thomas McKean and Pennsylvania Supreme Court justices William Augustus Atlee and Jacob Rush, "in their Robes of Office," rode "In a lofty ornamented Car, in the form of a large eagle, drawn by six horses, bearing THE CONSTITUTION, framed, and fixed on a staff, crowned with the cap of Liberty—The words, 'THE PEOPLE,' in gold letters, on the staff, immediately under the Constitution" (*Pennsylvania Gazette*, 9 July [Francis Hopkinson]).

2. The federal ship Union was in division XXXII of the procession and was described as "Mounting 20 guns, commanded by John Green, Esq; Capt. S. Smith, W. Belchar and Mr. Mercer Lieutenants; four young boys in uniform as midshipmen; the crew, including officers, consisted of 25 men." It was "33 feet in length, her width and depth in due proportion. Her bottom is the barge of the ship Alliance, and the same barge which formerly belonged to the Serapis, and was taken in the memorable engagement of Captain Paul Jones, of the Bon Homme Richard, with the Serapis. The Union is a master piece of elegant workmanship, perfectly proportioned and complete throughout, decorated with emblematical carvings, and finished, even to a stroke of the painter's brush. And what is truly astonishing, she was begun and compleated in less than four days, viz. begun at 11 o'clock on Monday morning, the 30th of June, and on the field of rendezvous on Thursday evening following, fully prepared to join in the Grand Procession. The workmanship and appearance of this beautiful object commanded universal admiration and applause, and did high honor to the artists of Philadelphia, who were concerned in her construction. She was mounted on a carriage made for the purpose, and drawn by ten horses. A sheet of canvas was tacked all around, along the water line, and extending over a light frame, hung to the ground so as entirely to conceal the wheels and machinery. This canvas was painted to represent the sea, so that nothing incongruous appeared, to offend the eyes. The ceremonies in setting sail, receiving the pilot on board, trimming the sails to the wind according to the several courses of the

line of march, throwing the lead, her arrival at Union Green, casting anchor, being hailed and welcomed with three cheers, and the Captain forwarding his dispatches to the President of the United States, &c. &c. were all performed with the strictest maritime propriety—but neither time or the space allotted for this account will permit such a detail, as would do justice to the conduct of Capt. *Green* and his crew, and to the Architects and several workmen concerned in this beautiful feature in our grand procession. Those particulars may be subjects of future display and amusement" (*Pennsylvania Gazette*, 9 [uly [Francis Hopkinson]).

3. Rush refers to Jacob Raphael Cohen, the rabbi of congregation Mikve Israel. Describing division LXXXV that included the city's clergymen, one observer noted that "Scarcely any who composed a part of the procession, made a more conspicuous figure, than the clergy, who displayed a complete triumph over religious prejudices. The Jew joined the Christian; the Episcopalian the Presbyterian, the Seceder the Roman Catholic, all walked arm in arm, exhibiting a proof of worldly affection, and testifying their approbation of the new constitution" (Joseph Grove John Bend to Abraham Beach, July 1788, *The Historiographer of the Episcopal Diocese of Connecticut*, No. 10 [December 1954], 11).

4. Probably Richard Peters, a lawyer and state assemblyman from Philadelphia County, who, among others, "headed" the farmers in the line of march. Peters, a gentleman farmer, published essays on agricultural topics.

5. In his last speech to the Pennsylvania Convention on 12 December 1787, Rush considered "the origin of the proposed system, and fairly deduced it from heaven, asserting that he as much believed the hand of God was employed in this work, as that God had divided the Red Sea to give a passage to the children of Israel, or had fulminated the ten commandments from Mount Sinai!" (RCS:Pa., 593). Rush was sharply criticized for this speech (CC:357), possibly forcing him to retract "this new species of *divine right*" in favor of the position he takes in this sentence.

6. This section of Rush's letter on beer and cider was reprinted in the Virginia Centinel, 6 August. Since 1782 Rush had been a leader in the growing temperance movement and in 1784 he published a pamphlet entitled An Enquiry into the Effects of Spirituous Liquors Upon the Human Body, and Their Influence upon the Happiness of Society, which was widely circulated over the next several years (David Freeman Hawke, Benjamin Rush: Revolutionary Gadfly [Indianapolis and New York, 1971], 260, 302-4, 370-71).

### 806. Pennsylvania Gazette, 16 July<sup>1</sup>

The United States of America, says a correspondent, present a most comfortable prospect to the European world, since the adoption of the new fœderal constitution. In every nation of the *old* world RELI-GIOUS LIBERTY is denied to some of their subjects or citizens. The *established* church in each is the favorite of their respective governments. The most virtuous, the most learned, and the most judicious dissenter, in Great Britain or Ireland, is excluded from a share in the government, unless he will sacrifice his virtue by complying with TESTS and CEREMONIES, which he considers as impious or unmeaning. Numberless attempts have been made to unshackle that numerous, learned and pious body of people, *the British dissenters*, but in vain. This, then, is their country. Over the face of this country settlements were scattered, in the last and present century, by the forefathers and relations of these very dissenters. The Presbyterians, the Quakers, the Congregationalists, the Anabaptists, the Roman Catholics, and several other churches, all of whom now enjoy the most perfect religious liberty, free from the jealousy and oppression of an established church; and all of whom have the freest access to places of honor or profit in the government. The new feederal constitution confirms and secures to all for ever these great blessings, by providing, in the most clear and positive terms, that no religious test shall ever be required of any officer of the United States. In addition to this most comfortable fact, all manufacturers in Europe, who find themselves distressed for want of employment, will find certain and great profit from introducing their various branches here. The distance of America from any manufacturing country holds out to all, who may incline to come hither, one great and certain advantage which cannot be taken from them. The expences of importing, and the duty on importation, amounts to one fifth or twenty per cent. on the whole value or first cost in Great-Britain or Ireland. Suppose a piece of goods to be worth five pounds sterling in Great-Britain, and that the raw materials cost two pounds ten shillings, then the labor and profit of making is two pounds ten shillings; but as it costs one fifth to bring and sell it here, the manufacturers have three pounds ten shillings here for the labor and profit on fifty shillings worth of raw materials, instead of two pounds ten shillings only in Europe. If these facts are properly considered by men of sense in Europe, there can be no doubt but that we shall see numbers of new branches introduced from thence.

1. Reprints by 8 September (12): Vt. (1), Mass. (2), R.I. (2), Conn. (1), N.Y. (3), Pa. (1), Md. (1), Va. (1). The Providence United States Chronicle, 7 August, and the Vermont Gazette, 8 September, printed this item under the heading: "For the INDUSTRIOUS and the OPPRESSED of the OLD WORLD."

## 807. Francis Hopkinson to Thomas Jefferson Philadelphia, 17 July (excerpts)<sup>1</sup>

... You will perceive that our great object for near a Twelve month past has been the Formation & Ratification of a new System of Federal Government—I sent you the Plan proposed by the General Convention, long ago—Since the World began, I believe no Question has ever been more repeatedly & strictly scrutenized or more fairly & freely argued, than this proposed Constitution—It has now been solemnly ratified by 10 States viz. New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina and

Georgia-New York now hesitating-North Carolina to determine the last of this month,-Rhode-Island has not even call'd a Convention but seems disposed to do it-Whether This is the best possible System of Government, I will not pretend to say-Time must determine; but I am well persuaded that without an efficient federal Government, the States must in a very short Time sink into Contempt & the most dangerous Confusion-Many Amendments have been proposed by the ratifying States, but discordant with each other-A Door is left open in the Constitution itself for Amendments; but so large a Concurrence is made necessary that, it may be supposed none will be admitted but such as shall co-incide with general Opinion & general Interest.-The new System was long argued & powerfully opposed in Virginia:-however, she made the 10th. assenting State, by a Majority of 11 in Convention-Nothing can equal the Rejoicings in the Cities Towns & Villages thro'out the States on the late fourth of July in Celebration of the Declaration of Independence & the Birth of the new Constitution-The Papers are fill'd with Accounts of Processions, Toasts &c-As a Specimen, I enclose the Exertions of Philadelphia on this Occasion<sup>2</sup>-Altho' the State of New York hath not ratified, & it is very doubtful whether she will or no,-yet the City is making grand Preparations for an Exhibition on the 22d.<sup>3</sup> It is confidently talk'd that if the Convention should reject, the City of New York, with Straten & Long Islands, will seperate themselves from the State & join the Union-

... I wish you was here during the Formation of our new Government—we shall be in Want of Men of Ability & Integrity to fill important Departments—much will depend upon our first off-set....

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 369–71. The letter was carried from Philadelphia to New York City by Rodolphe Tillier, who was planning on leaving for France. Tillier, a former resident of Berne, Switzerland, who had married an American from Philadelphia, did not leave for France until at least 10 August when Edward Carrington also gave him a letter to take to Jefferson. In a letter of 21 December 1788, Jefferson acknowledged the receipt of Hopkinson's letter (Boyd, XIII, 495–96; XIV, 369–71).

2. Hopkinson probably included his account of Philadelphia's "Grand Federal Procession" that had been printed in the *Pennsylvania Gazette* and *Pennsylvania Packet* on 9 July. This account was also printed in a pamphlet entitled *Account of the Grand Federal Procession, Philadelphia, July 4, 1788*... that Hopkinson himself probably put together (Evans 21149, 21150).

3. For the New York City celebration, see CC:803, note 6.

### 808. John Adams to Arthur Lee Braintree, Mass., 18 July<sup>1</sup>

I am much obliged to you, for your kind Congratulations on my arrival,<sup>2</sup> and Mrs Adams returns you her Compliments and Thanks.

The Accession of Virginia, to the New Constitution is a great

Event.—You and I should not materially differ, I fancy, if We were to compare Notes of a perfect Commonwealth. But I consider the present Project, as a commencement of a national Government, to be a valuable Acquisition.

What would Aristotle and Plato have said, if any one had talked to them, of a fœderative Republick of thirteen states, inhabiting a Country of five hundred Leagues in extent?

The new Government must Act with Caution and make itself felt, by its Beneficence, or We shall have a new Convention for Amendments. it is a severe Mortification to me, to find so many of my old Friends, in opposition. But this is no surprise to me, as I have always differed very materially from them in opinion of the best Plan of Government.

1. RC, Peter W. Straus Collection, Princeton University Library.

2. Writing from New York City on 4 July, Lee told Adams, who had arrived in Boston on 17 June, that "Tho I am not an Admirer of the new Constitution, yet as you approve of it & as a great many wise & good men expect much honor & advantage to our Country from the adoption of it, I congratulate you also on the accession of Virginia, to its adoption. Our latest Accounts from the Convention of this State inform us that notwithstanding the ratification of Virginia a great majority continues firm against adoptg" (Adams Family Papers, MHi).

## 809. Thomas Jefferson to Edward Rutledge Paris, 18 July (excerpt)<sup>1</sup>

... I congratulate you on the accession of your state<sup>2</sup> to the new federal constitution. this is the last I have yet heard of, but I expect daily that my own has followed the good example, & suppose it to be already established. our government wanted bracing. still we must take care not to run from one extreme to another; not to brace too high. I own I join those in opinion who think a bill of rights necessary. I apprehend too that the total abandonment of the principle of rotation in the offices of President & Senator will end in abuse. but my confidence is that there will for a long time be virtue & good sense enough in our countrymen to correct abuses. we can surely boast of having set the world a beautiful example of a government reformed by reason alone without bloodshed. but the world is too far oppressed to profit of the example....

1. FC, Jefferson Papers, DLC. Printed: Boyd, XIII, 377-79.

2. South Carolina.

## 810. William Brown to William Cullen Alexandria, Va., 19 July (excerpt)<sup>1</sup>

... I have nothing to amuse you with in the way of News-In such a Country as this, & especially under its present circumstances, the principal object of attention is its own local politicks, which cannot be very interesting to you-Since our seperation (in point of government) from Great Britain, & the institution of Democracy throughout these States, our Government hath on experience been found to be quite too feeble & inefficient, both as to Matters of foreign & of domestic concern; we have indeed been approaching fast towards the evils of Anarchy; good order hath been supported among us more by the quiet temper of the inhabitants & their living much dispersed from one another on farms, by the plentifull nature of the Country, & the habits of good order & regularity that we imbibed under the Monarchy, than by the efficacy of our Government-the well-disposed among us however are sensible of the defects of our Political System, & we are on the eve of adopting a scheme that promises to correct them at least to a degree; at any rate we shall exhibit in the course of a few months to come, what, I believe will be a novelty in Politicks-the effectuating a considerable & important revolution in our Government, without bloodshed or violence of any kind, but with the deliberate consent of the People of a large number of independent Soveriegnties covering a Country of 1500 Miles Extent, & differing in climate, pursuits & interests . . .

1. RC, Miscellaneous Manuscripts Collection, PPAmP. Brown (1752–1792), an Alexandria physician, received his medical degree from the University of Edinburgh in 1770, where he studied with William Cullen. Brown was surgeon general of the Middle Department, Continental Army, 1777–78, and physician general of that body, 1778– 80. In 1778 he wrote the first pharmacopoeia published in the United States. After the war he occasionally visited George Washington at Mount Vernon, where in the 1780s he treated some of Washington's slaves. Cullen (1710–1790), a prominent and wellpublished physician, taught medicine and related fields at the University of Edinburgh, 1755–89, and was president of the Edinburgh College of Physicians, 1773–75. He helped to prepare a new edition (1774) of the Edinburgh Pharmacopæia.

# 811. George Washington to Jonathan Trumbull, Jr. Mount Vernon, 20 July<sup>1</sup>

My dear Trumbull.

I have received your favor of the 20th of June and thank you heartily for the confidential information contained in it. The character given of a certain great Personage, who is remarkable for neither forgetting or forgiving, I believe to be Just. What effect the addition of such an extraordinary weight of power and influence as the new Arrangement of the East-India affairs gives to one branch of the British Government cannot be certainly foretold: but one thing is certain, that is to say, it will always be wise for America to be prepared for events.<sup>2</sup> Nor can I refrain from indulging the expectation that the time is not very distant, when it shall be more in the power of the United States than it hath hitherto been, to be forearmed as well as forewarned against the evil contingencies of European politics.

You will have perceived from the public Papers, that I was not erroneous in my calculation that the Constitution would be accepted by the Convention of this State.<sup>3</sup> The Majority, it is true, was small, and the minority respectable in many points of view. But the great part of the minority here, as in most other States, have conducted themselves with great prudence and political moderation; insomuch that we may anticipate a pretty general and harmonious acquiescence. We shall impatiently wait the result from New York and North Carolina. The other State which has not yet acted is nearly out of the question. As the infamy of the conduct of Rhode Island outgoes all precedent, so the influence of her counsels can be of no prejudice. There is no State or Description of men but would blush to be involved in a connection with the Paper-Money Junto of that Anarchy. God grant that the honest men may acquire an ascendency before irrevocable ruin shall confound the innocent with the guilty.

I am happy to hear from Genl. Lincoln and others that affairs are taking a good turn in Massachusetts,<sup>4</sup> but the Triumph of salutary and liberal measures over those of an opposite tendency seems to be as complete in Connecticut as in any State and affords a particular subject for congratulation. Your friend Colo. Humphreys informs me,<sup>5</sup> from the wonderful revolution of sentiment in favour of federal measures. and the marvellous change for the better in the elections of your State, that he shall begin to suspect that miracles have not ceased;6 Indeed, for myself, since so much liberality has been displayed in the construction and adoption of the proposed General Government, I am almost disposed to be of the same opinion. Or at least we may, with a kind of grateful and pious exultation, trace the finger of Providence through those dark and mysterious events, which first induced the States to appoint a general Convention and then led them one after another (by which steps as were best calculated to effect the object) into an adoption of the system recommended by that general Conventionthereby, in all human probability, laying a lasting foundation for tran-

quility and happiness; when we had but too much reason to fear that confusion and misery were coming rapidly upon us.

That the same good Providence may still continue to protect us and prevent us from dashing the cup of national felicity Just as it has been lifted to our lips, is the earnest prayer of My Dear Sir, Your faithful friend And Obedt. Servant

1. FC, Washington Papers, DLC. Trumbull (1740–1809), Washington's aide-de-camp from 1781 to 1783, was a Lebanon, Conn., farmer, and a justice of the peace of Windham County. He served in the state House of Representatives, 1774–75, 1779–81, 1788–89 (speaker), and the U.S. House of Representatives, 1789–94 (speaker, 1791–93).

2. Washington refers to Trumbull's 20 June letter in which Trumbull quoted from a letter of his brother John in London respecting an act that Parliament had just passed "for the better regulation of affairs in India," which gave considerable money and power to the Crown. The "certain great Personage" referred to by Washington was George III (Washington Papers, DLC).

3. On 8 June Washington wrote Trumbull, predicting that Virginia would ratify the Constitution (RCS:Va., 1588–89).

4. On 3 June Benjamin Lincoln informed Washington that he had been elected lieutenant governor and John Hancock governor, both triumphing over Antifederalists. Lincoln added: "In our last house of representatives the antifederalists could carry any vote they pleased and there cannot be a doubt but if it had been with them to determine the question they would instantly have rejected the constitution with triumph—In the present house it has I am confident a great majority in its favor, much greater than it had in the convention" (Washington Papers, DLC).

5. David Humphreys of Derby, Conn., a former aide-de-camp to Washington, resided at Mount Vernon from 18 November 1787 until he traveled with Washington to New York City in April 1789 for Washington's inauguration as President.

6. On 20 June Trumbull himself had written Washington that "The Triumph of Fœderalism has been great in Connecticut since last Winter.—The Opposition which then existed, is now dwindled into meer unimportance. . . . Indeed much pleased have I been in the Course of our late Sessions of Assembly, to observe a Disposition towards public Measures much better than has prevailed for some Years past—Pray God this happy Change may continue!" (RCS:Conn., 600–601).

## 812. Abraham Clark to Thomas Sinnickson New York, 23 July<sup>1</sup>

I am favoured with yours of the 12th. instant by Major Story which I recd. yesterday,—his Journey I find has been unsuccessful.<sup>2</sup>

As to my sentiments respecting the New System of Government, altho' you do not ask, yet, as I find by your Letter it will be Acceptable, I think it not amiss to give them.—They have at no time been concealed.—I never liked the System in all its parts. I considered it from the first, more a Consolidated government than a federal, a government too expensive, and unnecessarily Oppressive in its Opperation; Creating a Judiciary undefined and unbounded.—with all these imperfections about it, I nevertheless wished it to go to the States from Congress just as it did, without any Censure or Commendation,<sup>3</sup> hoping that in Case of a general Adoption, the Wisdom of the States would soon amend it in the exceptionable parts; Strong fears however remained upon my mind untill I found the Custom of Recommending amendments with the Adoptions began to prevail.<sup>4</sup>-This set my mind at ease. It became clear in my opinion from the Oppositions, and the general concurrence in proposing amendmts. that the present plan must undergo some alterations to make it more agreable to the minds of the great Numbers who dislike it in its present form. The Amendments I wish are not numerous;-many proposed by the different Conventions appear of but little Consequence, yet some are important and must be Acceded to if ever the Government sits easy. From this State of the matter, wishing amendmts. as I do, you will readily conclude I anxiously wish every state may come into the adoption in order to effect a measure with me so desireable; in which case, from the general current of amendments proposed, we shall retain all the important parts in which New Jersey is interested.

To your quere about our paper money, I dare not venture a Conjecture what effect the new Government will have upon it: I Suppose, however, no interference will be had in that or any Law now in force so far as respects Citizens of the same State. In Continental affairs, and between Citizens of different States I Suppose the case will be otherwise. our paper probably will not then be received in the Treasury of the United States, or in our State by Citizens of another State, in which Cases it will cease to be a legal tender.

As to the Arrears of Taxes payable to the Continental Receiver, I believe our paper will readily be received: The difficulty of obtaining money from the exhausted state of our finances makes our money, notwithstanding the loss sustained upon it, eagerly sought after; I know public Creditors are anxious to Obtain orders on our Loan officers when they can hear he hath any of our paper on hand; large orders have been given upon him which the holders Accepted in expectation of receiving paper only: As to Specie they know at present none is expected.

If any remedy is applied to our paper money it must come through our Legislature: I believe it would have a good effect if the Interest and such of the principle as may be paid in was destroyed, and the amount of the Interest raised by taxes.<sup>5</sup>

It is said the Speaker is about calling our Legislature on account of the Adoption of the New Constitution; this is altogether unnecessary as the New Congress will not be convened before February, the Sit-

uation of several States require such a distant time; the Usual time of meeting in October will be soon enough to make the necessary provision for appointing officers &c.

We have been some time in Suspense about the event of the New Constitution in this State; The Accounts of last evening were that the Convention had Adjourned to a future day; if that is the Case they mean at next meeting to adopt it. before I seal this I may likely hear whether the above report is true or not.

P.S. I cannot find that the Acct. of the Conventions Adjourning is Supported by any good Authority.

1. RC, Conarroe Autograph Collection, PHi. This letter, addressed to Sinnickson in Salem, N.J., was sent free under Clark's frank as a New Jersey delegate to Congress. The address page has this statement in Clark's handwriting: "The Post Master at Philada. is desired to forward this to Mr. Sinnickson." Sinnickson (1744–1817), a Salem merchant, was a member of the New Jersey General Assembly, 1777, 1782, 1784–85, 1787–88, and of the U.S. House of Representatives, 1789–91, 1797–99.

2. John Story had been in New York City seeking compensation from Congress for his services during and after the American Revolution. In March 1788 Congress rejected one claim, but in September 1788 it approved some compensation (JCC, XXXIV, 16–18, 107–8, 366, 500).

3. In late September 1787 Clark took an active part in the debate in Congress over the manner in which the Constitution should be submitted to the states. In the end, Congress adopted his proposal that it be submitted without approbation or censure (CC:95).

4. The Massachusetts Convention was the first to propose recommendatory amendments on 6 February 1788 (CC:508).

5. For a commentary on a potential action by New Jersey concerning paper money, see *Pennsylvania Gazette*, 16 July (Appendix I, below).

## 813. A Friend of Society and Liberty Pennsylvania Gazette, 23 July

On 23 July Tench Coxe, one of the most prolific Federalist propagandists, published in the *Pennsylvania Gazette* "A Friend of Society and Liberty," an essay which sought to demonstrate that certain criticisms of the Constitution were groundless. The essay was reprinted in six newspapers: R.I. (1), N.Y. (1), Pa. (3), Md. (1), and as a German-language broadside in Philadelphia.

Coxe actively disseminated the essay. On the same day the essay was printed, Coxe wrote James Madison then in New York City, explaining that the essay "was written to soothe some remaining discontents in one or two of our western Counties that have been very grossly deceived." Coxe added that "If it will be of any service in the less enlightened parts of New York, it might be of use to republish it" (Rutland, *Madison*, XI, 195). In western Pennsylvania during the early months of the year, large numbers of Antifederalists petitioned the state legislature requesting that it not "confirm" the state's ratification of the Constitution; while the New York Convention, then in session and controlled by Antifederalists, had not yet ratified the Constitution. (For the discontent in Pennsylvania's western counties following that state's ratification of the Constitution, see RCS:Pa., 670-725.)

Madison replied on 30 July that "The observations addressed to your Western inhabitants are in my opinion as well timed as they are judicious. They will be republished here" (Rutland, *Madison*, XI, 210). On 5 and 6 August "A Friend of Society and Liberty" appeared in the New York *Daily Advertiser*, with this prefatory statement: "We have been requested to publish the following from the Pennsylvania Gazette, of the 23d ult."

Coxe also sent the essay to Baltimore lawyer Robert Smith, explaining that "The enclosed paper addressed to our Western Inhabitants is calculated to remove some very gross errors and prejudices. From Hartford [Harford County] back it may have some Effect in Maryland, and I find the last argument about the representation thought well of in many places. Tis a simple stile, calculated to be understood, where education blesses, but few and in a small degree—I wish you may think it worth republishing. Our principal inducement to it was to shew the opposition, that tho we were successful, we were not disposed to cease from exertion, while a prejudice remained to be done away" (Coxe to Smith, 5 August, Coxe Papers, Series II, Correspondence and General Papers, PHi. In the Maryland Convention, the opposition to the Constitution came from Harford County and two counties to the west and south of it, Baltimore and Anne Arundel.). The Baltimore Maryland Journal reprinted "A Friend of Society and Liberty" on 12 August.

In Philadelphia, Coxe paid Melchior Steiner to print fifty copies of the address in German on a half sheet. On 5 August Steiner also published the essay in his German-language newspaper, the *Philadelphische Correspondenz* (Philip Wager to Coxe, 4 August, Coxe Papers, Series II, Correspondence and General Papers, PHi).

On 24 July Federalist John Canan (also Cannon) of the western county of Huntingdon, who was in Philadelphia attending the Pennsylvania Supreme Executive Council, forwarded to James Hamilton, a Carlisle attorney, the issue of the *Pennsylvania Gazette* containing "A Friend of Society and Liberty," expressing a wish that the essay be printed in the *Carlisle Gazette* (Hamilton Collection, PHi). On 13 and 20 August the *Gazette*, which was published in strongly Antifederalist Cumberland County, printed the address. Coxe's essay was also reprinted in another western Pennsylvania newspaper, the *Pittsburgh Gazette*, on 9 August. Lastly, on 28 August it appeared in the *Newport Herald*, in Rhode Island, one of the two states which had not yet ratified the Constitution.

"A Friend of Society and Liberty" was possibly also one of the first salvos in the campaign for the upcoming elections for the new Congress under the Constitution. Some time after the publication of this essay, perhaps also as a part of this campaign, Coxe's four essays signed "An American Citizen" and James Wilson's widely circulated 6 October 1787 speech to a Philadelphia public meeting were published by Philadelphia printer Zachariah Poulson, Jr., in a thirty-three-page pamphlet entitled *An Examination of the Constitution for the United States of America*... (Evans 21028). A paragraph (see note 7, below) from "A Friend of Society and Liberty" was used as a footnote to "An American Citizen" IV in this pamphlet. For "An American Citizen" I–IV, first published between 26 September and 21 October 1787, see CC:100-A, 109, 112, 183-A; and for Wilson's speech, first printed on 9 October 1787, see CC:134.

To the INHABITANTS of the Western Counties of Pennsylvania.

FRIENDS and COUNTRYMEN, The promotion of harmony and peace throughout the state must be the cordial desire of every good man. Fatigued as we all are with political discussions, nothing can justify this new call of your attention but a concern for the ease of mind of our friends and fellow citizens.

A variety of circumstances have contributed to give an unpleasing appearance to parts of the fœderal constitution-it is my intention decently to examine into some of them, and to pursue the investigation as a high and serious duty, in the performance of which whatever is disrespectful, unkind or passionate, would be unworthy and criminal. I conjure you, my countrymen, to exercise your own native sense. I entreat you to remember the dignity of a free people. Do not permit yourselves to form opinions, or to adopt any line of conduct that may affect the public, without cool and serious reflexion in the hour of stillness and composure at your own houses. Take care of the flame which may be kindled in your minds at taverns, places of parade and public meetings. Remember at these places too many are affected by the intoxicating draughts, which are always near at hand. The maddening influence of spirituous liquors is not necessary to keep up the almost divine feelings of a freeman. Avoid then all political meetings in places that expose the people to these temptations. Meet rather at your court-houses, and your places of worship. JUSTICE will not be offended at the presence of freemen, and the sacred temple of THE DEITY himself will not be profaned by the decent and cool deliberations of the sincere sons of liberty.

In the course of the present year many errors have been propagated among you. It was said that our neighbours of Maryland would reject the new constitution. Yet you see the most extraordinary unanimity, considering the pains that were taken there to prove the constitution faulty. Eleven dissentient votes were all the opposition amounted to, and of these, two of the principal were chosen by counties in which they did not reside, contrary to the usual practice and to the resolutions of the legislature; and a third was but a short time a citizen of that state.<sup>1</sup>—You were told also, that Virginia would reject, yet you see their convention have adopted the constitution, and all is tranquility there. You were also told that New-York would certainly reject without hesitation, yet they have been sitting very long, and have not done so. The people of that state, it is positively asserted, are becoming more favourable to the constitution, as they become more fully acquainted with it. There is no doubt too, that an old party difference in their state politics has affected the choice of their convention exceedingly, which you know might easily be the case, but this circumstance has no more to do with the qualities of the new constitution, than with those of the holy scriptures.

A good deal of pains have been taken to make you believe, that Congress will have power to regulate the elections of the state legislatures. Nothing is more untrue. The fœderal legislature can no more regulate the elections of our state representatives, councillors, &c. than they can regulate those of Holland, England or Ireland. Those who assert that the new foederal constitution extends to that point, are either grosly mistaken, or wickedly attempting to deceive you. The meaning of the article about the regulation of elections is this. Your members of the general convention, and those of some other states, saw plainly that Pennsylvania and several other states had paid up about their proportion of the interest on the continental debts, and that some other states, such as Rhode-Island, had not done the same just thing, and that they omitted to send their delegates to Congress, in order that there might not be a due representation in that body, whereby they might prevent a legal requisition to perform this and other acts of duty to the union and our foreign friends. This fell hard upon Pennsylvania and other honest states, and yet the old confederation being defective in not giving power to Congress to remedy the evil, we must have groaned under the hardship for ever, had not the states adopted that article in the new constitution. TEN of them having ratified it, things stand so now that if any one refuses or neglects to perform its duty, and does not send members to the senate, nor does not appoint a time for the people to chuse their representatives in the fæderal house, Congress can say, that the people of each election district in each state shall chuse, in their proper district, the fœderal representatives, to which by the new constitution and by reason they are justly entitled. This is the true meaning of the clause, and it will appear at first view a great security for the liberty and independence of the whole body of the people.

You have been told also, that after the new constitution takes place the officers under it may become perpetual. Now it is fully and absolutely secured that no Representative, Senator, President or Vice-President can continue beyond a stipulated time, and if the people think that time too long they can get their state legislatures to apply for its being shortened. If nine legislatures out of thirteen apply this year, or ten years hence, there must be a convention called to consider

the point (or indeed any thing else which you complain of in the constitution)<sup>2</sup> and then if three fourths of the states approve the alteration, it will be made. But if Congress should want to extend the time of their duration, or wickedly wish to make themselves perpetual, they must get three fourths of the state legislatures to consent to it before it can take place. I believe no body therefore, on due reflexion, will see any cause to fear Congress will ever be able to render their seats perpetual. It will seem foolish to some of my countrymen to take so much pains to remove this apprehension, because they know there is no danger of any such thing, but I can assure them that so much deception and mistake has taken place, that there are many worthy inhabitants of our western counties that have been made very unhappy on this point. I want those good people to read the constitution quietly by themselves, and to judge like reasonable and free men for themselves. I do not want to inflame their passions, nor to hide the subject from them. I wish them to pass a sober, cool and honest judgment on it. They will see that every man among them, whether protestant or catholic, rich or poor, may elect or be elected. The Assembly may chuse any of them a Senator, or the people may chuse any of them a fæderal Representative, or any of them may be chosen Vice-President or President of the United States. Nothing in the constitution forbids it, though they must be sensible that a man must be very good and very wise, to deserve and receive such great trusts from the Assembly and from the people. However, as I said before, any man, rich or poor, protestant or catholic, can be chosen, if he is thought fit by the state legislature, or the people at large, and when he is chosen nothing can prevent his taking his seat and performing his high duties. In other countries religious tests would prevent him, though he were ever so wise, ever so good, or ever so much beloved and esteemed. In Spain a protestant would be disgualified, in Ireland a presbyterian or a catholic would be disqualified, in England a catholic, presbyterian, or any dissenter from their church, would be disqualified. But our new feederal constitution admits all, whether protestant, or catholic, or presbyterian, or episcopalian, &c. for it expressly says there shall be no religious test. Blessed circumstance, for which above all others the favored people of these states should ever raise their grateful voices in praise and thanksgiving to the author of every good and perfect gift. The fœderal connexion, established on these liberal and generous principles, will lead to a sort of fœderal union among the various churches which it has pleased God to raise up in the world. Here none can be particularly favored, none can be particularly oppressed, none can be interfered with-all are equal-all independent of each other.

They will not render to each other nor to the government, tithes, nor tenths, nor free gifts (as they have been preposterously termed) nor any species of taxes, as religious men or societies. Nothing will be expected, nothing will be required but peace and good will, and brotherly loving kindness. This excellent quality of the new government will warm and expand our bosoms whenever we reflect upon it. The liberality and virtue of America in establishing perfect equality and freedom among all religious denominations and societies, will no doubt produce to us a great reward, for when the news of it shall reach the oppressed dissenters from the established churches of Britain, Ireland, Holland, Germany, France, Spain and Italy, and they shall find that it encourages both protestants and catholics, they will at once cry out, America is "the land of promise." There alone can the sincere votaries of religion enjoy their lives, their civil and religious rights and property, without suffering from their attachment to that church in which they have been born and bred, and which they believe to be right and true. Ye Sovereigns of the European world, continue your religious oppressions at your peril. So sure as you persist, thousands of your present subjects, transplanted to the fertile fields, the healthful villages and populous cities of America, shall remind you of your impiety and error, when it shall be too late for you to retrieve the loss.

It has been said, the public defaulters will be excused from paying the public debts they owe. It is not necessary at this time to enter into any enquiry, who are public defaulters. That will lay with those persons to whose charge it is committed by the laws. All monies had and received by any citizen of the United States must be accounted for, or if not duly accounted for, the person who received the same will be liable to an action at law, and if he has it, must pay the same; if he has it not, his body will be subjected to imprisonment, as in other cases. The United States have been declared *a body corporate* by acts of the state assemblies. Those acts remain in force, and were the states to separate and become thirteen unconnected sovereignties, (unallied and unconfederated) they would still be a body corporate, and that body corporate could sue any public defaulter, in the courts of any state, wherein his person or his property could be found.

The militia have been alarmed with assertions, that they could be sent not only from Georgia to New-Hampshire, but even to France. The jurisdiction of the fœderal legislature does not extend beyond the territories of the United States. Congress therefore could have no more authority over the militia on the high seas, or in France, than they could have over the militia of Ireland, or the regular troops of the Empress of Russia. These things cannot be believed by the people, who invent and propagate them. They can only have in view to deceive you into acts of violence and disorder. It is a blow wickedly aimed at your peace, and their wishes must be to make you the miserable instruments of destroying your own happiness. It is said our militia may be marched to New-Hampshire, or North-Carolina, under the powers of the new constitution. To this we may answer, that by the laws and constitution of this state, the militia of Washington may be ordered by council to Philadelphia, or those of Philadelphia to Washington.<sup>3</sup> The distance between them is the same as between New-Hampshire and Philadelphia, or between Philadelphia and North-Carolina, but the march from Washington to this city would be much worse, through great tracts of unsettled country, and bad roads over the Laurel-hill, the Allegheny mountain, &c. Though this power is possessed by our Assembly, who ever feared the use of it. The truth is the legislature of Pennsylvania must necessarily have authority over the militia, in every part of their jurisdiction, and so of the fœderal legislature; but a moment's reflexion will shew you, that the fœderal government can never be so foolish as to order the people from one extreme of the union to the other, nor could they expect, that the militia, with arms in their hands and officers appointed by their own state governments, would ever obey. It is preposterous and criminal to endeavour to alarm and enflame you with such things. In the same way they have attempted to make you uneasy about a poll tax. They ought rather honestly to inform you, that an impost of five per cent. upon all foreign merchandize, and more upon some will take off a great part of the land tax, which you have been used to pay, and they should observe to you, that as you wear and use a great deal of home made articles of dress, food and drink, which the citizens cannot obtain and the monied men do not use, the citizens and the monied men will pay a very large proportion of the public revenues, to the great relief of the landholder, and the industrious poor. This will hereafter be the best poor man's country upon earth,<sup>4</sup> and a most happy one at the same time for the rich, if they have sense and virtue with all; and if they have not sense and virtue, they must endeavour to get them, or they will not be half as happy as their poorer fellow citizens.

It has been asserted, that the new constitution, when ratified, would be fixed and permanent, and that no alterations or amendments, should those proposed appear on consideration ever so salutary, could afterwards be obtained. A candid consideration of the constitution will shew this to be a groundless remark. It is provided, in the clearest words, that Congress shall be *obliged* to call a convention on the application of two thirds of the legislatures; and all amendments proposed by such convention, are to be *valid* when approved by the conventions or legislatures of three fourths of the states. It must therefore be evident to every candid man, that two thirds of the states can *always* procure a general convention for the purpose of amending the constitution, and that three fourths of them can introduce those amendments into the constitution, although the President, Senate and Fœderal House of Representatives, should be *unanimously* opposed to each and all of them. Congress therefore cannot hold *any power*, which three fourths of the states shall not approve, on *experience*.

There is one grand operation of the new fœderal constitution, favorable to general liberty, which I do not remember to have heard from any of its friends. It is well known, that in most of the states the members of their Houses of Representatives are chosen in equal numbers from each county, and in the eastern states, in equal numbers from each town, without any regard to the number of taxable inhabitants, or the number of souls. Hence it is very frequent for a county, with ten thousand souls, to send only the same number of members to the State house of representatives, as a county with two thousand souls, by which each person in the least populous county has five times as great a voice in electing representatives, as his fellow citizens of the most populous county. This is clearly a departure from the principles of equal liberty, and ought to be altered in the several states. I speak the more plainly because our state constitution is free from that fault in the formation of our house of Assembly. Now the new constitution expressly declares, that the Fœderal Representatives shall be in the proportion of one to every thirty thousand,<sup>5</sup> which accords with reason and the true principles of liberty. This house, therefore, so far as national matters go, will remedy the evil spoken of in the several states, and is one more great step towards the perfection of equal liberty and genuine republicanism in America.<sup>6</sup> It must strongly recommend the fæderal constitution to the serious reflecting patriot, even though he may formerly have had doubts, and it will suggest to the several states the propriety of reconsidering that point in their respective constitutions. Pennsylvania, though right in the principles on which her legislative elections are and will be held, is less safe from the existence of this fault in the adjoining sister states of Virginia, Maryland, Jersey, Delaware and New-York.7

There is now so universal a spirit of conciliation, acquiescence and mutual concession prevailing through the states, that the prospect before us is the most comfortable. The minority of Massachusets were lately called upon to elect Mr. Gerry their Governor, because of his being of their former sentiments on the new plan of government, but

they gave much the greater part of their votes to Mr. Hancock, who voted for the plan, believing, on better considering the constitution, that he was right. Governor Randolph, of Virginia, though at first an opposer of the constitution, proved one of its most useful friends in the Virginia Convention, and finally voted for its adoption. The leading members of the minorities of South-Carolina, Connecticut, Massachusets and New-Hampshire, have said they would promote the execution of it, and its chearful acceptance by the people. The clearest symptoms of acquiescence and good will have also appeared among the gentlemen in Pennsylvania, who originally opposed the new constitution. May God grant that this reign of REASON, MODERATION AND BROTHERLY AFFEC-TION, may daily increase among the good people of this flourishing commonwealth.

1. The two dissenters who were elected from counties in which they did not reside were Samuel Chase and Luther Martin, perhaps Maryland's leading Antifederalists. In April Coxe himself had been informed of this fact by one of his Maryland correspondents before the Maryland Convention met. (See John Relfe to Coxe, 18 April, Coxe Papers, Series II, Correspondence and General Papers, PHi.) The dissenter who had lived in Maryland for only "a short time" was John Francis Mercer who had moved there from Virginia in 1785.

2. Article V of the Constitution provides that Congress shall call a constitutional convention on the application of two-thirds of the state legislatures.

3. Coxe refers to Washington County on the far southwestern frontier of Pennsylvania.

4. For the use of the term "best poor man's country" and variations on it, see James T. Lemon, *The Best Poor Man's Country: A Geographical Study of Early Southeastern Penn-sylvania* (Baltimore and London, 1972), xiii; 229, note 1.

5. The Constitution reads: "The number of representatives shall not exceed one for every thirty thousand."

6. Writing to James Madison on 23 July, Coxe explained his argument on representation in the U.S. House of Representatives: "The argument urged here against direct taxation by the federal legislature is that no uniform mode can be devised that will be found practicable, & that, if the mode is not uniform, it will be considered as partial. In other places it has been opposed because it will reduce the importance of the state governments. The latter, I believe, is the principal reason here tho covered & kept out of sight by putting the other forward. An Argument in favor of direct taxation being left with Congress, of some weight & of a very popular complexion, is that the federal house (the great check belonging to the people at large) is constituted upon more equal & truely republican principles than the greater part of the most numerous houses of state legislature. In analyzing the federal & state legislatures a few evenings past to see which of them upon a jealous popular inspection would best stand the touchstone of the peoples feelings & of reason, I find but one point or degree in which the federal house deviates from the most an equal distribution of power & votes among the people at large, & that is in the slave states, where 3/5 of persons not free are thrown in to fix the Number of Representatives. In the state Governments there are several instances of Counties or districts of the smallest size sending the same number of Senators as counties & districts of twice the size, and of counties of the smallest size sending the same Number of reps. as counties of three, four & five times their size. Instead of size I should have said population. This argument I have introduced in the enclosed paper" (Rutland, *Madison*, XI, 195. For Madison's reply of 30 July in which he comments on the issue of direct taxation, see *ibid.*, 210.).

7. This paragraph appeared as a footnote in a pamphlet containing reprints of Coxe's four "An American Citizen" essays. (The pamphlet was published after New York's ratification in late July 1788. The footnote was the next to the last paragraph of the fourth essay. For the paragraph from "An American Citizen" IV that was footnoted, see CC:183–A, pp. 436–37.)

## 814. James Madison to Thomas Jefferson New York, 24–26 July (excerpts)<sup>1</sup>

Your two last unacknowledged favors were of Decr. 20. and Feby.  $6.^2$  They were received in Virginia, and no opportunity till the present precarious one by the way of Holland, has enabled me to thank you for them.

I returned here about ten days ago from Richmond which I left a day or two after the dissolution of the Convention. The final question on the new plan of Government was put on the 25th. of June. It was twofold 1, whether previous amendments should be made a condition of ratification. 2. directly on the Constitution in the form it bore. On the first the decision was in the negative, 88 being no, 80 only ay. On the second & definitive question, the ratification was affirmed by 89 avs agst. 79. noes. A number of alterations were then recommended to be considered in the mode pointed out in the Constitution itself. The meeting was remarkably full; Two members only being absent and those known to be on the opposite sides of the question. The debates also were conducted on the whole with a very laudable moderation and decorum, and continued untill both sides declared themselves ready for the question. And it may be safely concluded that no irregular opposition to the System will follow in that State, at least with the countenance of the leaders on that side. What local eruptions may be occasioned by ill-timed or rigorous executions of the Treaty of peace against British debtors, I will not pretend to say. But altho' the leaders, particularly H-y-& M-s-n, will give no countenance to popular discontents violences it is not to be inferred that they are reconciled to the event, or will give it a positive support. On the contrary both of them declared they could not go that length, and an attempt was made under their auspices to induce the minority to sign an address to the people which if it had not been defeated by the general moderation of the party, would probably have done mischief.<sup>3</sup>

Among a variety of expedients employed by the opponents to gain proselytes, Mr. Henry first and after him Col. Mason introduced the opinions, expressed in a letter from a correspondent (Mister Donald or Skipwith i believe,) and endeavored to turn the influence of your name even against parts, of which I knew you approved.<sup>4</sup> In this situation I thought it due to truth as well as that it would be most agreeable to yourself and accordingly took the liberty to state some of your opinions on the favorable side. I am informed that copies or extracts of a letter from you were handed about at the Maryld Convention with a like view of impeding the ratification.<sup>5</sup>

N. Hampshire ratified the Constitution on the 21st. Ult: and made the ninth State. The votes stood 57 for and 46. agst. the measure. S. Carolina had previously ratified by a very great majority. The Convention of N. Carolina is now sitting. At one moment the sense of that State was considered as strongly opposed to the system. It is now said that the tide has been for some time turning, which with the example of other States and particularly, of Virginia prognosticates a ratification there also. The Convention of N. York has been in Session ever since the 17th. Ult: without having yet arrived at any final vote. Two thirds of the members assembled with a determination to reject the Constitution, and are still opposed to it in their hearts. The local situation of N. York, the number of ratifying States and the hope of retaining the federal Government in this City afford however powerful arguments to such men as Jay, Hamilton, the Chancellor[,] Duane and several others; and it is not improbable that some form of ratification will yet be devised by which the dislike of the opposition may be gratified, and the State notwithstanding made a member of the new Union. . .

July, 26. We just hear that the Convention of this State have determined by a small majority to exclude from the ratification every thing involving a condition & to content themselves with recommending the alterations wished for.

As this will go by way of Holland I consider its reaching you as extremely uncertain. I forbear therefore to enter further into our public affairs at this time. If the packets should not be discontinued, which is surmised by some, I shall soon have an opportunity of writing again.

P. S. Crops in Virginia of all sorts were very promising when I left the State. This was the case also generally throught. the States I passed thro', with local exceptions produced in the wheat fields by a destructive insect which goes under the name of the Hessian fly. It made its first appearance several years ago on Long Island, from which it has spread over half this State, and a great part of New-Jersey; and seems to be making an annual progress in every direction. 1. RC, Madison Papers, DLC. Printed: Rutland, Madison, XI, 196–98. The text in italic type was in cipher which was decoded interlinearly by Jefferson.

2. See CC:Vol. 2, pp. 482-85; and Boyd, XII, 568-70.

3. For the failed attempt of the minority of the Virginia Convention, which included Patrick Henry and George Mason, to adopt an address to their constituents at a meeting which was held after the Convention adjourned, see RCS:Va., 1560–62.

4. In his letter of 7 February to Alexander Donald, a Richmond tobacco merchant, Jefferson stated that "I wish with all my soul that the nine first Conventions may accept the new Constitution, because this will secure to us the good it contains, which I think great & important. but I equally wish that the four latest conventions, whichever they be, may refuse to accede to it till a declaration of rights be annexed. this would probably command the offer of such a declaration, & thus give to the whole fabric, perhaps as much perfection as any one of that kind ever had" (RCS:Va., 353–54). On 9 June Patrick Henry referred to Jefferson's letter in the debates in the Virginia Convention (RCS:Va., 1052, 1088. On 12 July James Monroe had also informed Jefferson that his letter to Donald had been alluded to by Henry in the Virginia Convention [RCS:Va., 1705].). On 31 July Antifederalist Willie Jones also referred to Jefferson's letter to Donald in the North Carolina Convention.

5. Madison refers to the 20 December 1787 letter that Jefferson wrote to him. On 31 December 1787, Jefferson sent an extract of this letter to Uriah Forrest, a Marylander in London who had requested his views on the Constitution. Forrest, who left for America in January 1788, was told that he could use the extract, but not to reveal the author. On 28 May 1788 Daniel Carroll, a former member of the Maryland Convention, wrote Madison that Jefferson's letter "was shown at Annapolis." (See Jefferson to Madison, 20 December, and to Forrest, 31 December, CC:Vol. 2, pp. 482–85, 488–92; Forrest to Jefferson, 11 December, Boyd, XII, 416–17; and Carroll to Madison, 28 May, Rutland, *Madison*, XI, 64–65.)

# 815. Woodstock, Conn., Celebrates the Ratification of the Constitution, Massachusetts Spy, 24 July

The town of Woodstock, located in northeastern Connecticut, about twentytwo miles southwest of Worcester and sixty-six miles southwest of Boston, was the scene of an unusual celebration honoring the ratification of the Constitution by nine states. This celebration was one of the few in which women had such a prominent role. On 2 July about sixty-five young women held a spinning bee and with "a number of young men" took part in "an elegant entertainment" at the home of the Reverend Joshua Johnson, pastor of the Third Congregational Church, and his wife. (For another example of women celebrating the ratification of the Constitution, in which sixty-four women and "a large number of gentlemen" took part in Waterford, N.Y., see the Lansingburgh *Federal Herald*, 25 August, Appendix I, below. The *Herald's* report was printed under the heading "FEMALE FEDERALISM.")

The delight that the young women and men of the Third Congregational Church had in commemorating ratification by nine states was probably heightened by the fact that opposition to the Constitution in Woodstock had been considerable. Pursuant to a resolution of the Connecticut legislature, all of the state's towns met on 12 November 1787 to elect delegates to the state Convention. After the Constitution was read in the Woodstock town meeting, the freemen "Largely & Warmly Debated, until the Dusk of the Evening Came on." Following "much Debate & Opposition," the meeting was adjourned until 19 November. On that day an "uncommonly full" meeting failed to elect the first delegate on the first ballot. On the second ballot, it elected Antifederalist Stephen Paine as the first delegate and on a succeeding ballot it chose Timothy Perrin as the second. Immediately after, "many" of the freemen dispersed. Within a short time, however, it was charged that some ineligible men had voted. One voter was questioned, and he confessed that he "had Neither List nor Estate in sd. Woodstock Neither had [he] Lived in the Town for four years." He was eventually fined by the grand jury (RCS:Conn., 452). Despite the charges of election fraud, Paine and Perrin attended the Connecticut Convention, where they voted against ratification of the Constitution on 9 January 1788. (The Connecticut Convention ratified the Constitution by a vote of 128 to 40, becoming the fifth state to do so.)

In the Worcester Massachusetts Spy's account of the Woodstock celebration (printed below), no mention was made of the fact that the town's delegates voted against ratification or that there even had been any opposition to the Constitution. The Spy's report was reprinted in toto in the Salem Mercury and Massachusetts Gazette, 29 July; New Haven Gazette, 31 July; and Northampton Hampshire Gazette, 6 August. The Salem Mercury prefaced the report: "The town of Woodstock, we believe, furnishes the first instance of the LADIES stepping forth as principals in a rejoicing on account of the present pleasing aspect of our political affairs. It is true, we do not discover, in their method of testifying their joy, the magnificence and expense exhibited in the Grand Processions and Festivals of the capital towns: But, to those who are accustomed to view things according to their real merit, abstracted from outside pomp and splendour, it will, we dare say, afford equal gratification, as it involves both pleasure and profit. The following is the account of the Festival at Woodstock, as given in Thomas's Massachusetts Spy."

The Massachusetts Centinel, 26 July, printed an abbreviated and altered version of the Massachusetts Spy's report under the heading "RURAL FEDER-ALISM." This version was reprinted in the Providence United States Chronicle, 31 July; Pennsylvania Packet, 5 August; Springfield Hampshire Chronicle, 6 August; and Trenton Federal Post, 12 August.

Worcester, July 6th, 1788 Upon hearing that nine states had adopted the Federal Constitution, about 40 young ladies in the town of Woodstock, north parish, early in the morning of the 2d day of July, met at the house of the Rev. Mr. Johnson, with their spinning wheels, to manifest their pleasure upon so joyful an event. They spent the whole day in spinning, and many of them found their own flax. In the afternoon about 25 more ladies joined them, with their yarn ready spun, the whole of which at night amounted to 136 scores of linen and tow yarn, about equal quantities, all of which they generously presented to Mrs. Johnson. The same afternoon a number of young men went with their carpenter's tools, and built an ox cart for Mr. Johnson, all new except the wheels, which they presented to him as a gift. In the evening the gentlemen subscribed sufficiently to put the whole of the yarn into cloth. Another circumstance worth notice is, that the ladies carried in provisions of all kinds more than enough to dine the whole, and furnish an elegant entertainment in the afternoon for the company, with spirits sufficient to support their courage through the day. The American spinning wheel was the toast of the day, and the general wish seemed to be, that the Clergy may receive as great advantages from the New Federal Government as Civilians.

# 816. William Pitt Smith: Ode on the Adoption of the Constitution New York Journal, 24 July

When the New York Convention met on 17 June, eight states had ratified the Constitution, one short of the required number needed to adopt the new form of government. On 25 June news reached New York City that New Hampshire had become the ninth state to ratify and on 2 July news of Virginia's ratification arrived. The city's Federalist leaders wanted to combine the annual commemoration of the Fourth of July with the celebration of the ratification of the Constitution by nine and then ten states, but they had ambivalent feelings because the New York Convention, meeting in Poughkeepsie and dominated by Antifederalists, had not yet ratified. Consequently, only independence was celebrated on the Fourth of July. The committee of arrangements of the proposed federal procession honoring ratification, which had taken on huge proportions, postponed the celebration of ratification by nine states three times—first to 10 July, then to the 22nd, and finally to the 23rd.

The official account of the "Federal Procession, In honor of the Constitution of the United States" that was printed in the New York Daily Advertiser on 2 August, stated that "The day having been more than once postponed, in the interesting hope, that this State, then in Convention, would likewise accede to the union, the Committee of Arrangements found it impossible any longer to oppose the patriotic ardor of their fellow citizens. It was remembered however that the great object of exultation was not the ratifying of the Constitution by any one particular State; but the already present existence of an æra in the history of man, great, glorious, and unparalleled—which opens a variety of new sources of happiness, and unbounded prospects of national prosperity!—The adoption of the Federal Plan by this State, tho' not then expected to be immediate, was however with certainty considered among those events, which time, encreasing light, and an over ruling Providence would bring to our view." (This account, signed by Richard Platt, the chairman of the committee of arrangements, was written by Noah Webster.)

At 10:00 A.M. on 23 July the well-planned grand federal procession began its mile-and-a-half march. The procession included ten divisions and about 5,000 marchers representing the professions, merchants, traders, shopkeepers, artisans, craftsmen, farmers, mechanics, students, teachers, and laborers. The number of onlookers was estimated at 20,000. At the end of the march, a banquet was held for about 6,000 people in an elaborate temporary structure designed by Pierre Charles L'Enfant, a French-born architect and civil engineer who had served in the Continental Army.

291

In the seventh division, the city's printers erected "a printers' stage" or "Federal Printing-Press" from which printer Archibald M'Lean of the New York Independent Journal and others struck and distributed to "the multitude" "many hundred copies" of broadsides of two odes which had been especially written for the occasion (New York Packet, 25 July; and New York Daily Advertiser, 2 August). The ode printed below, which appeared in the New York Daily Advertiser and New York Journal on 24 July, was probably written by Dr. William Pitt Smith (1760–1796), a New York City physician. (The text of the document printed below has been transcribed from the New York Journal, which identified the author only as "Dr. S——.") The Daily Advertiser mistakenly noted that the ode was "Composed by Dr. Smite." Two of the newspapers that reprinted the ode, the Massachusetts Centinel, 2 August, and New Jersey Brunswick Gazette, 5 August, noted that it was written by "Dr. Smith." None of the reprinting newspapers referred to "Dr. Smite."

Dr. Smith was a surgeon's mate in the Continental Army during the American Revolution; a grand sachem of the Society of St. Tammany or Columbian Order, 1790; a professor of medicine, 1792–96, and clinical lecturer, 1794– 96, Columbia College; a member of the state House of Assembly from New York County, 1792, 1796; and health officer of the Port of New York, 1795– 96.

The second ode (Evans 45284), distributed to "the multitude" from the "printers' stage," was composed by Samuel Low (b. 1765), a bank clerk and poet. For the text of Low's ode, which is not printed below, see the *New York Packet* or New York *Daily Advertiser*, 25 July.

Dr. Smith's ode was reprinted seventeen times by 27 August: Mass. (2), R.I. (2), N.Y. (7), N.J. (2), Pa. (1), Md. (1), Va. (1), S.C. (1). No copy of the broadside version of the ode has been located, but it possibly resembled the printing found in the New York *Independent Journal* of 26 July, which was published by John and Archibald M'Lean.

The following ODE, on the ADOPTION of the FEDERAL CONSTITU-TION, composed by Dr. S——, and set to Music—Tune, the DAUPHIN, was distributed from the printers stage yesterday, while moving in procession.

Crown'd with auspicious Light,

Columbia's Eagle rise;

Thine Emblems bless our sight,

Thine Honors greet our Eyes!

Nations admire thy rising Dawn, and shall salute thy Day, While Generations yet unborn, receive the genial Ray.

Chorus. An Empire's born!-Let Cannon roar!

Bid echo rend the sky:

Let every heart adore, High heav'n, our great ally! Illustrious æra, hail!

Thy stars in union grow;

Opposing mists dispel

And with fresh splendor glow.

Thy glories burst upon the gloom where darkness drag'd her chains;

The sons of cruelty and death, shall own thy gentle reign, Chorus. An empire's born, &c.

Let joy our hearts engage;

Let foul contention cease;

Exchange, for jealous rage,

Th' enrapturing smile of peace.

No genius human e'er devis'd, a Federal Plan more pure; Wisdom and strength and freedom guard, Columbia's rights

secure.

Chorus. An empire's born, &c.

Now fame exert your pow'rs,

Your silver trumpet raise;

Still Washington is ours,

Thro' earth proclaim his praise:

He once in crimson fields of blood, forbid us to be slaves; And now with an illustrious hand again his country saves. Chorus. An empire's born, &c.

Discord aghast shall frown:

Science her temple rear!

Labour ensure her crown;

And useful arts appear.

Then bend your spears to pruning hooks; break up the gen'rous soil,

While fruits of plenty round the land, reward the reaper's toil.

Chorus, An Empire's born, &c.

Commerce your sail display;

While Agriculture sings;

Where late the Bramble lay,

The Rose of Beauty springs.

Union shall glad revolving years; no partial views remain; Justice aloft advance her scale, and public-virtue reign!

Chorus. An Empire's born, &c.

# 817. Edward Carrington to William Short New York, 26 July<sup>1</sup>

Since the Sailing of the French Packet in June no opportunity of writing has offered except by way of the British Post Office, which, as well on account of the expence, as hazards, I thought an ineligible mode. this goes by way of Holland, and although a private hand is the bearer so far, yet it is probable it may be forwarded by post to Paris. I shall therefore make it as little bulky as possible, and will beg the favor of you to make my apology to Mr. Jefferson, to whom Mr. Madison is writing pretty fully by the same conveyance;<sup>2</sup>—this will, at the same time, incur expence enough, and supercede the necessity of my writing to him.

By the June Packet I did myself the pleasure to inform Mr. Jefferson of the adoption of the constitution in south Carolina as the eighth State<sup>3</sup>-Since that N. Hampshire, & Virginia have also acceded by small Majorities-the Minorities however have acquiesced.-Mr. Madison will inclose papers from whence you will be informed of the characters for and against in Virginia. New York & North Carolina are now in session-the latter convened so lately that we have received no intelligence from her;-She must doubtless follow Virginia implicitly. N. York has been sitting about 6 weeks at Poughkepsi, about 80 Miles from the City. a very great Majority have all along been decidedly in the opposition, but the situation of the business, from the adoption of so great a Number of States, has been embarrassing to them. they have wished to reject, but knew not how to do it-a conditional adoption has been brought forward in a variety of Shapes, but all have even displeased the party projecting them after a little consideration. thus has the time of this assembly been spent; but it is expected that in a very few days, their deliberations will issue in an absolute adoption, attended with recommendatory amendments, nearly such as Virginia have agreed to. Mr. Hamilton Mr. Jay and Chancellor Livingston have Conducted the federalists party. Governor Clinton a Mr. Lansing & a Mr. Smith have conducted the Antifederalists. these have become established terms throughout the United States, to distinguish the Supporters, and opponents of the constitution.

We may now contemplate this Fabrick as erected, and permit me my dear Friend to congratulate you upon the event. so thorough a revolution was never before effected by Voluntary Convention, and it will stand as a lasting monument of a wisdom and congeniality peculiar to America. The system yet requires much to make it perfect, and I hope experience will be our guide in taking from or adding to it: there is however some reason to fear that alterations will be precipitated, so as to prevent some of the benefits which might result from trial. the oponents have acquiesced so far as to attempt nothing unconstitutionally, but, I apprehend it will now be their drift, to get into the Congress men who will promote the measure of a General convention at too early a period. I am persuaded that could the Government operate uninterrupted, for a few years, many of the visionary dangers which have been apprehended, would vanish, and in that time the real defects would be discovered & the remedies suggested.

Congress are now about to put the Government in Train to Commence proceedings—perhaps it will assemble some where about February or March next.

1. RC, Short Papers, DLC. This letter was endorsed "Carrington/31 August," indicating that it was either received or responded to on that date.

2. See Madison to Jefferson, 24-26 July (CC:814).

3. On 9 June Carrington wrote Jefferson that "south Carolina has acceded to the new Constitution by a great Majority. the inclosed papers contain the act, and some of the debates of the Convention" (RCS:Va., 1590).

## 818 A-C. New York Ratifies the Constitution, 26 July

The New York Convention, in which Antifederalists outnumbered Federalists by more than two to one, assembled on 17 June in Poughkeepsie, eightyfour miles north of New York City. By the time that the Convention delegates met, they knew that eight states had already adopted the Constitution. The Convention voted to debate the Constitution by paragraphs in the Committee of the Whole, with the proviso that amendments could be considered at any time. Federalists favored such a method of discussion because they wanted to delay the vote on ratifying the Constitution as long as possible in the hope the Convention would receive news that the requisite ninth state had ratified. Federalists, in fact, made plans for an express system by which such news could be relayed from the New Hampshire and Virginia conventions to the New York Convention (RCS:Va., 1672–75). Through this system of expresses, the New York Convention learned on 24 June that New Hampshire had become the ninth state to ratify; a week later, on 2 July, it received news of Virginia's ratification.

The ratification of the Constitution by New Hampshire and Virginia virtually assured adoption by New York. The manner, however, in which New York would ratify still had to be thrashed out by the opposing delegates. Federalists united in supporting unconditional ratification, but were willing to accept recommendatory amendments in order to secure adoption. Antifederalists were less united. Since ten states had ratified, Antifederalists realized that outright rejection was not viable; nor did they want the Convention to adjourn to a later date, as did the Federalists, who preferred adjournment to conditional ratification. Instead, most Antifederalists favored some form of conditional ratification, although they were not even united on that course. One group supported conditional amendments, while a second favored ratification for a period of years on condition that certain amendments would be adopted. The most conciliatory Antifederalists had come to accept the idea of unconditional ratification with recommendatory amendments.

On 7 July the Committee of the Whole completed its paragraph-by-paragraph consideration of the Constitution. Antifederalist John Lansing, Jr., mayor of Albany and a former delegate to the Constitutional Convention who had left that body early, then read a bill of rights designed to be prefixed to the Constitution. For two days Antifederalists caucused in order to prepare and arrange their proposed amendments. On the 10th, Lansing submitted another plan, one calling for explanatory, conditional, and recommendatory amendments. The explanatory amendments consisted of a bill of rights and explanations of the unclear parts of the Constitution. On the 11th, Federalist John Jay, who believed that the Confederation Congress would never accept conditional ratification, moved that the Convention ratify the Constitution unconditionally with certain explanations and recommendatory amendments. The Committee of the Whole debated Jay's motion for several days.

On 15 July Melancton Smith, the Antifederalist floor manager, moved to amend Jay's motion so that it would conform to Lansing's 10 July plan. Federalist John Sloss Hobart, seeking to blunt the efforts of Antifederalists, brought in a motion on the 16th for an adjournment so that the delegates could get instructions from their constituents. Hobart's motion was rejected on 17 July by a vote of 40 to 22. The same day Federalist James Duane, mayor of New York City, presented "a plan of ratification, with certain explanations, and with a list of amendments to be recommended," but this was defeated by a vote of 41 to 20. Smith and Zephaniah Platt, first judge of the Dutchess County court, then brought in another plan, under which New York would ratify the Constitution with the option to leave the Union if Congress did not call a constitutional convention in four years. Convinced that Congress would never accept ratification with previous amendments. Smith had abandoned that alternative which he believed would keep New York out of the Union, thereby hurting the chances for obtaining a bill of rights. (Letters from Nathan Dane and Samuel Osgood urged Smith to ratify unconditionally. See CC:797, 802.) The Committee of the Whole considered the Smith-Platt plan, debating it until 19 July when it was withdrawn for lack of Antifederalist support.

At this point on the 19th, Lansing requested that the Convention postpone consideration of all plans and consider his "draft of a conditional ratification, with a bill of rights prefixed, and amendments subjoining." Lansing's motion was adopted by a vote of 41 to 18 and for the next four days the Committee of the Whole debated the amendments separately. On the 23rd, the Committee of the Whole discussed Lansing's form of ratification which provided that New York ratify "upon condition" that certain amendments be adopted. Supported by Smith, Antifederalist Samuel Jones moved "that the words upon condition should be obliterated, and the words in full confidence should be substituted in their stead." Other Antifederalists agreed that conditional ratification was unacceptable and Jones's motion carried 31 to 29. The Committee of the Whole then considered the amendments until the 24th.

On the 24th Lansing moved that a resolution be adopted giving New York the right to secede from the Union if amendments were not adopted within a certain number of years. Alexander Hamilton, who had anticipated such a proposal, read a letter from Virginia congressman James Madison who, in answer to a question posed several days earlier by Hamilton, indicated that Congress would not consider a conditional ratification to be valid. Lansing's motion was defeated on the 25th by a vote of 31 to 28. The Committee of the Whole completed its consideration of the amendments and reported to the Convention that it had approved them. By a vote of 31 to 28 the Committee of the Whole adopted the final form of ratification, which did not provide for conditional ratification. The Committee of the Whole also resolved unanimously that a circular letter be sent to the other states "pressing in the most earnest manner, the necessity of a general Convention to take into their consideration the amendments to the Constitution, proposed by the several State Conventions." John Jay (chairman), John Lansing, and Melancton Smith were appointed a committee to draft the circular letter.

On 26 July the Convention accepted by a vote of 30 to 27 the report of the Committee of the Whole to ratify the Constitution with a declaration of rights and recommendatory amendments. As finally adopted, New York's ratification consists of a declaration of rights to which was subjoined the Form of Ratification (CC:816–A). This was followed by recommendatory amendments (CC:816–B). According to the Poughkeepsie *Country Journal*, 29 July, after the vote on ratification, Governor George Clinton, the Convention's president, "addressed the Convention very politely: the purport of which was, that until a convention was called to consider the amendments now recommended by this convention, the probability was, that the body of the people who are opposed to the constitution, would not be satisfied—he would however, as far as his power and influence would extend, endeavour to keep up peace and good order among them: To which the members and spectators were very attentive—and more than a common pleasantness appeared in their countenance."

Following Clinton's speech, the proposed circular letter was brought in by John Jay and unanimously approved (CC:816–C). As president of the Convention, Clinton was requested to sign the circular letter and to transmit a copy to each of the state executives. The Convention also resolved that its proceedings be communicated to the New York legislature at its next session and that the legislature be "earnestly requested to co-operate with our sister States in measures for obtaining a general Convention to consider the amendments and alterations proposed by them and us, as proper to be made in the Constitution of the United States." (Clinton's 26 July letter transmitting the New York ratification documents was read in Congress on 30 July. His letter and the documents were carried to Congress by Alexander Hamilton, who resumed his seat as a delegate to Congress.)

The declaration of rights and the subjoined Form of Ratification, the recommendatory amendments, and the circular letter have been transcribed from the Poughkeepsie *Country Journal*. The declaration of rights and the Form of Ratification first appeared in print in the *Country Journal* on 29 July, the circular letter on 5 August. The recommendatory amendments, which did not first appear in the Country Journal, are nevertheless transcribed from the 12 August issue of that newspaper in order to retain a consistency of style. By 12 August, several other New York newspapers had published the recommendatory amendments. The declaration of rights and Form of Ratification, the recommendatory amendments, and the circular letter were also printed in the Journal of the Convention of the State of New-York; Held at Poughkeepsie, in Dutchess County, the 17th of June, 1788 (Evans 21313), which was printed by Nicholas Power of the Country Journal. The engrossed and signed manuscripts, those that were transmitted to Congress, are in the National Archives, Washington, D.C.

The declaration of rights and the Form of Ratification and the recommendatory amendments were reprinted in whole or in part in the August issue of the Philadelphia *American Museum* and in thirty-seven newspapers by 30 August: Vt. (1), N.H. (2), Mass. (7), R.I. (3), Conn. (6), N.Y. (7), N.J. (1), Pa. (5), Md. (3), Va. (2). The circular letter was reprinted in the August issue of the *American Museum* and in forty newspapers by 1 September: Vt. (1), N.H. (1), Mass. (9), R.I. (3), Conn. (6), N.Y. (6), N.J. (2), Pa. (4), Md. (3), Va. (2), N.C. (1), S.C. (1), Ga. (1). According to bibliographer Charles Evans, the circular letter, the declaration of rights with the Form of Ratification, and the recommendatory amendments apparently were also printed as a broadside by Nicholas Power of the Poughkeepsie *Country Journal*, although no copy of this broadside has been located (Evans 21312). The *Country Journal's* summary of Clinton's 26 July speech, which appears in toto above, was reprinted twentyeight times by 21 August: N.H. (1), Mass. (6), R.I. (2), Conn. (4), N.Y. (3), N.J. (3), Pa. (5), Md. (1), Va. (2), Ga. (1).

# 818–A. Declaration of Rights and Form of Ratification Poughkeepsie Country Journal, 29 July

## IN CONVENTION,

SATURDAY, July 26, 1788.

We the Delegates of the People of the State of New-York, duly elected and met in Convention, having maturely considered the Constitution for the United States of America, agreed to on the seventeenth day of September, in the year 1787, by the Convention then assembled at Philadelphia, in the Commonwealth of Pennsylvania, (a copy whereof precedes these presents) and having also seriously and deliberately considered the present situation of the United States, DO declare and make known,

That all power is originally vested in and consequently derived from the people, and that government is instituted by them for their common interest, protection and security.

That the enjoyment of life, liberty, and the pursuit of happiness, are essential rights, which every government ought to respect and preserve.

That the powers of government may be reassumed by the people,

whensoever it shall become necessary to their happiness: That every power, jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, remains to the people of the several States, or to their respective State Governments, to whom they may have granted the same; and that those clauses in the said Constitution, which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution; but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution.

That the people have an equal, natural and unalienable right freely and peaceably to exercise their religion according to the dictates of conscience, and that no religious sect or society ought to be favoured or established by law in preference of others.

That the people have a right to keep and bear arms: That a well regulated militia, including the body of the people *capable of bearing arms*, is the proper, natural and safe defence of a free State: That the militia should not be subject to martial law, except in time of war, rebellion or insurrection.

That standing armies in time of peace are dangerous to liberty, and ought not to be kept up, except in cases of necessity; and that at all times the military should be under strict subordination to the civil power.

That in time of peace no soldier ought to be quartered in any house without the consent of the owner, and in time of war, only by the civil Magistrate, in such manner as the laws may direct.

That no person ought to be taken, imprisoned, or disseized of his freehold, or be exiled or deprived of his privileges, franchises, life, liberty or property, but by due process of law.

That no person ought to be put twice in jeopardy of life or limb for one and the same offence, nor unless in case of impeachment be punished more than once for the same offence.

That every person restrained of his liberty is entitled to an inquiry into the lawfulness of such restraint, and to a removal thereof, if unlawful; and that such inquiry and removal ought not to be denied or delayed, except when on account of public danger the Congress shall suspend the privilege of the writ of *habeas corpus*.

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

That (except in the government of the land and naval forces, and of the militia when in actual service, and in cases of impeachment) a

## 26 JULY, CC:818

presentment or indictment by a Grand Jury ought to be observed as a necessary preliminary to the trial of all crimes cognizable by the Judiciary of the United States; and such trial should be speedy, public, and by an impartial Jury of the county where the crime was committed; and that no person can be found guilty without the unanimous consent of such Jury. But in cases of crimes not committed within any county of any of the United States, and in cases of crimes committed within any county in which a general insurrection may prevail, or which may be in the possession of a foreign enemy, the inquiry and trial may be in such county as the Congress shall by law direct, which county, in the two cases last mentioned, should be as near as conveniently may be to that county in which the crime may have been committed. And that in all criminal prosecutions the accused ought to be informed of the cause and nature of his accusation, to be confronted with his accusers and the witnesses against him; to have the means of producing his witnesses, and the assistance of counsel for his defence, and should not be compelled to give evidence against himself.

That the trial by Jury, in the extent that it obtains by the common law of England, is one of the greatest securities to the rights of a free people, and ought to remain inviolate.

That every freeman has a right to be secure from all unreasonable searches and seizures of his person, his papers, or his property; and therefore that all warrants to search suspected places, or seize any freeman, his papers or property, without information upon oath, or affirmation of sufficient cause, are grievous and oppressive; and that all general warrants (or such in which the place or person suspected are not particularly designated) are dangerous, and ought not to be granted.

That the people have a right peaceably to assemble together, to consult for their common good, or to instruct their Representatives; and that every person has a right to petition or apply to the Legislature for redress of grievances.

That the freedom of the press ought not to be violated or restrained.

That there should be once in four years an election of the President and Vice-President; so that no Officer who may be appointed by the Congress to act as President, in case of the removal, death, resignation, or inability of the President and Vice-President, can in any case continue to act beyond the termination of the period for which the last President and Vice-President were elected.

That nothing contained in the said Constitution is to be construed to prevent the Legislature of any State from passing laws at its discretion from time to time to divide such State into convenient districts, and to apportion its Representatives to and amongst such districts.

That the prohibition contained in the said Constitution against ex post facto laws, extends only to laws concerning crimes.

That all appeals in causes determinable according to the course of the common law, ought to be by writ of error, and not otherwise.

That the judicial power of the United States, in cases in which a State may be a party, does not extend to criminal prosecutions, or to authorise any suit by any person against a State.

That the judicial power of the United States, as to controversies between citizens of the same State claiming lands under grants of different States, is not to be construed to extend to any other controversies between them, except those which relate to such lands so claimed under grants of different States.

That the jurisdiction of the Supreme Court of the United States, or of any other Court to be instituted by the Congress, is not in any case to be encreased, enlarged or extended by any fiction, collusion, or mere suggestion. And,

That no treaty is to be construed so to operate as to alter the Constitution of any State.

Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution; and in confidence that the amendments which shall have been proposed to the said Constitution, will receive an early and mature consideration; WE the said delegates, in the name, and in the behalf of the people of the State of New-York, do by these presents, assent to and ratify the said Constitution. In full confidence nevertheless, that until a Convention shall be called and convened for proposing amendments to the said Constitution, the militia of this State will not be continued in service out of this State for a longer term than six weeks, without the consent of the Legislature thereof. That the Congress will not make or alter any regulation in this State respecting the times, places, and manner of holding elections for Senators or Representatives, unless the Legislature of this State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same-and that in those cases, such power will only be exercised until the Legislature of this State shall make provision in the premises-that no excise will be imposed on any article of the growth, production or manufacture of the United States or any of them, within this State, ardent spirits excepted.-And that Congress will not lay direct taxes within this State, but when the monies arising from the impost and excise shall be in-

#### 26 JULY, CC:818

sufficient for the public exigencies, nor then, until Congress shall first have made a requisition upon this State, to assess, levy, and pay the amount of such requisition, made agreeably to the census fixed in the said Constitution, in such way and manner as the Legislature of this State shall judge best; but that in such case, if the State shall neglect or refuse to pay its proportion pursuant to such requisition, then the Congress may assess and levy this State's proportion, together with interest at the rate of six per centum per annum, from the time at which the same was required to be paid.

DONE in Convention, at Poughkeepsie, in the County of Dutchess, in the State of New-York, the 26th day of July, in the Year of our Lord, one thousand seven hundred and eighty-eight.

By order of the Convention, GEO. CLINTON, President.

Attested, John M'Kesson, Abm. B. Bancker, Secretaries.

818–B. Recommendatory Amendments Poughkeepsie Country Journal, 12 August<sup>1</sup>

The Recommendatory Amendments of

the Convention of this State to the New Constitution.

And the Convention do in the name and behalf of the people of the State of New-York, enjoin it upon their representatives in the Congress, to exert all their influence and use all reasonable means to obtain a ratification of the following amendments to the said Constitution in the manner prescribed therein, and in all laws to be passed by the Congress in the mean time, to conform to the spirit of the said amendments as far as the Constitution will admit.

That there shall be one Representative for every thirty thousand inhabitants, 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, but not diminished, as Congress shall direct, and according to such ratio as the Congress shall fix, in conformity to the rule prescribed for the appointment of Representatives and direct taxes.

That the Congress do not impose any excise on any article (except ardent spirits) of the growth, production or manufacture of the United States, or any of them.

That Congress will not lay direct taxes but when the monies arising

from the Impost and Excise shall be insufficient for the public exigencies, nor then, until Congress shall first have made a requisition upon the States to assess, levy and pay their respective proportions of such requisition, agreeably to the census fixed in the said Constitution, in such way and manner as the Legislatures of the respective States shall judge best; and in such case if any State shall neglect or refuse to pay its proportion pursuant to such requisition, then Congress may assess and levy such State's proportion, together with interest at the rate of six per centum per annum, from the time of payment prescribed in such requisition.

That the Congress shall not make or alter any regulation in any State respecting the times, places and manner of holding elections for Senators or Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstance be incapable of making the same, and then only until the Legislature of such State shall make provision in the premises; provided, that the Congress may prescribe the time for the election of Representatives.

That no persons except natural born citizens, or such as were citizens on or before the fourth day of July, one thousand seven hundred and seventy-six, or such as held commissions under the United States during the war, and have at any time since the fourth day of July, one thousand seven hundred and seventy six, become citizens of one or other of the United States, and who shall be freeholders, shall be eligible to the places of President, Vice-President, or members of either House of the Congress of the United States.

That the Congress do not grant monopolies, or erect any company with exclusive advantages of commerce.

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 Senators and Representatives present in each House.

That no money be borrowed on the credit of the United States, without the assent of two-thirds of the Senators and Representatives present in each House.

That the Congress shall not declare war without the concurrence of two-thirds of the Senators and Representatives present in each House.

That the privilege of the Habeas Corpus shall not by any law, be suspended for a longer term than six months, or until twenty days after the meeting of the Congress, next following the passing of the act for such suspension.

That the right of the Congress to exercise exclusive legislation over such district, not exceeding ten miles square, as may by cession of a

#### 26 JULY, CC:818

particular State and the acceptance of Congress, become the seat of the government of the United States, shall not be so exercised as to exempt the inhabitants of such district from paying the like taxes, imposts, duties and excises as shall be imposed on the other inhabitants of the State in which such district may be; and that no person shall be privileged within the said district from arrest, for crimes committed or debts contracted out of the said district.

That the right of exclusive legislation, with respect to such places as may be purchased for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings, shall not authorize the Congress to make any law to prevent the laws of the States respectively in which they may be from extending to such places in all civil and criminal matters, except as to such persons as shall be in the service of the United States, nor to them, with respect to crimes committed without such places.

That the compensation for the Senators and Representatives be ascertained by standing laws, and that no alteration of the existing rate of compensation shall operate for the benefit of the Representatives, until after a subsequent election shall have been had.

That the journals of the Congress shall be published at least once a year, with the exceptions of such parts relating to treaties or military operations as in the judgment of either House shall require secrecy; and that both Houses of Congress shall always keep their doors open during their sessions, unless the business may in their opinion require secrecy. That the yeas and nays shall be entered on the journals whenever two members in either House may require it.

That no capitation tax shall ever be laid by the Congress.

That no person be eligible as a Senator for more than six years in any term of twelve years; and that the Legislatures of the respective States may recal their Senators, or either of them, and elect others in their stead, to serve the remainder of the time for which the Senators so recalled, were appointed.

That no Senator or Representative shall during the time for which he was elected, be appointed to any office under the authority of the United States.

That the authority given to the executives of the States to fill the vacancies of Senators be abolished, and that such vacancies be filled by the respective Legislatures.

That the power of Congress to pass uniform laws concerning bankruptcy, shall only extend to merchants and other traders, and that the States respectively may pass laws for the relief of other insolvent debtors. That no person shall be eligible to the office of President of the United States a third time.

That the Executive shall not grant pardons for treason, unless with the consent of the Congress, but may, at his discretion, grant reprieves to persons convicted of treason, until their cases can be laid before the Congress.

That the President, or person exercising his powers for the time being, shall not command an army in the field, in person, without the previous desire of the Congress.

That all *letters patent*, commissions, pardons, writs and process of the United States, shall run in the name of *the people of the United States*, and be tested in the name of the President of the United States, or the person exercising his powers for the time being, or the first Judge of the Court out of which the same shall issue, as the case may be.

That the Congress shall not constitute, ordain, or establish any tribunal or inferior Courts with any other than appellate jurisdiction, except such as may be necessary for the trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas, and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has not original jurisdiction, the causes shall be heard, tried, and determined, in some one of the State Courts, with the right of appeal to the Supreme Court of the United States, or other proper Tribunal to be established for that purpose by the Congress, with such exceptions and under such regulations as the Congress shall make.

That the Court for the trial of Impeachments, shall consist of the Senate, the Judges of the Supreme Court of the United States, and the first or senior Judge for the time being, of the highest Court of the general and ordinary common law jurisdiction in each State: That the Congress shall by standing laws, designate the Courts in the respective States, answering this description, and in States having no Courts exactly answering this description, shall designate some other Court prefering such, if any there be, whose Judge or Judges may hold their places during good behaviour: Provided, that no more than one Judge, other than Judges of the Supreme Court of the United States, shall come from one State: That the Congress be authorised to pass laws for compensating the said Judges for such services, and for compelling their attendance; and that a majority, at least, of the said Judges shall be requisite to constitute the said Court: That no person impeached shall sit as a member thereof: That each member shall, previous to his entering upon any trial, take an oath or affirmation, honestly and impartially to hear and determine the cause; and that a majority of the members present shall be necessary to a conviction.

That persons aggrieved by any judgment, sentence or decree of the Supreme Court of the United States in any cause in which that Court has original jurisdiction, with such exceptions, and under such regulations, as the Congress shall make concerning the same, shall upon application have a commission, to be issued by the President of the United States, to such men learned in the law as he shall nominate, and by and with the advice and consent of the Senate, appoint not less than seven, authorising such Commissioners, or any seven or more of them, to correct the errors in such judgment, or to review such sentence and decree, as the case may be, and to do justice to the parties in the premises.

That no Judge of the Supreme Court of the United States shall hold any other office under the United States or any of them.

That the judicial power of the United States shall extend to no controversies respecting land, unless it relate to claims of territory or jurisdiction between States, or to claims of lands between individuals, or between States and individuals, under the grants of different States.

That the militia of any State shall not be compelled to serve without the limits of the State for a longer term than six weeks, without the consent of the Legislature thereof.

That the words without the consent of the Congress in the 7th clause<sup>2</sup> of the 9th section of the first article of the Constitution, be expunged.

That the Senators and Representatives, and all executive and judicial officers of the United States, shall be bound by oath or affirmation, not to infringe or violate the Constitutions or Rights of the respective States.

That the Legislatures of the respective States may make provision by law, that the Electors of the Election District to be by them appointed, shall chuse a citizen of the United States, who shall have been an inhabitant of such District for the term of one year immediately preceding the time of his election for one of the Representatives of such State.

Done in Convention, at Poughkeepsie in the County of Dutchess, in the State of New-York, the twenty-sixth day of July, in the year of our Lord, one thousand seven hundred and eighty-eight.

By Order of the Convention,

GEO. CLINTON, President,

Attested, JOHN Mc. Kesson, Abm. B. Bancker, Secretaries.

# 818–C. Circular Letter, 26 July

Poughkeepsie Country Journal, 5 August

Circular Letter from the Convention of the State of New-York, to the Executives of the different States, to be laid before their respective Legislatures.

SIR, We the Members of the Convention of this State, have deliberately and maturely considered the Constitution proposed for the United States.

Several articles in it appear so exceptionable to a majority of us, that nothing but the fullest confidence of obtaining a revision of them by a General Convention, and an invincible reluctance to separating from our sister States, could have prevailed upon a sufficient number to ratify it, without stipulating for previous amendments.

We all unite in opinion, that such a revision will be necessary, to recommend it to the approbation and support of a numerous body of our constituents.

We observe, that amendments have been proposed, and are anxiously desired, by several of the States as well as by this, and we think it of great importance, that effectual measures be immediately taken for calling a Convention, to meet at a period not far remote; for we are convinced, that the apprehensions and discontents which those articles occasion, cannot be removed or allayed, unless an act to provide for it be among the first that shall be passed by the new Congress.

As it is essential that an application for the purpose should be made to them by two thirds of the States, we earnestly exhort and request the Legislature of your State (or Commonwealth) to take the earliest opportunity of making it. We are persuaded, that a similar one will be made by our Legislature at their next session; and we ardently wish and desire, that the other States may concur, in adopting and promoting the measure.

It cannot be necessary to observe, that no government, however constructed, can operate well, unless it possesses the confidence and good will of the great body of the people; and as we desire nothing more than that the amendments proposed by this or other States, be submitted to the consideration and decision of a general Convention, we flatter ourselves, that motives of mutual affection and conciliation, will conspire with the obvious dictates of sound policy, to induce even such of the States, as may be content with every article in the constitution, to gratify the reasonable desires of that numerous class of American citizens, who are anxious to obtain amendments of some of them.

Our amendments will manifest, that none of them originated in local

views, as they are such, as if acceded to, must equally affect every State in the Union.

Our attachment to our sister States, and the confidence we repose in them, cannot be more forcibly demonstrated, than by acceding to a government, which many of us think very imperfect, and devolving the power of determining, whether that government shall be rendered perpetual in its present form, or altered agreeable to our wishes, or a minority of the States with whom we unite.

We request the favour of your Excellency to lay this letter before the Legislature of your State (or Commonwealth) and we are persuaded, that your regard for our national harmony and good government will induce you to promote a measure, which we are unanimous in thinking, very conducive to those interesting objects.

We have the honor to be, with the highest respect, Your Excellency's most obedient servants,

By the unanimous Order of the Convention,

## GEO. CLINTON, President.

1. On 5 August the Poughkeepsie *Country Journal* had announced that the amendments printed here would appear in its issue of 12 August.

2. Article I, section 9, clause 7 reads: "No title of nobility shall be granted by the United States:—And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state."

## 819. Baron Beelen-Bertholff to Count Trauttmannsdorf Philadelphia, 1 August (excerpt)<sup>1</sup>

I, among others, brought to Your Excellency's attention in all humility and lastly by my very humble accounts of 28 March and 31 May last,<sup>2</sup> the state of things relative to the much debated plan of a new constitution for the government of the United States of America.

Would Your Excellency graciously permit me to refer to it and to limit myself to informing you further, My Lord, by means of the English packet boat, which, I have just learned expects to depart in several days for New York and Halifax, as it will henceforward be, that with the exception of North Carolina, this plan is now agreed to and ratified by eleven of the 13 states and that we are daily expecting to learn of the accession of North Carolina; I enter into more details on this subject in my very humble account, which is now at hand.

Since the votes of only nine states were needed to put this constitution into operation, congress did not delay in making the necessary arrangements; it decreed that in December next they will proceed to the choice of a President general on the basis set forth in the plan.<sup>3</sup> The unanimous wish is for Mr. Washington, but it is questionable whether he will agree to do it; Mr. Hancock, governor of Massachusetts, is the second choice; however, it will not be before next spring that the new constitution will attain the stability and ends desired.

Its influences on commerce will first be perceived by some European nations; the effects will be evident and very advantageous for those having treaties with the United States; the uniformity and consistency of customs laws, will soon lead to the return of confidence.

Be that as it may, My Lord, our political situation with respect to the new Republic will still depend on the activity and understanding of our manufacturers and merchants to make the best of the many products of our national industries that I have successively mentioned, it would doubtless be better if we had agreed to treat each other as most-favored nations.

The kind of anarchy that was reigning here has dissipated, the loss of credit will necessarily be succeeded by a general confidence and on rather solid foundations, even though the rush of confidence that followed so suddenly after the peace was little more than an unbelievable enthusiasm, to the detriment of Europeans—except England who, with the Dutch, recouped their losses through persistence....

1. Printed (Translation from French): Hanns Schlitter, ed., Die Berichte des Ersten Agenten Österrichs in den Vereinigten Staaten von Amerika Baron de Beelen-Bertholff... (Vienna, 1891) ("Fontes Rerum Austriacarum," Abth. 2, Bd. XLV), 820–21.

2. For Beelen-Bertholff's 31 May letter, see CC:768.

3. The Election Ordinance (CC:845) was not adopted until 13 September, but a congressional committee issued a report on 9 July calling for the selection of presidential electors on the first Wednesday in December (DHFFE, I, 32-33). The Ordinance itself set the date as the first Wednesday in January.

## 820. Comte de Moustier to Comte de Montmorin New York, 2 August<sup>1</sup>

The State of Newyork on the 25th of last month finally acceded to the new Constitution, which is now adopted by eleven States. The recommended amendments<sup>2</sup> are so numerous and so important that if the new Congress takes them into account, this Constitution will barely resemble its first form. However, a great blow has been dealt to the individual Sovereignty of the States taken separately. The phantom of Democracy that has seduced the people is about to disappear. The credulous majority, intoxicated by the noblest hopes that it allowed itself to be fed, has itself forged the bonds by which sooner or later the Leaders of the people will be able to subjugate and control them after having appeared to want to obey them. The Constitution is taken

# 2 August, CC:820

on approval until a better one is found. This tendency always to perfect is infinitely favorable to the designs of the ambitious, who, by means of alterations, will manage to weary the American people and make them receive with indifference the yoke that is prepared for them and that they will probably endure much more patiently than expected. The proposed amendments offer a multitude of pretexts at the outset even for a reorganization of Government. This means is open to various parties. It is not doubted that each will profit from it according to its views.

The new Constitution appeared to be a remedy for all the ills from which the United States is suffering. The joy of the majority is especially expressed by public rejoicings. Different cities had processions in which all the classes of Citizens were represented. The city of Newyork did not even wait for the State Convention to give its decision.<sup>3</sup> It had its procession at a time when it was strongly doubted that the State would adopt the Constitution. What was special about this popular festival is that Congress in a way risked sanctioning its purpose, which was to show the particular opinion of the city in opposition to what was assumed to be the opinion of the State, by attending all together and consequently as a Sovereign, a rather mediocre dinner given by the professions and trades of the city.4 I had been invited, and I attended this dinner, seated to the right of Congress and was followed in succession by the Minister Plenipotentiary of the States-General, the Chargé d' affaires Plenipotentiary of Spain, the Consuls and other foreigners of distinction. To the left of Congress were its Officers and the members of the Clergy from the City, Anglicans, Presbyterians, Catholics, Lutherans, Calvinists, Jews, all indiscriminately seated, except that the Anglican Bishop had taken the right from all the others and had said the blessing. Congress, itself realizing that it was out of place in this festival as an official body, then wanted to maintain that it had not been there as Congress, but I insisted, in part jokingly, in part seriously with different Members, that it had been everyone's opinion that they were, that were it not for that, they would have had to have been scattered among the guests and that I would have had to have been to the right of the President. Beyond this, this entire ceremony can be regarded as without significance; even though people try to lend significance to it everywhere, it still signified nothing; but it is a malady brought to this country from the Mother-country, where pretensions of this type take shape on every occasion. It is to be hoped that this unpleasantness will gradually disappear.<sup>5</sup>

One of the purposes of the festival of the Citizens of Newyork was to cajole Congress and urge it to adjourn the new Sovereign body here. For its part, Congress appeared to want to postpone its decision on this matter until the time when the [New York] Convention would have adopted the Constitution. Some of its Members did not neglect to hint that this uncertainty was the only obstacle preventing Congress from adjourning the new one here. This bait had its effect. The Federalists of the Convention even went so far as to assert that there would be no difficulty as soon as the State of Newyork entered into the new union. Now, since the pretense is no longer necessary, the Pennsylvanians are doing everything they can in order to obtain a preference in favor of Philadelphia. The entire week has been spent in debate on this subject, in which it seemed that personal interest has a much greater part than the public interest.<sup>6</sup>

The question of determining a suitable time and place to which to adjourn has aroused the attention of all the States and consequently Delegates from each one are found here; they will probably disperse as soon as these two questions are decided. The Delegates from Rhodeisland content themselves with attending the deliberations without giving an opinion on any question that could be regarded as foreign to their State, since it has rejected the new Constitution.

As soon as the decision of North Carolina is known, I will have the honor to send You in the same packet, My Lord, the Constitution as it has been proposed by the general Convention, with the comparison of the different amendments proposed by the individual Conventions. I will separate this statement from the observations that I propose to have the honor of submitting to You on the influence of the Constitution on the foreign policy of the United States and on the probabilities of the system that can prevail in this respect.

There was an example here of what is to be expected from the dominant party during changes of Government, in spite of the beautiful name of liberty, which so rarely finds itself corresponding to the facts. An unfortunate Printer, who was the last to set about to print a gazette in a city in which there are too many of them, in order to make his paper fashionable had conceived of collecting small bits of gossip that were in opposition to the Federalist party. A tasteless joke about a mishap that occurred in the federal procession, which has been punished by the destruction of his printing establishment and personal insults, obliged him to flee from his house and to abandon it to the champions of liberty, who often make a bad use of it against the weakest when the latter have the imprudence to use incautiously the liberty they believe they themselves have.<sup>7</sup>

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 238-41, Archives du Ministère des Affaires Étrangères, Paris. This is dispatch number 18 and was received on 26 September.

### 2 AUGUST, CC:820

2. On 25 July the Committee of the Whole of the New York Convention recommended that the Constitution be ratified and that recommendatory amendments be approved. The next day the Convention adopted the Committee's report. For the New York amendments, see CC:818 A–B.

3. The New York procession took place on 23 July, three days before the New York Convention ratified the Constitution.

4. On 24 July the Antifederalist *New York Journal* reported: "We are informed, that the honorable the Congress and gentlemen of the clergy, declined *walking* at the procession, on account of this not being a *ratifying* state: they however accepted a seat at the table." Cyrus Griffin, the President of Congress, was seated in the center of the middle pavilion, while members of Congress dined at the other tables (New York *Daily Advertiser*, 2 August).

5. Another Frenchman, Victor DuPont, also made disparaging comments about New York City's 23 July procession and the penchant of Americans for such demonstrations: "We had a federal procession here in Honor of the adoption of ten States[.] it cost a great deal of money which could have been much better employed than hauling a little ship in the streets on 4 wheels and giving a dinner in an open field to 4 thousand people, the congress sitting altogether in a small pavilion[.] you will see the description of all this in several days, the toys of these people who are still very young, who always have at their lips the word Roman, and who compare these parades to the public games of that great people, are sometimes very amusing to an unimpressed observer that I endeavor to be, although I have a great tendency to fall into ways opposed to those of my ancestors, namely excessive enthusiasm" (to Pierre Samuel DuPont de Nemours, 26 July, Victor DuPont Papers, Eleutherian Mills Historical Library, Greenville, Del.).

6. For the proceedings of Congress on 28 and 30 July concerning the location of the federal capital, and the response to them, see DHFFE, I, 50–59. These pages include selections from Moustier's Journal.

7. On 24 July, the day after the procession, Antifederalist Thomas Greenleaf of the *New York Journal* published a description of the procession, which included these paragraphs which aroused antagonism:

"Yesterday the GRAND PROCESSION 'in honor of the Constitution of the United States,' paraded to and fro, and walked up and down, in this city, to the novel entertainment of all classes of people. The procession made a very pompous appearance, and was conducted in a regular and decent manner....

"The stages [i.e., floats] were of various sizes, and mostly very slight, insomuch that the poor *Potters* were separated from their *clay*, and no longer *had power over it*; the stage fell! and, alas! the *clay* became exposed to the *power* of every passerby.

"It was really laughable to see the variety of phizzes on this occasion. The poar *antis* generally minded their own business at home; others, who were spectators at an *awful* distance, looked as sour as the Devil. As for the *feds*, they rejoiced in different degrees— —there was the ha, ha, ha! and the he, he, he!"

Evidently, the potters and others took offense and the next day Greenleaf inserted this note in his newspaper: "Mortified that any exceptions should be taken to the paragraphs in yesterday's paper, the editor is induced to assure his fellow citizens, that by inserting of them he had not the least idea of giving offence or injuring the feelings of any one. As a vein of innocent humour is frequently interspersed in newspapers, he expected, where it flowed naturally, as in the case of the Potters clay, &c. it would be received as innocent, and, as not intended to reflect or censure." According to Postmaster General Ebenezer Hazard, such remarks "gave great Offence" and some people dropped their subscriptions to Greenleaf's *New York Journal* (to Jeremy Belknap, 27 July, Belknap Papers, MHi). At 1:00 A.M. on 27 July, after the celebration of the ratification of the Constitution by the New York Convention, a mob broke into Greenleaf's house and shop and destroyed his type. On 7 August Greenleaf printed his version of the incident in his *New York Journal*, stating that his description of the 23 July procession "was not the sole reason" for the attack upon his home and shop. The attack also "was intended, by some artful and designing persons, to ruin him with the public, and thereby destroy the usefulness of his paper as a free and impartial one."

#### 821. North Carolina Convention Amendments, 2 August

The North Carolina Convention, dominated by a large Antifederalist majority, assembled at Hillsborough on 21 July. Antifederalist leader Willie Jones of Halifax County moved on the 23rd that an immediate vote be taken on ratification, but after objections by Federalists he apparently withdrew his motion. On the next day, the Convention resolved itself into a Committee of the Whole. The Committee then agreed to discuss the Constitution clauseby-clause. During the debates Antifederalists insisted upon a declaration of rights and structural amendments. They believed that all three branches of the new government would hold too much power, especially at the expense of the states. Nor were the rights and liberties of the people sufficiently protected.

On 30 July the Committee of the Whole completed its clause-by-clause consideration of the Constitution. Federalist Samuel Johnston, the governor of the state and 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 of Edenton 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 the next day 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 twentysix structural amendments followed. Both were closely modeled on the declaration of rights and structural amendments proposed by the Virginia Convention. 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.)

### 2 AUGUST, CC:821

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-one newspapers: N.H. (2), Mass. (3), R.I. (1), Conn. (1), N.Y. (1), Pa. (5), Md. (1), Va. (3), N.C. (2), S.C. (1), Ga. (1). They also appeared in the September issue of the Philadelphia *American Museum*. Six 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 printings appeared in the following states by 18 September: Mass. (4), R.I. (1), N.Y. (1).

The declaration of rights and structural amendments have been transcribed from the two-page broadside. Although the broadside is dated 1 August 1788, the amendments are printed here under 2 August because that is the date on which the 1 August report of the Committee of the Whole was approved by the Convention.

#### State of North-Carolina.

## IN CONVENTION, AUGUST 1, 1788.

Resolved, That a Declaration of Rights, asserting and securing from incroachment 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.

lst. 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 govern-

## 2 AUGUST, CC:821

ment 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 favor, 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 disseized 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.

14[th.] 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 seize any freeman, his papers or property, without information upon oath (or affirmation of a person religiously scrupulous of taking an oath) of legal and sufficient cause, are grievous and oppressive, and all general warrants 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.

20[th]. 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.

#### 2 AUGUST, CC:821

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 the receipts and expenditures of the public money 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, or 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 inlisted 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 appelate 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 appelate 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

### 2 AUGUST, CC:821

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 pos[t]poned 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 fifth 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 thro' 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. COMMENTARIES ON THE CONSTITUTION

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.

Sam Johnston President

By order J Hunt Secretary

## 822. A Federal Song, Albany Journal, 4 August<sup>1</sup>

## A FEDERAL SONG;

## To the tune of "Rule Britannia."

#### I.

Behold Columbia's empire rise, On freedom's solid base to stand; Supported by propitious skies,

And seal'd by her deliverer's<sup>2</sup> hand.

Chorus.

Raise, Columbia, raise thy voice, Union is thy noble choice.

#### II.

Her heroes' blood, her glorious pains, Her toils are all rewarded now:

Montgom'ry's shade<sup>3</sup> no more complains, Warren's<sup>4</sup> and Green's<sup>5</sup> consenting bow,

Chorus-Raise, &c.

### III.

A Fed'ral System scarce appear'd, When baneful discord droop'd her head, Licentiousness no more was fear'd,

The demon lost her native dread.

Chorus-Raise, &c.

## IV.

The hero, statesman and the sage,

Matur'd this noblest work of man;

And HAMILTON's instructive page<sup>6</sup>

Illumes his fellow-patriots' plan.

Chorus–Raise, &c.

#### **V**.

Proud Europe hence may learn, and see, A Constitution self-controul'd;

By wisdom balanc'd, firm and free,

The dread and model of the world.

Chorus-Raise, &c.

VI.

# Columbia's grateful sons rejoice! The Fed'ral pillars firmly stand; By your approving people's voice, The only charter of the land.

# Chorus.

# Raise, Columbia, raise thy voice, Union is thy noble choice.

1. Reprints by 5 September (8): Mass. (1), N.Y. (1), Pa. (2), Md. (2), Va. (2).

2. At this point, the New York Daily Advertiser, 15 August, added this footnote: "Alluding to General WASHINGTON'S subscribing the Constitution, as President of the Convention." Every reprint except the one in the Massachusetts Gazette included this footnote.

3. A reference to General Richard Montgomery who was killed on 31 December 1775 leading the American assault on Quebec.

4. A reference to General Joseph Warren who was killed at the Battle of Bunker Hill on 17 June 1775.

5. A reference either to Colonel Christopher Greene who was killed at Croton River, Westchester County, N.Y., on 14 May 1781, or to his distant kinsman General Nathanael Greene who died in 1786.

6. The Federalist by "Publius."

# 823. James Madison to Thomas Jefferson New York, 10 August (excerpt)<sup>1</sup>

... My last went off just as a vote was taken in the Convention of this State which foretold the ratification of the new Government.<sup>2</sup> The latter act soon followed and is inclosed. The form of it is remarkable. I inclose also a circular address to the other States on the subject of amendments, from which mischiefs are apprehended. The great danger in the present crisis is that if another Convention should be soon assembled, it would terminate in discord, or in alterations of the federal system which would throw back *essential* powers into the State Legislatures. The delay of a few years will assuage the jealousies which have been artificially created by designing men and will at the same time point out the faults which really call for amendment. At present the public mind is neither sufficiently cool nor sufficiently informed for so delicate an operation.

The Convention of North Carolina met on the 21st. Ult: not a word has yet been heard from its deliberations. Rhode Island has not resumed the subject since it was referred to & rejected by the people in their several Towns.

Congress have been employed for several weeks on the arrangements of times & place for bringing the new Government into agency. The first have been agreed on though not definitively, & make it pretty certain that the first meeting will be held in the third week in March. The place has been a subject of much discussion and continues to be uncertain. Philada. as least excentric of any place capable of affording due accomodations and a respectable outset to the Government was the first proposed. The affirmative votes were N. Hampshire, Connecticut, Pena. Maryd. Virga. and N. Carolina. Delaware was present & in favor of that place, but one of its delegates wishing to have a question on Wilmington previous to a final determination, divided that State and negatived the motion. N. York came next in view, to which was opposed first Lancaster which failed, and then Baltimore which to the surprize of every body was carried by seven States, S. Carolina which had preferred N. York to the two other more Southern positions, unexpectedly concurring in this. The vote however was soon rescinded, the State of S. Carolina receding from, the Eastern States remonstrating against, and few seriously urging the eligibility of Baltimore. At present the question lies as it was originally supposed to do between N. York & Philada. and nothing can be more uncertain than the event of it. Rhode Island which alone was disposed to give the casting vote to N. York has refused to give any final vote for arranging & carrying into effect a system to which that State is opposed, and both the Delegates have returned home.

Col. Carrington tells me he has sent you the first volume of the federalist, and adds the 2d. by this conveyance.<sup>3</sup> I believe I never have yet mentioned to you that publication. It was undertaken last fall by Jay Hamilton and myself. The proposal came from the two former. The execution was thrown by the sickness of Jay mostly on the two others. Though carryed on in concert the writers are not mutually answerable for all the ideas of each other there being seldom time for even a perusal of the pieces by any but the writer before they were wanted at the press and some times, hardly by the writer himself.<sup>4</sup>...

1. RC, Madison Papers, DLC. Printed: Rutland, Madison, XI, 225-27.

2. In a 26 July addition to his 24 July letter to Jefferson, Madison noted that "We just hear that the Convention of this State [i.e., New York] have determined by a small majority to exclude from the ratification every thing involving a condition & to content themselves with recommending the alterations wished for" (CC:814). For the New York Convention's action, see the headnote to CC:818.

3. See Edward Carrington to Jefferson, 10 August (Boyd, XIII, 495).

4. The text in italics in this paragraph was written in code by Madison and decoded interlinearly by Jefferson.

## 824. James Madison to George Washington New York, 11 August<sup>1</sup>

I have been duly favored with yours of the 3d. instant. The length of the interval since my last has proceeded from a daily expectation of being able to communicate the final arrangements for introducing

## 11 AUGUST, CC:824

the new Government. The place of meeting has undergone much discussion as you conjectured,<sup>2</sup> and still remains to be fixed. Philada. was first named, & negatived by a voice from Delaware. N. York came forward next. Lancaster was opposed to it & failed. Baltimore was next tried and to the surprise of every one had seven votes. It was easy to see that that ground had it been free from objections was not maintainable. accordingly the next day N. York was inserted in the place of it with the aid of the vote of Rhode Island. Rhode Island however has refused to give a final vote in the business and has actually retired from Congress. The question will now be resumed between N. York and Philada. It was much to be wished that a fit place for a respectable outset to the Govt. could be found more central than either. The former is inadmissible if any regard is to be had to the Southern or Western Country. It is so with me for another reason, that it tends to stop the final & permanent seat short of the potowmac certainly, and probably in the State of N. Jersey. I know this to be one of the views of the Advocates for N. York. The only chance the potowmac has is to get things in such a train that a coalition may take place between the Southern & Eastern States on the subject and still more that the final seat may be undecided for two or three years, within which period the Western & S. Western population will enter more into the estimate. Wherever Congress may be, the choice if speedily made will not be sufficiently influenced by that consideration. In this point of view I am of opinion Baltimore would have been unfriendly to the true object. It would have retained Congress but a moment, so many States being North of it, and dissatisfied with it, and would have produced a coalition among those States a precipitate election of the permanent seat & an intermediate removal to a more northern position.

You will have seen the circular letter from the Convention of this State. It has a most pestilent tendency. If an Early General Convention cannot be parried, it is seriously to be feared that the system which has resisted so many direct attacks may be at last successfully undermined by its enemies. It is now perhaps to be wished that Rho. Island may not accede till this new crisis of danger be over. Some think it would have been better if even N. York had held out till the operation of the Government could have dissipated the fears which artifice had created and the attempts resulting from those fears & artifices. We hear nothing yet from N. Carolina more than comes by the way of Petersburg.

1. RC, Washington Papers, DLC. Madison's copy (Madison Papers, DLC) is misdated 15 August. On 11 August Madison also wrote a similar letter to Virginia Governor Edmund Randolph (Rutland, *Madison*, XI, 227–29).

2. In his most recent previous letter to Washington on 21 July, Madison reported

that "Congress have deliberated in part on the arrangements for putting the new Machine into operation, but have concluded on nothing but the times for chusing electors &c. Those who wish to make N. York the place of meeting studiously promote delay. Others who are not swayed by this consideration do not urge despatch. They think it would be well to let as many States as possible have an opportunity of deciding on the Constitution: and what is of more consequence, they wish to give opportunities where they can take place for as many elections of State legislatures as can precede a reasonable time for making the appointments and arrangements referred to them" (*ibid.*, 190–91).

Washington replied on 3 August that "The place proper for the New Congress to meet at, will, unquestionably, undergo (if it has not already done it) much investigation; but there are certain things which are so self evident in their nature as to speak for themselves.—this, possibly, may be one—where the true point lays I will not undertake to decide, but there can be no hesitation I conceive in pronouncing one thing, that in all Societies, if the bond or cement is strong and interesting enough to hold the body together, the several parts should submit to the inconveniencies for the benefits which they derive from the conveniencies of the compact" (*ibid.*, 219).

# 825. James Bowdoin to George Erving Boston, 12 August (excerpt)<sup>1</sup>

... I am very glad you have resumed the subject of one of your former letters; and doubt not I shall receive at least as much pleasure from your further discussion of it, as I had from the first.-As to the new plan of federal Government, which you approve in theory, but Doubt whether it will be practicable, it has been adopted by eleven of the States, and will probably be in operation by March next. If it be well administred I believe ve States will be very happy under it. Having long experienced the Evils arising from inefficiency, they will the more readily submit to a firm and efficient Government, to which from choice as well as necessity they will be strongly attached: Though it is easily conceivable that some individuals, whose views and wishes cannot be realized under good government, will endeavour to disrest the minds of the People, and make them uneasy even with the best formed government administerd in the best manner. It is imagined here, that after a few years experience, wch. will determine what alterations are eligible, the federal Constitution will become fixt; that good government being firmly established, a great number of people, and many of the better sort will emigrate hither from different parts of Europe, and that ye. United States from that circumstance, as well as by natural Encrease will in a short time be viewed in a respectable light, even by the ministry & Polititians of Great Britain; whose system of Politicks in regard to American Commerce will probably be somewhat if not greatly altered, when Congress, under ye. new Constitution will have the power of regulating it within ye. Ports of ye. United States....

1. FC, Bowdoin-Temple Papers, Letterbook, 275, MHi. Printed: *Proceedings* of the Massachusetts Historical Society, 2nd ser., XI (1896–1897), 178. Erving (1738–1806), Bowdoin's brother-in-law and a former Boston merchant, opposed British policies in the 1770s, but he remained in Boston during the British occupation, 1775–76, and fled to England when the British evacuated in 1776. He was a resident of Froyle, Hampshire, Eng.

# 826. Thomas Jefferson to William Carmichael Paris, 12 August (excerpt)<sup>1</sup>

Since my last to you, I have been honoured with your's of the 18th. & 29th. of May & 5th. of June. my latest American intelligence is of the 24th. of June when 9. certainly & probably 10. states had accepted the new constitution, and there was no doubt of the 11th. (North-Carolina) because there was no opposition there. in New-York 2/3 of the state was against it, and certainly if they had been called to the decision in any other stage of the business, they would have rejected it. but before they put it to the vote, they would certainly have heard that 11. states had joined in it, and they would find it safer to go with those 11. than put themselves into opposition with Rhode island only. tho' I am much pleased with this succes[s]ful issue of the new constitution, yet I am more so to find that one of it's principal defects (the want of a Declaration of rights) will pretty certainly be remedied. I suppose this, because I see that both people & Conventions in almost every state have concurred in demanding it. another defect, the perpetual re-eligibility of the same president, will probably not be cured during the life of General Washington. his merit has blinded our countrymen to the dangers of making so important an officer re-eligible. I presume there will not be a vote against him in the U.S. it is more doubtful who will be Vicepresident. the age of Dr. Franklin, & the doubt whether he would accept it, are the only circumstances that admit a question but that he would be the man. after these two characters of first magnitude there are so many which present themselves equally on the second line, that we cannot see which of them will be singled out. J. Adams, Hancock, Jay, Madison, Rutledge will be all voted for.-Congress has acceded to the prayer of Kentucky to become an independent member of the Union. a committee was occupied in settling the plan of receiving them, and their government is to commence on the 1st. day of January next.<sup>2</sup>...

1. FC, Jefferson Papers, DLC. Printed: Boyd, XIII, 502–3. Carmichael (c.1738–1795) was a Maryland delegate to Congress, 1778–79. He served as secretary to John Jay while the latter was U.S. Minister to Spain, 1779–82, and he was chargé des affaires in Madrid, 1782–94.

2. On 3 July 1788 Congress deferred the matter of Kentucky statehood to the new Congress under the Constitution. For a fuller discussion of the question of Kentucky statehood, see CC:480, note 2, and CC:771, note 2.

## 827. Alexander McCaul to Thomas Jefferson Glasgow, 14 August (excerpt)<sup>1</sup>

... You will no doubt be informed from Virginia that the new constitution was adopted in that state on the 25th of June by a small majority of ten & after a severe contest, I hope ere long to see the Government of that Country in the hands of Men of real property & integrity for sure I am they never can rise to be a great people unless Industry frugality & integrity become their prevailing character, when I first knew that Country I don't beleive there was in general an honester sett of people on the face of the Earth, but wonderfully have they changed of late years, & you will be amazed when I tell you that among the great number of respectable names that owed money to my Partners & myself<sup>2</sup> that not one amongst them have said they would pay their debts except yourself Mr John Rose & Mr John Nicholas, It will serve no good purpose for me to complain, but I have been hardly used, my Property confiscated & withheld from me, & instead of its being allowed to go at least to the discharge of Virginia debts these very debts sent to this Country agt me to a very considerable amo. & which I have been obliged to pay I would hope this new constitution will be productive of good, establish an effective Government in all the states & make the debtors think seriously of paying....

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 512–13. This is a duplicate of McCaul's original 14 August letter which apparently "miscarried." On 29 September McCaul sent Jefferson this copy with an additional paragraph explaining his fears about the fate of his original letter and indicating that he had "nothing at present to add." McCaul, a Scottish merchant who had spent some time in Virginia before the Revolution, was a major creditor of Jefferson and a member of the Glasgow mercantile firm of Henderson, McCaul, and Company.

# 828. A Native of Boston: Thoughts Upon the Political Situation of the United States, Worcester, 14 August

On 14 August the Boston Independent Chronicle announced "This Day PUB-LISHED" a "New Political Publication!" The pamphlet was entitled Thoughts Upon the Political Situation of the United States of America, in Which that of Massachusetts Is More Particularly Considered. With Some Observations on the Constitution for a Federal Government. Addressed to the People of the Union (Evans 21173). It was printed by Isaiah Thomas, the Federalist publisher of the Worcester Massachusetts Spy. The Spy also announced its publication on 14 August. The main text of the pamphlet runs to 190 pages and is followed by an appendix of nineteen pages. A brief prefatory remark to the appendix states: "Which will probably be read by those only, who are perfectly at leisure, and not fatigued with the foregoing." The title page identifies the author as "A Native of Boston," but at the end of the main text appears the signature "Civis." The title page also includes an epigraph from the fourth epistle (1734) of Alexander Pope's Essay on Man:

"Truths would you teach, or save a sinking Land-

"All shun, none aid you, and few understand."

The advertisements in the Massachusetts Spy and the Boston Independent Chronicle indicated that Thoughts was being sold for four shillings and six pence per copy by Isaiah Thomas and by Benjamin Guild of the "Boston Book Store." At one time or another, Thoughts was also available in Salem, Springfield (four shillings and six pence), New York City (six shillings), Trenton, Philadelphia (five shillings and seven and a half pence), Wilmington, Baltimore, Richmond, and Norfolk. The New York Packet, 19 August, advertised that the pamphlet was "printed on fine paper, and a beautiful new type, octavo size," while William Prichard of Philadelphia, who sold it from his "Bookstore and Circulating Library," described it as a "valuable production" (Philadelphia Independent Gazetteer, 24 October).

Thoughts was written by Jonathan Jackson (1743–1810), a native of Boston and a Harvard graduate (1761). Before, during, and after the Revolution, Jackson was a merchant in Newburyport and Boston. He was a member of the Massachusetts Constitutional Convention, 1779–80, and a delegate to the Confederation Congress in 1782. After dissolving his mercantile partnership in Boston in April 1788, he moved back to Newburyport, where he was residing at the time that his pamphlet appeared. In January 1789 Jackson was defeated as a candidate for the U.S. House of Representatives for the Essex District after a heated campaign in which his pamphlet was a principal issue. Later in the year, President George Washington appointed Jackson U.S. Marshal for the District of Massachusetts, a position he held until 1791. Jackson was inspector of the revenue for the Northern District of the U.S., 1791–97; supervisor of excise offices for the same district, 1797–1802; and treasurer of Massachusetts, 1802–5.

After "several months" of writing, Jackson completed work on the pamphlet in mid-June when he forwarded the last of his manuscript to Isaiah Thomas for publication, stating that "the sooner you can complete the impression the more agreeable it will be to Sir your obedt Servt" (21 June, Thomas Papers, MWA). Jackson went to Worcester on perhaps two occasions to help Thomas with the publication and distribution of the pamphlet (Jackson to Thomas, 10 July, *ibid.*). Thomas completed the impression in early August.

After completing the impression, Thomas shipped "a large box" of the pamphlets to Benjamin Guild of the "Boston Book Store" (Jackson to [Oliver Wendell?], 22 August, Hugh Upham Clark Collection, Arlington, Va.). Copies of the pamphlet were also forwarded to Springfield, where they were advertised in the *Hampshire Chronicle* on 20 August, and to New York City, where they were advertised in Samuel Loudon's *New York Packet* on 19 August and several more times by 10 October. Jackson himself had chosen Loudon, who also operated a bookstore and circulating library, to be his New York City agent.

On 5 September Jackson told Thomas that "A Republican" in the Boston Gazette had pointed out certain faults in his pamphlet (see below), making Jackson "impatient" to transmit copies of Thoughts to Philadelphia "before any prejudication is made upon the performance-for my great dependance for sale is there & at N York" (Thomas Papers, MWA). Later that month Jackson, writing from Boston, informed Thomas that "but very few" of the pamphlets had been sold in Boston and he began "to suspect" his "Truths" would not "readily sell" in that town. He told Thomas that he had "packed about 100 books" for William Prichard, a prominent Philadelphia bookseller, in hopes of selling them there. He also thought that it might be a good idea to send some pamphlets to Rhode Island (22 September, ibid.). William Prichard advertised the pamphlet in the Philadelphia Independent Gazetteer on 24 and 25 October, informing his readers that copies could also be obtained from these newspaper publishers: Isaac Collins in Trenton; Frederick Craig in Wilmington; Mary K. Goddard in Baltimore; Augustine Davis in Richmond; and John M'Lean in Norfolk, Va. Despite this wide distribution to booksellers, a disappointed Jackson wrote Thomas on 30 December that he now knew "that half the number of Pamphlets would have answered my use-I have not realised a single dollar from one of them yet." He also regretted that he had not collected more money with which to reimburse Thomas (ibid.).

Jackson also sent individual copies of the pamphlet to various people. Even though the pamphlet did not sell well, Jackson noted that "I at least gratified myself in attentions I wished to pay to several gentlemen of my acquaintance" (to Thomas, 5 September, *ibid.*). He inscribed a copy that he transmitted to an acquaintance thusly: "Should anything in it designate the author, he requests not to be mentioned till some public opinion is made up the propriety of his observations, and of the time of their appearance; as he wishes if he meets the publick attention, it may be passed upon with impartiality, and without any regard to him" (Thomas E. Kirby and His Assistants, *Illustrated Catalogue of Colonial and Revolutionary Books, Broadsides and Other Important Americana From Various Collections to be Sold* ... *February 26th*, 1917... [New York, 1917], Item 55).

Speculation about the authorship of "A Native of Boston" centered on Jackson. On 30 September Benjamin Lincoln of Hingham, Mass., sent George Washington a copy of a pamphlet "lately" published in the state that was probably Thoughts. Lincoln noted that the pamphlet "was ushered into light with all that cover of secrecy which often attends that of an illegitimate child. The father however has shared the fate which is too common in such cases his likeness being so strongly impressed upon his ofspring that all our shrewd observers think they can point him out, and many blame him for his attempts to keep behind the curtain-The eagle-eyed folks say that it is a fine child that it has an fine open and manly countenance that it has evident marks of originality of thought, strength of mind, firmness of nerves, and an independency of soul, and will come forward with peculiar advantages to the world-Whether these observations are just or not, your Excellency, from your great knowledge in physiognomy, will on examination, be able to determine" (Washington Papers, DLC. "A Native of Boston" twice praised Washington, once recommending that only he could be the first President under the new Constitution.). On 30 October the Reverend Peter Thacher of Boston informed Jackson that he had "just read, with very great pleasure, a pamphlet which is universally ascribed to you, entitled 'Thoughts on the political situation of the united States of America.'" Thacher added that he was "convinced, from mature observation, that the sentiments advanced in this pamphlet are founded in truth and justice, and that principles of this kind alone can secure to us the freedom which we have so dearly purchased" (James Jackson Papers, MHi). Some newspaper writers also identified Jackson as "A Native of Boston" (see below).

"A Native of Boston" outlined the principal defects of the government under the Articles of Confederation and the need for a strong and efficient central government, but his most compelling and provocative thoughts were concerned with the nature of government. Among the political writers upon whom he relied heavily were John Adams, Jean Louis De Lolme, David Hume, and Baron Turgot. "A Native of Boston" also quoted or cited Sir Francis Bacon, Edmund Burke, Jonathan Swift, and James Otis. His favorite poet was Alexander Pope, whose verse appears several times in the pamphlet. "A Native of Boston" opposed representation in the state legislatures or in Congress based on territory, preferring instead that representation be proportionate to population. Disapproving of large or numerous representative assemblies, he insisted that legislatures should be small, their members should be adequately paid, and their terms of office should be three or four years. He also opposed rotation in office and frequent elections. A sixty-member Congress composed of twenty senators and forty representatives was sufficient. The representatives would be "the guardians of the people's liberties," while the senators would be "the receptacle of that natural aristocracy, which ... will ever arise in all societies of men." A powerful single executive would be "responsible in the dernier resort for the execution" of the laws; he would have an absolute veto; and he alone would have the power to appoint officers. Large republics, "A Native of Boston" argued, were better governed than small ones. His fear of instability and anarchy led him to support the idea of a small standing army and a strong militia.

Ordinary people, "A Native of Boston" insisted, were too often unfit either to choose or to serve as legislators; he rejected the notion " 'that the voice of the people is the voice of God.' " The best men—the lawyers, "the gentle folks," and the natural aristocracy of education and talent—were alone fit to run the government. To make certain that such men held office, "A Native of Boston" proposed an elaborate system of indirect election. A constable was to "be appointed for every hundred freeholders," who were to be broken up "into wards of ten families." Each ward would elect one of its members. These ten men would, in turn, elect one of their number to a convention representing a larger geographical area. After a series of conventions, the officers of government would finally be elected.

"A Native of Boston" freely admitted that his proposed plan of government "goes farther in checks—in establishments—in restrictions upon the people, and towards an union of the whole, than the national plan proposed for their adoption by the late Convention of the States at *Philadelphia*." Yet he had not expected the Convention to "have the courage to propose so good a government as they have." He supported the Constitution but had some reservations about certain provisions. He thought that the House of Representatives should be smaller. All representation, he believed, should be based on population. The President should have the sole power to appoint government officers. "A Native of Boston" also proposed a single twenty-year term for any President under forty years of age and that any nominee for that office must have already taken "a leisurely tour through all the states." Although "A Native of Boston" feared that the contest for the presidency would produce divisiveness and faction, he concluded "this constitution is so much more perfect than any plan of government which has been before offered to any people, and was in their power to adopt, that—groaning so long as we have been for the want of a good government—we should be mad men not to accept it. In my opinion, it promises more political happiness than any institution with which mankind have ever yet been blessed."

Jackson's pamphlet became a principal issue in the election for the U.S. House of Representatives in the Essex District of Massachusetts, where Jackson himself was one of two major candidates. (See DHFFE, I, 587-97, 629, 632-33.) Outside Massachusetts, "A Native of Boston" seems to have attracted little attention, although Thoughts was reviewed at length in the September and October issues of the New York American Magazine. The reviewer pointed out a number of inconsistencies, but complimented "A Native of Boston" for uttering these unpopular truths: "that the best way to fill offices with great and good men is to pay them well"; "that there are but few profound politicians and true patriots in a country"; and "That there are in all societies some men, who are superior to their fellow citizens in abilities and respectability." These superior persons constituted "the natural aristocracy" that John Adams had mentioned in his Defence of the Constitutions (CC:16). The reviewer maintained that both Adams and "A Native of Boston" were correct about a "natural aristocracy" and that Adams "has been abused for the opinion, by a sett of scribbling demogogues, who have, either ignorantly or wilfully misrepresented his meaning."

In the second part of the review, the reviewer paid particular attention to "A Native of Boston's" electoral plan. He maintained, with considerable sarcasm, that the author made "some very just, and some perhaps rather whimsical remarks, and at length advances a new, singular & unpopular doctrine, that the people at large are not fit to choose their own representatives. He therefore proposes a plan for sublimating the good sense and information of the people. His idea is, that large collections of people are turbulent, tumultuous, led by clamorous demogogues and therefore not capable of that cool deliberation that is required in choosing legislators. To prevent these evils, he would offer the following plan of elections; beginning with ten men of the smallest information and capacities, who, he thinks, may be trusted together for a single object." At this point, the reviewer quoted several pages from Thoughts, in an obvious attempt to hang "A Native of Boston" with "his own words." After quoting large parts of the electoral plan, the reviewer concluded with this paragraph: "The stile of this writer is harsh and disjointed, so that at first reading a paragraph, it is often difficult to understand his meaning. Amidst many trite remarks, and some very chimerical plans for reforming government, we find however many new and just observations; and those who can submit to travel a rough road in pursuing our author, will sometimes rise upon an eminence and find themsleves relieved by the prospect of rich wellcultivated fields and pleasant landscapes."

# 829. Antoine de la Forest to Comte de la Luzerne New York, 16 August<sup>1</sup>

The new Constitution proposed in the United States had little hope of success for two months. The States of New-Hampshire, Virginia and Newyork ratified it in imitation of the eight that had already done so. The heads of the federal party had left nothing undone during this interval that usually strikes the imagination of the people, and there have been political processions, festivities, and repeated Rejoicings in most large Cities and towns. Whatever may be the illusion caused by these public demonstrations, the last ratifications had been obtained with so much difficulty, had been accompanied by such thorny circumstances, had been passed with the aid of so small a Majority of Votes, that enlightened minds and those who are not carried away by enthusiasm are still equally anxious about the outcome of this undertaking. The union was threatened with an immediate dissolution if the proposed Constitution had not been adopted by at least nine States; it is now adopted by eleven, and this danger is past. But it is foreseen that the party that was not able to prevent its adoption in each of the States will use all its efforts in order to reduce it to the degree of impotence of the present Government. Since the federalists in the Massachusetts Convention had been obliged, in order to obtain a majority of votes, to make the amendments called for by their adversaries, the federalists in the other states have had to make the same concession and it is a great accomplishment that they should have succeeded in preventing the adoption of amendments before the organization of the new Government. They [have?] indeed managed to put it on its feet in spite of an obstinate opposition, but the antifederalists are waiting until it is in motion to try [all?] means to limit it. It is thus hardly [doubted?] that it will be violently attacked beginning at the time of its first operations. The Newyork Convention, before breaking up its session, addressed a circular letter to all the legislatures to urge them to ask the next Congress for another general convention of the States. This measure entails dangerous consequences, and its failure or success is equally dreaded. In the first case, it is difficult to imagine how Congress [would be able to?] exercise the powers that a very sizable portion [of the?] people do not want it to have; to refrain from using them is tacitly to renounce them; to use them is to risk losing

everything. In the second case, it is even less conceivable how they will be able to agree on the amendments in a convention where each delegation will bring forth a different list and will insist on its insertion in the general list. The adoption of this multitude of amendments would in a large part destroy the work of last year's general convention. It is nevertheless necessary to observe, My Lord, that the powers of the new Government to levy customs duties and to make general commercial regulations are not of the class of those that they want to nullify; so that if by means of amendments, it eventually becomes nearly as weak as that which preceded it, things simply will find themselves again at the point at which they could have been put many years ago by granting to Congress at that time the little that it had asked for.

This Situation, My Lord, has become even more complicated by the refusal of the North Carolina Convention to ratify the new Constitution. There was a majority of 100 votes against adoption: It is supposed that it counted on the obstinacy of the antifederalists of the Newyork Convention and it was not aware that when it made this bold decision that the antifederalists had just given way for fear of compromising their State. Be that as it may, it is known that the antifederalists of North Carolina were betrayed by the influence of those from neighboring States, especially Virginia. The new Constitution is supported in almost all the States only by the maritime party; all of the backcountry is little disposed in its favor; it is this that prompted the boldness of the decision in North Carolina, where the coastal districts are deserted compared with those of the interior. The [--] merchants, artisans, capitalists, and large landowners, who elsewhere acted so ardently for a Government from which they hoped to gain great advantages, were very weak in this poorest and most isolated place in the union. Consequently, North Carolina now finds herself aligned with Rhodeisland, in opposition to the other eleven States. The latter will nevertheless refrain from using coercive measures; the antifederalists are everywhere too numerous and would soon make common [cause?]. The future Congress will probably follow the course of conciliation with regard to these two States that stand apart; the latter will offer to rejoin the confederated body if its powers were modified in a [new?] general convention of the States, and in this manner they will be an additional instrument that the antifederalists will use to cut. if they can, all the nerves of the Constitution.

While waiting for these events to unfold, Congress is occupied drafting the ordinance by virtue of which each State that has ratified the Constitution must have elected officials to represent it. Much time was lost in debating on the place where they would convene. Newyork,

Philadelphia and Baltimore were proposed in turn, and it seems that for want of being able to agree on another place, Newyork will be the Meeting Place. The Votes of the Citizens of all the States seem [in favor?] of naming General Washington president of the United States.

1. RC (Tr), Affaires Étrangères, Correspondance Consulaires, BI 910, New York, ff. 65–66, Archives Nationales, Paris. This dispatch, number 238, was endorsed as received on 5 October.

# 830. Louis-Guillaume Otto to Comte de Montmorin New York, 16 August<sup>1</sup>

M. le Comte de Moustier having departed for a trip to the Northern Regions of this State, I have the honor of recounting to You what has happened of most importance since his departure.

North Carolina is the last State that has deliberated on the adoption of the new Constitution. It was hoped that she would conform to the politics of Virginia as on almost all other occasions; but if one believes the private intelligence we received the day before yesterday, the Constitution was rejected there by a majority of 176 votes to 76. Congress is waiting for the official confirmation at any moment of this event, which would bode ill for the success of the new system of consolidation. The southern part of the United States, which despite its extensiveness and the growth of its population is nothing less than contemptible, would find itself cut off by a foreign territory. It is asserted that Virginia Antifederalists have great influence in North Carolina, and it is because of their maneuvers that that State has taken such a firm position. Newyork Antifederalists also had an extended correspondence with them,<sup>2</sup> and, before they might have been able to know in Carolina that the New York Antifederalists had changed their scheme, it was resolved not to assent to the proposed Government.-It is impossible to foresee what the effect will be on the new Constitution, but one has reason to hope at least that because the North Carolina Delegates will no longer be able to vote in Congress for the adjournment of the new Government, the party that wanted to leave Newyork will find itself enfeebled and that this Assembly will remain in this city. They will follow in this regard in the footsteps of the Rhodeisland Delegates who withdrew to render an account to their Constituents of the bad effect this State's non-ratification of the new system produced in Congress and of the arrangements that seemed to exist to force Rhodeisland to assent to this Government.

I am aware, My Lord, to what extent these details are of little interest for the Court; they serve, however, to complete the information on a

revolution that could become very important, although there is no reason yet to revive the doubts that I had the honor of submitting to you from the beginning. I still sustain the belief that however perfect the new plan of Government might be, it suits neither the spirit nor the situation of the Americans. I would not even have restrained myself from doubting its success if some respectable and enlightened men, whose patriotism has perhaps gone astray, did not find themselves at the head of this great operation. Their names ought at least to inspire me with distrust of my own insight. Moreover, chance could produce what better judgment could not have effected. Such would be, among others, the sudden eruption of a war between the maritime powers of Europe, from which the Americans could fear the repercussion and which would oblige them to reunite anew to repulse the insults to which their Commerce and even their coasts would be exposed. It seems therefore most sure and most consistent with wise foresight to suppose, from this moment, the possibility of the establishment of the new system and to consider the role that will be most suitable to play in America when the scattered resources of this vast Continent will find themselves reunited in a center.

New hostilities carried out by the Savages of Ohio support the efforts of Federalists and favor Consolidation. If, in imitation of the Roman Senate and in adopting a more profound policy than the present composition of Congress allows, this Assembly succeeded in instigating a general war with these turbulent neighbors, a coalition of all parties would undoubtedly result, and the noise of guns would stifle the powerless cries of Democrats, who never stop agitating in the popular Assemblies and who only just discovered that the Government that is proposed to them must serve to bridle their ambition in seizing from the people an excessive power that it had abused.—The uneasiness, the treachery, the ferocity of the Savages and the less than prudent intrigues of England will perhaps produce this beneficial effect sooner or later. The treaty that the Governor of the West was to have concluded with these tribes<sup>3</sup> was just delayed by an unexpected accident; a party of Savages took by force the gifts that were destined for them and massacred those who carried them; by this means they avoided concluding a treaty that did not suit them without losing their gifts, to which they are very attached. It is certain that if these barbarians understood their true interests they would have combatted, with all their forces, the numerous settlements the Americans are making on the Ohio. They are rendering, at the same time, an essential service to the confederation, not only in furnishing it with a pretext to raise troops, but in putting an end to the emigrations that constantly weaken

the United States. The Savages will end up being the victims of their lack of foresight; the Colony of Muskingum is composed of the most courageous and most adventurous men of New England;<sup>4</sup> when it has succeeded in solidly establishing its new settlements, the united efforts of all the Savage nations will be insufficient to expel it, and it will easily be able to push back the long-standing inhabitants beyond the Lakes. Congress just gave some of the most extensive powers to her Governor without considering that he will not know how to fortify himself in that place without weakening the union in dispersing over an immense area, a small population that, according to the most favorable estimates, still does not total three million and in encouraging settlements that in less than twenty years will throw off the yoke of the United States and govern themselves with their own laws.

1. RC (Tr), Correspondance Politique, États-Unis, Vol. 33, ff. 249–52, Archives du Ministère des Affaires Étrangères, Paris. This dispatch, number 20, was endorsed as received on 26 September.

2. For the correspondence between New York and North Carolina Antifederalists, see CC:750-M, P, Q.

3. On 22 October 1787 Congress authorized the governor of the Northwest Territory (Arthur St. Clair) to hold treaty negotiations with the Indians, and four days later it instructed him on this subject (JCC, XXXIII, 696, 711–13). In January 1789 treaties were signed at Fort Harmar.

4. Otto refers to the recent Ohio Company settlement of the town of Marietta at the junction of the Ohio and Muskingum rivers.

## 831. Thomas Ruston to George Washington Philadelphia, 17 August (excerpt)<sup>1</sup>

Will your Excellency permit me to congratulate you on the acceptance of the new constitution by eleven of the States? An event that I think must be highly pleasing to your Excellency, for as there is no one who has contributed so much towards the establishment of the liberty and independence of this Country, so I am convinced that there are none who have her happiness and prosperity more at heart. With regard to the two delinquent States (North Carolina and Rhode Island) when we consider the diversity of opinion that takes place amongst mankind upon almost every subject, it is perhaps more to be wondered at that eleven out of the thirteen should so immediately come into the measure, than that there should be two defaulters. the measure of Independence, so indispensible and necessary, if I remember right, was not immediately come into by all the States. Whatever ostensible reasons may be offered by these two States for the rejection of this constitution, from what I can learn the true one is the inhibition of paper money, a system which, as it has been practised, is founded in

fraud, and the advocates of it seem loth to part with this darling privelege of cheating their neighbours according to law. but it is to be presumed that a little time and reflection will bring them to a right use of their reason....

1. RC, Washington Papers, DLC. Ruston (c. 1740–1804), a native of Chester County, Pa., was graduated from the College of New Jersey (Princeton) in 1762 and three years later received a medical degree from the University of Edinburgh. He practiced medicine and engaged in business in England until 1785 when he moved to Philadelphia. A wealthy man, he became involved in various commercial and financial projects, including land speculation with Robert Morris. While a member of the Constitutional Convention in June 1787, Washington dined at Dr. Ruston's Philadelphia home, and in November 1787 and January 1788 Ruston visited Washington at Mount Vernon.

## 832. Nathaniel Barrett to Thomas Jefferson New York, 18 August (excerpts)<sup>1</sup>

... You will find by the inclos'd Letter to the Marqs. that No Carolina have rejected the Constitution the only difficulty apprehended from this is that it may create some uneasiness by the Effect it may have on the Inhabitants of the back parts of Virginia-I wish the Adoption had been unanimous-as there can be no Doubt the Alterations necessary will be made-The Time of meeting is the place cannot be agreed-41/2 states for Philadelphia. 61/2-for New York-R.I. not represented—The members for both very resolute—& shewing no present Inclination to receede-The prospect of a stable Government fills the minds of all people with pleasure except a few who are inimical to the Country-The commercial Affairs of the Country are in a more promising state than for some years-a regular system of duties & firmness in the Execution of Laws of Trade-will put the Trade on the most respectable footing. The Exports begin to bear a comparison with the Imports, & in Massachusets are supposed to exceed—There may be some Deception, as I suppose more is run inwards than outwards-but the Increase of exports there is surprizing-as soon as the statement is compleat I will forward you a Copy-I wish the same accuracy was observed in the other states....

If the misconceptions of some persons here in high Rank from france—do not cause prejudices against that Kingdom in the minds of the people here—& their misrepresentations have the same Effect there—I am sure that the commercial Interests of the 2 Countries will be very much extended—in a short Time—But I shall be able to write you more fully on this head soon.

1. RC, Jefferson Papers, DLC. Printed: Boyd, XIII, 523–24. Barrett (1743–1793), a Massachusetts merchant, was appointed the first American consul for the French Port of Rouen in 1790. He had been introduced to Jefferson in a 23 October 1785 letter

from Governor James Bowdoin of Massachusetts. Barrett was on his way to France to act in behalf of Boston merchants who wanted to export whale oil to France in exchange for French manufactures. Jefferson was asked to assist Barrett in this matter which "may be of substantial Service" to Massachusetts and "the United States in general" (Boyd, VIII, 662–63. For another letter of introduction, see Thomas Cushing to Jefferson, 25 October 1785, *ibid.*, 670–71.).

# 833. Thomas FitzSimons to Samuel Meredith Philadelphia, 20 August<sup>1</sup>

I would have wrote to you sometime Ago if I had not expected your Return. but if you Mean to Stay till Congress Agree where their Successors are to Meet I am afraid I shall be deprived for a good while of the pleasure of seeing you—

Without knowing more than any person out of Congress can know it would be Impertinent to offer an Opinion as to what is best to be done under present Circumstances but on the other hand those without are better informed of the opinions of the people abroad than Congress are-it seems to be a Very General one here that their delaying to make the Recommendation pointed out by the New Constitution-till the Adoption by New York-was Improper & laid the foundation of all the subsequent Cabal Intrigue & final disappointmt but the delay now is Considered by many (& I Confess I am one of them) as highly Injurious to the Common Cause-there are Moments in public as well as private affairs-which if not Improved are Never to be Recoverd I fear you are Loseing that time and giveing an oppy to artfull & Industrious Enemys to counteract all that has been done-You know the Indefatigable perseverance of a party in this state and how deficient their opponents are in these Necessary qualitys they are at this Moment Useing every means in their power the principle one will be to delay any Measure that Relates to the Genl Government till the Meeting of the New Assembly in Which they hope to have more Influence than in the present-Whether that will be the case or not it is not easy to determine-but it would at least be Safer to take advante of the present Which I suppose may be done if your ordinance comes out-It must Occurr to you that the Representation of this state in the New Congress will in a Great Measure depend upon the plann that May be adopted for Chuseing them a Good Mode Might now I believe be Obtained Which in another assembly would not be practicable-this perhaps may exist More in my fears than in Reality, but I see such a Supineness in many that I Confess I have my fears-

there is one Circumstance Which gives weight to My Opinion that is the No of people Concerned in Public securitys & Who will make their interest in that Respect the Pole Starr of their direction—at present they recive Interest from the state—Which tho depreciated is Important—this Interest arises from Impost & Excise both of which they foresee will Immy fall into the hands of the New Governmt And as it will not be possible for them to make any Arrangement Immy. of the Domestic debt of Course a Suspension must take place<sup>2</sup>—some Mens fears go further & Suggest the possibility of a Composition on that debt—And from hence Nos. Advocating the Alteration of that part that respects direct taxation they say make Requisition & if not Complyd with then let Congress have the power in [---] of Requisition they would Levy the tax and set off the Interest pd in Continental Certificates

There are so many people interested in this Arrangement that you may depend upon it the friends of the New Government will divide upon it and those So Circumstanced will endeavor to trust in men that will promote their Views you know Moreover that the Constn party in Pensylva<sup>3</sup> foresee their Annihilation if they cannot Get into the Genl Legislature where they may Combine with men of like Views from the other states—I am persuaded the more time they have the more formidable they will appear and that Nothing Can happen so Injurious to the Common Cause as the delay of Congress—

I will say nothing as to place. I Suppose it must be New York tho I confess I think them least intitled to that honor—I think too Pensylva may have it in her power to retaliate severely on some of those Who have so Rancorously Opposed her—but at any rate Let us not Lose the fruit of all our former Exertions & Remain the Scoff of Every other Country—

1. RC, John Read, Jr., Papers, PPL. The names of neither the writer nor the recipient appear in this incomplete letter. From the handwriting, the letter appears to have been written by Thomas FitzSimons, who sent it to a Pennsylvania delegate to Congress, probably Samuel Meredith. The John Read, Jr., Papers contain other letters that were written to Meredith. According to Mary Anne Hines, Chief of Reference at the Library Company of Philadelphia, Read handled Meredith's estate and the FitzSimons letter probably became separated from the Meredith Estate Papers in the Read Papers. Samuel Meredith (1741–1817), a Philadelphia merchant-banker, was a brigadier-general in the Pennsylvania militia during the Revolution; a delegate to the state assembly, 1778–79, 1781–83; a member of Congress, 1786–88; surveyor of the Port of Philadelphia, 1788–89; and U.S. Treasurer, 1789–1801.

2. On 6 January 1785 the Committee of Ways and Means reported to the Pennsylvania Assembly that Pennsylvania citizens were owed annually almost £33,000 interest on state securities and almost £124,000 on Continental securities. To fund this expense, the legislature passed an act in March calling for the emission of £150,000 in paper money two-thirds earmarked for the payment of interest on both state and Continental securities and one-third for loans. Holders of state and Continental securities could exchange their

notes for an equivalent sum in new interest-bearing state securities. The annual interest on these new securities would be paid from the revenue raised from the state impost and excises. By the time that the new government under the Constitution funded the federal debt in 1790, Pennsylvania had redeemed over \$5,000,000 in Continental securities under the act of March 1785. Land sales resulted in the redemption of almost another \$1,000,000 in Continental securities. Consequently, in 1790 the new government under the Constitution owed Pennsylvania \$371,000 in annual interest on the \$6,000,000 that the state held in Continental securities.

With the proposal of the Constitution, Pennsylvania's paper money, which had only moderately depreciated, began to depreciate markedly because it was expected that, once the Constitution was ratified, the revenue raised from the state impost and excises would be transferred to the federal government. On 2 October 1787, about two weeks after the Convention adjourned, the state's attorney general reported "that the whole system of paper money is hastening to destruction." Money passed at a discount of between 331/3 and 40 percent (William Bradford, Jr., to Elias Boudinot, Mfm:Pa. 88).

3. A reference to Pennsylvania's Constitutionalist party, which supported the state constitution of 1776 and, in large measure, opposed ratification of the new federal Constitution.

## 834. Solon, Jr. Providence Gazette, 23 August<sup>1</sup>

The force of habit is very great.—I have heard of an old highlander, who for many years after he had been denied the pleasure of chopping his enemies with his broad-sword, used, at certain times of the day, regularly to brandish it, as though in action.—It is not strange, therefore, that a writer should divert himself in the same manner with his goose-quill, even when there are no hopes left of doing execution.

Time has at length discovered to us, that a great many of the people, and some respectable States in the Union, are of opinion, that the New Constitution needs amendments.—The ratification of it by the State of New-York bears a singular complexion; and North-Carolina has refused to ratify it.

The most eligible mode of obtaining these amendments is therefore now on the tapis.—Two only strike me at present.—It must be done by the States under the old confederation—or as an operation of the New Constitution.

Eleven States having ratified the Constitution unconditionally, it is not likely that they will so far recede from that measure, as to humour the remaining two States in holding a Convention under the old confederation—this indeed would be an indecent request from the two non-complying States, were they more respectable than they are. It therefore follows, that the necessary amendments are to be sought for by the operation of the New Constitution.—Let us therefore attend to the fifth article thereof, which points out the process. In case two-thirds of the New Congress are of opinion that amendments are necessary—they have authority to draught such as they please, and transmit them to the States they represent for ratification.— It is at the option of the New Congress to direct that these amendments shall be submitted to the Legislatures of the States, or to Conventions in the several States, for ratification; and in case such amendments shall be ratified by three-fourths either of the Legislatures or Conventions of such States, they become valid and binding. In this method amendments are obtainable under the New Constitution, without another General Convention.

But, secondly, although two-thirds of the New Congress should not be in favour of any amendments; yet if two-thirds of the Legislatures of the States they represent are for amendments, on the application of such two-thirds, the New Congress will call a General Convention for the purpose of considering and proposing amendments, to be ratified in the same manner as in case they had been proposed by the Congress themselves.

From this brief application of the process in obtaining amendments under the operation of the New Constitution, it is clear that the noncomplying States can have no agency whatever in the business. They will not be represented on the floor of the New Congress, and so cannot act in amendments originating with that body; nor can they have a seat in any future Convention directed by that body, in which amendments may originate, and so can have neither part nor lot in the matter.

It is scarcely to be expected, that eight of the eleven States, assembled under the powers of the New Constitution, will agree in any amendments at all; and the voices of seven States, being less than twothirds of that body, cannot originate any amendments—they will be unavailing—the voices of the Legislatures of seven of those States for a General Convention will also be unavailing for the same reason: But let us suppose that the two outstanding States should come in, after the manner of New-York, their two voices, added to the seven in the New Congress, or the voices of their two Legislatures added to the other seven, would make more than two-thirds of the whole—for a moderate skill in arithmetic will discover, that although *seven* is less than two-thirds of *eleven*, *nine* is more than two-thirds of *thirteen*.

The line of policy appears therefore clearly chalked out to the noncomplying States, if they wish to facilitate and secure amendments, and more especially if they wish to have a voice in making those amendments. Under this impression, no doubt, the Convention of New-York

ratified the Constitution-and what wiser views influenced the North-Carolinians we are yet to learn.

Individuals may talk at random, and many times suffer their passions to over-rule their interest; but we are to hope better things of *States*, assembled in Council by their best and wisest men.

Although it may be only an humiliating reflection, that the State of Rhode-Island, on former occasions holding a dignified rank in the General Councils of this country, should have been able to send no persons qualified to assist in forming the New Constitution<sup>2</sup>—will it not be also chargeable with cruelty to our sister States, who desire our co-operation, to continue to hold ourselves aloof—and refuse to take a situation either to serve ourselves, or them with effect?

1. Reprinted: New York Packet, 5 September; Pennsylvania Journal, 10 September; Richmond Virginia Gazette and Weekly Advertiser, 25 September. David Howell, who wrote newspaper articles under the pseudonym "Solon, Jr." in 1790, was possibly the author of this essay. On 3 June 1790 he sent Thomas Jefferson the Providence United States Chronicle of 25 February 1790, "containing some of my sentiments under the signature of Solon Junior." He also noted that "Both the papers in this Town contain other peices under the same signature" (Boyd, XVI, 452).

Howell (1747–1824), a native of New Jersey, a 1766 graduate of the College of New Jersey (Princeton), and a Providence lawyer, was a delegate to Congress, 1782–85; judge of the state Superior Court, 1786–87; state attorney general, 1789–90; a member of the commission to settle the border between the U.S. and Canada, 1796; and U.S. District Judge for Rhode Island, 1812–24. He vigorously opposed Rhode Island's paper money policies.

2. On 14 March, 5 May, and 16 June 1787, the Rhode Island legislature rejected attempts to appoint delegates to the Constitutional Convention.

## 835. Manasseh Cutler Sermon Marietta, Northwest Territory, 24 August (excerpt)<sup>1</sup>

... The sun, the glorious luminary of the day, comes forth from his chambers of the East, and, rejoicing to run his course, carries light and heat and joy through the nations to the remotest parts of the West, and returns to the place from whence he came. In like manner divine truth, useful knowledge, and improvements appear to proceed in the same direction, until the bright day of science, virtue, pure religion, and free government, shall pervade this western hemisphere. The inspired writers, we have already seen, delight to speak of the propagation of Christianity, under this figure, as proceeding from the rising to the setting sun until incense shall be offered to the true God in every place. The Divine counsels, opened to us by the events of time, give us just ground to believe that one great end God had in view in the original discovery of this American Continent, and in baffling all the attempts which European Princes have made to subject it to their dominion, and in giving us the quiet possession of it as our own land, was that a new Empire should be called into being—an Empire new, indeed, in point of existence, but more essentially so, as its government is founded on principles of equal liberty and justice. Never before was the wisdom of an Empire collected in  $one^{(a)}$  august assembly, for the purpose of deliberating, reasoning, and deciding on the best mode of civil government. Never before had a people an opportunity of adopting and carrying into effect, a constitution of government for an extensive consolidated body, which was the result of inferences from the experience of past ages and sober reasoning on the rights and advantages of civil society. It may be emphatically said that a new Empire has sprung into existence, and that there is a new thing under the sun.

By the Constitution now established in the United States, religious as well as civil liberty is secured. Full toleration is granted for free inquiry, and the exercise of the rights of conscience. No one kind of religion, or sect of religion, is established as the national religion, nor made, by national laws, the test of truth. Some serious Christians may possibly tremble for the Ark, and think the Christian religion in danger when divested of the patronage of civil power. They may fear inroads from licentiousness and infidelity, on the one hand, and from sectaries and party divisions on the other. But we may dismiss our fears, when we consider that truth can never be in real hazard, where there is a sufficiency of light and knowledge, and full liberty to vindicate it. . . .

(a) The Convention which met in 1787 and formed the Constitution of the United States.

1. Printed: William Parker Cutler and Julia Perkins Cutler, *Life, Journals and Correspondence of Rev. Manasseh Cutler, LL.D. By His Grandchildren* (2 vols., Cincinnati, 1888), II, 439–50. Cutler's sermon was based upon this Biblical text: "From the rising of the sun even unto the going down of the same, my name shall be great among the Gentiles; and in every place incense shall be offered unto my name, and a pure offering, for my name shall be great among the heathen, saith the Lord of hosts" (Malachi 1:11). Cutler preached his sermon in the recently settled town of Marietta "at the Hall" in Campus Martius, the name of which, he said, was "selected by the officers for the new garrison built by the Ohio Company." The hall, Cutler noted, "was very full" (S. P. Hildreth, ed., "Journal of the Rev. Manasseh Cutler, LL.D., 1788," *The New England Historical and Genealogical Register*, XIV [1860], 365). In antiquity, Campus Martius (literally martial field or plain) was a plain near the River Tiber that the Romans used for assemblies and sports.

Cutler (1742–1823), a Connecticut native and Yale graduate (1765), was a lawyer, Congregational minister, physician, and scientist. Cutler and several others drafted the articles of incorporation for the Ohio Company, and he served as the company's agent in purchasing land in the Northwest Territory from Congress in the summer of 1787.

It is also believed that some of the changes he recommended in the Northwest Ordinance of July 1787 were accepted by Nathan Dane, the principal author of that document. On 21 July 1788 Cutler left Massachusetts for Marietta, arriving there on 19 August, five days before he delivered his sermon.

## 836. James Madison to George Washington New York, 24 August<sup>1</sup>

I was yesterday favored with yours of the 17th. 18th. under the same cover with the papers from Mr. Pleasants. The Circular letter from this State is certainly a matter of as much regret, as the *unanimity* with which it passed is matter of surprize.<sup>2</sup> I find it is every where, and particularly in Virginia, laid hold of as the signal for united exertions in pursuit of early amendments. In Pennsylva. the antifederal leaders are I understand, soon to have a meeting at Harrisburg, in order to concert proper arrangements on the part of that State.<sup>3</sup> I begin now to-accede to the opinion, which has been avowed for some time by many, that the circumstances involved in the ratification of New York will prove more injurious than a rejection would have done. The latter wd. have rather alarmed the well meaning antifederalists elsewhere. would have had no ill effect on the other party, would have excited the indignation of the neighbouring States, and would have been necessarily followed by a speedy reconsideration of the subject. I am not able to account for the concurrence of the federal part of the Convention in the circular address, on any other principle than the determination to purchase an immediate ratification in any form and at any price, rather than disappoint this City of a chance for the new Congress. This solution is sufficiently justified by the eagerness displayed on this point, and the evident disposition to risk and sacrifice every thing to it. Unfortunately the disagreeable question continues to be undecided, and is now in a state more perplexing than ever. By the last vote taken, the whole arrangement was thrown out, and the departure of Rho. Island & the refusal of N. Carolina to participate further in the business, has left eleven States only to take it up anew. In this number there are not seven States for any place, and the disposition to relax, as usually happens, decreases with the progress of the contest. What and when the issue is to be is really more than I can foresee. It is truly mortifying that the outset of the new Government should be immediately preceded by such a display of locality, as portends the continuance of an evil which has dishonored the old, and gives countenance to some of the most popular arguments which have been inculcated by the Southern antifederalists.

New York has appeared to me extremely objectionable on the fol-

lowing grounds. It violates too palpably the simple and obvious principle that the seat of public business should be made as equally convenient to every part of the public, as the requisite accommodations for executing the business will permit. This consideration has the more weight, as well on account of the catholic spirit professed by the Constitution, as of the increased resort which it will require from every quarter of the Continent. It seems to be particularly essential that an eye should be had in all our public arrangements to the accomodation of the Western Country, which perhaps cannot be sufficiently gratified at any rate, but which might be furnished with new fuel to its jealousy by being summoned to the sea-shore & almost at one end of the Continent. There are reasons, but of too confidential a nature for any other than verbal communication, which make it of critical importance that neither cause, nor pretext should be given for distrusts in that quarter of the policy towards it in this. I have apprehended also that a preference so favorable to the Eastern States would be represented in the Southern as a decisive proof of the preponderance of that scale, and a justification of all the antifederal arguments drawn from that danger. Adding to all this the recollection that the first year or two will produce all the great arrangements under the new system, and which may fix its tone for a long time to come, it seems of real importance that the temporary residence of the new Congress, apart from its relation to the final residence, should not be thrown too much towards one extremity of the Union. It may perhaps be the more necessary to guard agst. suspicions of partiality in this case, as the early measures of the new Government, including a navigation act will of course be most favorable to this extremity.

But I own that I am much influenced by a view to the final residence, which I conceive more likely to be properly chosen in Philada. than in New York. The extreme eccentricity of the latter will certainly in my opinion bring on a premature, and consequently an improper choice. This policy is avowed by some of the sticklers for this place, and is known to prevail with the bulk of them. People from the interior parts of Georgia, S.C. N.C. Va. & Kentucky will never patiently repeat their trips to this remote situation, especially as the legislative sessions will be held in the winter season. Should no other consequence take place than a frequent or early agitation of this contentious subject, it would form a strong objection agst. N. York.

Were there reason to fear a repugnance to the establishment of a final seat, or a choice of a commercial City for the purpose, I should be strongly tempted to shun Philada. at all events. But my only fear on the first head is of a precipitancy in carrying that part of the fœderal

Constitution into effect, and on the second the public sentiment as well as other considerations is so fixedly opposed as to banish the danger from my apprehensions. Judging from my own experience on this subject, I conclude that from motives of one sort or another ten States at least (that is 5 from each end of the Union) to say nothing of the Western States will at any proper time be ready to remove from Philada. The only difficulty that can arise will be that of agreeing on the place to be finally removed to and it is from that difficulty alone, and the delay incident to it, that I derive my hope in favor of the banks of the Potowmac. There are some other combinations on this subject into which the discussion of it has led me, but I have already troubled you with more I fear than may deserve your attention.<sup>4</sup>

The Newspapers herewith inclosed contain the European intelligence brought by the last packets from England.

1. RC, Washington Papers, DLC.

2. In his letter of 17–18 August Washington stated "That the circular letter from the Convention of New York should be handed to the public as the unanimous sense of that body is, to me, surprizing. It will, I fear, be attended with pernicious consequences" (Rutland, *Madison*, XI, 234). For the New York Circular Letter, see CC:818–C.

3. For the convention of Pennsylvania Antifederalists at Harrisburg, 3–6 September, called to obtain amendments to the Constitution, see DHFFE, I, 258–64.

4. For Washington's opinion on the location of the capital, as expressed in his 17-18 August letter to Madison, see Rutland, *Madison*, XI, 235.

## 837. Gaspard Joseph Amand Ducher to Comte de la Luzerne Wilmington, N.C., 25 August<sup>1</sup>

I am going to finish a piece of work on the amendments called for by seven of the United States and I will have the honor to send it to you immediately. I have the honor to enclose here the summary of all these amendments. in comparing it with the summary of the new constitution, enclosed with my no.  $2,^2$  one observes the opposition between the proposed plan and the changes called for, one sees what the states are granting by ratifying and what they want to *Recover* by the amendments they are calling for.

I also enclose one of the tables that will accompany my work.

I will neglect nothing, My Lord, so that you are well informed of all that this Revolution has of interest.

The summary herewith includes essentially all that is against the new constitution, all that will meet with objections in Congress or in the Convention that is to propose amendments.

### Summary of Amendments. President.

The president of the United States may be president only *eight* years out of *sixteen*.

The president may not be elected a *third* time.

The president may not command an army in person, without the Consent of congress, [and] without the previous wish of Congress.

The president shall grant no *pardons* in cases of treason except with the Consent of Congress.

Patents, licenses, commissions etc., shall be in the name of the *people* of the United States and certified in the name of the president.

Any treaty contrary to the existing laws of the United States shall be invalid if these laws are not Repealed.

Any treaty contrary to the constitution shall be invalid.

In the cases of death, Resignation or incapacity of the president, or vice president, the one appointed by Congress [to be the successor] may exercise power only during the time for which the president or vice president had been elected.

N.B. See hereafter, the article on *commerce*.<sup>3</sup>

Senators and members of the lower house.

The members of the *two* houses shall be ineligible for and unable to serve in *any* civil office under the authority of the United States.

There shall be a tribunal to try impeachments against Senators.

Congress shall Regulate neither the times, places, nor manner of elections for Senators and members of the lower house, except in case of negligence or Refusal by the States.

The Regulation of salaries of Senators and members of the lower house shall be delayed until *after the election* of Representatives in the lower house, which shall take place after the Regulation.

There shall be *one* Representative or member in the lower house for 30,000 citizens until the number goes up to 200, then the number of 200 may not be *diminished*; but it may be *continued or increased* in apportioning the Representation of each state to a GREATER number of delegates.

No person may be a Senator more than six years out of twelve.

The state legislatures may Recall their Senators and appoint others in their places.

The legislature, and not the executive power, of each state may fill the vacancies of Senators.

The Senate may try impeachments only with the judges of the Supreme Court of the United States and a judge named from each state. The majority shall pass judgment. Senators, members of the Lower House, and all officers of the executive and judicial power of the United States shall take an oath not to violate or infringe upon the constitutions or rights of the respective states.

Congress.

Each state retains all power not particularly, expressly, and clearly delegated.

Congress may neither repeal nor abrogate any part of the Bill of rights or constitutions of the states.

Congress shall not have power to impose a poll tax.

The duties imposed by Congress shall be credited to the state in which they shall be collected and deducted from its quota of the expenses of the general government.

Congress shall impose *direct* or *Consumption* taxes only in case of the insufficiency of customs duties, postal fees and other resources; in this case of necessity, Congress shall inform each state of its quota of projected taxes on land and consumption; if after this requisition, any state promulgates an effective law to raise the amount requested, these taxes shall not be collected by the Congress in that state; but in case of negligence or refusal by a state to furnish its required quota, Congress shall assess and levy its quota, with interest at 6%, figuring from the time that shall have been set for payment.

The clauses of the New Constitution that declare that Congress shall not have certain power are either exceptions to the *specified* powers or inserted for greater precaution, and one should not infer from them that Congress has powers not granted by the new constitution.

Congress may not declare a state to be in Rebellion without the consent of at least two-thirds of all the members present in the two houses.<sup>4</sup>

Congress may not introduce *foreign* troops into the United States without the consent of *two-thirds* of the members present in the two houses.

Congress may not interfere, either directly or indirectly, by itself or through its *courts*, with the redemption of *paper money* issued and now in Circulation, or with the liquidation or discharge of the public securities of any of the states; but each state shall have the exclusive right of making such Regulations and laws on this matter as it shall deem proper.<sup>5</sup>

Congress may not make any loans of money on the *Credit* of the United States without the Consent of *two-thirds* of the members present in each house.

Congress may declare war only with the consent of *two-thirds* of the members present in each house.

Congress may have Regular troops in time of peace only with the

Consent of *two-thirds*, or *three-fourths* of the members of each house. The enlistments shall be for *four* years in time of peace, and in time of war for the duration of the war and *no longer*.

The Militia of each state shall not be subject to the Regulations of Congress nor go outside of the state except with the Consent of the aforementioned state. Each state shall have the power to organize, arm and discipline its militia, whensoever Congress omits or neglects to do it; the militia shall be subject to martial law only in time of war; when it is not in the Service of the United States, it shall be subject only to the laws of its *state*.

#### Commerce.

No Commercial treaty may be made except with the concurrence of *two-thirds* of the TOTAL number of members of the Senate.

No navigation or Commerce law may be made without the consent of *two-thirds* of the members present in the *two* houses.

Treaties ceding territorial or fishing rights in american seas or navigation rights in american Rivers shall not be made except in the most urgent and extreme Necessity, nor be Ratified without the Concurrence of *three-fourths* of the *total* number of members of the *two* houses.<sup>6</sup>

Congress may not impose any consumption duties on articles of the growth, production or manufacture of the United States, Spirituous liquors excepted.

Congress shall not erect any Merchant companies with exclusive commercial privileges.

Boats bound for one state shall not be subject either to entry fees or to pay duties in any other state, nor Boats bound from one of the states be subject to exit fees in another.

## Judicial Power or Supreme Court.

The salary of a judge may not be *increased* while he continues in office, unless it is by a general law that will take effect at fixed periods and not less than seven years, counting from the first regulation that will have been made on this matter.

There shall be no appeal to the Supreme Court in *criminal* cases.

There shall be no appeal to the Supreme Court in cases of law or fact when the matter does not exceed 300 pounds sterling, or 3,000 dollars.

In cases arising about property or [---],<sup>7</sup> the aggrieved party shall have the right to a *jury* trial in the state courts, *as opposed* to federal courts, and there shall be no appeal unless there are matters of law.

In cases in which there would be capital or infamous punishment, there shall be *grand juries*, except for cases concerning land or naval forces. Between citizens of different states, all matters of fact shall be tried by *juries*, if it is requested.

Congress shall not establish any tribunal or inferior court, except for admiralty cases, maritime jurisdiction, piracies, felonies; in all other cases to which the judicial power of the United States extends, and when the Supreme Court does not have original jurisdiction, cases shall be tried by the *state* courts, except for appeal to the *Supreme Court*.

Judges of the Supreme Court shall not hold *any other* office under the authority of the United States, or any of them.

One may obtain from the President of the United States, with the Consent of the Senate, a commission directed to not less than seven men of law to review the judgments of the Supreme Court.

The Supreme Court shall not try cases between a state and the citizens of another state, nor between a state or the citizens thereof, and foreign states or subjects.

In cases concerning ambassadors and consuls and those in which a state is a party, the Supreme Court shall have *original* jurisdiction; in other cases *appellate* jurisdiction for matters of LAW *only*, except cases of *equity*, admiralty, maritime jurisdiction, in which the Supreme Court shall have appellate jurisdiction respecting *law* and FACT.

The Supreme Court shall not take cognizance of cases previous to the ratification of the new constitution, except for cases concerning the territorial boundaries between the states, Grants of land by different states, and debts owed to the United States.

The jurisdiction of the Supreme Court shall not be increased and no treaty will be concluded to produce that effect or to change the constitution of *any state.*<sup>8</sup>

1. RC (Tr), Correspondance Politique, États-Unis, Supplement, Vol. 4, ff. 368-73, Archives du Ministère des Affaires Étrangères, Paris. The cover letter and the summary of amendments, Ducher's dispatch number 21, were endorsed as received on 23 and 24 May 1789. Both documents also include another number which possibly represents the total number of dispatches sent from the Wilmington, N.C., French Vice Consulate. The cover letter and the summary of amendments contain marginalia written by Ducher himself and marginalia possibly inserted by a clerk in the French Foreign Office to assist the Minister of Marine. Some of the marginalia describes the contents of the adjacent paragraph. Significant marginalia are in footnotes 4 to 8 (below). Ducher also included a table as an enclosure. The table (not printed here) gives the estimates of population for each state used by the Constitutional Convention to apportion the House of Representatives; the number of delegates and the vote on ratification in each state ratifying convention; the number of Senators and Representatives allotted to each state in the first federal Congress by the Constitution; the number of Representatives that each state would have after the first census (based on an apportionment of one Representative for every 30,000 inhabitants); and a brief statement summarizing the position of some states on amendments. Ducher's statistics, some of which are incorrect, were probably derived from items that first appeared in the New York *Daily Advertiser* on 5 February and 4 July 1788 (CC:Vol. 4, p. 510; and Appendix I, below).

2. This letter has not been located.

3. In the left-hand margin to the above paragraphs these marginal notes appear: "new hampshire massachusetts maryland south Carolina new york north carolina virginia./ north carolina requests bill of rights and amendments *before* Ratifying/the *six* other states above ratified without requiring that the bills of rights and amendments that they asked for be agreed to *previously*/five states, connecticut, new jersey, pennsylvania, delaware and georgia Ratified without requesting amendments/Rhode island has not convened a Convention. see no. 17." For Ducher's dispatch number 17, dated 6 June, see CC:774.

4. In the left-hand margin opposite this paragraph appears this notation: "requested by north carolina." For the North Carolina Amendments, see CC:821.

5. In the left-hand margin opposite this paragraph appears this notation: "requested by north carolina."

6. In the left-hand margin opposite the three above paragraphs appears this notation: "these three articles are requested by north Carolina and virginia." For the Virginia amendments, see CC:790.

7. At this point in the original, two words are illegible. The corresponding phrase in the appropriate amendment (i.e., number eleven in the Virginia and North Carolina declarations of rights, CC:790, 821) reads "in suits between man and man."

8. In the left-hand margin opposite the second and third paragraphs in this lengthy section on the judiciary appears this notation: "The articles are very Restrictive of the powers of the federal courts."

## 838. William Ellery to Benjamin Huntington Newport, 25 August (excerpt)<sup>1</sup>

... The little Sister left you in the lurch.—New York influenced our delegates to vote that the new Congress should meet there,—and Penn-sylvania I suppose perswaded them to leave Congress before a vote was taken on the whole Ordinance.—

Mr. Hazard I am informed has said that if they had tarried they should not have voted on the Ordinance.—Indeed our delegates voting at all in a matter that regarded the new Constitution has exposed them to the censure of the antifederalists, and Hazard has had recourse to leasing<sup>2</sup> to justify his conduct.<sup>3</sup>—

He has said that he objected to voting with respect to the place of the meeting of the New-Congress, and that Mr. Hamilton got that part of the ordinance alterd, so that the question respected only the present Congress.—

He declared on his arrival, in our main street before a number of people, that, if the New Congress would sit here for three years, he would be for the New Constitution; and the country people he has told that the adoption of it would be the destruction of the State;—

that the New-England Delegates have allowed that the Eastern States have been taken in by the Southern States, and that they repent their having embraced the new constitutn.—

That this State by standing out may derive great benefits in point of trade.—that he can procure as many British bottoms as the merchants may want,—that our ports may be free;—that this State has been imposed upon,—that we have been called upon for a fiftieth part of the expence of the war, when in fact we ought not to pay more than a two hundredths part;—&c. &c. &c..—It is said that when he was at New York he was frequently with Mr. Temple.<sup>4</sup>—

If you expect that this State will join you in endeavouring to put an end to any dispute about the New Constitution you will be deceived.-They had at present much rather foment, than conciliate.-What they may do hereafter I cannot positively say;-but I think they will be compelled to come in, and make a part of the federal government.-If the determination on the place for the meeting of the Congress under the new government, could establish their future residence I should not wonder that a dispute about the place should run high;but as the New Congress, after they are organized, may adjourn to what place they please I hope that the obstinacy of competitors will not delay the organization beyond the period which was candidly and accommodatingly agreed to.-It is of the utmost importance that the new government should be organized as soon as possible.-It is high time that we had an efficient government.-We are all afloat,-trade almost at an end,-fraud and injustice triumph over truth and honesty, and discord and confusion have taken the place, in some States, of peace and good order.-There must be an accommodation with regard to place as well as time.-The interest of the United States, must not be sacrificed to the obstinacy of any two ratifying States.-You may perhaps agree in a third place where it is probable the New-Government will not fix, and thus it may be left with them to decide between Pennsylvania & New York.-

Suppose this should be the place of the first meeting of the New-Congress.—Neither of those States could be jealous of the little W—h—r—...

1. RC, Thomas C. Bright Autograph Collection, Jervis Library, Rome, N.Y. Huntington (1736–1800), a Norwich lawyer, was elected to the U.S. House of Representatives in December 1788. He served in the lower house of the Connecticut legislature from 1771 to 1780 (speaker, 1778–79); in the upper house from 1781 to 1792 (with the exception of 1790); in Congress from 1780 to 1784 and in 1788; as Norwich's first mayor from 1784 to 1796; and as a state Superior Court judge from 1793 to 1797. Ellery and Huntington were regular correspondents. 2. Ellery is using the word "leasing" to mean untrue, false, lying.

3. Jonathan J. Hazard and Peleg Arnold represented Rhode Island in the Confederation Congress. In preliminary votes on the location of the federal capital under the new Constitution, they voted in favor of New York City. Realizing their awkward position—Rhode Island had rejected the new Constitution by a direct vote of the freemen in town meetings and the state legislature still refused to call a convention to consider the new Constitution—Hazard and Arnold left Congress after 7 August. Arnold returned on 8 September, but, despite heavy pressure from New York's delegates, Hazard never returned. See DHFFE, I, 78, 83–84.

4. Sir John Temple had been British consul general in America since 1785.

# 839 A-D. Implementing the Constitution: George Washington as the First President, 28 August-c. 25 September

# 839–A. George Washington to Alexander Hamilton Mount Vernon, 28 August (excerpts)<sup>1</sup>

I have had the pleasure to receive your letter dated the 13th....

As the perusal of the political papers under the signature of Publius has afforded me great satisfaction, I shall certainly consider them as claiming a most distinguished place in my library.<sup>2</sup>—I have read every performance which has been printed on one side and the other of the great question lately agitated (so far as I have been able to obtain them) and without an unmeaning compliment, I will say that I have seen no other so well calculated (in my judgment) to produce conviction on an unbiassed mind, as the *Production* of your *Triumvirate*— When the transient circumstances & fugitive performances which attended this *crisis* shall have disappeared, that work will merit the notice of Posterity; because in it are candidly discussed the principles of freedom & the topics of government, which will be always interesting to mankind so long as they shall be connected in Civil Society.

The circular Letter from your Convention,<sup>3</sup> I presume, was the equivalent by wch. you obtained an acquiescence in the proposed Constitution.—Notwithstanding I am not very well satisfied with the tendency of it; yet the Fœderal affairs have proceeded, with few exceptions, in so good a train, that I hope the political Machine may be put in motion, without much effort or hazard of miscarrying

On the delicate subject with which you conclude I can say nothing;<sup>4</sup> because the event alluded to may never happen; and because, in case it should occur, it would be a point of prudence to defer forming one's ultimate and irrevocable decision, so long as new data might be afforded for one to act with the greater wisdom & propriety—I would not wish to conceal my prevailing sentiment from you—For you know me well enough, my good Sir, to be persuaded that I am not guilty of affection, when I tell you, it is my great and sole desire to live and

#### 28 August-c. 25 September, CC:839

die, in peace and retirement, on my own farm.—Were it even indispensable, a different line of conduct should be adopted; while you and some others who are acquainted with my heart would *acquit*, the world and Posterity might probably *accuse* me of *inconsistency* and *ambition*.— Still I hope I shall always possess firmness and virtue enough to maintain (what I consider the most enviable of all titles) the character of *an honest man*, as well as prove (what I desire to be considered in reality) that I am, with great sincerity & esteem, Dear Sir Your friend and Most Obedient Hble Ser

## 839-B. Henry Lee to George Washington New York, 13 September (excerpts)<sup>5</sup>

#### My dear General.

... The solemnity of the moment, & its application to yourself, has fixed my mind in contemplations of a public & a personal nature and I feel an involuntary impulse which I cannot resist of communicating without reserve to you, some of the reflexions which the hour has produced. Solicitous for our common happiness as a people, & convicted as I continue to be, that our peace & prosperity depends on the proper improvement of the present period, my anxiety is extreme, that the new govt. may have an auspicious beginning—To effect this & to perpetuate a nation formed under your auspices, it is certain that again you will be called forth—

The same principles of devotion to the good of mankind which has invariably governed your conduct, will no doubt continue to rule your mind however opposite their consequences may be, to your repose & happiness. It may be wrong, but I cannot suppress in my wishes for national felicity, a due regard to your personal fame & content.

If the same success should attend your efforts on this important occasion, which has distinguished you hitherto, then to be sure you will have spent a life, which providence rarely if ever before gave to the lot of one man...

It would certainly be unpleasant to you & obnoxious to all who feel for your just fame, to see you at the head of a tumbling system—It is a sacrifice on your part, unjustifiable in any point of view—But on the other hand no alternative seems to be presented.

without you the govt. can have but little chance of success, & the people of that happiness which its prosperity must yield—In this dilemma, it seems wise that such previous measures be in time adopted, which most promise to allay the fury of opposition, to defer amendments, till experience has shewn defects—& to ensure the appointments of able & honest men in the first Congress....

# 839-C. George Washington to Henry Lee Mount Vernon, 22 September (excerpt)<sup>6</sup>

... The principal topic of your letter is, to me, a point of great delicacy indeed: insomuch that I can scarcely, without some impropriety touch upon it. In the first place, the event to which you allude may never happen, among other reasons because, if the partiality of my fellow citizens Conceive it to be a mean by which the sinews of the new government would be strengthened, it will of consequence be obnoxious to those who are in opposition to it, many of whom, unquestionably, will be placed among the Electors.—

This consideration alone would supersede the expediency of announcing any definitive, and irrevocable resolution.-you are among the small number of those, who know my invincible attachment to domestic life, and that my sincerest wish is to continue in the enjoyment of it, solely, until my final hour. But the world would be neither so well instructed, or so candidly disposed as to believe me to be uninfluenced by sinister motives; in case any circumstance should render a deviation from the line of conduct I had prescribed to myself indispensable. Should the contingency you suggest take place, and (for argument sake alone let me say) should my unfeigned reluctance to accept the office be over come by a deference for the reasons and opinions of my friends; might I not, after the Declarations I have made (and Heaven knows they were made in the sincerity of my heart) in the Judgment of the impartial World & of Posterity, be chargable with levity and inconsistency; if not with rashness and ambition? Nay farther would there not even be some apparant foundation for the two former charges? Now Justice to myself and tranquility of con[s]cience require that I should act a part, if not above imputation, at least, capable of vindication. Nor will you conceive me to be too solicitous for reputation. Though I prize, as I ought, the good opinion of my fellow citizens; yet, if I knew myself, I would not seek or retain popularity at the expence of one social duty or moral virtue. while doing what my conscience informed me was right, as it respected my God, my Country and myself, I could despise all the party clamour and unjust censure, which must be expected from some, whose personal enmity might be occasioned by their hostility to the government. I am conscious, that I fear alone to give any real occasion for obliquy, and that I do not dread to meet with unmerited reproach. And certain I am, whensoever I shall be convinced the good of my country requires my reputation to be put in risque; regard for my own fame will not come in compe[ti]tion with an object of so much magnitude. If I declined the task it would lie upon quite another principle. Notwithstanding

### 28 August-c. 25 September, CC:839

my advanced season of life, my encreasing fondness for agricultural amusements and my growing love of retirement augment and confirm my decided predilection for the character of a private citizen: yet it would be no one of these motives, nor the hazard to which my former reputation might be exposed, or the terror of encountering new fatigues and troubles that would deter me from an acceptance-but a belief that some other person, who had less pretence and less inclination to be excused, could execute all the duties full as satisfactorily as myself. To say more would be indiscreet; as a disclosure of a refusal beforehand, might incur the application of the Fable; in which the Fox is represented as undervaluing the grapes he could not reach. You will perceive, my dear Sir, by what is here observed (and which you will be pleased to consider in the light of a confidential communication) that my inclinations will dispose & decide me to remain as I am; unless a clear and insurmountable conviction should be impressed on my mind, that some very, disagreeable consequences must in all human probability result from the indulgence of my wishes....

# 839–D. Alexander Hamilton to George Washington New York, c. 25 September (excerpts)<sup>7</sup>

Your Excellency's friendly and obliging letter of the 28th Ulto. came safely to hand. . . .

I should be deeply pained my Dear Sir if your scruples in regard to a certain station should be matured into a resolution to decline it; though I am neither surprised at their existence nor can I but agree in opinion that the caution you observe in deferring an ultimate determination is prudent. I have however reflected maturely on the subject and have come to a conclusion, (in which I feel no hesitation) that every public and personal consideration will demand from you an acquiescence in what will certainly be the unanimous wish of your country. The absolute retreat which you meditated at the close of the late war was natural and proper. Had the government produced by the revolution gone on in a tolerable train, it would have been most adviseable to have persisted in that retreat. But I am clearly of opinion that the crisis which brought you again into public view left you no alternative but to comply-and I am equally clear in the opinion that you are by that act *pledged* to take a part in the execution of the government. I am not less convinced that the impression of the necessity of your filling the station in question is so universal that you run no risk of any uncandid imputation, by submitting to it. But even if this were not the case, a regard to your own reputation as well as to the public good, calls upon you in the strongest manner to run that risk.

It cannot be considered as a compliment to say that on your acceptance of the office of President the success of the new government in its commencement may materially depend. Your agency and influence will be not less important in preserving it from the future attacks of its enemies than they have been in recommending it in the first instance to the adoption of the people. Independent of all considerations drawn from this source the point of light in which you stand at home and abroad will make an infinite difference in the respectability with which the government will begin its operations in the alternative of your being or not being at the head of it. I forbear to urge considerations which might have a more personal application—What I have said will suffice for the inferences I mean to draw—

First—In a matter so essential to the well being of society as the prosperity of a newly instituted government a citizen of so much consequence as yourself to its success has no option but to lend his services if called for—Permit me to say it would be inglorious in such a situation not to hazard the glory however great, which he might have previously acquired.

Secondly Your signature to the proposed system pledges your judgment for its being such an one as upon the whole was worthy of the public approbation. If it should miscarry (as men commonly decide from success or the want of it) the blame will in all probability be laid on the system itself. And the framers of it will have to encounter the disrepute of having brought about a revolution in government, without substituting any thing that was worthy of the effort—They pulled down one Utopia, it will be said, to build up another. This view of the subject, if I mistake not my dear Sir will suggest to your mind greater hazard to that fame, which must be and ought to be dear to you, in refusing your future aid to the system than in affording it. I will only add that in my estimate of the matter that aid is indispensable.

I have taken the liberty to express these sentiments to lay before you my view of the subject—I doubt not the considerations mentioned have fully occurred to you, and I trust they will finally produce in your mind the same result, which exists in mine. I flatter myself the frankness with which I have delivered myself will not be displeasing to you. It has been prompted by motives which you would not disapprove. . . .

1. RC, Washington Collection, Rare Book and Manuscript Library, NNC. Hamilton replied to Washington around 25 September (CC:839–D).

2. In his 13 August letter, Hamilton had informed Washington that "I have delivered to Mr. Madison to be forwarded to you a sett of the papers under the signature of

Publius, neatly enough bound, to be honored with a place in your library. I presume you have understood that the writers of these Papers are chiefly Mr. Madison & myself with some aid from Mr. Jay" (Syrett, V, 201). Madison probably did not entrust this "neatly" bound set of *The Federalist* to anyone and he carried it himself to Mount Vernon in December, on his way to his Orange County home to stand for election to the U.S. House of Representatives. He arrived at Mount Vernon on 19 December and remained until the 25th (*Washington Diaries*, V, 436, 437).

3. For the New York Convention's Circular Letter, see CC:818-C.

4. In his 13 August letter to Washington, Hamilton wrote: "I take it for granted, Sir, you have concluded to comply with what will no doubt be the general call of your country in relation to the new government. You will permit me to say that it is indispensable you should lend yourself to its first operations—It is to little purpose to have *introduced* a system, if the weightiest influence is not given to its firm *establishment*, in the outset" (Syrett, V, 201–2).

5. RC, Washington Papers, DLC. For longer excerpts from this letter, see DHFFE, IV, 64-66, and for Washington's reply, see CC:839-C.

6. FC, Washington Papers, DLC. Printed: Fitzpatrick, XXX, 95–99. Washington answers Lee's 13 September letter (CC:839–B).

7. RC, Washington Papers, DLC. Printed: Syrett, V, 220–22. This letter is dated simply "September 1788." It is placed under c. 25 September because on 3 October Washington, in replying to it, told Hamilton that he had just received his "canded and kind letter by the last Post" (*ibid.*, 222). It took between a week and ten days for Washington to receive correspondence from New York City.

# 840. Thomas Lee Shippen to William Short Chatelaine, Switzerland, 28 August (excerpt)<sup>1</sup>

My dear friend

... So 10 States have agreed to live under the law of the new Constitution. May they have reason to rejoice at the change-I wish I could say the more I think of, the more I approve it. As to my relations in Virga. I learn that they are almost equally divided on the subject, and the Legion officer the only one whom I find in ye Convention is a violent partisan of the form of government proposed<sup>2</sup>-I am afraid his military notions lead him that way, for there is a vast number of people I find for adopting who do not altogether approve the system, and that from a mode of reasoning on ye subject which I remember to have seen well laid down in one of your late letters.<sup>3</sup> It is only in preferring the opinion of wiser men, to my own that I can bring myself to approve it in any way-Almost every circumstance of the Swiss cantons and every part of their history furnishes me by analogy with a new objection-I learn from them too, generally, that confederacies of unequal States, may well subsist for a length of time with equality of representation and that a strong chain of absolute & uncontrolable power is not necessary to keep them together-I find too, that they have been often jealous of each other, and see that they are surrounded

#### COMMENTARIES ON THE CONSTITUTION

on all sides by powerful & ambitious neighbours. But it is with pain that I allow myself to turn my mind to that view of things—much more willingly do I pass hours in each day in collecting with the little ingenuity I can muster up, arguments to persuade myself that the majority of my Countrymen have determined wisely—I am content to be ruled by their decisions, and even to sacrifice myself to what they suppose the public benefit. It is some relief to me to vent in a confidential manner to a friend some of those doubts and fears which all arise from an overweening love of my Country....

1. RC, Short Papers, DLC. According to Shippen, Chatelaine, "a mile out of Geneva," was "a small collection of houses most amicably situated with respect to each other, to which 3 or 4 Geneva families retire to pass the summer." The letter was docketed: "Shippen Aug 28 88/Sep. 2." Shippen, a young law student, was on a "Grand Tour" of Europe, having traveled a total of 1,600 miles. The letter was written on 28 and 29 August, the last two paragraphs (not printed here) being written on the latter date.

2. "The Legion officer" was Colonel Henry Lee. The only member of the Lee family in the Virginia Convention, Lee spoke often and voted to ratify the Constitution in June. Among Shippen's other Virginia relations, Richard Henry Lee and Arthur Lee opposed the Constitution, while Francis Lightfoot Lee supported it. Shippen's father and grandfather, William, Jr., and William, Sr., were Pennsylvania Antifederalists.

3. In his 31 May letter to Shippen, in which he discussed the Constitution at length, Short approved of the Massachusetts Convention's mode of ratification, i.e., recommending amendments "instead of making the amendments a condition of their acceptance" (RCS:Va., 895–96).

### 841. George Washington to Sir Edward Newenham Mount Vernon, 29 August (excerpt)<sup>1</sup>

... I hope the United States of America will be able to keep disengaged from the labyrinth of European politics & Wars; and that before long they will, by the adoption of a good national government, have become respectable in the eyes of the world so that none of the Maritime Powers, especially none of those who hold possessions in the New World or the West Indies shall presume to treat them with insult or contempt.—It should be the policy of United America to administer to their wants, without being engaged in their quarrels.—And it is not in the ability of the proudest and most potent people on earth to prevent us from becoming a great, a respectable & a commercial Nation, if we shall continue United & faithful to ourselves.—

Your sollicitude that an efficient and good government may be established in this Country, in order that it may enjoy felicity at home and respectibility abroad, serves only to confirm me in the opinion I have always entertained of your disinterested & ardent friendship for this Land of freedom.—It is true, that, for the want of a proper

Confæderation, we have not yet been in a situation fully to enjoy those blessings which God & Nature seemed to have intended for us.—But I begin to look forward, with a kind of political faith, to scenes of National happiness, which have not heretofore been offered for the fruition of the most favoured Nations.—The natural, political, and moral circumstances of our nascent empire justify the anticipation.— We have an almost unbounded territory whose natural advantages for agriculture & commerce equal those of any on the globe.—In a civil point of view we have the unequalled previledge of choosing our own political Institutions and of improving upon the experience of Mankind in the formation of a confœderated government, where due energy will not be incompatible with the unalienable rights of freemen.— $\langle$ To complete the picture, I may observe, $\rangle^2$  that the information & morals of our Citizens appear to be peculiarly favourable for the introduction of such a plan of government as I have just now described.

Although there were some few things in the Constitution recommended by the Fœderal Convention to the determination of the People, which did not fully accord with my wishes; yet, having taken every circumstance seriously into consideration, I was convinced it approached nearer to perfection than any government hitherto instituted among men.—I was also convinced, that nothing but a genuine spirit of amity & accomodation could have induced the members to make those mutual concessions & to sacrafice (at the shrine of enlightened liberty) those local prejudices, which seemed to oppose an insurmountable barrier, to prevent them from harmonising in any system whatsoever.—

But so it has happened by the good pleasure of Providence, and the same happy disposition has been diffused and fostered among the people at large.—You will permit me to say, that a greater Drama is now acting on this Theatre than has heretofore been brought on the American Stage, or any other in the world.—We exhibit at present the novel & astonishing Spectacle of a whole People deliberating calmly on what form of government will be most conducive to their happiness; and deciding with an unexpected degree of unanimity in favour of a system which they conceive calculated to answer the purpose.

It is only necessary to add for your satisfaction, that, as all the States, which have yet acted and which are ten in number, have adopted the proposed Constitution; and as the concurrence of nine States was sufficient to carry it into effect in the first insta. it is expected the government will be in complete organization & execution before the commencement of the ensuing year...

1. RC, Washington's Autograph Letters, Pierpont Morgan Library, New York City. Printed: Fitzpatrick, XXX, 70–74. Washington probably wrote this letter on 20 July. (The letterbook copy is dated 20 July.) For some reason, the recipient's copy must not have been mailed for over one month. In sending the letter to Newenham, Washington changed the date from "July 20th 1788" to "Augst 29th 1788." The earlier date explains why Washington wrote that ten states—not eleven—had ratified the Constitution. New York ratified on 26 July.

2. The text in angle brackets is not in the letterbook copy.

# 842. Collin McGregor to Neil Jamieson New York, 1 September (excerpts)<sup>1</sup>

... It now falls for me to give you an Account of my proceedings up the Country, from whence I only returned here the 18th. Ulto.—

The few lines I left on the 26th. July to go & Packet, mentioned to you the objects of my journey, which were 1st. a settlement wth. Morris, 2dly. To endeavor a sale of Certificates of this State; and 3dly. to have an eye after that infamous V—n Kelly....

My second object-was to attempt a Sale of the Public Securities of this State;--My reasons for this were whether New York came immediately into the New Constitution or not, they must at last, and consequently when she became a Member of the fœderal Government, many channels now open for extinction of the State debt, would be shut, and these resources applied to the purposes of the Union.-In this doctrine I was confirmed by some particular friends, whose opinion I have since found to be just .- We held this also in view that the sooner N. York acceded to the New Government, the sooner would the state Finances be impaired, and I had not left town above a couple of hours, on 26 July, when to the astonishment of every person, the News of the Ratification by the New York Convention, arrived.-This important & unlooked for event gave universal joy here; and just as my friends & me supposed, the State debt took a Stand, and the Continental debt (such as final Settlements) immediately rose to 5/. paper \$20/.-I got to Albany soon after the news of the Ratification...

... N. Carolina Convention having rejected then adjourned conditionally adopted, or as some say, rejected, the New Constitution, rather keeps paper Continental securities down, for tho' it is not of such importance as a State, yet whilst there are members which once Composed the Union, refractory & out of the New System, it opens a door for discord, & will clogg the deliberations of Government.—R. Island seems to be perfectly easy on the Subject, but it is thought they mean at least to investigate the New plan.—The present Congress are divided about the place of Convening the New Government;—one half is for Phila. the other for this Place; and it is supposed that N York

### 8 SEPTEMBER, CC:843

will carry it, tho' much depends on R. Island & N Carolina, one, or both of which Conceive that they have no right to Vote, as their States have not adopted the Constitution, and that therefore they ought to have no voice in any measure Concerning it.—Should the New Congress meet here, it will be much in favor of this place, and all persons interested in it's welfare, must wish them to make it their residence.— The public securities & the politics of the Country are so connected together that they make me too often intrude on your time—I had almost said on your patience; but you must excuse me, as it is entirely owing to the anxious wish I have to be full in my Communications to you....

1. FC, Collin McGregor Letterbook, 1788–1789, NN. The name of the addressee does not appear, but it was apparently Neil Jamieson, a London merchant who employed McGregor as his American business agent. (For other letters that McGregor wrote to Jamieson, see CC:538, 590; and RCS:Va., 637–38, 1575.) The portions of the letter not printed here deal with debt collection and New York lands owned by both men.

# 843. Andrew Allen to Tench Coxe London, 8 September (excerpt)<sup>1</sup>

I find by the last Accounts from America that ten States have at length agreed to adopt the new feederal Constitution & therefore take it for granted it will be generally received as the remaining three States must I think of Necessity come in. I am really glad of it, as the good Effects it is likely to introduce will be probably felt not only by those immediately within it's Sphere, but by every Country communicating with America & particularly by that in which I am peculiarly interested. Though the Consequences arising from this System may not in my View be so extensive as the sanguine Expectations on your Side of the Water paint them, they must nevertheless be greatly beneficial by giving Unity to the different & otherwise discordant Interests of the States, establishing a Government with a Degree of Vigor & Energy, more at Liberty to form & carry into Execution plans for the general Good, & less liable to be thwarted or controuled in their Operations by the narrow & partial Schemes of factious Demagogues. Law & Justice will therefore probably have a freer Course, & consequently a greater Respect & Veneration for Authority must prevail, which by affording Security to Persons & Property must greatly increase the Industry & productive Powers of the Country. These appear to me the Effects most likely to flow from the new System which are & for a Time must be confined to the internal Interests of America. With respect to it's immediate Operation externally by extending Commerce or opening new Channels of Trade, I must confess, that I can not perceive the

Grounds on which the sanguine Ideas of it's Advocates are founded. These are Consequences more remote & are only to be brought about by gradual & progressive Industry and can never be forced by all the Art of Man further than the Circumstances of the Country naturally fits it for their Reception. Upon these Principles I am of Opinion that the Inhabitants of America are premature in their grand Ideas of extensive Commerce & flourishing Manufacturers, and that their Attempts to effectuate these suddenly will not only end in Disappointment, but will depress them below the Level that a proper Application of their Powers would naturally raise them to. In a Country whose Capital Stock is small & limited, great Care should be taken that none of it be diverted from those Branches of Industry most essential to the Subsistence of the Inhabitants & most productive: & it is not till these be supplied to overflowing, that the Surplus can otherwise be advantageously employed. Agriculture is this first & most necessary Branch & in a Country like America where the whole Profits go immediately into the Pockets of the farmer, without being diminished by the Payment of heavy Rents as in Europe, must be infinitely the most productive. [This?] therefore should be it's principal Object, without further Attention to Commerce than merely to provide a Market for the Excess of it's Produce beyond it's internal Consumption, & also to procure the foreign Necessaries it requires at the lowest Price. As to aiming at Manufactures (a few bulky or family ones excepted) the Project seems as destructive as ridiculous in the present State of Things. The same Quantity of Stock & Labor applied to Agriculture will produce twice or thrice the Returns of Profit, which could be made by diverting it to Manufactures, whilst these are to enter into Competition with those of European Production-The Moiety therefore will be sufficient for the Purchase of these Commodities & the other Moiety will be accumulated to the Stock of the Country. But you may perhaps reply to this "I admit your Argument, but necessity not Choice obliges us to turn ourselves to Manufactures as we are not able to purchase those of Europe we stand in need of." My Answer is, apply your force to Agriculture improve your System of Cultivation & your Produce will daily encrease & enlarge your Means of purchasing the Goods of others; accquire habits of Economy, consume less as well as Goods of inferior Quality & the Complaint will cease: but it would be an absurd Remedy for your present Wants to diminish your Income, which must inevitably be affected by diverting your [Course?] from more to less productive Branches of Industry. These are the general Outlines of my Ideas of the real Interests of the united States, which might be supported by many Arguments, which though too voluminous for the Bounds of a Letter will probably suggest themselves to you....

1. RC, Coxe Papers, Series II, Correspondence and General Papers, PHi.

# 844. Jeremiah Hill to George Thatcher Biddeford, Maine, 9-11 September (excerpt)<sup>1</sup>

Have just arrived from Boston kiss'd Ma'm and set down to peruse yours of the 26th Ulto. Am mad, that is, politically disordered in mind, to find the Congress so obstinate, as to keep that Government *the People* their Constituents have adopted out of Motion—they ought to shew their Exordium's on less momentious Occasions, not when their best Friends have their Eyes Lifted to Heaven, their hearts sending forth ejaculations, and heaving with every Shoulder while their Petitions are ascending for their spiritted exertions, when the wheels of Government are as it were stuck in the mud—

The friends of the new Government are alarmed to find Congress so dilatory, they say one party (that is, the smallest) ought upon every political Principle to give way to the great Object in view, the good of the whole: for while they are dallying along in this way the Enemy is sowing tares among the Wheat-Antifederalism is a common enemy we ought all to guard against and Obstinacy is a ditto, but true genuine political qualities are an open Mind, a clear head, and an honest Heart-this minute (Septr 10th 10. O:C.) the post has arrived and brought me yours of the 2d inst. went immediately to see Miss Thatcher delivered your enclosed Letter, kiss'd Madam & return'd, by the by all well, Janey Laugh'd, Sally smiled, Rachel seemed pleased & Saml. wanted me to praise his little wheel Carriage &c-am now at Home, my harps upon the willows, lamenting the imprisonment of the new Constitution. You Inquire after the politicks of the Times &c-I tell you, my friend, the Politicians in general blame the Carpenters for not launching the Hull of the new Ship-and say it will be time enough then to procure Helmsmen, Navigators &c. However I will give you an extract from the Teltale, "Yesterday set out from his Seat in B-n B-n H-n, Esqr. Solicitor extraordinary from his E-y I- H- Esqr. to the  $S-S-s^2$  to negotiate for a Lieutenancy on board the new Ship federal Constitution now on the Stocks, it is said the Commission is a Secret and all things must be conducted under the Rose"3-

The news papers will tell you much more about electione[e]ring than time will permit me to tell in the Letter way. all hands seem to give the Presidency to Genl. Washington the Second is a matter of doubt here, I wish you to tell me who they have in view at the Southward. wont Mr. Adams stand a fair Candidate, you know his political Reasoning has prejudiced me in his favor—Simile simeli gaudet<sup>4</sup> is an old Motto and it is as true as that two & two makes four, the old feds of '86 are calculating for the dons of that day to take the helm of Affairs, when the new Constitution is put in Motion, and the antis are for those who can shift sides *upon Occasion* Our General Court stands adjourned to Octr. 8th. as soon as they have received Congressional Orders for the organization of the new Government we shall begin to talk strong about Districts for Representation as that mode is generally supposed will be adopted, if these Counties should make a District I think my Friend G— will stand a fair Chance,<sup>5</sup> but I wont say any more about constitution Matters, but wait with patience till deliverance comes....

1. RC, Thatcher Papers, MB. This letter was written on 9, 10, and 11 September. The portion written on the 11th is not printed here.

2. Inserting the missing letters produces the following: "Boston," "Benjamin Hichborn," "Excellency John Hancock," and "Southern States." Hichborn, a prominent Boston lawyer, apparently was seeking the office of President for Hancock, who had long been rumored a candidate for the vice presidency.

3. Sub rosa.

4. Translation: "Like takes pleasure in like."

5. Probably George Thatcher himself who represented the district consisting of the Maine counties of Massachusetts in the U.S. House of Representatives from 1789 to 1801.

# 845. The Confederation Congress Calls the First Federal Elections New York, 13 September

Article VII of the Constitution provides that "The ratification of the conventions of nine States, shall be sufficient for the establishment of this constitution between the States so ratifying." The Constitutional Convention, in two resolutions adopted on 17 September 1787, recommended the mechanism by which the Constitution should be established or implemented. The first resolution stated that the Constitution should be submitted to conventions elected by the people of each state (upon recommendation of their legislatures) "for their assent and ratification." It also declared that each state convention should inform the Confederation Congress of its ratification. The second resolution stated that after nine states had ratified Congress "should fix a day on which Electors should be appointed by the States which shall have ratified the same, and a day on which the Electors should assemble to vote for the President, and the time and place for commencing proceedings under this Constitution" (CC:76).

The Constitutional Convention sent the Constitution and the two resolutions to the Confederation Congress on 17 September 1787. Congress, in turn, transmitted these documents on 28 September 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" (CC:95).

On 25 June 1788 news reached the Confederation Congress in New York City that New Hampshire had become the ninth state to ratify the Constitution. On the evening of 1 July the New Hampshire delegates to Congress received their state's official act of ratification and the next day they presented it to Congress. Congress also learned on 2 July that Virginia had become the tenth state to ratify. Therefore, on 2 July Congress ordered that all of the forms of ratification transmitted to Congress be referred to a committee "to examine the same and report an Act to Congress for putting the said constitution into operation in pursuance of the resolutions of the late federal Convention" (JCC, XXXIV, 281).

On 9 July this committee reported an election ordinance providing that the first Wednesday in December be the day for appointing presidential electors in the ratifying states, that the first Wednesday in January be the day for the meeting of these electors to elect the President, and that the first Wednesday in February be the time for commencing the proceedings of the new government under the Constitution. The committee left a blank space in the ordinance for the meeting place of the new government. Congress considered the report on 14 July and decided to suspend consideration of the election ordinance pending the decision of the New York Convention. One of the possible locations for the federal capital was New York City and some Federalist members of Congress hoped that this possibility might influence the New York Convention to ratify. (Although Federalists generally supported delay for this reason, Melancton Smith, one of the Antifederalist leaders in the New York Convention, also wanted delay until enough Antifederalists could be convinced to join Federalists and ratify the Constitution without conditions. See CC:797, note 3, for Smith's undated, mid-July letter to congressman Nathan Dane.) On 26 July the New York Convention ratified the Constitution. Two days later, Congress amended the election ordinance changing the dates for appointing presidential electors to the first Wednesday in January; for the meeting of these electors to the first Wednesday in February; and for commencing the new government to the first Wednesday in March.

Congress, however, could not decide where the new government should meet. Sectional differences, based largely on the conflicting political and economic interests of the Northern and Southern states, were critical as Congress voted several times on whether the government should meet in Philadelphia, New York City, Baltimore, Lancaster, Pa., Wilmington, Del., or Annapolis, Md. The debates on the location of the federal capital caused bitterness and resentment in Congress and significantly delayed the passage of the election ordinance. This delay created dismay and anxiety among Federalists. Congress was severely censured, both publicly and privately, as the problems of the Confederation appeared to mount. In mid-August Federalist apprehension was increased by the news that the North Carolina Convention had failed to ratify the Constitution. Then in early September Pennsylvania Antifederalists, who earlier had mounted a petition campaign requesting that the state legislature not "confirm" the state's ratification of the Constitution, met at Harrisburg in an effort to obtain amendments to the Constitution. one more example of the growing insistence on amendments which had already been demonstrated by the adoption of recommendatory amendments by the conventions of Massachusetts, South Carolina, New Hampshire, Virginia, New York, and North Carolina. With the upcoming first federal elections in mind, newspapers printed increasing numbers of articles supporting and opposing the idea of amending the Constitution.

A correspondent of the New York *Independent Journal*, 30 August, referred to "the grief and astonishment of all true Federalists" because Congress had not taken steps on the matter of the new government (DHFFE, I, 111). Lambert Cadwalader, a former New Jersey delegate to Congress, probably echoed the feelings of most people when he wrote a Pennsylvania delegate to Congress that "You cannot imagine how impatient the People are everywhere for your Determination, the Delay the Cause of which is everywhere known has lowered the Dignity of your honble Body exceedingly—They consider the Object of the Contest as unworthy of so much warmth, when others of much greater importance and even Necessity require your coming to a speedy Conclusion" (to Samuel Meredith, 28 August, DHFFE, I, 109).

Apparently, sectional differences were not the only reason for delay in the adoption of the election ordinance. James R. Reid, a Pennsylvania delegate to Congress, speculated that states such as Pennsylvania and Virginia stood to benefit if the assemblying of the new Congress was delayed. Such a delay would allow them to continue to collect revenue from their own tariffs (to Tench Coxe, 20 August, DHFFE, I, 94).

Finally, on 12 September Henry Lee, a Virginia delegate, moved that "Whereas longer delay in executing the previous arrangements necessary to put into operation the federal government may produce national injury," "the present seat of Congress" (i.e., New York City) should be set as "the place of commencing proceedings under the said constitution." Fellow Virginia delegates Edward Carrington and James Madison proposed an alternative stipulating that the seat of government be more centrally located in order "to obviate disagreeable and injurious dissensions." Their motion was defeated 6 states to 3, with Georgia divided. Congress then voted 9 states to 1 to keep these words in the ordinance: "and the present seat of Congress the place" (i.e., New York City). The Delaware delegates, who alone had dissented, forced the final determination of the question to be postponed until the next day. On 13 September, the election ordinance was adopted by all nine states present, the Delaware delegates having absented themselves. Congress ordered that 200 copies of the ordinance be printed and that copies be sent to all of the state executives (ICC, XXXIV, 515-19, 522, 635). In the next month and a half, the ordinance was printed in at least fifty newspapers throughout America. (For the proceedings of Congress on the ordinance and for related documents, see DHFFE, I, 23-143.)

The election ordinance below is a facsimile of the official one-page broadside signed by Charles Thomson, the secretary of Congress, and retained among the papers of Congress. It is located in PCC, Miscellaneous Papers: Broadsides Issued by the Continental Congress, 1775–1788, National Archives, Washington, D.C.

# United States in Congress affembled,

## SEPTEMBER 13, 1788.

HEREAS the Convention affembled in Philadelphia, purfuant to the Resolution of Congress of the 21st February, 1787, did, on the 17th of September in the fame year, report to the United States in Congress affembled, a Constitution for the People of the United States; whereupon Congress, on the 28th of the fame September, did refolve unanimoufly, " That the faid report, with the Refolutions and Letter accompanying the fame, be transmitted to the feveral Legislatures, in order to be fubmitted to a Convention of Delegates chosen in each State by the people thereof, in conformity to the Refolves of the Convention made and provided in that cafe :" And whereas the Constitution fo reported by the Convention, and by Congress transmitted to the feveral Legislatures, has been ratified in the manner therein declared to be fufficient for the establishment of the fame, and fuch Ratifications duly authenticated have been received by Congress, and are filed in the Office of the Secretary---therefore,

RESOLVED, That the first Wednesday in January next, be the day for appointing Electors in the several States, which before the faid day shall have ratified the faid Constitution; that the first Wednesday in February next, be the day for the Electors to assemble in their respective States, and vote for a President; and that the first Wednesday in March next, be the time, and the present Seat of Congress the place for commencing Proceedings under the faid Constitution.

Cha Thomson for y

## APPENDIX I

The documents printed in Appendix I are, for the most part, widely circulated squibs or fillers. Most of the squibs are either reports on the prospects of ratification in the various states or speculations about the attitudes of one or more persons on the Constitution. Others are reports of events, followed by some partisan commentary about them. Since Federalists controlled most newspapers, the majority of the squibs favor the Constitution or attack its opponents.

## New Hampshire Spy, 10 May<sup>1</sup>

From the information we have been able to collect upon the subject, little doubt may be had but the proposed Constitution will be ratified by the Convention of this state, at their next meeting—and that by a considerable majority. Indeed our intelligence from all quarters presages much good—the Federal Building goes on rapidly, considering its extent and magnitude; and we doubt not, but in a short time we shall have the pleasure of announcing its entire completion.

"Hail the Day," &c.

1. Reprints in whole or in part by 2 July (24): Vt. (1), N.H. (2), Mass. (7), R.I. (1), Conn. (2), N.Y. (2), Pa. (6), Md. (1), Va. (2).

#### New Hampshire Spy, 13 May<sup>1</sup>

Among other circumstances which have been made use of to delude the uninformed, is the idea of a "Federal City"—this, with many in the country is held to be a terrible affair—"What, say some, only think, a city ten miles square—what a tremendous cost must this be—and to be wall'd in too, and these walls are to be as high as those of Jericho."— Think of that, Master Brook.

1. Reprints by 19 June (15): N.H. (1), Mass. (1), Conn. (1), N.Y. (1), N.J. (1), Pa. (4), Md. (2), Va. (2), S.C. (2). Two of the fifteen newspapers dropped the reference to "Master Brook," the alias adopted by Frank Ford, a character in William Shakespeare's *The Merry Wives of Windsor*. In this play, Sir John Falstaff was paying court to Ford's wife and a jealous and suspicious Ford assumed the alias to determine whether or not his wife was being faithful to him.

#### Massachusetts Gazette, 13 May<sup>1</sup>

Not a doubt remains, on the mind of the honest man, of the Federalism of New-Hampshire. Our accounts from that state bespeak the firm resolution of the principal gentlemen there, to support the dignity

## APPENDIX I, 14 MAY

of this Union, by adopting the Constitution framed for its future support and welfare.

1. Reprints by 11 June (7): Mass. (1), N.Y. (2), N.J. (1), Pa. (2), Va. (1).

## New Jersey Journal, 14 May<sup>1</sup>

Extract of a letter from an American Gentleman in London, to his friend at Newark, (New-Jersey) dated March 1, 1788.

"The friends of our country here are exceedingly anxious to know how the fate of it will turn, with respect to the adoption of the new Constitution: Upon the event of which, as they think, and very truly, its future welfare or misery intirely depends. Political affairs here seem to tend fast towards some great event. The Emperor has finally declared war against the Porte.<sup>2</sup> Every preparation is making for the contest by the respective parties. The Russians have here taken up great quantities of shipping. All these things cause our friends here, to wish well to the establishment of a permanent and efficient government in America. There is not the least doubt, should Europe be embroiled and America keep clear, it would be the corner stone of her rising superior to her wants; and we might yet be respected, wherever we go, as we are now despised and rediculed."

1. Reprints by 7 July (22): Vt. (1), N.H. (1), Mass. (5), Conn. (3), N.Y. (2), N.J. (1), Pa. (5), Md. (3), S.C. (1).

2. The "American Gentleman" refers to the fact that Joseph II, the Emperor of the Holy Roman Empire, had finally agreed to assist Russia in its war against Turkey.

#### Pennsylvania Gazette, 14 May<sup>1</sup>

The elections for the state of New-York are closed, but the votes being sealed up till the latter end of this month, it is impossible to ascertain the list of the members for their convention. 'Tis however certain, that many of their ablest and most patriotic characters will be in that house, so that the constitution will be considered by able and candid politicians, sensible of its merits, disposed to allow for its interferences with partial interests, and sensible of the critical posture of our affairs, at home and abroad. Since there will be many in the New-York convention, who have expressed a desire for the adoption, and many more, who from the above circumstances will be averse to the rejection of it, we have not a doubt of seeing that near neighbour and sister state adding her respectable name to the new confederacy. Then will all be included, from Massachusetts to Maryland. The same circumstances and considerations render the adoption by Virginia equally probable. South-Carolina appears certain.

#### COMMENTARIES ON THE CONSTITUTION

Should the state of New-York reject the proposed constitution, one of two events must certainly ensue. First, that if the constitution is not adopted by nine states, that devoted country will lie between the New-England confederacy, consisting of Vermont, Connecticut Massachusetts, &c. on the one hand, and the confederacy of the middle states, consisting of New-Jersey, Pennsylvania, Delaware and Maryland, on the other. Secondly, if the constitution is adopted, then she will lie in the midst of the most effective and powerful parts of the new confederacy, joined immediately by Jersey on the south, Connecticut on the northeast, and Vermont on the north. In either case Staten-Island, from its fœderalism and contiguity to New-Jersey, will abandon New-York, and cling to the confederacy, whether great or small, to which New-Jersey belongs. Thus will that valuable state be placed, as it were, between the upper and nether mill-stone, and find herself an alien among her father's children. Let us rather fondly hope that we shall all be united in one fold, under one shepherd.

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.

We learn likewise, by several gentlemen from the western counties of this state, that the people, in proportion as they are *informed*, become *pleased* with the fœderal constitution, and that many of the farmers, who were carried away by the bold assertions of the Centinel and other writers, now see their fallacy, and very generally call for a vigorous and effectual government.—There is neither resistance nor association talked of at present in any of those counties.

1. All four items were reprinted in the *Pennsylvania Mercury*, 15 May, and the *Maryland Chronicle*, 28 May. The first paragraph was reprinted fourteen times by 29 May: Mass. (3), Conn. (3), N.Y. (2), Pa. (3), Md. (2), Va. (1). The Winchester *Virginia Gazette*, 28 May—the only Virginia newspaper to reprint this paragraph—omitted the last sentence. The second paragraph was reprinted seventeen times by 7 July: Vt. (2), N.H. (1), Mass. (6), Conn. (1), N.Y. (3), N.J. (1), Pa. (1), Md. (2). The third paragraph was reprinted twelve times by 12 June: N.H. (1), Mass. (5), N.Y. (1), Pa. (2), Md. (2), Va. (1). The *New Hampshire Spy*, 31 May, appended: "This is good news from a far country." And the fourth paragraph was reprinted seven times by 12 June: Mass. (3), N.Y. (1), Pa. (1), Md. (1), Va. (1).

## Boston Independent Chronicle, 15 May<sup>1</sup>

By accounts from America we learn, the Rhode-Island Assembly, Nov. 3, by a vote rejected a motion made by a member to appoint a convention to consider the new federal constitution.

#### APPENDIX I, 15 MAY

Great opposition is expected in some of the States.

The New York people are much divided. Virginia has delayed its convention for considering the constitution till May, and Maryland, till April. Delaware has unanimously ratified the constitution<sup>2</sup>—Pennsylvania has also ratified it, after great opposition. The minority having withdrawn, there was not a quorum: but two of the minority members, Jacob Miley, & James M'Colmont, had their lodgings broke open, and were dragged through the streets of Philadelphia, with their cloaths torn, to the Assembly House, and kept there by force till the convention was signed.<sup>3</sup> This is *American Liberty*.

1. Reprinted in whole or in part in nine newspapers by 12 June: N.H. (1), Mass. (3), R.I. (1), Conn. (2), Pa. (2). This item—appearing under a dateline of London, 19 March was one of several foreign items printed under a dateline of Boston, 15 May. Just below this Boston dateline the printer of the *Independent Chronicle* stated: "Yesterday arrived at this port, the Brig *Boston Packet*, Capt. *Davis*, in 39 days from *London*, by whom papers are received as late as the 5th of April, from which the following paragraphs are extracted." On 17 May the *Massachusetts Centinel*, in a section on foreign intelligence, placed these three paragraphs under a London, 12 March, dateline.

2. The Massachusetts Centinel printed "Convention" instead of "Constitution" at this point. It also italicized the word convention in the next to last sentence and appended an editorial statement within square brackets stating "This is a falshood—If, indeed, these shrewd wisacres, the English paragraph writers, mean by the Convention, the proposed Constitution."

3. The incident concerning the minority described here did not occur during the meeting of the Pennsylvania Convention (20 November–15 December 1787). It took place in the Pennsylvania General Assembly on 29 September, the day on which that body adopted a resolution calling a state convention. (See RCS:Pa., 99–110.)

#### Newport Herald, 15 May<sup>1</sup>

## A succinct view of affairs.

The revolving year hath produced no important changes in our administration nor in our police. The *Crusading Errants* still display the destroying standard, "A DEPRECIATED PAPER MONEY," as the ark of our salvation.—No experience of the mischiefs resulting from it, nor any conviction of its injustice, tend to check a "*perseverance*;" for credulity and implicit support of this system are marked out as the high road to preferment, while honor, virtue, and abilities form no criterion of merit.

Loud advocates for the *extremes* of liberty, they can hear no discussion of their measures without irritation; that freedom of speech which elevated America to the station of independence is viewed as treason and rebellion, and the blood of the freemen seems alone sufficient to satiate revenge.

Apprehensive of a ratification of the NEW CONSTITUTION, men of tried

antifederalism are advanced to the command of forts and of the militia; whether that they may be prepared to oppose the Union, or to keep alive popular clamor, we presume not to determine.

Thus engaged in a civil contest, novel as well as severe, we have become the political phenomenon of the day, and the world stands gazing for the event,—We shall therefore, from duty as well as information, faithfully continue an impartial detail of every interesting occurrence, unbiassed by party and undaunted by the threats of power, trusting that honor, virtue and justice will, ere long, illumine this degraded State.

1. Reprints by 2 July (16): N.H. (1), Mass. (6), Conn. (3), N.Y. (2), Pa. (3), S.C. (1). The first three paragraphs only were reprinted in the May issue of the Philadelphia *American Museum*.

## Providence United States Chronicle, 22 May<sup>1</sup>

Extract of a Letter from a Gentleman in Georgia to his Friend in this Town, dated Savannah, April 26th, 1788.

"The Indians grow more and more daring every Day; they have lately carried off a Number of Negroes from the very Heart of Liberty County, which was one of the best settled Counties in the State. M'Gillevray, the Chief of the Indians, has lately sent a Letter, in which he says, unless we give up the Lands we have extorted from them, and give full Assurances of a quiet Possession, he will put himself at the Head of his Warriors, and drive us over the Savannah River-He can bring 5000 Gun-Men into the Field. Our Situation is most miserable, and the whole of our Misfortunes arise from the Want of a good and efficient Government.-Mankind are grown so corrupt, that it is impossible to support Liberty, or defend Life or Property without it. I have been in Hopes that the Indian War would not continue long-I now see no End to it, without the Interference of Congress-and what can they do without Money or Power.-May the new Federal Constitution be soon adopted, and the Wheels of Government put in Motion."

1. Reprints by 25 June (16): Vt. (1), Mass. (7), R.I. (1), N.Y. (3), Pa. (1), Md. (2), Va. (1).

#### Pennsylvania Packet, 24 May<sup>1</sup>

A correspondent, who equally desires the honorable payment of our public debts and the adoption of the federal constitution by every state, observes with great satisfaction, that the state of Georgia have granted

#### APPENDIX I, 26 MAY

thirty millions of acres of land to *the new Confederacy*, provided the adoption of nine states should take place.<sup>2</sup> This is a tract about four times as large as *old Massachusetts*, and at two thirds of a dollar per acre, will sink twenty millions—or about double the sum now unredeemed of continental loan-office certificates. Such is the noble spirit of conciliation, concession, and union now rising in the bosom of Americans. We trust this tribute of respect to *the new Confederacy* will be followed by others equally important at home and abroad.

1. Reprints by 2 July (10): N.H. (1), Mass. (3), Conn. (2), N.Y. (1), Pa. (1), Va. (1), S.C. (1).

2. A similar report on Georgia's cession appeared in the *New Hampshire Spy* on 6 May. The *Spy's* report and another based on it, which the *Salem Mercury* printed on 13 May, were reprinted twenty-five times by 11 June: Vt. (1), Mass. (7), R.I. (3), Conn. (1), N.Y. (2), N.J. (1), Pa. (7), Md. (1), Va. (2).

#### New York Daily Advertiser, 26 May<sup>1</sup>

We are authorised to assure the public, that a gentleman of distinction in this city has received a letter, by the last British packet, from that illustrious politician and friend to the rights of human nature, Doctor PRICE, expressing his approbation of the proposed Constitution for the United States, and his wishes that it may be adopted.<sup>2</sup>

1. Reprints by 25 June (16): Vt. (1), N.H. (1), Mass. (5), N.Y. (2), N.J. (2), Pa. (2), Md. (1), Va. (1), S.C. (1).

2. On 24 March Dr. Richard Price wrote to Arthur Lee, a member of the Confederation Board of Treasury stationed in New York City: "I must own to you that the new federal constitution in its principal articles meets my ideas, and that I wish it may be adopted" (Richard Henry Lee, *Life of Arthur Lee*, ... [2 vols., Boston, 1829], II, 352).

## New York Journal, 26 May<sup>1</sup>

It is very laughable, says a correspondent, to consider the use and abuse of the word *federal*: The anti-republicans, and their tools, have very modestly applied it to themselves, to delude the ignorant (who are too apt to be led away by trifles) and thus add a new proof to the common observation, that the best things may be perverted to the worst purposes: They have the impudence to brand the advocates of liberty *anti-federal*.—In this, as well as in almost every other respect, they tread in the footsteps of the partizans of the British during the late war, who stiled themselves *friends of government*; and the foes of tyranny, *rebels*. At the present period, news-papers, clubs, streets, &c. are entitled federal—and the keeper of a livery stable in Boston, has lately advertised in the news-papers, that he has taken a *federal stable*.<sup>2</sup> 1. Reprinted: State Gazette of South Carolina, 23 June.

2. On 3, 10, and 17 May the *Massachusetts Centinel* carried an advertisement by James Hilliard, the new proprietor of "Federal Stable, No. 1," a livery stable which was located in Board Alley, next to Trinity Church. (For earlier advertisements about this "Federal Stable," probably run by the previous owner, see the Boston *American Herald*, 7, 14, 21, and 28 January.)

## Massachusetts Centinel, 28 May<sup>1</sup>

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. Reprints by 1 July (9): N.H. (1), Mass. (5), N.Y. (1), Pa. (1), S.C. (1). For Hugh Williamson and the prospects for North Carolina's ratification, see CC:749.

## Providence United States Chronicle, 29 May<sup>1</sup>

The Friends of the new Federal Constitution have the greatest Prospect of its speedy Adoption-Seven States have agreed to it-The Convention of South-Carolina commenced their Session the 12th Instant-Accounts from that State make a large Majority in Favor of the Federal Cause, although it is expected Attempts will be made to adjourn the Convention till July, to give Time for their General Assembly to meet and make some Alterations in their Instalment Act.<sup>2</sup> Next Monday the Convention of the "Ancient Dominion" of Virginia will meet-Accounts from that State make from 14 to 24 Majority in the Convention in Favor of the Constitution.-If South-Carolina should adopt it, at their present Meeting (of which there is but little Doubt) Virginia will make the Ninth State-but it is not probable the new Government will be organized until all the Conventions which have been appointed have met on the Subject.-The 4th of July, the Anniversary of American Independence, is the Day the last Convention appointed (viz. North-Carolina) is to meet.-What Pleasure would it give the Friends of Union and Peace could a Convention for Rhode-Island, be appointed to meet on that memorable Day-and when met, by agreeing with all the other States in adopting the Constitution, a second Time dignify the already immortalized Month of JULY!

1. Reprints in whole or in part by 16 July (9): N.H. (1), Mass. (4), Pa. (3), Va. (1).

2. In March 1787 the South Carolina legislature adopted an installment act postponing to March 1790 the final payment of debts that had been contracted before 1 January 1787. Beginning in March 1788, creditors were to receive three annual payments. In February 1788 the state Senate defeated a motion to extend the installment

## APPENDIX I, 4 JUNE

act and in March the legislature adjourned, with the intent, stated David Ramsay, to "meet again in October avowedly to have a further opportunity of screening debtors" (to Benjamin Lincoln, 31 March, Lincoln Papers, MHi). In November 1788 the legislature extended the installment act which primarily favored rich debtors.

## New York Journal, 29 May<sup>1</sup>

The approaching summer, says a correspondent, will be the most *interesting that America ever saw*. Newspapers will become more important to our friends in the country than they ever have been; for, in a free country, what member of the community ought not to be informed of its political manouvres, or who of them is there indifferent or lukewarm. Is it well that any remain neutre at such a season! Rouse then, provide some more effectual means for the communication of intelligence, through the different parts of the country.—NEWSPAPERS are the GUARDIANS OF FREEDOM; by NEWSPAPERS only are ye made acquainted with the *rise* and *fall* of empires: and, of the FREEDOM or the SLAVERY of your own species.

The present political situation of the United States, says a correspondent, bears a gloomy aspect. An attempt to change the political dogmas of a great people, is a task which the greatest writers upon law, government, or revolutions, acknowledge to be big with consequences.—That these consequences, in America, may be propitious to the liberties of our country, is the wish of every good man. Would, that present appearances corresponded with the sincere emanations which flow from every truly patriotic heart.

"The skies are *overcast*, the morning *lowers*, And heavily, in *clouds*, brings on the *day*, The great, the *important day*, Big with the fate of AMERICA, and her FREEDOM."

1. The first paragraph was reprinted fifteen times by 15 July: Vt. (1), N.H. (3), Mass. (2), R.I. (2), Conn. (2), N.Y. (1), N.J. (1), Pa. (1), Md. (1), Va. (1). The second paragraph was reprinted in the Philadelphia *Independent Gazetteer*, 2 June; *Pennsylvania Packet*, 3 June; New Jersey *Brunswick Gazette*, 10 June; and *Virginia Herald*, 12 June. The last two newspapers also reprinted the first paragraph.

#### Pennsylvania Packet, 4 June<sup>1</sup>

Extract of a letter from a gentleman in New-York to his friend in this city, dated May 30.

"New Hampshire is well disposed, and will have her convention but a few days in session before she ratifies."

#### COMMENTARIES ON THE CONSTITUTION

1. Reprinted: Pennsylvania Mercury, 7 June; Pennsylvania Journal, 7 June; Maryland Journal, 13 June; Richmond Virginia Gazette and Weekly Advertiser, 19 June; Charleston City Gazette, 1 July.

## Providence United States Chronicle, 5 June<sup>1</sup>

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. Reprints by 2 July (21): 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 newspapers, omitted the text in angle brackets.

## New York Daily Advertiser, 7 June<sup>1</sup>

Extract of a letter from a gentleman in Charleston, South-Carolina, to his friend in this city, dated May 27.

"The respectability of the majority, composing the principal char-

## APPENDIX I, 10 JUNE

acters in the State, I hope will have considerable weight with those States that have yet to take up this grand question; and impress them with the idea that is generally expressed here—that considering the weight of influence and talents of the gentlemen of the majority, it may be said to have been with propriety, the general voice of the people of this State.

"General Gadsden, a gentleman upwards of seventy, on the question being carried, rose and said, 'Mr. President, my age is such that I can have but little expectation of seeing the happy effects that will result to my country from the wise decisions of this day—but shall I say with good old Simeon, Lord, now lettest thou thy servant depart in peace, for mine eyes have seen the salvation of my country."<sup>2</sup>

"A grand procession took place this day, and I was happy to find a number of the minority walked.—I enclose you the list."

1. Reprints in whole or in part by 30 June (8): R.I. (1), Conn. (4), N.J. (1), Pa. (1), S.C. (1).

2. Luke 2:29-30.

#### Boston Gazette, 9 June<sup>1</sup>

Extract of a letter dated Charleston, (S. C.) May 23d,

to a Gentleman in town, brought by Capt. Smith.<sup>2</sup>

"This conveyance gives me an opportunity just to congratulate you upon the adoption of the Federal Constitution by the Convention of this State.—The Majority SEVENTY-SIX.—This measure will be followed by similar conduct in the State of Virginia and North-Carolina."

1. This item was reprinted in toto in the New Hampshire Spy, 10 June; Massachusetts Gazette, 10 June; Massachusetts Spy, 12 June; Newport Herald, 12 June; and Exeter, N.H., Freeman's Oracle, 13 June; it was excerpted in the Salem Mercury, 17 June. The Massachusetts Gazette appended: "In consequence of the foregoing agreeable intelligence, the bells of the different churches in this town began ringing at the dawn of yesterday, and continued to sound the joyful peal for several succeeding hours."

2. Phinehas Smith, captain of the Schooner *Joseph*, had arrived in Boston on 8 June in 13 days from Charleston (*Boston Gazette*, 9 June).

#### Massachusetts Gazette, 10 June<sup>1</sup>

Extract of a letter from a gentleman in Virginia,

to his friend in this town [Boston].

"I received your obliging letter, and a volume of the debates of your Convention, of both which testimonies of your regard I have the justest sense, and return you, dear sir, my sincere acknowledgments. (The Federal Constitution will be adopted by us.) I wish the Federal Convention had provided that none but wise and understanding men

should read and give their opinion of it. The Constitution had at first some powerful opposers in this state, but the opposition at present is feeble; they have had time to deliberate, and their tempers are now come to. (The reception and discussion it met with from your state, has removed the film of prejudice from the eyes of many well-meaning men of our state. They have agreed to speak well of it. A few hypocrites and old tories, whose approbation we do not value a straw, remain unconverted.) It is not in the power of every one to understand its excellence; it is the gift of God; so while such declaim against it, and *strip off the garb of tyranny*, as they call it, they only discover their own nakedness.

("North-Carolina generally follows this state, and it is probable she will join us in the decision of this great national and all-important question.")

1. Reprinted: New Hampshire Gazette, 12 June (minus the second paragraph); Hartford American Mercury, 16 June; Philadelphia Independent Gazetteer, 18 June; Pennsylvania Packet, 19 June; Philadelphische Correspondenz, 24 June. On 11 June the Massachusetts Centinel reprinted the text enclosed in angle brackets, and within ten days this version was reprinted in whole or in part eight times: Mass. (3), R.I. (2), Conn. (1), N.Y. (2).

## Pennsylvania Gazette, 11 June<sup>1</sup>

## Extract of a letter from Virginia, dated June 4.

"I have just time to inform you, that the convention proceeded this day to business, and Governor Randolph declared himself *decidedly* in favor of the adoption of the proposed constitution under the present situation of the United States, which was essentially different from what it was at the time he represented the state in the fœderal Convention. The astonishment of the opposition was greatly excited at the warmth with which he concluded his speech, declaring, that before he would consent to the rejection of the proposed plan (which would necessarily involve in it THE RUIN OF THE UNION,) he would chearfully agree to lose *that hand* which he then presented.<sup>2</sup> The prospect is really pleasing, and the above circumstance is almost a certain prelude of the adoption."<sup>3</sup>

By a gentleman who arrived in the last packet from England we learn, that the new constitution of the United States has been much admired and praised by its enemies, as well as its friends, and that the court of Great-Britain has discovered evident signs of apprehension with respect to its adoption.<sup>4</sup>

1. Both items were reprinted in the Maryland Journal, 17 June; New Haven Gazette, 19 June; Winchester Virginia Gazette, 25 June; Charleston City Gazette, 28 June; and Gazette of the State of Georgia, 10 July. See also notes 3 and 4 (below).

#### APPENDIX I, 16 JUNE

2. For Edmund Randolph's speech of 4 June, see RCS:Va., 931-36, especially p. 933; and for similar newspaper items, see *Massachusetts Centinel*, 18 June (RCS:Va., 1648-49).

3. This extract of a letter was reprinted in the June issue of the Philadelphia American Museum, and in twenty-nine newspapers by 10 July: Vt. (1), N.H. (1), Mass. (2), R.I. (2), Conn. (6), N.Y. (7), N.J. (1), Pa. (4), Md. (1), Va. (1), S.C. (2), Ga. (1). On 21 and 24 June, respectively, the Providence Gazette and Salem Mercury (Mfm:Va. 251, 256) also published similar accounts. Nathan Dane, a Massachusetts delegate to Congress in New York City, probably referred to this extract when he wrote that: "by the inclosed paper you will see how affairs stood in Virginia relative to the Constitution on the 4 instant—I need only add that the extracts of letters mentioned in this paper are genuine, and from originals which I saw—and them from men whose information, I suppose, may be relied on" (to Caleb Strong, 15 June, Strong Papers, Forbes Library, Northampton, Mass. Five New York City newspapers reprinted this extract on 13 and 14 June).

4. This paragraph was reprinted seven times by 10 July: Conn. (1), Md. (1), Va. (2), N.C. (1), S.C. (1), Ga. (1).

#### Massachusetts Centinel, 14 June<sup>1</sup>

#### ADVERTISEMENT EXTRA.

On the 4th day of July next, will be sold, for the benefit of the Antifederalists, the Old ARTICLES of CONFEDERATION. That no one may have cause to plead ignorance of their condition, to have an excuse for returning them, the intended purchasers are informed, that they have been found much the worse for the wear—and that having been patched up in a hurry, to answer a purpose during the war, they are defective in every part—However, sold they must be—and as a little encouragement to buyers, the purchaser will have the State of RHODE-ISLAND thrown into the bargain.

## UNION & FEDERALISM, Auctioniers.

June 14, 1788.

N. B. It was intended to have also given into the bargain the TENDER LAW of Massachusetts—But it died a few nights since—and has left but very few *relicks*—worth acceptance.<sup>2</sup>

1. Reprints by 24 July (12): Mass. (1), R.I. (1), Conn. (1), N.Y. (3), N.J. (2), Pa. (1), Md. (1), Va. (1), S.C. (1).

2. In early June the Massachusetts General Court refused to extend the tender law (or the law suspending suits for debts) that it had originally adopted in November 1786 and had extended in June and November 1787.

#### Pennsylvania Packet, 16 June<sup>1</sup>

The year 1788 has begun with events of the most interesting nature. The African slave trade is likely to receive a deadly blow in Great Britain. The parliaments of France have claimed, and will probably recover, their ancient privileges. The Russians have begun a war, which may end in the destruction of Turkish power, and of the Mohamidan impostures in religion. The United States have formed, and perhaps (by this time) *adopted* a government, which will secure and perpetuate her liberties, we hope, to the end of time. And lastly, the king of France has not only extended the blessings of a free toleration to all religious sects, in every part of his dominions, but opened the doors of power and office to them.—Happy æra in human affairs!—when reason and religion unite their influence in the government of the different nations of the world!

1. Reprints by 16 September (16): N.H. (2), Mass. (4), Conn. (4), N.Y. (1), N.J. (1), Pa. (1), Va. (2), S.C. (1). The Boston *Independent Chronicle*, 28 August, noted that it was printing the item from a London paper. This paragraph was part of a longer article that began with a prediction that "the great Regiomontanus" (mathematician Johann Müller, 1436–1476) had made in the year 1475. Regiomontanus had prophesied that in the year 1475. Regiomontanus had prophesied that in the year 1588 disastrous changes would occur in kingdoms, states, and empires. The item proceeded to list the numerous events that made 1588 a remarkable year. "Besides many other remarkable things" in 1688, the Glorious Revolution occurred in England. Then followed the paragraph printed here. (For a similar item referring to the significance of the years 1588, 1688, and 1788, see the *Litchfield Weekly Monitor*, 28 January, CC:Vol. 3, p. 573.)

## Massachusetts Centinel, 18 June<sup>1</sup>

Of the CONSTITUTION two things are certain—The one that it has been ratified by nearly TWO-THIRDS of the free people of the United States—and therefore may with truth be said, to have received THE SANCTION of THE PEOPLE.—The other is, that the objections of those who have been opposed to the plan, differ as much from each other, as they dissent from the friends of it—and that, therefore, any form whatever would not be unobjectionable.

1. Reprints by 1 July (7): Mass. (1), Conn. (2), N.Y. (1), N.J. (1), Pa. (2).

#### Virginia Independent Chronicle, 18 June<sup>1</sup>

Extract of a letter from a gentleman in Philadelphia to his friend in this city, dated June 9, 1788.

"A few days since a gentleman arrived here from Spain, who is on his way to Kentucky at this time for the purpose of procuring 13 or 14,000 hogsheads of tobacco, which he has contracted with the Spanish government to supply, and to be delivered at New Orleans. He brings information that Spain is willing to cede to us the navigation of the Mississippi so soon as we shall have established a permanent government to form a treaty with them."

#### APPENDIX I, 25 JUNE

1. This item was reprinted in the June issue of the Philadelphia American Museum and in eight newspapers by 30 August: N.H. (1), Mass. (1), Md. (3), Va. (2), Ga. (1).

#### New York Journal, 19 June<sup>1</sup>

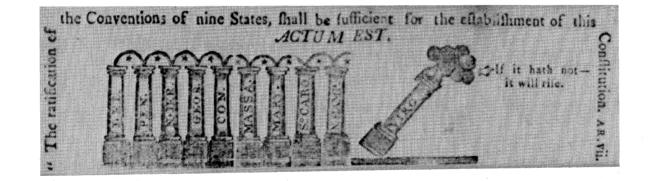
Eight states have ratified the proposed constitution.—There is now in session the conventions of Virginia, New-York, and New-Hampshire; North-Carolina will meet next month; Rhode-Island—mum.—This may, therefore, be considered, on all hands, as a most interesting æra. "Peace—be still—the God of America has issued his awful mandate"— Whether to obliterate from the recording page of American history the name of Freedom, or to establish her upon the basis of everlasting liberty, SEEMS to be the subject of the present interesting disputation.

1. Reprinted: Philadelphia Independent Gazetteer, 23 June; Pennsylvania Packet, 23 June; Pennsylvania Journal, 25 June; Baltimore Maryland Gazette, 27 June; Winchester Virginia Gazette, 2 July.

## New Hampshire: The Ninth Pillar Massachusetts Centinel, 25 June (excerpt)

On 26 December 1787 Benjamin Russell, the printer of the Massachusetts Centinel, described Delaware's ratification of the Constitution as "The FIRST PILLAR of a great FEDERAL SUPERSTRUCTURE raised." After Connecticut ratified, Russell revived his metaphor on 16 January by printing an illustration under the heading "THE FEDERAL PILLARS." It showed five erected and named pillars with a sixth labeled "MASS." in the process of being raised. (See CC:Vol. 3, pp. 564–67.) Russell updated his metaphor as more states accepted the Constitution. On 25 June, four days after New Hampshire ratified, thereby providing the requisite ninth state needed to put the Constitution into effect, Russell published the illustration and the announcement that appear below.

Other publishers and editors reproduced Russell's metaphoric illustration. On 24 and 26 June, the *New Hampshire Spy* and *New Hampshire Gazette*, respectively, printed identical illustrations showing New Hampshire as the ninth raised pillar. The *Spy's* adaption was printed under the heading "SOLI DEO GLORIA" (To God Alone be Glory). Another variation appeared in the Exeter, N.H., *Freeman's Oracle*, 27 June. The Boston *Independent Chronicle*, 26 June, also printed an illustration entitled "*The Ninth PILLAR erected!*... *IN-CIPIENT MAGNI PROCEDERE MENSES*" (Beginning the Period of Great Progress). Almost a month later, the Charleston, S.C., *City Gazette*, 22 July, printed its unique dome-and-pillar illustration commemorating New Hampshire's ratification. (See illustration on page 382.)



## APPENDIX I, 25 JUNE

## NINTH and the SUFFICIENT PILLAR.

We felicitate our readers on the accession to confederation of the State of New Hampshire—not only because it completes (if Virginia hath not *previously*) the number of States necessary for the establishment of the Constitution; but because it is a *frontier*, a *neighbouring*, and really to us a SISTER State. Our predictions and wishes have been that the New-Hampshire PILLAR would rise—and we rejoice that we now have it in our power to RAISE it from the "STOOL of repentence," on which it hath done penance these four months, and to give it a place as one of the noble PILLARS of the GREAT NATIONAL DOME....

## New Jersey Journal, 25 June<sup>1</sup>

A gentleman in this town, a few days since, asked another what he thought of the *Constitution? (not the new one.)* The other replied, "It is like that of your humble servant, in a rotten condition; but I hope, Phœnix like, a better will soon rise out of its ashes."

1. Reprinted: Pennsylvania Packet, 2 July; Baltimore Maryland Gazette, 8 July; State Gazette of South Carolina, 11 August.

## Pennsylvania Gazette, 25 June<sup>1</sup>

Extract of a letter from a Member of the Convention of Virginia, dated June 18, 1788.

"The voting members will consist of 168; the determined adversaries 76, the determined friends 82, as far as we have grounds for calculation before any question has been taken. The remaining ten have not spoken *explicitly;* but we have the best assurances of one half being with us, since the scruples of some have been quieted by a peculiar form of ratification, which will be offered."

1. This extract of a letter, also printed in the *Pennsylvania Journal* on 25 June, was reprinted ten times by 5 July: R.I. (2), Conn. (3), N.Y. (4), Pa. (1). A summary was printed in the *Pennsylvania Mercury*, 26 June, and reprinted in the *New Hampshire Spy*, 5 July. This extract is from a letter that Governor Edmund Randolph, a delegate to the Virginia Convention, wrote to Samuel Smith, a Baltimore merchant. Smith quoted the extract in his 22 June letter to Tench Coxe, a Philadelphia merchant (RSC:Va., 1666–67).

#### Pennsylvania Gazette, 25 June<sup>1</sup>

Should every inhabitant of the United States *wear* as much more of the manufactures of our country, than he used to do, as would amount to only *twenty* shillings a year, it would save three millions of pounds yearly to our country. A few pairs of cotton or thread stockings, or of worsted shoes, or a single coat, or a few cotton waistcoats, would make up this trifling saving to each individual. The aggregate sum would in a few years render America one of the richest countries in the world.—It would build many hundred ships and houses, establish and promote many useful manufactures, and clear and improve many thousand plantations, every year.

If, added to this saving in the articles that have been enumerated, every person whose business it was to ride on horseback, together with all the boys between five and fourteen years of age, and all the servants in the United States, wore LEATHER BREECHES, manufactured in America, a sum not much less than a million per year would be retained in our country.

The members of different parties, in foreign countries, have occasionally been distinguished by different or peculiar dresses. Suppose similar distinctions should be made between the *federal* and *anti-federal* citizens of America. Let American made hats, shoes, buttons, breeches, stockings, &c. be worn by the FEDERALISTS. Let every thing that is eaten, or drank, or used in diet and furniture, that is made in America, be called FEDERAL. And further, let justice and patriotism be called FED-ERAL virtues, and gold and silver FEDERAL money. By these means we shall incorporate our federal government in every idea of the mind, and blend it with every noble feeling of the heart.

1. All three paragraphs were reprinted in the New York Packet, 1 July; New Jersey Brunswick Gazette, 8 July; Virginia Centinel, 9 July; and Providence United States Chronicle, 24 July. The Pennsylvania Packet, 26 June, reprinted only the first two paragraphs; while only the third paragraph was reprinted eleven times by 18 August: N.H. (2), Mass. (2), R.I. (1), Conn. (1), Pa. (1), Md. (1), Va. (1), S.C. (2).

## Newport Herald, 26 June<sup>1</sup>

#### UNION and FEDERALISM.

TUESDAY evening we received by Post the highly interesting intelligence of the Ratification of *the proposed Constitution for the United States*, by the State of NEW-HAMPSHIRE, which makes NINE STATES, and thereby insures an establishment of that well organized Government.— On WEDNESDAY morning the day was ushered in with the ringing of the Bells;—The shipping were drest in their colours, and from many

## APPENDIX I, 2 JULY

houses in the town were displayed the stripes of America:—Application being made by a number of gentlemen to his EXCELLENCY THE GOV-ERNOR, that permission might be given to fire the Guns at FORT-WASH-INGTON and hoist the *Standard* of the State, his Excellency very politely granted the request and ordered the gunner of the Fort accordingly.— At one o'clock nine 18 pounders were fired from the Fort, and at sun set the same number, as a compliment to the nine States, which was re-echoed by loud huzzas.—It is with pleasure we observed the general joy and unfeigned congratulations of our fellow citizens on this auspicious event.

1. This item was reprinted in whole or in part sixteen times by 21 July: Vt. (1), N.H. (1), Mass. (6), R.I. (2), Conn. (4), N.Y. (2). The Boston Gazette, 30 June, appended: "At night there were Illuminations"; while the Massachusetts Gazette, 1 July, appended: "Exult therefore, ye citizens of the State of Rhode Island and Providence Plantations, at the prospect of the rising fabrick of Order, Justice and Liberty! Let us once more HARMONISE our political machine, and adopt the Constitution of the United States, thereby we shall retrieve our much injured character, restore our expiring commerce, cause justice to flourish in our land, and render permanent the happiness and prosperity of this State."

#### Pennsylvania Packet, 27 June<sup>1</sup>

We have the pleasure to inform our fellow citizens, that the 4th of July (ever memorable) will give them an opportunity of expressing their joy in processional-festivity.—The reign of Anarchy is over.

1. Reprints by 9 July (6): Mass. (1), Pa. (3), Md. (1), Va. (1).

#### Maryland Journal, 1 July<sup>1</sup>

A Letter from Richmond advises, that a Motion for previous Amendments was rejected by a Majority of Eight; but that some Days would be passed in considering subsequent Amendments, and these, it appeared, from the Temper of the Convention, would be *recommended*.

1. This summary of a Richmond letter was reprinted in broadsides published in New York City and Poughkeepsie on 2 July (Evans 21559, 45393) and in fifteen newspapers by 26 July: N.H. (1), Mass. (4), Conn. (2), N.Y. (1), Pa. (5), Md. (1), Va. (1). It was part of a lengthy description of the arrival in Baltimore of the news that Virginia had ratified the Constitution and of the ensuing celebration that took place in Baltimore. (For this account, see RCS:Va., 1718–19.)

## Massachusetts Centinel, 2 July<sup>1</sup>

#### SHIP NEWS-EXTRA.

Arrived safe in port, the ship FEDERAL CONSTITUTION, Perpetual Union, commander, from Elysium. In her came passengers, Flourishing Commerce, formerly a resident in these States—Messrs. Publick Faith, Confidence and Justice—Gen. Prosperity and National Energy.—The latter, we are told, is charged with a summons to Lord Dorchester, to deliver up to the United States the posts on the Western Frontiers, with their territory; and in case of refusal is enabled to take such measures as will be most likely to effect their surrender. On the arrival of these illustrious characters we felicitate our readers—the more particularly as they intend residing in our "dear country." The cargo of this ship is a good one—it consists principally of union, peace, friendship, mutual concessions, forbearance, and regard for universal prosperity, in 13 large packages—One of these is consigned to Rhode-Island, and it is hoped will be cordially accepted.

Same day sailed the snow Old Confederation, Capt. Imbecility, for the Old World. There were no passengers on board—as she is known to be a weak vessel, and suspected to be rotten—so much so, that the owners could not procure insurance—She had on board sundry bales of English colours, worn out flying in our harbours, while our stripes are not suffered to unfurl, or our stars to twinkle in British ports—packages of paper money—pine barren and tender acts—local prejudices, jealousies, and seeds of discord.

The sloop Anarchy, we are told, is ashore on the Rock of Union-and cannot be got off-the crew has perished, and the owners have broke.

1. Reprints by 13 August (16): N.H. (1), R.I. (2), Conn. (2), N.Y. (2), N.J. (2), Pa. (2), Md. (1), Va. (2), N.C. (1), S.C. (1).

#### Massachusetts Centinel, 2 July<sup>1</sup>

The American Convention or Confederacy will soon have obtained the consent of a majority of the Provincial Chiefs; but it will not be adopted with *unanimous consent*; the opposition, although few in numbers, are strong in argument. It is new in the History of Mankind, to see a great nation employed in making a Constitution for themselves!

1. Reprints by 22 September (20): N.H. (3), Mass. (6), R.I. (1), N.Y. (2), N.J. (1), Pa. (3), Md. (1), Va. (2), N.C. (1). The *Massachusetts Centinel* printed this item under a London dateline, and most of the reprintings indicated that it was originally printed in a London newspaper.

#### Massachusetts Centinel, 2 July<sup>1</sup>

We have it from the first authority in *Rhode-Island*, that the Executive of that State will in a short period convene the Legislature thereof, for the purpose of calling a CONVENTION for considering the proposed Constitution. The weight in the Federal Senate, of Rhode-Island,

## APPENDIX I, 2 JULY

will be as great as that of the largest State—to preserve the proper balance of power in the national government, it will be expedient that Rhode-Island, as well as Vermont, should accede to the new Confederation.

To the towns already mentioned as having celebrated the ratification of the Constitution by New-Hampshire, we with pleasure add Newport and Providence.—In the former, the bells were rung, the shipping, &c. drest in colours, a salute of nine cannon fired, and mutual congratulations marked the general pleasure of the assembled citizens. In the latter the bells were also rung, and several salutes fired from the artillery, on *Federal Hill*—the schools were dismissed, and all was joy an assembly was made on College Hill, when the scholars with their books under their arms, unanimously joined in a solemn procession, and *paripatetically* and philosophically, in honour of the day, named the beautiful green round the college—*The FEDERAL PARADE*.

1. Both paragraphs were reprinted in seven newspapers by 23 July: N.H. (1), N.Y. (2), Pa. (2), Md. (1), Va. (1). The first paragraph was reprinted twenty-one times by 13 September: Vt. (1), N.H. (2), Mass. (2), R.I. (1), Conn. (1), N.Y. (5), Pa. (4), Md. (2), Va. (1), S.C. (1), Ga. (1). The Salem Mercury, 15 July; Portland Cumberland Gazette, Massachusetts Spy, and New Hampshire Gazette, 17 July; and Lansingburgh Federal Herald, 4 August, published the following brief notice under differing Newport datelines: "It is expected that the General Assembly of the State of Rhode-Island will soon be specially convened, in order to appoint a Convention." The second paragraph was reprinted eight times by 24 July: N.H. (1), N.Y. (2), Pa. (2), Md. (1), Va. (2).

## Pennsylvania Gazette, 2 July<sup>1</sup>

The accession of the commonwealth of VIRGINIA, to the form of government for THE NEW UNION, fixes the fate and ensures the happiness of AMERICA. The three states which have not yet ratified the Fœderal Constitution, will find irresistible inducements to join the confederacy. The merits of the Constitution itself, the scattered situation of the undecided states, the powerful and respectable body in each of them attached to *the Constitution*, and to *the Union*, the miserable condition of one of the undecided states, all afford us a comfortable and certain prospect of our being, once more, united in the bonds of dearest interest and affection. Our present situation is, indeed, like that of the glorious sun, when his powerful beams first dispel the darkness and terror of a tempestuous, awful night. The œconomy, the industry, the virtue, and the steady perseverance of THE PEOPLE in the principles which have led to this great reformation in our government, can alone raise OUR SUN to its meridian height. Mr. *Maddison* made the first motion in the United States, in the Assembly of Virginia, for appointing a Convention to frame a new government. How great must be the pleasure and triumph of that amiable young man, to see his patriotism and good sense thus crowned with success!<sup>2</sup>

## Extract of a letter from New-York, dated 30th June.

"Congress, I hope, will proceed immediately to put the government in motion—but unfortunately three of the states, which have ratified, are absent from Congress—Connecticut, Delaware and Maryland.

"Since writing the above I have seen a letter from Poughkeepsie, which conveys very flattering accounts of the progress the fœderal party make in gaining proselytes, and expresses a strong persuasion that the Convention will ratify the new constitution, especially if Virginia should furnish the example."

1. All three items were reprinted in the *Pennsylvania Mercury*, 3 July; *Maryland Journal*, 4, 8 July, and *Virginia Centinel*, 16 July. For other items that the *Pennsylvania Gazette* printed on 2 July, see RCS:Va., 1723–24. The first paragraph was reprinted eight times by 24 July: N.H. (1), Mass. (2), R.I. (2), Pa. (1), Md. (1), Va. (1). The second paragraph was reprinted eight times by 26 July: N.H. (1), Mass. (3), Pa. (1), Md. (1), Va. (1), S.C. (1). The extract of a letter, which was also printed in the *Pennsylvania Packet* on 2 July, was reprinted in whole or in part six times by 7 August: N.Y. (1), Pa. (1), Md. (1), Va. (2), S.C. (1).

2. In November 1786 James Madison was a member of a committee of the Virginia House of Delegates that drafted a bill authorizing the election of delegates to meet in Philadelphia in May 1787 for the purpose of revising the Articles of Confederation. The bill, the draft of which is in Madison's handwriting, was adopted by the House on 9 November and by the Senate on 23 November (Rutland, *Madison*, IX, 163–64). The act stressed the "crisis" facing Americans—would Americans opt to preserve the Union and secure "the auspicious blessings" of the Revolution. The legislature had this highly political document sent to Congress and all of the state executives and it was reprinted in newspapers throughout the country. For the act, see CDR, 196–98.

## New Hampshire Gazette, 3 July<sup>1</sup>

Extract of a letter from a gentleman at New-York, dated June 26, 1788.

"Congress will proceed to put the new Government in operation about the first of August, or at furthest the 10th."

1. Reprints by 18 July (13): Mass. (5), R.I. (2), Conn. (4), Pa. (1), Md. (1).

#### Newport Herald, 3 July<sup>1</sup>

It is reported, that in a letter from one of our Delegates to his son at Charleston (he writes) that "New-York will ratify the proposed Constitution of the United States, though by a small majority."<sup>2</sup>

#### APPENDIX I, 3 JULY

By private letters from New-York, we learn, that the New Constitution wears a more favorable aspect in their Convention than at first was apprehended—the ratification by New-Hampshire and the decision of Virginia, must have great influence in their determinations.<sup>3</sup>

Nothing can more strongly evince the federalism of this town, than their rejoicings upon the intelligence of the ratification of the Constitution by nine states—there was no influence of party—no arrangement for proceeding—but a spontaneous and universal joy burst from the liberal mind to celebrate the event.—There was a rivalship, but it was a rivalship in exultations;—our press for our last Herald was closed before the day, or it should also have announced the *parade of our fellow citizens, the illuminations, the firings in the evening, and the universal order and harmony that prevailed throughout that auspicious day.*<sup>4</sup>

The town of Providence, ever sanguine in the cause of liberty, propose celebrating the fourth of July, in commemoration of American Independence and the ratification of the New Constitution by nine states.—Invitations are given to His Excellency the Governor and his Council and to the country to join with them—Very great preparations we learn are making for this occasion.<sup>5</sup>

With pleasure we observe, that the NEW CONSTITUTION is thus become the favorite theme of the day; its progress inspires with confidence the friends of liberty and order—and destroys every hope of its enemies.<sup>6</sup>

1. On 7 July the Boston Gazette reprinted all five paragraphs.

2. This paragraph was reprinted eight times by 17 July: N.H. (2), Mass. (5), R.I. (1). At this time Peleg Arnold of Smithfield and Jonathan J. Hazard of Charleston represented Rhode Island in the Confederation Congress.

3. This paragraph was reprinted in the Boston Gazette, 7 July; New Hampshire Spy, 8 July; Salem Mercury, 8 July; Portland Cumberland Gazette, 10 July; and Exeter, N.H., Freeman's Oracle, 11 July.

4. This paragraph was reprinted in whole or in part eight times by 31 July: Mass. (3), R.I. (1), N.Y. (1), Pa. (1), Md. (1), Va. (1). In its previous issue, the *Newport Herald* reported the arrival of the news that New Hampshire had become the ninth state to ratify the Constitution (26 June, above).

5. This paragraph was reprinted six times by 31 July: Mass. (1), R.I. (1), N.Y. (1), Pa. (1), Md. (1), Va. (1). For the huge celebration in Providence on the Fourth of July, see CC:799–C.

6. This paragraph was reprinted in the Boston Gazette, 7 July; Massachusetts Spy, 10 July; Pennsylvania Mercury, 17 July; Maryland Journal, 22 July; and Petersburg Virginia Gazette, 31 July.

#### Pennsylvania Packet, 3 July<sup>1</sup>

Extract of a letter from Richmond, dated June 26.

"The amendments proposed in our convention for the consideration of the first Congress under the new adopted government are, chiefly, that the state shall have power to collect its own taxes, and pay Congress by requisitions; and it is expected they will pass the convention without opposition. Many of the Federal party being equally interested with the Anti's in the objects of them—though many fears are entertained of the new Congress not acceding to these amendments—and such are the apprehensions of the holders of military certificates, finding the certain resource, in their own revenue, for the payment of the annual interest, likely to be superceded by a national establishment, that is uncertain in its operations and remote in its effects, that they are already selling out at a lower price than when the constitution was agitating. The convention, we think will break up tomorrow—and on the next day we shall have a general rejoicing."

1. Reprints by 25 July (7): N.H. (1), Mass. (2), R.I. (1), N.Y. (2), Pa. (1).

## New York Daily Advertiser, 4 July<sup>1</sup>

## RATIFICATION of the FEDERAL CONSTITUTION by the following STATES.

Majority.

Delaware,	December 3, 1787,	unanimously.	
Pennsylvania,	December 13,	46 to 23,	23
New-Jersey,	December 19,	unanimously.	
Georgia,	January 2, 1788,	unanimously.	
Connecticut,	January 9,	128 to 40,	88
Massachusetts,	February 6,	187 to 168,	19
Maryland,	April 28,	63 to 12,	51
South-Carolina,	May 23,	149 to 73,	76
New-Hampshire,	June 21,	57 to 46,	11
Virginia,	June 25,	89 to 79,	10
-			

When the Ratifications of New-York and the other two remaining States come to hand, they will be published in this paper.

1. This item was reprinted in whole or in part in the August issues of the Philadelphia *American Museum* and New York *American Magazine*, and in eleven newspapers by 27 September: Vt. (1), N.H. (1), Mass. (2), R.I. (1), Conn. (1), Pa. (1), Va. (1), N.C. (2), S.C. (1). The *American Museum* reprinting also includes the volume and page numbers of the *Museum* where readers could find the texts of the forms of ratification of five of the states that had already ratified the Constitution. The forms of ratification of the other six ratifying states appear immediately after this item. On 15 July Ebenezer Hazard, the postmaster general, had written to Mathew Carey, the publisher of the *Museum*, recommending that he publish this table from the *Daily Advertiser* (Lea and Febiger Collection, PHi).

The Massachusetts Centinel, 12 July, preceded its reprinting of the table with this paragraph: "The rapid progress which the federal Constitution has made towards completion, is as astonishing as it is happy. In the time of war, when America was invaded

#### APPENDIX I, 9 JULY

by the fleets and armies of Britain, the instrument for uniting the States, was not accepted in *several* years after it was submitted to the States.—This being the case, it was hardly to be expected that a similar instrument would, in time of leizure and peace, be compleated in a quarter part of the time. A year hath not yet expired, since the proceedings of the Federal Convention were promulged—and in less than a year the most sanguine could not have expected its completion." This paragraph was reprinted seven times (including the New York *Daily Advertiser*, 19 July) by 23 July: N.H. (1), R.I. (2), Conn. (1), N.Y. (1), Pa. (2).

Immediately below the table, the Massachusetts Centinel, 12 July, said that "These States agreeably to the statement exhibited to the Grand Federal Convention, contain 2,077,000 inhabitants. The 13 States contain 2,583,000." (According to a report by Charles Cotesworth Pinckney, the figure was actually 2,573,000. See CDR, 300.) The population information was reprinted in the Massachusetts Spy, Providence United States Chronicle, and New Hampshire Gazette, 17 July; and Hartford American Mercury, 21 July.

#### Massachusetts Gazette, 8 July<sup>1</sup>

A correspondent observes, that the rising prospect of the United States must animate the bosom of every citizen: that constitution which was formed by the labour of wisdom, being cordially adopted, we have every reason to hope for the accomplishment of our rational wishes; trade will flourish, the farmer find a market for his produce, and industry a reward; the patriot who loaned his money to his country in distress, will receive payment; and the publick debt, continually lessening by the sale of lands, will become light and easy, and of short duration; even the circulation of the interest may become a national blessing, by increasing the means for commerce. The rapid rise of continental securities, among foreigners as well as our own citizens, is a proof of the justness of these ideas; and the rise will increase in rapidity as the new government draws nearer. It is a well known fact that the publick securities of Britain sell above FIFTY PER CENT. higher than ours, notwithstanding her debt is so enormous, and our interest higher than hers; but as this has been owing to want of national government, it cannot remain so long; therefore do not let our honest citizens sell their continental securities for a song, to hawk eyed foreigners, or to our own speculators. Now, now is the time to hold fast your property in the American funds; they have in a short time risen to forty per cent!

1. Reprints by 17 September (7): N.H. (1), N.Y. (1), Pa. (2), Md. (1), N.C. (1), S.C. (1).

## Springfield Hampshire Chronicle, 9 July<sup>1</sup>

Notwithstanding the *wisdom* of the *Great Ones*, in Rhode-Island, cannot be ascertained, yet we profess ourselves capable of comparing their State, very justly, to a *mole-hill*, in the neighbourhood of *twelve important mountains*.

1. Reprinted: New York Packet, 15 July; Pennsylvania Packet, 17 July; Newport Herald, 17 July; Baltimore Maryland Gazette, 22 July; New York Daily Advertiser, 29 July.

#### Massachusetts Spy, 10 July<sup>1</sup>

## The TENTH Federal Pillar!

The federal Constitution is now adopted and ratified by Ten States, viz. Newhampshire, Massachusetts, Connecticut, Newjersey, Pennsylvania, Delaware, Maryland, Virginia, Southcarolina and Georgia. The state Convention of Newyork is now sitting—Northcarolina meets this month—and Rhodeisland talks of calling a legal Convention to determine the fate of the Constitution.

The greatest rejoicings that were ever known in this country, have been in all the capital towns in the United states, on account of the adoption of the Federal Constitution by the Ninth and Tenth states. This great event will stand unrivalled in history—a revolution of the kind we have no record of. The present era is one of the most important of our country, and bids fair greatly to promote our political happiness.

1. The *Pennsylvania Packet*, 19 July, reprinted both paragraphs under the same heading. The second paragraph alone was reprinted in whole or in part nine times by 6 August: N.H. (2), Mass. (2), R.I. (1), Conn. (1), Pa. (1), Va. (2).

#### Newport Herald, 10 July<sup>1</sup>

A Correspondent observes, that this is a favorable period for restoring harmony and union to this state—By burying the spirit of party—obliterating from the mind past animosities, and adopting the proposed Constitution; we may rise, like the Phœnix from her ashes, to greater glory and honor. Let us be united to put away old things, that all things may become new.

1. Reprints by 13 August (8): Mass. (2), N.Y. (3), Pa. (1), Va. (1), S.C. (1).

#### Pennsylvania Packet, 11 July<sup>1</sup>

#### Extract of a letter from London, dated April 10.

"My father, who has ever interested himself in whatever concerns the American States has several times, with great care, attention and pleasure perused the Constitution agreed on by the Convention, and proposed to the states for their acceptance and ratification; and as he thinks that every thing human wisdom can devise for securing their liberties, civil and sacred, for the establishing of their public credit, for promoting the peace and harmony of the states, is included therein

#### APPENDIX I, 14 JULY

he hopes that none will be so far wanting to themselves, as to reject a code, which to him appears so fraught with every blessing."

1. Reprints by 2 August (7): Mass. (1), R.I. (1), N.Y. (1), Pa. (3), Va. (1).

## Massachusetts Centinel, 12 July<sup>1</sup>

Gentlemen who arrived here yesterday, in the New-York packet, in 37 hours from that city, inform us, that there is a great probability that the Constitution will not be ratifyed by the Convention of that State, during their present session; and that an adjournment for two or three months was trying for. There are in the Convention 19 in favour, and 46 against the Constitution.

The city of New-York, and the country adjacent, are determined to *adhere* to the Union, even if their Convention should reject the Constitution—and intend applying to the federal government for support therein. The federalists of New-York State, own 9 10ths of the property—and are more nearly opposed to it, in numbers.

The city of Newport, and the town of Providence, in the district of Rhode-Island, will, we are told, petition the first Congress to divide the State between Connecticut and Massachusetts.

The debates in the Convention of New-York, have been conducted with a great[er] degree of warmth and acrimony, than in any other part of the Union. This retards the business on which they were met and unless banished, will operate to the rejection of the Constitution.

Our accounts from North-Carolina are of a different complexion to those from New-York.—The sister State of Virginia and South-Carolina will not vote herself out of the family.

1. All five paragraphs were reprinted in the Salem Mercury, 15 July; New Hampshire Spy, 15 July; New Hampshire Gazette, 17 July; and Portland Cumberland Gazette, 24 July. The first paragraph was reprinted six times by 24 July: N.H. (2), Mass. (2), Conn. (1), N.Y. (1). The second paragraph was reprinted in whole or in part eight times by 24 July: N.H. (2), Mass. (3), Conn. (1), N.Y. (1), Pa. (1). The third paragraph was reprinted eight times by 30 July: N.H. (2), Mass. (3), Conn. (1), N.Y. (1), Pa. (2). The fourth paragraph was reprinted six times by 24 July: N.H. (2), Mass. (2), Conn. (1), N.Y. (1), Pa. (2). The fourth paragraph was reprinted six times by 24 July: N.H. (2), Mass. (2), Conn. (1), N.Y. (1). The fifth paragraph was reprinted seven times by 24 July: N.H. (2), Mass. (4), N.Y. (1).

## New York Daily Advertiser, 14 July<sup>1</sup>

Extract of a letter from Philadelphia, dated July 11, 1788.

"I am informed from good authority, that in consequence of the 9th state having adopted the New Constitution, the Anti-Federalists of Cumberland county in this state, held a meeting near Carlisle; the result was, that they were determined to support it, and give it a fair trial, and solicit amendments in a Constitutional way. Only three at the meeting were opposed to it."

1. Reprints by 26 July (6): N.H. (1), Mass. (3), R.I. (1), N.Y. (1). The Cumberland County meeting, held on 3 July, issued a circular letter requesting that the counties of Pennsylvania elect delegates to attend a convention in Harrisburg on 3 September "to devise such amendments, and such mode of obtaining them, as in the Wisdom of the Delegates shall be judged most satisfactory and expedient" (DHFFE, I, 239–41).

## Pennsylvania Gazette, 16 July<sup>1</sup>

Since the fœderal government most happily restrains any further emissions of paper money, it is said the legislature of New-Jersey will take into consideration the propriety of making the loan-office bonds (with their three-fold landed securities) assignable to any person who will pay in the paper money for them, and that the money, when paid in, will be immediately burnt. The permanency and freedom from fluctuation which this constitution gives to our affairs, will be felt in every matter of any consequence that occurs in the public or private business of the country.

1. This item was reprinted in the July issue of the Philadelphia American Museum and in twelve newspapers by 6 August: Vt. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (3), N.J. (2), Pa. (1), Md. (1), S.C. (1).

## Massachusetts Centinel, 23 July<sup>1</sup>

#### 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 CON-STITUTION.

## Extract of a letter from Philadelphia, dated July 12, 1788.

"We are in momentary expectation of receiving the recommendation of Congress, to our Legislature, respecting the appointment of ten electors to meet for the purpose of making choice of President, &c.— No other persons are talked of among the knowing ones to execute the new government than the great American Fabius,<sup>2</sup> and his Excellency Governour Hancock—The former will undoubtedly be President-General—and as the latter will have the next highest number of votes,

#### APPENDIX I, 24 JULY

he will unquestionably be Vice-President. Mr. Adams will undoubtedly be Chief Justice of the federal judiciary. At the southward the same sentiments prevail."

1. Both items were reprinted in the Boston Independent Chronicle, 24 July; New Hampshire Gazette, 24 July; Hartford American Mercury, 28 July; New York Morning Post, 31 July; and Providence Gazette, 2 August. The first paragraph was 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). The second paragraph was reprinted nine times by 27 August: N.H. (1), Mass. (3), R.I. (1), Conn. (1), N.Y. (1), Md. (1), N.C. (1).

2. George Washington.

#### Pennsylvania Gazette, 23 July<sup>1</sup>

The unreasonable attachment which some men have shewed to the old confederation, and to our crude extempore state governments, reminds one of our correspondents of a story of a clergyman in London, who having combated a new opinion in religion *unsuccessfully*, concluded his sermon with the following words. "I tell you—I tell you—I tell you—I tell you, my brethren—that an *old* error is much better than a *new* truth."

1. Reprints by 14 August (15): Mass. (4), Conn. (4), N.Y. (2), N.J. (1), Pa. (1), Md. (1), Va. (1), S.C. (1).

#### Petersburg Virginia Gazette, 24 July<sup>1</sup>

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*, one of three newspapers that first reprinted it on 1 August, under a dateline of Petersburg, 24 July.

## Middletown, Conn., Middlesex Gazette, 28 July<sup>1</sup>

## Extract of a letter from a gentleman in Georgia, to a gentleman in this city, dated June 6, 1788.

"We have a very cruel war between this state and the Creek Indians; and never perhaps was one conducted worse. Not the least opposition is made to the Indians. They every week, carry off more or less negroes or whites, and kill whenever they please. The people, sometimes, turn out and follow them a few miles, and return home, and wait for another attack. Yesterday they came and killed a man as he was ploughing in the field about 200 yards from the house. They stabbed and scalped one of his sons, a child 6 or 7 years of age and left him; it is hoped he will yet recover. They then took another son of his and three daughters and carried them off.

"Our situation as a state is now felt severely. Instead of that compact manner New-England is settled in, we are only a margin near 400 miles in length and no breadth, as the greater part is only here and there a plantation upon the rivers; and an enemy may take their choice where to attack us. If the federal constitution does well we shall share its blessings; and it is a fact we want them very much. There is great clamour at this time for calling the legislative to pass an instalmentact before nine states have adopted the constitution, but the house cannot be called without the pleasure of the executive, and I surely shall use what little influence I may have with that honorable body against it."

1. Reprints by 14 August (11): N.H. (2), Mass. (3), R.I. (2), Conn. (2), Pa. (2).

## Pennsylvania Mercury, 29 July<sup>1</sup>

It has often been said exultingly in Great-Britain (says a correspondent) that the British nation sustained no loss by the INDEPENDENCE of the United States, and no wonder, for by the plentiful emissions of paper money, and the want of a general power to encourage American manufactures, and to restrain the importation of British luxuries, more goods were bought of Great-Britain than before the war—But let her beware of the effects of our NEW GOVERNMENT.—This will soon teach her the folly of shedding innocent blood, & the injuries she has sustained by dismembering the empire. In the articles of iron, cotton, paper, and malt liquors alone, she will lose, in the course of the present year, not less than half a million sterling, and in the course of 3 years, we hope, *four* times that sum.

1. Reprints by 27 August (9): Mass. (2), Conn. (2), N.Y. (2), N.J. (1), Pa. (1), Va. (1).

#### APPENDIX I, 31 JULY

## Pennsylvania Gazette, 30 July<sup>1</sup>

The adoption of THE NEW FEDERAL CONSTITUTION by the convention of NEW-YORK, being the eleventh state, is a matter of the most transcendent joy, and honorable in the highest degree to *the Majority* of that house. Part of that majority must have the greatest abilities to convince objectors so strenuous, and part of them must possess the most uncommon share of candor and patriotism, to listen with so much moderation to the arguments of federalism and their country.

On the joyous news of the adoption of the new Constitution by the convention of our neighbour and sister NEW-YORK, the merits of the friends to the government in that honorable body, and the virtue of those from the opposition who helped them to execute the good work of ratification, were complimented with *a glorious peal* from Christ Church bells.

1. Both paragraphs were reprinted in ten newspapers by 16 August: N.H. (1), Mass. (1), Conn. (1), N.Y. (3), Pa. (2), Md. (1), S.C. (1). The first paragraph was reprinted fifteen times by 20 August: N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (3), Pa. (3), Md. (1), Va. (2), S.C. (2). The second paragraph was reprinted twelve times by 27 August: N.H. (1), Mass. (2), Conn. (1), N.Y. (3), Pa. (2), Md. (2), S.C. (1).

#### Newport Herald, 31 July<sup>1</sup>

The *unconditional* ratification of the FEDERAL CONSTITUTION by NEW-YORK hath blasted the last hopes of the Antifederal junto in this State, as they find themselves reduced to this mortifying alternative—"Adopt the Constitution and you may yet retain your sovereignty; but if you reject it, your territory shall be partitioned among your neighbours.["]

Upon receiving the interesting intelligence of the ratification of the New Constitution by New-York, great demonstrations of joy were manifested by our fellow-citizens.—The bells echoed the joyful tidings, and the colours displayed the triumph over anarchy—no town on the continent could be more unanimous in their sentiments—none more unfeigned in their 'gratulations, as none had experienced in so great a degree the scourge of licentiousness and fraud.

1. Both paragraphs were reprinted in eleven newspapers by 1 September: N.H. (1), Mass. (3), Conn. (1), N.Y. (1), Pa. (3), Md. (2). The first paragraph was reprinted twelve times by 1 September: N.H. (2), Mass. (3), Conn. (1), N.Y. (1), Pa. (3), Md. (2). The second paragraph was reprinted sixteen times by 1 September: N.H. (2), Mass. (4), R.I. (1), Conn. (1), N.Y. (2), Pa. (4), Md. (2).

## Petersburg Virginia Gazette, 31 July<sup>1</sup>

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. Reprints by 23 August (23): N.H. (2), Mass. (8), R.I. (1), Conn. (2), N.Y. (5), Pa. (4), Md. (1).

## New Hampshire Recorder, 5 August<sup>1</sup>

We are informed that the Legislature of the State of Vermont intend sending delegates to Congress, agreeable to a late request from that honorable body.—They also propose calling a Convention immediately, for the purpose of considering the Federal Constitution.

1. On 19 August the Massachusetts Gazette reprinted this item, omitting the word "late" and changing the two words "Federal Constitution" to "new constitution." The Gazette's version was reprinted thirty-eight times by 25 October: N.H. (4), Mass. (5), R.I. (1), Conn. (8), N.Y. (2), Pa. (7), Md. (2), Va. (3), N.C. (2), S.C. (2), Ga. (2). The Newburyport Essex Journal, 3 September, omitted "late" but kept "Federal Constitution."

## Pennsylvania Gazette, 6 August<sup>1</sup>

On Monday last the Rev. Dr. Colin delivered a sermon in the Swedish Church, from the following words, "If I forget thee, O! Jerusalem, let my right hand forget her cunning, if I do not remember thee let my tongue cleave to the roof of my mouth; if I prefer not Jerusalem above my chief joy." Psalm [1]37, verses 5 and 6. In this discourse the Doctor enforced the duty, and displayed the advantages of PATRIOTISM in a most elegant and original manner, and concluded by taking notice of the present happy situation of the United States in the adoption of the Fœderal government.

Before and after the sermon several fœderal odes, which had been previously set to music, were performed by a band, accompanied by voices. The whole of this sacred and patriotic entertainment was conducted in such a manner as to give the highest pleasure to a crouded and respectable audience. Too much praise cannot be given to the Rev. Dr. Colin, for this contribution to the order and happiness of the United States, in addition to many others which he has given during the late controversy upon the subject of the fœderal government.

#### APPENDIX I, 6 AUGUST

1. Both paragraphs were reprinted in nine newspapers by 27 August: Mass. (1), Conn. (1), N.Y. (3), Pa. (3), Va. (1). The *New Hampshire Spy*, 19 August, reprinted the first paragraph and the first sentence of the second paragraph. Between 6 August and 2 October 1787 the Philadelphia *Independent Gazetteer* published twenty-nine unnumbered essays supporting the Constitution signed by "Foreign Spectator." The author of the series was the Reverend Nicholas Collin, the pastor of Philadelphia's Old Swedes Church. See CC:124.

## Pennsylvania Gazette, 6 August<sup>1</sup>

The *alterations* (not amendments) of the fœderal constitution proposed by the Convention of New-York, says a correspondent, are so numerous, that if it were possible to admit them, they would annihilate the constitution, and throw the United States not only back again into anarchy, but introduce poverty, misery, bloodshed and slavery into every state in the union. The authors of these alterations would do well to put on match coats and associate with the lawless Indians who inhabit the borders of the western lakes. They have not sense enough to frame, or understand a system of government fit for a civilized nation.

1. Reprints by 4 October (15): Mass. (3), R.I. (1), Conn. (2), N.Y. (1), N.J. (1), Pa. (2), Md. (1), Va. (2), Ga. (2). A subscriber to the Philadelphia *Independent Gazetteer*, 16 August, requested that this paragraph and two paragraphs appearing in the *Pennsylvania Gazette*, 13 August (both printed below), be reprinted in the *Independent Gazetteer* with this prefatory statement: "The paragraphs, which have appeared in the last two numbers of the Pennsylvania Gazette, exhibit in the clearest point of view the dilemma into which our RED-HOT FEDERALISTS are now driven.

"If trial by jury, the liberty of the press, no capitation tax, &c. are to be established as fundamental privileges of freemen; then according to the doctrine of RED-HOT FED-ERALISM 'these alterations, not amendments, would annihilate the constitution, and throw the United States not only back into anarchy, but introduce poverty, misery, bloodshed, and slavery into every state in the union.'

"In one paper all the members of the honorable convention of New-York are told that they should associate with Indians in match-coats preparing them for being burned to death, &c. In another (severity subsiding a little) they are branded with the *gentle* epithets of *impudent, impertinent,* &c. in this we are also informed, that the convention of North-Carolina had rejected the constitution by a majority of 100, against 76; instead of saying 176 against 76; and thus, by a pitiful quible, 76 members are hid from the eye of the reader."

#### Pennsylvania Gazette, 6 August<sup>1</sup>

Should Virginia give a President, and Massachuset[t]s a Vice-President to the United States, Pennsylvania should certainly come in for the honor of being the seat of the fœderal government. Her central situation, her active fœderal spirit, which set the whole union in motion in favor of the constitution upon its first promulgation, her numerous

resources for arts and manufactures, and the connection of her name with the original splendor and fame of Congress, all strongly mark her as the most proper state for the new government of the United States.

1. Reprints by 27 August (13): N.H. (2), Mass. (5), R.I. (1), Conn. (2), N.J. (1), Pa. (2).

## Vermont Journal, 11 August<sup>1</sup>

Eleven States have now adopted that Constitution which the Grand Convention of the United States thought the most adviseable. Northcarolina and Rhodeisland are yet to follow, we hope, the example of the others. Congress are now deliberating on the subject of putting the Federal Constitution into operation; and in all probability this state will very soon be called on to raise a Pillar to the Noble Edifice, or hear their fate with respect to a division. It would perhaps be well for every man to acquaint himself as thoroughly as possible with the new Constitution, and have his mind ripe for a candid determination, should we be called on as a State in the Great Union, which, we have every reason to believe, will be the case.

1. Reprints in whole or in part by 30 September (6): N.H. (2), Mass. (2), R.I. (1), Pa. (1). Because the *Vermont Journal* for 11 August is not extant, this item was transcribed from the *Massachusetts Spy*, 18 September, which printed it under a dateline of Windsor, 11 August.

#### Pennsylvania Gazette, 13 August<sup>1</sup>

The impertinent letter sent by the late Convention of New-York to all the states,<sup>2</sup> urging what they *impudently* call amendments in the new constitution, merits the severest treatment from all the friends of good government. It holds out the total annihilation of every useful and wise part of the constitution. The only design of these supposed amendments is to continue a few New-York speculators and land-jobbers in office, who have imposed upon an ignorant but well meaning majority in the convention. Nothing proves this more than the enmity these official certificate and land-brokers shewed to the government before it was published.<sup>3</sup> Let the government have a fair tryal. If it should be found faulty, the *faults* will soon shew themselves, and they may be amended. Fortunately for the United States, six states have adopted the constitution without a wish for a single alteration. If they continue firm, no alteration can be made until an experiment has been tried with the government. This experiment will certainly be favourable to it, for the demands for alterations in a great majority of the dis-

#### APPENDIX I, 13 AUGUST

affected have arisen from *ignorance* only, which the operations of the government will remove in a few years.

A private letter from Richmond to a gentleman in this city, dated August 6th, mentions, that the Convention of North-Carolina had rejected the New Constitution, by a majority of 100 against 76 votes.<sup>4</sup> New-York rejected the proceedings, and Georgia refused to send delegates to the *first* Congress, and yet both these states, in two years afterwards, were among the foremost in zeal and activity in supporting the independence of the United States. North-Carolina and Rhode-Island have probably been permitted to withdraw from the union, on purpose to shew the other states the miseries they have escaped by adopting the government. An attachment to paper money and tender laws, appear in both these corrupted and deluded states, to be the cause of their opposition to the new constitution.

1. Both paragraphs were reprinted in ten newspapers by 28 August: Mass. (3), R.I. (1), Conn. (3), Pa. (1), Md. (1), Va. (1). The first paragraph was reprinted thirteen times by 28 August: N.H. (1), Mass. (4), R.I. (1), Conn. (3), Pa. (1), Md. (1), Va. (2). The second paragraph was reprinted twenty-four times by 8 September: N.H. (2), Mass. (3), R.I. (2), Conn. (7), N.Y. (2), N.J. (1), Pa. (3), Md. (2), Va. (1), N.C. (1).

2. A reference to the New York Circular Letter (CC:818-C).

3. While the Constitutional Convention was still in session, some Federalists attacked state officeholders, especially in Pennsylvania and New York, who they believed would oppose the new Constitution that the Convention was expected to adopt. One such state officeholder was Governor George Clinton of New York, who was accused by Convention delegate Alexander Hamilton, in an anonymous article in the New York *Daily Advertiser*, 21 July 1787, of trying to prejudice the people of New York against any proposals made by the Convention. "A Republican" denied the charge in an article in the *New York Journal*, 6 September (CC:40).

4. On 13 August the Philadelphia Freeman's Journal and the Pennsylvania Packet also reported that the North Carolina Convention had rejected the Constitution by a vote of 176 to 76. The Pennsylvania Packet and Freeman's Journal versions were reprinted seventeen times by 1 September: Vt. (1), N.H. (2), Mass. (8), Conn. (1), N.J. (1), Pa. (3), Md. (1).

The vote on ratification in the North Carolina Convention, which took place on 2 August, was actually 184 to 83. The source of the incorrect vote was perhaps the Richmond postmaster, Augustine Davis, who was also the printer of the Virginia Independent Chronicle. On 14 August the New York Daily Advertiser printed an "Extract of a letter from the Post-Master at Philadelphia, dated August 12, 1788," in which the Philadelphia postmaster (James Bryson) relayed news from the Richmond postmaster that the North Carolina Convention had rejected the Constitution 176 to 76. (For a challenge to the authenticity of the report from the Richmond postmaster, see Massachusetts Centinel, 27 August, below.) On 14 August the New York Journal also reported that "North-Carolina had rejected the new constitution by a majority of 100." The Journal added: "It is said, that this intelligence was communicated by yesterday's southern post, it having been written on the post schedule." Both the New York Daily Advertiser and New York Journal reports were widely reprinted. (Philadelphia postmaster James Bryson was possibly writing to Ebenezer Hazard, the Confederation postmaster general stationed in New York City.)

For a criticism of the manner in which the *Pennsylvania Gazette* rendered the vote totals, see *Pennsylvania Gazette*, 6 August (item beginning "The *alterations*"), note 1 (above).

## Massachusetts Centinel, 20 August<sup>1</sup>

Of the NEW CONSTITUTION, in brief.—But true as Brief.

"From the Federal House of Representatives we may expect sympathy with the wants and wishes of the people:—From the Senate wisdom, unity of design, and a permanent system of national happiness:— From the Executive, secrecy, vigour, and dispatch. It unites liberty with safety, and promises the enjoyment of all the rights of civil society, while it leads us up the steep ascent of national greatness."<sup>2</sup>

"Great bodies move slow"—or it would seem, says a correspondent, that Congress have had time sufficient, since the ratification by nine States, of framing an act for putting the new government into operation. The delay does not give satisfaction to the *Masters of Congress*, THE PEOPLE, who scruple not to attribute it to motives, which it is to be hoped do not exist.

Part of the arms of Rhode-Island, is a Rope pendant—if this figure represents a Halter, the honest part of the world must confess, that the majority of that State, richly deserve such an atchievement. Their motto "In God we hope" might have been omitted, unless they mean, indeed, that ["]condemned Rogues have no other hope than in him."

1. All three paragraphs were reprinted in the Connecticut Courant, 25 August; New York Morning Post, 28 August; Pennsylvania Gazette, 3 September; and Trenton Federal Post, 9 September. The first paragraph was reprinted in ten newspapers by 1 October: N.H. (1), Mass. (1), R.I. (1), Conn. (1), N.Y. (2), N.J. (1), Pa. (2), Va. (1). The Providence United States Chronicle printed the item twice, on 4 and 18 September. The second paragraph was reprinted six times by 9 September: N.H. (1), R.I. (1), Conn. (1), N.Y. (1), N.J. (1), R.I. (1), Conn. (1), N.Y. (1), N.J. (1), Pa. (1). The third paragraph was reprinted fourteen times by 22 September: N.H. (1), Mass. (1), Conn. (3), N.Y. (3), N.J. (1), Pa. (3), N.C. (1), S.C. (1).

2. This paragraph was quoted from the next-to-last paragraph of David Ramsay's oration, 5 June (CC:773).

## Massachusetts Spy, 21 August<sup>1</sup>

We learn that the rejection of the federal Constitution by the state Convention of Northcarolina, has occasioned great uneasiness among the citizens of that state; but it is hoped peace and tranquillity may speedily be restored.

1. This item was reprinted in the Massachusetts Centinel, 23 August; Portland Cumberland Gazette, 28 August; Exeter, N.H., Freeman's Oracle, 30 August; and Vermont Jour-

### APPENDIX I, 25 AUGUST

nal, 1 September. A slightly different version in the Massachusetts Gazette, 22 August, referred to North Carolina's "secession" from "the new Confederacy." The Massachusetts Gazette's version was reprinted in the New Hampshire Spy, 23 August.

## Lansingburgh Federal Herald, 25 August<sup>1</sup>

## FEMALE FEDERALISM.

On Thursday the 14th instant, in imitation of the laudable example set them the day before by the gentlemen,<sup>2</sup> the Ladies of Half-Moon district, joined by a number from Lansingburgh, assembled at Waterford, and to manifest their attachment to the federal interest, formed as beautiful a procession as ever was beheld: They were sixty-four in number, dress'd with the utmost neatness and simplicity, without the aid of foreign gewgaws to embellish their persons, but were, like Thompson's Lavinai, "when unadorn'd adorn'd the most"3-Preceded by two ladies supporting the constitution, ornamented with blue ribbon, on the end of a flag-staff, they walked, two by two, at a proper distance, and in perfect order, through the different streets, while the countenances of the numerous and respectable beholders revealed the transporting joy which reign'd triumphantly within their breasts on viewing the amiable espousers of the federal cause. They then moved to the green west of the town, and beneath an elegant colonade, permitted a large number of gentlemen to partake with them of the bounties of the tea-table. While the company were thus regaling, eleven cannon were discharged in honor of the event they were celebrating.

Tea being over, a drum, fife and violin, gave the signal for a country dance, and the gentlemen handing out their partners, led down the dance in a perfectly rural style. The dance ended, the ladies again form'd into a procession, and, in the same manner as before, walked thro' the town; and to close the order of the day, moved to a house prepared for their reception, safely deposited the constitution, and were again accompanied by the gentlemen in the innocent and elegant amusement of dancing, from which the company retired at an early hour.

1. This item was reprinted twenty-four times by 18 September: N.H. (2), Mass. (5), R.I. (2), Conn. (2), N.Y. (3), N.J. (2), Pa. (2), Md. (2), Va. (3), S.C. (1). The Worcester American Herald, 11 September, reprinted only the first paragraph. The Massachusetts Centinel, 10 September, printed an edited version of the first paragraph, entitled "The FEDERALISM of the LADIES," which stated that the ladies and gentlemen "concluded their demonstrations of joy, on the promising happiness which their country will receive from the establishment of a wise, equal and energetick government." Moreover, in describing the "dress, deportment and countenances" of the ladies and gentlemen in the procession, the Massachusetts Centinel inserted the following verse: " 'Their forms were all, the brightest thoughts can frame,

Their minds were all the fondest wish can claim;

Whate'er is great, or good, or soft, or fair,

Refin'd, or lovely, fix'd its mansion there.' "

2. On 13 August about 500 residents of the Half-Moon District met in Waterford where they held a procession of the occupations, and militia. After the procession moved through the town, it "arrived upon a plain on the west side of the town" and the marchers feasted under "a beautiful bower, erected for the purpose." After the marchers ate and toasted, they again formed a procession and marched through the town. "The whole was conducted with the greatest regularity; and the utmost harmony, decency and decorum, prevailed throughout the day" (Lansingburgh *Federal Herald*, 25 August).

3. James Thomson's "Autumn," originally published in 1730 reads:

"... A native grace

Sat fair-proportion'd on her polish'd limbs, Veil'd in a simple robe, their best attire, Beyond the pomp of dress; for loveliness Needs not the foreign aid of ornament, But is when unadorn'd adorn'd the most."

See The Seasons ... (London, 1814), lines 201-6.

## Massachusetts Centinel, 27 August<sup>1</sup>

## Of NORTH-CAROLINA.

We have yet hopes, that the information given the Post-Master, at Richmond, that the Convention of North-Carolina had REJECTED the new Constitution, was not authentick<sup>2</sup>—as several accounts from that quarter have been received, none of which confirm it—nor the account that the question for *previous amendments*, or conditional ratification had been carried: On the contrary, by last night's Mail we received the following from a friend at New-York,

#### dated Aug. 21, 1788.

"The report of the rejection of the Constitution by North Carolina, is not yet confirmed; and a gentleman who left Wilmington the 1st inst. says, *it cannot be true*: He saw letters from members of the Convention, at Hillsborough, dated but three days before, which informed, that they had gone through the business of the contested elections, and just entered on the Constitution, which was to be debated by paragraphs."

Gov. Johnson was chosen President of the North-Carolina Convention, the first day it met.

1. Reprints in whole or in part by 4 September (9): N.H. (2), Mass. (6), Conn. (1).

2. See Pennsylvania Gazette, 13 August, note 4 (above).

#### Winchester Virginia Gazette, 27 August<sup>1</sup>

Governor *Sevier*, has regained his influence in a great degree, and has lately put himself at the head of *federalists*, and menaces the state of North Carolina, for putting themselves out of the union, by rejecting the new Constitution.

#### **APPENDIX I, 3 SEPTEMBER**

1. This item was reprinted in the September issue of the Philadelphia Columbian Magazine and in thirty-two newspapers by 16 October: Vt. (2), N.H. (1), Mass. (8), Conn. (5), N.Y. (6), Pa. (5), Md. (3), Va. (1), S.C. (1). John Sevier was governor of the separatist State of Franklin from 1785 to 1788. He was elected to the North Carolina Convention of 1788 (Hillsborough) from Greene County (which was in the State of Franklin), but he did not attend. Sevier was elected to the North Carolina Convention of 1789 (Fay-etteville), where he voted to ratify the Constitution. He served in the U.S. House of Representatives in 1790 and 1791.

## Newport Herald, 28 August<sup>1</sup>

## Extract of a letter from a gentleman at Hudson to his friend in this town, dated Aug. 7.

"The adoption of the new Constitution by our Convention has given universal satisfaction to the Anties—all parties seem to unite as one, and agree to put the government in motion. Judge Yeats, one of the Supreme Court, in giving his Charge to the Grand Jury at Albany a few days since, recommended the support of the Constitution to them in a very pretty manner, and acknowledged he was, before its adoption, opposed to it, but now it was his and every other man's duty to support it.—Both parties, it is said, are this day to join in a Federal Procession at Albany.—I mention this to shew you the union that is likely to take place in Albany, where there was the most dissention."<sup>2</sup>

1. Reprints by 8 October (12): N.H. (1), Mass. (3), Conn. (1), N.Y. (1), N.J. (1), Pa. (3), Md. (1), Va. (1).

2. Soon after the New York Convention ratified the Constitution on 26 July, the Federalist leaders of Albany approached the city's Antifederalist leaders and requested that they take part in a celebration to honor New York's ratification, but the Antifederalists refused (Abraham G. Lansing to Abraham Yates, Jr., 3 August, Yates Papers, NN). On 8 August a large and elaborate celebration was held in Albany, consisting primarily of a long procession and a dinner in a substantial "Federal Bower," especially erected for that purpose. Unlike the widely reported "fracas" that occurred between Federalists and Antifederalists on the Fourth of July, this commemoration took place without incident. In late October Aaron Burr noted that "Political Strife is still high" in Albany, "the only part of the State where the Spirit of Party is kept thoroughly alive" (to Theodore Sedgwick, 30 October, Kline, *Burr*, I, 37).

#### Pennsylvania Gazette, 3 September<sup>1</sup>

A correspondent deplores the peculiar distress of the United States of America, from the declining state of commerce—the failure of the funds of the United States, and of each of the single states—the Antifœderalism of North-Carolina—and above all from the *New-Yorkism* of the present Congress,<sup>2</sup> which deprives us, by its delays, of the only remedy that exists for all the other evils which have been mentioned. The partiality discovered for that oblique corner of the United States by a few interested men, to the great injury of the union, which requires a central situation, suggests a most alarming hint of the future views of the Eastern states. It is high time for Virginia, South-Carolina and Georgia to take care of themselves.

1. Reprints by 25 September (8): Mass. (5), R.I. (2), N.Y. (1). The Worcester American Herald, 18 September, placed the word "Threat!" in square brackets after its reprinting of this item.

2. A reference to the sentiment to keep the federal capital in New York City. After considerable debate, Congress passed an election ordinance on 13 September stating that "the present Seat of Congress" (i.e., New York City) should be "the place for commencing Proceedings under the said Constitution" (CC:845).

## Pennsylvania Packet, 3 September (excerpt)<sup>1</sup>

# Extract of a letter from Dr. Price to a gentleman in this city, dated Hackney, near London, June 16.

"I rejoice in the probability there is of the establishment among them of an energetic federal government, and I hope that by this time the new constitution has been adopted by a majority that will be sufficient to bear down opposition, and to engage the *acquiescence* of all the most wise and virtuous part of the states. No society can prosper, if, after a fair discussion, the minority will not submit to the decisions of the majority. The wise and virtuous must see this, and be guided by it. I admire in this instance Dr. Franklin's conduct<sup>2</sup>—It has been worthy of himself.—The conduct, likewise, of the minority in the state of Massachusetts seems to have done them great credit. In *Pennsylvania* the minority have acted upon a different principle; but I hope they will see the unreasonableness of their conduct, and not endeavour to disturb the public peace. I think with Mr. Adams pretty much on the subject of government, and cannot but approve of the new Constitution as fundamentally right.<sup>3</sup>..."

1. Reprints in whole or in part by 29 September (20): Vt. (1), N.H. (1), Mass. (5), R.I. (2), Conn. (1), N.Y. (4), N.J. (1), Pa. (1), Md. (1), Va. (1), N.C. (1), S.C. (1). The letter was possibly written to Benjamin Rush, one of Price's correspondents in Philadelphia. One of the paragraphs (not printed here) mentioned the debate in England over the slave trade, a topic in which Rush had much interest.

2. Richard Price refers to Benjamin Franklin's conciliatory speech made in the Constitutional Convention on 17 September 1787 (CC:77).

3. Price probably refers to statements made by John Adams in his Defence of the Constitutions (CC:16).

## **APPENDIX II**

This table illustrates the circulation of all items in Volume 6 of Commentaries on the Constitution that were published in newspapers or as broadsides or pamphlets. The total figure for each item includes the original publication and all reprints, including the reprints of significant excerpts. An asterisk (\*) indicates publication in the Philadelphia American Museum, which had a national circulation. A plus sign (+) indicates publication as a broadside, pamphlet, or book.

This table is included in *Commentaries* as an aid in comparing reprint data. Headnotes and footnotes of documents often contain additional information about circulation and should also be consulted.

		New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
739.	The Federalist's Political Creed					1		1								2
740.	A Patriotic Citizen	1				1		2								4
742.	A Freeman			1		1		2 2 5								4
747.	Md. Journal	4	5	2	1	3	1	5		1	1		1			24
751.	An American															
	(1st Essay)		1	1		1		2*		2	3					10
	(2nd Essay)			1				2*		1						4
752.	Va. Independent															
	Chronicle										2					2
753.	S.C. Convention															
	Amendments	3	10	4	4	5	1	7*		2	3	1	2		1	43
759.	Publius															
	The Federalist 78					3+										3
760.	Publius															
	The Federalist 79					3+										3
761.	Publius															
	The Federalist 80					3+										3
762.	Publius															
	The Federalist 81					3+										3
763.	Publius															
	The Federalist 82					3+										3
764.	Publius															
	The Federalist 83					3+										3
765.	Publius															
	The Federalist 84					3+										3
766.	Publius					•										
	The Federalist 85					3+										3

New Hampshire **North Carolina** South Carolina Massachusetts Rhode Island Pennsylvania Connecticut New Jersey New York Maryland Delaware Vermont Georgia Virginia Total 2 2 2 1 8 770. Pa. Packet 1 ŝ Curtius I 1 1 1 9 2 1 1 1 (1788 printing) 1 773. David Ramsay 8 Oration 1 1 1 1 1 3+ 1 1 2 5 780. A Pennsylvanian 1 2 1 1 4 784. N.J. Journal N.H. Convention 785. Amendments 2 (full) 2 2 1 16 4 1 4 7 3 4 1 4 23 (partial) 4 790. Va. Convention 3 20 Amendments 6\* 5+ 1 3 2 2 5 2 2 1 19 793. Pa. Mercury 1 1 1 4 799A-H. Celebration of Fourth of July 799A. Jonathan Mitchell 1+ 1 Sewall Oration 799B. Harrison Gray Otis 1+ 1 Oration 799C. **Enos Hitchcock** 1+ Oration 1 799D. Simeon Baldwin 1+ 1 Oration 799E. James Wilson 6\*+ 20 Oration 1 2 1 1 3 1 2 1 1 1 799F. Francis Hopkinson 3 2 11\*+ 2 3 2 35 1 3 7 An Ode 1 799G. Alexander Reinagle The Federal March 1+ 1 799H. William Pierce 1+ 2 Oration 1 800. Springfield Hampshire Chronicle 7 (entire) 2 1 1 1 1 1 2 3 2 (2nd paragraph) 1 1 6 1 16 805. Benjamin Rush Observations 1 1 2 4\*\* 1 9 2 3 806. Pa. Gazette 2 1 2 1 1 1 13 813. A Friend of Society 9 and Liberty 1 1 6+ 1 Woodstock, Conn. 815. Celebration (Mass. Spy) 5 4 1 2 1 (Mass. Centinel) 1 1 5

COMMENTARIES ON THE CONSTITUTION

		New Hampshire	Massachusetts	<b>Rhode Island</b>	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total	
816.	William Pitt Smith Ode		2	2		10+	2	1		1	1		1			20	
818A–C.	N.Y. Convention		2	2		10	2			1	1		1			20	
0104	Ratifies Constitution																
818A.	Declaration of Rights; Form of																
	Ratification	2	7	3	6	9+	1	6*		3	2				1	40	
818B.	Amendments	2	7	3	6	9+		6*		3	2				1	40	
818C. 821.	Circular Letter	1	9	3	6	8+	2	5*		3	2	1	1	1	1	43	
821.	N.C. Convention Amendments	2	3	1	1	1		6*		1	3	4+	1	1		24	
822.	A Federal Song	-	1	•		2		2		2	2	-	-	-		9	
828.	A Native of Boston		1+													1	
834.	Solon, Jr.			1		1		1			1					4	
Appendix	k I: Squibs																
N.H. Spy																	
10 Ma		3	7	1	2	2		6		1	2				1	25	
N.H. Spy		•								•	•		•			10	
13 Ma Mass. Ga		2	1		1	1	1	4		2	2		2			16	
13 Ma			2			2	1	2			1					8	
N.J. Jour	,					-	-				-					-	
14 Ma		1	5		3	2	2	5		3			1		1	23	
Pa. Gaze																	
14 Ma	•		3		9	2		2 4		1 2	1					3 15	
	aragraph) baragraph)	1	5 6		3 1	2 3	1	4 2		2	1				2	15	
	aragraph)	1	5		1	1		3		2	1				-	13	
	aragraph)		3			1		2		1	1					8	
	dent Chronicle			_												• •	
15 Ma		1	4	1	2			2								10	
Newport 15 Ma		1	6	1	3	2		4*					1			18	
U.S. Chr	,		U	1	0	-		•					1			10	
22 Ma			7	2		3		1		2	1				1	17	
Pa. Pack																	
24 Ma		1	3		2	1		2			1		1			11	
N.Y. Dai 26 Ma	ly Advertiser	1	5			3	2	2		1	1		1		1	17	
N.Y. Jou		1	0			ζ.	-	-					•		•		
26 Ma						1							1			2	
Mass. Ce		-	-			_		-					-			10	
28 Ma	у	1	6			1		1					1			10	

### COMMENTARIES ON THE CONSTITUTION

New Hampshire Massachusetts Rhode Island Connecticut New York New Jersey Pennsylvania Delaware Maryland Virginia North Carolina South Carolina Vermont	Total
Mass. Centinel	
2 July 1 1 2 2 2 2 2 1 2 1 1	17
Mass. Centinel	
2 July 3 7 1 2 1 3 1 2 1	21
Mass. Centinel	0
2 July (both) 1 1 2 2 1 1	8
(1st paragraph) 2 3 1 1 5 4 2 1 1 1 1	
(2nd paragraph) 1 1 2 2 1 2	9
Pa. Gazette	
2 July (all) 2 1 1	4
(1st paragraph) 1 2 2 2 1 1	9
(2nd paragraph) 1 3 2 1 1 1	9
(3rd paragraph 1 3 1 2 1	8
N.H. Gazette	
3 July 1 5 2 4 1 1	14
Newport Herald	
3 July (all) 1 1 (1st paragraph) 2 5 2	2
	9 6
(2nd paragraph) 2 3 1 (3rd paragraph) 3 2 1 1 1 1	0
	9 7
	6
	0
Pa. Packet 3 July 1 2 1 2 2	0
	8
N.Y. Daily Advertiser 4 July 1 2 1 1 2 2* 1 2 1	14
5 /	14
Mass. Gazette         1         1         2         1         1           8 July         1         1         2         1	8
8 July 1 1 1 2 1 1 1 Hampshire Chronicle	0
9 July 1 1 2 1 1	6
Mass. Spy	0
10 July (both) 1 1	2
(2nd paragraph) 2 3 1 1 2 2	11
Newport Herald	
10 July 2 1 3 1 1 1	9
Pa. Packet	5
11 July 1 1 1 4 1	8
Mass. Centinel	Ŭ
12 July (all) 2 3	5
(lst paragraph) 2 3 1 1	7
(2nd paragraph) 2 4 1 1 1	9
(3rd paragraph) 2 4 1 2	9
(2nd paragraph)       2       4       1       1         (3rd paragraph)       2       4       1       2         (4th paragraph)       2       3       1       1	7
(5th paragraph) $2 5 1$	8

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	New Hampshire	Massachusetts	<b>Rhode Island</b>	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
N.Y. Daily Advertiser															
14 July	1	3	1		2										7
Pa. Gazette															
16 July		1	1	1	3	2	3*		1			1		1	14
Mass. Centinel		_													
23 July (both)	1	2	1	1	1										6
(1st paragraph)	3	3	2	7	6	2	3		2					1	29
(2nd paragraph)	1	4	1	1	1				1		1				10
Pa. Gazette															
23 July		4		4	2	1	2		1	1		1			16
Petersburg Va. Gazette															
24 July	1	5	3	6	1		11*		1	1					29
Middlesex Gazette															
28 July	2	3	2	3			2								12
Pa. Mercury															
29 July		2		2	2	1	2			1					10
Pa. Gazette															
30 July (both)	1	1		1	3		.3		1	_		1			11
(1st paragraph)	1	1	1	1	3		4		1	2		2			16
(2nd paragraph)	1	2		1	3		3		2			1			13
Newport Herald															
31 July (both)	1	3	1	1	1		3		2						12
(1st paragraph)	2	3	1	1	1		3		2						13
(2nd paragraph)	2	4	2	1	2		4		2						17
Petersburg Va. Gazette															
31 July	2	8	1	2	5		4		1	1					24
N.H. Recorder											1				
5 August	5	6	1	8	2		7		2	3	2	2	2		40
Pa. Gazette															
6 August	1	1		1	3		4			1					11
Pa. Gazette													_		
6 August		3	1	2	1	1	3		1	2			2		16
Pa. Gazette															
6 August	2	5	1	2		1	3								14
Vt. Journal															-
11 August	2	2	1				1							1	7
Pa. Gazette															
13 August (both)			1	3			2		1	1					8
(1st paragraph)	1	4	1	3			2		1	2					14
(2nd paragraph)			2	7	2	1	4		2	1	1				20
Mass. Centinel															-
20 August (all)		1	~	1	1	1	1			-					5
(1st paragraph)	1	2	2	1	2	1	2			1					12
(2nd paragraph)	1	1	1	1	1	1	1								7
(3rd paragraph)	1	2		3	3	1	3				1	1			15

Commentaries on the Constitution

## APPENDIX II

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	New Hampshire	Massachusetts	<b>Rhode Island</b>	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	North Carolina	South Carolina	Georgia	Vermont	Total
Mass. Spy															
21 August	2	4												1	7
Federal Herald															
25 August	2	5	2	2	4	2	2		2	3		1			25
Mass. Centinel															
27 August	2	7		1											10
Winchester Va. Gazette					-										
27 August	1	8		5	6		6		3	2		1		2	34
Newport Herald		_					_								
28 August	1	3	1	1	1	1	3		1.	1					13
Pa. Gazette		_			_										
3 September		5	2		1		1								9
Pa. Packet		_					~								0.1
3 September	1	5	2	1	4	1	2		1	1	- 1	I		1	21

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An asterisk denotes a signer of the Constitution. Several main entries are compilations of similar items: Biblical References; Broadsides, Pamphlets, and Books; Classical Antiquity; Governments, Ancient and Modern; Newspapers; Political and Legal Writers and Writings; Printers and Booksellers; and Pseudonyms. The pseudonymous items printed in this volume and in earlier volumes of *Commentaries on the Constitution* are also indexed separately. When a pseudonym has been identified, the name of the author has been placed in parentheses. Biographical information in earlier volumes of *Commentaries* is indicated by a volume and page reference placed in parentheses immediately after the name of the person. Sketches of newspapers printed in Volume 1 of *Commentaries* have been placed in parentheses immediately following the name of the newspaper.

- Account of the Grand Federal Procession (Benjamin Rush), 261–69n
- Accusation, Cause and Nature of: proposed amendments concerning, 42, 201, 299, 315
- ADAMS, JOHN (Mass.; CC:Vol. 1, 81n), 24n; as minister to Great Britain, 145, 229, 231n, 315; favored by God to play a key role in America, 213; returns from Europe, 213, 271; as possible first Vice President of U.S., 213, 325, 363–64; Antifederalists as old friends of, 272; as possible first Chief Justice of U.S., 395; supports Constitution, 406
- -letters from, 271-72; cited, 147-48, 148n
- -letters to, 213-14; quoted, 272n
- -Defence of the Constitutions, 147-48, 148n, 329, 331; praise of, 213, 214n
- Adams, Samuel (Mass.; CC:Vol. 1, 325n) - letter to, 3-4
- ADMIRALTY JURISDICTION, 97; and federal judiciary, 99, 101; under Articles of Confederation and states, 99, 102n, 118, 120, 121. See also Judiciary, U.S.
- AGRICULTURE: America's suitability for, 150, 362; will prosper under Constitution, 163, 165, 185, 210, 214, 263, 292, 391; America will become granary of world, 184; prediction of a good harvest, 184, 287; neglected by discontented farmers, 226; home manufactures will benefit, 384. See also Cotton; Farmers; Wheat
- Aitken, John (Pa.), 249n
- Albany, N.Y., 405, 405n
- Albany County, N.Y., 47, 70
- ALDEN, ROGER (Conn.; CC:Vol. 1, 221n)
- -letter from: quoted, 193n
- ALEXANDRIA, VA., 16, 207-9n

- Allen, Andrew (England; CC:Vol. 1, 360n)
- -letter from, 361-63
- ALLEN, IRA (Vt.), 4n
- AMBASSADORS, 309; and jurisdiction of federal judiciary, 101, 107. See also Foreign affairs
- AMBITION: must be restrained, 75; Constitution protects against state and local leaders with, 138; Constitution protects against those with too much, 254; Constitution offers honors to ambitious men, 263. See also Human nature; Patriotism; Self-interest; Virtue
- AMENDMENTS TO ARTICLES OF CONFEDER-ATION: need for, 36, 73, 133, 332; danger of enlarging powers of Confederation Congress, 227–28. See also Articles of Confederation; Constitutional Convention; Impost of 1781; Impost of 1783
- AMENDMENTS TO CONSTITUTION, 175; need for, 3, 20, 73, 74-79n, 80, 154, 206, 217, 257, 276, 293-94, 306-7, 339-41, 365-66; Constitution's provision for, 10, 15n, 142, 280-81, 283-84, 340; first federal Congress and, 11, 16–17, 52, 60, 76-77, 173, 205-6, 301; Federalists promise only as means to obtain ratification, 13-14, 47, 155, 309; Antifederalists do not agree on, 51, 157, 217, 218, 271, 380; interstate cooperation on obtaining is recommended, 53, 157; opposition to before ratification, 57-58, 140, 154; should be required under a conditional ratification, 76; Federalists agree they are needed, 76, 156, 390; opposition to seeking after ratification, 80; support for after ratification, 80, 155-56, 167, 178-79, 181-82, 321, 324-25n, 353, 400-401; easier to ob-

tain after ratification than before, 140-42, 143n; propose limits on Congress, 166; opposition to proposing and binding representatives to Congress to support, 168; support for with ratification, 178, 276; restraints on government better located in laws than Constitution, 182; three non-ratifying states ought to adopt Constitution with amendments, 215; easier to obtain than amendments to Articles of Confederation, 216; opposition to, 216-17; variety of would have been proposed from states if they were allowed, 229; difficulty of obtaining means only widespread desire for will pass, 271; and second constitutional convention, 272, 280-81; Jefferson wants four states to hold out for, 288n; proposed by conventions would seriously alter Constitution, 308; will be adopted, 336; encouraged by N.Y.'s Circular Letter, 343; summary of sent to French government, 345, 346-49; listing of states ratifying with, 350n

- in Md., 13–14, 19, 21, 48, 165
- in Mass., 20, 75, 77, 80, 156, 182; praise of method of proposing, 3, 11, 81, 82n, 177, 180, 331; sent to England, 21; as basis for Va. amendments, 40; opposition to, 46; read in S.C. Convention, 71n; proposes jury trials in civil cases, 123
- in N.H., 35, 46-47, 52, 53, 186-89n
- in N.Y., 4, 59, 169; and cooperation with Va. Antifederalists to obtain, 32–68; opposes Constitution without previous, 211; in Convention of, 220n, 287, 293, 295–96, 301–5, 322n; criticism of those proposed by, 399
- in N.C., 4, 35, 59, 60, 68n, 312-20
- in Pa.: proposed in Dissent of the Minority, 127n; and Harrisburg Convention, 365-66, 394n
- in S.C., 51, 71n, 71-72, 156, 165, 168, 169, 171, 173n
- in Va., 4; drafted by Antifederalists in Convention of, 33–34, 44–45; and cooperation with N.Y. Antifederalists to obtain, 32–68; will ratify with recommendation of, 40, 177, 207–9n, 211, 385; ratifies with, 57; in Convention of, 63n, 79n, 179, 199–206, 286–88n, 312, 385, 389–90; influenced by Va. Decla

ration of Rights, 63n; Federalists in support, 390

See also Antifederalists; Bill of rights; Civil liberties; Convention, second constitutional

- AMERICA: restless spirit of Americans, 12, 17; as an example to world of self government, 15, 184, 233-34, 264, 272, 273, 293, 320, 359, 386; Constitution called a revolution in, 15, 233, 293, 333-34, 345, 345n, 355, 387, 392; people of are ungovernable, 19-20; as new and mighty empire, 23, 213, 214, 220-21, 225, 254-55, 341, 342; political fate of depends on ratification of Constitution, 82; best situated for commerce, 149-51; Constitution will give a national character to, 163-64; blessings will soon pour out on, 184; as asylum against tyranny, 209, 211n, 241, 251; as theater for demonstration of goodness of human nature, 213; blessed by God, 223, 230, 341, 381; advantages of, 230, 240; described as empire of reason, 234; praise of effort to revise government peacefully, 235-42, 247; as land of promise, 282; Constitution fits neither spirit nor situation of, 334; destined to be great, 358-59. See also Foreign affairs; Foreign opinion of the U.S.
- "AN AMERICAN" (Tench Coxe), 68-70, 175
- "AN AMERICAN CITIZEN" (Tench Coxe), 278 AMERICAN REVOLUTION: Constitution overthrows principles of, 5, 56, 58; fought to preserve liberties and republicanism, 10, 36, 37, 58, 150, 209, 221, 223, 237-38, 247, 250-51; did not end with end of war, 17, 232, 236; financed by ruinous public finance, 18; Antifederalists pursue principles of, 37, 58; militia of opposes Constitution, 56; Constitution gains economic independence promised by, 145; Constitution promotes principles of, 159, 195, 266-67; Constitution compensates Americans for, 159; independence from Great Britain as only one part of, 164; causes disorders, 170; Battle of Monmouth, 207, 209n; Battle of Sullivan's Island, 207, 209n; praise of, 209; commemoration of, 221-54, 263, 320-21; patriotism of, 227, 233, 237; occurred at opportune time, 249-50; America was not united over independence, 335; British will soon realize sig-

nificance of their loss in, 396. See also Declaration of Independence; Great Britain, relations with the U.S.; Loyalists; Treaty of Peace

ANARCHY: Antifederalists favor, 17; Constitution will protect against, 18, 29, 164, 172, 177, 214, 238, 252–53, 385, 386, 397; danger of under Articles of Confederation, 150, 236, 273; should be avoided in seeking amendments, 155; destruction of Union will result in, 178; Constitution should be adopted and amended to avoid, 219; has dissipated, 308; fear of, 329; N.Y.'s amendments would cause, 399. See also Political conditions under the Confederation

Annapolis, Md., 165, 365

- ANTIFEDERALISTS: agree to ratify Constitution with proposed amendments, 3; leadership of, 12, 21; as a term, 16, 257, 293, 373; continue opposition to Constitution, 17, 334; want union under a confederation of states, 20-21; do not have local objections, 36, 37, 46, 306-7; do not agree on amendments to Constitution, 51, 157, 217, 218, 271, 380; will be satisfied if amendments are obtained through first federal Congress, 77; ought not to continue their opposition to Constitution, 155; expectation that some people would oppose Constitution, 176, 371; Mercy Warren and Ann Gerry referred to as anti-federal ladies, 206; goals of in matter of amendments, 217; one or two leaders of should be elected to the first federal Congress, 260; spirituous liquors criticized as emblematic of, 267; agreement among on amendments needed, 276; do not propose any unconstitutional actions to alter Constitution, 294; call for a second constitutional convention, 294; will try to weaken government under Constitution, 331; in South use location of federal capital as an argument, 343; warmly receive N.Y.'s Circular Letter, 343; from South oppose New York City as capital, 344; may not want Washington as first President, 354; danger posed by, 363
- acquiescence of to Constitution, 255, 284–85, 293, 377, 397; hope for, 406; in Mass. 406; in N.H., 285, 293; in N.Y., 405; in Pa., 393–94, 394n; in S.C., 167–

68, 171, 208n; in Va., 207–9n, 209n, 274, 286–88n, 293

- criticism of, 7-11, 206, 252, 259, 266; are not true patriots, 7; self-interested motives of some, 7; literature of, 7, 8, 10, 17, 133, 138-139; as oligarchic party at state level, 17; favor anarchy and confusion, 17; rage for objection of, 87-88; for inconsistency, 138; of party spirit of, 138-39; as opponents of general national government, 143; methods of, 167; demagoguery of, 167, 370, 376; as designing men, 321; as interested state officeholders, 400, 401n
- described as: true federalists, 3; Shaysites, 10; wrongheads, 148; violent and ignorant, 167; men of virtue, sense, and property, 167; a few desperate incendiaries, 210; as supporters of a good federal government, 257; as debtors, 260; as foreigners, 260; as Loyalists, 260, 378; as old friends of John Adams, 272; as hypocrites, 378
- -- literature of: criticism of, 7, 8, 10, 17, 133, 138-39; distribution of, 33, 54, 58; is stifled, 51
- praise of, 3, 13, 20, 21, 46, 49, 52, 58, 59, 67n, 79, 399n; as supporters of genuine federal republic, 3; as patrons of liberty, 37, 58, 59; are not enemies of their country, 46; as friends of mankind, 49; for drawing attention to need for amendments, 257
- strength of, 15n, 58; declining, 10, 255, 260, 378; strong in N.Y., 16, 168, 189–90; gain in Va., 189–90; backcountry mostly is, 332; too numerous for Congress under Constitution to coerce, 332; few in number but have strong arguments, 386
- -in Conn., 10, 285
- -in Ky., 148
- in Md., 10, 278, 279; praised, 13; propose amendments in Convention of, 19
- in Mass.: acquiesce with ratification, 10, 285, 406; defeated in legislative election, 196
- -in N.H., 52, 53; acquiesce, 285, 293
- in N.Y., 54, 62n, 175, 277, 294-95; strong in, 16, 168, 189-90; cooperation of with those in Va., 32-68; have a majority in Convention of, 38, 47, 49, 70, 144, 152-53, 169, 171-72, 177, 183, 208, 211, 212n, 287, 293, 325, 393; in

Albany County, 47; called friends to rights of mankind, 49; favor separate confederacies, 190; seek to reduce commercial ties with Europe, 190; correspond with those in N.C., 333; compared to Indians who lack knowledge of government, 399; are pleased with state's ratification, 405

- in N.C., 54, 172, 332, 376, 405n; and violence in convention elections, 146n; and Convention of, 312–20; from Va. work in, 333; correspond with those in N.Y., 333
- -- in Pa., 10-11, 277-78, 285, 343; would be encouraged by rejection of Constitution by Va., 14-15; in western Pa., 48; meet at Harrisburg, 365-66; in Cumberland Co. vote to support Constitution, 393-94, 394n
- in R.I., 350; oppose celebration of Constitution in Providence, 231; preparing defense for attack from ratifying states, 371–72; hurt by N.Y.'s ratification, 397
- in S.C., 55, 56, 168, 169n, 260, 285; described favorably, 67n; in Convention of, 144; acquiesce to ratification, 167– 68, 171, 208n
- in Va., 63n, 172, 174, 279, 343; cooperation of with those in N.Y., 32–68; in back counties of, 48; praised, 49; gain strength, 189–90; in Convention of, 207–9n, 209n, 274, 286–88n, 293, 383; were effective in N.C., 333; declining, 378; angry with Edmund Randolph, 378 See also Federalists; Pseudonyms
- APPOINTMENT POWER: criticism of, 6; proposed amendment concerning, 44–45; and federal judiciary praised, 87; criticism of Senate's role in, 181; President ought to have sole power of, 329, 330. *See also* Impeachment; President, U.S.; Privy council; Senate, U.S.
- APPROPRIATIONS: proposed amendment limiting to two years, 45. See also Army; Expenses of government; Requisitions; Taxation
- ARISTOCRACY: Constitution will lead to, 6, 58, 181, 183; supporters of in N.C. favor Constitution, 54; Constitution opposes, 160; lack of in U.S. except on basis of merit, 239. See also Democracy; Despotism; Government, debate over nature of; Natural aristocracy; Republican form of government; Senate, U.S.

- ARMS, RIGHT TO BEAR, 188; proposed amendments concerning, 43, 202, 298, 316
- Акму, 264
- proposed amendments concerning: subordination of to civilian authority, 43; length of enlistments, 45, 204, 317–18; President should not command in field without Congress' consent, 304; requires two-thirds vote of Congress to introduce foreign troops to U.S., 320, 347 See also American Revolution; Army, standing; Military; Milita; President, U.S.; Vice President, U.S.; War
- ARMY, STANDING: Federalists accused of wanting, 5; fear of Indians as excuse for wanting, 5; danger of, 5, 202–3, 298, 316; restrictions proposed on, 43, 45, 188, 204, 302, 317, 347–48; danger of under Constitution, 79, 376; Constitution protects against because of preservation of Union, 138; would result from abandonment of Union, 161; necessary to avoid anarchy and instability, 329. See also Army; Military; Militia
- ARNOLD, PELEG (R.I.), 352n, 389n
- ARTICLES OF CONFEDERATION: CONStitutional Convention violated instructions only to amend, 5; weaknesses of, 19, 150, 160, 161, 178, 185, 223, 228-29, 232, 233, 236, 237, 252-53, 273, 280, 320, 324-25n, 329, 358-59, 379; number of states needed to pass important legislation in Congress, 30n; Article XI of cited, 32n; needs amending, 36, 58, 73, 133, 272; text of Article II put in Va. amendments, 44; and maritime jurisdiction of, 99, 102n; and settlement of territorial disputes between states, 99, 102n; no judicial power under, 121-22; can no longer hold Americans together, 154; fails to protect civil liberties, 159; could not sustain Union, 164; too popularly oriented to be successful, 170; U.S. is powerless under, 191; will soon end as Constitution will be implemented, 214-15; difficult to amend, 216; few advocates for, 216; criticism of lack of separation of powers under, 253; described as in rotten condition, 383; destruction of, 386; took several years for states to adopt, 390n-91n; unreasonable attachment to, 395. See also Amendments to Articles of Confederation; Congress un-

der Articles of Confederation; Economic conditions under the Confederation; Political conditions under the Confederation

- ARTISANS: expect to benefit under Constitution, 19; support Constitution, 166, 332. See also Mechanics; Tradesmen
- ASSEMBLY, RIGHT OF: proposed amendments concerning, 43, 202, 299, 316. See also Bill of rights
- ATHERTON, JOSHUA (N.H.): id., 64n; and N.Y. Federal Republican Committee, 34–35; in N.H. Convention, 186
- -letters from, 45–47, 51–53; quoted, 35
- -letter to: mentioned, 51
- speech of in N.H. Convention: quoted, 64n
- ATLEE, WILLIAM AUGUSTUS (Pa.), 268n
- ATTAINDER, BILLS OF, 89; praise of Constitution's provision concerning, 128, 162. See also Bill of rights; Due process of law
- ATTORNEYS: See Counsel, right to; Lawyers Avarice, 75
- BAIL, EXCESSIVE: proposed amendments concerning, 43, 202, 298, 316. See also Bill of rights; Due process of law
- BALANCED GOVERNMENT: See Mixed government
- BALDWIN, SIMEON (Conn.; Vol. 4, 351n-52n)
- oration of, 235-42
- BALTIMORE, 184; celebrations of ratification in, 165, 167n, 221, 385n; as possible site for federal capital, 322, 323, 332-33, 365
- BANCKER, ABRAHAM B. (N.Y.), 301, 305
- BANKRUPTCY, 303. See also Debts, private
- BARLOW, JOEL (Conn.): id., 184n; 15, 15n, 183
- BARRETT, NATHANIEL (Mass.): id., 336n-37n
- -letter from, 336-37n
- BEACH, ABRAHAM (Conn.)
- -letter to: quoted, 269n
- **BEELEN-BERTHOLFF, BARON** (The Netherlands): id., 148n
- -letters from, 147-48, 307-8; quoted, 148n
- BELKNAP, JEREMY (Mass.; CC:Vol. 2, 529n)

-letter to: quoted, 311n

- BEND, JOSEPH GROVE JOHN (Pa.)
- -letter from: quoted, 269n

- BIBLICAL REFERENCES: Adam and Eve, 222; Ark [of the Covenant], 342; bricks without straw, 8; Exodus, 8; hewers of wood and drawers of water, 8; Jericho, 368; Joshua, 8; 1 Kings, 184; Luke, 377; Malachi, 342n; Micah, 150, 151n, 184; Mosaic Law, 260; Psalms, 398; Red Sea parting, 269n; Samson, 9; Simeon, 377; Ten Commandments, 269n. See also God
- BICAMERALISM: praise of Constitution's provision for, 181; praised, 214n; lower house should guard people's liberties, 329; upper house should represent natural aristocracy, 329. See also Unicameralism
- BIDDLE, CHARLES (Pa.)
- -autobiography of: quoted, 243
- BILL OF RIGHTS: Federalists attack (satire), 6: need for, 15n, 23, 41, 47, 75, 81, 272, 288n, 325; and Va. Convention, 39, 41-44, 199, 200, 200-203; S.C. Convention rejects motion to consider, 71n; no need for, 127-32, 179; many states do not have, 128; N.Y. does not have, 130; Constitution is one itself, 131; omission of, 138; danger in not listing every right, 180; and N.Y. Convention, 206, 295, 297-301; and N.C. Convention, 312-20; Congress cannot repeal those of states, 347; requested by some states, 350n. See also Amendments to Constitution; Civil liberties; Convention, second constitutional; Due process of law
- ВINGHAM, WILLIAM (Pa.; CC:Vol. 1, 134n), 176, 214n
- -letters from: quoted, 69, 176
- -letter to, 69
- BLACKETT, STEPHEN (Barbados): id., 256n letter to, 255–56
- BLACKSTONE, SIR WILLIAM (England; CC:Vol. 1, 54n), 129, 134-35
- Bland, Theodorick (Va.; CC:Vol. 2, 398n)

-letter from: quoted, 206n

- Bledsoe, Aaron (Va.; CC:Vol. 4, 254n), 85
- BLOODWORTH, TIMOTHY (N.C.), 35; id., 66n
- -letters from, 53-55, 58-59
- -letter from: quoted, 35
- BOOKS: See Broadsides, pamphlets, and books

- BOSTON: celebrations in, 167n, 221, 377n; Fourth of July oration in, 224-31n
- BOUDINOT, ELIAS (N.J.)
- -letter to, 261-69n
- BOUNDARIES, 99, 102n
- Bowdoin, James (Mass.; CC: Vol. 1, 346n), 198n
- -letter from, 324-25n
- BOWMAN, EBENEZER (Pa.), 189n
- BOWMAN, JOHN (S.C.): id., 67n; 56, 57, 168
- BRIBERY: Constitution will lead to, 58; in Great Britain, 179–80. See also Corruption
- BROADSIDES, PAMPHLETS, AND BOOKS: circulation of Antifederalist literature is stifled, 51; distribution of by Antifederalists, 54, 58; John Adams, Defence of the Constitutions, 147-48, 148n, 213, 214n, 329, 331; Simeon Baldwin, An Oration, 235-42; "Centinel" (Samuel Bryan) (German-language broadside), 8, 11n; "A Citizen of America" (Noah Webster), An Examination into the Leading Principles, 234, 234-35, 235n; "A Columbian Patriot" (Mercy Warren), 39, 63n; An Examination of the Constitution for the United States of America, 278; "Federal Farmer," Letters, 15n, 39, 51, 54, 58, 63n; "Federal Farmer," Additional Letters, 33, 39, 54, 58, 63n; The Federalist (Alexander Hamilton, John Jay, and James Madison), 49, 83-87, 87-143, 322; Enos Hitchcock, An Oration, 231-35; Francis Hopkinson, Account of the Grand Federal Procession, 242-46; Francis Hopkinson, An Ode, 246-47; Koran, 213, 214n; Luther Martin, Genuine Information, 51; George Mason's objections, 80n; Mass. Convention Debates, 377n; James Monroe, Some Observations on the Constitution, 48, 72-74; "A Native of Boston" (Jonathan Jackson), Thoughts Upon the Political Situation of the United States, 326-31; N.Y. Convention Journal, 297; N.C. Convention amendments, 313; N.C. Convention Debates, 313; N.C. Convention Journal, 313; Harrison Gray Otis, An Oration, 224-31n; Thomas Paine, Common Sense, 222; William Pierce, An Oration, 249-54; "A Plebeian" (Melancton Smith?), 63n; Alexander Pope, Of the Use of Riches, an Epistle to the Right Honorable Allen Lord Bathurst, 222; David Ramsay's oration,

158-65; Benjamin Rush, Account of the Grand Federal Procession, 261-69n; Jonathan Mitchell Sewall, An Oration, 221-23; S.C. ratification, 208n-9n; Va. Convention's proposed amendments, 200-206. See also Political and legal writers and writings; Pseudonyms

- BROWN, JOHN (Va.; CC:Vol. 3, 485n): supports Constitution, 30; and Ky. statehood in Congress, 31, 151, 153n
- BROWN, MOSES (Mass.): id., 171n
- -letter to, 169-71
- BROWN, WILLIAM (Va.): id., 273n
- -letter from, 273
- "Brutus," 111n, 220n
- BRYAN, GEORGE (Pa.; CC:Vol. 1, 326n), 21
- BRYSON, JAMES (Pa.; CC:Vol. 4, 557n), 176, 401n
- -letter from: quoted, 176
- BURKE, AEDANUS (S.C.): id., 66n; 50-51
- -letters from, 55-57; quoted, 35, 173n
- BURR, AARON (N.Y.)
- -letter from: quoted, 405n
- CADWALADER, LAMBERT (N.J.; CC:Vol. 1, 353n)
- -letter from: quoted, 366
- CANADA, 12, 386; discriminatory trade policy of toward U.S., 145, 146n
- CANNON, JOHN (Pa.), 278
- CAPITAL, U.S., 40-41; Federalists will control (satire), 6; too large, 53, 376; competition among states for, 151; Confederation Congress debates location of under Constitution, 151, 170, 191, 193n, 256-57, 321-22, 322-24n, 332-33, 336, 337, 343, 350, 360-61, 365, 366; opposition to Philadelphia as, 170, 344-45; Philadelphia as possible, 191, 193n, 256, 256-57, 310; opposition to New York City as, 191, 193n, 343-44, 405-6, 406n; restrictions on Congress' jurisdiction over, 204, 302-3, 318; support for on Delaware River, 213; New York City as under Constitution, 256-57, 309-10, 406n; location of as factor in N.Y.'s consideration of Constitution, 287; R.I. delegates leave Congress without voting on, 350; will be determined finally by Congress under Constitution, 351; defense of size of, 368; Pa. should get, 399-400

#### INDEX

- CAPITALISTS: expect to benefit under Constitution, 19; support Constitution, 332. See also Property, private
- CAPTURES: Court of Appeals in cases of, 102n. See also Admiralty jurisdiction
- CAREY, MATHEW (Pa.; CC:Vol. 1, xxxiii– xxxiv); as printer, 246–47, 261
- -letter to: cited, 390n
- CARLETON, GUY (Lord Dorchester) (Canada; CC:Vol. 1, 74n), 145, 146n, 386
- CARMARTHEN, MARQUIS OF (Great Britain; CC:Vol. 1, 217n)
- -letter to: quoted, 66n
- CARMICHAEL, WILLIAM (Md.): id., 325n
- -letters to, 325-26n; quoted, 82n
- CARRINGTON, EDWARD (Va.; CC:Vol. 1, 441n), 73, 366; sends copy of *The Fed*eralist, 85, 322
- letters from, 14–15, 293–94; quoted, 146n, 294n; cited, 73
- -letter to, 81-82
- CARROLL, DANIEL\* (Md.; CC:Vol. 2, 296n)
- -letter from: quoted, 288n
- CARTER, CHARLES (Va.; CC:Vol. 3, 135n)
- -letter to: cited, 148n
- CARTOON (pillars), 382
- CELEBRATIONS, 392; on Fourth of July, 221-54, 271; praise of in major towns, 289; in America patterned after those in Great Britain, 309; numerousness of over ratification, 309, 331; expected in Va. after Convention of adjourns, 390
- -sites of: Albany, N.Y., 405, 405n; Alexandria, Va., 207-9n; Annapolis, 165; Baltimore, 165, 167n, 221, 385n; Boston, 167n, 221, 224-31n, 377n; Charleston, S.C., 56, 67n, 158-59, 166, 167n, 221, 377; Md., 174; New Haven, 194, 235-42; New York City, 221, 259, 260n, 271, 290-92, 309-10, 311n; Newport, 197, 384-85, 387, 389, 397; Philadelphia, 214, 214n, 221, 242-48, 258-60n, 261-69n, 271, 385, 397; music for in Philadelphia, 248; James Wilson's oration in Philadelphia, 242-46; Portsmouth, N.H., 221-23; Providence, 231-35, 387, 389; Savannah, 249-54; S.C., 174; Waterford, N.Y., 288, 403, 404n; Woodstock, Conn., 288-90
- "CENTINEL" (Samuel Bryan): as a Germanlanguage broadside, 8, 11; attacked for criticism of Washington, 8, 11n; demagoguery of, 370

- CHARLES V (Holy Roman Empire), 239, 250
- CHARLESTON, S.C.: as site for state convention, 55; is Federalist, 55; celebration in, 56, 67n, 158–59, 166, 167n, 221, 377
- CHASE, JEREMIAH TOWNLEY (Md.), 48, 64n
- CHASE, SAMUEL (Md.; CC:Vol. 1, 453n): opposes Constitution, 21; and N.Y. Federal Republican Committee, 35; criticisms of, 64n; votes against ratification in Md. Convention, 64n; elected to Md. Convention, 285n
- -letters from, 47-48; quoted, 35
- CHECKS AND BALANCES, 238, 239. See also Separation of powers
- CINCINNATI, SOCIETY OF THE, 249
- "A CITIZEN OF NEW-YORK" (John Jay): answer to, 4n; praise of, 140, 143, 143n
- CITIZENSHIP: only natural born citizens to be President, Vice President, or members of Congress, 302
- CIVIL LAW: appellate jurisdiction in, 108– 10. See also Judiciary, U.S.
- CIVIL LIBERTIES: purchased by martyrs of Revolution, 10; Constitution endangers, 13-14, 36, 38, 46, 47, 52, 54, 56, 58, 60, 65n, 71-72, 206, 376; too much in America, 16-17; Antifederalists as patrons of, 37, 58, 59; bill of rights needed to protect, 41; as a natural right, 41, 199, 201, 314; can survive only in republics, 58; amendments to Constitution needed to preserve, 76-77, 77-78; Constitutional Convention less concerned with, 79; will yield to government, 81; judiciary cannot endanger, 88; separation of powers necessary to maintain, 88, 94n; depend on existence of judicial review under a limited constitution, 89, 92; importance of habeas corpus in preserving, 118; importance of jury trial in preserving, 118; Constitution will secure, 128–29, 138, 138–39, 159, 164, 164-65, 165, 177, 184, 185, 195, 238, 252, 262, 342, 359, 375, 380, 381, 385n, 392-93; threatened under Articles of Confederation, 150, 159, 177; should be respected, 170; not violated by Constitution but long-term safeguards needed, 178; American Revolution fought to preserve, 209, 221, 250-51; U.S. as an asylum for, 211n; some Federalists want to restrict, 217; Con-

stitution should be adopted and amended to preserve, 219; praise of American heritage of, 230; of America are protected by God, 232; cannot exist without government, 236; state constitutions protected rights of mankind, 236; as an essential right, 297. See also Amendments to Constitution; Bill of rights; Convention, second constitutional; Due process of law; Government, debate over nature of; Insurrections, domestic

- CIVIL WAR: country approaches because of Constitution, 6; Antifederalists accused of fomenting, 7; danger of in Pa., 14-15; potential for in N.Y. over Constitution, 153; danger of if Constitution is rejected, 154; continued opposition in ratifying states may lead to, 155; should be avoided in seeking amendments, 155; Constitution will prevent, 164–65; likely if Va. does not ratify, 175; aversion to, 215; possibility of in non-ratifying states, 215-16; danger of between Federalists and Antifederalists, 216; threatened under Articles of Confederation, 232. See also Insurrections, domestic; Shays's Rebellion; Violence
- "CIVIS" (Jonathan Jackson), 327
- СLARK, Авганам (N.J.; CC:Vol. 2, 147n), 212–13, 277n
- —letter from, 275–77
- CLASSICAL ANTIQUITY, 238; Aesop's Fables, 8, 11n, 355; Alexander the Great, 239; Aristotle, 272; Campus Martius, 342n; Catiline, 9; Elysium, 385; Euclid, 213; golden fleece, 21; Hannibal, 253; heroes of, 209; Livy, 236; Lycurgus, 233; Mercury, 246–47; Phoenix, 383, 392; Plato, 272; Pyrrhus, 253; Rubicon, 18, 239; Sesostris, 244; Solon, 233; Spartans, 170; Trojan War, 250. See also Biblical references; Governments, ancient and modern; Pseudonyms
- CLERGY: are Federalists, 55; praise of respectability of, 230; and Philadelphia celebration, 265; and New York City celebration, 309, 311n. See also Religious tests
- CLINTON, GEORGE (N.Y.; CC:Vol. 1, 141n): opposes Constitution, 21, 175, 175n, 183, 184n, 401n; and N.Y.-Va. cooperation on amendments, 32; and N.Y. Federal Republican Committee, 34; in

N.Y. Convention, 50, 293, 301, 305, 307; opposes Union, 62n; receives Monroe's pamphlet, 73

- -letter from, 48-49
- -letters to, 48; quoted, 73
- speech of in N.Y. Convention: quoted, 65n, 296
- COERCIVE POWER: central government will obtain only through violence, 18; need for, 20–21, 227; Articles of Confederation lacks, 236, 253, 280. See also Government, debate over nature of
- COHEN, JACOB RAPHAEL (Pa.), 269n
- COLLIN, NICHOLAS (Pa.; CC:Vol. 1, 290n): id., 399n; sermon of, 398
- COLLINS, ISAAC (N.J.), 328
- COLLINS, JOHN (R.I.): and N.Y. Federal Republican Committee, 33; as governor of R.I., 196–97, 385, 386; and celebration of N.H. ratification in Newport, 197
- "A COLUMBIAN PATRIOT" (Mercy Warren), 21–22, 22n, 39, 63n
  - COMITY, 99. See also Interstate relations
  - COMMERCE: will eventually expand in America, 23; and importance of Mississippi River, 29-30; enactment of legislation concerning, 45; defense of regulation of by simple majority, 69; languishing under Articles of Confederation, 70, 160, 194-95, 237, 351, 405n; three-fourths majority should be necessary to enact laws regulating, 77, 80n; with Great Britain, 144-45, 146n, 185, 226, 308, 386, 396; with France, 144-45, 146n, 260, 261n, 336, 336n-37n; U.S. is best suited for, 149-51; need for a navy to protect, 160; U.S. discriminated against under Articles of Confederation, 162-63; Constitution will promote, 162-63, 163, 165, 168, 184, 194-95, 197, 210, 214, 247, 255, 263, 292, 308, 324-25, 358, 385n, 385-86, 391; to East Indies, 184; to Gibraltar, 184; N.Y. Antifederalists want to cut back on, 190; damage to from laws suspending collection of private debts, 196; danger of enlarging powers of Confederation Congress over, 227; U.S. advantageously located with respect to West Indies, 230; is free to all nations in U.S., 240; extravagances of after Revolution, 251; with The Netherlands, 308; praise of congressional power to regulate, 332;

situation improving for U.S., 336; no interstate duties or fees, 348; R.I. will benefit from staying out of Union, 351; will not improve appreciably in near future despite Constitution, 361–62; delay in U.S. levying duties benefits importing states, 366

- proposed amendments concerning, 319, 348; requiring two-thirds vote of Congress to regulate, 19, 204, 317, 348; requiring treaties to be ratified by twothirds of both houses, 45, 204, 348; restricting congressional power to create company of merchants with advantages, 188
  - See also Duties; Luxuries; Merchants; Treaties

COMMISSIONS: See Officeholders, U.S.

- Соммон Law: adopted by N.Y. constitution, 128, 129, 136n-37n; protected in N.Y. declaration of rights, 299. See also Due process of law; Judiciary, U.S.
- Compact Theory, 18
- CONCURRENT JURISDICTION: over forts, magazines, etc., 303
- CONFRONTATION OF WITNESSES, 42, 201. See also Due process of law
- **CONGRESS UNDER ARTICLES OF CONFEDER-**ATION: and Vt. statehood, 4n; wants peace treaties with Indians, 12; weaknesses of, 24, 28, 191, 237, 280, 372; and Ky. statehood, 31, 32n, 325, 326n; and location of federal capital under Constitution, 151, 170, 191, 193n, 256-57, 309-10, 321-22, 322-24n, 332-33, 336, 337, 343, 350, 360-61, 365, 366, 405-6, 406n; and first federal elections, 151, 170, 192, 195, 212-13, 256, 258n, 294, 310, 321-22, 322-24n, 332-33, 337, 350, 351, 363, 364-67, 367, 374, 388, 394, 402; and dispute with France, 192, 193n; receives N.H.'s ratification, 212-13, 365; western lands ceded to, 230; sends Constitution to states, 276, 277n, 364-65; receives and reads N.Y.'s ratification, 296; and New York City celebration, 309, 311n; R.I. delegates in avoid subjects concerning Constitution, 310, 350; news of Va. ratification reaches, 365; and location of federal capital in New York City, 405-6, 406n organization of: annual elections of makes it more unstable, 26; difficulty of passing important measures in because

of voting requirement, 26; attendance in, 26, 31, 151, 169–70, 191, 256, 280, 310, 388; voting by states in, 26–27; representation in, 28, 30n; rotation in office requirement in, 30n; turnover in, 30n; Va. representation in, 30n; salary of president of, 134

- powers of: treaty-making, 26, 191; compared with Congress under Constitution, 26-28; and admission of new states, 31; support for additional, 58; danger of enlarging, 227, 227-28; more will not solve its problems, 252
- -letter to president of: quoted, 251-52, 254n
- See also American Revolution; Articles of Confederation; Commerce; Foreign affairs; Foreign opinion of the U.S.; Requisitions; Taxation; Treaties
- CONGRESS UNDER CONSTITUTION, 175; will consider amendments to Constitution, 11, 16-17, 52, 76-77, 173; members of will be instructed to support amendments, 16-17, 205-6, 301; needs to assert its powers financially, 19-20; compared with Confederation Congress, 26-28; Antifederalists should not send representatives to until amendments are assured, 52; should not be allowed to change value of money once coined, 52-53; supporters of amendments should be elected to, 60; enumerated powers of, 116-17, 205, 239-40, 319; representation in will increase with population, 133-34; will not have to be in session as long as Confederation Congress, 134-35; and Ky. statehood, 153n; praise of, 160; should concern itself with organizing new government, 168; should not have to concern itself with amendments, 168; should have complete responsibility to ratify treaties, 182; proposed amendments submitted to by Va. Convention, 200; proposal that commercial laws be passed by two-thirds majority of members of both houses voting, 204, 317; proposal that states provide for militia if Congress does not, 204, 318; proposal limiting to delegated powers, 205, 319; importance of first Congress, 218, 353; should have power of sword and purse, 237; should have some Antifederalists leaders in, 260; Antifederalists will want to call second conven-

tion in, 294; will be conciliatory to N.C. and R.I., 332; summary of proposed amendments concerning, 347-48

- restraints on: recommended by Va. Convention, 79n, 203–6; states will provide, 132–33; amendments propose, 166; representatives should go back to people and live under laws, 179; and annual publication of journals and expenditures of, 203, 317; prohibition of officeholding by members of, 203, 317, 346; jurisdiction over federal capital, 204, 318; compensation of, 205, 319; to regulate federal elections, 205, 319; recommended by N.C. Convention, 317–19
- and jurisdiction over federal judiciary, 102, 103, 182; power to pass laws reversing federal judicial decisions, 103; will not reverse decisions by judiciary, 105; impeachment power of as check on judiciary, 105-6; power of to restrict appellate jurisdiction of U.S. judiciary, 108-10; power of to create inferior courts, 114, 116
- See also Amendments to Constitution; Bicameralism; Checks and balances; Foreign affairs; House of Representatives, U.S.; Reserved powers; Senate, U.S.; Separation of powers; Supremacy clause; Taxation; Treaties
- CONNECTICUT: Antifederalists in Convention of acquiesced in Constitution, 10, 285; has ratified, 20, 80, 166, 270; pays taxes to neighbors through import duties, 29, 175; land dispute with Pa., 102n; court system of, 121; jury trials in, 126, 127–28; referred to as most popular state in Union, 127–28; influence of on N.H., 172; Federalists gaining ground in, 274, 275n. See also New Haven; Woodstock
- CONSCIENCE, LIBERTY OF, 188, 199, 342. See also Religion, freedom of
- CONSCIENTIOUS OBJECTORS: proposed amendments concerning, 43, 203, 316. See also Religion, freedom of
- CONSTITUTION, U.S.: described as a revolution, 15, 233, 293, 333-34, 345, 345n, 355, 387, 392; copies of sent to French government, 16; printed in England, 22; popular in Europe, 22-23; S.C. Convention orders printing of, 71n; sent to Thomas Jefferson, 79n, 270; role of God in drafting and ratifying of, 82,

160, 189, 195, 255, 266, 269n, 274, 378, 381; Preamble of quoted, 130; as a bill of rights itself, 131; resembles N.Y. constitution, 137–38; described as a god-like work, 164; best form of government ever brought to world, 239; as symbol of elevation of law and justice, 264; Congress sends to states, 276, 277n; as model to world, 320; does not fit spirit or situation of America, 334; approaches nearer to perfection than any other constitution, 359; unique quality of (made by people), 386

- described as a metaphor, 208; edifice, 172; this Fabrick, 293; the Federal Building, 368; federal pillars, 321; Federal Superstructure, 381; the gilded Pill, 52; Great National Dome, 383; grand edifice, 242; grand fœderal edifice, 243; one great Colossus, 52; our Intended, 258-60n; master-piece of human wisdom, 209-10; master-piece of political wisdom, 7; the new federal edifice, 144: the new Machine, 324n; The New Roof, 243, 247n; the new Ship, 363; the New wheel will revolve, 31; the Noble Edifice, 400; Phoenix, 383; pyramid, 251; roof, 247; thirteen pillars, 52; triumphant arch of freedom's temple (pillars), 150; as wife and people as husband, 258-59; young Lion, 52
- CONSTITUTIONAL CONVENTION: violated instructions to amend Articles of Confederation, 5; defense of members of against conspiratorial charges, 8-9; praise of, 9, 160, 223, 227, 233, 234, 237, 238, 244-45, 251, 292, 293, 329-30, 342, 359, 391; criticism of intemperance and precipitancy of during last week, 79; criticism of slave-trade compromise of, 79; praise of for compromise and genius of, 140, 160, 209-10, 238, 251-52; debate in over two-thirds majority to ratify treaties, 149, 149n; inspired by God, 160; called fathers of our country, 164; criticism of R.I. and others who refused to attend, 218-19, 341; called to address problems of U.S., 227; sought happiness of American people, 233–34; patriotism of, 238; praise of unanimity of, 238; union was goal of, 238; signers of Declaration of Independence as members of, 251, 254; delegates to from S.C., 260; R.I. refuses to

send delegates to, 341n; population figures used by, 349n; responsible for a revolution in government, 355; resolutions of for implementing Constitution, 364; call of, 388, 388n; reference to Franklin's last speech in, 406

- CONSTITUTIONALIST PARTY (in Pa.), 338, 339n
- CONSTITUTIONS, STATE: and salaries of judges, 94, 95, 96, 96n; and impeachment of judges, 95, 96n; and age limit for judges, 95-96; judiciaries of under control of legislatures, 103; as model for federal judiciary, 105; as bills of rights for states, 131; endangered by anarchy of Confederation, 150; protect liberties, 150; defective, 160; proposal for revision of, 173; criticism of Pa.'s, 213-14; praise of, 236; malapportionment of counties in state legislatures, 284, 285n-86n; proposed amendment prohibiting treaties from changing, 300; federal officeholders should take oaths not to violate, 305, 347; Congress cannot repeal, 347. See also individual states
- CONTRACTS, OBLIGATION OF: praise of Constitution's protection of, 162, 256
- CONVENTION, SECOND CONSTITUTIONAL: opposition to, 15n, 74–75, 76, 140, 143, 143n, 272, 321, 323, 331–32, 339; support for, 73, 74, 156, 178, 294, 296, 300, 306-7, 332; Congress must call when requested by two-thirds of states, 142, 280–81; dangerous consequences if not called, 331–32. See also Amendments to Constitution
- CONVENTIONS, STATE: praised, 223, 227, 234. See also Ratification, procedure for
- CORRUPTION: America has become corrupt, 18; Constitution will lead to, 58; jury trials do not always eliminate, 119– 20; will ruin any form of government, 165; Parliament bribed by monarchs, 179–80; Constitution safe as long as people do not succumb to, 210; Constitution checks moral and political iniquity, 214; Constitution should be adopted and amended to avoid, 219. See also Bribery; Patriotism; Self-interest; Virtue
- COTTON, 171, 171n, 265
- COUNSEL, RIGHT TO: proposed amendments concerning, 42, 201, 299, 315. See also Due process of law

- COXE, TENCH (Pa.; CC:Vol. 1, 102n); as "A Pennsylvanian," 175–76
- -letters from, 189; quoted, 68-69, 69, 176, 277, 278, 285n-86n
- letters to, 361-63; quoted, 69, 176, 278; cited, 189n, 366, 383n
- -- "An American," 68-70
- "A Friend of Society and Liberty," 277– 86n
  - See also Coxe and Frazier
- COXE AND FRAZIER (Pa.): id., 256n
- letters from, 255, 255-56 See also Coxe, Tench
- CRAIG, FREDERICK (Del.), 328
- CREDITORS: Constitution protects, 161–62. See also Debt, U.S.; Debts, private; Debts, state; Property, private
- CREEK INDIANS: incited by Spanish, 12; danger of to Ga., 12–13, 152, 153n, 396
- CREVECOEUR, ST. JOHN DE (N.Y.; CC:Vol. . 1, 227n)
- -letters from, 16-18, 174-75; quoted, 193n
- CROMWELL, OLIVER (England), 70, 164
- CULLEN, WILLIAM (Scotland): id., 273n - letter to, 273

Cumberland County, Pa., 393–94, 394n Cutler, Manasseh (Mass.): id., 342n–43n

-- sermon of, 341-43n

- DANE, NATHAN (Mass.; CC:Vol. 1, 357n)
- letters from, 3-4, 169-71, 214-20; quoted, 32n, 379n
- -letters to: quoted, 209n, 220n, 258n
- Dart, John S. (S.C.), 72
- DAVIE, WILLIAM R. (N.C.), 85
- DAVIS, AUGUSTINE (Va.), 200, 328, 401n, 404
- DAY, LUKE (Mass.), 196, 198n
- DEBT, U.S., 175; first federal Congress needs to assert authority over, 19–20; and empty treasury, 21; large amount of repaid since Revolution, 23; value of U.S. securities rising in Europe, 23; sale of western lands will help pay, 25, 184, 372–73; remains intact under Constitution, 133; not paid under Confederation, 152, 232, 405n; danger that interest will not be paid, 168; payment of, 175; owed to France, 190–91; some states pay interest on, 280; denial that public defaulters will benefit under Constitution, 282; assumed by Pa., 338n-

39n; Constitution raises value of securities, 360, 391; close connection of with politics, 361; will be repaid under Constitution, 391. *See also* Requisitions

- DEBTS, PRIVATE, 175; too prevalent, 21; owed by Americans to British citizens, 66n, 191, 286-88n, 326; debtors oppose Constitution in S.C., 144; and danger to private property under Confederation, 145; Constitution assures proper payment of, 161-62, 210; payment of, 175; Mass. laws restricting collection of, 196; criticism of state debtor legislation during Confederation, 226; Antifederalists described as debtors, 260; states should retain right to pass bankruptcy laws concerning individuals, 303. See also Bankruptcy; Creditors; Installment acts; Paper money; Stay laws
- DEBTS, STATE: and empty treasuries, 21; heavy in Eastern States, 70; and jurisdiction of federal courts, 107-8; payment of, 175; in N.H., 194-95; in N.J., 276; in Pa., 337-38, 338n-39n; Congress should not interfere with, 347; in N.Y., 360; states will be unable to pay under new Constitution, 360, 390; in ability to pay, 405n
- DECLARATION OF INDEPENDENCE, 236; Federalists accused of abandoning principles of, 5; celebrations of on Fourth of July, 235, 271; as proof of American patriotism, 237; signers of in Constitutional Convention, 251, 254n; Constitution will give benefits of independence to U.S., 266–67. See also American Revolution
- DELAWARE: unanimous in favor of Constitution, 10; has ratified, 20, 80, 166, 270, 371; pays taxes to neighbors through import duties, 29; court system of, 105, 120-21. See also Wilmington
- DEMAGOGUES: Antifederalists accused of being, 167, 376; danger of, 331; Constitution will be better able to thwart plans of, 361; "Centinel" accused of being, 370
- **DEMOCRACY:** Constitution described as truly democratic, 10; exists in American state governments, 18; and party spirit, 151; people of Eastern States described as genuinely democratical, 183; abuse of by states under Articles of Confederation, 197; U.S. government is weak un-

der, 273; Constitution will destroy phantom of, 308-9; not best form of government, 329; attack on democrats in state legislatures, 334. See also Aristocracy; Despotism; Government, debate over nature of; Monarchy; Republican form of government; Tyranny

- DESPOTISM: Constitution will promote, 5, 49, 58, 75, 77–78, 275; denial that Constitution will impose, 8, 138, 164–65; limited in monarchy by judiciary, 88; danger of in U.S., 216. See also Democracy; Government, debate over nature of; Monarchy; Republican form of government; Tyranny
- DE WITT, CORNELIUS (The Netherlands), 257, 258n
- DE WITT, JOHN (The Netherlands), 258n
- DICKINSON, JOHN\* (Del.; CC:Vol. 5, 74-75), 85. See also Fabius
- "DISSENT OF THE MINORITY OF THE PENN-SYLVANIA CONVENTION," 21, 93, 94n, 121–23, 124, 125, 127n
- DIVISION OF POWERS: will be conflict over under Constitution, 19; state courts should not try federal cases, 106-7; and sovereign immunity of states in federal courts, 107-8; time will work out exact nature of under Constitution, 111; states will restrain federal government, 142; hope to establish government in U.S. on principles of federalism, 214; marked with precision between states and federal government, 235. See also Government, debate over nature of; Sovereignty; States, impact of Constitution upon
- DOBBS COUNTY, N.C.: violence in, 146n
- DONALD, ALEXANDER (Va.): letter to used in Va. and N.C. conventions, 82n, 287, 288n
- -letter to: quoted, 288n
- DOUBLE JEOPARDY, 298
- DUANE, JAMES (N.Y.), 287, 295
- DUCHER, GASPARD JOSEPH AMAND (France; CC:Vol. 4, 15n)
- -letters from, 165-67n, 345-50n
- DUE PROCESS OF LAW: proposed amendments concerning, 42, 42–43, 201–2, 298, 315; necessary for liberty, 75. See also Bill of rights; Civil liberties; Counsel, right to; Excessive fines
- **DUPONT, VICTOR (France)**
- -letter from: quoted, 311n

INDEX

DUPONT DE NEMOURS, PIERRE SAMUEL (France): id., 174n

DUTCHESS COUNTY, N.Y., 70

- DUTTES: states prohibited from levying under Constitution, 97; will be main source of revenue under Constitution, 171, 283; praise of congressional power to levy, 332; delay in Congress levying benefits importing states, 366. See also Commerce; Impost of 1781; Impost of 1783
- EASTERN STATES: heavy public debt in, 70; and criticism of slave-trade compromise, 79; people of are more genuinely democratical, 183; commerce with East Indies, 184. See also New England; North vs. South; Northern States
- ECONOMIC CONDITIONS UNDER THE CON-FEDERATION: private finances are low, 21; public treasuries are empty, 21; will be improved by Constitution, 68, 150, 184, 194–95, 196, 214, 254–55, 386, 391; desperate in Eastern States, 70; distressed, 159, 227, 251, 351, 405n; problems caused by the war, 225, 226. See also Agriculture; Commerce; Debt, U.S.; Debts, private; Farmers; Fur trade; Manufactures; Political conditions under the Confederation; Requisitions

Edes, Peter (R.I.), 197

- EDUCATION: encouraged in U.S., 230
- **ELECTIONS:** free and frequent necessary for liberty, 75, 179; should not be too frequent, 329
- ELECTIONS, STATE: Congress has no authority to regulate, 280
- ELECTIONS, U.S., 175; praise of under Constitution, 10; praise of variety of in electing President and Senate, 27; proposed amendments concerning congressional regulation of, 42, 44, 71-72, 168, 187-88, 205, 319; criticism of method of for House of Representatives, 47; criticism of Congress' power to regulate, 75, 79; importance of freedom and frequency of, 179; should be regular and certain, 201, 315; all officeholders will be immediately or indirectly amenable to, 245-46; defense of Congress power to regulate, 280, 300, 302, 346; should be held every four years for President and Vice President, 299; states may ap-

portion Representatives by districts, 299-300; expectations of candidates for, 394-95

first federal elections: should be delayed until amendments are assured, 52; Confederation Congress calls, 151, 212–13, 256, 258n, 294, 307–8, 310, 321–22, 322–24n, 332, 337, 350, 351, 363, 364– 67, 374, 388, 402; in N.J., 276–77; in Mass., 330, 364; text of election ordinance, 367

See also House of Representatives, U.S.; President, U.S.; Senate, U.S.

- ELLERY, WILLIAM (R.I.; CC:Vol. 1, 384n) — letter from, 350–52n
- EMINENT DOMAIN, 63n. See also Property, private
- EMOLUMENTS, PRESENTS, ETC., 79-80, 128; proposed amendments prohibiting, 41, 71n, 201, 305, 307n, 314
- ENUMERATED POWERS: proposed amendments limiting Congress to, 44, 205, 319; Congress only has, 116–17, 239– 40, 347. See also Implied powers; Reserved powers
- EQUITY LAW, 101, 118, 123. See also Judiciary, U.S.
- ERVING, GEORGE (Great Britain): id., 325n —letter to, 324–25n
- EUROPE: lack of freedom in, 5, 211n; Southern States will make alliances with against Union, 18; Constitution popular in, 22–23; value of U.S. securities rising in, 23; The Federalist based on theory and practice of governments of, 83-84; U.S. and balance of power in, 162, 192; praise of U.S. remoteness from, 230; anarchy in, 250; most governments of are absolute, 254; war in, 255, 334, 369, 379-80; difference in processions in from U.S., 263-64; U.S. must be prepared for evil contingencies of, 274; religiously oppressed of will emigrate to U.S., 282; war in would help U.S., 334; U.S. should stay out of politics and wars of, 358, 369; high agricultural rents in, 362. See also Foreign affairs; Foreign opinion of the U.S.; France; Governments, ancient and modern; Great Britain

EVANS, GRIFFITH (Pa.): id., 259n

- —letter to, 258–60n
- EVIDENCE: proposed amendments concerning, 42, 201, 315

<sup>-</sup>letters to, 173-74; quoted, 311n

Excise Taxes: See Taxation, excises

EXPENDITURES: proposed amendments require annual publication of, 204, 317

- EXPENSES OF GOVERNMENT: Constitution will not unduly increase, 133–35; Confederation Congress cannot raise, 252. See also Appropriations; Debt, U.S.; Duties; Officeholders, U.S.; Requisitions; Taxation
- EXPORTS: importance of western produce, 149; increasing in America to equal imports, 336. See also Commerce; Duties
- Ex Post Facto Laws: judicial protections against, 89; praise of Constitution's provision concerning, 128, 129, 161, 162; should extend only to criminal cases, 300
- "FABIUS" (John Dickinson): circulation of, 167, 168n-69n
- FACTIONS: Constitution protects against, 138; militia will discourage, 161. See also Party spirit; Political parties
- FAESCH, JOHN JACOB (N.J.), 176
- FAIRFAX COUNTY, VA., 18n
- FARMERS: expect to benefit under Constitution, 19, 391; fear Constitution, 50; yeomen will make up militia, 160; indebtedness of, 226; and Philadelphia procession, 263–64; support Constitution, 370. See also Agriculture; Cotton; Wheat
- FAYSSOUX, PETER (S.C.), 56, 67n
- "Federal Farmer"
  - Letters, 15n, 63n; sent to Jefferson, 15n; circulation of, 39, 51, 58; authorship of, 220n
  - -Additional Letters, 63n; circulation of, 3, 4n, 33, 36, 39, 54, 58, 63n
  - FEDERAL REPUBLIC: support for creation of, 3, 64–65n, 217. See also Republican form of government
  - FEDERALISM: hope to establish government in U.S. on principles of, 214; attributes of, 384. See also Division of powers; Government, debate over nature of; Republican form of government; Sovereignty; States, impact of Constitution upon; States under the Articles of Confederation
  - THE FEDERALIST (Alexander Hamilton, John Jay, and James Madison), 64n; authorship of, 15, 15n, 85, 86, 87, 94, 96,

102, 111, 115, 127, 137, 322, 352, 357n; sent to Jefferson, 15, 322; publication of edition of, 15n, 83-87; praised, 15n, 85-86, 352; Federalists use arguments of in N.Y. Convention, 49; circulation of, 83-87, 87, 94, 96-97, 102-3, 111, 115, 127, 137, 356n-57n; criticism of, 84; reviewed by Noah Webster, 86, 137; publication of in France, 87; texts of, 87-143

- "The Federalist's Political Creed," 4-6
- FEDERALISTS: six-sevenths of Americans favor Constitution, 7; identity of is well known, 12; should give in to Antifederalists and support amendments, 15n; attempt to get Washington to run for Va. Convention, 16; use of term of, 16, 20, 48, 268, 293, 373; control printing presses, 46; merchants are primarily, 54, 55, 166, 332; agree Constitution needs amendments, 60, 76, 156; agree Constitution is imperfect, 139-40; arrange for transmittal of news of N.H.'s ratification to other states, 212; celebrate ratification, 309, 331; assisted by Indian hostilities in Ohio, 334; worried about delay in calling first federal elections, 365, 366
- criticism of: as friends of influence and corruption, 3; some will abuse any government, 3; some will steadfastly oppose amendments to Constitution, 3; attempt to stifle access to press, 5; linked with Loyalists, 5, 55, 373; want a consolidated government, 20-21; accused of being friends and seekers of power, 39; called Consolidarians, 46; methods of, 46; deceptiveness of, 46, 50, 54, 399n; literature of, 46, 78; will not support amendments after ratification of Constitution, 47, 155; called advocates of despotism, 49; bandwagon strategy of, 54; said to be aristocratic, 55; some oppose liberty and republicanism, 217
- praise of, 384; likened to patriots, 7; described as men of virtue, sense, and property, 167; God on side of, 266
- in Conn., 274, 275n
- —in Md., 166
- -in Mass., 166, 172, 196, 274, 275n
- —in N.H., 52
- -- in N.Y., 50, 54, 70, 279-80; are best people and orators, 16; in New York City, 144, 153; gain strength in Con-

vention of, 212n, 294, 343, 388, 389n, 397; destroy Greenleaf's press, 310, 311n-12n; area around New York City will secede if state does not ratify Constitution, 393; own nine-tenths of property, 393

- in N.C., 54, 60, 376, 404; and violence in convention elections, 144, 146n
- in Pa., 370
- -in R.I., 389
- in S.C., 55, 143-44, 152, 166, 168, 208n, 376-77
- -- in Va.: in Convention of, 374, 383; want amendments to Constitution, 390 See also Antifederalists; Pseudonyms
- Ferrier, Joseph-Marie-Anne (France), 193n
- FINES, EXCESSIVE: proposed amendments prohibiting, 43, 202, 298, 316. See also Due process of law
- **FISHERIES**, 228, 348
- FITZSIMONS, THOMAS\* (Pa.; CC:Vol. 1, 405n)
- -letter from, 337-39n
- FLEMING, GEORGE (Va.), 34, 41, 49
- FOREIGN AFFAIRS: Constitution will strengthen U.S. in, 24, 28-29, 29, 134, 138, 145, 162, 184, 192, 197; inappropriateness of jury trial in cases concerning, 122; President will take over responsibility for from Confederation Congress, 134-35; Constitution will bring America greatness, 165; separate confederacies would affect, 190; weakness of U.S. under Articles of Confederation, 192, 229, 273; U.S. must be prepared for evil contingencies of Europe, 274; U.S. should stay out of European affairs, 358, 369. See also Commerce; Foreign opinion of the U.S.; Treaties
- FOREIGN OPINION OF THE U.S.: Europeans like new Constitution, 22–23; will rise under Constitution, 69, 150, 160, 162, 168, 195, 208n, 210, 267, 269, 308, 324–25n, 358, 369, 385n; U.S. has false sense of its importance in European balance of power, 192, 193n; U.S. has gained great fame, 209; lowered under Articles of Confederation, 237, 260, 271, 369. See also Foreign affairs
- FOREST, ANTOINE DE LA (France; CC:Vol. 1, 261n)
- -letters from, 19-20, 171-73n, 331-33

- FORREST, URIAH (Md.; CC:Vol. 2, 475n), 288n
- FORTS, MAGAZINES, ETC., 303
- FOURTH OF JULY (1788): celebrations of, 221–54. See also American Revolution; Declaration of Independence
- FRANCE, 379-80; Constitution popular in, 22-23; reforms in, 22-23; size of, 75; publication of The Federalist in, 87; commerce with U.S., 144-45, 146n, 192, 197, 260, 336, 336n-37n; considered invasion of New England years before, 161; U.S. owes debt to, 190-91; navy of visits U.S. ports, 191; and negotiations with U.S., 192, 193n; and dispute with Va., 193n; problems experienced by, 225; U.S. neglects, 226-27; concerned with domestic matters, 228; assassinations of rulers in, 250; The Gauls, 250; treaty with U.S., 262; Antifederalists say U.S. will be subject to under Constitution, 376; religious freedom in, 380. See also Europe
- FRANKLIN, BENJAMIN\* (Pa.; CC:Vol. 1, 80n), 147, 148n, 264; Federalists use, 6; Antifederalists criticize, 11n; too old to be first Vice President, 325; reference to last speech of in Constitutional Convention, 406
- —letter from, 173–74
- FRAZIER, NALBRO (Pa.): See Coxe and Frazier
- "A FREEMAN," 13–14
- "A FRIEND OF SOCIETY AND LIBERTY" (Tench Coxe), 277–86n
- FUR TRADE, 145, 146n
- GADSDEN, CHRISTOPHER (S.C.; CC:Vol. 1, 508n), 21, 22n, 377
- General Welfare, 361
- "GENUINE INFORMATION": See Martin, Luther
- GEORGIA: unanimous in favor of Constitution, 10; and problems with Indians, 12–13, 152, 153n, 372, 396; has ratified, 20, 80, 166, 271; criticism of slavetrade compromise, 79; court system of, 105, 121; pays no congressional requisitions, 254n; and cession of western lands by, 372–73; support for installment act in, 396. See also Savannah
- GERMANS: "Centinel" published as German-language broadside, 8, 11; in S.C. are Federalists, 143-44

GERRY, ANN (Mass.), 206

## GERRY, ELBRIDGE (Mass.; CC:Vol. 1, 196n): opposes Constitution, 21; defeated for governor, 284–85

- GIFTS, EMOLUMENTS, ETC.: See Emoluments, presents, etc.
- GOD: will lead America to defeat Constitution, 58; hope for blessing of for Va. Convention, 78; role of in drafting and ratifying of, 82, 160, 189, 195, 255, 266, 269n, 274, 378, 381; civil liberties of America are protected by, 150, 232; call upon for wisdom, 182, 185; has special role for America, 184, 341, 358-59; gives U.S. commercial advantages, 185; hope for protection of from dangers of the Constitution, 206; America has been blessed by, 207, 209n, 223, 230, 341, 381; points the way for U.S., 208n; has wanted John Adams to play a key role in America, 213; thanked for Constitution, 223; grants U.S. a free government, 232; creates important role for agriculture and manufactures in U.S., 264; hope for continued protection of U.S., 275. See also Biblical references; Clergy; Religion, freedom of
- GODDARD, MARY KATHERINE (Md.; CC:Vol. 4, 553n), 328
- GOVERNMENT, DEBATE OVER NATURE OF: federal republic supported, 3, 64-65n, 217; Constitution will create consolidated government, 5, 49, 53, 64n-65n, 185, 238, 275, 333, 342; America will show that man can govern himself, 15, 184, 233-34, 264, 272, 273, 293, 320, 359, 386; Constitution called a revolution, 15, 233, 293, 333-34, 345, 345n, 355, 387, 392; Constitution will not immediately establish vigorous government, 16-17; Americans believe they can be free without government, 17; good constitution obtainable only through succession of bloody revolutions or powerful rule of a person, 19-20; Constitution not a representative government, 47; opposition to general government for America, 59; difficulty of applying general rules to all parts of a federal government, 120, 121; only general principles of can be relied on rather than specific constitutional protections, 126; Constitution is best form

for U.S., 139; need for permanent, efficient national government, 143, 161, 178, 185, 223, 272, 324-25n, 358, 359, 361, 386, 403n; power is not achieved by unanimous consent but by genius and luck, 145; party spirit almost indefatigable in democracy, 151; description of stages of American society, 170; because powers can be abused is no reason not to grant them, 180; Constitution makes states a nation, 214; continual effort to establish stability and order from chaos, 233; great revolutions of antiquity were mad, tumultuous actions, 237; revolutions in government usually exchange one tyrant for another, 238; Constitution will bring stability and replace libertinism of youthful U.S., 239; criticism of too much dependence on those in power, 240; effectiveness of depends on virtue of people in elections, 245-46; best understood at time of American Revolution, 249-50; Americans most aware of study of government, 252; people are husbands and constitutions are wives, 258-59; voice of people is not voice of God, 329; "A Native of Boston's" ideas of best government, 329-30; The Federalist touches on primary issues concerning, 352; difficulty of united unequal states in confederacies, 357; new Constitution creates a federal government, 384

attributes of: right of legislation by people is foundation of free government, 42; force and opinion are the only two ways to govern man, 75; power must be given so that it will not be abused, 75; republican government cannot exist over large territory, 75-76; confederated republic necessary for large territory, 76; liberty yields to government, 81; a constitution described as fundamental law, 89, 103-4; judiciary necessary in limited constitution, 89-91; all power derived from people, 90, 180, 201, 314; republican governments can exist over large territory, 132-33; must trust representatives with powers for viable government, 181; despite quality of government much depends on individual exertion, 210; Constitution creates government of laws and not men, 234; checks and balances in compared to bal-

<sup>-</sup>letter from, 206-7n

ance of power among nations, 239; vigilance, industry, and virtue of people needed for good government, 241; must have confidence and good will of people, 306; federalism, 384

- dangers of: consolidating, energetic government endangers liberty, 6; majority often abuses its power, 13; corruption will ruin any form of government, 165; force and violence are hostile to establishing good government, 217; leaders must always be watched carefully to preserve liberty, 219; governments usually offspring of force and fear, 244
- objects of government, 222, 223; protection and security of people, 41, 297; safety and happiness, 180, 251; to protect people from oppression and violence, 180; provide liberty, 236; protect property, lives, and fame, 240

See also Aristocracy; Checks and balances; Civil liberties; Democracy; Despotism; Division of powers; Enumerated powers; Happiness; Implied powers; Mixed government; Monarchy; Republican form of government; Reserved powers; Separation of powers; Social compact; Sovereignty; States, impact of Constitution upon; States under the Articles of Confederation; Tyranny

- GOVERNMENTS, ANCIENT AND MODERN, 238; Africa, 211; Asia, 211; Athens, 244; Belgic Confederacy, 194, 253; East Indies, 184; Germany, 75, 98–99, 250; Gibraltar, 184; Greece, 232, 233, 239; Helvetic League, 253; Holy Roman Empire, 369; Ireland, 269, 281; The Netherlands, 23, 24n, 228, 233, 250, 253, 257; Poland, 161; Russia, 369, 379–80; Sparta, 244; Switzerland, 194, 250, 253, 254, 357–58; Turkey, 369, 379–80
- Rome, 76, 235, 244, 250, 334; convulsions and revolutions in, 232-33; conquests of, 239; short-lived and violent life of the republic, 239; senate of, 244; threats to helped solidify, 253; public games of, 311n
- Spain: incites Indians against U.S., 12, 29, 228; and free navigation of Mississippi River, 24–28, 149, 149n, 380; and annexation of Ky., 149n; continuation of united America is not in interest of, 168; danger of war with, 229; religious tests for office in, 281

See also Biblical references; Canada; Classical antiquity; Europe; Foreign affairs; Foreign opinion of the U.S.; France; Great Britain

- GRAHAM, CATHERINE MACAULAY (Great Britain; CC:Vol. 2, 129n)
- -letter to, 20-22
- GRAND JURY: proposed amendments concerning, 188, 348. See also Due process of law
- GRAYSON, WILLIAM (Va.; CC:Vol. 2, 83n), 33, 34, 62n
- -letters from, 38-39; quoted, 209n
- GREAT BRITAIN: reference to civil wars and violence in, 19–20, 233; freedom of the press in, 136; taxation of newspapers in, 136; land as basis of political rights in during Middle Ages, 183n; reference to a history of treason and rebellion, 225; controls The Netherlands, 228; and Glorious Revolution, 260n; lack of religious freedom in, 269, 281; unreliability of post office of, 293; public celebrations in copied in U.S., 309; will end slave trade, 379–80; public debt of, 391
- acts and charters of: Bill of Rights (1689), 78n, 130, 179; Declaration of Rights (1688), 78n, 130; Magna Carta (1215), 130, 179, 183n; Petition of Right (1628), 130, 179
- constitution and government of: bills of rights in, 131; statute of limitations in, 170; description of government of, 199n
- House of Lords: as court of last resort, 103, 104
- -- judicial system of: Court of Star Chamber, 6; good-behavior tenure of praised, 93; House of Lords as court of last resort, 103, 104; judicial decisions in cannot be overturned by Parliament, 105; compared with N.Y.'s system, 120, 121, 124; prize cases in, 122; separation of equity from legal jurisdiction in, 123; jury trial system in, 126; N.Y. adopts common and statute law of, 128, 136n-37n; court system of praised, 255
- monarchs and monarchy of: and determination of prize cases, 122; danger of from ability of to bribe Parliament, 179–80; Charles I, 130, 250; Elizabeth I, 191; George III, 273–74, 275n; James II, 78n; John, 130; William the Conqueror, 183n; William III, 78n, 130, 258n; William and Mary, 78n

- Parliament: Convention Parliament of 1688, 76, 78n
- political leaders of: Oliver Cromwell, 70, 164
- and relations with the U.S.: incites Indians against U.S., 12, 29, 228, 334; admiration for Constitution in, 22, 378; Constitution will get western posts back from, 29, 191, 228, 386; U.S. citizens owe debts to citizens of, 66n, 191, 226, 286-88n, 326; commerce with, 144-45, 146n, 163, 185, 226, 308, 324-25n, 396; U.S. Union not in interest of, 168; unfavorable material on U.S. in newspapers of, 210n-11n; and American Revolution, 223, 237-38; unjustly criticizes U.S., 225; animosity of toward U.S., 228; Constitution will improve, 361; apprehensive about ratification of Constitution, 378; lost nothing when America gained independence, 396 See also American Revolution; Canada;

Europe; Political and legal writers and writings

- GREAT MEN AND THE CONSTITUTION: Federalists use George Washington and Benjamin Franklin, 6, 13; praise of, 9– 10, 320
- GREENE, CHRISTOPHER (N.Y.), 320
- GREENE, NATHANAEL (R.I.), 320
- GREENLEAF, THOMAS (N.Y.; CC:Vol. 1, xxxvii-xxxviii): mob attacks press of, 310, 311n-12n. See also Newspapers, in New York, New York Journal
- GRIFFIN, CYRUS (Va.; CČ:Vol. 4, 139n), 30, 311n

GUILD, BENJAMIN (Mass.), 327

- HABEAS CORPUS, WRIT OF, 118, 128, 129, 298, 302. See also Bill of rights; Civil liberties; Due process of law
- HALF-MOON DISTRICT, N.Y.: celebration in, 403, 404n
- HAMILTON, ALEXANDER\* (N.Y.; CC:Vol. 1, 141n), 176; and distribution of Federalist literature, 69; receives news of N.H.'s ratification, 212; carries N.Y.'s ratification to Congress, 296; and R.I. delegates to Congress and location of federal capital, 350; attacks George Clinton, 401n
- letters from, 355-56; quoted, 62n, 85, 356n-57n, 357n

-letters to, 352-53; quoted, 85, 357n

- The Federalist: as author of, 15, 84, 85, 86, 87, 94, 96, 102, 111, 115, 127, 137, 320, 321n, 322, 357n; sends copy of, 85; texts of, 87–143
- in N.Y. Convention, 287, 293, 296; speech of quoted, 49, 64n–65n
- HAMILTON, JAMES (Pa.), 278
- HAMPTON, RICHARD (S.C.): id., 67n; 57
- HAMPTON, WADE (S.C.): id., 67n; 57
- HANCOCK, JOHN (Mass.; CC:Vol. 1, 410n): leniency of toward Shaysites, 196, 198n; as possible first President of U.S., 308, 363, 364n; as possible first Vice President of U.S., 325, 394–95, 399
- as Mass. governor, 187, 229, 231n; reelected, 195, 275n, 285
- -letters to, 32n; cited, 198n
- speech of to Mass. General Court: quoted, 198n
- HANSON, ALEXANDER CONTEE (Md.; CC:Vol. 3, 517n), 69
- HAPPINESS: Constitution will promote, 18, 82, 160, 162, 164, 165, 177, 182, 184, 195, 207, 208n, 209n, 210, 214, 239, 247, 255, 274-75, 290, 291, 324-25n, 330, 359, 376, 385n, 387, 392, 398, 402, 403n; doctrine of non-resistance is destructive of, 41: as a natural and essential right, 41, 201, 297, 297-98, 314; denial that Constitution will provide, 46; Antifederalists wish to promote, 50; confederated republics provide, 76; Constitutional Convention less concerned with, 79; depends on adoption of Constitution, 82; inherent power of people to change government, 91; object of government is, 180, 251; depends on exertion of individuals, 210; Constitution should be adopted and amended to preserve, 219; prevalent in U.S., 225, 230; Constitutional Convention seeks, 233-34; depends on virtuousness of people in elections, 245-46; can be accomplished in U.S., 251; political joy is one of strong emotions of human mind, 262; under Constitution depends on Washington being first President, 353
- HARRISBURG CONVENTION, 157, 158n, 343, 365–66, 394n
- HAZARD, EBENEZER (N.Y.; CC:Vol. 1, 384n)
- -letters from: quoted, 311n; cited, 390n

INDEX

HAZARD, JONATHAN J. (R.I.): as delegate to Congress, 350, 351, 352n, 389n

- HENRY, PATRICK (Va.; CC:Vol. 1, 223n): opposes Constitution, 21, 174, 209n, 286–88n; and N.Y. Federal Republican Committee, 33, 34; and cooperation with N.Y. Convention, 48; allegedly favors Southern confederacy, 174, 190, 193n; importance of to ratification process, 175, 190; French dislike of, 193n –letter from, 39–40
- in Va. Convention: votes not to ratify, 63n; calls for amendments previous to ratification of Constitution, 199, 200; brilliance of, 206; uses Jefferson's letter, 288n
- HETH, WILLIAM (Va.; CC:Vol. 4, 304n) - letter from: quoted, 69
- HICHBORN, BENJAMIN (Mass.), 363, 364n
- HILL, JEREMIAH (Mass.; CC:Vol. 3, 287n) -letter from, 363-64
- HISTORY: examples of internal dissent (Germany), 98–99; will tell story of American Revolution, 236; members of Constitutional Convention used their knowledge of, 238; Constitution as unique experience, 244, 392; no example in to equal American Revolution, 251. See also Biblical references; Classical antiquity; Governments, ancient and modern; Political and legal writers and writings
- HITCHCOCK, ENOS (R.I.): id., 232
- oration of, 231-35
- HOBART, JOHN SLOSS (N.Y.), 295
- HOPKINSON, FRANCIS (Pa.; CC:Vol. 3, 180n)
- letter from, 270–71
- -account of Philadelphia celebration, 243, 256n, 261, 261-62
- -An Ode, 246-47
- HOUSE OF REPRESENTATIVES, U.S.: and treaties, 28, 45; representation in, 28, 133-34, 137n, 284, 285n-86n; no dual officeholding by members of, 44, 203, 303, 317, 346; restraints upon by Va. Form of Ratification, 79n; will represent people, 165, 238, 402; praise of term of, 181; and publication of journals of, 203, 303, 317; salaries of, 303, 319, 346; summary of proposed amendments concerning, 346-47
- election of: criticism of method of, 47; praise of method of, 181; should be free

and frequent, 201, 315; can be by district, 299–300; restrictions on Congress' power to regulate election of, 300, 302; only natural-born citizens should be eligible for, 302; residency requirement for, 305

- size of: proposed amendments enlarging, 44, 187, 203, 301, 317, 346; defense of, 181; too large, 330
  See also Bicameralism; Congress under Constitution; Elections, U.S.; Senate, U.S.
- HOWELL, DAVID (R.I.): id., 341n
- -letter from: quoted, 341n
- HUMAN NATURE: restless spirit of Americans (willingness to move), 12; greediness of, 12, 21; power corrupts, 13, 75; perversity of, 17, 52, 93; vilified by some, 21; ambition and avarice must be restrained, 75; folly and wickedness of mankind, 93; imperfections of institutions created by, 140, 165; diversity of mankind causes difference of opinions, 176-77; perfection is impossible to obtain, 178; America is theater for demonstration of, 213; passion, opinion, and self-will influence conduct of man, 217; desire of for independence and lack of restraints, 222-23; needs of human beings, 222-23; government is needed to control, 223; can sink only so low, 237; diversity of opinion among, 335; passions sometimes overrule interest, 341. See also Bribery; Corruption; Happiness; Patriotism; Self-interest; Virtue
- Ниме, DAVID (Great Britain), 142–43, 143, 143n, 329
- HUMPHREYS, DAVID (Conn.; CC:Vol. 1, 262n): id., 275n; 274
- HUNTINGTON, BENJAMIN (Conn.): id., 351n -letter to, 350-52n
- Нитсних, Тномая (Pa.; CC:Vol. 3, 326n), 75
- IMMIGRATION: Constitution will encourage to the West, 29; openness of America to is beneficial to U.S., 150; Constitution will promote, 256, 324–25n; freedom of religion will encourage into U.S., 282. See also Population
- IMPEACHMENT, 103, 304–5; praise of Constitution's provision for, 10; proposed amendments concerning, 45, 205, 319;

opposition to Senate's power over, 73, 346; praise of judges being subject to, 94, 105–6; of judges in N.Y. constitution, 95, 96n; praise of limitation of punishment for conviction on, 128; Senate to be only part of court of impeachment, 346. *See also* Officeholders, U.S.

- IMPLIED POWERS: doctrine of would be supported by a bill of rights, 130-31; Congress does not have, 347. See also Enumerated powers; General welfare; Reserved powers
- Impost of 1781, 31n
- Impost of 1783, 31n, 177, 227
- INDIANS: fear of as excuse for standing army, 5; defend their lands against American settlers, 12; Spain incites, 12, 29, 228; Great Britain incites, 12, 29, 228, 334; danger to U.S. from, 12, 228; threat to Ga., 12–13, 152, 153n, 372, 396; and problems with N.C., 70; depredations in S.C., 152; hostilities of help Federalists, 334; in Northwest Territory, 334–35, 335n; N.Y. Antifederalists compared to, 399, 399n
- INDICTMENT, BILL OF, 188, 348. See also Due process of law
- INSTALLMENT ACTS, 396. See also Paper money; Stay laws; Tender acts
- INSTRUCTIONS TO REPRESENTATIVES, RIGHT OF: proposed amendments concerning, 43, 202, 299, 316
- INSURRECTIONS, DOMESTIC: Antifederalists accused of fomenting civil discord, 7; predicted if Va. does not ratify, 14–15; Constitution protects against, 138; reference to those who have incited revolts, 152; none threatening U.S., 160; militia will prevent, 161; under Articles of Confederation, 232; Congress shall not declare a state in rebellion without twothirds vote, 318, 347. See also Civil war; Shays's Rebellion; Violence
- INTEREST GROUPS: defense of wealthy, well born, and great, 139. See also Agriculture; Artisans; Bankruptcy; Capitalists; Clergy; Conscientious objectors; Creditors; Debts, private; Factions; Farmers; Fisheries; Fur trade; Germans; Human nature; Jews; Landed interest; Lawyers; Loyalists; Manufactures; Mechanics; Merchants; Monied men; Moslems; Officeholders, state; Officeholders, U.S.; Officeholding; Ohio Company; Party

spirit; Physicians; Political parties; Presbyterians; Printers and booksellers; Property, private; Public creditors; Public defaulters; Roman Catholics; Sailors; Scotch-Irish; Self-interest; Shipbuilding; Soldiers; Temperance; Tradesmen; Virtue; Widows and orphans; Women

- INTERNAL IMPROVEMENTS: possible under Constitution, 161; in Mass., 196
- INTERSTATE RELATIONS, 175; animosity over N.Y.'s commercial policies, 29, 175; and federal judiciary, 97, 98–99; will improve under Constitution, 163, 386, 392–93; proposed amendment prohibiting interstate duties or fees, 348. See also North vs. South; Wyoming Valley, Pa.
- INVASION, FOREIGN: fear of as excuse for standing army, 5; danger of must be addressed by military preparedness, 160; none threatening U.S., 160; Constitution protects against, 164, 164–65; object of government is protection from, 180. See also American Revolution; Foreign affairs; War
- IREDELL, JAMES (N.C.; CC:Vol. 3, 364n-65n), 85, 312, 313
- JACKSON, JONATHAN (Mass.): id., 327; 330; as "A Native of Boston," 326-31
- -letters from: quoted, 327, 328
- -letter to: quoted, 329
- JAMIESON, NEIL (Great Britain; CC:Vol. 4, 140n)
- -letter to, 360-61
- JAY, JOHN (N.Y.; CC:Vol. 1, 385n), 147, 148n, 176; as author of *The Federalist*, 15, 85, 86, 322, 357n; as Secretary for Foreign Affairs, 146n, 192, 193n; in N.Y. Convention, 287, 293, 295, 296; as possible first Vice President of U.S., 325
- JEFFERSON, THOMAS (Va.; CC:Vol. 1, 81n), 23, 24n, 174
- sent copies of: *The Federalist*, 15, 85, 322; "Federal Farmer," 15n; Monroe's pamphlet, 73; Mason's objections to Constitution, 79; Constitution, 270
- letters from, 81–82, 272, 325–26n; used by Antifederalists in Va., Md., and N.C. conventions, 81, 286–87, 288n; quoted, 15n, 82n, 85–86, 288n; cited, 82n
- -letters to, 14-15, 79-80, 270-71, 286-88n, 321-22, 326, 336-37n; quoted,

- 72, 73, 294n, 322n, 341n; cited, 288n, 293
- JEWS: and Philadelphia celebration, 265
- Johnson, Joshua (Conn.), 288–90
- JOHNSON, WILLIAM SAMUEL (CONN.; CC:Vol. 1, 227n-28n)
- -letter to: quoted, 193n
- JOHNSTON, JAMES (Ga.), 249
- JOHNSTON, SAMUEL (N.C.): in N.C. Convention, 312, 320, 404
- JONES, SAMUEL (N.Y.): id., 258n; in N.Y. Convention, 258n, 295
- -letter to, 256-58
- JONES, WILLIE (N.C.): id., 66n; in N.C. Convention, 288n, 312
- JUDICIAL REVIEW: importance of to civil liberties, 89, 92; justification of, 89–91; by state judiciaries is check on state legislatures, 92; over state legislation, 97; no danger from in Constitution, 103–4. See also Judiciary, U.S.
- JUDICIARIES, STATE: required to take oath to defend supremacy of Constitution, 76; judicial review by as check on state legislatures, 92; removal of judges in N.Y., 95-96, 96n; salaries of judges in Mass., 96, 96n; under control of state legislatures, 103; judicial decisions of cannot be overturned by legislatures, 105; objection to use of to try federal cases, 106-7; should be combined with federal judiciary to form district courts, 107; will not be endangered by Constitution, 110-11, 112; concurrent jurisdiction of with federal judiciary, 112-13; retain much of their jurisdiction outside federal sphere, 117-18; admiralty courts in during Confederation, 120, 121; under Articles of Confederation, 120-21, 121, 124-25; civil cases to originate in, 188; praise of elimination of iurisdiction of over foreigners, 256; should serve as inferior courts in federal cases, 304, 348, 349
- JUDICIARY, U.S., 40–41, 88; will be part of tyranny created by Constitution, 6; Antifederalists fear impartiality of, 17; prohibition of dual officeholding by, 45, 305, 349; independence of judges of, 75, 181, 255; will rule against states in tax matters, 76; appointment of, 87; tenure of, 87–89, 91–93, 95–96, 104; is least dangerous and weakest branch of government, 88; salaries of, 94–96, 134,

205, 319, 348; and interstate relations, 97, 98–99; and law of nations, 97, 98; Congress will not reverse decisions by, 105; impeachment of, 105–6; will not endanger legislative authority, 105–6; will assure fair trials, 160; no danger from, 181; will probably be organized properly by Congress, 182; judges should take oaths in impeachment cases, 304–5; grand juries necessary to indict in cases with capital or infamous punishment, 348; summary of proposed amendments concerning, 348–49

- inferior courts: creation of, 106–7, 114, 116, 304, 324, 349; appellate jurisdiction of from state courts, 114; Va. and N.C. conventions propose limited number of, 204–5, 318
- -- jurisdiction of: in suits between citizens of different states, 46; in cases of states and citizens of other states, 52; over foreigners, 52, 256; too extensive, 73, 111n, 204-5, 275, 300, 305, 318; defense of, 97-102, 103-11, 117, 255, 256; appeals under should be limited, 107; concurrent with state judiciaries, 112-13; and appeals from state courts, 114; restrictions on in civil cases, 188, 188n-89n; states cannot be tried by, 300; appeals only for matters of law, 300, 348; treaties cannot be used to increase, 349
- Supreme Court: jurisdiction of should not include facts, 77; defense of jurisdiction of, 103-6, 107, 110; defense of appellate jurisdiction of as to facts, 108-10; appellate jurisdiction of from state courts, 113-14; dual officeholding by prohibited, 305, 349; review of cases decided by, 305, 349; no appeal of civil cases under certain value, 348; no appeal of criminal cases to, 348; jurisdiction of limited with respect to states, 349; proposed amendment outlining appellate jurisdiction of, 349; proposed amendment outlining original jurisdiction of, 349; John Adams as possible first Chief Justice of U.S., 395

See also Common law; Great Britain, legal and judicial system of; Judicial review; Judiciaries, state; Jury trials

JURY TRIALS, 6; endangered by Constitution, 75; necessary for liberty, 75, 118, 179, 299; do not exist at federal level under Articles of Confederation, 102n, 121–22; defense of Constitution's provisions for, 108–10, 115–27, 128; not necessary in every case, 118, 122, 125, 126; utility of in preserving private property, 120; in states under Articles of Confederation, 120–21, 121; required in civil cases if requested, 188; required in cases involving citizens of different states, 349

- proposed amendments concerning, 42, 123, 399n; in civil cases, 42, 77, 202, 315; guaranteeing in criminal cases, 77, 298–99; guaranteeing in vicinage of, 201–2, 315; protecting peremptory challenges in, 205, 318–19
  See also Due process of law
- JUSTICE: Constitution will promote, 161– 62, 210, 245, 255, 267, 292, 342, 361, 385n, 386; proposed amendments making freely available to all, 202, 315; as attribute of federalism, 384. See also Due process of law

Kean, John (S.C.): id., 175n; 174

- KENTUCKY: separate statehood for, 4, 31, 32n, 151, 153n, 228–29, 325; and Indian attacks, 12; delegates from to Va. Convention oppose Constitution, 30, 48, 64n, 189; Antifederalists in, 148, 149; Spain wants to annex, 149n; emigration from, 175; population of, 228
- KING, RUFUS\* (Mass.; Vol. 1, 555n), 31, 32n
- KNOX, HENRY (Mass.; CC:Vol. 1, 280n-81n)
- -letters from, 176-77, 211-12n; quoted, 212n; cited, 212n
- -letter to: cited, 212n
- LAFAYETTE, MARQUIS DE (France; CC:Vol. 2, 487n), 221
- -letters to, 82-83, 183-84, 220-21
- LAMB, ANTHONY (N.Y.), 49, 65n
- LAMB, JOHN (N.Y.): id., 61n; and N.Y. Federal Republican Committee, 33-35; receives Monroe's pamphlet, 73
- -letters from, 36-37, 48; quoted, 73; cited, 51
- letters to, 38-39, 39-40, 40-45, 45-47, 47-48, 48-49, 50-51, 51-53, 53-55, 55-57, 57-58, 58-59, 59-61; quoted, 35, 173n; cited, 49, 78n

- LANCASTER, PA.: as possible site for federal capital, 322, 323, 365
- LANDED INTEREST: Supports Constitution, 332. See also Property, private
- LANGDON, JOHN\* (N.H.; CC:Vol. 2, 157n): in N.H. Convention, 186, 194; forwards news of N.H.'s ratification, 212
- -letters to, 167-69n; quoted, 176
- speech of to N.H. General Court, 194-95, 198n
- LANSING, ABRAHAM G. (N.Y), 405n
- LANSING, JOHN, JR. (N.Y.; CC:Vol., 3, 366n), 53, 66n; opposes Constitution, 21; in N.Y. Convention, 220n, 293, 295, 296
- LARGE VS. SMALL STATES: and equal representation of states in Senate, 73, 181, 387
- LAURENS, HENRY (S.C.; CC:Vol. 1, 367n), 21, 22n
- Law of NATIONS: and federal judiciary, 97, 98
- Laws: proposed amendments prohibiting suspension of, 42, 201, 315; proposed amendment establishing two-year trial period for, 77; judiciary secures upright and impartial administration of, 88; subservient to written constitutions, 103–4; to be respected, 170; should be steady, 170; as better restraint on government than a constitution, 182; Constitution creates government of instead of men, 234, 361; should reflect complexion of constitution, 240; Constitution will promote, 262; executive is to execute in dernier resort, 329. See also Justice
- LAWYERS: support Constitution, 54, 55; criticism of, 266
- LEAR, TOBIAS (N.H., Va.; CC:Vol. 2, 157n)
- -letter from: quoted, 186-87
- -letter to: cited, 208n
- LEE FAMILY, 21
- LEE, ARTHUR (Va.; CC:Vol. 1, 308n), 21, 63n, 358n
- -letter from: quoted, 272n
- -letters to, 271-72; quoted, 206n, 373n
- Lee, Francis Lightfoot (Va.), 358n
- LEE, HENRY (Va.; RCS:Va., 527), 357, 366 -letter from, 353

-letter to, 354–55

LEE, RICHARD HENRY (Va.; CC:Vol. 1, 282n-83n), 4, 147, 148n; opposes Constitution, 21, 358n; and N.Y. Federal Republican Committee, 33; abuse of in newspapers, 78

- letters from, 57-58, 74-79n; cited, 57, 78n
- -letters to, 36-37, 178-83n
- LEGAL TENDER: See Tender laws
- LEGAL WRITERS: See Political and legal writers and writings
- LEGISLATIVE BRANCH: judiciary limits oppression of, 88; terms of delegates of should be three to four years, 329. See also Congress under Constitution; House of Representatives, U.S.; Senate, U.S.
- LELAND, JOHN (Va.; CC:Vol. 4, 254n), 85
- L'ENFANT, PIERRE CHARLES (Va.), 291
- LÉTOMBE, PHILIPPE ANDRÉ JOSEPH DE (France): id., 198n
- -letter from, 194-99n
- LIBELS, 6
- LIBERTY: See Bill of rights; Civil liberties; Due process of law; Natural rights
- LINCOLN, BENJAMIN (Mass.; CC:Vol. 2, 332n), 159, 177, 195
- -letters from: quoted, 275n, 328; cited, 274
- -letters to, 176-77; quoted, 159, 208n, 209n, 375n
- LIVERMORE, SAMUEL (N.H.), 186
- LIVINGSTON, ROBERT R. (N.Y.; CC:Vol. 5, 393n-94n), 287, 293
- LONG ISLAND, N.Y., 70, 271
- LOUDON, SAMUEL (N.Y.), 327
- LOW, SAMUEL (N.Y.), 291
- LOWNDES, RAWLINS (S.C.; CC:Vol. 3, 488n): id., 65n; opposes Constitution, 21; and N.Y. Federal Republican Committee, 35; refuses to serve in S.C. Convention, 51, 57, 67n
- -letters from, 50-51; quoted, 35
- speech of in S.C. House of Representatives: quoted, 65n
- LOYALISTS: Federalists linked to, 5, 55, 373; harsh treatment of in S.C., 66n; wealthy money lenders became, 226; Antifederalists described as, 260, 378. See also American Revolution
- LUXURIES: excessive importations of, 21, 190, 251, 253–54, 396. See also Commerce; Corruption; Virtue
- LUZERNE, CÉSAR-HENRI, COMTE DE LA (France): id., 18n

- -letters to, 16-18, 19-20, 165-67n, 171-73n, 194-99n, 260-61, 331-33, 345-50n
- M'CALMONT, JAMES (Pa.; CC:Vol. 4, 95n), 371
- McCaul, Alexander (Scotland): id., 326 —letter from, 326
- MCGILLIVRAY, ALEXANDER (Ga.), 372; leads Creeks, 12–13, 152, 153n
- McGregor, Collin (N.Y.; CC:Vol. 4, 140n)
- -letter from, 360-61
- MCHENRY, JAMES\* (Md.; CC:Vol. 2, 294n), 64n
- МсКели, Тномая (Pa.; CC:Vol. 3, 7n, 71n), 268n
- McKesson, John (N.Y.), 301, 305
- M'LEAN, ARCHIBALD (N.Y.), 83, 291
- M'LEAN, JOHN (Va.), 83, 328
- MADISON, JAMES\* (Va.; CC:Vol. 1, 219n): and N.Y. Federal Republican Committee, 33; receives copy of Monroe's pamphlet, 73; on treaties, 149n; on prospects of Va. ratification, 189; as possible first Vice President of U.S., 325; on site of federal capital, 366; and call of Constitutional Convention, 388, 388n; praise of, 388
- letters from, 24–31n, 286–88n, 321–22,
  322–24n, 343–45; quoted, 69, 212n,
  278, 322n, 323n–24n; cited, 293, 296
- -letters to, 148-49; quoted, 15n, 62n, 68-69, 69, 85, 85-86, 146n, 176, 277, 285n-86n, 288n, 324n, 345n; cited, 82n, 212
- The Federalist: as author of, 15, 85, 86, 322, 357n; distribution of, 85, 356n-57n
- MADISON, JAMES, SR. (Va.), 85

MAINE, 149

MANUFACTURES: Constitution will promote, 19, 163, 165, 185, 210, 262, 270; at a standstill under Confederation, 70; U.S. will import for many years, 163; should be encouraged, 170; cotton, 171, 171n, 265; are increasing, 240; and Philadelphia celebration, 263–64, 265; U.S. is not ready to develop on large scale, 362; Americans should purchase domestically-produced, 384; benefits of to American economy, 384; criticism of lack of government power to encourage, 396

#### COMMENTARIES ON THE CONSTITUTION

MARIETTA, OHIO, 335, 335n

MARTIN, LUTHER (Md.; CC:Vol. 2, 295n), 51; criticism of, 10, 11; opposes Constitution, 21, 48; in Md. Convention, 64n, 285n

- Genuine Information, 11, 93, 94n

- MARYLAND: Antifederalists in, 10, 13, 278, 279; apathy among people of, 48; majority of people in favors amendments, 48; ratification by received in S.C., 55, 67n; influence of ratification by on S.C., 56, 171, 173n; election of House of Delegates of, 64n; constitution of as model for federal judiciary, 105; cities in are Federalist, 166; celebration of ratification in, 174
- Convention of, 169; ratifies Constitution, 11, 14, 16, 19, 20, 31, 70, 80, 82, 147, 165, 166, 183, 270, 279; criticism of majority's tactics in, 13; amendments proposed in, 13–14, 19, 21, 165, 166; use of Jefferson letter by Antifederalists in, 286–87, 288n; meeting of delayed, 371

See also Annapolis; Baltimore; Potomac River

- MASON, GEORGE (Va.; CC:Vol. 1, 196n): and N.Y. Federal Republican Committee, 33, 34; chairs Republican Society in Va. Convention, 33–34, 38, 39; as nonsigner of Constitution, 79; opposes paper money, 80n; in Va. Convention, 199–200; opposes Constitution, 286– 88n
- -letters from, 40-45, 79-80; cited, 49
- -letters to, 49-50; cited, 49
- objections of to Constitution, 79, 80n
- MASSACHUSETTS: praise of acquiescence of Antifederalists in, 10, 285, 406; people of are tranquil and united, 31–32; Federalists gaining ground in, 166, 172, 196, 274, 275n; influence of on N.H., 172; Constitution will improve economic conditions in, 196; internal improvements in, 196; moderation of party spirit in, 196; and N.H.'s ratification, 197; is at peace politically, 229; first federal elections in, 330, 364; exports from exceed imports, 336, 336n–37n
- constitution and government of: salaries of judges in, 96, 96n; court system of, 105, 121; colonial militia law of, 161; statute of limitations in, 170; House of Representatives of, 170; Senate of, 170;

election of governor and lt. governor of, 195, 284–85; legislature of meets, 195; description of spring 1788 session of legislature of, 196; Shaysites and Antifederalists defeated for election to legislature of, 196; legislature's policy toward Shaysites, 196; tender laws of repealed, 379

- Convention of: praise of method of ratifying with proposed amendments, 3, 81, 82n, 180; minority of acquiesced with Constitution, 10; tricked into ratifying by promises of amendments, 13-14; printed volume of Debates of distributed, 15n, 377n; has ratified with recommended amendments, 20, 21, 75, 77, 80, 156, 166, 180, 182, 183n, 188n-89n, 270; amendments recommended by as basis for Va. amendments, 40; criticism of method of recommending amendments by, 46; recommended amendments of read by S.C. Convention, 71n; answer to recommended amendments to Constitution concerning jury trials in civil cases, 123-24, 127n; method of recommended amendments adopted by S.C., 169; N.H. adopts amendments similar to, 187; Va. would follow ratification model set by, 211 See also Boston; Maine
- MECHANICS: are Federalists, 55; difficult times for, 226; and Philadelphia celebration, 264. See also Artisans
- MEIGS, JOSIAH (Conn.), 235
- MERCER, JOHN FRANCIS (Md.; CC:Vol. 2, 398n; Vol. 5, 256n), 48, 64n, 285n
- MERCHANTS: expect to benefit under Constitution, 19; support Constitution, 54, 55, 166, 332; hard times for, 226. See also Commerce; Duties
- MEREDITH, SAMUEL (Pa.): id., 338n
- -letters to, 337-39n; quoted, 366
- MIDDLE STATES: laws for emancipation of slaves in, 241
- MILEY, JACOB (Pa.), 371
- MILITARY: proposed amendments subordinating to civilian authority, 43, 203, 298, 316; proposed amendments concerning length of enlistments of, 45; danger from power over purse and sword, 180–81; President not to take command in field without congressional approval, 346. See also Appropriations;

Army; Army, standing; Militia; Navy; Quartering of troops

- MILITIA, 41; proposed amendment concerning, 43; limits on federal government's use of, 71n, 282–83, 300, 305, 348; criticism of Constitution's provision concerning, 79; yeomen will make up, 160; praise of Constitution's provision concerning, 160–61, 282–83; importance of, 202, 298, 316, 329; proposed amendments that states provide for if Congress does not, 204, 318; should not be subject to martial law in peacetime, 298. See also Army; Army, standing; Military
- MILLER, GEORGE (Great Britain), 55
- -letter from: quoted, 66n
- MIRABEAU, COMTE DE (France), 23
- MISSISSIPPI RIVER: debate over free navigation of, 24–30, 148, 149n; Spanish will cede to U.S. if Constitution is adopted, 380
- MIXED GOVERNMENT: praise of Constitution for providing, 165. See also Government, debate over nature of
- MONARCHY: danger of from Constitution, 6, 58, 73, 81, 183, 376; support for in U.S., 21; attempts to limit in France, 22-23; hereditary better than elective, 81; good-behavior tenure of judiciary limits despotism in, 88; wish that Washington had a son, 221; happiness of people under depends on beneficence of ruler, 254; different from republican form of government on effect on men's minds, 263-64; praise of, 273. See also Aristocracy; Despotism; Great Britain, monarchs and monarchy of; President, U.S.
- MONEY: value of tied to morals of nation, 18; Congress should not be allowed to change value of once coined, 52–53; Constitution will bring forward for loans, 162; increased demand for, 225– 26; shortage of circulating medium of exchange, 225–26; scarcity of specie, 276; Congress should need two-thirds vote to borrow, 302, 347; capital stock is small and limited in America, 362; gold and silver described as federal money, 384; home manufactures will keep in U.S., 384; quantity of will be increased by payment of public debt,

391. See also Installment acts; Monied men; Paper money; Tender laws; Usury

- MONIED MEN, 226; Constitution will protect property of, 145; will feel safe under Constitution, 162; favor Constitution, 263
- MONOPOLIES: Congress should not grant or erect, 302, 319, 348
- Monroe, James (Va.; CC:Vol. 1, 455n): id., 74
- letters from: quoted, 72, 73, 73-74; cited, 288n
- -letter to: quoted, 74
- Some Observations on the Constitution, 48, 72–74
- MONTESQUIEU, CHARLES, BARON DE (France; CC:Vol. 1, 337n), 88, 93, 94n, 228, 230, 231n
- MONTGOMERY, RICHARD (N.Y.), 320, 321n
- MONTMORIN, COMTE DE (France; CC:Vol. 1, 261n)
- -letters to, 11-13, 143-46n, 151-53, 189-94n, 308-12n, 333-35
- MOSLEMS, 380
- MOUSTIER, COMTE DE (France; CC:Vol. 4, 82n-83n), 193n, 333
- -letters from, 11-13, 143-46n, 151-53, 189-94n, 308-12n
- MUSIC: Alexander Reinagle, *The Federal* March, 248–49n; at Philadelphia celebration, 263
- MUTINY ACT: proposed amendment limiting to two years, 45
- "A NATIVE OF BOSTON" (Jonathan Jackson), 326–31
- NATURAL ARISTOCRACY: alone fit to govern, 329; upper house of legislature would represent, 329; praise of, 331. See also Aristocracy
- NATURAL RIGHTS, 254; existence of, 41, 201, 297, 314; if Constitution is rejected Americans will be thrown into state of nature, 154; best understood at time of American Revolution, 249–50; America contended for during Revolution, 250–51. See also Bill of rights; Civil liberties; Social compact
- NATURALIZATION: See Citizenship; Immigration
- NAVY: will be created under new government, 149, 160, 162; necessity of, 160, 264

#### COMMENTARIES ON THE CONSTITUTION

NEALE, ABNER (N.C.), 313

- THE NETHERLANDS: See Governments, ancient and modern
- NEW ENGLAND: emigration of to western lands, 25; delegates of in Congress oppose Ky. statehood, 31; people are less fearful of Constitution than are wealthy of South, 183; Southern States have used to advantage in drafting Constitution, 351. See also Eastern States; North vs. South; Northern States
- New HAMPSHIRE: Antifederalists in, 52, 53, 285, 293; legislature of should communicate with N.Y. on amendments, 53; legislature of should propose amendments to Constitution, 53; will be influenced by Va.'s actions on Constitution, 68, 76, 77, 81, 174; influence of Conn. and Mass. on, 172; ratification by will influence Va., 172, 211; ratification by is not critical to Va.'s and N.Y.'s ratification, 189–90; Antifederalists in acquiesce, 285, 293; ratification by has good effect on N.Y., 389
- constitution and government of: House of Representatives of contains majority of Antifederalists, 53; meeting of legislature of, 65n; court system of, 105, 121; election for president of, 194; speech of president of to legislature quoted, 194; Senate's response to President Langdon's speech, 195, 198n
- prospects for ratification in: good, 11– 12, 14, 172, 183, 189, 368, 368–69, 375; uncertain, 16, 177
- Convention of: meeting of, 16, 166, 381; adjournment of, 20, 70, 80; ratifies Constitution, 35, 51–52, 147, 192, 194, 195, 207–9n, 211, 270, 287, 290, 291, 293, 331, 381–83, 384; recommends amendments, 35, 52, 186–89n; attempts at cooperation with N.Y. and Va. conventions, 37, 38, 46–47; report of speech in, 64n; "Fabius" essays attempt to influence, 169n; defeat of motion to adjourn without ratifying, 186
- news of and celebrations of ratification by: celebrated in New Haven, 194; Mass. response to, 197; celebrated in Newport, R.I., 197, 384–85, 387, 389; celebrated in Alexandria, Va., 207; sent to N.Y. and Va., 212; reaches Va., 212; received by Confederation Congress, 212– 13, 365; celebrations of, 221–54;

reaches Providence, 231, 387; arrives in N.Y., 294

- New HAVEN, CONN.: celebrates N.H. ratification, 194; Fourth of July oration in, 235–42
- New JERSEY: unanimous in favor of Constitution, 10; has ratified, 20, 80, 166, 270; pays taxes to neighbors through import duties, 29, 175; court system of, 120, 121; and debate in Confederation Congress, 191, 193n; paper money of, 276, 394; first federal elections in, 276– 77; impact of Hessian fly in, 287; as possible site for federal capital under Constitution, 323; Staten Island will join if N.Y. fails to ratify, 370
- NEW YORK, 54; support for amendments in, 4, 211, 257; delegates of do not attend Confederation Congress, 31; N.H. legislature should communicate with on amendments, 53; importance of ratification by, 57, 152-53, 192, 194; and Vt. statehood, 152; danger to if it does not ratify, 152-53, 370; conflicts with neighbors over commercial policy, 175; opposition of to Impost of 1783, 177; and news of N.H.'s ratification, 212; southern parts of will secede if state does not ratify Constitution, 271, 393; impact of Hessian fly in, 287; and location of federal capital, 287, 350; impact of ratification by on state debt of, 360; people much divided in, 371; must ratify Constitution, 387; report it withdraws from Union. 401
- Antifederalists in, 54, 62n, 70, 168, 175, 189–90, 333; strongest in, 16; cooperate with Va. Antifederalists, 32–68; praised, 49; favor separate confederacies, 190; want to reduce commercial ties with Europe, 190; insist on amendments, 211; N.C. Antifederalists counted on by, 332; criticism of, 399, 400, 401n; support ratification, 405. See also New York City; New York Convention
- Federalists in, 54, 70, 145, 153; are best people and orators, 16; called advocates of despotism, 49; three-sevenths of people support Constitution, 177; gaining strength in, 212n, 279–80, 388, 389; use federal capital location as bait, 310; own nine-tenths of property of, 393. See also New York City; New York Convention

- constitution and government of: tenure of judiciary of, 87, 93n-94n; impeachment of judges, 95, 96n; age limit for judges, 95-96; equity courts in, 101, 118; Council of Revision of, 104; jury trials in, 118, 121, 126; tax system of, 119; protects some privileges and rights, 128; has no bill of rights, 128, 130; adopts common law of England, 128, 136n-37n; constitution of does not protect certain rights, 129; U.S. Constitution resembles, 137-38; same objections to as Antifederalists find in U.S. Constitution, 138
- prospects for ratification in: will probably ratify, 4, 20, 277, 293, 322n; good, 11, 57, 168, 277, 369, 388, 389; uncertain, 16, 20, 207–8, 271, 274, 279–80, 287; will be bullied into adopting, 31; will follow Va.'s lead, 53, 68, 76, 77, 81, 145, 174, 174–75, 388, 389; unfavorable, 70, 176, 194, 207–8, 271, 272n, 393; will ratify if other states do, 172; influence of N.H. ratification on, 189–90, 389; will ratify with conditions, 206; cannot deny fact that ten states have ratified, 208; hesitating to ratify, 271

See also Albany; Albany County; Dutchess County; Half-Moon District; Long Island; New York City; New York Convention; Staten Island

- New YORK CITY: Federalists in, 144, 152– 53, 393; as site of federal capital under Constitution, 151, 191, 193n, 256–57, 287, 322, 323, 324n, 332–33, 333, 336, 338, 343, 343–44, 350, 351, 360–61, 365, 405–6, 406n; news of S.C. ratification arrives in, 152; may be held by France in lieu of U.S. debt to, 191; celebration in, 221, 259, 260n, 271, 290– 92, 309–10, 311n; will not welcome returning Antifederalist members of N.Y. Convention, 257; will secede from N.Y. if state does not adopt Constitution, 271, 393; mob in attacks Greenleaf's press, 310, 311n–12n
- NEW YORK CONVENTION: meets in June, 16, 80, 166; debates and proceedings of, 50, 294–97; election of, 61n, 62n, 64n, 70, 369; speeches in quoted, 64n–65n; address to, 175–76; Congress awaits decision of before locating federal capital and calling first federal elections, 195,

256, 309–10, 337, 365; recommendation that it adjourn without doing anything, 208; in session, 290, 291, 293, 381, 392; ratifies Constitution, 294– 307, 308, 321, 331, 360, 365, 397, 405; ratification of read in Congress, 296; supports call of second constitutional convention, 296; acrimonious debate in, 393; ratification by celebrated in Newport, R.I., 397; ratification by celebrated in Philadelphia, 397

- and amendments to Constitution, 59, 169, 220n, 258n, 287, 295, 295–96, 339; are not local, 6–7; text of proposed declaration of rights, 297–301; enjoins delegates to first federal Congress to obtain, 301; text of proposed amendments, 301–5; criticism of, 343, 399
- Antifederalists in, 294–95; have majority, 37, 38, 47, 49, 144, 152–53, 169, 171–72, 177, 183, 208, 211, 212n, 277, 287, 293, 325, 393; appoint a committee of correspondence, 50; leaders of, 293; praise of acquiescence of, 397
- Circular Letter of, 296, 306-7; criticism of, 321, 323, 331, 343, 345n, 352, 400; Federalists vote for to secure federal capital, 343
- Federalists in, 147, 294; gaining ground in, 212n, 388, 389; leaders of, 293; vote for to secure federal capital, 343; praise of, 397
- NEW YORK FEDERAL REPUBLICAN COMMIT-TEE: attempts to cooperate with Va. Antifederalists, 32–68
- circular letter of, 38
- NEWENHAM, SIR EDWARD (Great Britain; CC:Vol. 3, 92n)
- -letter to, 358-60n
- NEWFORT, R.I.: petitions for state convention, 166; may be held by France in lieu of U.S. payment of debt to, 191; celebrates N.H. ratification, 197, 384–85, 387, 389; as possible location of federal capital, 351; strength of Federalists in, 389; will allegedly petition Congress to divide R.I. between Mass. and Conn., 393; celebrates N.Y.'s ratification, 397
- NEWSPAPERS: Federalists control of, 5, 46, 55; Antifederalists fill with items addressed to passions, 17; criticism of Federalist partisans in, 78; criticism of for treatment of public defaulters, 133; as guardians of liberty, 133, 375; taxed in

### COMMENTARIES ON THE CONSTITUTION

Great Britain, 136; circulation of, 407– 13. *See also* Press, freedom of the; Printers and booksellers

- in Connecticut
- Connecticut Journal: material from quoted, 235
- Middlesex Gazette: material printed from, 396
- in Europe

- Courier de l'Europe, 16

- in Georgia
- Gazette of the State of Georgia: material printed from, 249
- in Maryland
- Baltimore Maryland Gazette: material quoted from, 159
- Maryland Journal: material printed from, 22-24, 385
- in Massachusetts
- Boston American Herald (CC:Vol. 1, xxxii-xxxiii): material from quoted, 187
- -Boston Gazette: material printed from, 187, 377; material from quoted, 385n
- Hampshire Chronicle: material printed from, 254-55, 391-92n
- Independent Chronicle, 158; material printed from, 370-71; material from quoted, 371n, 381
- Massachusetts Centinel (CC:Vol. 1, xxxvixxxvii): material printed from, 374, 379, 380, 381-83, 385-86, 386, 386-87, 390n-91n, 393, 394-95, 402, 404; material from quoted, 187, 371n, 374n, 391n, 403n-4n
- Massachusetts Gazette: material printed from, 368-69, 377-78, 391; material quoted from, 377n, 385n, 402n-3n
- Massachusetts Spy: material printed from, 288-90, 392, 402-3n
- Salem Mercury: material from quoted, 289
- in New Hampshire
- Freeman's Oracle, 64n; material from quoted, 46
- New Hampshire Gazette, 381; material printed from, 388

- New Hampshire Recorder: material printed from, 398
- New Hampshire Spy, 381; material printed from, 187, 368; material from quoted, 64n, 186, 221-22, 370n

- New Jersey Journal: material printed from, 185, 369, 383

— in New York

- Albany Journal, 47; material printed from, 320-21
- American Magazine, 137; material from quoted, 86, 143n, 330-31
- Country Journal: material from quoted, 296
- Daily Advertiser, 83, 146n; material printed from, 373, 376-77, 390-91n, 393-94; material from quoted, 66n, 290, 291
- Federal Herald: material printed from, 403-4n; material from quoted, 288, 387, 404n
- Independent Journal, 84; material from quoted, 83, 366
- New York Journal (CC:Vol. 1, xxxviixxxviii), 62n-63n, 64n, 66n; material printed from, 290-92, 373-74n, 375, 381; material from quoted, 67n, 84, 311n, 312n, 401n; mob attacks, 310, 311n-12n
- -New York Packet: material from quoted, 291
- in Pennsylvania
- -Federal Gazette: material from quoted, 210n-11n
- Independent Gazetteer (CC:Vol. 1, xxxvxxxvi), 63n, 84; material printed from, 4-6, 13-14; material from quoted, 399n
- Pennsylvania Gazette (CC:Vol. 1, xxxviiixxxix), 68–70; material printed from, 175–76, 269–70, 277–86n, 369–70, 378–79n, 383, 384, 387–88, 394, 395, 397, 398–99n, 399, 399–400, 405–6; material from quoted, 214n, 242, 243, 243–46, 246, 268n–69n
- Pennsylvania Mercury: material printed from, 7-11, 209-11n, 261-69n, 396
- Pennsylvania Packet: material printed from, 149-51, 372-73, 375-76n, 379-80, 385, 389-90, 392-93, 406; material from quoted, 127n, 242

<sup>-</sup> in New JERSEY

#### INDEX

- in Rhode Island
- Newport Herald: material printed from, 371-72, 384-85, 388-89, 392, 397, 405; material from quoted, 33, 199n
- Providence Gazette, 84; material printed from, 339-41
- United States Chronicle: material printed from, 372, 374–75n, 376; material from quoted, 231
- in South Carolina
- City Gazette, 381; material from printed, 382; material from quoted, 86
- Columbian Herald, 71n, 169n; material printed from, 158-65
- State Gazette of South Carolina, 71n; material from quoted, 65n, 67n
- in Vermont
- Vermont Journal: material printed from, 400
- in Virginia
- -Norfolk and Portsmouth Journal: material from quoted, 83-84
- Petersburg Virginia Gazette: material printed from, 395, 398
- Winchester Virginia Gazette: material printed from, 404-5n
- Virginia Independent Chronicle, 84; material printed from, 70, 380-81n
- NICHOLAS, GEORGE (Va.; CC:Vol. 2, 398n; CC:Vol. 4, 129n), 200
- -letter to, 24-31n

NICOLSON, THOMAS (Va.), 80n

- NOBILITY, TITLES OF: officeholders of U.S. cannot accept, 71n, 188; praise of Constitution's prohibitions of, 128, 129, 138, 160; praise of lack of in U.S., 230. See also Aristocracy; Monarchy
- Non-Resistance, Doctrine of: criticism of, 41, 201, 314
- North, Captain (N.Y.), 65n
- NORTH CAROLINA, 147, 310, 323; support for amendments in, 4, 35, 59, 60; Antifederalists in, 35, 54, 59, 146n, 172, 332, 376, 405n; Federalists in, 54, 60, 145, 146n, 376, 404; problems of with Indians, 70; judiciary of, 105, 121; and circulation of "A Pennsylvanian," 176; and paper money, 176, 401; and possible separate confederacy with Va., 190; importance of ratification by to com-

plete Union, 194; and new federal capital under Constitution, 333; impact of its rejection of Constitution on backcountry Va., 336; should ratify to assist in obtaining amendments, 339–41; delegates of to Confederation Congress abstain from voting on federal capital location, 343, 361; Assembly of debates Constitution, 376; menaced by John Sevier, 404

- prospects for ratification in: good, 4, 11–12, 20, 31, 70, 169, 207, 209n, 287, 307, 325, 370, 374, 377, 393, 394, 395; uncertain, 16, 274, 376; unfavorable, 40, 54; will follow Va.'s lead, 59, 68, 76, 77, 81, 152, 177, 189, 194, 260, 293, 333, 376, 378, 395; will ratify if other states do, 172; will decide on ratification next month, 271; will ratify if S.C. ratifies, 376, 395; must ratify, 387
- Convention of: to meet, 16, 80, 166, 381, 392; N.Y. Antifederalists will write to, 37; and distribution of proposed Declaration of Rights, 59, 68n; description of proceedings of, 59-60; refuses to ratify, 60, 332, 333, 335-36, 336, 339, 360, 365, 399n, 401, 401n, 402, 402n-3n, 404; use of Jefferson letter in by Antifederalists, 82n, 288n; violence in election of, 144, 146n; Congress awaits word from before calling first federal elections, 195; in session, 287, 293, 321, 394, 395, 398, 404; bill of rights and amendments of similar to those of Va. Convention, 312; amendments proposed by, 312-20; Antifederalists in, 312-20, 395, 398; Samuel Johnston elected president of, 404
- NORTH vs. SOUTH: New England needs to be united against South, 31–32; New York City as capital would be viewed as anti-South action, 344. See also Northern States; Southern States
- NORTHERN STATES: jealous of Southern States, 18; oppose Ky. statehood, 152; laws in for emancipating slaves, 241, 242n; R.I. should ratify Constitution to add strength to in Senate, 387. See also Eastern States; New England; North vs. South; Southern States
- NORTHWEST TERRITORY: British retain posts in, 29, 191, 228, 386; Indians in, 334, 335n; considerable power of gov-

#### COMMENTARIES ON THE CONSTITUTION

ernor of, 335. See also Ohio Company; Western lands

- OATHS: for federal and state officeholders, 72, 76; to be taken by judges in impeachment cases, 304–5; federal officeholders should take not to violate state constitutions or rights, 305, 347
- Ochlocracy, 196
- AN ODE (Francis Hopkinson), 246-47
- Ode on the Adoption of the Constitution (William Pitt Smith), 290–92
- OFFICEHOLDERS, STATE: in Pa. oppose Constitution, 10–11, 401; oppose Constitution for selfish reasons, 17, 400, 401n; in N.H. favor Constitution, 52; Constitution protects against ambition of state and local leaders, 138; in N.Y. oppose Constitution, 401. See also Officeholding
- OFFICEHOLDERS, U.S.: criticism of appointment power of, 6; members of Congress prohibited from holding positions, 44, 302, 303, 317, 346; proposed amendments concerning prohibition of dual officeholding for judges, 45, 305, 349; oaths for federal and state, 72, 76; states under Constitution will act as a check upon, 132-33; will not cause a large increase in expenditures, 133-35; will not increase significantly under Constitution, 134; open to all with merit and talent, 160; prohibited from accepting titles of nobility from other countries, 188; quality of depends on virtuousness of people in elections, 245-46; Confederation Congress cannot raise money to pay, 252; importance of in establishing new government, 271; commission for should be issued in name of people, 304; should take oath not to violate state constitutions or rights, 305, 347. See also Appointment power; Emoluments, presents, etc.; Impeachment; Officeholding OFFICEHOLDING: should not be hereditary,

41, 201, 314

OGILVIE, PETER (N.Y.): id., 258n; 256

Ohio Company, 30n

OLIGARCHY, 17

O'NEAL, JAMES (Barbados)

-letter to, 255

Orange County, N.Y., 70

AN ORATION (Simeon Baldwin), 235-42

AN ORATION (Enos Hitchcock), 231-35

- AN ORATION (Harrison Gray Otis), 224-31n
- AN ORATION (Jonathan Mitchell Sewall), 221–23
- OSBORNE, GEORGE JERRY (N.H.), 222
- OSGOOD, SAMUEL (Mass.; CC:Vol. 3, 267n): id., 258n
- -letter from, 256-58
- OSTER, MARTIN (France), 193n
- Oswald, Eleazer (Pa.; CC:Vol. 1, xxxvxxxvi): and N.Y. Federal Republican Committee, 33, 34, 38, 39, 40, 48, 62n, 73. See also Newspapers, in Pennsylvania, Independent Gazetteer
- OTIS, HARRISON GRAY (Mass.): id., 224 - oration of, 224-31n
- OTIS, SAMUEL A. (Mass.; CC:Vol. 2, 235n-36n)
- -letters from, 31-32; quoted, 32n
- OTTO, LOUIS-GUILLAUME (France; CC:Vol. 1, 425n)
- -letter from, 333-35
- Owen, Daniel (R.I.), 196-97
- PAINE, STEPHEN (Conn.), 289
- PAINE, THOMAS (Pa.; CC:Vol. 2, 488n), 209, 210n, 222, 237, 242n
- PAMPHLETS: See Broadsides, pamphlets, and books
- PAPER MONEY, 53; in Pa., 11, 338n-39n, 339n; criticism of, 18, 80n, 335-36, 396; states prohibited from issuing under Constitution, 97, 100-101; debtors want and therefore oppose Constitution, 144; praise of Constitution's prohibition of, 162, 255, 256, 263, 386, 394; and N.C., 176, 319, 335-36, 401; and R.I. policies of, 194, 274, 335-36, 371n, 379, 385n, 401; too much issued because of war, 226; effect of Constitution on money in circulation, 276; amendment prohibiting Congress or courts from interfering with redemption, 347; N.I. calls for redemption of its. 394. See also Installment acts; Money; Stay laws; Tender laws
- PARADISE, JOHN (Va.), 14
- PARDONS AND REPRIEVES, 304, 346

PARSONS, ELI (Mass.), 196, 198n

- PARSONS, SAMUEL HOLDEN (CONN.; CC:Vol. 3, 317n; CC:Vol. 5, 191n), 30n
- PARTIES, POLITICAL: See Political parties

- PARTY SPIRIT: partisanship concerning Constitution, 21; N.Y. Antifederalists do not act from, 37; warm in Albany County, N.Y., 70, 405n; criticism of Antifederalists for, 138–39; *The Feder*alist avoids, 138–39; will not rule under new Constitution, 141; call for compromise instead of, 142–43, 217–18, 373; over Ky. statehood, 151; moderating in Mass., 196; and danger of civil war, 215–16; Constitution should be adopted and amended to avoid, 219; should be avoided, 229–30, 253–54, 279; in R.I., 392. See also Factions; Political parties; Sectionalism
- PASSIVE OBEDIENCE: objection to principle of, 41, 201, 314
- PATENTS, 304, 346
- "A PATRIOTIC CITIZEN," 7-11
- PATRIOTISM: Antifederalists do not have, 7; Federalists have, 7; Antifederalists have, 13, 20, 46, 52, 59, 79; will cause Constitution to be administered properly, 141; deny bad reports about U.S., 150; not strong enough to allow Articles of Confederation to work, 154; continued opposition to Constitution would be incompatible with, 155; Constitutional Convention praised for, 159, 233, 238; use of by Antifederalist demagogues, 167; of John Sullivan, 211; of John Adams, 213; of American Revolution, 227, 233, 236, 237; need for, 242, 253-54; and celebration of ratification of Constitution, 262; of George Washington, 354; as attribute of federalism, 384; praise of, 398. See also America; American Revolution; Public spirit; Self-interest; Virtue
- PEACE: and federal judiciary, 97, 98; Constitution will promote, 182, 195, 214, 254-55, 262, 386, 392-93; must be preserved, 217. See also Civil war; Insurrections, domestic; Violence; War
- PENDLETON, EDMUND (Va.; CC:Vol. 1, 219n), 200; id., 78n, 183n
- -letter from, 178-83n
- -letters to, 74-79n; cited, 57
- PENNSYLVANIA: land dispute with Conn., 102n, 225, 230n; Constitutionalist Party in, 338, 339n; vote of delegates from in Congress calling first federal elections, 350; would benefit financially if meeting of Congress was delayed, 366; western

counties of becoming more Federalist, 370; should get federal capital, 399-400

- Antifederalists in, 277–78; officeholders in oppose Constitution, 10–11; criticism of in Pa. Convention, 10–11, 11n; would be encouraged by Va. rejection of Constitution, 14–15; in western counties of state, 48; meet in Harrisburg, 157, 158n, 343, 365–66, 394; acquiescence of, 285, 406; officeholders in will oppose Constitution, 401
- -- constitution and government of: and paper money in, 11, 338n-39n; judiciary of, 105, 120, 121; criticism of, 213-14; pays requisitions, 280; Assembly of and first federal elections, 337; assumes U.S. debt owned by citizens of, 338n-39n; state debt of, 338n-39n
- Convention of: defense of ratifiers of Constitution in, 8; has ratified, 20, 80, 166, 270, 371; meeting of delayed, 371 See also Cumberland County; Lancaster; Philadelphia
- "A PENNSYLVANIAN" (Tench Coxe), 175–76 PERRIN, TIMOTHY (Conn.), 289
- PERSON, THOMAS (N.C.): id., 68n; 35
- -letters from, 59-61; quoted, 35
- PETERS, RICHARD (Pa.): id., 269n; 265-66
- PETITION, RIGHT OF: proposed amendments guaranteeing, 43, 63n, 202, 299, 316. See also Bill of rights
- PETITIONS: from Providence and Newport call for R.I. convention, 166; allegedly from R.I. Federalists to Congress to divide state between Mass. and Conn., 393
- PETRY, JEAN-BAPTISTE (France): id., 261n — letter from, 260–61
- PETTIT, CHARLES (Pa.): id., 157n-58n
- -letter from, 153–58n
- PHILADELPHIA: as possible federal capital under Constitution, 170, 191, 193n, 256, 256–57, 310, 322, 323, 332–33, 336, 344–45, 350, 351, 360–61, 365; celebration in, 214, 214n, 221, 242–46, 246–47, 256, 258–60n, 261–69n, 271, 385; commerce of with West Indies, 256; celebrates N.Y.'s ratification, 397
- PHYSICIANS: are Federalists, 55
- PICKERING, TIMOTHY (Pa.; CC:Vol. 2, 192n)
- -letter from: quoted, 69
- -letters to, 69, 189; quoted, 68-69
- PIERCE, WILLIAM (Ga.): id., 249
- oration of, 249-54

- PINCKNEY, CHARLES COTESWORTH\* (S.C.; CC:Vol. 1, 274n), 173n
- -letter from: quoted, 208n
- letter to, 207–9n
- PINCKNEY, THOMAS (S.C.), 72
- PIRACIES, 102n
- PLATT, RICHARD (N.Y.), 85; and N.Y. celebration, 290, 291
- PLATT, ZEPHANIAH (N.Y.), 295
- "A PLEBEIAN" (Melancton Smith?), 3, 4n, 63n, 220n
- POETRY, 375; A Federal Song, 320–21; An Ode (Francis Hopkinson), 246–47; Ode on the Adoption of the Constitution (William Pitt Smith), 290–92; Alexander Pope, Essay on Man, 327. See also Music Pole, Edward (Pa.), 35
- POLITICAL AND LEGAL WRITERS AND WRIT-INGS: The Federalist is based on best authors on government, 83; John Adams, 147-48, 148n, 329, 331; Sir Francis Bacon, 329; Sir William Blackstone, 129, 134-35; James Burgh, 196, 199n; Edmund Burke, 329; Jean Louis De Lolme, 329; Giovanni Vincenzo Gravina, 230, 231n; Hugo Grotius, 136, 137n; David Hume, 142-43, 143, 143n, 329; Comte de Mirabeau, 23; Charles, Baron de Montesquieu, 88, 93, 94n, 228, 230, 231n; James Otis, 329; Thomas Paine, 209, 210n, 222, 237, 242n; Alexander Pope, 222, 259, 260n, 327, 329; Thomas Rutherforth, 136, 137n; William Shakespeare, 185, 259, 260n, 368, 368n; Jonathan Swift, 329; James Thomson, 403, 404n; Baron Turgot, 329. See also Broadsides, pamphlets, and books; Classical antiquity
- POLITICAL CONDITIONS UNDER THE CON-FEDERATION: conflicts between states and central government, 19; danger if Constitution is not adopted, 70, 381; fraudulent laws passed by state legislatures, 99; and territorial disputes between states, 99, 102n; Union cannot remain without major changes in Articles of Confederation, 133; confederation in danger of dissolving, 138; morals become prostrated, 138; dangerous to delay adoption of Constitution, 140; dangerous situation tending to anarchy, 143, 236, 238, 251, 273, 274-75, 351; Constitution rescues U.S. from problems, 150, 171-72, 195, 197, 214, 252-

53, 254-55, 266-67, 271, 308, 369, 385; rejection of Constitution would throw America into state of nature, 154; dismal, 159, 225, 320, 355; endanger liberties, 177; states are sovereign, 192; problems caused because of Revolution, 225; reference to libertinism of youthful America, 239; government under referred to as a naked goddess, 247; ratification of Constitution calms most people, 336; need wise and efficient government to correct problems, 372; gloomy because of uncertainties of how Constitution will operate, 375. See also Economic conditions under the Confederation; Foreign opinion of the U.S.; Shays's Rebellion

- POLITICAL PARTIES: likely in legislative bodies, 105; aversion to, 215. See also Factions; Party spirit
- POLL TAXES: See Taxation
- POPULATION: Constitution will increase emigration to West, 25, 29; U.S. will grow rapidly under Constitution, 164; of ratifying and non-ratifying states, 172, 391n; movement to western lands continues, 175; in U.S. will increase because of European immigration, 282; representation by is basis for republicanism, 284, 285n; representation should be based on, 329, 330; figures used by Constitutional Convention, 349n. See also Immigration; Three-fifths clause
- Portsmouth, N.H., 221-23
- POTOMAC RIVER: as possible site for location of federal capital, 323, 344-45
- POULSON, ZACHARIAH, JR. (Pa.), 278
- POWER, NICHOLAS (N.Y.), 297

PREAMBLE TO CONSTITUTION: quoted, 130

- PRESBYTERIANS, 143-44
- PRESENTS, EMOLUMENTS, ETC.: See Emoluments, presents, etc.
- PRESIDENT, U.S.: George Washington as possible first, 16, 81, 213, 221, 308, 325, 328–29, 333, 352–57n, 363, 394– 95, 399; election of, 27, 182, 299, 302, 346; criticism of union of with Senate, 40, 73, 77, 181; proposed amendment concerning line of succession, 44; proposed amendment concerning impeachment of, 45; restraints on in Va. Form of Ratification, 79n; salary of, 94, 134; will implement will of the people, 160; will supply secrecy, vigor, and dispatch.

165, 402; will help maintain balance of powers, 238; only natural-born citizens eligible for, 302; John Hancock as possible first, 308, 363, 364n; successor should only fill remaining term of, 346; summary of proposed amendments concerning, 346

- powers of, 175, 182; criticism of appointment power of, 6; praise of treatymaking power of, 27; should be prohibited from assuming command of army in field, 45, 304, 346; will take over some duties of Confederation Congress, 134–35; treaty-making power of with Senate safeguards South, 149; criticism of role of in ratifying treaties, 182; pardoning power, 182, 303
- term of: reeligibility of, 15n, 23, 81, 138, 182, 204, 318, 325; one four-year term limit proposed, 71n; praise of, 182; rotation in office needed for, 272; should be limited to two terms, 304; should be limited to one twenty-year term, 330; should be limited, 346 See also Vice President, U.S.
- PRESS, FREEDOM OF THE: endangered by Constitution, 6, 75, 376; should be protected, 43, 77, 79n, 199, 202, 299, 316, 399n; necessary for liberty, 75, 77, 179, 375; Constitution does not endanger, 131, 135–36; tax on is not necessarily a violation of, 135–36; omission of protection for, 138; praise of existence of in U.S., 230, 241. See also Bill of rights
- PRICE, RICHARD (England; CC:Vol. 1, 101n), 373
- -letters from, 406; quoted, 373n
- PRICHARD, WILLIAM (Pa.), 327, 328

PRINTERS AND BOOKSELLERS

- Connecticut: Josiah Meigs, 235
- Delaware: Frederick Craig, 328
- -Georgia: James Johnston, 249
- Maryland: Mary Katherine Goddard, 328
- Massachusetts: Benjamin Guild, 327; Benjamin Russell, 224; Isaiah Thomas, 326, 327
- New Hampshire: George Jerry Osborne, 222
- New Jersey: Isaac Collins, 328
- New York: in New York City celebration, 291; Thomas Greenleaf, 310, 311n-12n; Samuel Loudon, 327; Ar-

chibald M'Lean, 83, 291; John M'Lean, 83; Nicholas Power, 297

- Pennsylvania: in Philadelphia celebration, 246–47; John Aitken, 249n; Mathew Carey, 246–47, 261, 390n; Eleazer Oswald, 33, 34, 38, 39, 40, 48, 62n, 73; Zachariah Poulson, Jr., 278; William Prichard, 327, 328; Melchior Steiner, 278
- Rhode Island: Peter Edes, 197; Bennett Wheeler, 231
- South Carolina: are subservient to wealthy Federalists, 55; Bowen & Co., 159
- Virginia: Augustine Davis, 328; John M'Lean, 83–84, 328; Thomas Nicolson, 80n

See also Newspapers

- PRIVILEGES AND IMMUNITIES, 99
- PRIVY COUNCIL: need for, 40, 44, 45; omission of, 138; charge that Senate acts as executive council, 181. See also Senate, U.S.

**PROCESSIONS:** See Celebrations

- PROFESSIONAL MEN: See Lawyers; Merchants; Physicians
- PROPERTY, PRIVATE: Constitutional Convention tries to protect, 9; Constitution will protect, 29, 138, 145, 161–62, 255, 361; an unalienable right, 41, 201, 314; Constitution endangers, 46; and rights of married women, 117; utility of jury trials in preserving, 120; foundation of undermined by state governments, 138; fear of loss of under Articles of Confederation, 145; real property will increase in value under Constitution, 163; government should secure, 170; equal distribution of in U.S., 230, 239
- PROVIDENCE, R.I.: petitions for state convention, 166; celebrates Va.'s ratification, 231; Fourth of July oration in, 231–35; celebrates N.H.'s ratification, 387; plans Fourth of July celebration, 389; allegedly will petition Congress to divide R.I. between Mass. and Conn., 393
- PSEUDONYMS: An American (Tench Coxe), 68-70, 175; An American Citizen (Tench Coxe), 278; Brutus, 111n, 220n; Centinel (Samuel Bryan), 8, 11, 370; A Citizen of America (Noah Webster), 234, 234-35, 235n; A Citizen of New-York (John Jay), 140, 143, 143n; Civis (David Ramsay), 159; Civis (Jonathan

Jackson), 327; A Columbian Patriot (Mercy Warren), 21-22, 22n, 39, 63n; Curtius, 158; Fabius (John Dickinson), 167, 168n-69n; Federal Farmer, Letters, 15n, 22n, 39, 51, 54, 58, 63n, 220n; Federal Farmer, Additional Letters, 3, 4n, 33, 36, 39, 51, 54, 58, 63n; The Federalist's Political Creed, 4-6; A Freeman, 13-14; A Friend of Society and Liberty (Tench Coxe), 277-86n; Helvidius Priscus (James Warren?), 21, 22n; Iuvenis, 210n: A Marvlander (Otho Holland Williams), 64n; A Native of Boston (Jonathan Jackson), 326-31; A Patriotic Citizen, 7-11; A Pennsylvanian (Tench Coxe), 175-76; A Plebeian (Melancton Smith?), 3, 4n, 63n, 220n; A Republican, 401n; Solon, Jr. (David Howell?), 339-41, 341n. See also Broadsides, pamphlets, and books; The Federalist: Political and legal writers and writings

- PUBLIC CREDIT: ruined by financial policies during Revolution, 18; unsure under Constitution, 53; languishing under Articles of Confederation, 160, 237, 251; Constitution will restore, 162, 195, 210, 385–86, 391, 392–93
- PUBLIC CREDITORS: will benefit under Constitution, 391. See also Debt, U.S.; Debts, state
- PUBLIC DEBT: See Debt, U.S.; Debts, state
- PUBLIC DEFAULTERS: denial that Constitution screens, 133
- PUBLIC OPINION ON CONSTITUTION: six-sevenths of Americans favor, 7; majority favors, 7–8; eighty percent of people in Va. oppose, 39; is gaining on public mind, 81; drastic change in men's minds on, 82–83; three-sevenths of people support in N.Y., 177; favors in N.C., 370; people much divided in N.Y., 371. See also Antifederalists; Federalists; Ratification, prospects for
- PUBLIC SPIRIT: Antifederalists have, 46; not enough in America to allow Articles of Confederation to work, 154; lost under Confederation, 225. See also Patriotism; Self-interest; Virtue

"PUBLIUS": See The Federalist

PUNISHMENT, CRUEL AND UNUSUAL: proposed amendments prohibiting, 43, 202, 298, 316

- QUARTERING OF TROOPS, 188; proposed amendments prohibiting, 43, 203, 298, 316. See also Army; Army, standing; Military
- RAMSAY, DAVID (S.C.; CC:Vol. 2, 84n): id., 159; as author of "Civis," 159
- letters from: quoted, 159, 167–68, 375n
   oration of, 158–65
- RANDOLPH, EDMUND (Va.; CC:Vol. 1, 196n–97n), 189n; opposes Constitution, 21; overtures to other states about amendments, 32; in Va. Convention, 38–39, 62n, 206, 206n, 285, 378; on prospects of Va. ratification, 189; as governor of Va., 193n
- -letter from: cited, 383n
- -letter to: cited, 148n
- RATIFICATION, PROCEDURE FOR: praise of submission of Constitution to people, 9-10; amendments to Constitution should be required before permanent ratification, 76; Mass. plan of favored, 81, 82n, 331; and non-ratifying states after Constitution is implemented, 156-57, 214-20; Va. and N.Y. must ratify for new government to be effective, 192; Va., N.Y., and N.C. must ratify to complete Union, 194; Article VII of Constitution cited, 195; Article V of Constitution mentioned, 205-6; three non-ratifying states should ratify with amendments, 215; nine states have ratified, 220-21, 223, 229; praise of state ratifying conventions, 223, 227, 234; defense of requirement to adopt all or reject Constitution, 229; praise for manner in which Constitution was considered, 245, 252; Constitution is binding on ten ratifying states, 255: last three states have no choice but to ratify, 255, 361; ratification of Constitution is work of God, 266; Jefferson wants four states to hold out for amendments, 288n; narrow ratification by N.H., Va., and N.Y. cause for alarm, 331; list of states ratifying with or without amendments, 350n; resolutions of Constitutional Convention for, 364; resolutions of Confederation Congress for, 364-65; two-thirds of free people have ratified, 380; listing of dates and votes on ratification, 390; ten states have ratified, 392. See also Amendments to Constitution

- **RATIFICATION**, **PROSPECTS FOR**: good, 4, 7, 16, 20, 31, 155, 170, 173, 272, 368, 374; Constitution is gaining ground with public, 81; only one more state needed for, 183–84; eight states have adopted Constitution speedily, 185; first eight states easier than last five will be, 189; all states will join in ratification, 197; last three states will soon ratify, 255; rapid progress of ratification is praised, 390n–91n. See also Public opinion on Constitution
- in N.H.: good, 11–12, 14, 172, 183, 189, 368, 368–69, 375; uncertain, 16, 177; will not reject Constitution if Va. ratifies, 174
- in N.Y.: will probably ratify, 4, 20, 277, 293, 322n; good, 11, 57, 168, 277, 369, 388, 389; uncertain, 16, 20, 207–8, 271, 274, 279–80, 287; will be bullied into adopting, 31; will follow Va., 53, 68, 76, 77, 81, 145, 174, 174–75, 388, 389; unfavorable, 70, 176, 194, 207–8, 271, 272n, 393; influence of N.H. ratification on, 189–90, 389; will ratify with conditions, 206; cannot deny fact that ten states have ratified, 208; hesitating to ratify, 271
- in N.C.: good, 4, 11–12, 20, 31, 70, 169, 207, 209n, 287, 307, 325, 370, 374, 377, 393, 394, 395; uncertain, 16, 274, 376; unfavorable, 40, 54; will follow Va.'s lead, 59, 68, 76, 77, 81, 152, 177, 189, 194, 260, 293, 333, 376; will decide on ratification next month, 271; will ratify if S.C. ratifies, 376, 395; must ratify, 387
- in R.I.: will be influenced by Va.'s actions on Constitution, 76, 77; must ratify, 172, 194, 208, 387; will ratify after frenzy over paper money, 194; uncertain, 209n; seems content in not ratifying, 360
- in S.C.: good, 11-12, 14, 16, 20, 31, 70, 82, 143-44, 147, 369, 374, 376
- in Southern States: good, 31
- in Va.: probably will ratify, 4, 20, 183; will adopt with proposed amendments, 4, 57, 211, 385; good, 11, 31, 57, 59, 82, 147, 152, 168, 169, 175, 177, 194, 211, 272, 369, 374, 376, 377, 377n, 378; uncertain, 14, 16, 20, 31, 38–39, 39, 40, 80, 172, 189; will ratify with conditions, 206

- RECALL: of Senators, 303, 346
- Reed, Jacob, Jr. (N.Y.), 34, 41, 63n
- REED, SAMSON (Mass.), 198n
- **REGIOMONTANUS** (Johann Müller), 380
- REID, JAMES R. (Pa.; CC:Vol. 3, 374n), 366
- REINAGLE, ALEXANDER (Pa.): id., 249n
- The Federal March, 248–49n
- RELIGION, FREEDOM OF: proposed amendment concerning, 43-44; and religious tests, 72, 270, 281; Va. Convention proposes protection of, 79n, 203; in U.S., 150, 269-70; prohibition on federal laws touching on, 188; praise of toleration for, 230, 265; and connection with good government, 265; lack of in Great Britain, 269, 281: restrictions on in Spain, 281; will develop in U.S. because none will be favored, 281-82; taxes will not be levied to support religion, 282; will encourage immigration from Europe, 282; N.Y. Convention proposes protection of, 298; N.C. Convention proposes protection of, 316; Constitution does not provide for established church, 342; Constitution will preserve, 342, 392-93; extended to all in France, 380. See also Bill of rights; Conscience, liberty of; Conscientious objectors
- **RELIGIOUS TESTS:** for federal and state officeholders, 72; praise of Constitution for not requiring, 270, 281
- REPRESENTATION: by population is basis for republicanism, 284, 285n; legislatures or assemblies should not be large, 329; should be based on population, 329, 330. See also House of Representatives, U.S.; Republican form of government; Republicanism; Rotation in office; Senate, U.S.
- "A REPUBLICAN," 401n
- REPUBLICAN FORM OF GOVERNMENT, 180; Antifederalists support federal republic, 3; majority should rule in, 7–8; praise of, 58; cannot exist in large territory, 75–76; judiciary in limits legislative oppression, 88; inherent right to change government in, 91; lack of titles of nobility as cornerstone of, 129; large territories can sustain, 132–33, 329; Constitution creates, 138, 165, 238, 254; Constitution guarantees to states, 138, 235; America as, 149, 214; virtue and wisdom are pillars of, 242; differs from monarchy in its effect on men's minds,

263-64. See also Government, debate over nature of; Republicanism

- **REPUBLICANISM:** Constitution violates principles of, 5; praise of principles of, 36; Antifederalists attached to principles of, 37, 59; some Federalists oppose, 217; representation by population is basis for, 284, 285n. *See also* Republican form of government
- REQUISITIONS: should be used before direct taxation, 44, 72, 168, 171, 188, 203, 300–301, 301–2, 317, 338, 347, 390; criticism of system of under Articles of Confederation, 181; states pay during Revolution, 236; Ga. pays none of, 254n; and payment of U.S. debt, 280; some states pay while others do not, 280. See also Taxation
- RESERVED POWERS: proposed amendments espousing, 72, 81, 171, 183n, 187, 199, 203, 298, 316; theory of, 79n, 112, 130, 180, 234–35, 347. See also Enumerated powers; General welfare; Implied powers; States, impact of Constitution upon
- REVOLUTION, RIGHT OF, 41, 91. See also Despotism; Natural rights; Passive obedience; Social compact; Tyranny
- RHODE ISLAND: refuses to call ratifying convention, 11, 166, 271, 321, 350n, 370; rejects Constitution in referendum, 12, 20, 166; will be broken up if it does not ratify, 12, 397; criticism of economic policies of, 70, 177, 194, 196, 274, 335-36, 371n, 379, 385n, 397, 401, 402; has rejected Constitution, 80, 147, 172, 177, 310; policy of U.S. toward after Constitution goes into effect, 81-82; court system of, 121; is despised, 144; and delegates to Confederation Congress, 191, 310, 322, 323, 336, 343. 350, 361; election of governor of, 196-97; fails to attend the Constitutional Convention, 218-19, 341, 341n; Antifederalists in Providence oppose celebration of Constitution, 231; does not pay requisitions, 280; danger of by adding strength to Antifederalists in first federal Congress, 323; as an opponent of Constitution, 325; isolated with N.C. in opposing Constitution, 332; and new federal capital under Constitution, 333; does not ratify, 335-36; should ratify to assist in obtaining amendments, 339-41; Antifederalists in, 350; as disruptive

force, 351; described as little whore, 351; will benefit commercially by staying out of Union, 351; will call ratifying convention, 374, 386, 387, 392; silent on Constitution, 381; urged to ratify and regain honor and prosperity, 385n; will prosper under Constitution, 386; Federalists gaining strength in, 389; criticism of as insignificant, 391; party spirit in, 392; Antifederalists of hurt by N.Y. ratification, 397; report it withdraws from Union, 401

prospects of ratification by: will be influenced by Va.'s actions on Constitution, 76, 77; must ratify Constitution, 172, 194, 208, 387; will ratify after frenzy over paper money, 194; uncertain, 209n; seems content in not ratifying, 360

See also Newport; Providence

- RICH MEN: See Monied men
- RICHMOND, VA., 57
- **Roman Catholics**, 376
- Rоме: See Governments, ancient and modern
- ROTATION IN OFFICE: debate over reeligibility of President, 15n, 23, 71n, 81, 138, 182, 204, 272, 304, 318, 325, 330, 346; proposed amendment concerning, 42; should be required in legislative and executive branches, 201, 315; required in Senate, 272, 303, 346; no need for in Congress under Constitution, 280– 81; opposition to, 329
- RUSH, BENJAMIN (Pa.; CC:Vol. 1, 45n-46n) —letter from, 213-14
- Observations on the Fæderal Procession, 261-69n
- -speech of in Pa. Convention: quoted, 269n
- RUSH, JACOB (Pa.), 268n
- RUSH, JOHN (Pa.), 214, 214n
- RUSSELL, BENJAMIN (Mass.; CC:Vol. 1, xxxvi-xxxvii), 224, 381-83. See also Newspapers, in Massachusetts, Massachusetts Centinel
- RUSTON, THOMAS (Pa.): id., 336n
- —letter from, 335–36
- RUTLEDGE, EDWARD (S.C.; CC:Vol. 1, 511n)
- -letter to, 272
- RUTLEDGE, JOHN\* (S.C.): as possible first Vice President of U.S., 325

INDEX

- SAILORS, 19, 163. See also Navy
- St. Clair, Arthur (Pa.), 334, 335n
- SALARIES: of President, 94, 134; of judges in state constitutions, 94, 95, 96n; of federal judges, 94–96, 205, 319, 348; will not increase under Constitution, 134; of Congress, 205, 303, 319, 329, 331, 346. See also Expenses of government; Officeholders, U.S.
- SARGENT, WINTHROP (Mass.; CC:Vol. 1, 566n), 85
- SAVANNAH, GA., 249–54
- SCHUREMAN, JAMES (N.J.), 191, 193n
- SCHUYLER, PHILIP (N.Y.), 212
- SCOTCH-IRISH, 143-44
- SEARCHES AND SEIZURES: proposed amendments concerning, 43, 202, 299, 316
- SECTIONALISM: over Ky. statchood, 31, 151, 152; and admission of new states, 149; Vt. statchood's impact on, 149, 152, 387; and dispute over location of federal capital, 213; should be avoided, 253–54. See also North vs. South; Northern States; Southern States
- SEDGWICK, THEODORE (Mass.; CC:Vol. 3, 91n)
- -letter to: quoted, 405n
- SELF-INCRIMINATION: proposed amendments concerning, 42, 202, 299, 315. See also Due process of law
- SELF-INTEREST: Antifederalists accused of, 7, 8; N.Y. Antifederalists do not serve, 37. See also Patriotism; Virtue
- SENATE, U.S.: criticism of appointment power of, 6; per capita voting in, 26-27; praise of method of electing, 27, 181; opposition to executive and judicial powers of, 40, 73, 77, 181; prohibition of dual officeholding by members of, 44, 203, 303, 317, 346; and treaty-making power of, 45, 148-49, 204, 317, 348; and impeachment power of, 73, 103, 106, 205, 304-5, 319, 346; and equal state representation in, 73, 181, 387; restraints on by Va. Form of Ratification, 79n; rotation in office needed for, 81, 272, 303, 346; treaty-making power of safeguards South, 148-49; will represent wisdom, unity, and national happiness, 165, 402; term of, 181, 346; and publication of journals of, 203, 303, 317; represents sovereignty of states, 238; restrictions on Congress' power to regulate elections to, 300, 302; only nat-

ural-born citizens eligible for, 302; salaries of, 303, 319, 346; recall of by state legislature, 303, 346; filling vacancies in, 303, 346; summary of proposed amendments concerning, 346–47. See also Appointment power; Bicameralism; Congress under Constitution; House of Representatives, U.S.; Separation of powers; Treaties

- SEPARATE CONFEDERACIES: opposition to, 69, 161, 165, 215; will not be formed by new states, 164; Patrick Henry wants to establish Southern confederacy, 174, 190, 193n; impact of on foreign affairs, 190; N.Y. favors, 190; and public debt of U.S., 190-91; danger of if Constitution is not ratified, 370. See also Union
- SEPARATION OF POWERS: Constitution criticized for lack of, 23; opposition to executive and judicial powers of Senate, 40, 73, 77, 181; need for, 42, 88, 94n, 201, 236-37, 314-15; judiciary is least dangerous branch of government, 88; judges should not be dependent on legislatures for salaries, 94; defense of independent federal judiciary, 103, 104-5; danger of enlarging powers of Confederation Congress, 227-28; Constitution provides as much as is possible, 238-39; criticism of lack of under Articles of Confederation, 253. See also Checks and balances; Division of powers; House of Representatives, U.S.; Judiciary, U.S.; Mixed government; President, U.S.; Senate, U.S.
- SEVIER, JOHN (N.C.): id., 405n; 404
- SEWALL, JONATHAN MITCHELL (N.H.): id., 222

– oration of, 221–23

- SHAYS, DANIEL (Mass.), 196, 198n
- SHAYS'S REBELLION, 10, 170, 177, 196, 198n–99n, 225, 230n
- "Ship News-Extra," 385-86

Shipbuilding, 384

- SHIPPEN, THOMAS LEE (Pa.; CC:Vol. 2, 463n): id., 358n
- -letter from, 357-58

-letter to: quoted, 358n

- SHIPPEN, WILLIAM, JR. (Pa.; CC:Vol. 1, 289n), 358n
- SHIPPEN, WILLIAM, SR. (Pa.; CC:Vol. 1, 289n), 358n

-letter from: quoted, 358n

- -letters to, 174-75, 293-94, 357-58; quoted, 193n
- SINNICKSON, THOMAS (N.J.): id., 277n

-letter to, 275-77

- SLAVE TRADE: criticism of Constitutional Convention's compromise over, 79, 80n; opposition to, 174n; praise of Constitution's provision concerning, 241; state prohibitions on, 242n; Great Britain likely to end, 379–80
- SLAVERY: slaves captured by Creeks in Ga., 152; criticism of tolerance of, 241; progress made toward emancipation, 241; opposition to three-fifths clause, 285n
- SMALLWOOD, WILLIAM (Md.), 48, 64n
- SMITH, MELANCTON (N.Y.): id., 220n; supports amendments, 258n; leads Antifederalists in N.Y. Convention, 293, 295, 296, 365
- -letters from: quoted, 220n, 258n
- letters to, 214-20, 256-58 See also "A Plebeian"
- SMITH, MERIWETHER (Va.; CC:Vol. 2, 408n; CC:Vol. 3, 134n), 63n
- SMITH, NOAH (Vt.), 4n
- SMITH, ROBERT (Md.)
- -letter to: quoted, 278
- SMITH, SAMUEL (Md.)
- -letters from: cited, 189n, 383n
- -letter to: cited, 383n
- SMITH, WILLIAM PITT (N.Y.): id., 291
- Ode on the Adoption of the Constitution, 290-92
- SMITH, WILLIAM STEPHENS (N.Y.; CC:Vol. 2, 465n)
- -letters to: cited, 82n, 147-48, 148n
- SOCIAL COMPACT, 18
- SOLDIERS: proposed amendments restricting enlistments of, 204, 317–18. See also Army; Army, standing; Military; Militia
- "Solon, Jr." (David Howell?), 339-41, 341n
- SOUTH CAROLINA: good prospects for ratification in, 11–12, 14, 16, 20, 31, 70, 82, 143–44, 147, 369, 374, 376; Antifederalists in, 35, 55, 56, 66n, 67n, 71, 144, 167, 168, 169n, 171, 260, 285, 377; Federalists in, 55, 66n, 71, 143–44, 152, 166, 168, 171, 208n, 376–77; celebration of S.C. ratification in, 56, 174; news of ratification by reaches Va., 62n; and criticism of slave-trade compromise, 79; court system of, 105, 121; support for paper money in, 144; eighty

percent of people of are in debt, 145; Indian depredations in assist Federalists, 152; acquiescence to ratification in, 167, 208n, 260–61, 285, 377; delegates of to Constitutional Convention, 260; will revise its stay laws before Constitution takes effect, 374, 374n–75n; Boston church bells peal for ratification by, 377n; effect on N.C.'s prospects for ratification, 395

- Convention of, 16, 80; ratifies Constitution, 35, 39, 51, 55, 56, 78n, 152, 158, 165–66, 166, 167, 169, 171, 171n, 174, 183, 207–9n, 208n–9n, 270, 272, 287, 293, 377; N.Y. Antifederalists will write to, 37; holding of in Charleston favored Federalists, 55; influence of Md. ratification on, 56, 171, 173n; Rawlins Lowndes declines to serve in, 57, 67n; speeches in, 65n, 67n; receives news of Md. ratification, 67n; proposes amendments, 71–72, 156, 165, 166, 168, 169, 171, 173n; might adjourn without ratifying, 166; description of, 167–68 See also Charleston
- SOUTHERN STATES: will leave Union and make treaties with European nations, 18; fear of Constitution's provision respecting simple majority vote on commerce, 19; prospects for ratification by are good, 31; New England needs to stand united against, 31-32; treaty-making power of Senate safeguards, 148-49; men of large property in fear Constitution will lead to aristocracy or monarchy, 183; praise for agreeing to Constitution's slave-trade provision, 241; oppose New York City as federal capital, 323; weakness of, 333; Antifederalists in and location of federal capital, 343, 344; used New England to advantage in drafting Constitution, 351. See also North vs. South; Northern States
- Sovereignty: in the people, 10, 41, 160, 180, 201, 210, 244, 245–46, 297, 314; Antifederalists oppose transfer of to federal government, 17; some must be transferred to federal government, 18; states retain under proposed amendment, 44; central government has unlimited, 46; states will lose under Constitution, 53, 76, 308; only a portion of should be given by states to federal government, 75, 76; and immunity of states

SHORT, WILLIAM (Va.; CC:Vol. 1, 455n)

against suits, 107–8; time will work out exact division of under Constitution, 111; states are sovereign under Articles of Confederation, 192; Constitution guarantees to states, 235, 238. *See also* Division of powers; Enumerated powers; Government, debate over nature of; Reserved powers; States, impact of Constitution upon; Supremacy clause

- SPAIN: See Governments, ancient and modern
- SPEECH, FREEDOM OF: proposed amendments protecting, 43, 202, 316; abused by R.I. majority, 371n. See also Bill of rights; Press, freedom of the
- SPEEDY AND PUBLIC TRIALS: proposed amendments guaranteeing, 42, 43, 201– 2, 299, 315. See also Bill of rights; Due process of law; Judiciary, U.S.; Jury trials
- STATEN ISLAND, N.Y.: secession of from N.Y. if state does not ratify, 271, 370
- STATES, IMPACT OF CONSTITUTION UPON: Constitution will encourage creation of new states in West, 25; and equal representation of in Senate, 73, 181, 387; will be destroyed, 76; federal courts as restraint on (judicial review), 97; restraints on, 97, 138, 142, 162; will act as check on Congress, 132-33; will limit federal officeholders' actions, 132-33; number of officeholders will be reduced, 134; legislatures of will have to meet less, 134-35; will be less concerned with national matters, 135; Constitution guarantees republican government to, 138, 235; new states will be added to Union on parity with old states, 164; praise of election of Senate by legislatures of, 181; Constitution makes states a nation, 214; great blow to sovereignty of, 308
- proposed amendments: giving states right to apportion Representatives by districts, 299–300; states cannot be tried by U.S. judiciary, 300; treaties cannot alter state constitutions, 300; legislatures of should have power to fill vacancies in Senate, 303; legislatures of should retain right to pass bankruptcy laws concerning insolvent debtors, 303; giving states power to recall Senators, 303, 346; prohibits Congress from interfering with redemption of state paper money, 319, 347; limits power of Congress over mil-

itias of, 348; prohibits treaties from changing state constitutions, 349; restricts jurisdiction of federal courts with respect to, 349

*See also* Division of powers; Duties; Elections, U.S.; Enumerated powers; Judiciary, U.S.; Reserved powers; Senate, U.S.; Separation of powers; Sovereignty; Taxation

- STATES UNDER THE ARTICLES OF CONFED-ERATION: democratic excesses of, 18, 138, 197, 226, 241, 251; admission of new states, 31; state legislatures should retain right to elect members to a onehouse Congress, 53; settlement of territorial disputes between, 99, 102n; differences of rules for jury trials in, 120-21, 121; many have no bills of rights, 128; large number of state legislators, 135; cede western lands to Congress, 230; clashing interests of, 232; prohibit foreign slave trade, 242n; unreasonable attachment to governments of, 395. See also Articles of Confederation; Commerce; Congress under Articles of Confederation; Constitutional Convention; Conventions, state; Economic conditions under the Confederation; Political conditions under the Confederation; Ratification, procedure for; Ratification, prospects for; Sovereignty
- STAY LAWS: in S.C., 374, 374n-75n
- STEINER, MELCHIOR (Pa.), 278
- STILES, EZRA (Conn.; CC:Vol. 3, 58n-59n) - diary of, 194
- STORY, JOHN (N.J.): id., 277n; 275
- STRONG, CALEB (Mass.; CC:Vol. 1, 357n)
- -letter to: quoted, 379n
- STUART, WILLIAM (N.Y.): id., 259n
- -letter from, 258-60n
- SUFFRAGE: proposed amendment concerning, 42; all men with attachment to community should have, 315. See also Elections, U.S.
- SULLIVAN, JOHN (N.H.; CC:Vol. 1, 516n), 194, 211; as president of N.H. Convention, 187, 195
- -letter from: cited, 198n
- -letter to, 211–12n
- SUMTER, THOMAS (S.C.): id., 65n; 51, 56, 168
- SUPREMACY CLAUSE: danger to states, 76. See also Division of powers; Judiciary, U.S.; Sovereignty

SUPREME COURT, U.S.: See Judiciary, U.S.

- TAXATION: Americans are reluctant to pay, 12; will be difficult to collect under Constitution, 12; first federal Congress needs to assert its authority over, 19-20; and role of House of Representatives in enforcing treaties, 28; only by consent of governed, 42, 201, 315; heavy in states under Confederation, 70; danger of under Constitution, 76; jury trials cannot safeguard against oppressive system of, 118-19; on press would not necessarily be violation of liberty of, 135-36; will be heavy because of federal debt, 168; defense of Constitution's provisions concerning, 181; increased by Revolution, 226; power to levy not thought necessary for Articles of Confederation, 236; praise that none will be levied to support religion, 282; and state debt of Pa., 338
- direct, 81; opposition to without first trying requisitions, 44, 72, 168, 171, 188, 203, 300–301, 301–2, 317, 338, 347, 390; opposition to Congress' power to levy, 73, 285n–86n; justification for Congress' power to levy, 82n
- excises, 171; restrictions on Congress' power to levy, 44, 203, 300; should not be levied, 301; prohibited except on spirituous liquors, 348
- poll: no danger from federal government levying, 283; opposition to, 303, 347, 399n
- purse and sword: danger of government having authority over, 180–81; should be under control of Congress, 237 See also Debt, U.S.; Expenses of government; House of Representatives, U.S.; Impost of 1781; Impost of 1783; Property, private; Representation; Requisitions; Three-fifths clause
- TAYLOR, THOMAS (S.C.): id., 67n; 57
- **TEMPERANCE**, 267-68, 269n
- TEMPLE, SIR JOHN (Great Britain): id., 352n; 351
- TENDER LAWS, 226, 379; Constitution prohibits, 263, 386; as reason for opposition to Constitution by N.C. and R.I., 401. See also Debts, private; Installment acts; Paper money; Property, private; Stay laws

- TEST LAWS: See Religious tests
- Thacher, Peter (Mass.)
- -letter from: quoted, 329
- THATCHER, GEORGE (Mass.; CC:Vol. 2, 169n), 364
- -letters to, 31-32, 363-64
- THOMAS, ISAIAH (Mass.): as printer, 326, 327
- -letters to: quoted, 327, 328
- THORNDIKE, ISRAEL (Mass.), 170
- THREE-FIFTHS CLAUSE: opposition to, 285n. See also Slavery
- TICHENOR, ISAAC (Vt.), 4n
- Tilghman, William (Md.; CC:Vol. 1, 219n)
- -letter from: quoted, 69
- -letter to, 69
- TILLIER, RODOLPHE (Switzerland), 271n
- TILLINGHAST, CHARLES (N.Y.; CC:Vol. 1, 374n): id., 61n; 48, 49, 64n
- **TRADESMEN:** and Philadelphia celebration, 264. See also Artisans; Mechanics
- TRAUTTMANNSDORF, COUNT (The Netherlands): id., 148n
- -letters to, 147-48, 307-8; quoted, 148n
- TREASON: praise of Constitution's provision concerning, 128–29; criticism of President's power to pardon, 182, 304, 346
- **TREATIES:** unfavorable Spanish treaty less likely under Constitution, 24-28, 148-49; Confederation Congress power to make, 26; praise of Constitution's provision for, 26; praise of President's role in, 27; importance of House of Representatives in carrying out, 28; proposed amendment requiring two-thirds vote of both houses for ratification of, 44-45; and federal judiciary, 97, 98, 101; debate in Constitutional Convention over two-thirds majority to ratify, 149, 149n; Constitution will strengthen U.S. in negotiating, 162; criticism of Senate's role in, 181; Congress should have complete responsibility to ratify, 182; criticism of President's role of in ratifying, 182; defective organization of Confederation Congress makes negotiations difficult, 191; two-thirds vote of Senate needed for commercial treaties, 204, 317, 348; limits on ceding territory or fishing rights, 204, 317, 348; cannot alter state constitutions, 300; countries with treaties with U.S. will benefit commercially

454

under Constitution, 308; should not violate existing laws, 319, 346; with Indians in Northwest Territory, 334, 335n; cannot be used to increase jurisdiction of Supreme Court, 349. *See also* Foreign affairs; Governments, ancient and modern

- **TREATY OF PEACE:** and payment of debts to British citizens, 226, 286–88n
- TRIAL, SPEEDY AND PUBLIC: See Due process of law; Speedy and public trials
- TRUMBULL, JONATHAN, JR. (Conn.): id., 275n
- -letter from: quoted, 275n
- —letter to, 273–75
- **TUCKER, ST. GEORGE** (Va.; CC:Vol. 1, 454n), 73
- Tyler, John (Va.), 200
- TYRANNY: Constitution will promote, 6, 17, 58; danger of if Constitution is rejected, 70; use of ex post facto laws and arbitrary punishments by, 129; Constitution will protect against, 177, 214; object of government is protection from, 180; America as an asylum from, 211; rampant around the world, 211n; Constitution should be adopted and amended to avoid, 219; stifles science and industry, 240; attack on, 244; Constitution does not threaten, 252, 378. See also American Revolution; Democracy; Despotism; Government, debate over nature of
- UNICAMERALISM, 53, 133. See also Bicameralism
- UNION: will never be strong among states unless by force and violence, 17; Antifederalists endanger, 18, 62n; Constitution will preserve, 24-25, 138, 163, 195, 197, 207, 208n, 209n, 210, 292, 361, 385, 386; Antifederalists want to preserve, 38; not viable without N.Y., 57, 194; Va. necessary to maintain, 57, 194, 378, 387; will not be affected if R.I. refuses to ratify, 70; some actions of states may be incompatible with, 97; most Americans strongly support continuation of, 133, 373; endangered unless Constitution is adopted, 140, 164, 174, 331; importance of, 161, 168, 178, 179, 208n, 229-30, 243, 247, 252-53, 268, 324n, 358, 370, 376; not complete until N.C. ratifies, 194; non-ratifying

states should join, 215; weakened under Articles of Confederation, 232, 251, 253; aim of Constitutional Convention, 238; will be solidified by cotton manufacturing, 265; and Philadelphia celebration, 268n–69n; reluctance of N.Y. to break, 306–7; combined with federalism, 384. *See also* Separate confederacies

USURY, 162, 226

- VAUGHAN, BENJAMIN (England)
- -letter to: quoted, 169n

VAUGHAN, JOHN (Pa.; CC:Vol. 2, 209n), 85 — letters from, 167–69n; quoted, 169n

- -letters to: quoted, 167-68; cited, 148n
- VERMONT: separate statehood for, 4, 400; statehood and impact on sectionalism of U.S., 149, 152, 387; as an independent republic, 151–52; plans to call ratifying convention, 398, 400
- VERSE: See Poetry
- VETO POWER: of Congress over state legislation, 97; executive ought to have absolute veto, 329
- VICE PRESIDENT, U.S.: criticism of appointment power of, 6; opposition to position of, 44; should not take command of military in field, 45; election for must be held every four years, 299; only natural-born citizens eligible for, 302; Benjamin Franklin too old to be first, 325; James Madison as possible first, 325; John Rutledge as possible first, 325; doubtful who will be first, 325, 363–64; John Adams as possible first, 325, 394–95, 399; successor should only fill remainder of term, 346
- VIOLENCE: Federalists accused of using to promote Constitution, 6; only way to make Union strong, 17; only means to obtain strong central government, 18; opposition to use of to bring R.I. into Union, 81-82; in Wyoming Valley, Pa., 102n, 225, 230n; in N.C. convention elections, 144, 146n; threat of in Providence over celebrating Constitution, 231; violent opposition to Constitution should diminish, 260; possible in Va. after ratification, 286-88n; mob attacks Greenleaf's press, 310, 311n-12n; and

call of Pa. convention, 371. See also Civil war; Insurrections, domestic; Shays's Rebellion; War

- VIRGINIA: support for amendments in, 4, 390; supports free navigation of Mississippi, 25; representation of in Confederation Congress, 30n; and Ky. statehood, 32n, 151, 153n; fear that it will ratify Constitution because of Washington's influence, 54; importance of to Union, 57, 179, 192, 194, 387; benefits expected to from Constitution, 68-69; will be well represented in new Congress under Constitution, 69; British trade policy hurts Antifederalism in, 144; influence of N.H. ratification on, 172, 189-90, 211; adoption of Constitution by will make acceptance of Constitution general, 174; and circulation of "A Pennsylvanian," 176; and possible confederacy with N.C., 190; and dispute with France, 193n; and news of N.H.'s ratification, 212, 212n; possibility of violence in after ratification, 286-88n; many in are slow to pay foreign creditors, 326; backcountry of will be affected by N.C.'s rejection of Constitution, 336; would benefit financially if meeting of first federal Congress is delayed, 366; Federalists in, 374, 383, 390
- Antifederalists in, 48, 49, 63n, 172, 174, 189–90, 279, 333, 383; cooperate with N.Y. Antifederalists, 32–68; eighty percent of Virginians oppose Constitution, 39; acquiescence of, 207, 209n, 274, 286–88n, 293; angry with Edmund Randolph, 378; weakening, 378
- constitution and government of: House of Delegates of thought to favor amendments to Constitution, 57; Declaration of Rights of as basis for Va. proposed amendments, 63n; House of Delegates of opposes paper money, 80n; court system of, 105, 121; praise of its two-house legislature, 181, 183n; legislative terms in, 183n
- influence of on other non-ratifying states, 76, 77, 81; on N.H., 68, 174; on N.Y., 53, 68, 144, 174, 388, 389; on N.C., 59, 68, 152, 177, 260, 293, 332, 333, 378, 395
- prospects for ratification by: will probably ratify, 4, 20, 183; will adopt with proposed amendments, 4, 57, 177, 211,

385; good, 11, 31, 57, 59, 82, 147, 152, 168, 169, 175, 177, 194, 211, 272, 369, 374, 376, 377, 377n, 378; will ratify eventually even if it rejects Constitution first, 14; uncertain, 14, 16, 20, 31, 38–39, 39, 40, 70, 80, 172, 189; must ratify to prevent convulsions, 14–15; hopes are that it will ratify, 152; will ratify with conditions, 206

- Convention of, 381; effort to get Washington elected to, 16; election in Alexandria, 16; meeting of, 16, 80, 166, 371; election in Fairfax County, 18n; Ky. delegates in, 31n, 48, 64n, 189, 189n; and amendments to Constitution, 33-34, 40, 41-45, 63n, 79n, 179, 199-206, 286-88n, 312, 389-90; opposition to Constitution in, 39; amendments from Antifederalists of sent to N.Y. Antifederalists, 49-50; Richard Henry Lee declines serving in, 57; receives news of S.C. ratification, 62n, 207, 208n-9n; address to by "An American" (Tench Coxe), 68-70; Monroe's pamphlet expected to influence, 73; recommendation that it ratify conditionally, 76, 77; Antifederalists fail to get a conditional ratification from, 78n; Form of Ratification of, 79n; Jefferson letter used in by Antifederalists, 82n, 286-87, 288n; The Federalist sent for distribution to members of, 85; hailstorm during, 182; both sides are confident about, 183; instructs state's representatives to new Congress to obtain ratification of its recommended amendments, 205-6; ratifies Constitution, 207-9n, 212, 260, 270, 271, 271-72, 272n, 274, 279, 286-88n, 290, 291, 293, 326, 331, 387; praise of debates in, 209n; attendance in, 286-88n; description of debates in, 286-88n; Federalist majority in, 374; estimate of division in, 383; rejects ratification with previous amendments, 385
- and news of ratification by: Congress awaits word from before calling first federal elections, 195; celebrated in Alexandria, 207; reaches Providence, 231; arrives in N.Y., 294; reaches Congress, 365; Baltimore celebrates, 385n San alex Alexandria: Fairfay County

See also Alexandria; Fairfax County; Kentucky; Potomac River; Richmond

VIRTUE: not a factor in establishing new political alignments, 21; Constitution

#### INDEX

will lead to extinction of, 58; lost under Articles of Confederation, 138, 225, 351; not enough in America to allow Articles of Confederation to work, 154; need for, 165, 239, 242, 326, 371-72; Americans are working hard and economy will improve, 184; hope America retains, 208n; Constitution safe as long as people retain, 210; Constitution will help promote, 214, 256, 262; praise of Convention delegates who drafted and ratified Constitution, 223; fostered by industry is prevalent in U.S., 240; U.S. as haven for, 251; republic of Switzerland is celebrated for, 254; Americans will retain for a while, 272; abandoned by R.I. majority, 371n. See also Corruption; Happiness; Human nature; Luxuries; Patriotism; Self-interest

- WADDELL, JAMES (Va.), 30, 31n
- WADSWORTH, JEREMIAH (Conn.; CC:Vol. 1, 177n)
- -letters to: quoted, 212n; cited, 212n
- WAR: Constitution protects against among states by maintaining Union, 138; unlikely under Constitution because of additional military power of U.S., 160–61; in Europe, 255, 334, 369, 379–80; Constitution will prevent, 262; Congress should have two-thirds vote to declare, 302, 347; Indians should wage in Northwest Territory, 334. See also Army; Army, standing; Military; Militia; Navy; President, U.S.; Treaties
- WARRANTS, GENERAL: proposed amendments prohibit, 202, 299, 316. See also Searches and seizures
- WARREN, JAMES (Mass.; CC:Vol. 1, 407n), 21
- —letter to, 206–7n
- WARREN, JOSEPH (Mass.), 320, 321n
- WARREN, MERCY (Mass.; CC:Vol. 4, 273n), 206
- -letter from, 20-22
- WASHINGTON, GEORGE\* (Va.; CC:Vol. 1, 60n, 77n), 147, 148n, 264; Federalists use, 6; defended against Antifederalist slanders, 8, 11n; use of his name criticized, 13; encouraged to run for Va. Convention, 16; as probable first President, 16, 81, 213, 221, 308, 325, 328– 29, 333, 352–57n, 363, 394–95, 399;

fear that his influence will obtain Va. ratification, 54; sent copy of Monroe's pamphlet, 73–74; unlimited confidence in presents danger for U.S., 81; sent copy of *The Federalist*, 85, 356n–57n; and Alexandria celebration of Va. ratification, 207, 209n; sent copy of "A Native of Boston," 328; retires from army, 355

- letters from, 82-83, 183-84, 207-9n, 273-75, 352-53, 354-55, 358-60n; quoted, 74, 85, 208n, 209n, 251-52, 254n, 324n, 345n, 357n
- letters to, 322-24n, 335-36, 343-45, 353, 355-56; quoted, 69, 73-74, 85, 186-87, 208n, 275n, 323n-24n, 328, 356n-57n, 357n; cited, 274
- praise of, 262, 292, 328–29; as great and good man, 8; in poetic works, 222; as American Cincinnatus, 234; as president of Constitutional Convention, 251, 320, 321n; as patriot, 335, 354
- WATERFORD, N.Y.: celebration of Constitution in, 288, 403, 404n
- WAYNE, ANTHONY (Pa.): id., 221n
- letter from, 220–21
- WEATHER: storm in Richmond during Va. Convention, 182; rainy spring and summer in Va., 184; favorable for Philadelphia celebration, 266
- WEBB, SAMUEL BLACHLEY (N.Y.; CC:Vol. 3, 363n), 85
- WEBSTER, NOAH (Pa.; N.Y.; CC:Vol. 1, 405n): reviews *The Federalist*, 86, 137; and N.Y. celebration, 290, 291
- An Examination into the Leading Principles, 234, 234-35, 235n
- WEST INDIES: and British discriminatory commercial policy toward U.S., 145, 146n; U.S. role in during future European wars, 162; U.S. favorably located relative to, 230; commerce should increase with Philadelphia, 256
- WESTERN LANDS: Americans move to, 12, 17, 25, 29, 175, 226, 228–29, 240, 323, 334–35; Constitution ties settlements of closer to Union, 24–25, 161; Constitution protects interest of landholders in, 25; sale of to help pay U.S. debt, 25, 184, 372–73, 391; Constitution will encourage emigration to, 29; without Constitution residents in will pay import taxes to Atlantic states, 29; British still occupy posts in, 29, 228, 386; and ter-

ritorial disputes between states, 99, 102n; will increase in value under Constitution, 149; will become new states under Constitution, 164; ceded to Congress, 230; and location of federal capital, 323; danger of Indians in, 334–35; should be accommodated by Atlantic states whenever possible, 344; proposed amendment limiting treaties ceding lands, 348. See also Mississippi River; Northwest Territory

#### **WHEAT**, 287

WHEELER, BENNETT (R.I.), 231

#### WHITEHILL, ROBERT (Pa.): id., 158n

-letter to, 153-58n

- WIDOWS AND ORPHANS: support for, 264
- WILKINSON, JAMES (Pa.; CC:Vol. 2, 380n): id., 149n; 148
- WILLIAMSON, HUGH\* (N.C.; CC:Vol. 4, 201n): in Confederation Congress, 31, 60–61; in Constitutional Convention, 149n; thinks N.C. will ratify, 374
- -letters from, 148-49; cited, 60-61
- WILMINGTON, DEL., 322, 365
- WILSON, JAMES\* (Pa.; CC:Vol. 1, 337n): in Constitutional Convention, 149, 149n

-speech of (6 Oct.), 278

- speech of in Pa. Convention, 161, 165n
- WITNESSES, CONFRONTATION OF: proposed amendments protecting, 42, 201, 299, 315
- WOMEN: property rights of married women, 117; Mercy Warren and Ann Gerry referred to as anti-federal ladies, 206; oppose dependence, 223; Constitution described as wife and people as husband, 258–59; celebrate ratification, 288–90; "Female Federalism," 403
- WOODSTOCK, CONN., 288-90
- WOODWORTH, MR., 66n
- WRONGHEADS, 148
- WYOMING VALLEY, PA.: violence in, 102n, 225, 230n
- Wythe, George (Va.; CC:Vol. 1, 453n), 199, 200
- YATES, ABRAHAM, JR. (N.Y.; CC:Vol. 4, 452n): id., 68n; 60-61, 405n
- YATES, ROBERT (N.Y.; CC:Vol. 3, 366n): opposes Constitution, 21; and amendments to Constitution, 34; in N.Y. Convention, 49, 50, 65n; charge of to grand jury at Albany, 405
- -letters from, 49-50; cited, 49





















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cate political maneuvering that developed in the attempt to defeat the ratification of the Constitution and, once the Constitution was adopted, to obtain amendments. One series of seventeen letters illustrates the attempt of New York Antifederalists to coordinate the opposition to the Constitution in states that had not yet ratified the Constitution. Other Antifederalists, such as Nathan Dane, Mercy Warren, Richard Henry Lee, Charles Pettit, Elbridge Gerry, and Samuel Osgood, also wrote perceptive and revealing letters.

The documents in this volume suggest the political complexities involved in ratifying the Constitution, the sense of awe at what America had accomplished by drafting and adopting a new form of government using reason and accommodation instead of force and intimidation, the rivalry among states over the location of the new federal capital, the continuing demand for amendments, and the importance of George Washington as the inevitable first president under the Constitution. Federalists looked forward to the auspicious beginning of a new nation under its new national constitution, and Antifederalists anticipated amendments to the Constitution, especially a bill of rights.

## THE EDITORS

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